# CONGRESSIONAL RECORD:

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## THE PROCEEDINGS AND DEBATES

OF THE

## FORTY-SIXTH CONGRESS, THIRD SESSION.

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# CONGRESSIONAL RECORD,

## FORTY-SIXTH CONGRESS, THIRD SESSION.

intention whatsoever to do anything else than give all the assistance I can to the improvement of the bill.

Mr. GARLAND. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and thirty-two minutes spent in executive session, the doors were reopened, and (at five o'clock and thirty-two minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 25, 1881.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

### ORDER OF BUSINESS.

Mr. FORNEY. Mr. Speaker, I ask by unanimous consent to take from the Speaker's table the amendments of the Senate to the Military Academy appropriation bill. The committee recommend concurrence, and the amendments will not consume more than a moment of time.

Mr. BLACKBURN. Under instructions from the Committee on Appropriations, I am compelled to move to dispense with the morning hour.

The SPEAKER. That requires a two-thirds vote.

The motion was agreed to, two-thirds voting in favor thereof.

### MILITARY ACADEMY BILL.

Mr. FORNEY. I will now ask to be recognized in reference to the Military Academy bill.

The SPEAKER. Is there objection?

There was no objection, and the House took from the Speaker's table the bill (H. R. No. 6614) making appropriation for the support of the Military Academy for the fiscal year ending June 30, 1882, and for other purposes, with amendments.

Mr. FORNEY. The only substantial amendment of the Senate is for one theodolite, $300. Then the aggregate of the appropriation in the paragraph is increased by that amount. I move the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. FORNEY moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### ENROLLED JOINT RESOLUTION.

Mr. THOMPSON, of Iowa, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. R. No. 340) in reference to the distribution of the CONGRESSIONAL RECORD; when the Speaker signed the same.

### INTEREST ON THE DISTRICT LOAN.

Mr. BLACKBURN. I move the House resolve itself into the Committee of the Whole House on the state of the Union, to proceed to the consideration of the Post-Office appropriation bill.

Mr. COBB. In the matter of House bill No. 6970, referred to the Committee on Appropriations, that committee has had it under consideration, and has directed me to report it back with a substitute. I ask now by unanimous consent that I may be permitted to make that report, and that the House shall take the matter up for consideration at this time.

The SPEAKER. The title of the bill will be read by the Clerk.

The Clerk read as follows:

A bill (H. R. No. 6970) to provide for a deficiency in the appropriation for interest on the 3.65 loan of the District of Columbia, for the fiscal year ending June 30, 1881, and for other purposes.

Mr. COBB. I am directed by the Committee on Appropriations to report that bill back with a substitute (H. R. No. 7029) to provide for a deficiency in the appropriation for interest on the 3.65 loan of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

The SPEAKER. Is there objection?

There was no objection, and the bill was received, read a first and second time, and referred to the Committee of the Whole House on the state of the Union.

Mr. COBB. I now move, Mr. Speaker, that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of that bill.

The SPEAKER. Does the gentleman from Kentucky yield for that purpose?

Mr. BLACKBURN. I know the bill reported by the gentleman from Indiana from the Committee on Appropriations, and which was referred to the Committee of the Whole House on the state of the Union, provides for the payment of interest on the 3.65 bonds which mature on the 1st day of February next. If that bill is not passed into a law between this and the 1st day of February the interest on those bonds which the Government has guaranteed will not be paid, and they will go to protest. I will yield, believing there is not a member of the House who will object.

Mr. COBB. I move, then, the House resolve itself into committee for the consideration of that bill.

The motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, Mr. CONVERSE in the chair.

The CHAIRMAN. The bill will be read for information.

The Clerk read as follows:

That to provide for a deficiency in the appropriation for interest on the 3.65 loan of the District of Columbia for the fiscal year ending June 30, 1881, there be, and is hereby, appropriated $162,169.93; one-half thereof to be paid out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia for the said fiscal year.

Mr. HUNTON. I desire to ask the gentleman a question. This deficiency bill seems to provide for but a single item. Now, is it the intention of the committee to bring in another bill providing for deficiencies generally?

Mr. COBB. It is not the intention to bring in another bill for the payment of interest.

Mr. HUNTON. No; but for other things?

Mr. BLOUNT. It is simply intended to cover this one question, and the committee were pressed by the Treasury Department that this particular sum was needed at once.

Mr. HUNTON. I understand that. But the question I put to the gentleman in charge of this bill is whether it is the intention of the committee to provide for other deficiencies in the future?

Mr. BLOUNT. Certainly.

Mr. HUNTON. Then there will be another deficiency bill?

Mr. BLOUNT. Certainly.

Mr. COBB. The purpose of this bill is very clear. It explains itself. It is to provide for the payment of the interest falling due on the 1st day of next month. It is very important, therefore, that the bill should be passed at once. It is a bill which is concurred in by the Secretary of the Treasury, and also by the Treasurer, Mr. Gilfillan, with whom I talked in reference to the matter this morning. Technically the law providing for this payment may be considered as being a continuing law, but the Department prefers that this special act may be passed to enable it to continue the payment as heretofore.

If no gentleman desires to discuss the merits of the bill, I move that it be read by sections for debate and amendment under the five-minute rule.

There was no objection, and it was ordered accordingly.

The bill was read.

Mr. REAGAN. Mr. Speaker, I desire——

Mr. HUMPHREY. If this is for the payment of interest I move that the committee rise and report the bill to the House with a favorable recommendation.

Mr. REAGAN. As I understand from the reading of this bill it provides that one-half of this interest shall be paid out of the Treasury of the United States.

Mr. COBB. That is the law. The general statute provides that a portion of this interest shall be paid by the United States and one-half by the District of Columbia.

Mr. REAGAN. I knew we had a law requiring the Government to pay one-half of the expenses of the District of Columbia; but I did not know that it extended to the payment of its debts as well.

Mr. COBB. I understand that that is the law as at present in force.

Mr. REAGAN. Do I understand the gentleman that under the law creating the government for the District of Columbia provision is made for this payment?

Mr. COBB. Yes, sir; that is the law as it now exists.

Mr. REAGAN. I never understood that that law, as bad as it is, embraced the payment of interest on the debts of the District of Columbia.

Mr. HUNTON. I will say to the gentleman from Texas that for the last three years just such a provision has been made to pay this interest, and under the organic act creating a form of government for the District.

Mr. COBB. I desire to say further to the gentleman from Texas what I have already remarked, that I think this is a continuing appropriation. There seems to be, however, some doubt about it in the Department, and therefore it was desirable that a bill should be passed.

Mr. HUNTON. And I will say further to the gentleman from Texas that the law authorizing the issue of these bonds is in such terms as places the Government under the obligation of paying the entire interest.

Mr. HUMPHREY. I now renew my motion that the committee rise and report the bill back to the House with a favorable recommendation.

The CHAIRMAN. Does the gentleman from Indiana yield the floor for that purpose?

Mr. COBB. I yield for that motion. I make the motion myself. I move that the committee rise and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CONVERSE reported that the Committee of the Whole on the state of the Union, having had under consideration the bill to provide for deficiencies in the appropriation for payment of the interest on the 3.65 bonds of the District of Columbia for the fiscal

year ending June 30, 1881, and for other purposes, had instructed him to report the bill back without amendment and recommend its passage.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BATTLE MONUMENT, SCHUYLERVILLE, NEW YORK.

Mr. STARIN. Mr. Speaker, I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 4451) and that the same be put upon its passage.

The SPEAKER. That requires unanimous consent. The Chair will cause the title to be read, after which objection will be asked for.

The Clerk read as follows:

A bill (H. R. No. 4451) to provide for the erection of a monument at Schuylerville, New York, commemorative of the battle of Saratoga, and for other purposes.

The SPEAKER. Is there objection to the present consideration of this bill.

There was no objection.

The bill was read at length. It is as follows:

Whereas Horatio Seymour and other patriotic gentlemen of the State of New York did, in the year 1859, organize the "Saratoga Monument Association," under a perpetual charter from the Legislature of said State, whose object was the erection of a fitting memorial on the site of Burgoyne's surrender; and

Whereas the sum of $10,000 has already been donated by the citizens of said State, with which sum said association has been enabled to purchase two acres of land near the mouth of Fish Creek, on the high ground overlooking the meadow where the British laid down their arms at the battle of Saratoga; and

Whereas said association has recently built upon said lot the foundation of the monument, of concrete, forty feet square and eight feet deep, as well as a quarter of the granite plinth or base, (covering the entire foundation,) four and one-half feet high; and the corner stone, ten feet square and two feet high: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of $30,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by said association, under the direction of its building committee, in erecting at Schuylerville, State of New York, upon said foundation, the monument hereinbefore referred to; the same to be of granite and of the obelisk form; the main shaft to be twenty feet square, and the height one hundred and fifty feet, as designed by J. C. Markham, of New York City, and adopted by said association.

The SPEAKER. The question is on ordering the bill to be engrossed and read a third time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STARIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT ON FISH CULTURE.

Mr. MONROE, by unanimous consent, introduced a joint resolution (H. R. No. 372) authorizing the Public Printer to print the reports of the United States Fish Commissioner upon new discoveries in regard to fish culture; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BLACKBURN. I move that the House now resolve itself into Committee of the Whole on the state of the Union for the purpose of further considering the Post-Office appropriation bill.

INTEROCEANIC SHIP-CANAL.

Mr. KING. I wish to announce, Mr. Speaker, that on Wednesday, the 2d of February, I will call up for consideration in the House the joint resolution from the Select Committee on the Interoceanic Ship Canal.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SMITH, of New Jersey, indefinitely, on account of illness in his family.

LEAVE TO PRINT.

By unanimous consent, leave to print remarks upon the interstate-commerce bill was granted to Mr. THOMPSON, of Iowa. [See Appendix.]

POST-OFFICE APPROPRIATION BILL.

Mr. BLACKBURN. I renew my motion that the House now resolve itself into Committee of the Whole on the state of the Union to proceed with the consideration of the Post-Office appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. CARLISLE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union for the further consideration of the bill (H. R. No. 6972) making appropriation for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes. The Clerk will report the pending paragraph.

The Clerk read as follows:

Office of the Second Assistant Postmaster-General:

For inland mail transportation, namely: For transportation on railroad routes, $9,488,282.

Mr. DWIGHT. I desire to offer the amendment which I send to the desk to come in after the paragraph just read.

The Clerk read as follows:

Hereafter the Postmaster-General may pay out of the appropriation for transportation on railroad routes to the personal representative of any employé of the railway mail service who may be killed in a railroad accident while on duty, a sum equal to two years' pay of the grade held by him at the time of his death, for the sole benefit of his widow, if there be one, or of his minor children, if there be any, or of his parents, or of the surviving parent, or of any minor brothers and sisters equally, or if there be none, to any sister surviving in any degree dependent upon said deceased for support: *Provided*, That application for such payment be made by the personal representative within one year after the death of such employé: *Provided further*, That the benefits of this act shall accrue to the employés burned to death while on duty at or near Tioga Centre Station, New York, on the morning of January 23, 1881.

Mr. BLACKBURN. I make the point of order upon that amendment.

Mr. DWIGHT. I desire to say a word on the subject of this amendment if I may be permitted. I hope, Mr. Chairman, there will be no point of order raised against it, for I believe when it is understood it is one which every member of this House will cheerfully agree to.

Mr. BLACKBURN. I desire to give notice now, that in order that we may complete the consideration of this bill to-day I shall ask that when points of order are raised gentlemen shall confine themselves to the discussion of those points of order, and not speak to the merits of the amendments themselves. I have made the point of order on this amendment.

Mr. DWIGHT. I take it the House will be willing to hear me for a moment.

Mr. BLACKBURN. Provided the gentleman speaks to the point of order. I shall commence with insisting on the application of the rule now, and shall seek to apply it in every case. I shall insist that when points of order are made gentlemen shall confine themselves in their remarks to those points of order.

The CHAIRMAN. The gentleman from New York can be heard on the point of order, but not on the merits of the amendment, except by consent.

Mr. DWIGHT. I trust there will be unanimous consent when it is understood what the purpose of this amendment is. The object of this amendment is to make provision that persons who have been killed, as four were in my district the other day while in the postal service of the Government—one of those employés having been in the service but a few days over a month——

Mr. BLACKBURN. I must insist the merits of the amendment are not in discussion.

The CHAIRMAN. The Chair thinks the gentleman from New York is merely stating what the nature of his amendment really is. When that is stated the question as to the point of order may be better understood.

Mr. DWIGHT. I take it that this amendment is of a character that no one can really object to it. If not strictly within the rule it might be considered, and if it obtains unanimous consent might become, as it ought to become, a part of the bill. It is well understood there are no employés under this Government who are harder worked, who are more faithful, who are more competent, and who better deserve the consideration of Congress and the country than the mail agents.

The CHAIRMAN. The Chair thinks the remarks which the gentleman from New York is making are not pertinent to the question of order. The gentleman from Kentucky insists on the point of order.

Mr. DWIGHT. I hope to be able to get unanimous consent, even if the amendment is not strictly within the parliamentary rule.

The CHAIRMAN. The Chair understands, then, the gentleman from New York is appealing to the gentleman from Kentucky to withdraw his point of order.

Mr. BLACKBURN. I cannot. I not only insist upon the point of order, but upon the Chair ruling every gentleman down to the discussion of the point of order.

Mr. DWIGHT. I hope that no gentleman upon this floor will more readily consent than the gentleman from Kentucky that this class of employés shall have justice done them.

Mr. BLACKBURN. I would rather amend the pension laws. We have not yet a half million pensioners on the rolls, and I would rather elaborate the pension laws. I insist on the point of order.

Mr. DWIGHT. Will the gentleman object to another section being added to this bill which shall include the provisions of this amendment?

Mr. BLACKBURN. If it is amenable to the point of order I certainly shall.

Mr. CONGER. I desire to speak to the point of order.

The CHAIRMAN. The gentleman from Michigan will proceed.

Mr. CONGER. This is an appropriation for carrying the United States mail on railroads, in postal cars, under the direction and control of an agent of this Government. It is admitted always that the committee may make amendments, providing the mode of applying the money, directing how it shall be applied, and stating under what conditions any appropriation is made. I think there is no question about that proposition. This looks to a condition where the railroad company receives this pay which we appropriate in this bill for a certain service, that service consisting in carrying a mail and carrying it safely, and providing a postal car suitable and proper for this busi-

ness, the very contract with them providing that they shall safely carry the agent of the Government to handle and control that mail; that if they fail to carry safely the mail, the car, or the officer of the Government who, by the direct terms of the contract, is requirred to accompany the mail and take charge of it, they shall not receive the pay in full under their contract, and a portion of it shall be paid for the injury.

Now, if the chairman please, suppose there was introduced an amendment here that if any railroad company through fault or negligence of its own—and there are such provisions—failed to deliver the mail within the time and thus failing should receive less than the amount of their contract; suppose that was put in this bill, no one would pretend such a provision was subject to a point of order. Suppose a penalty was imposed upon the railroad company for the loss of a mail under any circumstances whatever, who will pretend that that will not come within the proper power of this committee in the way of an amendment?

The proposition of the gentleman from New York, [Mr. DWIGHT,] as I understand it, is that a part of the money appropriated in this bill shall, under certain circumstances, be withheld from the contractors carrying the mails for some supposed fault, or what the Committee of the Whole or the House or the Congress may suppose to be a wrong to others, and shall be paid to the person injured by them while carrying the mails. I submit that that method of directing the manner of paying money appropriated has been adopted by this House from time immemorial. It is a condition of payment and is not subject to a point of order.

The expediency of adopting such a proposition is another question; but a point of order cannot reach it. It has always been held that in an appropriation bill we may by a proviso or condition determine how the money so appropriated shall be used. Our laws are full of such provisions. "Provided that none of such money shall be paid" for such and such a purpose. "Provided that so much of this money shall be paid" for some other purpose. That is all there is of this proposition. The point of order does not reach this case. The judgment of the Committee of the Whole as to the expediency of adopting such a provision or condition of payment is not subject to the ruling of the Chair.

Mr. REAGAN. The expenditure of this money for the objects pointed out by the laws is one thing; the making provision for giving two years' pay to representatives of public officers not now entitled by law to such pay is another question.

Let me illustrate my meaning in this way: suppose I introduce an amendment providing that a mechanic in the employment of the Government, who is not in any sense a public officer, shall be entitled when he dies to two years' pay of the ordinary wages he received from the Government. There would be more justice and more virtue in such a proposition as that than in the one now submitted.

We first prescribe the duties and fix the compensation of certain persons, and men seek such employment because it is far more profitable than the ordinary vocations of life. It is then proposed that we shall adopt the idea that because these persons hold positions more valuable to them than employment in the ordinary vocations of life, that shall be considered a reason for a new law to pay two years' compensation to their representatives in case they die while holding the office. The whole thing seems to me to be strangely monstrous.

Mr. DWIGHT. Men who enter the service of the Government to preserve its existence have provision made by the consent of all for compensation to them in certain cases on account of the extra hazards which they take in behalf of their country. The same provisions should be made in reference to these mail agents, every one of whom takes his life in his hands when he enters upon this peculiarly hazardous employment, as demonstrated in the case to which I have referred, where four men lost their lives——

Mr. BLACKBURN. I do not like to be discourteous, but I must insist that the discussion shall be confined to the point of order.

Mr. DWIGHT. I am replying to the gentleman from Texas [Mr. REAGAN] who gave what he considered reasons against the adoption of this amendment.

Mr. BLACKBURN. I deny the right of any member——

The CHAIRMAN. The Chair was about to call the attention of the gentleman from Texas [Mr. REAGAN] to the fact that he was overstepping the limits of debate upon a point of order.

Mr. REAGAN. I was simply giving an illustration in reply to the gentleman from Michigan, [Mr. CONGER.]

Mr. DWIGHT. And I was simply replying to the gentleman from Texas, [Mr. REAGAN,] who made an argument against the amendment, and which was not objected to by the gentleman from Kentucky, [Mr. BLACKBURN.]

Mr. BLACKBURN. I am not willing that the debate upon the point of order shall drift into a discussion upon the merits of the amendment.

The CHAIRMAN. The Chair will endeavor to confine the debate within proper limits. It has undoubtedly been held, as suggested by the gentleman from Michigan, [Mr. CONGER,] that provisions may be inserted in appropriation bills, or in amendments to appropriation bills, directing the manner in which the money so appropriated shall be expended. But no such provisions have ever been held to be in order unless they were in accordance with existing law or unless they retrenched expenditures.

The amendment proposed by the gentleman from New York [Mr. DWIGHT] does not provide that the money which it proposes to pay to the heirs or representatives of these route agents shall be deducted from the compensation to be paid to the railroads for carrying the mails. It simply provides that two years' pay may be paid out of the appropriation for railway transportation; and that may create a deficiency in such appropriation. It does not retrench expenditures, and it does change existing law without retrenching expenditures. The Chair is bound, therefore, to sustain the point of order.

Mr. DWIGHT. I desire, then, to so modify the amendment that the amount or amounts to be paid under it shall be deducted from the compensation to be paid to railroad companies for this service.

The CHAIRMAN. The amendment would still not be in order unless it retrenched expenditures in one of three ways set forth in Rule XXI. If the proposition changes existing law at all, if offered by a member upon this floor and not by instructions of a committee, it must retrench expenditures in one of three ways. The provision of the rule is as follows:

> Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

The gentleman will see that under that clause, which is very different from Rule 120 of the old rules, when a member on the floor, without the instructions of a committee, offers an amendment changing existing law, it must comply with the conditions to which the Chair has just referred, contained in Rule XXI. The Chair therefore rules the amendment not in order.

The Clerk was proceeding to read the next paragraph, but was interrupted by

Mr. DWIGHT, who said: I ask that the clause may be so amended as to reduce expenditures.

The CHAIRMAN. The gentleman can offer his amendment in any form that he chooses, and then the Chair will rule upon it.

Mr. DWIGHT. I ask that the clause be amended so as to make an appropriation of one dollar less to the Department.

Mr. BLACKBURN. We have passed that clause of the bill; the Clerk is reading the succeeding clause.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky [Mr. BLACKBURN] that the gentleman from Arkansas, [Mr. DUNN,] whom the Chair now recognizes, rose before the Clerk commenced reading. Of course the custom is not to pass from a clause so long as any gentleman is claiming the floor.

Mr. DUNN. I desire to put a question to the gentleman from Kentucky. In the report of the Postmaster-General, on page 82, I find this statement:

> The new railroad arrangements to Texas, via New Orleans, and the Missouri, Kansas and Texas Railroad, will give that State improved and sufficient postal facilities; and the course of events clearly indicates that two daily trains will have to be placed on the line of road from Saint Louis, via Little Rock, to Texarkana, in order to secure to that road its proportion of the Texas business; but, for the present, the State of Arkansas, and more especially the city of Little Rock, is without proper mail facilities, and provision should be made for a second daily train between Saint Louis and Little Rock.

Now, yesterday, the gentleman from Missouri [Mr. CLARDY] asked the gentleman from Kentucky whether any appropriation for this item had been carried into the bill reported by the committee. The gentleman from Kentucky [Mr. BLACKBURN] made, finally, this answer:

> I think the question of the gentleman from Missouri would have been in better time had it been reserved till we reached that clause of the bill; but as he has made it, and as I am endeavoring to answer it, I may go one step further and say that in the very same annual report in which this recommendation is made by the Second Assistant Postmaster-General we have estimates for the service for the next fiscal year; and I undertake to say to the House that we have not only failed or refused to reduce these estimates, but upon the figures of the Post-Office officials themselves, upon their own records and books, we have granted to that Department of the service every dollar that the estimate calls for and $31,000 besides.

Now, inasmuch as this item is not carried into the bill as a special item, I desire to ask the gentleman whether the appropriation proposed in this paragraph is sufficient to provide for that additional service asked for and which the Postmaster-General says is necessary to give the State of Arkansas proper and ample mail facilities?

Mr. BLACKBURN. I am very glad to have an opportunity to answer the question and to answer it in the affirmative. The figures of this bill demonstrate that the Post-Office Department will have ample provision for the service upon the railroad to which the gentleman now alludes. In order to prove this let me refer to the figures. Last year we appropriated in bulk $9,665,000 for inland mail transportation by rail. Of that sum, however, $350,000 was to be used for special facilities on trunk-lines. In this bill the necessary and special facilities on trunk-lines are estimated and appropriated for in a special item, so that this no longer constitutes a part of the bulk appropriation for inland transportation by rail. The estimate of the Post-Office Department as submitted to us for this item was $10,288,282. But the officials of the Department who were brought before the subcommittee stated to us that in that estimate they had given the Government no credit for the amount of money that was to come back to us under the operation of the act of 1879 applying to certain Pacific railroads.

We sent for the Sixth Auditor, and from him we learned that the

amount of money received under the operation of the act of 1879, as repayment to the Government by the Pacific railroad companies for interest upon their bonds which the Government had paid, amounted to $881,000; so that all we had to do was to take the estimate of the Department for this item, deduct $881,000, and appropriate the remainder, which would, according to the statement of the officers of the Department, give them every dollar that they asked for. In point of fact we did not deduct $881,000 from the estimate, we deducted $800,000; so that the clause of the bill now under consideration does in fact appropriate every dollar that the Post-Office Department asked for this service and $81,000 besides.

Now, I am aware that the estimated cost of the service to which the gentleman from Arkansas alludes is $75,000; but I am also credibly informed that it is agreed and held that $50,000 will probably be sufficient to give the second daily mail upon that line. I say that according to the report of the Postmaster-General it should have been included in his estimate; for he makes special mention of it in his annual report and speaks of the necessity of that service. But even if this is not true—even if this item is not included in the general estimate, as of course it should have been when the Postmaster-General was treating of the subject and urging its necessity—then, I say that there is still ample provision in this bill, because the Department has every dollar of its estimate and $81,000 besides.

Mr. DUNN. Let me ask the gentleman a further question. Did the committee add the $81,000 to provide for any special item on any particular trunk-line which was brought to the attention of the committee.

Mr. BLACKBURN. By no means.

Mr. DUNN. Then that $81,000 may as well be appropriated to this as any other necessary part of the service.

Mr. BLACKBURN. Yes, sir; and according to the official report of the Post-Office Department it had better be appropriated for this than any other, because this is the road which the Department itself has singled out in the annual report, especially urging the necessity of an appropriation for it.

Mr. DUNN. Then, as I understand it, the committee does not direct any particular sum to be applied to any road, but considers that it has made ample provision for this as for all others.

Mr. BLACKBURN. Most assuredly. If there is to be any distinction or difference drawn against any road or in favor of any road, the committee feel the discrimination is in favor of the road the gentleman from Arkansas inquires about from the fact that ample provision is made and the Post-Office Department has called the attention of the committee and Congress to the necessity of the provision.

Mr. CANNON, of Illinois. Is there any amendment pending?

The CHAIRMAN. The Chair understood the gentleman from Arkansas was asking the gentleman from Kentucky a question as to the clause and that the gentleman from Kentucky has just completed his answer.

Mr. DWIGHT. I move to strike out in line 58, after the word "eighty," the word "two," so it will read:

For inland mail transportation, namely: For transportation on railroad routes, $9,488,280.

And then I propose to insert the amendment which I have sent up, that any amount which may be paid any individuals under the provisions thereof shall be deducted from the amount which may be due the railroad company or companies upon which the accidents resulting in injury may occur.

Mr. BLACKBURN. I reserve all points of order on that amendment, and I now ask that the Clerk shall report it so we may understand it.

The Clerk read as follows:

In line 58 strike out the word "two:" so it will read:

"Office of the Second Assistant Postmaster-General:

"For inland mail transportation, namely: For transportation on railroad routes, $9,488,280."

And add the following:

"Hereafter the Postmaster-General may pay out of the appropriation for transportation on railroad routes to the personal representative of any employé of the railway mail service, who may be killed in a railroad accident while on duty, a sum equal to two years' pay of the grade held by him at the time of his death, for the sole benefit of his widow, if there be one, or of his minor children, if there be any, or of his parents or of the surviving parent or of any minor brothers and sisters equally, or if there be none, to any sisters surviving in any degree dependent upon said deceased for support: *Provided*, That application for such payment be made by the personal representative within one year after the death of such employé: *Provided further*, That the benefits of this act shall accrue to the employés burned to death while on duty at or near Tioga Centre Station, New York, on the morning of January 23, 1891. The amount that may be paid to individuals under the provisions hereof shall be deducted from the amount which may be due the railroad company or companies upon which the accidents resulting in injury may occur."

The CHAIRMAN. The Chair supposes the gentleman has put it in a form to bring it within the rule, as it covers the amount here provided, and proposes it shall be taken from the compensation made to the railroad companies for carrying the mails.

Mr. BLACKBURN. I do not think this amendment is one whit less amenable to the point of order, for it certainly contemplates an increase of expenditure, unless it be that provision of the amendment which throws the burden of payment on the railroad company in the face of a contract entered into by the Federal Government with such company, but which I imagine no court of law in this land would hold to be enforceable.

But, sir, I demand a division of the amendment of the gentleman from New York.

The CHAIRMAN. The gentleman has that right, but he will indicate where he wishes to divide the proposition.

Mr. REAGAN. Under what rule is this held to be in order?

The CHAIRMAN. Rule XXI. The gentleman has modified his amendment and reduced it to the amount included under the bill, and he provides the payment to the heirs of route agents shall come out of the compensation provided to the railroad companies for carrying the mails, and the Chair is inclined to think that that brings it technically within the rule.

Mr. BLOUNT. I wish to add there is another point, that it is not germane to the provisions of the bill.

Mr. BLACKBURN. I have reserved all points of order, and we will argue that point when we come to that division. I now ask the Clerk to read the first division of the amendment on which the vote will first occur.

The Clerk read as follows:

Hereafter the Postmaster-General may pay out of the appropriation for transportation on railroad routes to the personal representatives of any employé of the railway mail service who may be killed in a railroad accident while on duty a sum equal to two years' pay of the grade held by him at the time of his death, for the sole benefit of his widow, if there be one, or of his minor children, if there be any, or of his parents or of his surviving parent, or of any minor brothers and sisters equally, or if there be none, to any sisters surviving in any degree dependent upon said deceased for support.

Mr. REAGAN. While it may be, Mr. Chairman, that this does not increase the expenditure, it cannot be assumed that it does not change the law and is not new legislation.

The CHAIRMAN. The gentleman will observe under the language of the rule it reduces the amount covered by the bill.

Mr. BLACKBURN. Is it germane?

The CHAIRMAN. That is a question upon which the Chair has some difficulty. The clause relates to appropriations for the compensation of railway companies carrying mails, and this seems to relate to that by providing it shall come out of that compensation.

Mr. REAGAN. The provision of the rule is:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States.

The CHAIRMAN. Or——

Mr. REAGAN. Yes. It goes on—

Or by the reduction of amounts of money covered by the bill.

But still it must be germane. It must relate to the objects of this bill. It seems to me that the test as to whether the amendment can be admitted is, is it germane to the bill or does it provide new legislation which is not germane?

No one will assume that there is any law in existence authorizing the payment of two years' salary to this classs of employés in case of death resulting from injuries while in that service.

That is undoubtedly new legislation. No law exists for it. The bill makes no provision for such payment. But it is not only not germane to the bill, but provides new legislation imposing new burdens upon the Treasury under a technical proposition to change the amount of the appropriation for this purpose a few hundred dollars, which is simply and plainly an evasion. I desire to resist that class of items and this character of legislation because I do not understand that it is our true policy to create an aristocracy of office-holders or to give them any special privileges under our system of government.

The CHAIRMAN. The Chair is of opinion that the amendment is technically within the rule, and therefore it is in order. Gentlemen can discuss the merits of the proposition itself.

Mr. DWIGHT. Mr. Chairman, I did propose to say something in answer to the remarks of the gentleman from Texas; but as the Chair has overruled the point of order there is no occasion for my doing so.

The CHAIRMAN. The gentleman has five minutes in support of the amendment if he so desires.

Mr. DWIGHT. Now, Mr. Chairman, it seems to me that this proposition, made by the amendment I have offered, is one that will commend itself fully to every member of this House as well as to the entire country. It has been apparent to every observer of the railway mail service of the country that it is now in the hands of able, intelligent men, who perform thoroughly, industriously, and faithfully their duties and that they are poorly paid. It is also understood thoroughly well that the business in which they are engaged is peculiarly one involving a great deal of hazard, as is demonstrated by what has induced me to present this amendment.

Now, in the county of Tioga, but a few miles from the town in which I live and in the district I have the honor to represent, an accident occurred on Sunday morning resulting in the death of four of these agents. The cars were running along at the ordinary speed upon a comparatively level section of country where the embankments were small when an axle was broken, resulting in throwing the mail car from the track whereby these four agents of the postal railway service were killed. One of these employés was a young man for whom I secured the appointment within the last few weeks, and he was in the faithful discharge of his duties at the time of his death. His friends and family dependent upon his services for their livelihood, and which they had a right to expect, are deprived of realizing what may be necessary for their sustenance and support, as already stated.

He was in the faithful discharge of his official duties and the Department has no discretion whatever except in this respect. It happened that his death occurred between twelve and one o'clock on Sunday morning, so that under the ruling of the Department he had entered upon a new day, and the only discretion the head of the railway service has is to allow his family to have one day's pay. That is all that the Department can allow him. There is no method under the law by which he can receive or his family can receive anything whatever from the Government because of his death. I submit to this House whether they want the employés and agents of this character to discharge the duties which they are performing in the railway mail service of the country, in which every citizen is interested and which is known to be extra-hazardous, without making some reasonable compensation for disasters which are constantly occurring of this character. I take it that gentlemen will not search about to see if there is not some technical objection under the rules of this House which they can interpose to defeat what would simply seem to be an act of justice to these employés.

As I have said before, Mr. Chairman, they are poorly paid. They are growing old in the service at best. There is very little increase in their compensation from year to year, and little or no opportunity for promotion, and yet the Congress of the United States gravely discusses the question whether or not they will make some reasonable provision by which the families of these men may be compensated where their lives have been sacrificed in the service of the country. In my judgment, Mr. Chairman, there should be provision made for such men in such cases as this. Provision is made for a man who takes up his musket and marches into the front of the battle for the purpose of preserving the institutions of his country. If a case should arise where such man claims justice by the gratitude of the country he is placed upon the pension-rolls and receives a remuneration or some compensation, or his family is paid for the loss of his services in case of his death. But if his employment be of the nature such as these men to whom I am now referring, where life is sacrificed in the pursuance of his duty, the country has made no provision; and I now ask this Congress to provide that something shall be done for men who are sacrificed in the public service as the men were to whom I have called the attention of this committee.

[Here the hammer fell.]

Mr. REAGAN rose.

Mr. CANNON, of Illinois. I will ask the gentleman from Texas to yield one minute's time to me.

Mr. REAGAN. I have only five minutes myself.

Mr. CANNON, of Illinois. I wanted a minute to reply to the gentleman from New York.

Mr. REAGAN. Mr. Chairman, I think the House would do well to give its attention to this subject now before us. It is urged that because of the character of the service in which these agents are engaged in the railway mail distribution that they should be entitled to peculiar and special consideration from the Government. It has already been urged that the officers of the Army and Navy, because their lives have been devoted to the service of the country, when they grow old should have provision made for them. The making of such a provision has been a matter of modern action by Congress. It has been also urged that gentlemen engaged in the judicial service of the United States, after they have reached an age that enabled them to be retired, should be compensated for their services. In each of these cases Congress has undoubtedly gone upon the idea that these gentlemen had devoted their lives to the public service until they were worn out and too old to seek other business to enable them to live in that degree of ease that a great government ought to provide for those who have devoted a life-time to the public service and to the public good.

But here we have a proposition to take up the clerks in the mail service on the railroads, and in case of accident to give them two years' pay. Now, Mr. Chairman, what is there to distinguish this from its application to postmasters? It was said by the gentleman from New York that this service had some danger in it. Granted; but the employments are sought, anxiously, earnestly sought, by every employé because the pay is better, the service more profitable, the means of benefiting themselves and their families better; and because they have been successful in securing employments which pay them better, which enable them better to take care of themselves and families than in the ordinary vocations of life, shall their good fortune be the basis for this bounty of the Government? What can be said in behalf of them that could not be said in behalf of any other class of officers, that could not be said in favor of any class of mechanics and agricultural laborers in this country?

This, sir, looks simply to going a little further in making an aristocracy of officers in this country, and making their good fortune, their promotion, the honors and emoluments they receive a reason for giving them advantages over citizens that have failed to acquire the positions in which they have been more fortunate than their neighbors. I object to this because I trust that we are to make no more needless departures from the character of our Government and institutions by creating classes with special privileges which cannot be accorded to others, when those privileges rest in the one instance upon the good fortune which is not enjoyed in the other instance.

The gentleman from New York said that the families of these men looked to their services, and if they were deprived of their lives they lost their services. Such may be said of every farmer, of every mechanic, whatever his station or condition in life, that if the husband dies the family is left without the assistance of their labor.

[Here the hammer fell.]

Mr. CANNON, of Illinois. I would like to have the amendment read before I move to amend by striking out the last word.

The amendment was again read.

Mr. CANNON, of Illinois. I move to strike out the last word.

Upon a direct proposition to pension dependent surviving relatives of postal clerks or route agents who may be killed in the performance of their duty, or to give a pension to those that are injured in the performance of their duty if it were to come on its own merits, even then I might hesitate before I could get my own consent to support it; although I acknowledge there are some instances where very great hardship is inflicted upon this class of employés, but I take it for granted the gentleman from New York is not in earnest about this amendment. If so, it is certainly too broad.

Mr. DWIGHT. I wish to say to the gentleman from Illinois I never was more in earnest in my life.

Mr. CANNON, of Illinois. Then I will say the gentleman is in earnest.

Mr. DWIGHT. I am surprised the gentleman from Illinois should have made the statement he did.

Mr. CANNON, of Illinois. I do not yield further. I know the gentleman is in earnest.

I understand that in New York as in Illinois, and I apprehend in most States, by statute an action is given to the personal representative of any one who is killed, perhaps other than an employé of the road, and in some instances to the employé, to recover from the company not exceeding $5,000. What effect this legislation would have on that I do not know. Nor does the gentleman from New York in his amendment have any reference as to whether death was caused by the negligence of the employé. All cases cannot stand upon the same ground. I think the wiser way, if you will think about it a minute, is to defeat this amendment and let the bill stand without it; and then in due time if the gentleman believes legislation ought to be had pensioning these parties, let it be prepared carefully and let it receive deliberate action on the part of the House.

Mr. DWIGHT. I had thought my sincerity in this matter was clearly understood. I am surprised at the remarks of the gentleman from Illinois.

Mr. CANNON, of Illinois. I did not intend to surprise the gentleman from New York.

Mr. WARNER rose.

Mr. BLACKBURN. I move the committee rise for the purpose of limiting debate to one minute on this amendment.

Mr. WARNER. I desire only to be heard for two minutes.

Mr. BLACKBURN. I yield to the gentleman from Ohio.

Mr. WARNER. It seems to me we would be entering upon dangerous ground by adopting such an amendment as this. Is it proposed to allow a clerk, for instance, in the Executive Department to decide whether a route agent has been killed without his contributory negligence or without his fault? Again, the question arises in my mind whether or not the adoption of this amendment would not fix absolutely the damages which a railway company may be liable for to a route agent, and fix it at two years' salary. In many of the States, under State laws, the railways are already liable in a fixed sum in case of death, and a much larger sum than this. Are there to be two penalties or two assessments of damages, one by the United States, and the other by the State? If that cannot be, then it certainly is not in the interest of the route agent to have this amendment passed.

Mr. ROBESON. I desire to say one word.

Mr. BLACKBURN. I give notice that after the gentleman from New Jersey has spoken I will ask that the committee rise for the purpose of closing debate.

Mr. BAYNE. I hope that will not be done. I desire to be heard briefly on this amendment.

Mr. ROBESON. Let us understand this thing. We require these officers of the Government to ride upon the railroads in discharge of their duties. It may be doubtful whether they ride under a contract with the railroad company or not, and if they do not it may be doubtful whether they can call upon that railroad company for compensation. But by this bill we provide that the railroad company shall have a certain compensation for the duty in which these agents of our Government are employed; and in making that provision we provide that that compensation shall be paid to them upon condition that they take good care of our officers who are committed to their charge. If they do not take good care of them, then we say as a condition of this appropriation that these employés in a moderate capacity, who may not have the power through their poor representatives to sue gigantic corporations, shall be paid through the beneficent action of our Government when it makes that contract. Now, that is the question for us to decide here.

Mr. BAYNE. I want to say one word.

Mr. BLACKBURN. I want to end debate on such an amendment as this at some time or other.

Mr. BAYNE. I will occupy but a minute or two.

The CHAIRMAN. Does the gentleman from Kentucky [Mr. BLACKBURN] yield?

Mr. BLACKBURN. I will yield for a minute.

Mr. BAYNE. There is a case which occurred in my district very similar to the one that occurred in the district of the gentleman from New York, [Mr. DWIGHT.] There was an accident on the Western Pennsylvania Railroad, and in that accident a number of persons were killed. A number of suits were brought against the railroad company, and judgment was recovered in every instance but one; and that was where the widow and children of a route agent brought suit against the railroad company for the loss of the father and husband. That case was taken to the supreme court of the State of Pennsylvania, and that court decided that under a law of the State which prevents the employés of railroad companies from bringing suits against the companies for the recovery of damages sustained even in consequence of the negligence of the companies, no recovery on behalf of the family of the route agent could be had. I have brought that case here with a view of certifying it to the Supreme Court of the United States, in order that the Constitution and laws of the United States may afford some relief if the courts of the States will not.

I think that the amendment offered by the gentleman from New York [Mr. DWIGHT] is one that ought to pass this House. These young men give the very best years of their lives to this service; they give their fresh, tender young lives to it. When they become old they are not able to live on what they have saved in this service, because the compensation is not adequate. I think this would be a just and righteous measure, and should receive the universal approbation of the members of this House.

Mr. BLACKBURN. I am sorry the minute of the gentleman lasted so long. I wish to say that if it be the purpose of this House to establish a civil list, I hope it will be done by an independent bill, and not in the shape of a rider upon a Post-Office appropriation bill. There are many gentlemen in this House who are on record as being opposed to putting riders on appropriation bills.

I now move that the committee rise for the purpose of closing debate on this paragraph and amendments.

The CHAIRMAN. Debate is now exhausted upon the pending amendment.

Mr. BLACKBURN. There will probably be another amendment offered and debated, unless the committee rises. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes, and had come to no conclusion thereon.

Mr. BLACKBURN. I now move that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of further considering the Post-Office appropriation bill. And pending that motion, I move that all debate upon the pending section and amendments thereto be limited to one minute.

Mr. PAGE. I presume the gentleman from Kentucky [Mr. BLACKBURN] does not mean to exclude any further debate on this entire section.

Mr. BLACKBURN. Why not?

Mr. PAGE. I suppose the gentleman means upon the paragraph.

Mr. BLACKBURN. What does the gentleman call the section? I mean upon the paragraph ending with line 59.

Mr. PAGE. That is the paragraph, and I do not object to that.

The motion to limit debate was agreed to.

The motion to go into Committee of the Whole was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. CARLISLE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole and resumes the consideration of the Post-Office appropriation bill. By order of the House all debate upon the paragraph under consideration and amendments thereto is limited to one minute.

Mr. HUMPHREY. I move to amend the amendment of the gentleman from New York [Mr. DWIGHT] by striking out all after the words "children if any" down to the proviso. My object in moving that amendment is this: if adopted it will give to the wife of the party who loses his life, if he has any, and if none, then to the minor children, if any, two years' pay. I am utterly opposed to going further than that in giving aid in circumstances like those set forth in the amendment.

There is another point, and that is, that it does not seem to me that these agents are such employés of the railroad company as to prevent a recovery by their personal representatives from the railroad company of damages limited to $5,000 in case of death.

The CHAIRMAN. By order of the House all debate upon the pending paragraph has been exhausted.

The question was upon the amendment of Mr. HUMPHREY, to strike out of the amendment of Mr. DWIGHT the following:

Or of his parents or of the surviving parent, or of any minor brothers and sisters, or, if there be none, of any sisters surviving in any degree dependent upon the said deceased for support.

The question was taken upon the amendment of Mr. HUMPHREY, and it was not agreed to, upon a division—ayes 30, noes 64; no further count being called for.

The question was taken upon the amendment of Mr. DWIGHT; and upon a division there were—ayes 31, noes 74.

So (no further count being called for) the amendment was not agreed to.

The Clerk read as follows:

For railway post-office car service, $1,426,000. And hereafter when any railroad company fail or refuse to provide railway post-office cars when required by the Post-Office Department said company shall have its pay reduced 10 per cent. on the rates fixed in section 4002 of the Revised Statutes, as amended by act of July 12, 1876, entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1877, and for other purposes," and as further amended by the act of June 17, 1878, entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1879, and for other purposes;" and section 5 of the act entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes," approved March 3, 1879, be, and the same is hereby, repealed.

Mr. CANNON, of Illinois. I move to amend by striking out at the end of this paragraph the following words:

And section 5 of the act entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes," approved March 3, 1879, be, and the same is hereby, repealed.

I call the attention of the gentleman in charge of this bill to the fact that the lines which I propose to strike out have been inserted by an error, a similar repealing provision being contained in the law making appropriations for the postal service for the current fiscal year.

Mr. BLACKBURN. The gentleman is correct. The amendment should be adopted.

The amendment was agreed to

Mr. BRIGHAM. I move to amend by inserting after the words "Post-Office Department," in line 63, the words, "or shall fail or refuse to provide suitable safety-heaters therefor, with such number of saws and axes to each car for use in case of accident as may be required by the Post-Office Department."

Mr. BLACKBURN. I think there will be no objection to that amendment.

Mr. BRIGHAM. I would like to occupy a few moments to justify the introduction of this amendment. It seems to me that some of the railway companies which carry the mail of the United States have for years violated the law. Section 4005 of the Revised Statutes has made it the duty of these companies to properly fit up, furnish, heat, and light the cars in which the railway postal business of the country is transacted. In consequence of the violation of this requirement the people have every now and then heard the sickening news of the wrecking of railway trains, the overturning and burning of postal cars, and the roasting alive of men working in them. Three times this winter—once in Missouri, once in North Carolina, and again only a few hours ago on the Erie Railway, in the State of New York—have these disastrous calamities occurred.

Now, the Government exacts from its postal clerks and mail agents the most severe service. The labors they perform are of the most arduous and exhausting kind, and are rendered under very dangerous conditions. They work in cars heated by ordinary stoves and lighted with oil-lamps—cars which usually are the nearest to the engine. In consequence of these facts, the Postmaster-General and the superintendent of railway service have repeatedly urged the railway companies to a humane compliance with the law; but the companies have not responded.

Now, this amendment touches the soul of a railway company, because it pricks the pocket, where the railway company carries its soul. By this 10 per cent. reduction of compensation in case of violation of the law, the railway companies, we think, will be persuaded to obedience. This amendment is humane; and the committee, I hope, will consider it germane to this bill. It does not increase expenses. If the amendment be adopted and be complied with, then in case of accident, the men working in these cars, unless they are killed outright or stunned into insensibility, will be able to seize these tools and hew out their own salvation. The amendment, if adopted, will, I claim, tend to save valuable lives, and will also tend to save from destruction the mail matter with which the mail cars are stored.

Mr. CANNON, of Illinois. Will the gentleman yield for a question?

Mr. BRIGHAM. Certainly.

Mr. CANNON, of Illinois. I have great sympathy with the amendment, and think its object entirely proper; but I want to ask whether or not the terms of the amendment are such as to confine the companies to the use of any particular kind of heater.

Mr. BRIGHAM. Mr. Chairman, it does not do anything of that kind; it simply requires the companies to provide "suitable safety-heaters." I will state to the committee that the safety-heater is simply a stove under which ten, fifteen, or twenty gallons of water are placed; and pipes are so disposed that in case of the overturning of the stove the water floods the fire and puts it out. Axes and saws are provided so that the men may release themselves if need be, and also save the contents of the car. The amendment does not provide for any particular heater; that is left an open matter.

The question being taken on the amendment of Mr. BRIGHAM, it was agreed to.

The Clerk read as follows:

For necessary and special facilities on trunk-lines, $400,000.

Mr. CLARDY. I move to amend by inserting after the word "hun-

dred" the words "and fifty," so as to make the amount of this appropriation $450,000. While it may be true as stated by the gentleman from Kentucky [Mr. BLACKBURN] in answer to the gentleman from Arkansas [Mr. DUNN]——

Mr. BLACKBURN. I reserve a point of order on this amendment.

Mr. CLARDY. While it may be true that the service alluded to by the gentleman from Arkansas has been provided for in the paragraph commencing on line 56, yet inasmuch as the Department holds that this service, if provided for at all, must be provided for in the item which we are now considering, I offer this amendment to increase the amount of the appropriation $50,000; $450,000, as I understand, is the amount recommended by the Department.

Mr. DUNN. Mr. Chairman——

Mr. BLACKBURN. I have reserved a point of order on the amendment, but I am perfectly willing the gentleman from Arkansas should be heard.

Mr. DUNN. Mr. Chairman, I can foresee that Arkansas and Southeast Missouri are to be sufferers under a difference of construction placed upon this bill and these items of appropriations by the committee, or the gentleman from Kentucky in behalf of the committee, on the one hand, and by the Post-Office Department on the other hand. The Postmaster-General tells us that Arkansas has not sufficient mail facilities, and that this item of increased allowance ought to be made. The gentleman from Kentucky in charge of the bill says that while it is true that this item as a specialty has not been carried in the bill, nor has the Postmaster-General carried the item into his estimates, yet as the committee in a different item allowed $80,000 more than was asked for by the Department, we must look to that fund for the needed relief for the full measure of mail service that we need and are entitled to.

The Second Assistant Postmaster-General, on the other hand, says this needed facility for Arkansas must come under the head of a special arrangement and special increase of service, and that unless it is carried into that item he cannot give it. Now, between these two constructions Arkansas is to become the sufferer and be deprived of that just proportion of mail service to which she is confessedly entitled. I ask why Arkansas should be singled out from all the States and Territories in the Union as a State to be denied sufficient mail facilities? The State of Texas has two great lines of double daily mail service to the south of it. All the other States and all other localities are provided for, but we are to be denied our mail service because of this difference of construction between the committee and the Post-Office Department.

This amendment, Mr. Chairman, does not increase the appropriation beyond the estimates of the Department. We are told on all hands if it be adopted we can then get the needed facility. I hope the committee will give it to us. There is certainly no good reason why the people of Arkansas should be made to suffer this great deprivation, and I therefore hope the amendment will be adopted.

Mr. BLACKBURN. I will withdraw the point of order; but I wish to say this, Mr. Chairman: the gentleman from Arkansas and the gentleman from Missouri are mistaken. The amendment the gentleman from Missouri offers, which is an increase of $50,000 on this item of the bill, is utterly valueless to him for the purpose which he and the gentleman from Arkansas avow. There is no room for any difference of construction between the Post-Office Department and this committee, or between that Department and me, or between that Department and anybody.

We know until now there has never been any such item as this incorporated in appropriation bills at all. This appropriation for necessary and special facilities on trunk-lines is a new item in the bill. As I stated to the House this morning, it was embraced in the bulk appropriation last year for the inland mail transportation by railroad, but there was a provision in last year's bill which allowed $350,000 of that nine million and odd dollars to be taken out of that bulk fund and used for this purpose. Now it is estimated for in a separate item. It is appropriated for in a separate item, and instead of $350,000 which was allowed to be used that way during the present fiscal year, this bill offers $400,000 for this purpose. The road and the service which the gentleman from Arkansas and the gentleman from Missouri want to cover by this increase of appropriation, can never be touched under this head for this appropriation, for necessary and special facilities on trunk-lines simply look to and embrace expedition of schedule in the delivery of mail by fast trains on the great trunk-lines in the country.

Mr. DUNN. Will the gentleman allow me to make a suggestion?

Mr. BLACKBURN. Certainly; but remember I have only five minutes.

Mr. DUNN. The gentleman will observe by the report of the Post-Office Department that in order to give this increased service they must give additional compensation to enable that road to run; and therefore——

Mr. BLACKBURN. I have read the report of that Department as closely, perhaps, as any member in the House. I know the Department—and if the gentleman wants plain language I will give it to him—I know the Second Assistant Postmaster-General has sought to hold the very demand which the gentleman from Arkansas and the gentleman from Missouri are making on the House with this road as an *argumentum in terrorem* over this committee in this Congress to extort the full measure of his estimates. I know that.

Mr. DUNN. It is necessary; and that is all there is of it.

Mr. BLACKBURN. With all courtesy to the gentleman, I cannot yield further of my five minutes. I know these gentlemen came to me this morning and told me they could get their service if we would yield to the exaction of the Second Assistant Postmaster-General to the extent of $50,000 for special facilities. I know under the law he dare not, and the past proves he dare do all that is right and much that is questionable—I know under the law he dare not appropriate one dollar covered under that estimate of this bill for the service which the gentlemen seek to protect. It is not special facilities they are asking; but they are asking a service on a road which stands upon an exact and equal footing with every other atom of railway mail service in the country. They are entitled to it, and according to the report of the Postmaster-General it is already provided for in the $81,000 allowed in that appropriate item to which it belongs in excess of the estimates.

Now, sir, we gave $350,000 for this item last year and this year we give $400,000 in this bill and the proposition of this amendment is to increase that to $450,000. I ask this committee to tell me why it shall be done when the report of the Post-Office Department shows that the $350,000 you gave last year is unexpended. It is a discretionary fund and they can make arbitrary allowances sufficiently large to carry it to $3,500,000 as easily as $350,000. There is no limit to it. It is absolutely in the discretion of the Department and we must stand upon the record that if $350,000 was enough for the present year $400,000 is enough to meet the service and its increase with all of its necessities for the present one, and the gentleman will fail to accomplish his purpose to protect the service upon a certain road by increasing these special facilities in this bill not a dollar of which can be diverted to such a purpose.

Mr. SLEMONS rose.

Mr. HUMPHREY. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Arkansas has been recognized.

Mr. SLEMONS. I move to strike out the last word. I regret very much, Mr. Chairman, to find that the gentleman from Kentucky in charge of this bill seems to have lost confidence in the House, and has become alarmed about his bill——

Mr. BLACKBURN. I am not at all scared, I will state to the gentleman from Arkansas, by the attitude of this House toward the bill.

Mr. SLEMONS. I say that I am very much afraid the gentleman has become alarmed and appeals to the House to protect him. Now, we are willing to ask in the House or out of it what we want. We ask for what we want, and are not only willing to ask for it, but we demand it and insist upon our right to have it. The gentleman from Kentucky must remember that last year, before the appropriation bill passed, the Second Assistant Postmaster-General did recommend that $50,000 should be appropriated for this purpose, and the committee failed to make an appropriation for it; but by an agreement between the Post-Office Department and this road service was put on. This has not been paid for. Now, this Committee on Appropriations comes in, after the Second Assistant Postmaster-General has estimated that it will require $450,000 to cover the cost of this service and to pay for precisely what he asked the means to pay for last year, and for service that has already been put on to furnish the needed facilities to these people on the line of that road, and cuts it down to $400,000. A portion of this amount is to pay special compensation for mail service upon this very road. This road is running on the same terms as the other roads, according to the statement of the gentleman from Kentucky. In this I think the gentleman is mistaken. There was only one train a day on that road.

Mr. BLACKBURN. The gentleman has misunderstood my statement. I stated that this road stood on the same footing, as far as its rights and equities are concerned, as the other roads.

Mr. SLEMONS. Very well, we ask no more than that; we ask that the mail facilities of this road shall be continued. Now, the road was running only one train a day, and mail facilities or increased mail facilities upon it were demanded and were put on by the Department, and yet this committee come in here and propose to strike out from the estimates of the Department $50,000, which amount is contemplated to expend for payment of special facilities obtained upon this road, which is the longest line in the country.

The gentleman also claims that the Post-Office Department receives eight hundred thousand dollars and over from the Pacific roads. In this he is also mistaken. The Department only gets 10 per cent. of that. In other words, 10 per cent. goes to the Post-Office Department. The balance of it goes into the Treasury as the gentleman knows very well, and can no more be touched by the Post-Office Department than it can by himself, and only this 10 per cent. of that amount goes into the estimates of the Department, and not the entire amount as claimed by the gentleman.

Mr. BLACKBURN. Will the gentleman from Arkansas allow me to correct him?

Mr. SLEMONS. If I have misstated the gentleman.

Mr. BLACKBURN. I stated that upon the authority of the officials connected with the Post-Office Department, and upon a statement given by the Department and in evidence before the Committee on Appropriations that there is not a single dollar of that money that did not go into the service of the Post-Office Department.

Mr. SLEMONS. Very well; if the gentleman knows better than the Department of course his statement will have weight. I only know what the Post-Office Department reports. They only got 10 per cent. of this money, and the whole amount of it was never taken into consideration in making their estimates.

Mr. BLACKBURN. I know the amount of the fund that was turned into that Department from this source. I know that they did get an aggregate of $881,000 from the Pacific railroads.

Mr. SLEMONS. I am convinced that the gentleman is mistaken. I hold in my hand a statement not three days old which will satisfy him.

Mr. BLACKBURN. And I state most emphatically to the gentleman that the Department does get, or has received, and has charge of every dollar of that money.

Mr. SLEMONS. Does the gentleman mean to say that the Department receives the whole amount of that money, $881,000, derived from Pacific roads?

Mr. BLACKBURN. I say that the Department has received every dollar of it.

Mr. SLEMONS. More than 10 per cent. of it?

Mr. BLACKBURN. Yes; 10 per cent. has nothing whatever to do with it.

Mr. SLEMONS. I think the gentleman is certainly mistaken.

Mr. BLACKBURN. The gentleman himself is mistaken, and I will show him just where the mistake is. The law to which he refers is the Thurman bill of 1879, and since the time that that bill was passed up to this present time the amount aggregates $881,000, which has been absolutely credited to the Post-Office Department.

Mr. SLEMONS. Now, I say again, the gentleman gives no reason why this item should be stricken out of the bill. I understand from the Second Assistant Postmaster-General that it is put in for the special payment to this Iron Mountain and Saint Louis Railroad for additional services placed upon the road last year; and I want to assure the gentleman from Kentucky and other gentlemen who have spoken upon this matter that for myself I ask nothing whatever in this matter but what I believe to be right. We only ask what is right, and we hope that it will be granted in this case. The service has been put on, our people need it, and it should be continued.

I wish to have read in this connection a letter from the Second Assistant Postmaster-General to Senator GARLAND, which I will have read as a part of my remarks.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
RAILWAY ADJUSTMENT DIVISION,
*Washington, D. C., January 24, 1881.*

SIR: In compliance with your verbal request of this date I have the honor to state that in the matter of the public demand for a second daily mail on the Saint Louis, Iron Mountain and Southern Railroad, between Saint Louis and Texarkana, that at the last session of Congress it will be seen, by reference to the files, the Department transmitted to yourself and the Committees on Appropriations of the Senate and House statements showing the necessity for two daily mail services on this line, with an offer from the company to afford the desired accommodation for a special allowance at the rate of $50,000 per annum. No appropriation was then made for the service, but the company started a second daily train with mails on the 7th of November, 1880, for which they demanded special compensation at the rate of $75,000 per annum, to which, however, this office did not consent, but agreed to make such compensation for the service as might be provided by Congress.

The subject is presented for the consideration of the present session of Congress on pages 83 and 289 of the annual report.

I would repeat that without a second daily mail on the Saint Louis, Iron Mountain and Southern Railroad the people of Arkansas and Southeastern Missouri would not have mail facilities in keeping with their business interests, nor such as their development demands.

Very respectfully,

THOS. J. BRADY,
*Second Assistant Postmaster-General.*

Hon. A. H. GARLAND,
*United States Senate.*

Mr. CANNON, of Illinois, rose.

Mr. HUMPHREY. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Arkansas made that motion, and spoke in favor of the amendment offered by the gentleman from Missouri. Under the rule the Chair of course desires to give preference to gentlemen who would speak in opposition to that amendment.

Mr. HUMPHREY. I desire to speak in opposition to it. I desire to state briefly this: it seems to me that the people of this section of the country are in the same position as to mail facilities as the people of every other section of the country. That if this amendment should obtain, it is indirectly a subsidy to a railroad company which it is claimed is not running trains enough. Now, if the business of that part of the country demands two trains a day, the Iron Mountain Railway will put on two trains, and then, under the general law as it now exists, arrangements can be made with the Post-Office Department whenever the mail service of the country demands it.

But, Mr. Chairman, it is rather an anomalous case when the fact is that the business interests of that country only demand one train a day, and yet the mail interests demand there shall be two mails a day. It seems to me that is something new in this country. We have always supposed that the increase of business preceded mail facilities, instead of mail facilities preceding the business interests. In our country, in the Northwest, I find we can only get two mails a day when the business interests are such that the railroad companies are obliged to run two postal trains a day, and we never have thought of demanding that the Government shall make an appropriation by which an extra train shall be run each day for the purpose of transporting the mail.

Mr. DUNN. May I ask the gentleman from Wisconsin a question?

Mr. HUMPHREY. Yes, sir.

Mr. DUNN. Is it not customary for the Government to put on overland stages on star routes at a great cost where very little business is being done?

Mr. HUMPHREY. Certainly; but the Government do not in that case give the people more than one mail a day. They seldom get more than one a week.

Now, people are not living entirely out of the world who get a mail once a day. The business interests of the country are such that there are few, if they get one mail a day, but are satisfied. And, Mr. Chairman, if the business interests of that country are such that the Iron Mountain Railway will put on two trains a day, no doubt they will get the mails. But this seems an attempt to subsidize that railroad and give them this sum for running an extra train.

Mr. DUNN. If the gentleman from Wisconsin will permit me, I will state that that road has put on two trains a day, and are now asking pay for carrying the mails on them.

Mr. HUMPHREY. I understood at the outset there was but one train a day on that railroad.

Mr. DUNN. If the gentleman had listened to the reading of that letter he would have learned there were two.

Mr. HUMPHREY. I listened to the reading of the letter, and understood it to purport simply this: that unless this special case was provided for by this appropriation this service could not be put on. Now, that I cannot accede to. I believe that the Post-Office Department has a discretion that when a section of country needs a service it can be furnished, and where two trains a day are running the Department, under its discretion, can put on a second mail without any special legislation.

Mr. MONEY rose.

The CHAIRMAN. Debate on the pending amendment is exhausted.

The question being taken on the formal amendment, it was not agreed to.

Mr. MONEY. I move to amend the amendment by inserting "$45,000," so that the amount will be $445,000, instead of $400,000 as in the bill.

This whole case can be briefly stated thus: there is no complaint that the mail service is not provided for on this railroad under the section of the bill beginning at line 56. Whether the sum voted by the committee will be sufficient for the service on all the railroads of the United States is a matter yet to be determined. It is the opinion of the Department it will not be sufficient. But as the law provides exactly what shall be paid by weight and space to these several railroads, it is a matter of indifference, I presume, with the Department, because the deficiency must be made good next session if the sum now appropriated does not prove sufficient.

Mr. BLACKBURN. The gentleman from Mississippi, I am assured, understands that the question of weight does not enter into this question.

Mr. MONEY. I know that. The question is whether this particular railroad shall be supplied with extra mail facilities, and the amendment comes in properly under this section. Now, this railroad runs two trains a day. My friend from Wisconsin [Mr. HUMPHREY] was mistaken on that point. But it has not two mails a day. The railroad on which I live, the Mississippi Central, has also two trains a day each way, but not two mails. It has only one mail, and we can get but one.

These special mail facilities are for the purpose of giving to the country in all sections a fast mail, which is promoting the efficiency of the postal service and making it a blessing to the business interests of the whole country. The sections which the gentleman from Arkansas and the gentleman from Missouri represent are as much entitled, perhaps, to extra facilities as any other section of the country. The Department can get along with $400,000 to carry out the arrangements they have already perfected with the railroads of the country for these special mail facilities; but they cannot put on the extra facilities on this particular road with that sum. To have those extra facilities to which the people of that section of the country are as much entitled as those of any other section of the country there must be appropriated this additional sum of money. That is the whole statement. It rests with the Committee of the Whole whether it will extend these extra facilities now enjoyed by New England and the West to another section of country for which this additional appropriation is asked.

This is the only grand trunk-line that I am acquainted with that is deprived of these extra mail facilities. It rests with the Committee of the Whole whether we will make a discrimination against that section of country or not. We are told by the Department that $400,000 is ample to carry on the arrangements already made, but the arrangements perfected by the Department did not embrace this particular railroad running through that particular section of the country. So far as I am concerned, I am willing to give these gentlemen and their section of the country what is enjoyed by my section and every other section of the country. That is the whole thing in a nutshell.

As to the remark of the gentleman that the money voted last year

had not yet been expended, I will remind him the fiscal year has not yet expired. And I venture to say there will not be one dollar of that money left when the year has expired, for I know that the arrangements already made with the several companies will absorb every cent of the $350,000 which we have appropriated. If there is anything over, then arrangements would have been made with this trunk railroad.

Mr. CANNON, of Illinois. I want to call the attention of the Committee of the Whole to the law governing this service, because if this amendment shall be adopted for the reason assigned by the gentleman from Arkansas, [Mr. DUNN,] we will take a new departure. The law provides—and I now read from section 4002 of the Revised Statutes:

That the mails shall be conveyed with due frequency and speed; and that sufficient and suitable room, fixtures, and furniture, in a car or apartment properly lighted and warmed, shall be provided for route agents to accompany and distribute the mails.

Under the law the Post-Office Department has the right, first, to compel the railroad company to carry the mails "with due frequency and speed;" and, second, to furnish the cars to carry the route agents for the distribution of the mails. It may be said, perhaps, by gentlemen that it is a right without power to enforce it. But we provide in this very bill that if the railroad companies fail to furnish the necessary facilities their compensation shall be reduced 10 per cent. from what it is under the law as it now stands.

Mr. MONEY. May I interrupt the gentleman?

Mr. CANNON, of Illinois. If I have the time; I have only five minutes.

Mr. MONEY. It is for the information of my friend and of the House. Do I understand the gentleman to say that the Government can compel a railroad to take the mails upon its fast trains?

Mr. CANNON, of Illinois. I am coming to the fast trains.

Mr. MONEY. Cannot the railroad carry the mails upon any of its passenger trains?

Mr. CANNON, of Illinois. I am coming to the fast trains in a minute. In my opinion, the Government has the power now under the law to compel a railroad company to take the mail upon any of its trains.

Mr. MONEY. Let me say to the gentleman that the thing was tested on the New York Central Railroad, and Vanderbilt put the mail upon his accommodation train, which did not make fifteen miles an hour, and the Government had no power to compel him to put it on the fast trains.

Mr. CANNON, of Illinois. I hope this will not come out of my time. The gentleman asked me for my opinion and I gave it to him. Let that be as it may, Congress has seen fit to appropriate $350,000 for extra speed and special facilities, owing to the decrease of compensation. Now, is that what is asked for by the gentleman from Arkansas, [Mr. DUNN?] Not at all. It is not for extra speed; it is not for increased facilities; it is for an additional mail train.

Now, an additional mail train can be had under the existing law; and if the railroad company refuses to furnish these facilities it will be liable to at least 10 per cent. reduction. Hence the Department has singled out this one railroad, both in the annual report and in the letter which has been read from the Clerk's desk, because it does not come within either of the classes of railroads for which we have been making appropriations.

Now, if you pass this appropriation for the reason assigned by gentlemen, then you will place it in the power of any and of all the railroads of this country to say, under this precedent, that they will run but one train a day upon which the mails are carried, unless the Department complies with their terms at an expense of $75,000 or $100,000 or $500,000, as the case may be, for more than daily service.

The law is ample and sufficient now to compel the carrying of the mails as frequently as is demanded by the necessities of the public. I call for an enforcement of the law as it now exists instead of giving this kind of relief.

The CHAIRMAN. The question is upon the amendment of the gentleman from Mississippi [Mr. MONEY] to the amendment of the gentleman from Missouri, [Mr. CLARDY.]

Mr. MONEY. I will withdraw my amendment.

The question was taken upon the amendment of Mr. CLARDY, and upon a division there were—ayes 30, noes 53.

No further vote being called for, the amendment was not agreed to.

The Clerk read the following:

For inland transportation by steamboat routes, $900,000.

Mr. UPSON. I move to amend the paragraph just read by striking out "$900,000" and inserting "$1,000,000." I move that amendment for the reason that in my own State a considerable additional amount of steamboat mail service is needed, and I understand the same is true of the State of North Carolina and also of the State of Louisiana.

In my own State about two hundred miles of new steamboat mail service is needed, and I understand that about three hundred miles of such service is needed in North Carolina; how much is needed in Louisiana I do not know. I am informed by the Post-Office Department that unless the amount estimated for, $1,000,000, is appropriated we cannot have the benefit of that service.

So far as the service asked for in my own district is concerned it is absolutely necessary. It is for places situated upon inland bays, where sail-boat mail service has been tried and where land service has been tried, and both have been found insufficient to give the public the mail facilities which they absolutely need, and the steamboat mail service is required for the purpose. Unless this amount is given by Congress, I am informed by the Post-Office Department that the service which is absolutely necessary cannot be granted.

I do not know what the information of the Committee on Appropriations is, but such is my information from the Department. Upon making application to the Department for this service we have been answered that it cannot be granted unless the amount estimated for by the Department is appropriated by Congress.

Mr. BLACKBURN. I am very sure that I do not go beyond the fact when I say that the Committee on Appropriations has no purpose or view of crippling the steamboat postal service at all, nor of failing to give the full amount that it is possible can be properly used both to maintain that service at its present rate and to meet its natural increase.

Now, if gentlemen will turn to the report of the Postmaster-General, and look at the tables on page 556, they will find that the expenditure for transportation of mails by steam for the year 1880 was only $794,149.15.

We appropriated last year $900,000 for this service, the Department asking $1,000,000. But the whole of the $900,000 that we appropriated has not been expended. The report which I hold in my hand states that there is a gradual increase of estimate and appropriation for railway transportation because in many instances it is being substituted for steamboat service. If there is thus an increase of appropriation for railway trasportation by reason of its substitution for steamboat service, then there should of necessity be a decrease *pro tanto* of the cost of steamboat service. But the $900,000 that we appropriated last year has proved amply sufficient; and $900,000 is the amount proposed to be appropriated by this bill. It is more than has ever yet been expended for this service in any one year, and there is nothing in the report of the Postmaster-General on this subject that looks to an increase except what I am about to read, on page 79. The Postmaster-General devotes seven lines to the subject of steamboat mail service. He says:

The cost of steamboat service for 1880 was $887,221. The appropriation for the current year is $900,000, which is $100,000 less than the amount estimated to be necessary.

I grant that the estimate then was $1,000,000, as it is $1,000,000 now. He continues:

The demand and necessity for steamboat service call for an increased appropriation for this item for the year 1882, and the estimate is therefore placed at $1,000,000, which is a little more than 11.11 per cent. over the amount provided for the current year, being the same amount as was estimated to be necessary for the current fiscal year.

There is not the difference of a cent between his estimate for this year and for next year. He shows by his own report that he had a surplus of more than $100,000; $105,000 more was appropriated than was expended. Yet he now asks for $100,000 more, to be piled on top of that. If the committee had thought that the steamboat service would cost $1,000,000, that sum would have been appropriated in this bill without a word; but the expenditure for steamboat service has never reached $900,000 a year. Hence the committee are forced to conclude that $900,000 will be amply sufficient to meet the demands of this service for the coming year. I hope the amendment will not be adopted.

The CHAIRMAN. Debate is exhausted.

Mr. UPSON. I would like to be heard in reply to the gentleman from Kentucky, [Mr. BLACKBURN,] who has made some statements which seem to be in conflict with the report of the Postmaster-General.

The CHAIRMAN. The rule is very explicit.

Mr. UPSON. I move *pro forma* to amend the amendment by striking out the last word. I wish to call the attention of the committee to the report of the Postmaster-General, page 79. If I understood the gentleman from Kentucky correctly, he stated that the expenditure for this service during the last year was $794,000.

Mr. BLACKBURN. The gentleman has made a mistake which he will recognize in a moment. On page 79 of his report, the Postmaster-General states, not what has been paid out for this service, but what the cost of it was. Turning to page 556 of the same report we find a table giving the figures which I have given to the committee.

Mr. UPSON. Let me get through. I wish to read the statement of the Postmaster-General:

The cost of steamboat service for 1880 was $887,221. The appropriation for the current year is $900,000, which is $100,000 less than the amount estimated to be necessary. The demand and necessity for steamboat service call for an increased appropriation for this item for the year 1882, and the estimate is therefore placed at $1,000,000, which is a little more than 11.11 per cent. over the amount provided for the current year, being the same amount as was estimated to be necessary for the current fiscal year.

I will state for the information of the committee that since the estimate was made there have been given to the State of North Carolina over one hundred miles of new steamboat service, and that State still requires over two hundred miles more. This, of course, does not enter into the calculation of the expenditure of last year. I am informed that in addition to the three hundred miles of steamboat transportation demanded in the State of North Carolina, at least two hundred miles more are required in the State of Texas, and a considerable increase in the State of Louisiana. I will grant that there was a surplus last year of $105,000, as is stated by the gentleman from

Kentucky; still, for the coming year, the additional $100,000 proposed in the amendment will be needed, according to the statement of the Post-Office Department; otherwise certain States of the Union will be deprived of service absolutely needed for the public interest.

Mr. CANNON, of Illinois. I would like to ask the gentleman a question. Is he not aware that the statement which he has read, showing the cost of this service at $887,000, is a statement of the rate of cost on the 30th day of last June, without any reference to fines or deductions, and that the only reliable statement of the cost of the service is the money actually paid out, which amounted to $794,000?

Mr. UPSON. I have said that I was willing to admit that the statement of the gentleman from Kentucky was correct, that there was a surplus, yet the additional $100,000 covered by my amendment will be required in order to secure the new service which is wanted.

Mr. BLACKBURN. I only desired to correct the gentleman from Texas for his own benefit by showing that the apparent discrepancy between the cost of this service, as stated on page 79, and the expenditure as given in the table on page 556 is attributable to the fact that fines and penalties are as much available for the purposes of the Department as money directly appropriated by Congress, and the difference results from the deduction of these in the table on page 556, which shows the money actually paid out, it thus appearing that of the $900,000 appropriated the actual expenditure was only $794,149.15.

Mr. UPSON. I grant that the gentleman's statement is entirely correct; yet I insist that the whole amount of the estimate is necessary to be now appropriated in order to give the service required. When I have asked for the steamboat mail service in my own district, which is much needed, I have been met with the assurance by the Post-Office Department that it would be granted if Congress would appropriate money enough, and that the estimate made was deemed necessary in order to prepare the new service required. I therefore hope the amount estimated will be appropriated.

Mr. BLOUNT. I move to strike out the last two words.

Mr. KING. I wish to ask the gentleman a question.

Mr. BLOUNT. I will yield presently to the gentleman for that purpose.

Now, Mr. Chairman, there is a great tendency to extravagance and looseness of appropriation in this matter of steamboat mail service. Taking the history of that service before the war, we find that as railroads were being built throughout the country, and following the lines of our great navigable streams, from year to year the Postmaster-General took off what is technically termed steamboat service and supplied its place with railway mail service. For the past two or three years this House, however, through inadvertence, simply upon the mere statement of a member who wanted the service here or there that, on application, the Second Assistant Postmaster-General said he had not the money to put on the service asked for, has gone on and reversed the whole previous policy of Congress in this regard.

I have before me, Mr. Chairman, the history of that service, beginning in 1870 and coming down to 1877, as it is presented in the report of the Post-Office Department. The highest rate paid for this steamboat service during all those years was in 1870, when it amounted to $20,695. Pursuing the course indicated by the judgment of the Postmaster-General, it continued to decrease year after year until it reached in 1877 $17,685. The railway mail service had gradually, as railroads were built throughout the country, supplied the place of this steamboat service, but, as I have said, unwillingly for the last two or three years; and merely upon the simple suggestion by the Second Assistant Postmaster-General to a member who wanted additional steamboat service that he had not the money for the purpose, this House has been blindly pushing forward that steamboat service until to-day we have reached a higher appropriation for it than at any time since the war. We are now, by appropriating $23,329, reversing the old policy and going backward. The building of railroads to take the place of this service does not seem to reduce appropriation, and applications continue to be made to the Government to put on further steamboat service, and the result is as I have stated. Along all our rivers are railroads already carrying the mails, and the Government has been congratulated on the fact of this new and better service. Yet, sir, for two or three years this House has seen fit to ignore all this and put steamboat service where it is possible to do it.

My friend says that we need this service in South Carolina. He says further that we need it in Louisiana and in various other places. Has the gentleman given this House or can he give the House a thorough statement of the condition of the railway mail service in that section? It has an immense star-route service, which has almost doubled within the last few years. That being so, we are not to be guided, and I trust we will not be guided, by these impromptu and ill-considered statements as to appropriations on a bill carrying forty-odd millions of dollars. There is something to be learned from the natural growth of the service. It is its history from which we can adduce its wants, and I undertake to say that no gentleman in this House or in the Post-Office Department, from the highest official to the lowest, can reach any satisfactory conclusion as to the wants of the service in any given branch of it unless by a study of that service.

Mr. KING. Will the gentleman yield to me for a question?

Mr. BLOUNT. Certainly.

Mr. KING. I wish to know whether the steamboat service throughout the country at large has been increased.

Mr. BLOUNT. I have so stated, and given figures showing the increase.

Mr. KING. From the statement of the gentleman from Kentucky we are led to infer it had decreased. Now, I know the statement of the gentleman in reference to the State of Louisiana is perfectly correct.

Mr. BLOUNT. I do not remember the statement of the gentleman from Kentucky, but I speak from the official data found in the reports of the Post-Office Department itself. Every statement I have made comes with the sanction of the Postmaster-General.

Mr. KING. I know the demand, the natural and legitimate demand, for increase of steamboat service in the State of Louisiana is felt by citizens residing on the banks of those rivers.

Mr. BLOUNT. So far as that is concerned, if the service were properly adjusted the gentleman might have the service he wants. There is undoubtedly service on many of our rivers which ought to be abandoned; but the administration of that Department, putting service here and there, star routes and steamboat service, shows, if we are to learn anything from the past, the actions of the officers of that Department are not based on the judgment of the Department itself in reference to the particular service asked for, but granted in accordance with the individual judgment of members.

The CHAIRMAN. If there be no objection the formal amendments will be withdrawn.

There was no objection.

The question recurred on Mr. UPSON'S amendment.

The committee divided; and there were—ayes 21, noes 64.

So the amendment was rejected.

Mr. UPSON. I give notice I shall demand a yea-and-nay vote on that amendment in the House.

The CHAIRMAN. The amendment being rejected, there will be no opportunity for a vote on it in the House.

The Clerk read as follows:

For inland transportation by steamboat routes, $7,875,000.

Mr. HASKELL. I move to strike out "$7,875,000," and in lieu thereof to insert "$8,260,000."

Now, Mr. Chairman, the post-route bill of the last session of Congress contained provision for 1,300 new star routes. The bill that will be reported at this session of Congress will contain about seven hundred additional routes. That will make in all about two thousand new star routes which will be legalized and ready for service on the 1st day of July next. The amendment sent to the Clerk's desk is the estimate of the Department. I have very little to say in urging this amendment, as it is generally understood by the members of the House. In my judgment the full amount of the estimate ought to be appropriated. The committee seem to be of the other opinion. In offering the amendment I simply wanted to afford the House an opportunity of increasing it up to the estimates of the Department if they saw fit. I believe it will be needed.

It is useless for me to enter upon a long dissertation concerning the importance to the people of this country of the star-route service.

Mr. CANNON, of Illinois. I ask that the amendment be again reported.

The Clerk read the amendment.

Mr. CANNON, of Illinois. Mr. Chairman, I am opposed to this amendment for the reason I am satisfied the amount recommended by the Committee on Appropriations is ample for the star service.

In my opinion, the estimate of the Second Assistant Postmaster-General for star service is not reliable, and for that matter, was not last year. For the last fiscal year we appropriated for this service $6,000,000 and the Second Assistant made a deficiency estimate for $2,000,000, amounting in all to $8,000,000; of this deficiency we appropriated $1,100,000, making the total appropriation for star service last year $7,100,000.

Now, when I consult the Sixth Auditor's report I find that the actual payments for star service last year were $6,925,274.98, which is $174,725.02 less than the appropriation, and this, too, after we had refused to appropriate $900,000 of the amount estimated for by the Second Assistant Postmaster-General; and from the best information I can get, I am satisfied there will be at least $100,000 of this appropriation covered back into the Treasury. So that the figures show that this service last year cost less than $7,000,000.

Now for the current year the appropriation for the star service is $7,375,000; that is to say, $375,000 more than the service in fact cost last year. The Second Assistant Postmaster-General, in making up his estimates for the coming year for this service, fixes the amount at $8,260,000, an increase over the cost of last year of $1,200,000; and over the appropriation of the current year of $825,000. The Committee on Appropriations recommend for this service the coming year $7,875,000, an increase over the current year of $500,000, an amount, in my opinion, ample to more than cover the cost of all necessary service, including a large amount of new service. The Committee on Appropriations knew the anxiety of the House to be liberal with this service, and went, in their recommendation, beyond what they believed necessary to furnish every needed facility.

And I will say here, Mr. Chairman, that to my mind the Second Assistant Postmaster-General is not fair and candid to Congress or the country in his statements in connection with the estimates for the

star service, as well in what he states as in what he omits. For instance, on page 76 of the Postmaster-General's report, he says:

The improvements in the star service during the last year are fully shown in the statistical tables accompanying this report, but I will add that, in pursuance of the liberal policy of your predecessor, this service is now (having gone into operation the 1st of July last) practically double what it was on the 30th June last in the States of Indiana, Ohio, Kentucky, Tennessee, Alabama, Mississippi, Georgia, North Carolina, South Carolina, and Florida. It is not yet what it ought to be throughout these great States, and in many others, or what it will be under a continued wise administration and generous legislation.

Now this statement, taken in connection with what precedes and follows it, leads one to suppose that the doubling of service in the States mentioned largely increased the cost of the service, and is apparently thrown in as a make-weight in favor of a large increase of appropriation. In answer to inquiry a few days ago I received a tabulated statement at the Department showing that, notwithstanding the doubling of the service in the States mentioned, the cost of same under the new letting, commencing 1st of July last, was less than it was for one-half the same service prior to that time; which tabulated statement is as follows:

*Cost of star service June 30, 1879, as compared with amount under the letting of service to commence July 1, 1880.*

| States. | Cost June 30, 1879. | Cost July 1, 1880. | Increase. | Decrease. | Per cent. increase. | Per cent. decrease. |
|---|---|---|---|---|---|---|
| North Carolina | $111,286 | $105,826 | ..... | $5,460 | ..... | 4.9 |
| South Carolina | 39,533 | 44,790 | $5,257 | ..... | 13.3 | ..... |
| Georgia | 79,951 | 85,677 | 5,726 | ..... | 7.16 | ..... |
| Florida | 40,381 | 56,706 | 16,325 | ..... | 40.4 | ..... |
| Alabama | 113,646 | 116,046 | 2,400 | ..... | 2.11 | ..... |
| Mississippi | 86,145 | 91,699 | 5,554 | ..... | 6.44 | ..... |
| Tennessee | 92,012 | 84,883 | ..... | 7,129 | ..... | 7.75 |
| Kentucky | 101,597 | 97,177 | ..... | 4,420 | ..... | 4.35 |
| Ohio | 147,958 | 124,855 | .... | 23,103 | ..... | 15.6 |
| Indiana | 83,252 | 77,187 | ..... | 6,065 | ..... | 7.28 |
| Total | 895,761 | 884,846 | ..... | 10,915 | ..... | 1.21 |

[Here the hammer fell.]

Mr. BLACKBURN. I move to strike out the last word of the amendment, and yield my time to the gentleman from Illinois.

The CHAIRMAN. The committee will rise to receive a message from the Senate.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. HUNTON having taken the chair as Speaker *pro tempore*, a message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed a bill (S. No. 2038) making appropriations for completing the compilation and publishing the returns of the tenth census; also, Senate resolution No. 146, a joint resolution to provide for the printing and distribution of the index of the CONGRESSIONAL RECORD semi-monthly; also, a Senate concurrent resolution providing for the printing of 15,560 copies of the report of the Smithsonian Institution for the year 1880; in which bill and resolutions concurrence was requested.

The message also announced that the Senate had agreed to the resolution of the House providing for the printing of 2,500 extra copies of the report of the health office of the District of Columbia.

POST-OFFICE APPROPRIATION BILL.

The committee resumed its session.

Mr. CANNON, of Illinois. Again, the Second Assistant Postmaster-General informs us on page 79, in further speaking of the estimates for the star service, that there is to be a new letting in New York and other States, as follows:

Then the regular advertisement has been issued inviting proposals for carrying the mails on all star routes in New England, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and West Virginia for the new contract term of four years commencing July 1, 1881. The intention is to give to such of these States as may need them facilities superior to those now in operation. The bids for the new service cannot reasonably be expected to be as low as those made in 1876, upon which the present service is being performed.

In view of the fact to which I have just called the attention of the committee, that as much again service in the States south and one west costs less than it did under the former contract prior to 1st July last, I apprehend we are justified in believing that the service to be let on the 1st of July next will also cost less. The truth is, there has been a great revival of business, but that very fact legitimately tends to decrease the expense of carrying the mails on the star routes in the older sections of the country, because wherever these star routes do a passenger business or an express business or a freight business, there it is very important to the contractors to add to their profits by the carrying of the mails; and the competition, therefore, arising from this increase of business is liable to cheapen the mail service instead of increasing its cost. That no doubt explains the fact that in the new contracts commencing 1st of July last the new service, double in amount what it was last year, is cheaper than it was last year under contract made four years ago.

I again say, therefore, that it was the desire of the Committee on Appropriations not only to be liberal, but to be more than liberal; to recommend to the House an appropriation of money to take care of this service North and South and East and West, and more than enough. And when we recommend an increase of half a million dollars over and above the amount for the current year, with these facts staring us in the face, we felt we did recommend more than enough.

Now, Mr. Chairman, a word in conclusion. Under a wise administration of the Post-Office Department, in my opinion the cash of the star service will from this time forward decrease. There are in round numbers 10,000 star-routes upon which this service is being performed. Last year on one hundred and seven of these routes, in Texas, Colorado, California, and the Territories, the cash of service was in round numbers at the rate of $3,200,000 per annum, nearly as much as upon the 9,900 other routes. The completion of the Southern Pacific Railroad, and the near completion of the Northern Pacific Railroad, as well as the rapid construction of railroads elsewhere in the western part of the country, is making and will continue to make unnecessary year by year the great expensive star routes, and I trust that a vigilant and wise administration of the Department, upon the one hand, in spending these appropriations, and a vigilant inquiry by Congress in making these appropriations, upon the other, will give the country not only a good and sufficient, but also an economical service. The amendment of the gentleman from Kansas, in my opinion, should not prevail.

Mr. HASKELL. I have been informed, also, by the Post-Office Department of the facts stated by the gentleman from Illinois [Mr. CANNON] concerning the cost of the old service; and it has gratified me very much to know that the mail contracts at the present time are being let cheaper than they were some years since. But that refers to the old service. That refers to the routes already established. For the 2,000 new routes not yet let formally—service having been put on them temporarily until they could be let—for the 2,000 new routes provided for by Congress there is only $275,000 set apart by this bill. I simply doubt the judgment of the committee as to that amount. I do not believe it will be enough.

That is my judgment, taking into consideration and assuming that what the gentleman from Illinois says concerning the Southern States will be true in the West, that the old service, although increased in number of trips, will not be increased materially in the cost of the service. The fact remains that we have this immense number of new routes, and from all the information I could gather $275,000 was not enough. Hence the amendment I made to increase it.

Mr. BLACKBURN. I desire simply to make one statement. Last year we appropriated $5,900,000 for this star service. We passed a supplemental bill in the shape of a deficiency, appropriating $1,100,000 more; and in the same supplemental bill we appropriated a further amount of $100,000 for new service, making an aggregate of the original appropriation bill, with these deficiencies, of $7,375,000 given to this star service for the present fiscal year.

The bill now before the committee takes those items, deficiencies and all, includes them all, and adds $500,000 more to that to meet the increase of the star service. That is the proposition of the bill. The amendment offered by the gentleman from Kansas proposes to supplement this bill by adding $385,000 more.

Now, sir, I beg the Committee of the Whole to see what it is that is asked to-day. It is asked to appropriate the amount deemed necessary in the appropriation bill a year ago plus $1,200,000 plus $500,000 more, and then to add $385,000 to this aggregated sum. I do not believe that the service demands it, and I trust the amendment will not be adopted.

The CHAIRMAN. The question is on the amendment of the gentleman from Kansas, [Mr. HASKELL,] which the Clerk will again report.

The Clerk read as follows:

In line 86 strike out "$7,875,000" and insert "$8,260,00;" so that it will read: "For inland transportation by star routes, $8,260,000."

The question being taken on the amendment, it was not agreed to.

The Clerk read the following:

For mail-bags and mail-bag catchers, $185,000.

Mr. MONEY. I offer the amendment which I send to the desk.

The Clerk read as follows:

In lines 98 and 99 strike out "$185,000" and insert "$220,000;" so that it will read:

"For mail bags and mail-bag catchers, $220,000."

Mr. MONEY. I desire the Clerk to read what I have marked on pages 80 and 81 of the report of the Second Assistant Postmaster-General.

The Clerk read as follows:

The accompanying table, (G,) prepared for the appendix of the Postmaster-General's annual report, shows that the total number of new mail-bags of every description purchased and put into service during the year was 64,398, of which 10,963 were locked pouches and 53,435 were tie sacks, being, altogether, a decrease, compared with the preceding year, of 39,623 mail-bags; that the number of mail-catchers purchased, besides extra appurtenances thereto, was 300, and that the total expense of mail-bags and mail-catchers, including repairs, &c., was $146,601.76, being a decrease in expense of $23,664.50 compared with the preceding year.

The total number of mail-bags repaired during the year was 363,352, and the total cost of their repairs was $42,191.91; an increase in quantity of 6,825 and in cost of $4,578.81 compared with the preceding year.

With the current fiscal year the mail service has set in with largely increased demands for mail-bags, caused not only by the expansion of mail facilities, but also by the fact that thousands of old damaged mail-bags which were reclaimed and

repaired from time to time for service during the last six years are at length rapidly giving out and falling into decay, and will require to be replaced with new bags during the present and ensuing fiscal years. It is apprehended from the increased expense, relatively, of the first quarter, just ended, that the amount appropriated ($185,000) for the current fiscal year, ending June 30, 1881, will be insufficient, without extreme and perhaps unwise economy, to supply the wants of the mail service during the year. The large reduction in the quantities of new mail-bags purchased during the year ended 30th of June last, compared with the preceding year, will, it is feared, claim compensation for it in the next year, and is another fact tending to strengthen the apprehension of future necessity for greater expense.

I conclude, therefore, that less than the amount here estimated would be greatly at the risk of seriously embarrassing the mail service, the demands of which are, from a multitude of incidents affecting them, variable, fluctuating, and impossible to be foreseen with exactness of amount, and yet such demands, in most cases, are of a nature too urgent to be refused or even deferred without imminent danger of interrupting or stopping the transmission of the mails.

Mr. MONEY. This amendment concerns an indispensable requirement of the mail service. Without proper mail-bags the service cannot be efficiently performed. For the last three years this sum of $185,000 is what has been appropriated for this purpose. The report of the Second Assistant Postmaster-General shows that this amount is insufficient. The cost of the repairs of mail-bags during the past year, it appears, has been over $42,000; and on account of the insufficiency of the appropriation bags in a dilapidated condition have been suffered to accumulate.

The number of new bags purchased last year was nearly forty thousand less than in the year before, although there has been a great increase in the business of the Department in the bulk and weight of mails to be transported. The reason was that the contract was about to expire for the furnishing of these bags to the Department, and it was deemed necessary to get a new design and some improvement in the construction.

For that reason there was not the usual amount of mail-bags purchased last year. The old sum of $185,000, which has been appropriated now annually for three years, without any reference to the increased business of the country, without any reference to the decay and destruction of pouches and bags, is continued for this year.

I cannot tell what the increased business of the whole United States is; but take the New York post-office, which is the great central post-office of the country, and the increased business for this year is already 16 per cent., and that rate of increase is sufficient to justify the appropriation of the full amount I have named in my amendment.

Gentlemen also will recollect that this has been a hard winter; there has been much delay and detention in the carrying of the mails, and they have accumulated at times to a great amount upon the various lines. When the winter is open, and there is no obstruction upon the railway lines, there is no difficulty in transporting the mails; but when the mails accumulate at any point by reason of obstruction of the great trunk-lines of the country, there is demanded a greater number of bags and pouches for their transportation.

[Here the hammer fell.]

Mr. BLACKBURN. Whatever else may be lacking, there never is any want of excuses to be urged by the Post-Office Department for the estimates they submit.

We are giving in this item of the bill the sum of $185,000; precisely the amount that was appropriated for 1879, for 1880, and for 1881. For three years past the Post-Office Department has had precisely the amount of money for this purpose which this bill proposes to appropriate, and there is no deficiency. From the report of the Post-Office Department I find that for last year there has been spent for this purpose only $166,530.51, although $185,000 was appropriated.

Now to go back to other years. I have said that for the last three years $185,000 each year was appropriated for this purpose. For 1878 there was appropriated $200,000; for 1877 $175,000, and for 1876 $210,000. Therefore it would seem that there has not been such an increase in expenditures under this item. For the year 1876 there was appropriated, as I have said, $210,000; for the year 1878 $200,000, and for the past three years there has not been annually appropriated more than $185,000. Yet I find that only $166,530.51 was paid out during the last fiscal year for this purpose.

The Committee on Appropriations does not feel that it would be warranted in making an appropriation in excess of any that has been made for the last three years for this purpose, in view of the fact that it has proven amply sufficient. This item of expenditures by the Post-Office Department shows a shrinkage instead of an increase from year to year. I trust, therefore, the amendment will not be agreed to.

Mr. MONEY. I move to strike out the last word for the purpose of replying to the honorable gentleman from Kentucky, [Mr. BLACKBURN.] He makes the same statement of facts that I complained of, that for three or four years past the same appropriation has been made for a business which has increased this year 16 per cent.

Mr. BLACKBURN. Will the gentleman allow me to ask him a question?

Mr. MONEY. Certainly.

Mr. BLACKBURN. Then why is it that the Postmaster-General last year, with $185,000 in his hands for this purpose, let the service run so low as to spend only $166,000?

Mr. MONEY. If the gentleman had done me the honor to listen to what I said——

Mr. BLACKBURN. I did listen to the gentleman very carefully.

Mr. MONEY. I said that because the time of the contract for supplying these bags and pouches was about to expire, and the Department wanted to obtain a different class and better order of bags and an improved device for closing the bags, the expenditures were not to the extent they would otherwise have been.

The gentleman himself has furnished a sufficient reason why this appropriation should be increased as I have suggested. It is because the business of the country has increased. New York City alone sends out on an average every day five hundred letter-pouches and two thousand six hundred canvas sacks. Last year the increase of business was 14 per cent., and yet no increased appropriation is made for supplying mail-bags and mail-pouches. The gentleman himself has furnished the very reason why this appropriation should be raised to the amount I have indicated. It is because of the small amounts which have heretofore been appropriated, and, as I have already said, for that reason $40,000 less was expended for new bags last year than the year before.

Mr. BLACKBURN. It was the same appropriation as was made the year before.

Mr. MONEY. And for the same reason——

Mr. BLACKBURN. And for the year before that.

Mr. MONEY. We have had this increase of business since then. Last year the increase was 14 per cent., and this year the increase has been 16 per cent. over last year, and it is proposed now to appropriate only the same amount that was appropriated last year. We cannot transport the mails properly unless we have a sufficient number of bags and pouches in which to do it. Of course, if there is more money on hand, so much the better. I congratulate the Department that it has been able to save money out of the small appropriations allowed by Congress. But taking into consideration the increased business of the country and the dilapidated condition of the bags and pouches heretofore used, I say this amount is absolutely necessary. I withdraw now my *pro forma* amendment, and hope that the amendment to the paragraph will be adopted.

The question was taken upon the amendment of Mr. MONEY to increase the appropriation for mail-bags and mail-bag catchers from $185,000 to $220,000, and it was not agreed to.

The Clerk read the following:

For miscellaneous items, $1,000.

Mr. DUNN. I ask consent to go back to line 55 in order to offer an amendment.

Mr. BLOUNT. I must object.

Mr. DUNN. Then I offer the amendment which I send to the Clerk's desk, to come in after the paragraph relating to miscellaneous items just read.

The Clerk read as follows:

The Postmaster-General shall, out of the appropriations hereinbefore made, make all proper and necessary arrangements to place a second daily mail and post-office service, with necessary equipment, from Saint Louis, Missouri, to Texarkana, Texas.

Mr. BLOUNT. I make the point of order that this amendment is not germane to the pending paragraph. We have passed the matter of railroad transportation.

Mr. DUNN. I hope the gentleman will not press that point.

Mr. BLOUNT. In addition, the amendment is new legislation not in the interest of economy.

The CHAIRMAN. The Chair thinks that the fact of an amendment not being germane to the paragraph is not sufficient to rule it out, if it be germane to the bill. But at the same time the Chair must hold that this amendment proposes new legislation which does not involve retrenchment of expenditures in any of the three methods provided by the rule.

The Clerk read as follows:

Office of the Third Assistant Postmaster-General:

For manufacture of adhesive postage-stamps, of official stamps, and of newspaper and periodical stamps, $105,000: *Provided*, That the condition attached to the item of appropriation for the "manufacture of adhesive postage-stamps," &c., in the first section of the "act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes," approved March 3, 1879, which condition is in the following words, namely, "If said stamps can be furnished by the Bureau of Engraving and Printing of the Treasury Department at less than the same now cost, the work of printing the same shall be given to said bureau when not in violation of existing contracts," be, and the same is hereby, repealed.

Mr. HUNTON. I move to strike out the proviso of this paragraph beginning in line 104 and terminating at the end of the paragraph. My purpose in moving this amendment is to obtain an understanding of what is designed by the proviso. According to its language, it would appear that the effect will be to exclude the Bureau of Engraving and Printing of the Treasury Department from obtaining this work, even though it should be the lowest bidder. It does seem to me that if the Government can do this work more cheaply than it can have it done, the work ought to be done by the Government. If the Bureau of Engraving and Printing can do the work at less than would be paid for it if done elsewhere, then I think that bureau ought to have the opportunity to bid for it. But I make the motion merely for the purpose of obtaining an explanation of the proviso.

Mr. BLACKBURN. Upon the amendment offered by the gentleman from Virginia [Mr. HUNTON] let me say that the condition attached to a former Post-Office appropriation bill, which this proviso seeks to repeal, was never (as shown by the Journal and the RECORD) passed as law at all; it never had the sanction of either House of Congress. When that appropriation bill went to the enrolling clerks

for enrollment, the proviso or condition which we here seek to repeal was not in it. While it stands in the statutes, it was never agreed to by either House of Congress. I will say further, that it never ought to have been agreed to by either House, for it had not the effect of permitting the Bureau of Engraving and Printing to come in as an equal bidder for the making of these adhesive stamps; but its effect was to exclude all other competitive bidders, and simply require the Bureau of Engraving and Printing to bid against existing rates. Now, I take it that the gentleman from Virginia does not want to sanction such a thing as that. I take it that no gentleman wants to give an exclusive privilege like that to the Bureau of Engraving and Printing. It already has advantages enough. If it comes in as a bidder upon the same terms with the competitive bidders of the country, it still has advantages over each and all of them. It has its rent all free; it has its gas and its fuel free. The Government furnishes all these, which other bidders must supply for themselves. These are advantages enough to be enjoyed in this matter by the Bureau of Engraving and Printing. The Committee on Appropriations, by inserting this proviso, mean simply to repeal a condition in a former bill which permitted the Bureau of Engraving and Printing to be the only bidder, provided it would undertake to do the work at less than ten cents per thousand, which in round numbers is the present rate. That, I hold, nobody wants to sanction.

More than that; if I had the power I would not permit the Bureau of Engraving and Printing to compete at all for this work. Even if it should be the lowest bidder, who is to be responsible for the deficit if the bureau should bid too low to make the work remunerative? The Government of the United States is responsible; this bureau cannot lose a dollar. It might undertake to do the work at five cents a thousand and lose three cents on every thousand; yet the Government itself would be the loser. There is no responsible party to insure that the work shall be done at the bid of this bureau without loss to the Government.

I repeat: all that this proviso does is to repeal a condition in the former bill, which condition never was agreed to by either House of Congress. It crept in by mistake; and it has worked so inequitably and unfairly as to shut out all competitive bidding throughout the country, and give the contract to the Bureau of Engraving and Printing provided it would bid lower than existing rates. I hope that the amendment of the gentleman from Virginia will not be adopted, and that the proviso in the bill will remain.

Mr. HUNTON. I know nothing as to the manner in which this original provision was adopted. It is the law of the land, and this proviso seeks to repeal it. But I desire to put to my friend from Kentucky this question: If the proviso in this paragraph should be retained, can the Bureau of Engraving and Printing be a competitor for the printing of these adhesive stamps?

Mr. BLACKBURN. I will say to the gentleman from Virginia that my construction of the law would be——

Mr. HUNTON. Will the gentleman answer my question?

Mr. BLACKBURN. What is it that the gentleman wants? Does he want me to give some other man's opinion. I think that the Bureau of Engraving and Printing would, under the operation of this proviso, stand exactly upon an equality with other competitive bidders of the country, save and except that the Government furnishes to this bureau its rent, its fuel, and its light all free.

Mr. HUNTON. If this proviso be retained, can the bureau come in as a competitor for this work?

Mr. BLACKBURN. I should say that it could, but I hope it would not.

Mr. HUNTON. I hope it would; and, believing that it would, I withdraw the amendment.

The Clerk read as follows:

For pay of agent and assistants to distribute postal cards, and expenses of agency, $7,300.

Mr. KING. I move to amend by inserting after the word "cards," in line 125, and before the word "two"——

Mr. BLACKBURN. I make the point that comes too late, as we have passed that paragraph.

The CHAIRMAN. The Clerk had read down to line 130, passing that clause and one or two clauses after it. The gentleman from Kentucky objects to going back, and the Clerk will therefore proceed with the reading of the bill.

The Clerk read as follows:

Office of Superintendent of Foreign Mails:
For transportation of foreign mails $225,000.

Mr. DAVIS, of California. In line 140, after the word "dollars," I move to insert the following:

*Provided*, That the Postmaster-General is authorized to pay to the colonies of New Zealand and New South Wales, so much of the cost of the overland transportation of the British closed mails to and from Australia as he may deem just, not to exceed one-half of said cost, and the sum of $40,000 is hereby appropriated for that purpose.

Mr. Chairman, this proviso is substantially the same as the proviso which was attached June last to the Post-Office appropriation bill. It is varied somewhat in its wording, at the suggestion of the Department, as that previous proviso was found in a measure to be inoperative.

Now, sir, I would say one word to this committee in reference to the circumstances which authorize the offering of this proviso. The mails from Australia to England have the choice of two routes, one by the Red Sea and the other by the way of San Francisco and New York. This latter route is maintained solely by the colonies of New South Wales and New Zealand. The mails are carried in American ships and those ships are maintained by those colonies alone at an expense of $240,000 per annum. They carry our mails almost without charge—at no charge except sea postage. The existence of this line has brought these colonies into close relation with our people. It has built up business, it has maintained friendly relations, it has brought the two peoples closely to one another, so that last year the business had increased to such dimensions and was so much in our favor that the exports of American produce to Australia amounted to $8,000,000, while their imports reached only $1,000,000.

Now, it would seem to be the policy of our Government to encourage so favorable relation, but so far from that our Government, availing itself of a privilege granted to it by the postal convention of Paris, charges these colonies, in return for this trade and these advantages, double the rates proposed for world-wide territorial transportation under that treaty. We charge them twice as much for carrying their mails across our territory as is charged anywhere else on the face of the earth.

I submit, Mr. Chairman, as a matter of liberality, of generosity, of courtesy, of patriotism, it is no more than fair to remit these extra charges, and that is all this proviso intends to do—to remit and pay back to the colonies the extra charge we have made for the carrying of these mails across our country. I submit to the committee that this proviso should pass on either one of three grounds, namely, that the present course is impolitic, that it is unjust, that it is illiberal. It is impolitic inasmuch as it tends to destroy this communication between these two peoples who are thus trying to get nearer to one another. It is unjust, as they carry our mails from the South Pacific Ocean and make almost no charge whatever for so doing—indeed, nothing but the sea postage. It is impolitic as it drives away from us a valuable trade and severs a relation which the mother country of England has been trying by every means in her power to destroy, hoping to break up the trade which is rising and growing so rapidly between these colonies and the United States.

Mr. CANNON, of Illinois. I desire to have the amendment again reported to see wherein it differs from the provision attached to the last Post-Office appropriation bill.

The amendment was again read.

Mr. CANNON, of Illinois. I now desire to have read the provision which is contained in the Post-Office appropriation law for the current fiscal year.

The Clerk read as follows:

*Provided*, That the Postmaster-General be authorized to remit in favor of the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the Australian closed mails as he may deem just.

Mr. CANNON, of Illinois. Now, Mr. Chairman, if the committee will give me its attention for a few minutes I will state what I understand to be the facts touching this amendment, and then of course if it be the sense of this committee to adopt it I have nothing further to say.

Under the postal union treaty to which Great Britain, the home government, is a party, the transportation of the British closed mails from Great Britain to Australia pass through our territory upon a charge, which, by the way, is exceptional to the general rates under that treaty, owing to the long line of transportation by rail from New York to San Francisco. Now, this money for these mails is paid by the home government of Great Britain under that treaty to our Government, and with the payment of that money the colonies of New Zealand and New South Wales have nothing to do. It does not come out of their treasury, and if remitted it would inure to the treasury of Great Britain and not to the treasury of those colonies.

I understand that nothing has been done under that provision during the current year. Now, the gentleman's proposition is to appropriate directly to these colonies a part of the sum paid for the transportation of these mails and paid by Great Britain: in other words, Great Britain, pays, say, $100,000 to us for transporting her mails under the treaty to the colonies over our territory, and the gentleman proposes by this amendment to take, say, $40,000 of the money we get from the home government of Great Britain and give it to the colonies.

Now, we do have certain agreements or arrangements with the colonies not touching the closed mails but for the transmission of mails, for instance, from the colony to Canada and other countries than Great Britain. They are not to be affected by this amendment. It occurred to me that this, perhaps, was an awkward way to make a gift of forty or fifty thousand dollars a year to these colonies, for that is what it amounts to.

The gentleman from California, [Mr. DAVIS,] who offers the amendment, justifies it as a means to build up our trade with these colonies, stating that our exports last year to them were over $8,000,000 and our imports only $1,000,000. Still we should not forget that this compensation is received from Great Britain for services performed by us for that government under treaty and transportation of her mails. And while in some respects I have no great admiration for the policy of Great Britain, yet I do recollect that she is the mother country, and I recollect that she takes over one-half of all the exports of this country, enormous as they are, that we send out to the world amounting to many hundreds of millions of dollars, so that if

we are to give this $40,000 to any government as an evidence of our good-will or to promote trade, or because it is not equitable for us to keep it, it occurs to me it is best to remit it to Great Britain. The truth is, in my opinion, that we fairly earn the money and that it should remain in our own Treasury. I desired to state the facts as I understand them, and having stated them I leave the question for the consideration of the committee.

The CHAIRMAN. The question is on the amendment of the gentleman from California.

The committee divided; and there were—ayes 61, noes 27.

So the amendment was agreed to.

Mr. BLACKBURN. Mr. Chairman, I will ask the consent of the Committee of the Whole House that the footing up of this second section of the bill be amended to make it correspond with the amendments incorporated by the Committee of the Whole.

The CHAIRMAN. The Chair supposes that the gentleman would have a right to do that.

Mr. BLACKBURN. I have the correct figures before me, and will move to strike out "$1,915,258" and insert in lieu thereof "$2,005,258."

There was no objection.

Mr. BLACKBURN. Now, Mr. Chairman, it appears by the report of the Postmaster-General that the Post-Office Department is subjected to unusual and exorbitant charges by the Saint Louis Bridge Company for the transportation of the mails over the Mississippi River at Saint Louis. Under the provision of the act amendatory of the act incorporating that company, which will be found on page 123 of the Statutes at Large, it will be seen that by the second section of an act amendatory of an act approved the 26th of July, 1866, authorizing the construction of certain bridges and establishing them as post-roads, that this bridge is constituted and declared a post-road; for the second section reads:

*Be it further enacted*, That the said corporation may execute a mortgage, issue bonds, * * * and they are authorized to throw a bridge across the Mississippi River, which bridge when constructed shall be a post-road to carry the mails of the United States and to enjoy the rights and privileges of other post-roads, &c.

So that to remedy the difficulty under which the Department is now laboring I will ask unanimous consent to go back and insert at the proper place in this bill the following amendment.

Before that amendment is read, however, I will ask to have read half a dozen lines from a letter from the Postmaster-General.

The Clerk read as follows:

The second section of the act of July 20, 1868, authorizing the construction of a bridge between East Saint Louis and Saint Louis, should in my judgment be amended to read: "and no higher charge shall be made for the transportation over the same of the mails of the United States than the rate per mile paid for their transportation over the railroads or public highways leading to said bridge."

The amendment is as follows:

And the second section of an act entitled "An act amendatory of an act approved July 26, 1866, entitled 'An act to authorize the construction of certain bridges and to establish them as post-roads,' approved July 20, 1868," be, and the same is hereby, amended by adding the following words thereto: "and no higher charge shall be made for the transmission over the same of the mails of the United States than the rate per mile paid for their transportation over the railroads or public highways leading to said bridge."

Mr. WELLS. I object, Mr. Chairman.

Mr. BLACKBURN. Then I give notice that I shall offer this amendment before asking the previous question in the House.

Mr. WELLS. I trust the gentleman will not press that amendment.

Mr. BLACKBURN. I made the request that I might go back to the clause of the bill to which this is properly attached, which is found upon the fourth page of the bill.

The CHAIRMAN. The Chair so stated. The gentleman from Missouri says that he objects. The Chair, however, stated that the gentleman from Kentucky asked unanimous consent that the amendment should be read. Of course the gentleman from Missouri could not object until he knew what the substance of the proposed amendment was.

Mr. BLACKBURN. Does the Chair hold that the gentleman from Missouri has a right to exclude the amendment by his objection?

The CHAIRMAN. The Chair holds he has that right.

Mr. BLOUNT. It seems to me that the amendment is in order.

The CHAIRMAN. The amendment would be in order if offered at the proper time, undoubtedly; but this is a request for unanimous consent to go back and insert the amendment at some other point in the bill.

Mr. BLOUNT. I do not see why it is necessary to go back.

Mr. TOWNSHEND, of Illinois. The gentleman from Missouri [Mr. WELLS] merely reserved the point of order, not the point as to where the amendment should come in.

The CHAIRMAN. That is the point of order which the gentleman makes, that you cannot return to a clause already passed upon.

Mr. TOWNSHEND, of Illinois. Did the gentleman state he should object to returning, or simply that he reserved the point of order?

The CHAIRMAN. The gentleman simply reserved the point of order; and this is a point of order affecting the manner of proceeding.

Mr. TOWNSHEND, of Illinois. I thought the gentleman from Kentucky had got the right to go back.

Mr. BLACKBURN. No, sir; I had asked unanimous consent to go back.

I move the committee rise and report the bill with the amendments to the House for its action.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

### ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

A bill (H. R. No. 6614) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1882, and for other purposes;

Joint resolution (H. R. No. 369) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes;

A bill (S. No. 1396) authorizing the persons therein named to accept of certain decorations and presents therein named from foreign governments, and for other purposes;

A bill (S. No. 1618) to amend section 553 of the Revised Statutes, relating to the District of Columbia;

A bill (S. No. 1922) for the relief of Brigadier-General and Brevet Major-General Edward O. C. Ord, United States Army; and

Joint resolution (S. R. No. 144) authorizing the loan of certain flags and bunting to the committee on inaugural ceremonies.

### POST-OFFICE APPROPRIATION BILL.

Mr. BLACKBURN. Before demanding the previous question on the Post-Office appropriation bill reported from the Committee of the Whole, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

And the second section of an act amendatory of an act approved July 26, [5,] 1866, entitled "An act to authorize the construction of certain bridges and to establish them as post-roads, approved July 20, 1868," be, and the same is hereby, amended by adding the following words thereto: "And no higher charge shall be made for the transmission over the same of the mails of the United States than the rate per mile paid for their transportation over the railroads or public highways leading to said bridge."

Mr. BLACKBURN. As I see that amendment is to create no little discussion, and as I was offering it in my own right and not under the instructions of the Committee on Appropriations, I will withdraw it. I now ask the previous question on the bill and amendments reported by the Committee of the Whole on the state of the Union.

The previous question was seconded and the main question ordered.

The SPEAKER. The question is first on the amendments reported by the Committee of the Whole on the state of the Union. Is there a separate vote asked on any of the amendments?

Mr. WARNER. I think on account of its importance there should be a separate vote on the amendment of the gentleman from California, [Mr. PAGE.] It amounts practically to a subsidy.

The SPEAKER. The Chair understands no separate vote is asked except on the amendment adopted on motion of the gentleman from California. The question is on agreeing to the other amendments.

The amendments on which a separate vote was not asked were agreed to.

The amendment of the Committee of the Whole on which a separate vote was asked was read, as follows:

In line 140, after the word "dollars," insert the following;

"*Provided*, That the Postmaster-General is authorized to pay to the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the British closed mails to and from Australia as he may deem just, not exceeding one-half of said cost; and the sum of $40,000 is hereby appropriated for that purpose."

The question being taken, there were—ayes 81, noes 30.

So (further count not being called for) the amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. The question is on the passage of the bill, and will be taken by yeas and nays as required by the rule.

The question was taken; and there were—yeas 228, nays 0, not voting 64; as follows:

YEAS—228.

| | | | |
|---|---|---|---|
| Acklen, | Blount, | Clark, Alvah A. | Davis, Joseph J. |
| Aiken, | Bouck, | Clark, John B. | Davis, Lowndes H. |
| Aldrich, N. W. | Bowman, | Clements, | De La Matyr, |
| Aldrich, William | Boyd, | Clymer, | Deuster, |
| Anderson, | Bragg, | Cobb, | Dibrell, |
| Atherton, | Brewer, | Coffroth, | Dickey, |
| Atkins, | Briggs, | Colerick, | Dunn, |
| Bachman, | Brigham, | Conger, | Dunnell, |
| Baker, | Browne, | Converse, | Einstein, |
| Bayne, | Burrows, | Cook, | Elam, |
| Beale, | Butterworth, | Covert, | Ellis, |
| Beltzhoover, | Cabell, | Cowgill, | Ewing, |
| Berry, | Caldwell, | Cox, | Felton, |
| Bicknell, | Calkins, | Cravens, | Ferdon, |
| Bingham, | Cannon, | Crowley, | Field, |
| Bisbee, | Carlisle, | Culberson, | Finley, |
| Blackburn, | Carpenter, | Daggett, | Forney, |
| Blake, | Chalmers, | Davidson, | Forsythe, |
| Bland, | Chittenden, | Davis, George R. | Fort, |
| Bliss, | Claflin, | Davis, Horace, | Frye, |

| | | | |
|---|---|---|---|
| Geddes, | Ladd, | Overton, | Speer, |
| Godshalk, | Le Fevre, | Pacheco, | Springer, |
| Goode, | Lindsey, | Page, | Starin, |
| Gunter, | Lounsbery, | Persons, | Steele, |
| Hall, | Lowe, | Phelps, | Stevenson, |
| Hammond, N. J. | Manning, | Philips, | Stone, |
| Harmer, | Martin, Benj. F. | Phister, | Talbott, |
| Harris, John T. | Martin, Edward L. | Poehler, | Taylor, Ezra B. |
| Haskell, | Martin, Joseph J. | Pound, | Taylor, Robert L. |
| Hatch, | Mason, | Prescott, | Thomas, |
| Hawk, | McCoid, | Price, | Thompson, P. B. |
| Hayes, | McCook, | Reagan, | Tillman, |
| Hellman, | McGowan, | Reed, | Townshend, R. W. |
| Henderson, | McKenzie | Rice, | Tucker, |
| Henry, | McKinley, | Richardson, J. S. | Turner, Oscar |
| Herbert, | McLane, | Richmond, | Turner, Thomas |
| Herndon, | McMahon, | Robertson, | Tyler, |
| Hill, | McMillin, | Robeson, | Updegraff, J. T. |
| Hiscock, | Miller, | Robinson, | Updegraff, Thomas |
| Hooker, | Mills, | Ross, | Upson, |
| Horr, | Mitchell, | Russell, W. A. | Urner, |
| Hostetler, | Money, | Ryan, Thomas | Valentine, |
| House, | Monroe, | Ryon, John W. | Van Aernam, |
| Humphrey, | Morrison, | Samford, | Voorhis, |
| Hunton, | Morse, | Sapp, | Waddill, |
| Hurd, | Morton, | Sawyer, | Wait, |
| Johnston, | Muller, | Scoville, | Warner, |
| Jones, | Murch, | Shallenberger, | Washburn, |
| Jorgensen, | Neal, | Shelley, | Wellborn, |
| Keifer, | New, | Sherwin, | Wells, |
| Kenna, | Nicholls, | Simonton, | Wilber, |
| Ketcham, | Norcross, | Singleton, J. W. | Williams, Thomas |
| Kimmel, | O'Connor, | Singleton, O. R. | Willis, |
| King, | O'Neill, | Slemons, | Willits, |
| Kitchin, | O'Reilly, | Smith, A. Herr | Wilson, |
| Klotz, | Orth, | Smith, William E. | Yocum, |
| Knott, | Osmer. | Sparks, | Young, Thomas L. |

NAYS—0.

NOT VOTING—64.

| | | | |
|---|---|---|---|
| Armfield, | Evins, | Kelley, | Stephens, |
| Bailey, | Fisher, | Killinger, | Thompson, W. G. |
| Ballou, | Ford, | Lapham, | Townsend, Amos, |
| Barber, | Frost, | Loring, | Vance, |
| Barlow, | Gibson, | Marsh, | Van Voorhis, |
| Belford, | Gillette, | Miles, | Ward, |
| Bright, | Hammond, John | Muldrow, | Weaver, |
| Buckner | Harris, Benj. W. | Myers, | White, |
| Camp, | Hawley, | Newberry, | Whiteaker, |
| Caswell, | Hazelton, | O'Brien, | Whitthorne, |
| Clardy, | Henkle, | Ray, | Williams, C. G. |
| Crapo, | Houk, | Richardson, D. P. | Wise, |
| Deering, | Hubbell, | Rothwell, | Wood, Fernando |
| Dick, | Hutchins, | Russell, Daniel L. | Wood, Walter A. |
| Dwight, | James, | Scales, | Wright, |
| Errett, | Joyce, | Smith, Hezekiah B. | Young, Casey. |

So the bill was passed.

The following pairs were announced:

Mr. FISHER with Mr. BRIGHT, Mr. FISHER being absent because of sickness.

Mr. EVINS with Mr. WARD.

Mr. HUTCHINS with Mr. WALTER A. WOOD.

Mr. JAMES with Mr. O'BRIEN.

Mr. YOUNG, of Tennessee, with Mr. HOUK.

Mr. FERNANDO WOOD with Mr. TOWNSEND of Ohio.

Mr. BUCKNER with Mr. CRAPO, on all questions and votes except to make a quorum.

Mr. VANCE with Mr. BALLOU.

Mr. ROTHWELL with Mr. DICK.

Mr. HOSTETLER with Mr. BUTTERWORTH, for the remainder of the day.

Mr. ERRETT with Mr. SCALES.

Mr. MULDROW with Mr. MILES.

Mr. ROBESON with Mr. NICHOLLS, for the remainder of the day.

Mr. CLARK, of Missouri. I desire to state that my colleague, Mr. ROTHWELL, is at his hotel sick and unable to be here.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. ROBESON. I move that the House now adjourn.

Mr. SPEER. I ask the gentleman to yield to me to make a privileged report.

Mr. ROBESON. I have no objection to the gentleman's submitting the report.

ELECTION CONTEST—YEATES VS. MARTIN.

Mr. SPEER, from the Committee on Elections, submitted a report in the contested-election case of Yeates *vs.* Martin, from the State of North Carolina, accompanied by the following resolutions:

*Resolved*, That Joseph J. Martin was not elected and is not entitled to a seat in this House as a member of the Forty-sixth Congress from the first congressional district of North Carolina.

*Resolved*, That Jesse J. Yeates was elected and is entitled to a seat in this House as a member of the Forty-sixth Congress from the first congressional district of North Carolina.

Mr. FIELD. I ask consent to submit the views of the minority of the Committee on Elections, and that they be printed with the report of the majority.

There was no objection, and it was so ordered.

Mr. SPEER. I give notice that at the earliest practicable moment I will call up this case for action.

ORDER OF BUSINESS.

Many MEMBERS. Regular order!

The SPEAKER. The regular order is the motion of the gentleman from New Jersey, [Mr. ROBESON,] that the House now adjourn.

The question was taken; and upon a division there were—ayes 93, noes 103.

Before the result of the vote was announced,

Mr. CONGER called for tellers.

Tellers were ordered; and Mr. WILLITS and Mr. BICKNELL were appointed.

The House again divided; and the tellers reported that there were ayes 93, noes 96.

Before the result of this vote was announced,

Mr. CONGER called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 104, nays 103, not voting 85; as follows:

YEAS—104.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Dunnell, | McCoid, | Ryan, Thomas |
| Aldrich, William | Einstein, | McGowan, | Sapp, |
| Anderson, | Ferdon, | McKenzie, | Shallenberger, |
| Baker, | Field, | McKinley, | Sherwin, |
| Barber, | Forsythe, | Miller, | Smith, A. Herr |
| Bayne, | Fort, | Mills, | Speer, |
| Bisbee, | Frye, | Mitchell, | Starin, |
| Blake, | Godshalk, | Monroe, | Stone, |
| Bowman, | Hall, | Morton, | Taylor, Ezra B. |
| Boyd, | Hammond, John | Murch, | Thomas, |
| Brewer, | Haskell, | Newberry, | Thompson, P. B. |
| Briggs, | Hawk, | Norcross, | Tyler, |
| Brigham, | Hazelton, | O'Neill, | Updegraff, Thomas |
| Burrows, | Henderson, | Orth, | Urner, |
| Calkins, | Hiscock, | Osmer, | Valentine, |
| Cannon, | Horr, | Overton, | Van Aernam, |
| Carpenter, | Humphrey, | Pacheco, | Van Voorhis, |
| Chittenden, | Jones, | Page, | Voorhis, |
| Conger, | Keifer, | Pound, | Wait, |
| Cowgill, | Ketcham, | Prescott, | Washburn, |
| Crowley, | Kitchin, | Price, | Wellborn, |
| Culberson, | Knott, | Ray, | Wilber, |
| Daggett, | Lindsey, | Reed, | Williams, C. G. |
| Davis, George R. | Lowe, | Rice, | Willits, |
| Davis, Horace | Martin, Joseph J. | Robinson, | Yocum, |
| Dunn, | Mason, | Russell, W. A. | Young, Thomas L. |

NAYS—103.

| | | | |
|---|---|---|---|
| Acklen, | Deuster, | Klotz, | Samford, |
| Atkins, | Dibrell, | Ladd, | Sawyer, |
| Bachman, | Dickey, | Le Fevre, | Shelley, |
| Beale, | Elam, | Manning, | Simonton, |
| Beltzhoover, | Ellis, | Martin, Edward L. | Singleton, J. W. |
| Bicknell, | Ewing, | McLane, | Singleton, O. R. |
| Blackburn, | Finley, | McMahon, | Slemons, |
| Bland, | Forney, | McMillin, | Smith, William E. |
| Blount, | Geddes, | Money, | Sparks, |
| Bragg, | Goode, | Morrison, | Springer, |
| Cabell, | Gunter, | Muller, | Steele, |
| Caldwell, | Hammond, N. J. | Myers, | Stevenson, |
| Chalmers, | Harris, John T. | New, | Talbott, |
| Clark, Alvah A. | Hatch, | O'Connor, | Tillman, |
| Clark, John B. | Henkle, | O'Reilly, | Townshend, R. W. |
| Clements, | Henry, | Persons, | Tucker, |
| Clymer, | Herbert, | Phelps, | Turner, Oscar |
| Cobb, | Herndon, | Philips, | Turner, Thomas |
| Colerick, | Hill, | Phister, | Upson, |
| Converse, | Hooker, | Poehler, | Waddill, |
| Cook, | House, | Reagan, | Warner, |
| Covert, | Hunton, | Richardson, J. S. | Wells, |
| Cravens, | Johnston, | Richmond, | Williams, Thomas |
| Davidson, | Kenna, | Robertson, | Willis, |
| Davis, Joseph J. | Kimmel, | Ross, | Wilson. |
| Davis, Lowndes H. | King, | Ryon, John W. | |

NOT VOTING—85.

| | | | |
|---|---|---|---|
| Aiken, | Crapo, | Hutchins, | Scales, |
| Armfield, | De La Matyr, | James, | Scoville, |
| Atherton, | Deering, | Jorgensen, | Smith, Hezekiah B. |
| Bailey, | Dick, | Joyce, | Stephens, |
| Ballou, | Dwight, | Kelley, | Taylor, Robert L. |
| Barlow, | Errett, | Killinger, | Thompson, W. G. |
| Belford, | Evins, | Lapham, | Townsend, Amos |
| Berry, | Felton, | Loring, | Updegraff, J. T. |
| Bingham, | Fisher, | Lounsbery, | Vance, |
| Bliss, | Ford, | Marsh, | Ward, |
| Bouck, | Frost, | Martin, Benj. F. | Weaver, |
| Bright, | Gibson, | McCook, | White, |
| Browne, | Gillette, | Miles, | Whiteaker, |
| Buckner, | Harmer, | Morse, | Whitthorne, |
| Butterworth, | Harris, Benj. W. | Muldrow, | Wise, |
| Camp, | Hawley, | Neal, | Wood, Fernando |
| Carlisle, | Hayes, | Nicholls, | Wood, Walter A. |
| Caswell, | Heilman, | O'Brien, | Wright, |
| Claflin, | Hostetler, | Richardson, D. P. | Young, Casey. |
| Clardy, | Houk, | Robeson, | |
| Coffroth, | Hubbell, | Rothwell, | |
| Cox, | Hurd, | Russell, Daniel L. | |

So the motion to adjourn was agreed to.

The following pairs were announced from the Clerk's desk:

Mr. BOUCK with Mr. CLAFLIN, Mr. BOUCK reserving the right to vote to make a quorum.

Mr. TAYLOR with Mr. HUBBELL, for one week from this date.

Mr. SMITH, of New Jersey, with Mr. HARMER, for the balance of this day.

WRAPPING-PAPER FOR POST-OFFICE DEPARTMENT.

The SPEAKER. Before announcing the result of the vote the Chair asks leave to present certain executive communications.

There was no objection.

The SPEAKER laid before the House a letter from the Postmaster-General, in regard to an apprehended deficiency in the appropriations for wrapping-paper; which was referred to the Committee on Appropriations.

SURVEY OF RED RIVER, ETC.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the survey of the Red River, &c.; which was referred to the Committee on Commerce, and ordered to be printed.

SURVEY OF NIAGARA RIVER, ETC.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the survey of the Niagara River, &c.; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. HUBBELL, for one week, on account of sickness; and

To Mr. ROBESON, for the remainder of this week, on account of important business.

UNITED STATES COURT, WICHITA, KANSAS.

Mr. HERBERT, in pursuance of permission heretofore granted, from the Committee on the Judiciary, submitted a report (No. 122) in writing to accompany the bill (H. R. No. 6464) to provide for holding a term of the district court of the United States at Wichita, Kansas, and for other purposes.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. COX obtained leave for withdrawal from the files of the House of papers in the claim of the Monitor against the Japanese Government; no action having been taken thereon.

The result of the vote on the motion to adjourn was then announced; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ATHERTON: The petition of Carlisle Clum and 40 others, citizens of Perry County, Ohio, for the passage of a law to regulate interstate commerce—to the Committee on Commerce.

Also, the petition of the same parties, for the passage of a law making the Commissioner of Agriculture a Cabinet officer—to the Committee on Agriculture.

Also, the petition of the same parties, for an income-tax law—to the Committee on Ways and Means.

Also, the petition of W. A. Weller, of Ohio, for the repeal of stamp tax on proprietary medicines—to the same committee.

By Mr. BAYNE: Resolutions of the national banks of East Pennsylvania and letter of T. H. Nevin, president of the First National Bank of Allegheny, Pennsylvania, opposing the passage of the funding bill—to the same committee.

By Mr. BELTZHOOVER: The petition of soldiers of the war of the rebellion, of Adams County, Pennsylvania, for an increase of pensions of soldiers who have lost limbs—to the Committee on Invalid Pensions.

By Mr. BREWER: The petition of W. J. Hammond and 24 other ex-soldiers, of Clinton County, Michigan, against the passage of Senate bill No. 496—to the same committee.

By Mr. FORT: The petition of citizens of Illinois, for legislation to prevent the spread of pleuro-pneumonia—to the Committee on Agriculture.

By Mr. HENDERSON: The petition of Weyerhaeuser & Denkmann and 127 others, citizens of Illinois, for an appropriation of $1,000,000 for the improvement of the Mississippi River between Saint Paul and the mouth of the Illinois River, and for sheer-booms—to the Committee on Commerce.

By Mr. HUMPHREY: The petition of D. L. Remington and others, citizens of Wisconsin, for legislation to regulate interstate transportation—to the same committee.

Also, the petition of the same parties, for an income-tax law—to the Committee on Ways and Means.

Also, the petition of J. L. Lindeman and others, citizens of Osseo, Wisconsin, for the passage of a law making the Commissioner of Agriculture a Cabinet officer—to the Committee on Agriculture.

Also, the petition of W. Henry and others, for the passage of a law to protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. HUNTON: The petition of John T. Mitchell and others, for an increase of one hundred policemen in the District of Columbia until the 1st day of April, 1881—to the Committee on the District of Columbia.

By Mr. KNOTT: The petition of Rebecca H. Lyon, for a pension—to the Committee on Invalid Pensions.

By Mr. LADD: The petition of J. D. Donnell and 70 others, citizens of Maine, that the Commissioner of Agriculture be made a member of the President's Cabinet—to the Committee on Agriculture.

Also, the petition of the same parties, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of the same parties, for legislation to protect innocent purchasers and users of patented articles—to the Committee on Patents.

Also, the petition of Paul Berry and 35 others, citizens of Maine, that soldiers discharged for disease receive the same bounty as those discharged on account of wounds—to the Committee on Military Affairs.

By Mr. LORING: The petition of Charles A. Rapes and 61 others, of Salem, Massachusetts, for the passage of the resolution providing for the appointment of a commission to ascertain and report a basis for a reciprocity treaty between the United States and the British Provinces—to the Committee on Commerce.

By Mr. MARSH: The petition of citizens of Illinois, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. MONROE: The petition of David W. Chapman and 98 others, soldiers of Ohio, against the passage of Senate bill No. 496—to the same committee.

By Mr. MORRISON: The petition of Casimere Andel and others, citizens of Belleville, Illinois, for the removal of the tax on bank deposits—to the Committee on Ways and Means.

By Mr. MORTON: The petition of Messrs. H. J. Scudder, Strong & Cadwalader, Evarts, Southwayd & Choate, Edwards Pierrepont, and 142 others, members of the bar of the city of New York, that the salaries of United States judges in the city of New York be increased—to the Committee on the Judiciary.

By Mr. NICHOLLS: A statement of the marine and export trade of the port of Darien, Georgia, for the year 1880—to the Committee on Commerce.

By Mr. O'NEILL: The petition of officers and agents of steamship lines and others, of Philadelphia, Pennsylvania, for the passage of the bill to increase the efficiency of the Marine Hospital Service—to the same committee.

By Mr. PRICE: The petition of citizens of West Liberty, Iowa, for legislation to prevent the spread of pleuro-pneumonia—to the Committee on Agriculture.

By Mr. RICE: The petitions of Francis Greenwood and others, of Webster, and of Henry O. Sawyer and others, of Boylston, Massachusetts, for a revision of the pension laws—to the Committee on Invalid Pensions.

By Mr. ROBESON: The petition of citizens of New Jersey, for the improvement of Maurice River—to the Committee on Commerce.

By Mr. SAWYER: The petition of George W. Neat and 42 others, citizens of Clay County, Missouri, for the passage of an interstate-commerce law—to the same committee.

Also, the petition of Robert Gooding and 40 others, citizens of Clay County, Missouri, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of P. T. Soper and 55 others, citizens of Clay County, Missouri, for the passage of a law to protect innocent purchasers from fraudulent vendors of patents and patent rights—to the Committee on Patents.

Also, the petition of Edward Walker and 36 others, citizens of Clay County, Missouri, for an income-tax law—to the Committee on Ways and Means.

By Mr. SHALLENBERGER: The petition of citizens of Pennsylvania, against the reissue of the John A. Cummings patent, for improvement in artificial gums—to the Committee on Patents.

By Mr. STARIN: The petition of Jeremiah Wagar and 28 others, of Ballston, New York, for the passage of a law to allow bounty to soldiers discharged on account of disease—to the Committee on Military Affairs.

By Mr. STEPHENS: The petition of T. A. Scarborough and others, citizens of Johnson County, Georgia, for the establishment of a post-route from Wrightsville to Fortner, Georgia, over the Ohoopie River, at Snell's bridge—to the Committee on the Post-Office and Post-Roads.

By Mr. UPDEGRAFF: The petition of H. F. Stutson and 56 others, citizens of Buchanan County, Iowa, for a law equalizing the bounties of soldiers discharged on account of disease with those discharged on account of wounds—to the Committee on Military Affairs.

By Mr. WEAVER: The petition of J. D. Olds and 75 others, citizens of Pigeon Falls, Wisconsin, against further refunding the national debt, and in favor of paying out all surplus money now in the Treasury in payment of said debt—to the Committee on Ways and Means.

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## IN SENATE.

WEDNESDAY, *January* 26, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

Mr. CALL presented the credentials of CHARLES W. JONES, chosen by the Legislature of Florida a Senator from that State for the term beginning March 4, 1881.

The credentials were read and ordered to be filed.

KILLING OF BIG SNAKE.

Mr. DAWES. I give notice to the Senate that I shall, immediately after the presentation of the statue by the Senators from Vermont on Monday, if the Senate will indulge me, offer some remarks upon a letter from the Secretary of the Interior addressed to the Senate on the subject-matter of the killing of Big Snake.

PETITIONS AND MEMORIALS.

Mr. JOHNSTON presented the petition of James Cox, of Smith County, Virginia, praying compensation for property taken for the use of the United States; which was referred to the Committee on Claims.

Mr. SAULSBURY presented the petition of James H. Reed and others, citizens of Kent County, Delaware, and the petition of George B. Dickson and several others, citizens of Kent County, Delaware, praying for an appropriation for the improvement of the Saint Jones's River in that State; which were referred to the Committee on Commerce.

He also presented the petition of James McGonigal and 38 others, citizens of Kent County, Delaware, praying for an appropriation for the improvement of Little Creek in that State; which was referred to the Committee on Commerce.

Mr. BALDWIN presented the memorial of O. Richardson and 32 others, citizens of Carson City, Michigan, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. WHYTE presented the petition of Thomas Galloway, of Maryland, a pensioner, praying for an amendment to the arrears-of-pension law; which was referred to the Committee on Pensions.

Mr. PENDLETON presented the petition of First Lieutenant T. A. Mahon, United States Engineer Corps, praying that officers of the Army and Navy be relieved from the payment of duty on foreign scientific works intended for use in the service of the Government; which was referred to the Committee on Finance.

Mr. McPHERSON presented a letter from the Secretary of the Navy, addressed to the chairman of the Committee on Naval Affairs, asking for an appropriation to dredge the channel of Anacostia River and for the purchase of land for the extension of the Washington navy-yard; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a letter from the Secretary of the Navy, addressed to the chairman of the Committee on Naval Affairs, asking for an appropriation for the purpose of constructing a timber-shed at the Washington navy-yard; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. KIRKWOOD. I find upon my table this morning, sent to me, I think, by one of my colleagues in the other House, a memorial of some 40 citizens of Fort Dodge, Iowa, and that vicinity, relating to House bill No. 1067, which I understand is a bill regarding the Des Moines River lands, as they are called. That bill is now before the Judiciary Committee, and I move the reference of this memorial to that committee.

The motion was agreed to.

Mr. WILLIAMS presented the memorial of J. M. Johnson and 80 others, citizens of various parts of Kentucky, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (S. No. 1926) relating to quartermaster stores furnished to the forces of Major-General Lewis Wallace during the Morgan raid through Indiana and Ohio, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3451) for the relief of George W. Brewer, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. GROOME, from the Committee on Claims, to whom were referred the petitions of Benoni Mills and John C. Weddle, late of the First Kentucky Cavalry, praying indemnity for property lost in the military service of the United States, submitted reports recommending that the prayers of the petitioners be disallowed, that the committee be discharged from the further consideration of the petitions, and that the reports be adopted.

The reports were agreed to and ordered to be printed.

Mr. GROOME, from the Committee on Claims, to whom was referred the bill (S. No. 1562) for the relief of Samuel N. Chipley, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. McPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 2074) for the relief of Captain William D. Whiting, United States Navy, reported it without amendment.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. No. 2094) for the relief of George W. Flood, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 4261) for the relief of Henry B. Eastman, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SAUNDERS, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 1927) for the relief of Colonel Alfred B. Meacham, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

BILLS INTRODUCED.

Mr. PENDLETON (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2100) relating to the sale of lands acquired in the collection of debts due to the United States and by gift or devise; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2101) for the improvement of certain rivers and harbors in the State of Florida; which was read twice by its title, and ordered to lie on the table.

Mr. FARLEY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2102) for the relief of John J. Williams and James D. Thornton; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. MORGAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2103) to extend the postal service to foreign countries; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. PLUMB asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2104) to refund a duplicate tax to Boehm Brothers, of New York; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Finance.

Mr. INGALLS (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2105) for the relief of Henry L. Davison; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. VOORHEES asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 147) directing the proper construction to be given to the law of March 3, 1879, granting an increase of pension to Ward B. Burnett; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENT TO A BILL.

Mr. INGALLS submitted an amendment intended to be proposed by him to the post-route bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. COKE, it was

*Ordered*, That General E. O. C. Ord have leave to withdraw the papers accompanying Senate bill No. 1922, for the relief of E. O. C. Ord, from the files of the Senate.

COUNT OF ELECTORAL VOTES.

Mr. INGALLS submitted the following resolution; which was read:

*Resolved*, That the Senate will be ready to receive the House of Representatives in the Senate Chamber on Wednesday, February 9, at twelve o'clock meridian, for the purpose of being present at the opening and counting of the votes for President and Vice-President of the United States. That two persons be appointed tellers on the part of the Senate to make a list of the votes for President and Vice-President of the United States as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the Journals, and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the Journals shall be deemed a sufficient declaration thereof.

Mr. WHYTE. Let that lie over and be printed.

The VICE-PRESIDENT. The present consideration of the resolution is objected to. It will be printed and lie over.

BALTIMORE AND OHIO RAILROAD COMPANY.

Mr. WHYTE. If there is no further morning business I should like to have the consent of the Senate to take up a joint resolution reported by me from the Committee on the District of Columbia authorizing the settlement and ratification of an arrangement in respect to taxes between the District commissioners and the Baltimore and Ohio Railroad Company by which the District treasury will get some seventy-five thousand dollars which it wants at this time very much.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 266) ratifying settlement of taxes made by the District commissioners with the Baltimore and Ohio Railroad Company. It ratifies and confirms the settlement made by the commissioners of the District of Columbia with the Baltimore and Ohio Railroad Company of the claim of the District upon that company for and on account of taxes due by the railroad company to the District up to July 1, 1879, and authorizes the commissioners to execute any vouchers or papers necessary to the final consummation of the settlement, and as evidence that the same is concluded and closed.

Mr. EDMUNDS. Let us hear the report read, or some explanation of the joint resolution.

Mr. WHYTE. I have a letter from the District commissioners, but I can in a brief statement make it manifest to the Senator from Vermont that this is a judicious settlement.

The Baltimore and Ohio Railroad Company and the District government have been involved in a series of disputes about the company's taxes for the last fourteen years. There have been various suits in the courts on the subject. Finally the District commissioners and the railroad company came together and under the direction of the committee on the District of Columbia for each House they

were authorized to adjust, if it were possible, some compromise between the company and the District government. The original claim was about ninety thousand dollars, and they have adjusted their differences upon the basis of $75,000 cash. It has been put up by the company and is recommended by the District commissioners in their letter to be taken as a fair settlement.

Mr. EDMUNDS. Let us have the letter read.

The VICE-PRESIDENT. The letter will be read.

The Chief Clerk read as follows:

OFFICE OF THE COMMISSIONERS
OF THE DISTRICT OF COLUMBIA,
*Washington, March 25, 1880.*

SIR: In obedience to the request of the District Committee the commissioners have examined the question of the arrearages of general taxation of the Baltimore and Ohio Railroad. They find that the case has been in litigation since 1858. It was supposed that a final decision would be reached during the present term of the supreme court, but it now seems most probable that the case will go over for another year. A statement of the legal status of the case, by the attorney of the District, is inclosed herewith. The attorney says:

"The risk to the District of being beaten by the judgment of the supreme court, has, in my opinion, no appreciable value.

"The company filed its bill and secured a restraining order in 1858, and for seventeen years the corporation of Washington and the District seemed to acquiesce in the claimed exemption of the company's property from taxation. During these years the company might be excused from watching assessments of its property, and might suppose that no further effort would be made to enforce taxation against it. It would seem that the renewed effort of the District to enforce taxation upon the property of the company in 1875 ought to have been a notice sufficient to put it upon its guard as to assessments since that date.

"Under all these circumstances, I have advised the commissioners that in my opinion this was a case for the discriminating exercise of a power to adjust the differences between the parties by effecting a compromise which should substantially secure the claims of the District and equitably respect the rights of the company."

From this opinion of the attorney it would seem most probable that the district may in time enforce the collection of the entire tax heretofore levied with full penalties and accrued interest. It lies with Congress to determine whether any compromise is advisable in such a case.

In the absence of specific law defining a basis upon which the property of steam railways should be assessed the valuations were for some years irregular and excessive.

In the matter of the arrearages of general taxes which are now in litigation, it would seem to be to the interest of the parties concerned to effect such a compromise as, in the language of the attorney above quoted, will "substantially secure the claims of the District and equitably respect the rights of the company."

The amount now standing on the books of the assessor's office as due from the Baltimore and Ohio Railroad to July 1st, 1879, is $90,543.26; with interest and penalties included to March 1st, 1880, the total is $136,826.12.

The company claims that the assessments against the road and upon its real estate and improvements have been excessive, and asks that they be reduced.

The commissioners find that by a joint resolution of the city councils, approved May 30, 1849, the track of the railroad company was exempted from taxation for thirty years.

The State tax of Maryland is one-half of 1 per cent. upon the gross receipts, and the county taxes are on the basis of $12,500 per mile for double track main line, $7,500 for single track main line, and $2,500 per mile for sidings. The commissioners are of the opinion that the road and rolling stock may equitably be assessed within the limits of the district at $15,500 per mile for the double track main line, at $7,500 per mile for the single track, and $2,500 per mile for spurs; that the real estate may be placed upon the mean of the valuation of the adjoining private property, exempting such ground as is used purely as right of way, and that buildings and improvements may be assessed at three fifths of original cost.

A readjustment of the assessment valuations, as accurate as can be made within the limited time allowed, adding 6 per cent. interest from the dates at which such interest accrues, gives a total of $69,524.68. Considering the past history of the case and prospect of future litigation, the commissioners think that the sum of $75,000 represents a fair basis of compromise for the indebtedness of the road up to July 1, 1879.

The company have placed in the hands of the commissioners the sum of $75,000, which amount is to be turned into the Treasury to the credit of the District when the District Committee shall have approved of the proposed settlement, and shall have agreed to recommend to the House the passage of a resolution authorizing the compromise.

Very respectfully,

J. DENT,
THOS. P. MORGAN,
W. J. TWINING,
*Major of Engineers, United States Army,*
*Commissioners of the District of Columbia.*

Hon. EPPA HUNTON,
*Chairman House Committee on the District of Columbia.*

Mr. EDMUNDS rose.

Mr. WHYTE. Will the Senator from Vermont before he proceeds allow me to add that the letter was written last year. Then the members of the sub-committee on this side and of the other House examined into the subject, and we concluded that that was the very best settlement that the United States could make.

Mr. EDMUNDS. This presents one of those not singular spectacles of a great corporation having power and influence resisting, as it appears here, from 1858, twenty-three years, the taxation of its property as the property of private and humble individuals having a natural existence is taxed in the District of Columbia. I say it is not singular, for I suppose every State has had similar experiences.

We have not been told yet what are the legal grounds upon which the Baltimore and Ohio Railroad Company resist the contribution which is asked of them in respect of their property in this District; in other words, the point on which they went to law. Almost any moderate lawyer, like the average of us Senators, can find points enough to get up a defensive lawsuit at all times and in all places, and, to borrow a long-time-ago expression, "here or elsewhere," and I hope nobody will take offense at that remark. Now it seems this company on one reason or another chose not to pay its taxes, and it is proposed that we shall give the company the difference between $75,000 and ninety-odd thousand dollars of actual assessed taxation, saying nothing about penalties and interest, simply because the commissioners report that if the company had attended to its interests during this litigation and had caused the assessments from year to year that were made to be reviewed by some proper authority, if there were any, the commissioners now think that the assessments might have been somewhat reduced; so that in their time they would have been brought down, if I understand this letter, to sixty-nine thousand and odd dollars. During all this period, then, it appears that on the company's own theory unless they are not at all liable to taxation, they ought to have paid sums which now would amount to $69,000. If you put merely the interest upon those yearly sums that they ought to have paid at 6 per cent. (or at that delightful rate that another body to which I am not entitled to refer thinks interest ought to go, 3 per cent.) it would still come to a very large sum in excess of this $75,000.

I believe as to all these corporate questions, unless it is shown to us that there is a real, a difficult doubt, if I may use such an expression, as to some matter of law or fact, it is the part of the wise mission of a legislative body that means to protect the rights of living citizens, to insist that the citizens who do not live,—that is to say artificial personages, corporations,—shall contribute their share to the public protection and the public safety and the public improvement. I think in such a case it is a wise policy not to make peace and not to throw off a single penny of what the law entitles the public to exact from that particular species of individuals, because the old Scotch proverb, if it be a Scotch proverb, that if you give an inch an ell will be taken on the next occasion, applies with great force to corporations, particularly to powerful ones.

Here it appears that in the Supreme Court, as I suppose, of the United States, although it does not say that, there is pending the question of the legality of these taxes, which have been in one form or another resisted for more than twenty years. Let that question be decided. If it turns out that the only persons who are entitled to escape from taxation in this District are the artificial ones that exist in it or come into it, then we shall know that it is our duty to consider what step can be taken next. If it turns out that they are, like natural persons, bound to have their property assessed and to pay upon it, then, I submit, it is no part of our mission as legislators to undertake, because they are great and powerful, and large sums are involved, to mitigate the action of the taxing authorities any more than it would be in the case of every one of probably a thousand individuals in this city at this moment who feel, and it may be justly, that their personal assessments have been excessive and ought to be reduced. I know some in my neighborhood who upon the theory of this compromise, supposing it to be sound, would be justly entitled to come forward and start a lawsuit and then propose to settle by having their assessments reduced to what the neighbors would think was a fair thing.

It may be that there is so much doubt in respect of the right of the District of Columbia to recover these taxes at all, that this compromise, as it is called, is a wise thing, because compromises are sometimes wise; but the commissioners tell us that their counsel reports that the value to be obtained by this payment, in respect of the danger of the legal results, is *nil*. In such a case I must say, with all respect to the good that corporations do in this world and in this country, and particularly the great ones—the greater the corporation the greater the good provided they exercise their great strength wisely and fairly—I must say that particularly in the instance of corporations, it is not the case for mitigation and compromise in such matter; and as one taxpayer in this small District, I should be glad to have the counsel for the District of Columbia (and I am bound to assume that he will do it well) try to find out for this time and for all time whether the pretension set up by the Baltimore and Ohio Railroad Company against being taxed in this District will stand in law or not. How do we know that day after to-morrow, after this joint resolution shall have passed and become a law, the assessment for this year will not be resisted upon the same ground that it has been before, and then a fresh injunction, fresh lawsuits to run for eight or ten years before you can get to a final decision, and the money tied up all the time, will appear?

I should think it better, therefore, for the public interest, to run what the attorney says is practically no risk at all, but I will assume that it is a great risk, and let the right between the District of Columbia and this corporation in respect of this taxation be settled, as it is so near a settlement, by a decision which will make an end of it, and not make a compromise which leaves it open day after to-morrow to a fresh litigation, a fresh injunction, and a fresh refusal to pay taxes.

I am pretty sure that if the most illustrious citizen in the District of Columbia, whoever he may be, had resisted the payment of his taxes for ten or twenty years, and the thing had very nearly reached a solution in the Supreme Court of the United States, we should think we were not doing our duty as exerting the legislative power of this District to make a settlement and a compromise with him and leave all his brother tax-payers who might or might not stand upon the same ground, (they certainly could stand upon some other,) to pay their assessed proportion.

I believe that the public interest, the private interest, justice, and fair play, make it most important that any disputes concerning the taxation of property should not be made the subject of trade and compromise, however wise and correct such a compromise might be

in disputes between private individuals, because it is a matter in which everybody is interested and interested for himself as well as in common with every one of his neighbors.

My friend from Maryland knows the Baltimore and Ohio Railroad Company much better than I do; and I am not making any criticism upon them; if they have legal rights let them make them out; if they have not legal rights and are bound like other people to pay taxes let them pay them to the end. I very much hope that under all the circumstances my friend from Maryland will not press the passage of this bill. Let us have the right settled, because I assume that it is not any mere technical question of formality that has been going on so long; that sometimes arises; but it is some question of real interest to the other tax-payers as well as to this company in this District respecting whether this company is bound to contribute to the expenses of the District according to the proportion of its property that is within it like other people. If that be so—perhaps my friend will show that it is not—then I should think it would be for the interest of the public as well as of the company if it is upright and fair—and I have no doubt it is—standing on its rights to have it settled and determined, and then we should know what to do.

Mr. WHYTE. Mr. President, if the premises of the Senator from Vermont were correct, I might probably concur in his conclusion. If there was some question of law between these parties which was to be finally determined by the adjudications of the Supreme Court, I would concur with him in the view that no compromise or settlement should be made; but I do not think he has read with his usual accuracy the statement of the District commissioners. In the first place, there is a controversy and was a controversy at that time in regard to the right of the city to tax the track of the company for thirty years. That has passed away, that has gone; the thirty years have expired.

That was one of the questions involved; but in addition to that the assessments themselves were excessive in their character, and the court below upon the application of the Baltimore and Ohio Railroad Company restrained the commissioners of the District from making collection upon the double question as to the right to assess the track, and also as to the correctness of the basis of assessment. That question went to the courts, besides the question of exemption that has been pending for a long time. In conjunction with that question, which would only determine a subject that has already passed, because the thirty years have expired, there was this additional question as to the proper basis of assessment in regard to this company, what was to be the valuation of the rolling-stock per mile within the District; and it is a very nice question. It is not assessing the track which is visible, but it is assessing the rolling-stock which comes to-day and goes to-morrow, the moving stock of the company, which is assessed per mile within the District of Columbia so much.

That was one of the greatest difficulties in this case. We saw it when the subject was brought before the committees at the last session, and we knew that Congress was not the proper place to determine that question; that if these disputes existed they ought to be determined by the District commissioners through their agent, the treasurer and assessor, and as far as the simple legal question was concerned, probably the opinion of the attorney was sufficient. But the other question came up, Was this company really excessively taxed, and if it was excessively taxed, while this question is pending, is it not better to ascertain a basis upon which they shall pay taxes for the past, as also taxes for the future?

The Senator will see that this settlement only goes up to the 1st of July, 1879. There is no dispute, as I understand, between the company and the District commissioners since July 1, 1879. When they examined the assessment they found that there were excessive taxes charged against this company, and through their agents they have made a fair and equitable ascertainment of the real indebtedness of the Baltimore and Ohio Railroad Company prior to July, 1879, and have reported to us that in lieu of $90,000, which was the sum charged at the period when the resistance took place, or was the sum which would have been due by this company as of the 1st of July upon the basis which had been set up at the time of the difficulty, $75,000 was full and ample payment by way of adjustment for this company to pay as of the 1st of July, 1879. As to the future there is no controversy. I understand that has all been adjusted. They are paying regularly, and are ready to pay regularly. There is no dispute as to the amount of their tax bills now; and this measure is only to settle a long pending controversy which will not absolutely be settled, as I understand it, by the determination of the courts because behind all that is the question of excessive taxation, and I apprehend that the Senator from Vermont only wants to exact from the corporation a just payment as he would from a citizen. While I agree with him in all his fears of, and in all his animadversions against those corporations that seek special advantage over private persons, I do not think that those remarks apply to this case because this company has not refused to pay what it considers a fair and just amount for it to contribute by way of taxation, and it was only to have the construction of the courts upon the question of exemption that they went to the Supreme Court.

I have no interest in it except that it struck me after the report of the commissioners, after conversations with the commissioners, after consultation with members of the Committee on the District of Columbia in the House of Representatives, that this was a fair and just settlement and yielding to this company no more than it was honestly entitled to.

Mr. EDMUNDS. Mr. President, I can hardly imagine it possible that any court would grant an injunction in favor of the Baltimore and Ohio Railroad Company on the ground that the assessing officers assessed it excessively. That is a matter that every tax law I ever heard of has left to the assessing authority itself and not to a court to determine. If the Senate should set the example now of holding that the excessiveness of assessments is a subject for either legislation or judicial consideration, then you will find that you cannot carry on a government by the whole Congress of the United States even on the fifteen square miles that constitute the District of Columbia; you will have a lawsuit or a petition from nine-tenths of all the inhabitants and citizens of any territory in which you adopt any such rule as that.

I never heard of a case where any court or any judge, no matter how remote or low the court might be, undertook to restrain the collection of a tax on the ground that the taxing officers had said that the value of a locomotive or the value of a horse or the number of locomotives or the number of horses that a particular person ought to pay tax on was excessive.

Mr. WHYTE. May I ask the Senator from Vermont if he ever knew a tax law that did not give a right of appeal to a court to review the tax commissioners' assessments?

Mr. EDMUNDS. I never knew a tax law that did. In a State where you have an executive institution called a levy court, which is a board of supervisors, or a board of civil authority, as it would be called in the State that I come from, there are provisions that any person feeling himself aggrieved by the assessing officer or officers who come around to his house on a given day fixed by law to ascertain what he has and how much it is worth with a view to taxation, may appeal to another board having the same power and of the same character who are supposed to be superior to the first in point of numbers or capacity for a review. That is true enough; but I never heard of any tax law that authorized any judicial court, in the sense of trying a contest of rights, to review the action of the taxing officers on questions of value or questions of amount anywhere. I think my friend from Maryland will agree with me that that is a pretty fair statement of the law in every State of the United States and the law of every civilized country of which we have any knowledge on the face of the globe.

Now, I say that no law in force in the District of Columbia, I think, at any time has authorized any corporation or person complaining of excessive assessment to appeal to any one of the judges or all of them of the supreme court of the District of Columbia for a review of that assessment with a view to reducing it. I do not think my friend from Maryland can furnish us any such statute as that. The ground only upon which the Baltimore and Ohio Railroad Company, I think, could have appealed to the supreme court of the District of Columbia by bill in equity was the ground that the imposition of taxes upon them in the manner and form, and not in the amount, in which they were imposed by the taxing authority here, was contrary to law, and that it is no part of the jurisdiction of the supreme court of the District of Columbia to decide whether a locomotive is worth $5,000 or $25,000 or to decide whether twenty-five locomotives found here on the 1st day of May or the 1st day of July are employed in business here or are not so employed. All such questions in every country that can get on in its taxing power, must be left to the appointed officers and agents of the people to do that thing, because if one man can resist on the ground that he is charged too much for his cows or his horses or the goods in his store or that the assessing officers think he has 5,000 yards of cotton in his store when he only has 4,900, you can break down government entirely by restraining lawsuits; every man could go into court and get an injunction against any tax upon him because some little error of judgment, of opinion, of enumeration of quantities or of judgments as to values would furnish the ground for stopping the whole transaction of taxation.

So, as I understand it, courts have always and everywhere declined to undertake either to overrule or to regulate the authority in the way of judgment and enumeration which the tax officers by law are required to exercise, and have held that these taxing officers in those respects are just as supreme and final in their judgments and opinion as is the highest court of the land itself in its judgment and opinion upon judicial questions that come before it. That is what I think the law is. I think it is the law here.

Now, therefore, I respectfully submit that it is not the thing for the Senate of the United States to undertake to throw off anything from whatever may be legally due from this company on the ground that the taxation was excessive; that is, either that too many locomotives and cars were charged to them as employed in business here, or that they were valued at too high a price.

Mr. WHYTE. If the Senator from Vermont will allow me, I do not want to be put in any false position.

Mr. EDMUNDS. I do not wish to put my friend in any false position.

Mr. WHYTE. When I said "excessive" I had reference to the company, not to the amount of taxation on individual things; that certain things were taxed which ought not to have been taxed, in addition to the claim of exemption. I mean by that that there were certain specific exemptions, and certain things were assessed which

ought not to have been assessed without any special exemption under the law. That is what I mean.

Mr. EDMUNDS. I suppose that the taxing law in this District during all this time was in substance, (aside from offset of debts and so on) what it is now and what it is in the State of Maryland and everywhere else,—a general system by which all the property, real and personal, within the jurisdiction of the taxing power should be subject to an assessment and a valuation fixed upon it and then a rate which, applied to that and to all other property in the District, is imposed upon it to produce the money that we call a tax. I suppose that must be the general state of the law.

Mr. WHYTE. If the Senator will look at the report, he will find that the rolling-stock is assessed by the mile and not by engines, by horses, or by cars; the rolling-stock at so much per mile is assessed.

Mr. EDMUNDS. Very well. Now, the assessment of rolling-stock per mile is either warranted by law as distinguished from an assessment *in specie*, or it is not. If the law did not authorize the taxing authorities of the District to assess this rolling-stock by the mile in that mode, then the assessment, instead of being excessive, was absolutely illegal. That is one thing. If it is, let us find it out.

Mr. HOAR. Will the Senator from Vermont allow me to ask him if it be not the rule of law in this country everywhere substantially that the property of the citizen cannot be taken from him without due process of law, that due process of law meaning in case of the settlement of the right of possession or ownership of property a judgment of a court, and in the case of the taxing power a tribunal authorized to review taxes so constituted that its ruling on questions of law may by certiorari or some other similar process be re-examined by the supreme judicial power of the State, with the jurisdiction where the thing occurs? But at the same time, where the taxing power has jurisdiction to say how much tax a man shall pay on his personal property, and it thinks he has $100,000 when he has only $50,000, or taxes something to him that ought to be taxed to somebody else, that is not wholly void so that the citizen can recover it by suit at law as if it were a totally illegal transaction, but it is an error of law which is to be revised only by certiorari or some other advising process addressed to the taxing power. So that in the case which the Senator from Maryland puts, the tax commissioners of the District being authorized to say how much tax on personal property or how much tax on real property this company should pay if they err in the respect which the Senator from Maryland states, the method of revision is not by suit at law as if their whole proceeding were void or as if it were void *pro tanto*, but by certiorari commanding the tax commissioners of the District to certify to the supreme court the principle on which they proceeded and then upon their answer and certificate an order to them to revise that proceeding in the particular in which it is incorrect.

Mr. EDMUNDS. Mr. President, the statement of the Senator from Massachusetts is, as far as I am able to comprehend it, a perfectly sound one, and I did not know that what I had said would, in his judgment, come in conflict with it at all.

What I undertook to say on this question about the taxing per mile was this: if the tax laws of the District of Columbia say that all personal property in the District shall be set in the list at its value for taxation and the taxing officers of the District, instead of setting the property of this company in the District in the list at its value but estimated it, took an arbitrary rule without regard to value and say, because there are two miles of the Baltimore and Ohio Railroad in this District and there are thirty-eight miles out of it between here and the city of Baltimore, and three hundred miles out of it, or whatever the distance may be, between here and the line of West Virginia, therefore it shall be taxed in the proportion that these two miles bear to the other thirty-eight between here and Baltimore, or that they bear to the other three hundred between here and West Virginia, then I say that, in my judgment, such a taxation would be open to legal inquiry as to whether they had any authority at all to impose an arbitrary rule without any reference to the value of locomotives and cars here upon the company, and that would be for a judicial court to decide; but if they have the legal authority to consider the length of the road in this District as furnishing the ground for believing that the value of the personal property here on the whole is too much, then whether they were right or wrong in their ground, their valuation of the personal property would be absolutely conclusive. I suppose that is the law.

If it be, as the Senator from Maryland thinks it to be, that this estimate per mile—which I will assume to have been legal in respect of its form—was too much in respect of its quantum, then you have got back to exactly the place where we started; and that is that you are undertaking by the action of this Senate to review, upon a letter of the commissioners, the action of the taxing officers in favor of this corporation, and to give it $15,000 because in its judgment the taxing officers have assessed it $15,000 too much in respect to their judgment of the value of its property in this District. I cannot consent to do that. I cannot consent to do it supposing I believed it to be true that there was an excess of $15,000, because the moment you undertake by legislative authority to correct temporary evils and what we think to be pieces of injustice, you have opened the door to an endless field of applications that stand in favor of private individuals on exactly the same grounds. The result is a review in every case where a man says the assessors have charged him too much, and we are to be called upon to decide in each case whether they have done it or not.

And that brings me back to what I started out with, and that is that taxing questions, particularly with corporations, are not those which ought to be compromised and mitigated by the action of the legislative authority; but they ought to be left, for good or ill, to such rights as the constituted officers to inquire into such matters, courts and all, may determine. Then if it turns out at the end of a lawsuit that the law is imperfect or unjust or inadequate to the ends for which it was designed, let the legislative power provide a new law. So it appears to me without reference to the intrinsic merits, whatever they may be, of this particular settlement, that it is entering on a species of legislation that we ought to be very shy of.

There is another thing that I should like to say. I understand from my friend from Maryland or from a remark which he dropped, that the rate or the quantum of future taxation between this company and the District has been settled by the commissioners and the company as a part of this arrangement. Am I right about that?

Mr. WHYTE. I so understand. There is no dispute as to the future.

Mr. EDMUNDS. Very good. That having been settled, then this act of Congress proposes to ratify that settlement, which I assume is in writing, and we do not know what it is. Suppose the commissioners of the District of Columbia have agreed that hereafter the rate shall be a thousand dollars a mile for the two miles of the company's track in this District, and we ratify that; then we have made a contract with the Baltimore and Ohio Railroad Company for I do not know what indefinate future that they shall be taxed at that rate, no other. I do not propose to enter into any such contract, either by inference or expression; and as this resolution which says that we ratify the settlement that has been made between these parties and a part of that settlement arranges for the rate of future taxation, I certainly hope that no man in the Senate will vote for it, however good it is otherwise; and I certainly hope my friend from Maryland will not. And yet the effect of this measure, as it reads, is to ratify whatever that settlement is, be it much or little. I do not think that ought to be so.

Mr. WHYTE. Mr. President, the Senator from Vermont always enunciates his law opinions with such judicial temper and in such an *ex cathedra* manner that it seems almost immodesty ever to dispute with him any legal proposition that he enunciates. Nevertheless, from my experience in tax cases in my own State, while I know nothing about the tax law of Vermont, I should be very sorry if any such law existed in Maryland as that which he supposes to exist in the civilized world—that you have no right of appeal and no right of review in the courts of your State over an assessment made by the executive officers appointed under a law of the State to value property, and that there is no power to stop a tyrannical collection of taxes by an executive tax officer. I cannot believe in any such law as that. I have operated under an entirely different system, stopped the tax-assessor from taking possession of property which was not liable to be taxed, although not specially exempted; and so in regard to this case of the Baltimore and Ohio Railroad, there was no specific law fixing a basis for the assessment of taxes upon this property; and that is the difficulty in the whole case. The commissioners of the District expressly state that that is the reason of the difficulty that occurred:

> In the absence of specific law defining a basis upon which the property of steam-railways should be assessed the valuations were for some years irregular and excessive.

Now, does the Senator from Vermont desire that those excessive and irregular valuations should under proper authority be made equitable and fair? I am sure he does; and therefore in the absence of specific law upon the subject, it must be left to the judgment and discretion of somebody, and to-day to whom does the Senator from Vermont leave that power to assess the value of property? To the treasurer and assessor of this District under the supervision of the District commissioners; and therefore when these gentlemen sit down to adjust between the Baltimore and Ohio Railroad Company and the District of Columbia the fair amount of taxes which that company should pay, where can you find more knowledge of what that assessment ought to be, or an honester desire to make it fair to the tax-payers and just to the District? Can we as Senators sit down here and take up all the prices of property, all the moving material upon the railway, all its little station-houses and watch-boxes, and so on, and go into accurate calculation of how much we ought to charge this company? Clearly not; and therefore when this judicial inquiry has been lasting for so many years, when at last this company comes to us and says "we will pay whatever your officers, the District commissioners and the treasurer and assessor of taxes in the District of Columbia, say is just and right up to 1879; we will pay every dollar of the money, and as an evidence of our good faith, without receipt, without paper, for we have got no receipt and no papers, we will deposit in the hands of the commissioners the amount that they ascertained to be due to wait for Congress to ratify and confirm our settlement," what should be done? That is the position of this company. I think it is fair and I think it is just, and I hope that the Senate will vote in favor of this settlement.

Mr. EDMUNDS. Mr. President, I confess that I do not feel, like my friend from Maryland, the greatest possible gratitude to the Baltimore and Ohio Railroad Company for putting $75,000 into the hands of these commissioners to get rid of a legal obligation to pay $130,000.

There is a slight margin of $55,000 to be gained by this deposit; and therefore the extent of my admiration at the amazing generosity and confidence of the Baltimore and Ohio Railroad Company is not so great as that of my friend from Maryland. If these commissioners are authorized by law as the supervising taxing officers of this town—and I did not know that they were that—to abate and mitigate taxes where they consider them to be excessive, then you do not need to pass this bill to allow them to do it; but the law, I believe, has not vested in the commissioners of the District of Columbia any such enormous power as that. They may be invested, (although I do not remember how that is,) with the power on the occasion of an assessment and while it is live and warm, in the time of it, to hear an appeal from the three or five assessors, or whatever the number may be, who go about at the appointed times for the purpose of assessing property, and to determine then and there whether that assessment is excessive, and if so mitigate it, and it is entered in the tax-books accordingly. After that is done, I respectfully submit that they have not and ought not to have any more power over any further abatements or mitigation in favor of people who insist upon it that they are taxed too much, than any man in the streets has. I do not know any State that authorizes its governor or any other of its officials to proceed to retry in favor of applicants, after the occasion has gone by, the question whether they ought to pay all the taxes that are charged to them on the books or not. You cannot carry on a government in that way, and nobody tries to do it. Therefore it is perfectly manifest that the commissioners of the District of Columbia have no more power to abate this $55,000 of what this company will have to pay if they are beaten in the lawsuit, than I have individually; and if you pass this bill to make this settlement, what are you going to do next week when the Metropolitan Railroad Company with its $175,000 (if that be the amount) of unpaid assessments in the nature of taxation on street improvements, and regular taxation too, perhaps, comes forward and says, "Here according to the way your tax people have assessed us and figured it up we owe the United States $175,000; we have been declining to pay for some years; we will pay now if you will take $100,000?" And then we are to do that. Then there is to be another compromise with, say, the Washington and Georgetown Railroad Company, which I believe is not so deeply in with respect to a failure to pay the just burdens—I mean just in principle; I cannot go into the question of quantity—that the taxing power has imposed upon them.

I wish to repeat, and then I am done with this whole matter, what I said a little while ago, that my belief is that if any private persons, and there are a good many of them, who feel that they are unjustly and excessively taxed, were to come here with a proposition and say "it appears from the assessments and the computations and the interest and the penalties that we owe the District of Columbia for taxes $25,000; we have begun a lawsuit about it, but we will square up for $15,000," they could not get a single vote. They would be told "settle your controversy in the tribunals and by the methods the law has provided; we are not a court of appeal in respect of the imposition of taxes as applied to particular individuals; we cannot be in the nature of things, because we cannot do justice. If we do it to one we must do it to all, and in the case of any one we should be as likely to go wrong as to go right, because we have not the means, the machinery for minute and careful investigation." That is what we should answer and answer rightly. The Legislature of any State would answer in that way in the ten thousand cases that in every State arise every year of men who insist upon it that the taxation upon them is irregular or excessive, and I never heard of a State Legislature that undertook to go into a consideration of that particular individual case. We have done it, I know, in Congress in respect of classes of people whom we thought had been outraged by the illegal and arbitrary conduct of the board of public works or somebody else, and held that, treated as a class, provision ought to be made for a quasi-judicial inquiry and a proper amount of redress allowed. That is true enough; but when it comes to invoking the legislative power to go into a contract settlement with a great corporation by which it throws off about one-third of the whole amount of the taxes that, if we are entitled to have any at all, are due and payable, it appears to me is a case which has no parallel and no precedent that I know of.

The joint resolution was reported to the Senate.

Mr. EDMUNDS. I ask for the yeas and nays on the third reading of the joint resolution.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The question is, Shall the joint resolution be ordered to a third reading? upon which the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. CONKLING. Before voting on the question of the third reading, I should like to inquire what was the sum total of the taxes claimed or found to be due?

Mr. WHYTE. Ninety thousand dollars without interest, and the case has been in court fifteen or sixteen years. With the interest added up to this time it would be $130,000, and the case has been in court since 1858.

Mr. CONKLING. How much does this propose to take?

Mr. WHYTE. Seventy-five thousand dollars, settled on adjustment between the District commissioners and the company, and under the examination of the committees of the two Houses.

Mr. MCMILLAN. I understand this settlement to have been effected by the action of the commissioners of this District, fully understanding all the facts in the case, and they have recommended this settlement to Congress. Upon that state of fact, in view of the letter from the commissioners, I think this resolution should pass.

The question being taken by yeas and nays, resulted—yeas 38, nays 7; as follows:

YEAS—38.

| | | | |
|---|---|---|---|
| Allison, | Garland, | Kernan, | Saunders, |
| Baldwin, | Groome, | McDonald, | Slater, |
| Bayard, | Hampton, | McMillan, | Vance, |
| Beck, | Harris, | Morgan, | Vest, |
| Brown, | Hill of Georgia, | Pendleton, | Wallace, |
| Cameron of Wis., | Hoar, | Plumb, | Whyte, |
| Coke, | Ingalls, | Randolph, | Williams, |
| Davis of W. Va., | Johnston, | Ransom, | Withers. |
| Eaton, | Jonas, | Rollins, | |
| Farley, | Jones of Florida, | Saulsbury, | |

NAYS—7.

| | | | |
|---|---|---|---|
| Booth, | Hill of Colorado, | Pugh, | Windom. |
| Edmunds, | Platt | Teller, | |

ABSENT—31.

| | | | |
|---|---|---|---|
| Anthony, | Cameron of Pa., | Hamlin, | Maxey, |
| Bailey, | Carpenter, | Hereford, | Morrill, |
| Blaine, | Cockrell, | Jones of Nevada, | Paddock, |
| Blair, | Conkling, | Kellogg, | Sharon, |
| Bruce, | Davis of Illinois, | Kirkwood, | Thurman, |
| Burnside, | Dawes, | Lamar, | Voorhees, |
| Butler, | Ferry, | Logan, | Walker. |
| Call, | Grover, | McPherson, | |

So the joint resolution was ordered to a third reading; and it was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the Vice-President:

A bill (S. No. 1396) authorizing the persons therein named to accept of certain decorations and presents therein named from foreign governments, and for other purposes;

A bill (S. No. 1618) to amend section 553 of the Revised Statutes, relating to the District of Columbia;

A bill (S. No. 1922) for the relief of Brigadier-General and Brevet Major-General Edward O. C. Ord, United States Army;

A bill (H. R. No. 6614) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1882, and for other purposes;

A joint resolution (S. R. No. 144) authorizing the loan of certain flags and buntings to the committee on inaugural ceremonies; and

A joint resolution (H. R. No. 369) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes.

PENSION APPROPRIATION BILL.

Mr. BOOTH, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, reported it with amendments.

HOUSE BILL REFERRED.

The bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

LANDS IN SEVERALTY TO INDIANS.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The hour of half past one o'clock having arrived, the Chair lays before the Senate its unfinished business, being Senate bill No. 1773.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Alabama [Mr. MORGAN] to the amendment proposed by the Senator from Massachusetts, [Mr. HOAR.]

Mr. MORGAN. I believe that the Senator from Massachusetts is willing to accept my proposition as a modification of his amendment, if I am correctly informed about it.

Mr. TELLER. Let the amendment be reported.

The PRESIDING OFFICER. The amendment to the amendment and the amendment will be read.

The CHIEF CLERK. The amendment of the Senator from Massachusetts [Mr. HOAR] is in section 6, line 6, after the word "reside," to insert:

And are hereby declared to have become citizens of the United States and entitled as such to the full protection of the Constitution and laws.

The Senator from Alabama [Mr. MORGAN] proposes to add to this amendment the following words:

*Provided*, That an Indian, when he or she accepts land in severalty, shall not thereby forfeit any right in or to any property or annuity to which he or she would be entitled as a member of the tribe, or his or her right to participate with such tribe in the disposal of any land or other property held in common by such tribe.

Mr. HOAR. I said to the Senator from Alabama that I would accept his amendment just now, but on hearing it read—I had not heard it read when I said I would accept it—it seems to me that it would be better to move it as a separate amendment. It reserves a distinct right; and if my amendment is put on the bill, the Senator's can then be added, or I will consent that a vote shall be taken upon his first, or if his is put on to the bill, mine may be added; but I desire to have accompanying this separate title to land with all the responsibilities it involves and this direct enactment that the Indian is to be subject to all the obligations of citizenship in a State and all its burdens and all its civil and criminal laws of the State and Territory, a citizen's right to protect himself. I would prefer, if the Senator will permit me to withdraw my assent, to have the vote taken on my amendment separately, because it seems to me that the two things are distinct. I do not think there is any reason for allowing the Indian's rights in the annuities and other property belonging to the tribe, to be forfeited, as is guarded against by the amendment of the Senator from Alabama.

Mr. MORGAN. I am entirely willing that a separate vote should be taken on the amendment of the Senator from Massachusetts, and I will withdraw my amendment until after action on his.

The PRESIDING OFFICER. There being no objection, the Senator from Alabama for the present withdraws his amendment; and the question is on the amendment of the Senator from Massachusetts.

Mr. WINDOM. Mr. President, I want the attention of the Senator from Texas a moment. I had intended to call up the naval appropriation bill to-day, which is now ready for the action of the Senate, but I wish to consult the convenience of the Senator from Texas. Does he prefer that it should be postponed until to-morrow, with the hope of concluding this bill to-day? Perhaps it can be done; if not, I should like to call up the naval bill now.

Mr. COKE. I would say in reply to the Senator from Minnesota that it is my purpose, if I can, to press this bill to a vote to-day. If I cannot, of course I shall yield to the Senator to-morrow that this bill be informally laid aside.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. TELLER. Mr. President, when this bill was up for discussion last week, I was reminded by the honorable chairman of the Committee on Indian Affairs, that in my opposition to this bill I was putting my judgment against that of the President, the Secretary of the Interior, the Commissioner of Indian Affairs, the board of Indian commissioners, and the honorable Committee on Indian Affairs of the Senate. I know the enormity of the crime of differing with such high and intelligent authority on this question, and I know very well what it costs to differ with a committee of the Senate of the character of this committee. I know how very futile any opposition may be to a measure that has received the sanction of this committee, and that is backed up by the high authority back and beyond this committee, of which the chairman spoke. I know it is not a pleasant thing to forego the smiles of approval of the Secretary of the Interior and the Commissioner of Indian Affairs, and to differ with this honorable committee upon a subject of this character. But, as I regard it, every Senator has a duty to do as he understands it, and not as somebody else understands it. It is not the first time that I have differed with the Committee on Indian Affairs, and I have differed with other Senate committees on a good many things where undoubtedly the committees were right and I was wrong; and yet I was in the exercise of a right. I was in the discharge of a duty. Upon this question of the Indians, how they should be managed and how they should be treated, I have very fixed and decided opinions, opinions formed after many years of observation and not a little study. I am not here to see how I can make my way smooth and my path even, how I can get rid of labor and responsibility. I know that it is much easier, upon questions of this kind, involving difficult and doubtful things, to consult a committee and follow the crowd, and then if the proposition shall fail, if the future shall demonstrate its folly and its lack of wisdom, lay the blame upon the committee, or on the Commissioner of Indian Affairs, or on the Secretary of the Interior. I know that that is not infrequently done in this body and in other places; but it has not been given to me to see my duty in that way. I know how wearisome a discussion of the Indian question is to the Senate, and I know how little attention is paid to a discussion of this character, when the most of the Senators have already formed their opinions upon the proper legislation, or if they have not, are disposed to say that the Commissioner of Indian Affairs and the Secretary of the Interior and the committee, to whom all this great question is left, ought to know better than anybody else, and that the easiest and best way is to follow their lead.

Mr. President, if I was totally unacquainted with this question, I might be disposed to surrender my judgment; but with my knowledge, with my observation, with my study, I believe, as the Senator from Alabama [Mr. MORGAN] said yesterday, this is a bill fraught with evil. This is a bill that, in my judgment, ought to be entitled "A bill to despoil the Indians of their lands and to make them vagabonds on the face of the earth," because, in my view, that is the result of this kind of legislation. I know, as I said the other day, that many well-meaning people are clamoring for this legislation, and I do not know that my theory of the solution of this problem is correct: I am not morally certain that it is. I go upon my judgment, my best-informed judgment after I have informed it as well as I could. I do not believe there is a Senator in this Chamber who is familiar with this Indian problem that would accept unlimited authority to deal with this question who would not accept it with grave doubts and misgivings as to what would be the outcome and what would be the result of his honest and energetic efforts in that line. It is a problem difficult to solve; it has brought the attention of the very best men in this country to it for two hundred years and they have failed; and if we fail, we only do what others have done; yet we ought to profit something by the light of experience. The failure of other methods ought to induce us to look with care upon any new measure if one is introduced. But this bill is not a new measure; it is old and much older than this Government. For two hundred and fifty years this very question has been pressed upon the American people. At times it has been tried and at times it has been abandoned. It may be proclaimed by the Secretary of the Interior and by the Commissioner of Indian Affairs and by the board of Indian commissioners and by the Committee on Indian Affairs of the Senate that it has not been a failure, but I say here to-day that a careful examination of history will prove that it has been an entire failure, and I am here to-day to attempt to prove it.

It does not do to come here and say that the agent at this place and the agent at the other place is to be taken as authority that the intelligent Indians are demanding this kind of legislation. It is the pet theory of the Secretary of the Interior, it is the pet theory of all officials under him, because they would not be under him if they did not advocate this theory of his with reference to the civilizing of the Indians by virtue of giving them land in severalty. The agent on a reservation who makes his report, knows what the theory of the Commissioner is, he knows what the theory of the Secretary is, and he is in duty bound to show his loyalty and his fealty by sending up his report, first, that his Indians are progressing, because if they are not progressing there is danger that some other man will take his place, and if they are progressing, he puts that down as one of the items to his credit, and then, to make himself strong with the Department, he declares that the Indians are clamoring for land in severalty.

I said the other day that an examination of the reports from 1816 up would show that it has been the cry of all the agents everywhere, with rare exceptions, "My Indians are making rapid progress in civilization," and yet to-day very many of the Indians who have thus been reported year after year are actually on the retrograde; and a careful examination of the statistics will show that they are not advancing, but they have taken the downward grade, and are not as well off to-day as they were some years since. I picked up, the other day, the report of 1878 of the agent for the Pyramid Lake Indians in Nevada. I will not stop to read it. I went back for seven or eight years, and I found that every year the Indian agent had reported, "My Indians are making rapid progress in civilization." I believe he nowhere alluded to the fact that they wanted land in severalty, but he said that they were on the high road of progress. But a change came; they had a new agent at the Pyramid Lake, and this man says in his first report: "In looking over the reports for ten years, I find every year it is reported that these Indians are making progress in civilization; but now I want, as I start out, that the facts shall be known." And then he goes on and pictures out the character of the Indian that he has to deal with—degraded, debased—that if he ever had made any progress it must have been when he started in the very lowest possible scale of human beings. That is a fair sample of the reports that come up from the various Indian agents all over the land. It is their interest to make such reports. They are a class of men that, as a general thing, are sent out because they cannot make a living in the East. They are picked up as broken-down politicians, or one-horse preachers that have been unable to supply themselves with a congregation. They go to an Indian agency at a salary that will not employ, in the West in most cases, an ordinary clerk, and hardly a porter. They take these positions; they desire to keep them, whether it is for the salary or whether it is for the perquisites I leave to others to say, but they desire to keep them, and it is their interest that they make these statements that little by little these men are progressing; and yet when a new and honest agent goes he frankly says, "these people can have made no progress at all."

Mr. President, it was said here the other day, it is said in the report of the Commissioner of Indian Affairs, and in the report of the Secretary of the Interior, and I presume it will be found in the report of the board of Indian commissioners if we shall ever be able to get it, that the Indians who have taken land in severalty have rapidly advanced in the ways of civilized life. I denied that the other day, I deny that to-day, and I deny it in the face of the constant manner in which it was stated on the floor of the Senate the other day in reply to me. I say that the evidence is against that declaration: that an examination of the reports made by the Secretary himself, made by the Commissioner himself year after year, will demonstrate that that is not founded on fact. The trouble with this question of land in severalty is, that the friends of the measure have adopted the end

for the means. They have turned things right around. When an Indian becomes civilized, when he becomes Christianized, when he knows the value of property, and when he knows the value of a home that the Senator from Ohio [Mr. PENDLETON] spoke of so eloquently yesterday, then he is prepared to take land in severalty, and then he is prepared not only to take land in severalty, but to take care of the land after he has got it, and to discharge all the duties of citizenship in the highest sense of the term.

It was said here that the Cheyenne River Indians were an example of the benefits of land in severalty. I have gone over and examined the record of the Cheyenne River Indians; I have examined all the cases that were referred to in the Senate last week, and referred to in the letter of the Commissioner of Indian Affairs that was read to the Senate. The Cheyenne River Indians have taken twenty-four allotments of one hundred and sixty acres each, fifty-one allotments of about ten acres each at various localities of the reservation, so that the total number of allotments is seventy-five and the total number of Indians on that reservation is seven hundred and sixty-four. The twenty-four allotments are allotments in the proper sense of the term; the fifty-one allotments are not allotments at all in the ordinary meaning of the term "allotment."

Before I go further I want to call the attention of the Senate to that which seems to be strangely misunderstood by persons outside, and I believe it is misunderstood by the Indian Department. There is a wide difference between holding land in common tenure and working the land in common. Every Indian tribe owns its land and works it in common, with the exception of those here spoken of and a few others, yet they do not work the land in common. The civilized Indians of the Indian Territory hold all their land by a common tenure, and yet they do not work an acre of it in common any more than white men would do under the same circumstances. Each Indian goes upon the reservation and takes for himself such land as is unoccupied and works it, and he works it just as long as he sees fit. That is the rule among all the Indian tribes. That possession of an Indian, that appropriation by him is as sacredly protected and guarded among the Indians as though he owned a fee-simple title; but when he abandons it and goes away from it then any other Indian may step in and take his place. Knowing that fact, and knowing that the Indians protect these possessions with as much scrupulous honesty as we protect the fee-simple title, I say that when it is asserted that they will not work because the title is not secure, it is nonsense. The Indian's title in the Indian Territory is as absolutely certain as if he held the fee, and the only advantage he would have in holding the fee would be that he might dispose of his land. They do not work the fields in common except as an individual may do it or as might be done by white men under like circumstances.

The objection that I have to this system is that it will be compulsory, if it ever becomes a law, upon these Indians, so far as the Department can make it, to accept the land by allotment, to take their land in quarter-sections and in forties and then the rest of the land is to be disposed of. I had some doubt whether that was the intention of the Secretary of the Interior; but after the lucid explanation upon that subject by the chairman of the Committee on Indian Affairs yesterday there can be no doubt that two things go together, first, the Indian must take the land; next, after having taken so much land as he is entitled to under this bill, the rest of it must be sold and must go into the possession of other people. The honorable chairman yesterday, in stating his objection to the amendment of the Senator from Alabama, [Mr. MORGAN,] said in reply to that Senator:

> Mr. COKE. I take it that under the bill the agreement to be submitted to the Indians whenever they manifest a desire to have their lands allotted in severalty is an entirety, and embraces not only the allotment of the lands in severalty among the Indians, but a negotiation for the remainder of the lands in excess of that allotted for the General Government, the bill anticipating that one portion of the agreement would not be entered into without the other.

That is the theory upon which the bill goes. Then I assume, because the organ of the committee in that particular so asserts, that when the Indians have made the allotment, that will be all the land that is left to them. If the allotment is unwisely made, there will be no remedy. If they get the poor land and the best is left, there will be no remedy.

I started to make this explanation in order to show that the Indians who had taken land in severalty were only a small portion of the Indians, and that no such result had followed as is claimed for the system. I alluded to the Cheyenne River Indians. Now I will call attention to the Devil Lake Indians, who were also mentioned as among the Indians who were demanding land in severalty. I find from an examination of the reports of 1878, 1879, and 1880, that there has been no land in the Devil Lake agency in severalty in the proper sense of the term, or if it has been so taken the evidence is wanting in the reports. They have been allowed to do there just what I claim they ought to be allowed to do everywhere, to go upon the reservation and take any piece of ground that they think is suitable for cultivation and cultivate it. The report shows that they have taken small pieces of ground from two to twenty-five acres, and have cultivated them. There is nothing in the report of 1878 or 1879 or 1880 that justifies any assertion that they have accepted land in severalty or that they are demanding land in severalty.

Then take the Sisseton agency. While they have been allowed for more than ten years to take land in severalty, I find the statement that one Indian has taken a quarter-section of land. I will give the friends of this measure the benefit of that. I have no doubt one Indian has taken a quarter-section of land, but there are fifteen hundred Indians on that reservation who have not suggested that they wanted any land in severalty.

It is stated that the White Earth Indians in Minnesota are desirous that their titles should be secured to them. Every Indian in the United States is desirous that his title should be secured to him. One of the principal troubles that we have met with is because we have not secured to them their title. They know what a paper title from the Government means, and they want the title not to themselves, but to their tribe; they want it where it will be understood that they cannot be disturbed; they want it so that an act of Congress cannot move them without their consent. That is what they mean when they say they want land in severalty.

There was one other class of Indians spoken of, and I want to call attention to them. It was said that the Oneida Indians want land in severalty. I find this in the report of the Commissioner of Indian Affairs for 1880:

> The Oneidas are well advanced in agriculture, a large portion of their reservation being with propriety called the garden of Brown County. The main settlement, extending nearly the whole length of the reserve, north and south, is one continuous line of large, beautiful farms, with many good, substantial dwellings, barns, granaries, and tool-houses. By their industry they harvest large and profitable crops, and raise (considering the climate and latitude) a good proportion of horses, cattle, hogs, and some sheep. Not having a farmer on this reserve it is impossible for me to give an accurate account of all their productions. Interest in agriculture is steadily and yearly increasing; many new farms are being cleared and cultivated, while many of the old are enlarged and improved. Their continuous cry to the Government is for the allotment of their lands to each individual without being subjected to taxation, sale, or judgment of any court. This would be an incentive to further industry among them.
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> They do not want to become citizens, (as heretofore reported,) but claim the protection of the Government for at least twenty-five years in the future, as they deem the liabilities of a citizen fatal to the welfare of many of the most destitute Indians.

I do not doubt that the men who have transformed this wilderness into a garden are sufficiently enlightened and sufficiently civilized to accept title to their lands and to keep them, and that is the only class of Indians who are clamoring for title. It is when they have become civilized, when they have become in effect white men, that they propose to act as white men and accept their title as white men do. But this bill is not for the benefit of that class of Indians. This bill is for all the Indians alike, except the five civilized tribes, as they are called. The civilized and the uncivilized Indians, the semi-civilized and the savage, are all to have the benefits of this bill. If the Secretary of the Interior and the Committee on Indian Affairs are correct, you only have to allot the land in severalty, and that is the end of the whole difficult problem, and the Indians are civilized, Christianized, and enlightened.

The Umatilla Indians, in Oregon, form another of the tribes referred to. I find something about these Indians, and I desire to call attention to it. I read from the same report:

> On the 15th of January, 1880, a council was held for the purpose of taking into consideration any propositions compatible with the agreement entered into by the chiefs (April, 1879,) that would have a tendency to improve the condition of Indians taking land in severalty here. The Most Rev. Charles J. Seghers, archbishop of Oregon, was present, and by his advice and influence aided in harmonizing the deliberations of the council. The following propositions were agreed upon, which the Indians requested me to forward to your office, and, if they meet with the approval of the honorable Secretary of the Interior, to incorporate them into the agreement entered into by the chiefs at Washington last April, before Congress takes final action in their affairs.

These chiefs came here and made an agreement, such as can always be obtained from a lot of Indian chiefs, an agreement of any character almost that the Government sees fit to insist upon. But the Umatilla Indians were not satisfied with that agreement. That provided that they should take land in severalty. They say "we do not want land in severalty" except it may be upon the following conditions:

> First. That the laws of inheritance of the United States be extended over all Indians taking land in severalty on this reservation. Their reason for making the request is, to secure to the rightful heirs the real estate and personal property of deceased Indians, so as to prevent the Indian custom of dividing the property among the friends of the deceased.
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> Second. To allow them the privilege to lease land for a term of five years. Many of the Indians are unable to engage in agricultural pursuits on account of old age, sickness, &c., and will derive no revenue from the land unless the right to lease is allowed.

That has been studiously and steadily denied by the Department, and I presume now that the committee would not accept a proposition that would bring this bill within the idea of the Umatilla Indians. I find the agent says further:

> Many of these Indians are still undecided whether to take land on severalty here or remove to some other reservation, and will be guided in their decision by the action of your office on these propositions.

Reference was also made in this discussion to the Peorias and Miamies as being among the Indians who were anxious to have agricultural lands. I find that the Peorias and Miamies number in all two hundred and eighteen, and occupy a delightful reservation of 50,301 acres:

> The greater portion of their land is agricultural, and their reservation is equal in value to that of the Quapaws. The headmen visited Washington last winter in the interest of their people, who are unanimously in favor of allotment of their lands. It is to be hoped that the Department will aid them in this matter, as a large majority are certainly advanced sufficiently for the change, and a delay will only retard and discourage them. This tribe contains some of the most energetic and enterprising men under my charge, and I am in full sympathy with them in accomplishing this their great desire. Taken as a whole, they have succeeded well the past year. They have not erected a great number of new buildings.

I find also in the same report, speaking of the Wyandots:

The Wyandots are the largest tribe under the agency, and number two hundred and fifty, with a reservation of 21,706 acres. The larger portion of it is very poor, and only suitable for grazing. These people embrace the two extremes; some of the most ignorant and intelligent men we do business for. Many of these men are well advanced, and with equal advantages with our own race would soon rank with our best citizens. They are engaged in farming, and some have fine farms and large herds of good cattle; 1,448 acres have been under cultivation by these people, being the best showing of any tribe, and sixty-four of their children attended the mission school, in which all are very much interested.

The Quapaws, the Peorias, and Miamies, and the Wyandots were not among the Indians included with those to have the benefits of this bill until the honorable Senator from Missouri [Mr. VEST] secured the adoption of his amendment. The Flandreau Sioux were also spoken of. That is probably the very best showing for the friends of this bill. There they have taken up a number of pieces of land voluntarily, and I have no doubt that that was a movement of the Indians themselves. But see what is said of these Indians:

They all wear citizens' clothing, have abandoned their tribal relation, and instead of the old chiefs who held their office for life, the tribe now annually elect by ballot councilors who hold their office for two years. In this way we get a more active and energetic class of men to stand at the head of the tribe. They can plow, plant, and sow their seed, cut, gather, and thrash their grain, without the aid of the white man, but it is not done with the care and rapidity with which the general class of white persons would do it.

There, again, we find that these Indians are civilized. There, I say again, this is the result of their civilization, and an allotment of land in severalty never made these men civilized. They were civilized before they proposed to take the land. That is the theory. Whenever an Indian is civilized you may give him land in severalty; but he will not take it until he is civilized, and the taking of the land, in my judgment, will not civilize him at all. So you may go through all of these so-called examples of the benefits of allotment of land and you will find that the Indians had been civilized upon the land they held in common; that they followed the old tribal relation up to the time that contact with the white man and the influence of schools and missionaries upon them had made them practically civilized, and then they proposed to take their homes as white men do.

The number of Indians who have taken land in severalty is rather small. I have here a little work called The Indian Question, by Hon. Francis A. Walker, formerly Commissioner of Indian Affairs. I believe it will be admitted that whatever leaning he may have upon this subject, whatever bias he may have, is in favor of the Indian. It will hardly be charged that he is a western man in his sympathies, or that he has any of the hostility toward the Indian that is said to exist in the minds of very many people in the West. This book was written immediately after he left the office. He says:

The United States have by recent treaties or legislative enactments admitted to citizenship the following Indians.

Then he enumerates them, amounting in all to about eight thousand, if I recollect.

Time has not yet been given for the full development of the consequences of thus devolving responsibility upon these Indians; but we already have information, official or semi-official, to the effect that the majority of the Pottawatomie citizens—

That is the largest number of them—

after selling their lands in Kansas, have gone to the Indian Territory, and reassociated themselves as a tribe; that of the Wyandots, considerable numbers have attached themselves to the reorganized tribe in the Indian Territory; that of the citizen Ottawas of Blanchard's Fork, nearly all have disposed of their allotted lands, and are still cared for to some extent by the Government as Indians; that of the Ottawas and Chippewas of Michigan, a majority certainly, and probably a large majority, have sold the lands patented to them in severalty, in many cases the negotiation preceding the issue of patents, two parties of white sharpers contesting for the favor of the agent in the way of early information as to the precise lands assigned, and the disappointed faction, in at least one instance, resorting to burglary and larceny for the needed documents.

It will be thus seen, that, of these Indians upon whom the experiment of citizenship has been tried, more than one-half, probably at least two-thirds, are now homeless, and must be re-endowed by the Government or they will sink to a condition of hopeless poverty and misery.

I repeat that whatever civilization to-day exists among the Indians exists by virtue of the communal right to land. There is no particularly noted instance of Indians having progressed except in that line and in that way. Of the civilization of the five tribes the Senate heard yesterday. The honorable Senator from Alabama [Mr. MORGAN] spoke of their lawyers, of their courts, of their legislative bodies, and of the character of the people as a people. They are classed everywhere as civilized; yet they have been civilized under adverse circumstances to a very great extent, but occupying all the time land that they held in common.

Take the Indians in the State of New York. In 1847 the State of New York gave to all the Indians within her borders the opportunity by a proceeding of dividing up and partitioning their lands. How many of them have accepted it? A few Oneidas, and only a few, and they are not the best example of the Indians of that State.

Take the Navajoes in the Territory of New Mexico. These Indians reside upon a reservation that they hold in common. I cannot find that any agent from that tribe has ever suggested that they had any idea about land in severalty. That idea has not reached these Indians; and yet they are very nearly self-supporting, having large herds and large crops. The Navajo agency is situated on the immediate border of the State of Colorado, and there are 12,000 Indians all told. They have an area of a little over five million acres of land. They have upon that, as shown by the report of the Commissioner of Indian Affairs, about fifteen thousand acres of arable land, a little more than one acre to each man, woman, and child. It is proposed to divide up that tract of land. It is proposed to give each of them the number of acres provided for in this bill, and as near as it can be estimated it would require about a million and a quarter acres to satisfy the provisions of the bill. Upon that million and a quarter acres these Indians would at once become paupers, although you might include in the million and a quarter acres every acre of available land. But that cannot be done. These Indians have 40,000 head of horses, or three and a third horses to every man, woman, and child. They have 700,000 sheep, or fifty-eight and a half sheep to every man, woman, and child. They have in addition five hundred head of cattle, five hundred mules, and a thousand duros or jacks. They sold last year 800,000 pounds of wool, or sixty-six and three-fourths pounds to every man, woman, and child in the tribe. In addition to that, they manufactured into blankets 100,000 pounds of wool. That is an example of prosperity which cannot be equaled by reference to any tribe holding land in severalty; and that is a degree of prosperity which will be utterly destroyed whenever the system of lands in severalty shall be adopted and applied to that tribe.

I find that a committee of the other House in the Forty-fifth Congress, to whom was referred a bill that had made it proper for them to examine this subject, have gone very carefully into it, and I propose to submit for the benefit of posterity, if for nothing else, the finding of this committee. This is a report upon a bill for the organization of the Territory of Oklahoma, was submitted in the Forty-fifth Congress, and is signed by "HENRY S. NEAL, H. Y. Riddle, H. L. MULDROW, WM. ALDRICH, T. B. REED, G. A. Bagley, and James T. Jones." The report shows great care and an examination of very many documents with reference to the Indians. They say:

There is certainly nothing in these official accounts to justify any violation of treaty stipulations by congressional interference with the governments they describe.

The reports show:

That the tribes who are governed by their own laws in the Indian Territory as a general rule have done better and are now doing better than those out of it who are governed by State laws.

That the tribes who have kept up the tribal organization as a rule have done better than those who have dissolved it.

That the best progress heretofore made by any considerable number of Indians has been made by those who have adhered to the tenure in common, while, on the other hand, the tenure in severalty has in most cases worked badly.

Mr. COKE. What report is that?

Mr. TELLER. It is House report No. 188, Forty-fifth Congress, third session, and is the report of a committee of the House of Representatives. Of course they differ with the Senate committee; but they have not simply gone on and made bald assertions, they have produced here the facts, and if the Senate will listen to them or read them they will see that the weight of evidence, as we say in the courts, is decidedly against this bill, that the trial has been made and failed in more cases by a large majority than it has succeeded. The committee proceed to say:

The plan of making citizens of Indians, with separate titles to their improvements, to be held on the same footing with other citizens, was first officially recommended by Mr. Crawford, while Secretary of War under President Madison, in a report dated March 13, 1816. (2 Indian Affairs, 27.)

The same idea is indicated in the report, heretofore quoted, from Mr. Calhoun, of February 8, 1822, (*Ib.*, 276,) and was incorporated in the treaty made with the Choctaws in 1820, while he had charge of Indian affairs.

During Mr. Adams's administration Secretary Barbour prepared a bill for the organization of an Indian Territory, based on the general principles of excluding whites, abolishing tribal relations, and apportioning lands among individual Indians, upon which great stress was laid.

It was then just as important in the judgment of very many well-meaning people that land in severalty should be given to the Indians as it is to-day, and the same happy results were then prophesied if land was only given to them, that are now predicted.

A leading feature, however, was that nothing was to be done without the consent of the Indians.

Treaties were made in President Jackson's first term with the Choctaws and the Creeks, having emigration for their object, but intending to give each emigrant the privilege of selling his improvement, and to secure to each family desiring to remain, a home with title in fee-simple. (See fourteenth and nineteenth articles Choctaw treaty 1830, and first three articles Creek treaty 1832; 7 Statutes, 335, 336, 366.) Both treaties, in their reservation features, proved to be miserable failures. Large claims are now pending on the Government to make good the injuries sustained by the Indians.

The report from the House Committee on Indian Affairs, No. 663, first session, Twenty-fourth Congress, contains evidence, on page 43 and page 44, (see eighth volume Public Lands,) showing that the agents of the Government actually interfered to prevent the Indians from securing the lands provided for in the treaty. The nature of the difficulties they had to encounter in other respects is also shown on pages 52 and 78 of Senate Document No. 168, first session Twenty-eighth Congress.

The operation of individual reservations under these treaties doubtless caused the plan to be abandoned, as appears from expressions in the supplementary Cherokee treaty of 1835 (7 Statutes, 488,) and the Ottawa and Chippewa treaty of 1836. (*Ib.*, 494.) With one or two exceptions nothing more of it was heard until 1854, when the experiment was renewed on a large scale by Commissioner Manypenny.

Then they give the history of Commissioner Manypenny's treaties:

The history of the Manypenny treaties and of their working throws more light on the subject under consideration than it is possible to obtain from any other source.

I think if the Senate will take the pains to look at this document, or take the pains to look at the statement of this committee, and of which is verified by reference in each case to the authority upon which they make it, it ought to weigh as much as the high sounding declaration that the Indians are demanding lands in severalty and

that so much will be accomplished if it is allowed. Speaking now of Manypenny's report, they say:

He says in the annual report for 1853, page 28, that it had always been understood that none but Indians were to occupy that country—

Referring to the country west of the Missouri—

and that consequently the Indians were "excited;" that the emigrant Indians "seemed to have a vived recollection of the assurances made to them at the time of their removal, that their present locations should be their permanent homes, and that the white race should never interfere with their possessions." (Page 32.) The Commissioner told them they would do better to sell out and remove to some less exposed place. He adds in his report that "the position of Nebraska, with reference to our Pacific possessions, renders it a matter of vast importance that it be speedily opened and actual settlers invited into it on the most liberal terms."

No treaties were made that year. Out of a large number subsequently negotiated by him, six were with emigrant tribes living in the country previously set apart exclusively for Indians. All of these treaties embody the allotment principle, and one of them provides for the dissolution of tribal relations. Two others with Indians in Michigan contain both features. Of these treaties all but one were made in May and June, 1854. The bill organizing the Territories of Kansas and Nebraska became a law May 30, 1854, and of course an overwhelming stream of settlers began to pour in.

The policy inaugurated by Commissioner Manypenny was followed by his successors. Treaties were made in 1859, with the Sacs and Foxes of Mississippi, and with the "Kansas" Indians, both providing for allotments, and in 1860 a treaty was made with the Delawares, the first of a series which added to the allotment system the new feature of providing for railroads.

In November, 1861, a similar treaty was made with the Pottawatomies, and in June, 1862, one with the Kickapoos.

Now I will call the attention of the Senate to some peculiar things in the report:

The phraseology of these three treaties is peculiar. They all express a conviction on the part of the Indians of the benefits to be derived from railroads in enhancing the value of their lands, and in one case—the Pottawatomies—in carrying the surplus product of their farms to market. Two of the tribes entertain the opinion that the "Leavenworth, Pawnee, and Western" possesses advantages over all other railroad companies. The third "entertains the opinion" that the "Atlantic and Pike's Peak Company" possesses those advantages. All three tribes desire that the companies specified shall have the preference in buying their lands, the Kickapoos and Pottawatomies at $1.25 per acre; the Delawares at an appraisement, which practically amounted to the same thing, 223,966 acres being appraised at $226,742. (Revised Indian Treaties, 351.)

Whether the lands thus secured to railroad companies, and which then as now were considered the best in Kansas, were or were not worth more than $1.25 an acre, the reports do not indicate. But they do show that most of the Indians who prized railroads so highly got out of their way as soon as they could secure homes elsewhere. The three tribes seem to have numbered when the treaties were made about thirty-four hundred. Of these, according to the last report for 1877, less than seven hundred remain in their former homes, the largest proportion being in the smallest band, the Kickapoos. The Delawares went in a body to the Indian Territory, and of the Pottawatomies, the tribe that wanted the means of getting the surplus product of their farms to market, more than three-fourths went to the Indian Territory.

That was the report, I suppose, of the agents that they were crying for a market for their farm produce.

The place marked with their name on the Indian Office map is more than one hundred miles beyond the reach of any railroad. The four hundred and fifty left to enjoy the facilities for getting "the surplus product of their farms to market" are described in the report for 1877 (page 118) as cherishing "prejudices against civilized customs," residing in dwellings made of bark, "generally with an open space in the top for the smoke to escape, and really unfit for occupancy." Out of fifty of their dwellings, the report for 1870 says that thirty-five were bark lodges, and describes them as adhering "tenaciously to ancient Indian customs."

If they had any farm products in 1862 they must have sadly retrograded to 1877.

These are some of the same Indians described in the treaties as desiring to promote civilization by selling part of their land and to increase the value of what they retained by getting a railroad to cross it, and as preferring one particular company, because they believed the construction of its road "is now rendered reasonably certain."

It will be seen a little further on that the working and effect of these treaties has been such as no doubt to add to, if it has not created, a general feeling of hostility to railroads on the part of the Indians affected by them.

One more treaty remains to be mentioned, that of 24th June, 1862, with the Ottawas of Blanchard's Fork and Roche de Bœuf, which was modeled on the Manypenny plan of dissolving tribal relations, and dividing lands in severalty. But before looking into the detailed working of any one case, it may be well to give an idea of the general result as described by Commissioner Manypenny himself, on page 21 of his report, in November, 1856, two years and a half after the date of the first treaty. He says:

"The rage for speculation and the wonderful desire to obtain choice lands cause those who go into our new Territories to lose sight of and entirely overlook the rights of the aboriginal inhabitants. The most dishonorable expedients have in many cases been made use of to dispossess the Indian, demoralizing means employed to obtain his property."

In Kansas, he says:

"Trespasses and depredations of every conceivable kind have been committed on the Indians. They have been personally maltreated, their property stolen, their timber destroyed, their possessions encroached upon, and divers other wrongs and injuries done them."

He speaks of the "disorderly and lawless conduct" of those who, "while they have quarreled about the African, have united upon the soil of Kansas in wrongdoing toward the Indian."

That in this respect history was simply repeating itself, is shown by the account given twenty years earlier by Colonel J. J. Abert, of the United States Army, of his observations among the Creeks, to whom he had been sent on a special mission by the War Department in May, 1833, three years after the laws of Alabama had been extended over them, and thirteen months after the ratification of the treaty assigning a portion of their lands to each family.

This is Colonel Abert's report:

You cannot form an adequate idea of the deterioration which these Indians have undergone during the last two or three years from a general state of comparative plenty to that of unqualified wretchedness and want. * * *

The free ingress into the nation of the whites, encroachments upon their lands, even upon their cultivated fields; abuses of their persons and property; hosts of traders who, like locusts, have devoured their substance, and have inundated their homes with whisky, have destroyed what little disposition to cultivation they may once have had. * * * The corn crop this season will not be sufficient to feed more than one-fourth of them. * * * They are brow-beaten, cowed, and imposed upon, and depressed with the feeling that they have no adequate protection in the United States and no capacity of self-protection in themselves.

They dare not enforce their own laws to preserve order for fear of the laws of the whites; in consequence more murders have been committed in the last six months than for as many previous years. (10 Ind. Rem., 424.)

The committee proceed:

These two accounts, one of Indians in Alabama in 1833, the other of Indians in Kansas in 1856, so strikingly alike in their tenor, come from gentlemen of high character. Colonel Abert was long and favorably known at Washington as the head of the Bureau of Topographical Engineers. Commissioner Manypenny, twenty years after he had left the Indian Bureau, was requested by an Administration to which he was politically opposed to serve as chairman of the commission to negotiate with the hostile Sioux.

* * * * * * *

For the present it is enough to say that those treaties in their practical application made necessary the changes effected in the treaties of 1866 with the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles, who then owned all of what is now known as the Indian Territory except about two hundred thousand acres in its northeast corner, and as one of the results of the war were required to cede a portion of it for the benefit of their brethren in Kansas who, as it will be seen, had been brought to the verge of ruin by the system of allotments and the dissolution of their tribal relations.

Practically, there was a repetition in 1866 of what had occurred between 1830 and 1840. Then a country west of the Mississippi had been purchased for Indians living east of that river. In 1866 part of the south half of that region had to be repurchased for Indians living in the north half of it. The limits of the region guaranteed to the emigrant tribes "forever" had already been curtailed, and the object of the treaties of 1866 was to provide for a further curtailment.

* * * * * * *

Among the fifteen tribes visited by Commissioner Manypenny in 1853 there was one, the Wyandots, who, in case a Territory was organized, wanted to change their system, and "conform to the new order of things." In January, 1855, they made a treaty, which declares them sufficiently advanced in civilization, and that "being desirous of becoming citizens, their relations as an Indian tribe shall be dissolved and terminated," except so far as their continuance may be necessary for certain purposes, and such of the Indians as might desire it were to continue on a tribal footing. Those who wished it were to be citizens. Their lands were to be divided. Those who were able to take care of themselves were to receive patents in fee-simple. In other cases lands were to be inalienable for five years; and after that, could be sold only with the consent of the President.

It is doubtful whether any better subjects could have been selected for such an experiment. As far back as 1809 their progress in agriculture had attracted attention. (Morse's Report on Indian Affairs, appendix, page 16.)

Mr. Calhoun, in a report to Congress January 15, 1820, places them in the front rank among Indians who had made advances in civilization. (2 Ind. Affs., 200.) and Judge Burnet, in his "Notes on the early settlement of the Northwest," speaks from personal observation of their rapid advances in civilization from 1821 to 1828. (Pages 386, 387.)

But the experiment was a signal failure. The treaty was proclaimed March 1, 1855. Eleven years afterward a special agent was employed to investigate their affairs, whose statement appears in the annual report of the Indian Office for 1866. He says:

"By far the larger part of the Wyandots prefer to continue the tribal organization, have long been absent from the lands patented to them, and are living in the Indian Territory. Many others who have lived and acted as citizens desire to return to the tribal state outside of the encroachment of white settlers. No matter how much they may try to live like white people, the whites think Indians have no rights white men are bound to respect. They are constantly robbed of stock and other property," &c. (Page 254.)

He adds that both the citizen and Indian parties wish to remove to the Indian Territory, and that those constituting the "Indian party" claim to be the tribe, and insist that the Government should ignore the others. (Page 254.)

In February, 1867, a treaty was made which, after stating that some of the Wyandots, having sold their land, are still poor and that others had become citizens who were not fitted for the responsibility of citizenship, proceeds in the thirteenth article to provide a home for them to be held "in common," and for a registration "which shall show the names of all who desire to be and remain Indians and in a tribal condition." (Revision of Indian Treaties, 840, 844.)

According to prevailing opinions and theories this was a step backward, and ought to have had an injurious effect. Practically it worked precisely the other way.

The annual reports from 1871 to 1877 show a steady and continuous improvement resulting from restoration to the tribal condition and tenure in common.

In the report for 1871, on page 499, they are described as "now a tribe, having recently completed a reorganization." Superintendent Hoag, on page 461, alludes to the "condition of poverty, ignorance, and demoralization into which it has been so unfortunately thrown." He says: "The present faction holding tribal authority are incapable of making advancement to a better condition. Having neither funds, credit, nor force, it is left for them to say whether their brethren who were unconsciously and unwillingly made citizens shall be reinstated as members of the tribe."

In 1872 the Commissioner says, on page 39, they are poor and making slight progress.

In 1873, they "have had a year of prosperity and have made considerable improvement in their farms and buildings; have kept the greater portion of their children in school." (Page 213.)

In 1874, page 229, they "have been earnest in their efforts to improve their condition."

In 1875, they "are steady, industrious, and progressive, engaged in agriculture, and have raised crops sufficient for their subsistence." (Page 101.)

In 1876, they are "in a very fair condition;" take great interest in education; as well disposed as the average whites in the adjoining settlements; have "good farms, and are improving financially." (Page 57.)

In 1877, "they are as a rule enterprising and energetic. All are engaged in farming, some of them having fine, large farms, with all the conveniences of civilized life about them." They "number about two hundred and fifty," and "have had sixty-five of their children in school during the year." (Page 103.)

The foregoing details are given because they show beyond all doubt that it is a mistake to assert that the tribal condition with lands held in common is unfavorable to improvement.

There are other facts relating to this tribe worthy of serious attention.

The report for 1855 shows that on the pay-roll for 1854 there were five hundred and fifty-four Wyandots.

Commissioner Walker says, in 1872, (page 38,) "they number at present two hundred and twenty-two souls. Ten years ago they were four hundred and thirty-five."

Thus, in 1862, seven years after they were made citizens and their lands were divided, the reduction in their number was one hundred and nineteen—more than one-fifth, and this reduced number sustained a further reduction during the next ten years of nearly one-half.

On the other hand, from 1872 up to 1877, the reports show a small increase, last fall's statistical table indicating two hundred and forty-six against two hundred and twenty-two in 1872.

The Wyandottes are the very Indians proclaimed by the friends of this bill to be now clamoring for lands in severalty. They tried it for twenty years and they voluntarily abandoned it. Having severed their tribal connection they then reorganized it. We are now asked to believe notwithstanding their present prosperous condition that they are all at once willing and anxious to come back to that which proved such an entire and disastrous failure. The testimony is not worth being considered; it is not reliable; it does not come here in any such way that we are required to give it credence or belief in any shape whatever. It is not reasonable, and it is not true. The Wyandottes in 1880 produced 10,600 bushels corn, 7,430 bushels of wheat, and of oats and barley 1,166 bushels, of vegetables 823 bushels, hay 260 tons; and they are all living in houses of which there are 152.

I do not propose to read the entire report. The same state of facts substantially existed with reference to very many other Indians, some of which are cited here. The Peorias and Miamies have been cited here as another evidence of the universal demand of the Indians for land in severalty:

The Peorias and Miamies were also provided with homes in the country of the Senecas and Shawnees by the treaty of 1867.

Both tribes in 1854 had consented to a partition of their lands, and both had become considerably reduced in numbers. The Peorias removed to the Indian Territory soon after the treaty of 1867, and are described by the Commissioner in 1872 as intelligent, well advanced in civilization, and successful in raising crops, (p. 38.) The Miamies then still in Kansas on their allotments are said, on page 32 of the same report, to be "greatly demoralized, their school has been abandoned, and their youth left destitute of educational advantages."

Let me repeat it again. The Indians who have remained upon the land, who have gone upon the land in common and are cultivating it in accordance with Indian theology, with Indian law, and with the principles of Indian political economy, are advaneing, progressing, while the Indians who remained on their allotments, says the Commissioner, are "greatly demoralized, their school has been abandoned, and their youth left destitute of educational advantages."

I find in this report an item that I think is worthy of the attention of the Senate. Says the committee:

One fact in connection with Miami lands which is stated on pages 144 and 145 of the report for 1874 is worthy of notice.

I call attention to that because the chairman of the committee in charge of the bill declares that the two propositions go hand in hand to allot the land, and then to sell the remainder and apply it for the use of the Indians. There is the same provision in the act of 1854 with reference to these Peorias and Miamies.

A portion of them, amounting to 2,493 acres, were advertised for sale by order of the Secretary of the Interior on the 4th November, 1873; one hundred and sixty-five acres were sold, for which the amount received was $1,823.56, from which of course was deducted the expense incurred in advertising. By a curious coincidence the cost of advertising amounted to precisely the same sum! The land brought $1,823.56 and the advertising bills were $1,823.56.

Then he adds that one hundred and sixty-five acres were sold simply to pay for the advertising.

In March, 1873, an act was passed to abolish the tribal relations of the Miamies, under which separate lists were to be made on the one hand of those who wished to become citizens, and on the other hand of those desiring to join the Peorias in the Indian Territory. Under that act, out of the remnant of one hundred and six representing the five hundred Miamies who emigrated in 1846, thirty-four became citizens, and seventy-two were placed on the Indian list to join the "United Peorias and Miamies."

"The good effect of this consolidation," says their agent in 1877, "has been seen in the energy with which they have been engaged in enlarging old and making new improvements. * * * They have good houses and barns, and many large farms well stocked with cattle, horses, and hogs. Their children have attended school with regularity, the attendance aggregating eighty-seven" out of a population of two hundred and two. (Page 103.)

I do not desire to weary the Senate, but there is another case or two here which I desire to notice, as I believe it will be instructive if Senators will give proper attention to it. The committee say:

But of all the experiments in citizenship and tenure in severalty, the one which is on the whole the most instructive is that tried upon the Pottawatomies, as for a while it promised to be eminently successful.

Their treaty of November 15, 1861, before referred to as providing for a sale to a railroad company, assigned land in severalty to those desiring it, while others were to hold, as before, in common. Those who received patents might at the same time become citizens. In February, 1867, another treaty was made, looking to homes in the Indian Territory, and requiring a registration of those desiring to go to the new reservation and of those wishing to remain and become citizens. Under that provision more than three-fourths of them did become citizens, not all at once, but gradually. Of the first six hundred who had thus registered, the report for 1868 says, on page 255, that they "comprise the most industrious and intelligent of the tribe, and will make useful and respected citizens."

The report for 1869 (page 33) speaks of the same Indians as "well educated and successful farmers."

In 1870 (page 275) "a large number of those who have received land in severalty are proving themselves worthy of the high trust." They have "large cultivated fields, fine dwellings, and numerous herds of improved stocks of cattle, horses, hogs, &c., all bearing testimony to the wisdom of their choice."

In 1871 the accounts begin to change—speak of many of them as "good citizens, with large, fine stone and frame buildings for residences, barns and granaries, and some of the best fences around their fields; * * * many of them men of influence in Church and State."

The agent adds, however:

"I regret to say that this is not the case with quite a large number of those who have thrown off their tribal relations. They now declare their act in becoming citizens to have been premature; in their sober moments say they were intoxicated with the idea of becoming citizens. They have squandered their land and money in gambling, drinking whisky, and other evil habits, and are now thrown upon their own resources as poor as the poorest." (Page 496.)

Superintendent Hoag, on page 460 of the same report, says of them that—

"A few have borne the change well and are prosperous; unfortunately a much larger proportion have retrograded into intemperance and poverty. The policy of allowing Indians to become citizens in the midst of white people is ruinous to the former, and should no longer be pursued. They are not usually able to withstand the corrupting influences which are thrown around them by designing and dishonest men, who cling to them like leeches until they have possessed themselves of all their property, and then abandon them to the charge of public or private charity."

The report of 1875 (page 80) says that about fourteen hundred became citizens. "After having received and squandered their share of bountiful tribal funds they take refuge from white competition and taxes alongside their Sac and Fox brethren" on the Indian Territory.

Commissioner J. Q. Smith (page 25, report for 1876) speaks of "the Pottawatomies, who, after becoming citizens, squandered their substance, and have now returned as Indians dependent upon the bounty of the Government."

A letter from the Indian Office, dated January 14, 1878, to the Secretary of the Interior, states that "there are now 1,600 Pottawatomies, who have become citizens of the United States, residing in the Indian Territory," under an act approved May 23, 1872, providing that they shall neither acquire nor exercise, under the laws of the United States, any rights or privileges in the Indian Territory other than those enjoyed by the members of the Indian tribes lawfully residing therein.

Of the Pottawatomies who have thus gone back to the Indian Territory on the footing of Indians, giving up their privileges as citizens, Commissioner Walker says, on page 39 of the report for 1872, "most, if not all of them, are capable of taking care of themselves, and many of them are well educated, intelligent, and thrifty farmers."

Here are well-educated, intelligent, and thrifty Indians who abandoned the severalty system and went back to land in common according to Indian notions.

DELAWARES.

This description seems to apply pretty generally to the Indians who declined to avail themselves of the privileges of citizenship. Out of over one thousand Delawares having that right according to Commissioner Walker, (Ind. Question, page 140,) only twenty used it, the rest, numbering 1,005, (Report for 1869, page 375,) settled among the Cherokees as members of that tribe in 1869. The Cherokee agent says of them, on page 232 of the report for 1872, that "they are among our most industrious and enterprising citizens. Some of them are opening very large farms and setting out orchards, and surrounding themselves with fine herds of horses and cattle." "They are now just finishing a beautiful house of worship. It is small, but will excel any house of worship in this nation as to style and general appearance. They have the means to pay for it already contributed by themselves. They are also taking great interest in personal religion and in education."

* * * * * * *

No one will pretend that such men are not competent to decide for themselves whether the tribal relation or citizenship is best suited to their wants, and whether or not their "very large farms" are sufficiently secure under the Indian title.

The same remark applies to various other tribes that preferred the Indian tenure, particularly to the Ottawas, who, as it has already been shown, were sufficiently intelligent to make extensive appropriations for education, and, after securing the privileges of citizenship voluntarily abandoned them.

The Wyandots, who returned from citizenship and severalty to their former tribal condition, are described in the reports, particularly in those for 1872 and 1875, as superior to the rest of their people in energy and intelligence.

Mr. President, the same thing may be said of all the Kickapoos of Kansas as has been said of these other tribes. After receiving land in severalty the semi-civilized Indians, and some of them civilized, abandoned their land in severalty and took up their line of march and went where they could occupy and hold land in common with other Indians, and upon those lands they have made homes and they have made farms far superior in character to any they ever made upon their allotted lands, and as you go west through the State of Kansas to-day from the old Kickapoo reservation you find an unoccupied and uncultivated country. Why? Because this land was given to these Indians in severalty years ago, and yet they have abandoned it and gone off somewhere else and the land remains unoccupied and useless.

The Sacs and Foxes of the Mississippi also received land in severalty under the treaty of 1859, and they ultimately abandoned their land in severalty and took land in common.

Now I want to call the attention of the Senate to the Michigan Indians because there the effort to civilize Indians by giving them land in severalty has had a full opportunity of showing whether it was a success. These Indians had lived upon the borders of the settlements for many years. They were agricultural Indians. They never had been nomads at any time in their history. They were the dwellers in houses and in villages, occupying their land according to the Indian custom in common. The Government went to work and divided it, and gave to these Michigan Indians, amounting to six or eight thousand in number, their land in severalty. It is shown by the report that while for a few years they did well, they have almost entirely abandoned those lands allotted to them in severalty. As fast as the time expired during which they were prevented from selling the land, they turned around and sold it, and they are now making baskets and picking berries and fishing and hunting and living as only the poorest and lowest people of any country can.

There are several other Indians whom I might mention, but as I have enumerated those with whom this experiment failed, I will not fail to mention those where the allotting of land in severalty seems to have worked well. I shall be fair with the friends of this bill on this subject. There are some Indians in Wisconsin called the Brothertown Indians, and they petitioned the Government for land in severalty and received it, and in that case it seems to have worked well; but when they filed their petition to the Government for this land they said, "We have been agricultural Indians for one hundred and fifty years." It is a little bit of a band of Indians that went from New England, and they have succeeded in maintaining their title, and have progressed instead of retrograding. But the Stockbridges, who, under favorable circumstances, received their lands in the same way, have retrograded, and in almost every case that they could have sold their lands.

I have skipped a good deal that this committee have said, and I would suggest if any Senator wants to see a fair statement of the

case with all the evidence on both sides, he should examine this report. Among the conclusions to which the committee came were these:

5. That while official recommendations, some of them entitled to the highest respect, are strongly in favor of making Indians citizens of the United States, and transferring their land titles from the national tenure in common to the individual tenure in severalty, experience has shown that in the great majority of cases such measures, instead of benefiting, have proved injurious to the Indian.

6. That experience fully demonstrates that the holding their lands in common by the Indian tribes is an effectual safeguard against the worst effects of Indian improvidence. Apart from any considerations of justice or humanity it would be unwise and unstatesmanlike to adopt measures which, by destroying that safeguard, would be calculated to reduce the great mass of them, in opposition to their own earnest protests, to a state of hopeless penury and degradation.

Mr. President, it was said here the other day that this system had worked well with reference to the Ute Indians of Colorado. I will admit that there has not been sufficient time to say whether the feature of land in severalty is a desirable one so far as those Indians are concerned or not, but it certainly has not done them any good. It is possible that it may in the future; yet the condition of the affairs in Colorado with reference to the Indians has not been such as to justify the statement made here that the bill has been a success. What would have been the condition of Colorado during the last summer but for the United States troops? There would have been open and flagrant war, as everybody knows, but for the presence of several companies of cavalry at the Los Pinos agency, and at other points in the State. The whole community were excited, both whites and Indians, and nobody familiar with the country can pretend that to-day there is such a condition of affairs there as will justify the Government in leaving those Indians—whether the Government has reference to the preservation of the Indians or the whites is immaterial—without troops in their vicinity. It cannot be said with any show of reason that it has been a success there. That is yet to be demonstrated.

I do not propose to offer any factious opposition to this bill. I assume, and I think I have proved by the references I have made, that all the assertions that this system will work well for the Indians are denied by the naked facts, denied by the experience in this very direction. We have tried it and we have failed, and we have tried it upon the best class of Indians in the United States, and after years of trial upon this question we have found the Indians in a worse condition than when we began. I assert now that there is not a single case where they have bettered their condition by taking land in severalty. If they have held their own, if they have improved at all—and the only case I can find is that of the Brotherton Indians—it is because they were civilized when they took it; but in the majority of cases that I have found they have not stood still, but have gone backward, and all the advancement made to-day and that has been made at any time by Indians in the United States has been made under the system of holding land in common.

I objected the other day and I object now that, if this system is advocated by the friends of the Indians, it is not in their interest. It is not in their interest that the land should thus be divided, and that ultimately, although it may be twenty-five years from now, they should have an opportunity of parting with their title. Why, Mr. President, twenty-five years is but a little time; it will soon come, and the Indian who gets his title this year and in 1905 is entitled to dispose of his land, will be morally certain to dispose of it to the first white man that comes along and offers him anything at all for it. What will become of the Indian when he has parted thus with his title? Who will take care of him? By that time the available and valuable land in the United States will be appropriated. The result will be that the Indians will be as we have found in some sections of the country; divided into little bands straggling through the community, living by stealing and pilfering and begging and other methods that are not reputable. That is the way they will live, and in a few years the whole race will be extinguished. I know a great many people in the United States who have given care and attention to this subject assert that that is the ultimate lot of the Indian, that no effort we can make will save him; but I doubt that. I believe an intelligent effort to save the Indians, civilize and enlighten them, will ultimately do that; but you cannot do it by enactments of law, you cannot do it by asserting that because they have lived upon a piece of land they are civilized; you must take them and put them in some fixed place—as I said to the Senator from Kansas last session in response to his inquiry—make them cultivators of the soil as soon as that can be done, having due regard to their prejudices and their preferences.

First, if possible, make them herdsmen, and then make them cultivators of the soil; violate no prejudice of theirs unless it be absolutely essential for their preservation and for their good; treat them as Indians and not as civilized intelligent beings, which they are not; restrain their ferocity, keep them from committing depredations upon anybody, either white or red; deprive them of the means, if they are nomads, of traveling over the country; keep them in one place; furnish them farmers and furnish them teachers; and there is where you must commence the work of education for the Indian, not at Carlisle, not at Hampton, not at a distant place, but at their homes in their midst. With the many thousand Indian children that are now unprovided for it is impossible to educate them in the East. The school must be established right there on the ground, and it cannot be established so well if the Indians are scattered over a great area of country as they must be if they take these large tracts of land; adopt the colony system as adopted by many colonies that have gone into the West; give each Indian a little piece of ground big enough for him to live upon, big enough for him to cultivate, and give him on its borders pasture for his herds and his flocks; let the Government put there its agent, and he ought to be a skilled man and he ought to be an intelligent and good man, and give him a fair salary, and furnish them seed and tools with which to cultivate the soil, and in a few years, in my judgment, this problem will be settled. It will not be settled by any method of the kind proposed in this bill.

I know that it will take a good deal of money, but I have never believed it was the duty of Government to economize in this particular. I believe it to be the interest of the Government to give the Indians plenty wherewith to advance themselves in civilization, and at the same time make them understand that they must be as soon as possible self-supporting. I would not do as was done last session when you passed the Ute bill. I would not put in a provision that these Indians should be supported by the Government until such time as they chose to support themselves. I would have no such folly as that incorporated in a bill. I would say to them, "in the very near future you must rely upon yourselves," and I would treat them just exactly as an honest man would treat his boy who was not quite up mentally to his other children. I would foster him and protect him and guard him, and I would keep away from him the baneful influences of civilization, and I would surround him with all that is good and valuable in civilized life. When you put them upon these lands you have taken away the power of Government to protect them against their greatest enemy, the use of strong drink. The tribal relations will be practically dissolved whenever the land is allotted, and that is what the Commissioner says in his report for 1880. With this allotment comes a dissolution of the tribal relation. They will not have both; they will not have the land allotted and the tribal relation maintained. That is not the theory of this bill.

I said before, and I say it in no unkind spirit, the bill ought to be entitled a bill to despoil the Indians of their lands and make them vagabonds on the earth, and a few years will demonstrate that what has been true heretofore with Indians will be true hereafter, and no matter who fills the office of Secretary of the Interior, no matter who fills the office of Commissioner of Indian Affairs, and no matter who presides over the Committee on Indian Affairs, how great or how good they may be, they cannot escape the inexorable fact that this has been contrary to the interest of the Indian and contrary to the interest of the white man whenever it has been adopted.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.] He proposes a verbal change in that amendment by adding after the word "and" the word "they;" so as to read:

And they are hereby declared to have become citizens of the United States and entitled as such to the full protection of the Constitution and laws.

The question being put, a division was called for.

Mr. TELLER. Let us have the yeas and nays. That will bring in Senators.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. HOAR, (when Mr. BROWN'S name was called.) The Senator from Georgia [Mr. BROWN] is obliged to be out at the other end of the Capitol on business. He would vote for the amendment if he were present. He is paired with the Senator from Kansas, [Mr. INGALLS.]

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Georgia, [Mr. BROWN.]

The roll-call having been concluded, the result was announced—yeas 12, nays 29; as follows:

YEAS—12.

| | | | |
|---|---|---|---|
| Baldwin, | Conkling, | Kellogg, | Morrill, |
| Blair, | Dawes, | Lamar, | Rollins, |
| Burnside, | Hoar, | Morgan, | Teller. |

NAYS—29.

| | | | |
|---|---|---|---|
| Call, | Grover, | Pendleton, | Walker, |
| Cameron of Wis., | Hampton, | Platt, | Whyte, |
| Cockrell, | Harris, | Plumb, | Williams, |
| Coke, | Hill of Colorado, | Pugh, | Windom, |
| Davis of Illinois, | Kernan, | Randolph, | Withers. |
| Farley, | Logan, | Saunders, | |
| Garland, | McDonald, | Slater, | |
| Groome, | McMillan, | Thurman, | |

ABSENT—35.

| | | | |
|---|---|---|---|
| Allison, | Butler, | Hill of Georgia, | Paddock, |
| Anthony, | Cameron of Pa., | Ingalls, | Ransom, |
| Bailey, | Carpenter, | Johnston, | Saulsbury, |
| Bayard, | Davis of W. Va., | Jonas, | Sharon, |
| Beck, | Eaton, | Jones of Florida, | Vance, |
| Blaine, | Edmunds, | Jones of Nevada, | Vest, |
| Booth, | Ferry, | Kirkwood, | Voorhees, |
| Brown, | Hamlin, | McPherson, | Wallace. |
| Bruce, | Hereford, | Maxey, | |

So the amendment was rejected.

Mr. PLUMB. I move to amend section 5 by inserting after the word "void" in line 15 the following:

*And provided further*, That the lands so allotted may be leased for such term and on such conditions as may be prescribed by the Secretary of the Interior.

I think the committee will not seriously oppose this amendment.

Mr. COKE. I have to say in reply to the Senator from Kansas that

I will represent myself upon that question. I intended to favor the proposition, and I reserved the right to consider it when the bill was reported by the committee.

Mr. PLUMB. If the amendment be adopted, I shall move to strike out the word "lease" in line 6.

This bill prohibits the Indian from alienating or encumbering or leasing—using all these words in the prohibitory clause—the lands which they may acquire by reason of this bill. I understand the theory of this bill to be to make the condition of the Indians self-supporting, but it is not of any consequence, I think, in considering this question whether the Indian becomes self-supporting by reason of his own labor or by the use of the property which may be conveyed to him through the medium of this bill. There are now a large number of Indians, or a very considerable number, in the Indian Territory adjoining the southern boundary of the State of Kansas, who, under the consent of the Commissioner of Indian Affairs or the Secretary of the Interior, are leasing their lands to white men, who are farming them. That has two results. In the first place, it gives to the Indian an ample support; and, next, it gives to the white man an equally ample support, which he is willing to accept. It besides results in cultivating just that much more land than otherwise would be cultivated.

Now you give to the Indian by the provisions of this bill quite a considerable body of land, more I think than any one, be he ever so enthusiastic about the results which are to follow this bill, believes that the Indian will ever cultivate or make any considerable use of. It is desirable on all accounts that the land thus to be given to the Indians may be cultivated. If the Indian will not cultivate it what is the objection to leasing it to some white man, under proper restrictions, who will cultivate it, and not only cultivate enough for his own support, but enough for the support of the Indian as well? I think, under the restriction that leases of this kind shall be subject to the inspection and approval of the Secretary of the Interior, not only could no evil result to the Indian, but there might be not merely great good to the Indian, but great good to the community in which this land may be located.

Mr. DAWES. Mr. President, I really am at a loss to understand what is the theory upon which this bill is to be supported at all if there is anything sound in the proposition of the Senator from Kansas, [Mr. PLUMB.] I had an impression that this was a measure the purpose of which was to induce the Indian to cultivate the soil and get some interest in the soil that would induce him to become a cultivator of it, and to derive all the incidental advantages in the progress of civilization which come from industry rewarded. Now it is proposed to allot this land to the Indians, to be inalienable for twenty-five years. He can, however, I suppose, sell the reversion, and now, by this amendment, he can lease the premises, and he can do it with this beneficial result to the Indian, as stated by the Senator from Kansas: it will furnish employment for the white man and food for the Indian without employment! The Indians can devote themselves exclusively to that process of deterioration, to that process of vanishing out of sight, undisturbed, without any such malign influences as come from labor and the gathering of the fruit of the soil, and having something which a man may call his own because he earned it, because he raised it, and because he acquired just that title to it which the white man has. Instead of that the Indian is, on the other hand, furnished by this process of the Senator from Kansas with the aristocratic position of landlord. He is to be the landholder of that region where these reservations exist. He is to have a tenancy under him, and he is to take and consume or waste, or what is more likely drink, the result of other men's labor, without any toil on his part, and without any trouble about growth in grace or in the material interests which are so likely to follow and so unlikely to exist without employing that industry which comes from planting him on the soil and holding out to him some inducement to work. The Indian will be an Indian as long as he lives unless he is taught to work.

Mr. THURMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. DAWES. Yes, sir.

Mr. THURMAN. Mr. President, I telegraphed the Senator from Vermont [Mr. EDMUNDS] at his residence this morning asking him to pair with me until I could come into the Senate. One of the pages came to me a while ago and told me they were calling the yeas and nays, and I came into the Chamber and voted, supposing he was here. I voted on the amendment of the Senator from Massachusetts, [Mr. HOAR.] I find that the Senator from Vermont was not here, and did not vote; and I ask unanimous consent that I may withdraw my vote, as the result will not thereby be changed.

The PRESIDING OFFICER. The Senator from Ohio [Mr. THURMAN] asks unanimous consent to withdraw his vote cast on the amendment of the Senator from Massachusetts, [Mr. HOAR.] If there be no objection it will be so ordered. The Chair hears no objection.

Mr. DAWES. Mr. President, nothing could be so bad for the white man as not to have land to till and cultivate. It would be the worst possible calamity to him I admit, and I would do nothing to deprive him of the opportunity of having it, but at present there is a great deal of uncultivated and unoccupied land in the western country that he can take up and cultivate and derive all the benefits that are certain to flow from a tiller of the soil having some interest in the soil which he cultivates; but what sort of a class of people does the Senator from Kansas expect that he is gathering in any community made up simply of tenants of the Indians, white people having no interest in the soil themselves but simply tenants of Indians, cultivating the soil as lessees of Indians? Nothing could be so damaging to his own State or any other State as a policy that would build up such a society as that. It would be better not to do anything in the line of this bill allotting lands to Indians than in doing it to authorize the Indians to lease those lands to white men. It would be the worst possible thing for the white man as well as for the Indian.

I have a great deal of difficulty in coming to the conclusion that this measure is so perfected that it will do the Indian much good, but I am disposed to go with the committee just as far as I can go with them, though I do not believe their measure entirely perfect, but as being an advance in the direction in which something can be made out of the Indian, and made out of the Indian by teaching him the first elements of civilization, the first ideas that come to the savage in emerging from a state of barbarism into civilization. It is a consciousness of owning something which he has earned himself, and to which he has the highest of all titles that can be conferred, namely, that which results from the fact that he earned it with his own hands. Instead of that the Senator from Kansas in a desire, and a proper desire I have no doubt, to see to it that there is no idle white community about these Indians, suggests that the Indian may, under the approval and approbation of somebody who happens for the time being to occupy one of the three-story marble buildings in this city, knowing as little about the Indian character and what is necessary for their protection and civilization as we do in the East, to say the least, lease all this land, accompanying it with, for aught I see in this bill, with the power to sell the reversion to-day and lease the present estate to-morrow to the purchaser of the reversion. I think the amendment of the Senator from Kansas, if it should prevail, would utterly destroy the bill and make it worse than nothing.

Mr. PLUMB. Mr. President, I am not called on to champion this bill. There are a great many features in it that I think ought to be amended; I think this is one of them, and yet I will add that the fact that I have seen the Indians, and especially the fact that I live west of the Mississippi River, to a certain extent disqualifies me from really saying anything that shall have any authority on this subject whatever. I realize fully that the men who never have seen an Indian, whose ancestors, like those of the Senator from Massachusetts, removed them from the soil that they landed on, are the only men who ought to be able to say anything about this subject; but for the purpose of illustrating the remarks of the Senator from Massachusetts about this planting question, I will read an extract from Mr. Palfrey's History of Colonial New England, to show the way the Indians were planted in that model commonwealth. On page 23, volume 3, Mr. Palfrey says:

> The number of Indians remaining within the closely settled portions of New England—

This was in 1685—

> was not now considerable enough to require any special precautions against disaffection which might arise among them. Four years before the revolution, Governor Hinckley estimated their number, including all ages, in Plymouth, where they were much more numerous than in the other colonies, at less than six thousand. Thirteen years later it was believed that in Massachusetts proper there were not many more than two hundred. These were all reckoned among *praying Indians*—

The italics are those of the author, not mine—

> though experience had shown that in respect to security for their harmlessness their small numbers were to be more regarded than their religious profession.

In other words, it was a question more of quantity than of quality. In thirteen years, under the planting process inaugurated by the ancestors of the Senator from Massachusetts, who now is *au fait* on this Indian question, and who knows all about it, and who is entirely competent to tell what the people who are in contact with the Indians ought to do, and how their conduct in regard to them ought to be controlled and regulated—under such auspices, I say, in thirteen years the Indians of Massachusetts Colony declined from six thousand to about two hundred, planted, to use the expression of the Senator from Massachusetts, planted in the soil. That is where they are.

This is a bill which, if it is to be passed, is of some interest to the people in the West. We are to live in contact with these Indians, and with the estates that are to be created by this bill. We give to these people land in fee, to which they are not now entitled. They are now, by common consent, and by the decisions of our courts, entitled only to the possession of the soil; we propose to give to them the fee of the land allotted to them individually, and to sell the remainder of their reservations for their benefit, and we reserve to the individual Indian a great deal more than the United States to-day permits any white man to reserve out of the public domain for his purposes. Take, for instance, the State of Kansas, the State of Nebraska, the State of Nevada, or any of the Western States in which Indian reservations exist——

Mr. HOAR. Will my friend from Kansas allow me, before he goes further, to point out a mistake which he made in quoting from this book?

Mr. PLUMB. I yield to the Senator from Massachusetts.

Mr. HOAR. The Senator undertook to read from Palfrey's History of Colonial New England this extraordinary statement which

I think every Senator understood to mean as I did, that at one time there were six thousand Indians in Massachusetts and thirteen years later there were but two hundred. There are many more than two hundred now. Dr. Palfrey says that in Plymouth, which was originally a separate colony "four years before the Revolution * * * they [the Indians] were much more numerous than in the other colonies;" they were estimated "at less than six thousand. Thirteen years later it was believed that in Massachusetts proper"— which is a totally different territory and has nothing whatever to do with the territory where the six thousand were, another authority thought—"in Massachusetts proper there were not many more than two hundred." "Massachusetts proper" embraced the only considerably settled counties at that time, being Suffolk, Norfolk, and a few others in that vicinity. In other words, the two hundred and the six thousand are estimated by different authorities and relate to totally different tracts of land.

Mr. PLUMB. The difference between the Senator from Massachusetts and myself, then, is one of degree.

Mr. HOAR. It is just as if Dr. Palfrey to-day had said, "I think there are 5,000 Indians in Kansas," and five years later another gentleman said "there are two hundred in New Hampshire."

Mr. PLUMB. The difference between the Senator from Massachusetts and myself, then, is one of degree, and not of kind. If he will tell me what became of the Narragansetts and Pequods who inhabited that colony when, not the people who were born on Massachusetts soil but who landed there and consequently had no right there, first put in an appearance, I will then consider the question as to whether they disposed of them in thirteen years or fifty years.

Mr. HOAR. There is not any difference between my friend from Kansas and myself. I have taken no part in any debate with him which suggested any difference of opinion with him. The honorable Senator from Kansas read a passage from Dr. Palfrey's history which stated that in one tract of country at one time there were less than about six thousand Indians, and at another time, in a different tract altogether, somebody else thought there were not many more than two hundred. He understood the statement of the author to apply to the same tract, to what now passes by the name of Massachusetts, and I simply wished to know whether he would desire to have that mistake go into the RECORD, and I rose to call his attention to what the author really said. Now, I do not want to tell the Senator what has become of the Pequods or Narragansetts without some occasion to go into that chapter of history, which I do not at present see, and I do not undertake to mingle in this debate at all. I made a correction just as I should have made it if the gentleman had mistakenly read from the census that there were three million inhabitants in Massachusetts when in fact there were but one million three hundred thousand. It is the mere fact to which I called his attention and it was not an argument.

Mr. PLUMB. This does not at all divert me from the point I had in view. My attention was directed to it originally in view of the discussion which ensued a few mornings ago, in which the Senator from Vermont [Mr. EDMUNDS] undertook to exalt a certain person for that he had succeeded in converting a certain number of Indians, and I simply turned down the leaf for the purpose of being able to bring the attention of the Senate to the fact that there were prayerful Indians a couple of hundred years ago on the American continent, and to show that the Indians of Saint Augustine, to whom the Senator from Vermont referred, were not the only Indians who had given way to the influences of civilization and of prayer, and to notice the comment also of the historian who said he thought on the whole the security of the white settlers surrounding the Indians resulted a great deal more from the fact that they were small in numbers than that they had got religion. If I have mistaken the boundaries of some of the New England colonies or provinces, and so have been mistaken as to where it was that the six thousand Indians disappeared, or, in the language of the senior Senator from Massachusetts, were planted in the sod, I consent to that correction. The fact remains, however, that the communities from which the Indian has been eliminated by processes of violence, of war, of robbery, as they are characterized now, are the communities that send men here to say what shall be done with the remainder of the Indians, who say to us people who know them as they are now, who are brought in contact with them, and who have interests growing out of their interests and out of that contract, what shall be done with the remainder of the Indians upon this continent.

Mr. President, I can submit to that. The bill which is before the Senate to-day, which is the sum of the wisdom of all these people upon this question, might well be entitled in its present condition to be a bill to exterminate the Indians now living upon the North American continent. Talk about inhumanity! This bill in its substance is the essence of inhumanity. I do not complain, because I stand here to-day charged with and supposed to be in favor of all things that are inhuman to Indians; but this measure is the flower of that civilization which has set itself to prescribe some rule for Indian conduct and for white conduct in regard to Indians hereafter which shall be in bright contradistinction from anything which has preceded it.

To come back to the text of this amendment, there will be in the States of Kansas and Nebraska, and in the States to be formed out of the Territory of Dakota and the Indian Territory, large tracts of land which will be, comparatively speaking, under the blight of Indian occupancy. These Indians will have more land per capita than any similar number of white men within the limits of those States respectively. The amendment which I propose simply provides that the Indians may, if they see fit, under the control and in the discretion of the Secretary of the Interior, lease these lands, not necessarily to white men, although more naturally and obviously to those than to Indians, but to any one who may desire to cultivate them, in such portion, or all of them, as they themselves do not desire to cultivate. I hold that practically there is no right in land except the right to cultivate it. There ought to be no property in land except such as goes along with the ability to cultivate it; and yet we are constituting here these Indians a landed aristocracy, giving them more land than the average of the fifty millions of American people have or can possibly have. We are providing that they in their shiftlessness and in their thriftlessness may leave all its treasures undeveloped, that everything that lies in the soil shall be not only not developed but they shall sit down upon it, and for purposes of their own and against the interest of the communities in which they live, and against their own interest, they shall not only not take out themselves the riches of the soil, but shall not permit anybody else to take them out. I say that that is legislating not only against the interest of the Indians but against the interest of the communities by which they are to be surrounded.

The Senator from Massachusetts [Mr. DAWES] would have us believe that there is no white man of any respectability or entitled to any respectful consideration here who would rent land from an Indian. If this bill is to be carried out the time may come when very good white people will be glad to have land that an Indian only has, and which he, as opposed to all the other people of the United States, holds not subject to alienation and not subject to taxation. You make him a landed aristocrat. I am not objecting to that now; but you make him besides the holder of lands which, by reason of their non-cultivation, stand in the way of the progress of the communities in which they are located, a bar to their progress, and a constant source of irritation and discontent. Year after year you will find men coming here to complain that the Congress of the United States by improvident legislation has put this bar in the way of the progress of the communities in which these lands are located.

In fact, as I said, there are to-day lands which Indians do not own, but which they occupy as reservations, which are subject to leases of this very character. The lands of the Indians of the Quapaw reservation, of the confederated Miamies and Peorias, located in the Indian Territory adjoining the State of Kansas, have been cultivated under leases such as I propose, with great advantage to the Indians themselves. If the Senator from Massachusetts waits until such time as the Indians who are to have the benefits of the provisions of this bill will labor so that these lands may be cultivated, he will wait a long time. After keeping these Indians in a state of pupilage and of wardship for a couple of centuries, it is now proposed at once, without previous notice and substantially without previous preparation, to say to them "you shall take this land and on that land you shall live," and cut off from all resource except such as may exist in the soil, in their efforts to cultivate it they shall live or die according as they may labor. I say it is the essence of injustice to the Indian; I say it is the essence of inhumanity to the Indian, and I say it as one who believes that the Government has obligations of humanity to these Indians which ought properly to be discharged.

The trouble about all this treatment of the Indian is a trouble which has recently broken out. It grows out of the belief recently generated that an Indian can be taken from his wild state and educated as a white man can be educated. That finds believers because there is occasionally an Indian who is an exception, like Bright Eyes or one or two other Indians who have been named, who manifest some talent which is called very great because it is great by comparison only, and it is believed that all the Indians may at once step upon the plane which the white people of the United States occupy to-day, and that they all may become not only tillers of the soil but persons accomplished in letters, calculated to manufacture, to carry on all the occupations of life and support themselves just exactly as white people do.

Mr. President, the extinction of the Indian race will be a fitting comment on this policy. I remember a good many years ago reading an account of a man who had invented and put in use delicate machinery for the purpose of lifting the eyelids of bats that they might be enabled to see by daylight. Every bat whose eyelids were lifted dropped dead; but the inventor said he should continue until at least one bat, if the last of his race, should have the benefit of sight in daylight.

The men who to-day are endeavoring to impose upon the Indians the theories of civilization that are applicable to white men, the men who insist on taking them by the scalp, as it were, and lifting them to the plane which the white people occupy to-day, are committing an offense against the race which will result in its extermination. It is a violation of their nature, of the laws of progress, as applied to them, and the result is inevitable.

We have got to take these Indians as they are; we have got to adapt our legislation to them as they are, not as we would have them. We have got to give them the things to do which they can do. We must be satisfied if we can make them self-supporting. Whether

they become the members of any orthodox church, whether they become learned in letters, or whatever else they become, the obligation of the Government to them will have been discharged whenever under the changed condition of things which our progressive civilization has brought about, they shall be able to take care of themselves, to fill their stomachs and to clothe their backs by reason of the appliances which we have put in their way. By just as much as we seek to take them beyond that we do them a wrong, and we enter upon what will inevitably be a failure. We cannot legislate them out of the plane in which they are to-day.

What is the objection, then, to saying to an Indian any more than to a white man, "If you desire to cultivate these lands through the medium of an agent, through the medium of a lessee, you may do it?" The Government will then be discharged from obligation concerning them. The Government is under no obligation to support an Indian who can support himself, but if you put them on these lands and they do not support themselves we shall year after year be reproached for it, that we have put them in a condition where they cannot support themselves, and year after year we shall be applied to, as we have been for years preceding, to put our hands into the Treasury of the United States and vote money in order that these Indians may be supported under a condition of things in which they cannot support themselves.

Let me say one thing further. The policy of the Government with reference to the Indian has been very much like that of the old lady who said to her son, "John, you must not go into the water until you learn to swim." It is said to these Indians, "You must not learn to buy or sell; you shall take exactly what we give you;" and year after year we have given to every Indian agency the same amount of flannel, the same amount of calico, of plows, of hoes, and of what not of annuity goods, giving them to the Indians irrespective of their desire for them; and it is expected apparently that under the operation of a policy of that kind these Indians would learn to take care of themselves. The great need to-day is to give each individual Indian a chance. Wherever you find an Indian ambitious enough to desire to take care of himself let him take his own property, whether of land or money or what not, and look out for himself; give it to him and not make him abide by the action of his tribe, and instead of giving him the things which the Government thinks are his need, as you would give to a child, give him the money that belongs to him and say to him, "By just as much as you spend that providently or improvidently you will prosper or otherwise." If the Government will ever come to deal with these people as it ought to deal with them, as persons who may support themselves upon a lower plane, and who may support themselves not only by the use of the land, but by the proper use of the annuities which are given them by the Government, that moment the Indian problem will be practically solved.

But in this bill it is proposed that two-thirds of the tribe shall settle the question as to whether all the members of the tribe shall accept lands in severalty. Two-thirds of the tribe, then, are to say that the other third are ready for this problem, and if two-thirds do not say so, then one-half of that tribe, who may be ready to take care of themselves, to feed and clothe themselves, are to be held to the dead body of the tribe.

I said in the beginning, as I repeat, this bill if passed will work the rankest injustice of any legislation ever proposed or ever adopted by the American Congress. If that portion of the bill which provides that these lands shall not be alienated and shall not be subject to taxation for a period of twenty-five years and shall not be leased until the same period shall pass, you will find about your doors here from year to year an increasing tumult from the communities in which you have set these people, exempt from the burdens of the Government and occupying lands which they cannot cultivate—a tumult which you cannot prevent and the consequences of which you cannot avoid.

Mr. DAWES. Mr. President, the Senator from Kansas is not the first Senator who keeps in his drawer old books until the covers are worn off to draw on a Senator when he puts forth an argument which he thinks difficult otherwise to answer. It has been pursued so often that it has lost all its terrors for me. It is a matter of sublime indifference whether his desk or any other desk in this Chamber is stocked with an arsenal of old records about any imaginary delinquency of people who lived two hundred years ago, whether they lived in Massachusetts or whether they lived in any other State.

I simply suggested as an argument that a condition of society in which one portion were landlords and another were tenants was the least desirable possible in this United States; much less was it desirable when the landlord was an uncultivated and uncivilized savage and the tenant was a civilized white man; and what do I get as an answer? I get an old book that has laid in the desk of the Senator from Kansas ready for an emergency, from which he would have you believe that he reads that two hundred years ago in Massachusetts there was so unwise and wicked a policy of white men toward Indians that they reduced in that Commonwealth the aggregate of six thousand Indians in eleven years to two hundred. If the Senator from Kansas thinks that is a legitimate answer to an argument that it is not wise to institute any such system of landholding in the United States as I have suggested, I pray him not to read, holding up the book here as he thus reads, when the very next sentence in the book from where he stopped alleged that in other parts of Massachusetts except the county of Plymouth the number of Indians had largely increased.

Mr. PLUMB. Let me ask the Senator, right there, how many Indians there are in Massachusetts to-day?

Mr. DAWES. That is not the question we are arguing. Just at this moment I am engaged in a little episode with my friend as to whether it makes the slightest difference to begin with the question whether two hundred years ago the people of Massachusetts were wise and humane or wicked and inhuman, like some in modern times, and whether the Senator has conveyed the truth even about the people of Massachusetts?

Mr. PLUMB. Will the Senator allow me to interrupt him?

Mr. DAWES. Certainly.

Mr. PLUMB. Will the Senator indulge the Senate a moment in stating what became of the Indians who were settled in the colony of Massachusetts at the time the Plymouth Rock people landed?

Mr. HOAR. There was not any such colony when the Plymouth Rock people landed.

Mr. DAWES. The Senator from Kansas is as innocent of the history of Massachusetts as he is of any just and enlightened policy toward the Indians of the present day. I beg the Senator to enjoy his right of having succeeded in not only perverting history, but perverting the page that he had before him.

Mr. PLUMB. I do not care to engage in a further discussion with the Senator from Massachusetts. He does not care to account for the absence of the Indians who were in that country; he does not care to justify his own ancestors; and with that I am perfectly willing to leave it. Perhaps I might suggest that possibly they were disposed of as heretics; and that undoubtedly would bring it within the orthodox rule.

Mr. DAWES. Ten chances to one my friend will get to talking about hanging witches in a few moments; there is no knowing what. His desk I doubt not is stacked with a magazine of papers on that subject. I know of those who carry on arguments with affidavits in their pockets, that they draw as the highwayman does some other weapon when he undertakes to force positions.

Mr. President, what has that to do with this argument? The character of Massachusetts in the past and in the present will stand any little puny assault at this day that the Senator from Kansas or any peer of his or mine in this Chamber may essay upon her buckler. I will read all of this paragraph to the Senate, and then say to the Senator from Kansas that it has no more to do with this debate than the questions which agitated Kansas twenty-five years ago, and out of which she came forth a great and glorious free State; but nobody in this day thinks it becomes him in a debate in the Senate Chamber to bring up against the character of his State the circumstances of that time. Suppose I should draw out from my drawer the history of the conflicts in the State of Kansas between the free-State men and the slaveholding men of that day, and the enormities and cruelties practiced on her soil, the burning of her homes and the slaying of her citizens, does the Senator from Kansas think it would become a debate that ought to be carried on here in a spirit becoming this day and this age? Then why does he talk about what he may think and assume to be the facts of an improper treatment of the Indian tribes two hundred years ago within the limits of my State, or whether there may be other enormities of that day, judged by the standard and light of this day, that neither he nor I would attempt to defend?

Sir, the question is whether it is wise for us to continue our present or the past policy that we have been pursuing with the Indians of this country; whether it be worth while to keep them on large reservations set apart to them as hunting grounds, and leave them there to starve or feed them day by day with daily rations as you do the Army, and suffer them to groan over imaginary or real wrongs inflicted upon them in the conflict between them and civilizations in which they are most certainly to be worsted, or whether we shall endeavor by a change of that policy consistent with an enlightened humanity to take them one by one by the hand and see if it be not possible by slow degrees to lift them up to some position in this people whereby they may to some extent support themselves and learn to obey and appeal to the laws of the land in which they live. That is a question becoming the statesmen of this day, without troubling themselves with the petty question whether or not my ancestors or the ancestors of the Senator from Kansas may have, according to the measures of the light of that day, done that which neither he nor I in the sunlight of the civilization of the nineteenth century would like to approve.

I said I had hardly faith enough in the provisions of this bill to give it my support, but I know the spirit out of which it has come, and I am disposed so far as I know how to give it my support and help, improve it if I may according to the light of my experience and knowledge, not equal to that of the Senator from Kansas, I say in no improper spirit, because I have not had it, it has not been my good or ill fortune to mingle with the Indians as he has; but, sir, I have less of that feeling which it is impossible for the Senator from Kansas to disabuse himself of so long as he is a man, which grows out of the constant witnessing the enormities and atrocities that have been committed before his eyes upon weak and defenseless frontiersmen. Let the Senator disabuse his mind of the idea that anybody, whether he live east or south, or anywhere else, approves or is indifferent to

any of those enormities. Such bills as this come from a sincere desire on the part of their promoters to resort to some such policy as will make the repetition of those cruelties and those atrocities impossible in the future contact of the white man with the Indian.

Mr. HOAR and Mr. INGALLS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DAWES. I promised to read, and if my colleague will allow me, I will just read this, and then I beg the Senator from Kansas not to omit drawing the book out of his drawer as often as it may give him pleasure, only asking him to read it as it is:

The number of Indians remaining within the closely-settled portions of New England—

That is, in the year 1685—

was not now considerable enough to require any special precautions against disaffection which might arise among them. Four years before the revolution—

In the margin it says "1685," so that there is no occasion for the Senator from Kansas to think that means what is generally called the American Revolution; it means the revolution in England, the Senator will allow me to suggest. Four years before that revolution—

Governor Hinckley estimated their number, including all ages, in Plymouth—

My colleague has suggested to the Senator from Kansas what "Plymouth" means there—

their number, including all ages, in Plymouth, where they were much more numerous than in the other colonies, at less than six thousand.

"At less than six thousand;" not more, but less. Then:

Thirteen years later—

Than the revolution of 1688—

it was believed that in Massachusetts proper—

That is, thirteen years later than 1688, which was 1700, and that was before Plymouth Colony and Massachusetts proper were made one—

there were not many more than two hundred.

Two hundred left in that colony.

These were all reckoned among praying Indians, though experience has shown that in respect to security for their harmlessness their small numbers were to be more regarded than their religious profession.

And here is where the Senator from Kansas came to an end; but this follows:

But the force of the tribes which roamed over the wide tracts now occupied by Maine, New Hampshire, Vermont, and Western Massachusetts was still unbroken, and had probably even been largely increased by the resort of savages who had been expelled from their seats in the war which had been waged almost continuously since the outbreak of King Philip.

With reading this extract I leave the Senator and return to the Senator his book, so that whenever he finds it difficult to meet any other argument suggested here he will have it in his desk to draw upon some unfortunate opponent.

Mr. PLUMB. Mr. President——

The PRESIDING OFFICER. The Chair had recognized the Senator's colleague, [Mr. INGALLS.] Does he yield?

Mr. INGALLS. I yield.

Mr. PLUMB. Mr. President, I do not think the remarks I made were in the nature of a complaint about the way that Massachusetts treated the Indians. I only complained, if at all, that the Massachusetts people were not willing to permit us to observe the same rule that they observed themselves, and that they assumed by reason of having extinguished the Indians within their borders that they were better calculated to say what people should do within whose borders Indians now exist. The question as to whether the Plymouth Rock people or the Massachusetts people or any other people in that State gauged their conduct towards the Indians by humanitarian principles or otherwise, is a question that I did not care to go into, but I only observed that by just as much as the Indian had been eliminated from a community, that community esteemed itself the best qualified of all the communities in the United States to say what ought to be done with the Indians now existing.

I am not going to challenge the correctness of the action of the people of Massachusetts, as I said before; but the frontiersman of to-day who comes under the denunciations of people who have what is ordinarily called the humanitarian view of the Indian question is only a man who a few weeks ago left the confines of some New England State. He finds himself on the frontier, in a new atmosphere and under a new condition of things, and he adapts himself accordingly, and then he comes to be characterized here as a man who as such frontiersman has lost absolutely all notions of right and wrong which he might have been supposed to have imbibed in the country he came from, and to be a lawless, reckless creature, intent only upon committing injustice upon the Indians, upon taking something that belongs to them. Sir, this frontiersman is not a western man except by translation; and yet the fact is that when a man who lives upon the frontier, who has had personal contact with the Indian, who knows something of his nature, who knows something of his disposition, who knows something in a practical way of the relations that are bound to exist between him and the white man who lives near him, opens his mouth to say anything about it, he is characterized at once as a man intent only upon larceny, as one who wants to do injustice that he may have profit thereby. This bill relates not to those things that specially concern the people of Massachusetts except in the sense in which justice concerns all the people of the United States, but it relates to the contact that is bound to come closer and closer between the people of the Western States where the Indians live and the Indians themselves. And therefore it is proper to consider all these questions which go to the details, to the practical effect of that contact.

Mr. President, I think the comments which I made upon the action of the people whom the Senator from Massachusetts now represents were not at all unfair. He takes issue with me upon a question of dates and a question of boundary-lines, and yet he knows that all the Indians who inhabit that section of country which he is now so proud to represent and of which we are all so proud have been entirely eliminated, except perhaps a few hundred of them who live to-day within the limits of Massachusetts, and who if they could have been benefited by contact with the superior race and by all the influences of civilization and of religion would to-day be the equals of the dominant race in Massachusetts; but I venture to say that within the limits of that State to-day there is not as degraded a set of people as those persons who have within their veins the blood of the tribes who once owned all the land of that Commonwealth. They are not the men who toil in factories, they are not the men who till the soil, they are not the men even who rent land, but they are a class of people who as a class are degraded beyond all the other people within the limits of the State of Massachusetts. Contact with a superior civilization has not only exterminated the great bulk of those tribes, but has reduced the remnant of them, the poor and feeble remnant of them, to that condition. They are not the men upon whose suffrages the gentleman from Massachusetts relies to-day for support. They are not the men who in any way are factors in the civilization which is the proud boast of that State.

Mr. INGALLS. Mr. President——

Mr. HOAR rose.

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Massachusetts?

Mr. HOAR. Just a moment. I do not wish to mingle in this debate further than to say to my honorable friend from Kansas [Mr. PLUMB] that he errs in his statement of the character of the remnant of the Indians that are left in Massachusetts. There are a few hundred of them, perhaps a thousand or fifteen hundred in all, I am not able to say exactly what the number is; I have it not in my memory; but about twelve years ago we passed an act making them all citizens, and they dwell in two towns chiefly. They are a poor people, getting their living chiefly by fishing, but they have a town of their own, with their selectmen, their school committee, their regular organization, and they are a very excellent, worthy, temperate, and law-abiding people. My friend from Kansas having made the statement that they were the most degraded people we had in my State, I only wished to say this much in their behalf.

Mr. INGALLS. Mr. President——

Mr. KERNAN. I ask the Senator to yield for a motion that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. Does the Senator from Kansas yield for the purpose of the motion indicated?

Mr. INGALLS. Mr. President, the Indian question has now been under debate two hundred and sixty years one month and about four days, if this is the 26th of January, as I believe it is. I hoped it might be finally and definitely settled to-night; but apprehending that possibly some person besides myself may desire to continue the debate for another day, I will yield for the purpose indicated by the Senator from New York.

Mr. KERNAN. I move that the Senate proceed to the consideration of executive business.

Mr. THURMAN. Pending the motion of the Senator from New York, I move that the Senate adjourn.

Mr. KERNAN. I hope not.

The PRESIDING OFFICER. The Senator from Ohio, pending the motion of the Senator from New York, moves that the Senate do now adjourn.

The motion was not agreed to, there being on a division—ayes 19, noes 26.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from New York, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-four minutes spent in executive session the doors were reopened, and (at five o'clock and five minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### WEDNESDAY, *January* 26, 1881.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

### CARR LAKE, COUNCIL BLUFFS, IOWA.

Mr. SAPP. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of a bill relating to my city alone, and that the bill be now put on its passage.

The Clerk read the bill, as follows:

A bill (H. R. No. 6527) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake known as Carr Lake, situated near said city.

*Be it enacted*, &c., That there shall be, and is hereby, conveyed to the corporate authorities of the city of Council Bluffs, in the State of Iowa, and their successors in office, the title of the United States to the meandered lake, situated in sections 29 and 32, of township No. 74, Pottawatomie County, in the State of Iowa, known as Carr Lake, upon the express conditions that the premises shall be held for public use, resort, and recreation; shall be inalienable for all time; but leases not exceeding ten years may be granted for portions of said premises, all incomes derived from leases of privileges to be expended in the preservation and improvement of the property or the roads leading thereto; the premises to be managed by the said corporate authorities, or such commissioners as they may elect, and who shall receive no compensation for their services.

Mr. MANNING. I move to dispense with the morning hour.

Mr. SAPP. I hope the gentleman will not interfere with the action on this bill. It simply gives a small lake to my city.

The SPEAKER. Does the gentleman from Mississippi [Mr. MANNING] desire to interfere with the consideration of this bill?

Mr. MANNING. I do not, if it will occasion no debate.

Mr. PRESCOTT. Is there a unanimous report on this bill?

Mr. SAPP. There is.

There being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, and the House proceeded to its consideration.

The bill was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. SAPP moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BANKRUPT LAW.

Mr. ROBINSON. I ask unanimous consent to report from the Committee on the Judiciary, for printing and recommittal, the papers which I send to the desk.

The Clerk read as follows:

Arguments submitted to the Committee on the Judiciary in favor of a uniform system of bankruptcy, by members of the convention of boards of trade and other commercial organizations, January 20, 1881.

Mr. HATCH. What disposition is asked of these papers?

The SPEAKER. The proposition is to print and recommit arguments *pro* and *con* before the Judiciary Committee upon a national bankrupt law.

Mr. HATCH. I object.

ORDER OF BUSINESS.

Mr. MANNING. I move to dispense with the morning hour for to-day.

The question being taken, the motion was not agreed to; there being—ayes 80, noes 82.

VACATION OF ARIZONA LEGISLATIVE ACT.

Mr. TOWNSHEND, of Illinois. I call for the regular order.

The SPEAKER. The morning hour now begins; and the Clerk will resume the reading of the bill reported from the Committee on the Territories, which was left undisposed of at the close of the last morning hour.

The Clerk resumed the reading of the bill (H. R. No. 5501) to vacate, annul, and set aside an act of the Legislative Assembly of the Territory of Arizona.

Mr. TOWNSHEND, of Illinois, (interrupting the reading.) I rise to a parliamentary inquiry. In what way does this bill come before the House?

The SPEAKER. It is a bill reported from the Committee on the Territories, and coming over undisposed of from the last morning hour.

Mr. TOWNSHEND, of Illinois. Is it competent for one member to insist upon the reading of every bill reported in this way?

The SPEAKER. The Chair thought not; but the reading of this bill was by consent. The Clerk is resuming the reading exactly where he left off.

Mr. TOWNSHEND, of Illinois. If the reading of this bill is simply for waste of time, I object. If there is any reason why the bill should be read, I have no objection.

The SPEAKER. The reading of the bill will be concluded.

Mr. MAGINNIS. I ask, by unanimous consent, Mr. Speaker, that the further reading of the bill be dispensed with, and that it now be put upon its passage. I can in a few moments explain the provisions of the bill, and I do not think it will be objected to.

The SPEAKER. It cannot be done during this hour in that way.

Mr. CAMP. I object to dispensing with the further reading of the bill.

The reading of the bill was then concluded; and it was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM BLAISDELL.

Mr. COFFROTH, from the Committee on Invalid Pensions, reported, as a substitute for House bill No. 6570, a bill (H. R. No. 7030) regulating the pension of William Blaisdell; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES W. THOMPSON.

Mr. DAVIS, of Illinois, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 893) granting a pension to James W. Thompson; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

A. G. SHAW.

On motion of Mr. DICKEY, the Committee on Claims was discharged from the further consideration of the bill (H. R. No. 6602) for the relief of A. G. Shaw, and the same was referred to the Committee on Indian Affairs.

METROPOLITAN RAILROAD COMPANY.

Mr. MARTIN, of Delaware, from the Committee on the District of Columbia, reported a bill (H. R. No. 7031) to amend the charter of the Metropolitan Railroad Company of the District of Columbia; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

JOHN CONNOLLY.

Mr. SLEMONS, from the Committee on the District of Columbia, reported back the bill (H. R. No. 6213) for the relief of John Connolly, with an amendment; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SOUTH WASHINGTON RAILROAD COMPANY.

Mr. ALDRICH, of Rhode Island, from the Committee on the District of Columbia, reported, as a substitute for House bill No. 294, a bill (H. R. No. 7032) to amend the act incorporating the Capitol, North O Street and South Washington Railway Company; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

TORPEDOES.

Mr. TOWNSHEND, of Illinois. I have been directed by the Committee on Expenditures in the Navy Department, to report a substitute for a resolution referred to that committee, calling on the Secretary of the Navy for information relative to torpedoes; and I ask for the consideration of the resolution at this time.

The SPEAKER. It cannot be considered during the morning hour, but the Chair will recognize the gentleman after the morning hour has expired for that purpose.

Mr. TOWNSHEND, of Illinois. I will withdraw the report, then, for the present, and will seek an opportunity hereafter to have adopted this resolution calling on the Navy Department for information.

IOWA CONTESTED-ELECTION CASE.

Mr. SPRINGER. I ask to present now the views of the minority of the Committee on Elections on the Iowa case. The report has been prepared by the gentleman from Kentucky, [Mr. PHISTER,] and is concurred in by the gentleman from Georgia [Mr. SPEER] and myself.

The views of the minority were received, laid upon the table, and ordered to be printed.

G. W. THOMPSON AND OTHERS.

Mr. MORRISON, from the Committee on Ways and Means, reported back the bill (H. R. No. 5891) for the relief of G. W. Thompson and others, with an amendment; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

NORTHERN DISTRICT OF TEXAS.

Mr. CULBERSON, from the Committee on the Judiciary, reported back favorably the bill (H. R. No. 6943) to amend an act entitled "An act to create the northern district of Texas, and for other purposes;" which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

SCHOONER LIZZIE.

Mr. BLISS, from the Committee on Commerce, reported back the bill (H. R. No. 6679) to change the name of the schooner Lizzie to Lillie Thorn, with amendments; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MINT REPORT.

Mr. TOWNSEND, of Ohio. I ask by unanimous consent to present the following joint resolution:

*Resolved by the House of Representatives, (the Senate concurring,)* That 10,000 copies of the Annual Report of the Director of the Mint for the year ending June 30, 1880, be printed; 7,000 for the use of the House, and 3,000 for the use of the Senate.

The SPEAKER. That is not in order during this call.

Mr. TOWNSEND, of Ohio. I will withdraw it, then, for the present.

CHATTANOOGA A PORT OF DELIVERY.

Mr. BEALE, from the Committee on Commerce, reported, as a substitute for House bill No. 6594, a bill (H. R. No. 7033) making the city of Chattanooga, in the State of Tennessee, a port of delivery; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

ACCEPTANCE OF DECORATIONS.

Mr. COX, from the Committee on Foreign Affairs, reported back

adversely the joint resolution (H. R. No. 355) referring to the acceptance of decorations; which he moved be laid upon the table, and, with the accompanying report, ordered to be printed.

Mr. CONGER. I ask that the report go on the Calendar.

The SPEAKER. The joint resolution will be referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

COLONIZATION OF COLORED POPULATION.

Mr. WILSON, from the Committee on Foreign Affairs, reported back adversely the resolution requesting the President to negotiate for the purchase of land for the colonization of the colored population of the United States; which was laid upon the table, and, with the accompanying report, ordered to be printed.

RETIREMENT OF ARMY OFFICERS.

Mr. JOHNSTON, from the Committee on Military Affairs, reported, as a substitute for House bill No. 6723, a bill (H. R. No. 7034) to amend the Revised Statutes in relation to retired officers; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

JACOB B. KING.

Mr. LE FEVRE, from the Committee on Military Affairs, reported back favorably the bill (S. No. 388) for the relief of Jacob B. King; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JEFFERSON SAVAGE.

Mr. UPSON, from the Committee on Military Affairs, reported back favorably the bill (H. R. No. 1852) for the relief of Jefferson Savage; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

TELEGRAPHIC POSTAL SYSTEM.

Mr. MONEY, from the Committee on the Post-Office and Post-Roads, reported back with a favorable recommendation the House resolution authorizing the establishment of a telegraphic system under the Government of the United States; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

ANTON SCHUMACKER AND OTHERS.

Mr. RYAN, of Kansas, from the Committee on the Public Lands, reported back favorably the bill (H. R. No. 6959) for the relief of Anton Schumacker and ninety-eight other persons; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

LAND WARRANT, HEIRS OF WILLIAM SHEPHERD, DECEASED.

Mr. RYAN, of Kansas, also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 5816) authorizing the issue of a land warrant to the heirs of William Shepherd, deceased, in lieu of one lost; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

Mr. BICKNELL. Mr. Speaker, I now call up for consideration the Senate resolution in reference to a joint rule to regulate the counting of the electoral vote for President and Vice-President.

Mr. SPEER. I ask the gentleman from Indiana to yield for the present for the consideration of the Yeates-Martin election case reported from the Committee on Elections yesterday.

Mr. FIELD. Mr. Speaker, this case of Yeates against Martin was reported only last night to the House. The report has just been printed and placed in the hands of members. It never yet has been demanded that the consideration of an election case shall be begun on the day after the report was made. It has always been customary to allow one or two days to enable members to examine the report and prepare themselves if they shall see fit to make speeches upon the question. The republicans want no unnecessary delay in this case or any other case. All we want on this side of the House is that we shall have an opportunity of examining the report, for which purpose one or two days' time should be allowed, by which means we will be enabled to vote upon it with intelligence. I should think that two days at least ought to be allowed.

Mr. SPEER. This case, Mr. Speaker, is quite as thoroughly well understood by the committee as it can be after an examination of two days or a dozen days. It can be easily understood by the House on a very brief statement of the facts. The reports in the case are short. They are succinct and clearly indicate the nature of the contest. This case has been pending here for a long time. The end of the session is approaching, and I see no good reason why it should be delayed any longer.

I desire to say further, Mr. Speaker, that the substance of the minority report was printed a good long time before the report of the minority was submitted, so that the substance of it, at all events, has been in the possession of the committee, if they desired to examine the case, for a considerable time.

Mr. KEIFER. Not as it is now. There was no minority report printed until this week.

Mr. SPEER. I say that the substance of the minority report has been generally well understood for some time.

Mr. CALKINS. I think the gentleman from Georgia will agree with me that it is not asking too much on the part of the House that at least two days should be allowed for the examination of the report and testimony. It is not unreasonable to ask that the members of the committee, also, shall have an opportunity of looking into the majority and minority reports. There is no difficulty on this side of the House, and certainly no desire to make any captious objections to the consideration of the case at a proper time. It is only asked that sufficient time shall be allowed for the examination of the reports.

Mr. SPEER. It is impossible to hear all the gentleman from Indiana has stated. May I ask what it is that he proposes, or what the substance of the agreement is which he desires to have made?

Mr. CALKINS. I say that I did not think there ought to be any objection to allowing the case to go over for one or two days, so that members of the House may have an opportunity to look into the majority and minority reports, and give to the question that consideration which should be given to it before they are called upon to vote upon it. I hope the gentleman from Georgia will not object.

Mr. SPEER. I will agree that the case be taken up to-morrow after the morning hour.

Mr. COX. I object to any agreement of that kind. The bill reported by the Census Committee may come up to-morrow.

The SPEAKER. This is a question of the highest privilege, and if the House wishes to bring it up it is within its power to do so.

Mr. FIELD. The reports cover thirty-three pages. There never has been any report from any sub-committee on this case. I agree that it may be taken up two days hence, that is on Saturday, to-morrow being private bill day. That will give two days to allow members to read the reports.

The SPEAKER. To-morrow is not private bill day.

Mr. FIELD. Then I will agree to the case being taken up on Friday.

The SPEAKER. Friday is private bill day.

Mr. FIELD. Very well; say Saturday.

Mr. MANNING. That is too late. I suggest to the gentleman from Massachusetts [Mr. FIELD] it is hardly ever the case that members of the House read the reports. They rely very largely upon the speeches that are made; more by far on what they hear in support of the views that are incorporated in the respective reports than on the reports themselves. Not one member in twenty, perhaps, reads the reports. And I think so far as the Election Committee is concerned that every member of it is well prepared to go on and finish this case now.

Mr. FIELD. I think the gentleman from Mississippi will agree with me that this case does not turn on any single point, but involves several important questions.

Mr. MANNING. They are strictly legal questions.

Mr. SINGLETON, of Illinois. I rise to make an inquiry. What has become of the motion of the gentleman from Indiana, [Mr. BICKNELL?] I have not understood him to yield.

Mr. TOWNSHEND, of Illinois. It has not been stated that the reports in this case have been printed.

Mr. MANNING. It is suggested by the gentleman from Illinois that the statement has not been made to the House that the reports in this case have been printed. Both the majority and minority reports have been printed, and both are accessible to every member of this House who desires them.

Mr. KEIFER. I wish to add a word or two. There is no objection to considering this or any other election case as promptly as it can fairly be done. I am warranted in saying that there are a number of the members of the Committee on Elections who have never read the reports, or the substance of either report.

Gentlemen will notice, when they look to the reports which we got here a few moments ago, that a bare majority of the committee have signed them; that there is not a majority of the committee signing the majority report, even. Now, I want to say that there are involved in this case some very grave legal questions, not only grave as applied to this particular case, but questions that are liable to run through a very great many contested-election cases. On some of the most important of those questions the committee divided, not politically, and they are controlling questions here. For the first time I have myself, a few moments ago, received this report. Under the rules of the House, a copy of the report when printed is to be sent to each member. This morning's mail did not bring to us this report, because it was not ready. We only find it here since the House met at twelve o'clock. We are not prepared at present to fully debate it, and there is no other case that has been hurried in this manner I think that at least two days ought to be given to those interested in this question to read and consider the reports.

Mr. FINLEY. Will the gentleman yield for a question?

Mr. KEIFER. Certainly.

Mr. FINLEY. The gentleman is making a complaint that there has been no time given, and says there has not been a precedent of this kind before. Did the gentleman himself not force a contested-election case upon this House the other day to unseat a democrat and seat a republican when the report had not been printed but one day?

Mr. KEIFER. Mr. Speaker, I did nothing of the kind. The report in the case to which the gentleman refers had been printed, circulated through the mails, and furnished to every member, and two or three

days were allowed for gentlemen to read it and examine it. It was a very short report and a unanimous report. I will add further, before I called up that case in courtesy to gentlemen on the other side of the House, and especially the gentleman from Mississippi, [Mr. MANNING,] who was the chairman of the sub-committee who considered that case, I went to him and asked him if there was any objection to its being called up and he said no.

Mr. MANNING. That is right. There was no coercion in the bringing up of that case so far as I understood.

Mr. KEIFER. And the gentleman's colleagues will admit that there was the utmost courtesy in the conducting of that case. The gentleman from Ohio [Mr. FINLEY] is entirely mistaken in his supposition that I hastened and forced that case up against the wish of members of the committee or of the House.

Mr. SPEER. I do not know that every member of the Committee on Elections has read the report in this case; but I know that each member of the committee has had an opportunity of reading the substance of the report; the substance of the fact and argument upon which the report is based and the papers embodying that substance have been read and discussed by the Committee on Elections. I concede that there are grave questions in this case, but gentlemen will be quite as well prepared to consider those questions to-day or to-morrow, notwithstanding their gravity, as they will be several days later.

I make a proposition to the gentleman on the other side, that we will take up this case after the morning hour to-morrow, and will consider it without those objections which occasionally occur, without any dilatory motions. If they will agree to that I will agree, with the consent of the gentlemen around me, to postpone the consideration of this case until after the morning hour to-morrow. Then every gentleman will have had time to read the printed report.

Mr. KEIFER. Is the gentleman from Georgia submitting a proposition?

Mr. SPEER. Yes, sir.

Mr. KEIFER. I did not understand the gentleman.

Mr. SPEER. I agree to take this case up after the morning hour to-morrow.

Mr. KEIFER. Let it be the next day.

Mr. SPEER. The next day is private bill day, and the day after that will be Saturday.

Mr. KEIFER. Well, Saturday will do.

Mr. SPEER. I do not propose to take up an important case of that sort on either of those days. The gentleman has conceded the importance of this case.

Mr. MANNING. I want to call the attention of the gentleman from Ohio [Mr. KEIFER] to a mistake he has made——

Mr. KEIFER. Allow me a moment.

Mr. MANNING. Certainly.

Mr. KEIFER. I want to ask the gentleman from Georgia [Mr. SPEER] before answering his question, whether any limitation is to be put on debate in this case?

Mr. SPEER. That question has not been considered.

Mr. KEIFER. That question will have to be considered and decided in connection with the other question.

Mr. SPEER. That will have to be determined by the disposition of the House. For myself I have no disposition to limit debate.

Mr. KEIFER. I understand that the gentleman from Georgia has charge of this case, and probably he will be able to speak at least for his side of the House on that question.

Mr. SPEER. How much time does the gentleman want for debate?

Mr. KEIFER. I am not prepared to say. I want an hour for myself, and I know that other gentlemen of the committee likewise want an hour.

Mr. TOWNSHEND, of Illinois. We will give you as much time in this case as you allowed on the Bisbee case. Is not that satisfactory?

Mr. KEIFER. Allow me to answer the gentleman from Illinois, [Mr. TOWNSHEND.] We offered every man on that side of the House an hour if he wanted it on the Bisbee case, and none wanted it.

Mr. TOWNSHEND, of Illinois. We will give you an hour.

Mr. KEIFER. If you will give us the same time that we proposed to give you in that case we will be quite satisfied.

Mr. MANNING. I wish to suggest to the gentleman from Ohio [Mr. KEIFER] that in regard to the matter of fact to which he referred, that these reports had not been read by the members of the Committee on Elections——

Mr. KEIFER. By all of them.

Mr. MANNING. Barring all that transpired in the committee-room, where, as the gentleman remembers, the reports were read and canvassed very thoroughly, and judgment was then reached and pronounced upon them, I find by reference to the signatures of these reports that they are signed by twelve members, among them the gentleman from Ohio.

Mr. KEIFER. Yes.

Mr. MANNING. Five members signed the minority report and seven signed the majority report.

Mr. KEIFER. Certainly.

Mr. MANNING. Therefore I submit to the gentleman that the statement that he himself is not familiar with the contents of these reports——

Mr. KEIFER. I was not speaking for myself, except to say that there were members of the committee who were not present and who did not hear the reports read in committee, and that they have just been printed.

Mr. MANNING. I understood the gentleman to say that a very small number of the members of the committee had seen these reports.

Mr. KEIFER. Oh, no. I said that only a bare majority had seen them. I was not exactly accurate in that, for I find that the reports are signed by twelve members of the committee.

Mr. MANNING. You were suggesting as a reason for not taking up the case to-day that members were not prepared to consider it now.

Mr. KEIFER. Yes.

Mr. MANNING. That you yourself wanted an hour.

Mr. KEIFER. Yes.

Mr. MANNING. I will remark in that connection that I do not want any time myself. But as you are wanting time to discuss the case, please make a suggestion to us as to what time is wanted on that side of the House.

Mr. KEIFER. I am not able to say at this moment.

Mr. MANNING. If you make a demand on us you should go a little more into details as to the character of the demand.

Mr. KEIFER. I am not prepared to say. There are five gentlemen who want to speak, but whether each one of them will want an hour I am unable to say.

Mr. MANNING. Will four hours answer?

Mr. HUMPHREY. Say five hours.

Mr. MANNING. Four hour on both sides.

Mr. KEIFER. Four hours on both sides? Oh, no; we could not agree to that.

Mr. MANNING. Two hours on each side.

Mr. KEIFER. Oh, no. I think we will probably not occupy as much time as I have indicated, but I would not like to agree to the suggestion of the gentleman at this time. The contestee is in his seat, and will probably desire to be heard. There are members of the Committee on Elections who desire to be heard, and I am sure that two hours only on this side of the House would not be adequate to a full and fair discussion of the various questions that arise in this case.

Mr. FIELD. It seems to me that four hours for debate, with an hour after the previous question shall be called, equally divided between the two sides, is a reasonable time.

The SPEAKER. Especially at this stage of the session.

Mr. FIELD. Yes, sir.

Mr. MANNING. Will your side of the House agree to that?

Mr. FIELD. Unless objection is made.

Mr. MANNING. It is then understood as agreed to.

Mr. FIELD. I will agree to it individually. My individual opinion is that four hours' debate, equally divided between the two sides, and an hour after the previous question is called, also equally divided, will be sufficient time.

Mr. SPEER. I desire to understand if that is a distinct agreement?

The SPEAKER. The gentleman from Massachusetts makes that proposition so far as he is concerned; and the Chair presumes it will be agreed to. Does the Chair understand the agreement to be that there shall be five hours' debate in all.

Mr. BARBER. I object.

Mr. KEIFER. I want to say that there are gentlemen here from North Carolina—not only the contestee, but others—who desire to speak on this question. At least two, if not three of the members of the Committee on Elections who signed the views of the minority, want to speak; and I think, in view of the importance of the questions involved, they ought to have the opportunity. We ought not to cut off these gentlemen with two hours or two hours and a half. At the same time I pledge the gentleman that if a fair time is given for debate, so far as my influence may go, there shall be no factious opposition to the final disposition of this case.

Mr. SPEER. We desire to know what you consider fair time.

Mr. KEIFER. Fair time is such time as will give to gentlemen who are prepared to speak in good faith the right to speak.

Mr. MANNING. How many of them?

Mr. KEIFER. I do not think beyond five.

Mr. MANNING. That would take five hours.

Mr. KEIFER. Say four hours.

Mr. MANNING. I submit to the gentleman from Ohio that in these closing days of the session we ought to be able to agree on less time than the gentleman now indicates. Four or five hours to be occupied on one side would certainly be unreasonable. It is hardly to be expected that all gentlemen interested in the case should speak.

Mr. BARBER. I object to any arrangement at this time.

The SPEAKER. The gentleman from Georgia [Mr. SPEER] gives notice that he will call up the North Carolina election case to-morrow immediately after the reading of the Journal. As to the duration of the debate there seems to be at present no agreement.

Mr. SPRINGER. The previous question can be ordered whenever a majority of the House shall so decide.

The SPEAKER. It is within the power of a majority of the House to order the previous question.

Mr. SPRINGER. If no agreement is made, we must settle the matter by calling the previous question when the debate seems to have reached a reasonable limit.

APPROPRIATIONS FOR THE DISTRICT OF COLUMBIA.

Mr. COBB, by unanimous consent, reported from the Committee on Appropriations a bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes; which was read a first and second time, and ordered to be printed and recommitted.

Mr. BLOUNT. I reserve all points of order on this bill.

WILLIAM M'GARRAHAN.

Mr. DICKEY. I ask unanimous consent that the Committee on Claims be discharged from the further consideration of the bill (H. R. No. 6992) for the relief of William McGarrahan, and that it be referred to the Committee on Private Land Claims.

There being no objection, it was ordered accordingly.

ELECTORAL COUNT.

Mr. BICKNELL. I demand the previous question.

The SPEAKER. The gentleman from Indiana [Mr. BICKNELL] is recognized and demands the previous question. The gentleman from Michigan [Mr. CONGER] rose for some purpose.

Mr. CONGER. I rise for this purpose: the Chair has stated that the gentleman from Indiana is recognized and demands the previous question.

The SPEAKER. The gentleman from Indiana himself stated that he demanded the previous question; the Chair only repeated what the gentleman said.

Mr. CONGER. He does not say on what subject. I ask the Chair to be particular in stating the question.

The SPEAKER. The subject has been stated already. The gentleman from Indiana has already stated that he called up the resolution relative to the electoral count; and the Chair so announced. Now the gentleman from Indiana states further (which the Chair stated to the House) that he demands the previous question thereon. The Chair has stated to the House everything that he had the power to state, so as to facilitate an intelligent understanding of what was to come up.

Mr. CONGER. No doubt of that, Mr. Speaker; I was not speaking of that; but amid the confusion and noise, and by reason of the intricacy of the questions that arise, the Chair will see how important it is that we should know exactly what we are doing here to-day. I desire to raise the question of consideration on this electoral-count resolution this morning as against the field. [Laughter.]

The SPEAKER. The gentleman from Michigan raises the question of consideration which would properly come up prior to the demand for the previous question. But the gentleman in substance states, as the Chair understands, that he did not hear the gentleman from Indiana make the demand; and the Chair never takes advantage of any gentleman under such circumstances. The question is, Will the House now consider this resolution?

The question being taken, there were—ayes 119, noes 110.

Mr. CONGER. I call for tellers.

Mr. BICKNELL. I call for the yeas and nays.

The SPEAKER. The yeas and nays are demanded by the gentleman from Indiana; which would make tellers unnecessary.

Mr. CONGER. Tellers would be the regular order. [Laughter.]

The SPEAKER. The Chair has always recognized the demand for the yeas and nays as taking precedence of the call for tellers.

Mr. CONGER. A vote by tellers first would accomplish our purpose better.

The SPEAKER. The demand for the yeas and nays, being a constitutional right, is recognized by the Chair as superior to demand for tellers; and the question will first be taken on ordering the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 130, nays 124, not voting 38; as follows:

YEAS—130.

| | | | |
|---|---|---|---|
| Acklen, | Colerick, | Herbert, | Morrison, |
| Aiken, | Converse, | Herndon, | Muller, |
| Armfield, | Cook, | Hill, | Myers, |
| Atherton, | Covert, | Hooker, | New, |
| Atkins, | Cox, | Hostetler, | Nicholls, |
| Bachman, | Cravens, | House, | O'Connor, |
| Beale, | Culberson, | Hunton, | O'Reilly, |
| Beltzhoover, | Davidson, | Hurd, | Persons, |
| Berry, | Davis, Joseph J. | Johnston, | Phelps, |
| Bicknell, | Davis, Lowndes H. | Kenna, | Philips, |
| Blackburn, | Denster, | Kimmel, | Phister, |
| Bland, | Dibrell, | King, | Poehler, |
| Bliss, | Dickey, | Kitchin, | Reagan, |
| Blount, | Dunn, | Klotz, | Richardson, J. S. |
| Bouck, | Elam, | Knott, | Richmond, |
| Buckner, | Ellis, | Ladd, | Robertson, |
| Cabell, | Ewing, | Le Fevre, | Ross, |
| Caldwell, | Forney, | Lounsbery, | Ryon, John W. |
| Carlisle, | Frost, | Manning, | Samford, |
| Chalmers, | Geddes, | Martin, Benj. F. | Sawyer, |
| Clardy, | Goode, | Martin, Edward L. | Scoville, |
| Clark, Alvah A. | Gunter, | McKenzie, | Shelley, |
| Clark, John B. | Hammond, N. J. | McLane, | Simonton, |
| Clements, | Harris, John T. | McMahon, | Singleton, J. W. |
| Clymer, | Hatch, | McMillin, | Singleton, O. R. |
| Cobb, | Henkle, | Mills, | Slemons, |
| Coffroth, | Henry, | Money, | Smith, William E. |
| Sparks, | Tillman, | Vance, | Williams, Thomas, |
| Springer, | Townshend, R. W. | Waddill, | Wilson, |
| Steele, | Tucker, | Warner, | Wise, |
| Stevenson, | Turner, Oscar | Wellborn, | Wright. |
| Talbott, | Turner, Thomas | Wells, | |
| Thompson, P. B. | Upson, | Whiteaker, | |

NAYS—124.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Davis, Horace | Lindsey, | Russell, Daniel L. |
| Aldrich, William | Deering, | Loring, | Russell, W. A. |
| Anderson, | Dunnell, | Lowe, | Ryan, Thomas |
| Bailey, | Dwight, | Marsh, | Sapp, |
| Baker, | Einstein, | Martin, Joseph J. | Shallenberger, |
| Ballou, | Errett, | Mason, | Sherwin, |
| Barber, | Felton, | McCold, | Smith, A. Herr |
| Belford, | Ferdon, | McCook, | Speer, |
| Bingham, | Field, | McGowan, | Starin, |
| Bisbee, | Forsythe, | McKinley, | Stephens, |
| Blake, | Fort, | Miller, | Stone, |
| Bowman, | Frye, | Monroe, | Taylor, Ezra B. |
| Boyd, | Gillette, | Morton, | Thomas, |
| Brewer, | Godshalk, | Murch, | Thompson, Wm. G. |
| Briggs, | Hammond, John | Neal, | Townsend, Amos |
| Brigham, | Hanmer, | Newberry, | Tyler, |
| Browne, | Haskell, | Norcross, | Updegraff, J. T. |
| Burrows, | Hawk, | O'Neill, | Updegraff, Thomas |
| Butterworth, | Hayes, | Orth, | Urner, |
| Calkins, | Hazelton, | Osmer, | Valentine, |
| Camp, | Heilman, | Overton, | Van Aernam, |
| Cannon, | Henderson, | Pacheco, | Van Voorhis, |
| Carpenter, | Hiscock, | Page, | Voorhis, |
| Caswell, | Horr, | Pound, | Wait, |
| Chittenden, | Humphrey, | Prescott, | Washburn, |
| Claflin, | Jones, | Price, | Weaver, |
| Conger, | Joyce, | Ray, | Wilber, |
| Cowgill, | Keifer, | Rice, | Williams, C. G. |
| Crowley, | Kelley, | Richardson, D. P. | Willits, |
| Daggett, | Ketcham, | Robeson, | Yocum, |
| Davis, George R. | Lapham, | Robinson, | Young, Thomas L. |

NOT VOTING—38.

| | | | |
|---|---|---|---|
| Barlow, | Ford, | Killinger, | Taylor, Robert L. |
| Bayne, | Gibson, | Miles, | Ward, |
| Bragg, | Hall, | Mitchell, | White, |
| Bright, | Harris, Benj. W. | Morse, | Whitthorne, |
| Crapo, | Hawley, | Muldrow, | Willis, |
| De La Matyr, | Houk, | O'Brien, | Wood, Fernando |
| Dick, | Hubbell, | Reed, | Wood, Walter A. |
| Evins, | Hutchins, | Rothwell, | Young, Casey. |
| Finley, | James, | Scales, | |
| Fisher, | Jorgensen, | Smith, Hezekiah B. | |

So the motion was agreed to.

The following pairs were announced from the Clerk's desk:

Mr. GIBSON with Mr. CRAPO, on all questions for Wednesday and Thursday of this week; but not to break a quorum.

Mr. JAMES with Mr. BRAGG, on joint resolution pertaining to the electoral count, Mr. BRAGG reserving the right to vote when necessary to make a quorum.

Mr. BAYNE with Mr. WHITTHORNE, on this vote.

Mr. FERNANDO WOOD with Mr. DICK, for this day.

Mr. BRIGHT with Mr. FISHER.

Mr. HAWLEY with Mr. WILLIS, on this vote.

Mr. YOUNG, of Tennessee, with Mr. HOUK.

Mr. HUTCHINS with Mr. WALTER A. WOOD.

Mr. HUBBELL with Mr. TAYLOR of Tennessee.

Mr. WARD with Mr. EVINS.

Mr. FINLEY with Mr. MITCHELL, on this vote. Mr. FINLEY would have voted in the affirmative and Mr. MITCHELL in the negative.

The vote was then announced as above recorded.

Mr. BICKNELL. I now demand the previous question.

Mr. CONGER. Pending that, I move that there be a call of the House.

The SPEAKER. The last vote developed the presence of a quorum.

Mr. CONGER. The House may order a call of the House notwithstanding. There are gentlemen who are not here attending to their duties. [Laughter.] I do not say that in a political sense. [Laughter.] Gentlemen on both sides of the House are absent against the rules.

The SPEAKER. The Chair will cause the Clerk to read an extract from the Digest.

The Clerk read as follows:

By the Constitution of the United States, a smaller number than a quorum of each House "may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide."

In the absence of a quorum fifteen members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent members; but where less than that number are present a motion for a call cannot be entertained.

A call of the House shall not be in order after the previous question is seconded unless it shall appear, upon an actual count by the Speaker, that a quorum is not present.

The SPEAKER. The Clerk will read clause 2 of Rule XV.

The Clerk read as follows:

In the absence of a quorum fifteen members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent members, and in all calls of the House the names of the members shall be called by the Clerk and the absentees noted; the doors shall then be closed, and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested wherever they may be found by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured; and the House shall determine upon what condition they shall be discharged.

The SPEAKER. Does the gentleman from Michigan desire to be heard on the point?

Mr. CONGER. The proposition seems now to be so apparently sustained by the rules, I can hardly conceive it necessary to argue the

point with the Chair. I will simply say this, that where there is less than a quorum there is no alternative, and there are but two motions which can be made—one for a call of the House, and the other that the House adjourn.

The SPEAKER. The Chair recognizes the fact that there is a quorum present to conduct business under the rules of the House. On the roll-call just taken two hundred and fifty-four members have answered to their names.

Mr. CONGER. My object is to have the absentees, about forty members, present to attend to their duties, and I desire to state to the Chair that it is with some reluctance I make this motion. I know not that it has ever been made since I have been a member of this House or since the present occupant of the chair has had charge of its rules. But there is an important question presented here to be decided, and I have made this motion, as I have stated, with a great deal of reluctance, at a time when there is a good deal of eagerness on all sides of the House, which I share with other members present, to progress as fast as possible with this business. I shall hope, therefore, that the ruling of the Chair on this point will not prevent a quorum from being present and attending to their business.

The SPEAKER. There is a quorum present.

Mr. CONGER. But sometimes two-thirds are required.

The SPEAKER. The roll-call shows that two-thirds of the whole House are present.

Mr. CONGER. But the right of the House to compel the attendance of its members is absolute, if ordered, under any circumstances. Now, there are certain members of the House absent, as the roll-call has developed. It is certainly within the power of this House to compel the attendance of its absent members when the order is made. I only ask now that the order shall be made to compel the attendance of a quorum.

The SPEAKER. That is in pursuance of the terms of the Constitution and rules of the House when a quorum is not present; and the language of the rule of the House conforms to that provision of the Constitution.

Mr. CONGER. I ask for the reading of the rule bearing upon the question.

The SPEAKER. The Chair has no difficulty in deciding this question as presented.

Mr. ROBESON. Will the Chair permit me a moment?

The SPEAKER. Certainly.

Mr. ROBESON. I notice by the rule which has been read under the direction of the Chair, that *after* the previous question has been called then there shall be no call of the House unless the Speaker finds by actual count there is no quorum present. That provision in the rule, or by that negative provision, it is declared affirmatively that at any time *before* the previous question has been ordered there may be a call of the House. Is not that so?

The SPEAKER. Does the gentleman desire an answer?

Mr. ROBESON. And if at any time, before the previous question is ordered, it shall be demanded on motion of a member that there be a call of the House, then the very language of this rule, which provides that after the previous question has been ordered there shall be no call of the House except under the condition named, implies the right that there shall be a call under the conditions which I have suggested.

The SPEAKER. The gentleman from New Jersey will recognize the fact that after the previous question has been called legislation could not proceed in the absence of a quorum; and it was in order to provide for that condition of things that the rule to which he refers was adopted. He will also observe that it does not apply to the present case.

Mr. ROBESON. But the Speaker has caused to be read to the House a rule which provides that it shall not be in order to have a call of the House after the previous question has been ordered. I will read the rule:

A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present.

Now, then, at any other time than after the previous question has been ordered it is in order to have a call of the House, because that exclusion is only to apply after the previous question has been ordered. It is a well-settled principle of law governing all rules that the mention of one exception excludes all others.

The SPEAKER. The Chair desires to call the attention of the gentleman from New Jersey to the fact that the question here raised is not one that properly arises under the rule to which he has referred, and which the Chair thinks is not contained in the new rules adopted by the House.

Mr. ROBESON. What!

The SPEAKER. The Chair thinks that what the gentleman from New Jersey has read and referred to is not in the present rules relating to calls of the House.

Mr. ROBESON. I read from the rules of the House, clause 2 of Rule XVII, which says that—

A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon actual count by the Speaker that a quorum is not present.

The Clerk read this very clause not five minutes ago, under the direction of the Speaker.

The SPEAKER. The Chair thinks not under his direction.

Mr. CONGER. It was undoubtedly read.

The SPEAKER. The Chair will cause to be read the rule which, in his judgment, bears upon this subject.

The Clerk read as follows:

In the absence of a quorum, fifteen members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent members, and in all calls of the House the names of the members shall be called by the Clerk, and the absentees noted; the doors shall then be closed, and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured; and the House shall determine upon what condition they shall be discharged.

Mr. ROBESON. Now let him read clause 2 of Rule XVII, if you please.

The Clerk read as follows:

A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present.

The SPEAKER. There has been an actual count of the House by yea-and-nay vote, which is of record, showing that there is more than a quorum present.

Mr. ROBESON. But the Speaker will observe that that applies to where the previous question has been ordered. In this case the previous question has not yet been ordered.

The SPEAKER. The Chair thinks that that portion of the rule to which the gentleman has referred does not apply to the present condition of the question. The Chair desires to have read the motions which are determined by the rules of the House as always being in order.

The Clerk read as follows:

When a question is under debate, no motion shall be received but to fix the day to which the House shall adjourn, to adjourn, to take a recess, to lay on the table, for the previous question, (which motions shall be decided without debate,) to postpone to a day certain, to refer or amend, or to postpone indefinitely, which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question.

The SPEAKER. It will be observed that a motion looking to sending for members is not mentioned in the rule giving the priority of motions as being in order with a quorum present in advance of the previous question.

Mr. CONGER. Then there never could be a call of the House.

The SPEAKER. There could be under the Constitution in the absence of a majority, which is recognized as a quorum, and under the rules of this House, which the Chair thinks conform thereto. The Chair does not think that a call of the House is in order in the present condition of the business under the rules, it having been shown a moment ago that there were two hundred and fifty-four members present, which is not only more than a quorum, but more than two-thirds of the whole House; so that in every condition of legislation there is in this House at present, by its record, a sufficient number of members to meet every requirement of the Constitution in the way of voting.

Mr. CONGER. I appeal from the decision of the Chair.

Mr. STEPHENS. I desire to make an inquiry.

The SPEAKER. The Chair will hear the gentleman.

Mr. STEPHENS. I wish to inquire if the Chair holds that there never can be a call of the House when it is known that there is a quorum present?

The SPEAKER. The Chair did not so state.

Mr. STEPHENS. I wish to know the effect of the Speaker's ruling. I understood him to hold that there cannot be a call of the House when it is known there is a quorum present. I understood him to hold that there can be a call only as in the instances cited in the Constitution and rules referred to by him. If so, I wish to say I think the ruling a great error. The Constitution and the rules give the power to less than a quorum under certain circumstances to order a call. This in no way lessens the great right and power of a majority of this House under general parliamentary law to order a call at any time before the previous question is ordered.

The SPEAKER. Our Constitution is in fact silent as to compelling the attendance of absentees except to produce a quorum. And such power comes to us only from general parliamentary law as an inherent right in all legislative bodies; and there is no rule of the House which provides for a call of the House at any other time than as stated by the Chair.

The constitutional clause providing for a call of the House is a provision which looks to the want of a quorum. The rules under that provision of the Constitution are rules which look to the calling together of a quorum of the House that business may be done.

Pending the demand for the previous question two hundred and fifty-four members have appeared of record.

Mr. CONGER. That has been stated.

The SPEAKER. The Chair is answering the gentleman from Georgia. There were, besides, many pairs announced, and the pairs are recognized under the new rules. Mr. Cushing, in considering the law of quorum, says:

It being a general rule, where authority is conferred upon several persons, to be exercised with others, all the persons authorized must be present in order to exercise it, and that authority delegated to the discretion of an individual cannot be delegated by him to another; it would be a consequence of these principles, if they were strictly applied to the proceedings of legislative assemblies, the members of

which have but a merely delegated authority themselves, and constitute a representative body, that the members must all necessarily be present, and concur, in order to the doing of any valid official act. But this would be extremely inconvenient, in general, and in the greater number of our legislative assemblies, which are bodies of considerable size, would render their proceedings wholly impracticable. Hence it has been found indispensable, in the constitution of legislative assemblies, to make them an exception, in both these respects, to the general principles above stated. (Page 94, paragraph 246.)

And in paragraph 263, page 101, he adds:

The right of the members of every legislative assembly to have the presence and attendance of other members in order to a due organization of the assembly has already been partly treated of in the preceding section in connection with the number necessary to constitute a quorum. Very nearly akin to this right is that of the assembly itself, after it is constituted, to have the attendance of all its members for the transaction of business. Where the former right is conferred and measures are provided by law for its enforcement, those measures will, of course, depend upon the particular law by which they are created, and will be made adequate to the end in view, according to the circumstances and condition of each assembly, but will probably bear more or less analogy to the means resorted to by the assembly itself, after its constitution, to enforce the attendance of its members.

Under the head of "compelling the attendance of absent members," Mr. Cushing says:

Every legislative assembly, when duly constituted, has power to compel the attendance of its members; but until so constituted it has no such power, as it has itself no legal existence, and the right of the members who are present for the purpose of organization to compel the attendance of other members depends wholly, as has been seen, upon the constitution or law to which each assembly is subject. (Paragraph 264, page 101.)

And also as follows:

In the House of Representatives, on the contrary, a call of the House is of almost daily occurence; it is incidental to all other business, and takes place without the passing of any previous order for the purpose, or the giving of any notice thereof beforehand. The manner in which it is there practiced is made the subject of a special rule. (Last clause of paragraph 266, page 102.)

And in concluding the discussion of this topic, Mr. Cushing says:

When the attendance of absent members is compellable by virtue of a rule of the assembly, it is usual to provide that the proceedings for this purpose may take place when a number of the members less than the number necessary for an ordinary quorum is present, and that number, though they can do nothing else, may, of course, do whatever is necessary to compel the attendance of absent members. Thus, in the House of Representatives of Congress, fifteen members including the Speaker, if there is one, constitutes a quorum for this purpose. (Paragraph 268, page 103.)

Mr. BLOUNT. I move to lay on the table the appeal from the decision of the Chair.

The question having been put, and a *viva voce* vote taken,

The SPEAKER said: The Chair is unable to decide.

Mr. CONGER. I call for a division.

The SPEAKER. The Chair would suggest to the gentleman from Michigan to call for tellers.

Mr. CONGER. I would prefer to ask for a division first, if the Chair will permit me.

The question being taken, there were ayes 115, noes none.

Mr. CONGER. No quorum.

The SPEAKER. A quorum not having voted, the Chair will appoint tellers.

Mr. COX and Mr. STEVENSON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 140, nays 5, not voting 147; as follows:

YEAS—140.

| | | | |
|---|---|---|---|
| Acklen, | Davidson, | King, | Samford, |
| Aiken, | Davis, Joseph J. | Kitchin, | Sawyer, |
| Armfield, | Davis, Lowndes H. | Klotz, | Scales, |
| Atherton, | De La Matyr, | Knott, | Scoville, |
| Atkins, | Deuster, | Ladd, | Shelley, |
| Bachman, | Dibrell, | Le Fevre, | Sherwin, |
| Beale, | Dickey, | Lounsbery, | Simonton, |
| Beltzhoover, | Dunn, | Manning, | Singleton, J. W. |
| Berry, | Elam, | Martin, Benj. F. | Singleton, O. R. |
| Bicknell, | Ellis, | Martin, Edward L. | Slemons, |
| Blackburn, | Ewing, | McKenzie, | Smith, William E. |
| Bland, | Finley, | McLane, | Sparks, |
| Bliss, | Forney, | McMahon, | Speer, |
| Blount, | Frost, | McMillin, | Steele, |
| Bouck, | Geddes, | Mills, | Stevenson, |
| Bragg, | Gibson, | Money, | Talbott, |
| Buckner, | Goode, | Morrison, | Thompson, P. B. |
| Cabell, | Gunter, | Morse, | Tillman, |
| Caldwell, | Hammond, N. J. | Muller, | Townshend, R. W. |
| Carlisle, | Harris, John T. | Myers, | Tucker, |
| Chalmers, | Hatch, | New, | Turner, Oscar |
| Clardy, | Henkle, | Nicholls, | Turner, Thomas |
| Clark, Alvah A. | Henry, | O'Connor, | Upson, |
| Clark, John B. | Herbert, | O'Reilly, | Vance, |
| Clements, | Herndon, | Persons, | Waddill, |
| Clymer, | Hill, | Phelps, | Warner, |
| Cobb, | Hooker, | Philips, | Wellborn, |
| Coffroth, | Hostetler, | Phister, | Wells, |
| Colerick, | House, | Poehler, | Whiteaker, |
| Converse, | Hunton, | Reagan, | Williams, Thomas |
| Cook, | Hurd, | Richardson, J. S. | Willis, |
| Covert, | Hutchins, | Richmond, | Wilson, |
| Cox, | Johnston, | Robertson, | Wise, |
| Cravens, | Kenna, | Ross, | Wright, |
| Culberson, | Kimmel, | Ryon, John W. | Young, Casey. |

NAYS—5.

| | | | |
|---|---|---|---|
| Gillette, | Murch, | Springer, | Weaver. |
| Lowe. | | | |

NOT VOTING—147.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Dick, | Ketcham, | Rothwell, |
| Aldrich, William | Dunnell, | Killinger, | Russell, Daniel L. |
| Anderson, | Dwight, | Lapham, | Russell, W. A. |
| Bailey, | Einstein, | Lindsey, | Ryan, Thomas |
| Baker, | Errett, | Loring, | Sapp, |
| Ballou, | Evins, | Marsh, | Shallenberger, |
| Barber, | Felton, | Martin, Joseph J. | Smith, A. Herr |
| Barlow, | Ferdon, | Mason, | Smith, Hezekiah B. |
| Bayne, | Field, | McCoid, | Starin, |
| Belford, | Fisher, | McCook, | Stephens, |
| Bingham, | Ford, | McGowan, | Stone, |
| Bisbee, | Forsythe, | McKinley, | Taylor, Ezra B. |
| Blake, | Fort, | Miles, | Taylor, Robert L. |
| Bowman, | Frye, | Miller, | Thomas, |
| Boyd, | Godshalk, | Mitchell, | Thompson, W. G. |
| Brewer, | Hall, | Monroe, | Townsend, Amos |
| Briggs, | Hammond, John | Morton, | Tyler, |
| Brigham, | Harmer, | Muldrow, | Updegraff, J. T. |
| Bright, | Harris, Benj. W. | Neal, | Updegraff, Thomas |
| Browne, | Haskell, | Newberry, | Urner, |
| Burrows, | Hawk, | Norcross, | Valentine, |
| Butterworth, | Hawley, | O'Brien, | Van Aernam, |
| Calkins, | Hayes, | O'Neill, | Van Voorhis, |
| Camp, | Hazelton, | Orth, | Voorhis, |
| Cannon, | Heilman, | Osmer, | Wait, |
| Carpenter, | Henderson, | Overton, | Ward, |
| Caswell, | Hiscock, | Pacheco, | Washburn, |
| Chittenden, | Horr, | Page, | White, |
| Claflin, | Houk, | Pound, | Whitthorne, |
| Conger, | Hubbell, | Prescott, | Wilber, |
| Cowgill, | Humphrey, | Price, | Williams, C. G. |
| Crapo, | James, | Ray, | Willits, |
| Crowley, | Jones, | Reed, | Wood, Fernando |
| Daggett, | Jorgensen, | Rice, | Wood, Walter A. |
| Davis, George R. | Joyce, | Richardson, D. P. | Yocum, |
| Davis, Horace | Keifer, | Robeson, | Young, Thomas L. |
| Deering, | Kelley, | Robinson, | |

After the second roll-call,

Mr. HUTCHINS said: I am paired with my colleague from New York, Mr. WALTER A. WOOD, reserving the right to vote to make a quorum. I now exercise that right and vote "ay."

Mr. BICKNELL. I move to dispense with the reading of the names.

Mr. CONGER, Mr. BELFORD, and others objected.

The Clerk proceeded to read the names.

Mr. SPRINGER. I did not hear my name read. I voted in the negative.

Mr. CONGER. Is there a proposition to have more votes admitted?

The SPEAKER. There is not. The gentleman from Illinois stated he voted and claimed the right to be recorded.

Mr. SPRINGER. Does the gentleman from Michigan dispute my word?

Mr. CONGER. Out doors I might. [Laughter.]

Mr. SPRINGER. The gentleman will find me out doors whenever he desires that privilege. Does the gentleman want my address? [Laughter.]

The vote of Mr. SPRINGER was recorded in the negative.

The following additional pair was announced:

Mr. MILLER with Mr. MYERS.

The SPEAKER. On the motion to lay on the table the appeal of the gentleman from Michigan [Mr. CONGER] from the decision of the Chair there are ayes 140, noes 5.

Mr. CONGER. No quorum.

The SPEAKER. The Chair desires, as this question came up somewhat unexpectedly, to ask of the House the privilege of quoting from Cushing's and Jefferson's Manuals the law of legislative bodies relating to a quorum.

Mr. CONGER. Does the Chair propose to reargue the question?

The SPEAKER. The Chair only proposes to cite the views of recognized parliamentary writers upon the question. The Chair does not want to review or reargue his decision. He wants to quote some parliamentary law in support of it.

Mr. CONGER. The Chair has already decided the question.

The SPEAKER. The Chair adheres to his decision that in the priority of motions under the rules and practice of the House a call of the House does not come in before the previous question, a quorum being present by record.

Mr. CONGER. I might want to make a further argument upon the subject.

The SPEAKER. The Chair will be glad to listen to anything the gentleman has to say on the subject either in private or in public. [Laughter.] Does the gentleman raise the point that there is no quorum voting?

Mr. CONGER. I had thought of doing so and will do so.

The SPEAKER. The Chair supposed that the gentleman had done so; it would be natural for him to do so. [Laughter.] The Chair rules that no quorum has voted.

Mr. VAN VOORHIS (at two o'clock and fifteen minutes p. m.) moved that the House adjourn.

Many MEMBERS on the republican side. Oh, no.

The motion to adjourn was not agreed to, no quorum voting.

Mr. TOWNSHEND, of Illinois. No quorum having voted on the last vote, I move that there be a call of the House.

The SPEAKER. The Chair entertains a motion for a call of the House at this time, a quorum not having voted.

A call of the House was ordered.

The Clerk proceeded to call the roll, when the following members failed to answer to their names:

| | | | |
|---|---|---|---|
| Barlow, | Ford, | James, | Stevens, |
| Bright, | Gibson, | Killinger, | Townsend, Amos |
| Camp, | Godshalk, | Loring, | Ward, |
| Chittenden, | Harris, Benj. W. | Miles, | White, |
| Crapo, | Haskell, | O'Brien, | Whitthorne, |
| Dick, | Hawley, | Rothwell, | Wood, Fernando |
| Ellis, | Heilman, | Russell, W. A. | Wood, Walter A. |
| Evins, | Houk, | Scales, | |
| Fisher, | Hubbell, | Smith, H. B. | |

The SPEAKER. The call of the roll develops the presence of two hundred and fifty-eight members. A quorum has answered.

Mr. BICKNELL. I move that further proceedings under the call be dispensed with.

The SPEAKER. Is there objection?

Mr. CONGER. I object.

The SPEAKER. The Chair, then, will submit the motion to the House.

The question was taken upon dispensing with further proceedings under the call; and upon a division there were—ayes 96, noes 85.

Before the result of the vote was announced,

Mr. CONGER called for tellers.

Tellers were ordered; and Mr. UPDEGRAFF, of Iowa, and Mr. BICKNELL were appointed.

The House again divided; and the tellers reported that there were ayes 111, noes 48.

So further proceedings under the call were dispensed with.

Mr. BICKNELL. I now renew the demand for the previous question.

Mr. CONGER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. CONGER. The House was dividing upon the motion to lay on the table the appeal from the decision of the Chair, and on that motion no quorum voted. My point of order is that that question has not yet been decided.

The SPEAKER. The vote will recur upon that question.

Mr. CONGER. I wish the Chair would state the question to the House.

The SPEAKER. The question is upon laying on the table the appeal of the gentleman from Michigan [Mr. CONGER] from the decision of the Chair. Upon the vote a quorum did not appear. Thereupon a call of the House was ordered, and subsequently further proceedings under the call were dispensed with. The question recurs upon laying on the table the appeal from the decision of the Chair.

Mr. BICKNELL. On that question I call for the yeas and nays.

Mr. CONGER. The yeas and nays were ordered on that question.

The SPEAKER. The yeas and nays will be taken.

The question was taken; and there were—yeas 137, nays 5, not voting 150; as follows:

YEAS—137.

| | | | |
|---|---|---|---|
| Acklen, | Davidson, | Klotz, | Scoville, |
| Aiken, | Davis, Joseph J. | Knott, | Shelley, |
| Armfield, | Davis, Lowndes H. | Ladd, | Simonton, |
| Atherton, | De La Matyr, | Le Fevre, | Singleton, J. W. |
| Atkins, | Deuster, | Lounsbery, | Singleton, O. R. |
| Bachman, | Dibrell, | Manning, | Slemons, |
| Beale, | Dickey, | Martin, Benj. F. | Smith, William E. |
| Beltzhoover, | Dunn, | Martin, Edward L. | Sparks, |
| Berry, | Elam, | McKenzie, | Speer, |
| Bicknell, | Ellis, | McLane, | Steele, |
| Blackburn, | Ewing, | McMahon, | Stevenson, |
| Bland, | Finley, | McMillin, | Talbott, |
| Bliss, | Forney, | Mills, | Taylor, R. L. |
| Blount, | Geddes, | Money, | Thompson, P. B. |
| Bouck, | Goode, | Morrison, | Tillman, |
| Bragg, | Gunter, | Morse, | Townshend, R. W. |
| Buckner, | Hammond, N. J. | Muller, | Tucker, |
| Cabell, | Harris, John T. | Myers, | Turner, Oscar |
| Caldwell, | Hatch, | New, | Turner, Thomas |
| Carlisle, | Henkle, | Nicholls, | Upson, |
| Chalmers, | Henry, | O'Connor, | Vance, |
| Clardy, | Herbert, | Persons, | Waddill, |
| Clark, Alvah A. | Herndon, | Phelps, | Warner, |
| Clark, John B. | Hill, | Philips, | Wellborn, |
| Clements, | Hooker, | Phister, | Wells, |
| Clymer, | Hostetler, | Poehler, | Whiteaker, |
| Cobb, | House, | Reagan, | Williams, Thomas |
| Coffroth, | Hunton, | Richardson, J. S. | Willis, |
| Colerick, | Hurd, | Richmond, | Wilson, |
| Converse, | Johnston, | Robertson, | Wise, |
| Cook, | Jones, | Ross, | Wright, |
| Covert, | Kenna, | Ryon, John W. | Young, Casey. |
| Cox, | Kimmel, | Samford, | |
| Cravens, | King, | Sawyer, | |
| Culberson, | Kitchin, | Scales, | |

NAYS—5.

| | | | |
|---|---|---|---|
| Gillette, | Murch, | Springer, | Weaver. |
| Lowe, | | | |

NOT VOTING—150.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Bingham, | Burrows, | Cowgill, |
| Aldrich, William | Bisbee, | Butterworth, | Crapo, |
| Anderson, | Blake, | Calkins, | Crowley, |
| Bailey, | Bowman, | Camp, | Daggett, |
| Baker, | Boyd, | Cannon, | Davis, George R. |
| Ballou, | Brewer, | Carpenter, | Davis, Horace |
| Barber, | Briggs, | Caswell, | Deering, |
| Barlow, | Brigham, | Chittenden, | Dick, |
| Bayne, | Bright, | Claflin, | Dunnell, |
| Belford, | Browne, | Conger, | Dwight, |
| Einstein, | Hubbell, | Norcross, | Stephens, |
| Errett, | Humphrey, | O'Brien, | Stone, |
| Evins, | Hutchins, | O'Neill, | Taylor, Ezra B. |
| Felton, | James, | O'Reilly, | Thomas, |
| Ferdon, | Jorgensen, | Orth, | Thompson, W. G. |
| Field, | Joyce, | Osmer, | Townsend, Amos |
| Fisher, | Keifer, | Overton, | Tyler, |
| Ford, | Kelley, | Pacheco, | Updegraff, J. T. |
| Forsythe, | Ketcham, | Page, | Updegraff, Thomas |
| Fort, | Killinger, | Pound, | Urner, |
| Frost, | Lapham, | Prescott, | Valentine, |
| Frye, | Lindsey, | Price, | Van Aernam, |
| Gibson, | Loring, | Ray, | Van Voorhis, |
| Godshalk, | Marsh, | Reed, | Voorhis, |
| Hall, | Martin, Joseph J. | Rice, | Wait, |
| Hammond, John | Mason, | Richardson, D. P. | Ward, |
| Harmer, | McCoid, | Robeson, | Washburn, |
| Harris, Benj. W. | McCook, | Robinson, | White, |
| Haskell, | McGowan, | Rothwell, | Whitthorne, |
| Hawk, | McKinley, | Russell, Daniel L. | Wilber, |
| Hawley, | Miles, | Russell, W. A. | Williams, C. G. |
| Hayes, | Miller, | Ryan, Thomas | Willits, |
| Hazelton, | Mitchell, | Sapp, | Wood, Fernando |
| Heilman, | Monroe, | Shallenberger, | Wood, Walter A. |
| Henderson, | Morton, | Sherwin, | Yocum, |
| Hiscock, | Muldrow, | Smith, A. Herr | Young, Thomas L. |
| Horr, | Neal, | Smith, Hezekiah B. | |
| Houk, | Newberry, | Starin, | |

When the second call of the roll was concluded,

Mr. FROST said: Mr. Speaker, I ask leave to have my vote recorded. I was within the bar of the House when my name was called, but the Clerk spoke so rapidly that I did not have time to answer before the next name was called.

The SPEAKER. The Chair under the rule has no power to entertain the gentleman's request.

Mr. FROST. I ask unanimous consent that my vote may be recorded. My failure to vote was not my fault.

Several members objected.

The SPEAKER. The Chair is forbidden by the rule to entertain the request.

Mr. FROST. May I not ask unanimous consent?

Mr. CONGER. The remarks of the gentleman in regard to himself would apply to several gentlemen who forgot to vote.

The SPEAKER. The Chair does not entertain the request.

The Clerk having concluded the reading of the names,

The SPEAKER said: On the motion to lay on the table the appeal from the decision of the Chair the yeas are 137, the nays 5.

Mr. CONGER. No quorum has voted.

The SPEAKER. The point is made that no quorum has voted.

Mr. BICKNELL. I move a call of the House.

The question being taken, a call was ordered.

The Clerk proceeded to call the roll, when the following-named members failed to answer:

| | | | |
|---|---|---|---|
| Baker, | Fisher, | Joyce, | Smith, Hezekiah B. |
| Barlow, | Ford, | Ketcham, | Stephens, |
| Bingham, | Gibson, | Killinger, | Wait, |
| Bright, | Harris, Benj. W. | Miles, | Ward, |
| Butterworth, | Hawley, | Morse, | White, |
| Clark, Alvah A. | Hazelton, | Neal, | Whitthorne, |
| Crapo, | Henkle, | O'Brien, | Wood, Fernando |
| Dick, | Hooker, | O'Neill, | Wood, Walter A. |
| Errett, | Houk, | Page, | |
| Evins, | Hubbell, | Pound, | |
| Ewing, | James, | Rothwell, | |

When the second call of the roll was concluded,

Mr. HOOKER said: I ask to be recorded as present. I was here at the beginning of the call but did not answer when my name was called.

The SPEAKER. The Chair cannot entertain the request. On the call of the roll two hundred and forty-nine members have answered to their names. A quorum is present.

Mr. REAGAN. I hope we shall not march up the hill and march down again all day. We had better now bring in absent members, if we mean to do anything, or we had better quit this proceeding. There is no use in running this round perpetually.

Mr. SPRINGER. I move that further proceedings under the call be dispensed with.

The question being taken on the motion of Mr. SPRINGER, there were—ayes 80, noes 76.

Mr. CONGER. I call for tellers.

Tellers were ordered; and Mr. EINSTEIN and Mr. SPRINGER were appointed.

Mr. WARNER. I presume that after the count by tellers the yeas and nays will be called, therefore we may as well have the yeas and nays at once.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 138, nays 91, not voting 63; as follows:

YEAS—138.

| | | | |
|---|---|---|---|
| Acklen, | Bland, | Carlisle, | Converse, |
| Aiken, | Bliss, | Chalmers, | Cook, |
| Armfield, | Blount, | Clardy, | Covert, |
| Atherton, | Bouck, | Clark, John B. | Cox, |
| Bachman, | Bragg, | Clements, | Cravens, |
| Beale, | Buckner, | Clymer, | Culberson, |
| Berry, | Cabell, | Cobb, | Davidson, |
| Bicknell, | Caldwell, | Coffroth, | Davis, Joseph J. |
| Blackburn, | Calkins, | Colerick, | Davis, Lowndes H. |

| | | | |
|---|---|---|---|
| De La Matyr, | Hunton, | New, | Speer, |
| Deuster, | Hurd, | Nicholls, | Springer, |
| Dibrell, | Johnston, | O'Connor, | Steele, |
| Dickey, | Jones, | O'Reilly, | Stevenson, |
| Dunn, | Kenna, | Persons, | Talbott, |
| Elam, | Kimmel, | Phelps, | Taylor, Robert L. |
| Ellis, | King, | Philips, | Thompson, P. B. |
| Ewing, | Kitchin, | Phister, | Tillman, |
| Finley, | Klotz, | Poehler, | Townshend, R. W. |
| Forney, | Knott, | Richardson, J. S. | Tucker, |
| Frost, | Ladd, | Richmond, | Turner, Oscar |
| Frye, | Le Fevre, | Robertson, | Turner, Thomas |
| Geddes, | Lounsbery, | Ross, | Upson, |
| Goode, | Lowe, | Rothwell, | Waddill, |
| Gunter, | Manning, | Russell, Daniel L. | Warner, |
| Hammond, N. J. | Martin, Benj. F. | Ryon, John W. | Wellborn, |
| Harris, John T. | Martin, Edward L. | Samford, | Wells, |
| Hatch, | McKenzie, | Sawyer, | Whiteaker, |
| Henderson, | McLane, | Scales, | Williams, Thomas |
| Henkle, | McMahon, | Scoville, | Willis, |
| Henry, | McMillin, | Shelley, | Wilson, |
| Herbert, | Mills, | Simonton, | Wise, |
| Herndon, | Money, | Singleton, O. R. | Wright, |
| Hill, | Morrison, | Slemons, | Young, Casey. |
| Hooker, | Morse, | Smith, William E. | |
| Hostetler, | Muller, | Sparks, | |
| House, | | | |

NAYS—91.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Crowley, | Lapham, | Russell, Wm. A. |
| Anderson, | Daggett, | Lindsey, | Ryan, Thomas |
| Bailey, | Davis, George R. | Loring, | Sapp, |
| Baker, | Davis, Horace | Marsh, | Shallenberger, |
| Ballou, | Dunnell, | Martin, Joseph J. | Sherwin, |
| Bayne, | Dwight, | Mason, | Singleton, J. W. |
| Belford, | Einstein, | McCoid, | Smith, A. Herr |
| Beltzhoover, | Errett, | McCook, | Taylor, Ezra B. |
| Bingham, | Ferdon, | McGowan, | Thomas, |
| Blake, | Fort, | McKinley, | Thompson, W. G. |
| Bowman, | Gillette, | Monroe, | Townsend, Amos |
| Boyd, | Godshalk, | Neal, | Tyler, |
| Briggs, | Hall, | Norcross, | Updegraff, J. T. |
| Brigham, | Harmer, | O'Neill, | Valentine, |
| Browne, | Haskell, | Orth, | Vance, |
| Burrows, | Hawk, | Osmer, | Voorhis, |
| Cannon, | Hayes, | Overton, | Washburn, |
| Carpenter, | Heilman, | Pacheco, | Weaver, |
| Caswell, | Horr, | Pound, | Wilber, |
| Chittenden, | Humphrey, | Price, | Williams, C. G. |
| Clark, Alvah A. | Jorgensen, | Reagan, | Yocum, |
| Conger, | Keifer, | Richardson, D. P. | Young, Thomas L. |
| Cowgill, | Kelley, | Robinson, | |

NOT VOTING—63.

| | | | |
|---|---|---|---|
| Aldrich, William | Field, | Killinger, | Smith, Hezekiah B. |
| Atkins, | Fisher, | Miles, | Starin, |
| Barber, | Ford, | Miller, | Stephens, |
| Barlow, | Forsythe, | Mitchell, | Stone, |
| Bisbee, | Gibson, | Morton, | Updegraff, Thomas |
| Brewer, | Hammond, John | Muldrow, | Urner, |
| Bright, | Harris, Benj. W. | Murch, | Van Aernam, |
| Butterworth, | Hawley, | Myers, | Van Voorhis, |
| Camp, | Hazelton, | Newberry, | Wait, |
| Claflin, | Hiscock, | O'Brien, | Ward, |
| Crapo, | Houk, | Page, | White, |
| Deering, | Hubbell, | Prescott, | Whitthorne, |
| Dick, | Hutchins, | Ray, | Willits, |
| Dunn, | James, | Reed, | Wood, Fernando |
| Evins, | Joyce, | Rice, | Wood, Walter A. |
| Felton, | Ketcham, | Robeson, | |

So all further proceedings under the call were dispensed with.

The SPEAKER. The question recurs on laying upon the table the appeal taken by the gentleman from Michigan from the decision of the Chair.

Mr. CONGER. I demand the yeas and nays, if necessary so to do. But let me inquire whether when the yeas and nays have once been ordered it is proper to proceed in any other way than by the yeas and nays?

The SPEAKER. The yeas and nays once having been ordered they run through.

Mr. CONGER. I supposed they would run through till the question was disposed of.

The SPEAKER. The Clerk will therefore call the roll.

The question was taken; and there were—yeas 138, nays 6, not voting 148; as follows:

YEAS—138.

| | | | |
|---|---|---|---|
| Acklen, | Clark, John B. | Finley, | King, |
| Aiken, | Clements, | Forney, | Kitchin, |
| Armfield, | Clymer, | Frost, | Klotz, |
| Atherton, | Cobb, | Geddes, | Knott, |
| Atkins, | Coffroth, | Goode, | Ladd, |
| Bachman, | Colerick, | Gunter, | Le Fevre, |
| Beale, | Converse, | Hammond, N. J. | Lounsbery, |
| Beltzhoover, | Cook, | Harris, John T. | Manning, |
| Berry, | Covert, | Hatch, | Martin, Benj. F. |
| Bicknell, | Cox, | Henkle, | Martin, Edward L. |
| Blackburn, | Cravens, | Henry, | McKenzie, |
| Bland, | Culberson, | Herbert, | McLane, |
| Bliss, | Davidson, | Herndon, | McMahon, |
| Blount, | Davis, Joseph J. | Hill, | McMillin, |
| Bouck, | Davis, Lowndes H. | Hostetler, | Mills, |
| Bragg, | De La Matyr, | House, | Money, |
| Buckner, | Deuster, | Hunton, | Morrison, |
| Cabell, | Dibrell, | Hurd, | Morse, |
| Caldwell, | Dickey, | Hutchins, | Muller, |
| Carlisle, | Dunn, | Johnston, | Myers, |
| Chalmers, | Elam, | Jones, | New, |
| Clardy, | Ellis, | Kenna, | Nicholls, |
| Clark, Alvah A. | Ewing, | Kimmel, | O'Connor, |
| Persons, | Samford, | Steele, | Waddill, |
| Phelps, | Sawyer, | Stevenson, | Warner, |
| Philips, | Scales, | Talbott, | Wellborn, |
| Phister, | Scoville, | Taylor, Robert L. | Wells, |
| Poehler, | Shelley, | Thompson, P. B. | Whiteaker, |
| Reagan, | Simonton, | Tillman, | Williams, Thomas |
| Richardson, J. S. | Singleton, J. W. | Townshend, R. W. | Willis, |
| Richmond, | Singleton, O. R. | Tucker, | Wilson, |
| Robertson, | Slemons, | Turner, Oscar | Wright, |
| Ross, | Smith, William E. | Turner, Thomas | Young, Casey. |
| Rothwell, | Sparks, | Upson, | |
| Ryon, John W. | Speer, | Vance, | |

NAYS—6.

| | | | |
|---|---|---|---|
| Frye, | Lowe, | Springer, | Weaver. |
| Gillette, | Murch, | | |

NOT VOTING—148.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Dick, | Ketcham, | Robinson, |
| Aldrich, William | Dunnell, | Killinger, | Russell, Daniel L. |
| Anderson, | Dwight, | Lapham, | Russell, W. A. |
| Bailey, | Einstein, | Lindsey, | Ryan, Thomas |
| Baker, | Errett, | Loring, | Sapp, |
| Ballou, | Evins, | Marsh, | Shallenberger, |
| Barber, | Felton, | Martin, Joseph J. | Sherwin, |
| Barlow, | Ferdon, | Mason, | Smith, A. Herr |
| Bayne, | Field, | McCoid, | Smith, Hezekiah B. |
| Belford, | Fisher, | McCook, | Starin, |
| Bingham, | Ford, | McGowan, | Stephens, |
| Bisbee, | Forsythe, | McKinley, | Stone, |
| Blake, | Fort, | Miles, | Taylor, Ezra B. |
| Bowman, | Gibson, | Miller, | Thomas, |
| Boyd, | Godshalk, | Mitchell, | Thompson, W. G. |
| Brewer, | Hall, | Monroe, | Townsend, Amos |
| Briggs, | Hammond, John | Morton, | Tyler, |
| Brigham, | Harmer, | Muldrow, | Updegraff, J. T. |
| Bright, | Harris, Benj. W. | Neal, | Updegraff, Thomas |
| Browne, | Haskell, | Newberry, | Urner, |
| Burrows, | Hawk, | Norcross, | Valentine, |
| Butterworth, | Hawley, | O'Brien, | Van Aernam, |
| Calkins, | Hayes, | O'Neill, | Van Voorhis, |
| Camp, | Hazelton, | O'Reilly, | Voorhis, |
| Cannon, | Heilman, | Orth, | Wait, |
| Carpenter, | Henderson, | Osmer, | Ward, |
| Caswell, | Hiscock, | Overton, | Washburn, |
| Chittenden, | Hooker, | Pacheco, | White, |
| Claflin, | Horr, | Page, | Whitthorne, |
| Conger, | Houk, | Pound, | Wilber, |
| Cowgill, | Hubbell, | Prescott, | Williams, C. G. |
| Crapo, | Humphrey, | Price, | Willits, |
| Crowley, | James, | Ray, | Wise, |
| Daggett, | Jorgensen, | Reed, | Wood, Fernando |
| Davis, George R. | Joyce, | Rice, | Wood, Walter A. |
| Davis, Horace | Keifer, | Richardson, D. P. | Yocum, |
| Deering, | Kelley, | Robeson, | Young, Thomas L. |

The question was undisposed of, as no quorum had voted.

During the roll-call the following pair was announced from the Clerk's desk:

Mr. HOOKER with Mr. LORING.

Mr. CONGER. No quorum has voted.

Mr. CARLISLE. I move that there be a call of the House.

The motion was agreed to.

Mr. CONGER. I move that the House do now adjourn.

The House divided; and there were ayes 103, noes 102.

Mr. BLISS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 127, nays 129, not voting 36; as follows:

YEAS—127.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Davis, Horace | Lindsey, | Robinson, |
| Aldrich, William | De La Matyr, | Lowe, | Russell, Daniel L. |
| Anderson, | Deering, | Marsh, | Russell, W. A. |
| Bailey, | Dunnell, | Martin, Joseph J. | Ryan, Thomas |
| Baker, | Dwight, | Mason, | Sapp, |
| Ballou, | Einstein, | McCoid, | Shallenberger, |
| Barber, | Errett, | McCook, | Sherwin, |
| Bayne, | Felton, | McGowan, | Singleton, J. W. |
| Belford, | Ferdon, | McKinley, | Smith, A. Herr |
| Bingham, | Field, | Miller, | Speer, |
| Bisbee, | Forsythe, | Mitchell, | Starin, |
| Blake, | Fort, | Monroe, | Stephens, |
| Bowman, | Frye, | Morton, | Stone, |
| Boyd, | Godshalk, | Murch, | Taylor, Ezra B. |
| Brewer, | Hall, | Myers, | Thomas, |
| Briggs, | Hammond, John | Neal, | Thompson, W. G. |
| Brigham, | Harmer, | Newberry, | Townsend, Amos |
| Browne, | Haskell, | Norcross, | Tyler, |
| Burrows, | Hawk, | O'Neill, | Updegraff, J. T. |
| Butterworth, | Hayes, | Orth, | Updegraff, Thomas |
| Calkins, | Hazelton, | Osmer, | Urner, |
| Camp, | Heilman, | Overton, | Van Aernam, |
| Cannon, | Henderson, | Pacheco, | Van Voorhis, |
| Carpenter, | Hiscock, | Page, | Voorhis, |
| Caswell, | Horr, | Pound, | Wait, |
| Chittenden, | Humphrey, | Prescott, | Washburn, |
| Claflin, | Jones, | Price, | Weaver, |
| Conger, | Jorgensen, | Ray, | Wilber, |
| Cowgill, | Keifer, | Reed, | Williams, C. G. |
| Crowley, | Kelley, | Rice, | Yocum, |
| Daggett, | Ketcham, | Richardson, D. P. | Young, Thomas L. |
| Davis, George R. | Lapham, | Robeson, | |

NAYS—129.

| | | | |
|---|---|---|---|
| Acklen, | Beale, | Bliss, | Caldwell, |
| Aiken, | Beltzhoover, | Blount, | Carlisle, |
| Armfield, | Berry, | Bouck, | Chalmers, |
| Atherton, | Bicknell, | Bragg, | Clardy, |
| Atkins, | Blackburn, | Buckner, | Clark, Alvah A. |
| Bachman, | Bland, | Cabell, | Clark, John B. |

| | | | |
|---|---|---|---|
| Clements, | Harris, John T. | Mills, | Smith, William E. |
| Clymer, | Hatch, | Money, | Sparks, |
| Cobb, | Henkle, | Morrison, | Springer, |
| Coffroth, | Henry, | Muldrow, | Steele, |
| Colerick, | Herbert, | Muller, | Stevenson, |
| Converse, | Herndon, | New, | Talbott, |
| Cook, | Hill, | Nicholls, | Thompson, P. B. |
| Covert, | Hostetler, | O'Conner, | Tillman, |
| Cox, | House, | Persons, | Townshend, R. W. |
| Cravens, | Hunton, | Phelps, | Tucker, |
| Culberson, | Hurd, | Philips, | Turner, Oscar |
| Davidson, | Johnston, | Phister, | Turner, Thomas |
| Davis, Joseph J. | Kimmel, | Poehler, | Upson, |
| Davis, Lowndes H. | King, | Reagan, | Vance, |
| Deuster, | Kitchin, | Richardson, J. S. | Waddill, |
| Dibrell, | Klotz, | Richmond, | Warner, |
| Dickey, | Knott, | Robertson, | Wellborn, |
| Elam, | Ladd, | Ross, | Wells, |
| Ellis, | Le Fevre, | Rothwell, | Whiteaker, |
| Ewing, | Lounsbery, | Ryon, John W. | Williams, Thomas |
| Finley, | Manning, | Samford, | Willis, |
| Forney, | Martin, Benj. F. | Sawyer, | Wilson, |
| Frost, | Martin, Edward L. | Scoville, | Wright, |
| Geddes, | McKenzie, | Shelley, | Young, Casey. |
| Goode, | McLane, | Simonton, | |
| Gunter, | McMahon, | Singleton, O. R. | |
| Hammond, N. J. | McMillin, | Slemons, | |

NOT VOTING—36.

| | | | |
|---|---|---|---|
| Barlow, | Gillette, | Kenna, | Taylor, Robert L. |
| Bright, | Harris, Benj. W. | Killinger, | Valentine, |
| Crapo, | Hawley, | Loring, | Ward, |
| Dick, | Hooker, | Miles, | White, |
| Dunn, | Houk, | Morse, | Whitthorne, |
| Evins, | Hubbell, | O'Brien, | Willits, |
| Fisher, | Hutchins, | O'Reilly, | Wise, |
| Ford, | James, | Scales, | Wood, Fernando, |
| Gibson, | Joyce, | Smith, Hezekiah B. | Wood, Walter A. |

So the House refused to adjourn.

The following additional pair was announced from the Clerk's desk:

Mr. SCALES with Mr. MILES—Mr. SCALES taking the place of Mr. MULDROW, heretofore paired with Mr. MILES.

The result of the vote was then announced as above recorded.

The SPEAKER. The Clerk will now proceed to call the roll of members in obedience to the prior order of the House for a call of the House.

Mr. STEPHENS. Mr. Speaker, I rise to a privileged question.

The SPEAKER. The gentleman will state it.

Mr. STEPHENS. I ask the House to excuse me from the session to-night.

There was no objection.

Mr. HENDERSON. I ask the same privilege for Mr. JOYCE, who is absent from the House on account of sickness.

There was no objection.

The SPEAKER. The Clerk will now proceed to call the roll.

The roll was called and the following members failed to answer to their names:

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Ford, | McCook, | Ward, |
| Barlow, | Gibson | Miles, | White, |
| Bayne, | Harris, Benj. W. | Neal, | Whitthorne, |
| Blackburn, | Hawley, | O'Brien, | Willits, |
| Bright | Hooker, | O'Reilly, | Wise, |
| Chittenden, | Houk, | Scales, | Wood, Fernando |
| Crapo, | Hubbell, | Smith, Hezekiah B. | Wood, Walter A. |
| Dick | Joyce, | Steele, | Wright, |
| Evins, | Killinger, | Stephens, | Young, Casey. |
| Fisher, | Martin, Benj. F. | Townsend, Amos | |

The following additional pairs were announced:

Mr. STEELE with Mr. MCCOOK, for the balance of this day.

Mr. WRIGHT with Mr. PRICE, on all questions until to-morrow, the 27th, at twelve o'clock.

Mr. MARTIN, of West Virginia, with Mr. NEAL, of Ohio, on all questions until Thursday morning at twelve o'clock.

Mr. MCKENZIE with Mr. SAPP, for the balance of this day.

Mr. BLACKBURN with Mr. CANNON of Illinois, Mr. BLACKBURN reserving the right to vote to make a quorum.

The SPEAKER. The roll-call discloses the fact that two hundred and fifty-two members have answered to their names—more than a quorum.

Mr. THOMPSON, of Kentucky. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and ten minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BENNETT: The petitions of 84 citizens of Grand Forks County, of 164 citizens of Pembina County, and of 19 citizens of Traill County, Dakota Territory, for the organization of a Territory out of that portion of Dakota lying north of the forty-sixth degree of north latitude, and the admission of the remainder of said Territory into the Union as a State—to the Committee on the Territories.

By Mr. BINGHAM: The petition of officers of the late war, that politics be ignored in the consideration of the bill for the relief of General Fitz-John Porter—to the Committee on Military Affairs.

By Mr. BLISS: The petition of James A. Van Brunt, Simpson Clapp & Co., and others, for an appropriation for the survey of New York Bay between Sandy Hook and Coney Island Point, with the view of improving the channel and entrance into the bay and harbor of New York—to the Committee on Commerce.

By Mr. CARLISLE: The petition of citizens of Kentucky, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of citizens of Kentucky, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of citizens of Kentucky, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of citizens of Kentucky, for legislation upon the subject of interstate commerce—to the Committee on Commerce.

By Mr. COFFROTH: The petition of Jeremiah Wright and 20 others, citizens of Bedford County, Pennsylvania, that a pension be granted George W. Knipple—to the Committee on Invalid Pensions.

By Mr. GEORGE R. DAVIS: The petition of John Lussem, Nicholas Hand, and 28 others, engaged in the manufacture of cigars at Chicago, for the repeal of the tax on cigars—to the Committee on Ways and Means.

By Mr. DEERING: The petition of citizens of Mitchell County, Iowa, for legislation to prevent the spread of pleuro-pneumonia—to the Committee on Agriculture.

By Mr. DUNNELL: The petition of J. L. Scovill and 50 others, citizens of Minnesota, for a law allowing bounty to soldiers discharged for disease—to the Committee on Military Affairs.

By Mr. FRYE: The petition of Benjamin C. Webster and 50 others, soldiers of Kingfield, Maine, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

By Mr. HOSTETLER: The petition of 28 ex-soldiers of Terre Haute, Indiana, against the passage of Senate bill No. 496—to the same committee.

By Mr. JONES: The petition of citizens of Robertson County, Texas, for the establishment of a national railroad commission—to the Committee on Commerce.

By Mr. MASON: The petition of C. C. Morton and others, citizens of Oswego, New York, for the appointment of commissioners to ascertain and report a basis for a reciprocity treaty between the United States and the British provinces—to the Committee on Foreign Affairs.

By Mr. MONROE: The petition of D. P. Hart and 9 others, druggists of Akron, Ohio, for the repeal of schedule "A" of the internal-revenue law—to the Committee on Ways and Means.

By Mr. MORRISON: The petition of Greelin & Steele and others, citizens of Illinois, for the reduction of the tax on cigars—to the same committee.

By Mr. NEAL: The petition of Lawson Drury and 120 others, citizens of Lawrence County, Ohio, for the passage of the interstate-commerce bill—to the Committee on Commerce.

Also, the petition of E. F. Gillen and 120 others, citizens of Lawrence County, Ohio, that the Agricultural Bureau be made a Cabinet office—to the Committee on Agriculture.

Also, the petition of Isaac Booth and 120 others, citizens of Lawrence County, Ohio, for a law to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of Isaac T. Gillen and 120 others, citizens of Lawrence County, Ohio, for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. TALBOTT: The petition of V. W. Baseman and others, of Maryland, for the passage of a law to make the Commissioner of Agriculture a Cabinet officer—to the Committee on Agriculture.

Also, the petition of the same parties, for an amendment to the patent laws—to the Committee on Patents.

Also, the petition of the same parties, for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. P. B. THOMPSON: Papers relating to the claim of —— Smith, Somerset, Kentucky—to the Committee on Commerce.

By Mr. TYLER: The petition of L. W. Biswell and other soldiers, of Vermont, for the passage of a law to allow all soldiers of the war of 1861 who were discharged for disease the same bounty as those discharged on account of wounds—to the Committee on Military Affairs.

By Mr. VANCE: The petition of D. Lester and others, for a post-route from Yellow Creek to Fairfax, North Carolina—to the Committee on the Post-Office and Post-Roads.

Also, the petition of William M. Rhea and others, for a post-route from Fine's Creek to Noland's Mills, North Carolina—to the same committee.

By Mr. VOORHIS: The petition of the census enumerators of Bergen County, New Jersey, for additional compensation—to the Committee on the Census.

By Mr. WARNER: The petition of William G. Hickman and 12 others, citizens of Nelsonville, Ohio, for the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of Benjamin M. Meal and 11 others, citizens of Ohio, late soldiers and officers of the United States Army, for the passage of the Senate bill for the relief of General Fitz-John Porter—to the Committee on Military Affairs.

Also, the petition of C. B. Jeffers and 31 others, citizens of Ohio, for the regulation of interstate commerce—to the Committee on Commerce.

Also, the petition of A. P. Jeffers and 32 others, citizens of Ohio, to

make the Commissioner of Agriculture a Cabinet officer—to the Committee on Agriculture.

Also, the petition of Nathan Cole and others, citizens of Ohio, for an income-tax law—to the Committee on Ways and Means.

Also, the petition of Nathan Cole and 35 others, citizens of Ohio, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of Nathan Cole and others, citizens of Ohio, for the passage of a law to prevent the spread of pleuro-pneumonia—to the Committee on Agriculture.

By Mr. WASHBURN: The petition of John S. Prince and others, citizens of Saint Paul, Minnesota, for the repeal of existing laws taxing capital and deposits of banks and bankers—to the Committee on Ways and Means.

By Mr. WEAVER: The petition of G. B. Hunt and 25 others, citizens of Randolph County, Missouri, against refunding any portion of the public debt—to the same committee.

Also, the petition of J. E. Thomas and others, citizens of Sheboygan Falls, Wisconsin, against refunding the public debt and for paying the same—to the same committee.

By Mr. WHITEAKER: Memorial of the Legislature of Oregon, for a military wagon-road from Scottsburgh to Camp Stewart—to the Committee on Military Affairs.

Also, memorial of the Legislature of Oregon, for an appropriation for the improvement of a military road from Scottsburgh, via Camp Stewart, to Fort Klamath—to the same committee.

Also, memorial of the Legislature of Oregon, that the Malheur Indian reservation be restored to the public domain—to the Committee on Indian Affairs.

Also, memorial of the Legislature of Oregon, for an appropriation for the improvement of the mouth of the Columbia River—to the Committee on Commerce.

Also, memorial of the Legislature of Oregon, for the building of a harbor of refuge at Port Orford, Oregon—to the same committee.

Also, memorial of the Legislature of Oregon, asking for an appropriation of $10,000 for the improvement of Alsea River—to the same committee.

Also, memorial of the Legislature of Oregon, asking for an appropriation of $20,000 for the improvement of Yaquina Bay—to the same committee.

Also, memorial of the Legislature of Oregon, asking for an appropriation of $500,000 for the completion of the canal and locks at Cascade Falls of the Columbia River—to the same committee.

Also, memorial of the Legislature of Oregon, asking for an appropriation of $500,000 for the commencement of a canal and locks at the Dalles of the Columbia River above the Cascades—to the same committee.

Also, memorial of the Legislature of Oregon, for the extension of the time limited for the construction of the Oregon and California Railroad to the 31st day of December, 1890—to the Committee on Railways and Canals.

Also, memorial of the Legislature of Oregon, asking for a grant of lands for a military road from Nestucca Valley to Grand Ronde, Polk County, Oregon—to the Committee on the Public Lands.

CHANGE OF REFERENCE.

Change of reference was made of the petition of C. W. Carter from the Committee on Pensions to the Committee on Claims.

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## IN SENATE.

### THURSDAY, *January* 27, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. PENDLETON presented the petition of W. H. Castle and others, of Geneva, Ohio, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. VEST presented the petition of William Gentry and others, breeders, shippers, and buyers of live stock, and representatives of other commercial interests of the country west of the Mississippi, praying for legislation to prevent the spread of pleuro-pneumonia; which was referred to the Select Committee on the subject of pleuro-pneumonia and other contagious and infectious diseases of cattle and other domestic animals.

Mr. HAMLIN presented the petition of H. L. Wheeler, postmaster, and 22 others, citizens of Olamon, Maine, praying for the establishment of a post-route from Olamon to Burlington, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of J. W. Black and others, of Searsport, Maine, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

He also presented the petition of Melbourne C. Smith, assistant postmaster, and 20 others, citizens of Sprague's Mills, Aroostook County, Maine, praying that he be relieved from the responsibility for Government money destroyed by the burning of the post-office at that place, June 13, 1880; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. FERRY presented a joint resolution of the Legislature of Michigan, asking Congress to appropriate lands in aid of the construction of a railway from Saint Mary's Falls to the Marquette and Mackinaw Railroad; which was referred to the Committee on Railroads.

Mr. ROLLINS presented the memorial of Bela Sawyer and 34 others, citizens of Lyme, New Hampshire, surviving soldiers of the war for the Union, protesting against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. DAVIS, of Illinois, presented the petition of William Taussig and 156 others, citizens of Chicago, Illinois, praying for a reduction of the internal-revenue tax on cigars from $6 to $5 per thousand; which was referred to the Committee on Finance.

Mr. EATON presented the memorial of Walter W. Richardson and others, Union soldiers, of Plainfield, Ohio, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was referred to the Committee on Pensions.

Mr. KIRKWOOD. I present a number of petitions, 58 in all, from members of different posts of the Grand Army of the Republic in the States of Connecticut, Florida, Michigan, Maine, Massachusetts, Nebraska, New Hampshire, New Jersey, New York, Nevada, Ohio, Pennsylvania, Rhode Island, and Wisconsin, praying for the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, as amended by the Committee on Pensions.

I present also resolutions passed by posts of the Grand Army of the Republic in different States, the resolutions numbering in all 26, most of them from the States which I have already named, but others from California and Iowa, declaring their desire to have passed the same bill. As the bill has been reported to the Senate I move that the petitions and resolutions lie on the table.

The motion was agreed to.

Mr. WITHERS. I present a petition of the Union Army and Navy Veteran Corps, praying for the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and stating that they have, under a misapprehension of its provisions, heretofore protested against the passage of the bill. They now desire that the bill be passed. I move that the petition lie on the table.

The motion was agreed to.

Mr. VOORHEES presented the petition of W. R. McKeen and others, citizens of Terre Haute, Indiana, praying for an appropriation of $50,000 for the improvement of the Wabash River in that State; which was referred to the Committee on Commerce.

He also presented the memorial of William R. Hunter and 29 others, citizens of Terre Haute, Indiana, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was referred to the Committee on Pensions.

Mr. WALLACE presented the memorial of William H. Berkey and others, Union soldiers, of Somerset County, Pennsylvania, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was referred to the Committee on Pensions.

Mr. CONKLING. I present the memorial of a large number of citizens of New York of like import to that just presented. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. CONKLING. I present also four petitions signed by business men and manufacturers, and men of different professions, stated here, praying the early enactment of a national bankrupt law. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. GROVER presented a memorial of the Legislature of Oregon in favor of an appropriation of $500,000 to improve the Upper Columbia River; which was referred to the Committee on Commerce.

He also presented resolutions of the Legislature of Oregon in favor of an appropriation for the construction of a breakwater and harbor of refuge at Port Orford, Oregon; which were referred to the Committee on Commerce.

Mr. DAWES presented the petition of J. F. Dane, Grinnell & Co., and 41 other firms of Boston, Massachusetts, manufacturers and wholesale dealers in boots and shoes, praying for the early enactment of a national bankrupt law; which was referred to the Committee on the Judiciary.

TREATMENT OF INDIANS.

Mr. DAWES. Mr. President, I am intrusted with a petition of unusual character and entitled to more than ordinary attention by the Senate of the United States. It is signed by Hon. John Welsh, late minister of the United States to England, Bishop Simpson, Rev. Joseph Cook, Wendell Phillips, and more than 32,000 individual signatures from every State in the Union, men and women of character, of culture and of influence in the communities in which they reside, and also by large organizations of churches, of benevolent institutions, of societies of various kinds, representing in all more than fifty thousand of the citizens of the United States.

They pray the Congress, in brief but comprehensive terms, to observe the treaties which have heretofore been made by the United States with the Indian tribes, and in the future to do justice to the remainders of those peoples. They do not couch their petition in words of arraignment or complaint, but in those of expectation and of hope for the future.

This petition has been gathering in the voice of people of different parts of this country, the work largely of benevolent females. A committee of that organization have brought the petition here and have accompanied it with a letter addressed to the Senate and House of Representatives which more fully, as well as more fitly, will disclose the object and purpose of these petitioners; and with the leave of the Senate I will read it:

*To the Senate and House of Representatives in Congress assembled:*

The men and women of this nation herewith present their second petition to your honorable body for the faithful fulfillment of treaties and other guarantees given by our Government to the different tribes of Indians within our borders.

Your petitioners do not suggest any political policy to be pursued, leaving such matters to wise statesmanship. They come with but one thought, conviction, prayer. The thought recognizes the *moral obligation* of nations, as of individuals, to keep compacts. The conviction is, that recognized moral obligation should result in the *fulfillment* of such obligation. The prayer is for such fulfillment as being ever, we believe, the *highest political wisdom*, the truest national safety.

An objection has been made by some to treaty-keeping with Indians on the ground that the Indian tribes among us were never "nations," and that therefore so-called "treaties" with them were never *real* treaties. Your petitioners with deep feeling recall the fact that *our Government* has for a hundred years recognized these tribes as "nations" in its hundreds of compacts with them, calling the latter "treaties," and has by acts of Congress bound itself faithfully to observe all such made in the past, though deciding to make no new treaties with Indians. Your petitioners therefore pray for the sake of national honor, which demands honest dealing with all men, that the terms "nation" and "treaty" may be kept to the heart as they have hitherto been made and explained to the ear.

Again, it has been urged that the law of *eminent domain* nullifies these treaties and requires our Government to take legal jurisdiction of Indian lands, to divide the same in severalty, and to open the remainder for white settlement. Your petitioners are deeply impressed that for any Government to apply the law of eminent domain to the property of others than its own citizens is to necessitate, if there be resistance, a war of conquest, a measure wholly opposed to the fundamental principles of this Government, and that Indians with few exceptions are not citizens of the United States but are under their own legislative and executive authority as in the Indian Territory, and this by the terms of our sales of territory to them and of their titles to the same. Your petitioners therefore present their memorial to your honorable body, feeling that the plea for treaty-keeping is a protest against any enactment of Congress which would extend legal jurisdiction over territory not under the control of this Government and would do this, as for example the Oklahoma bill proposes, contrary to explicit treaty stipulations.

Finally, your petitioners would express the earnest conviction that the nation which has spent $500,000,000 on Indian wars growing out of the violation of treaties can best afford to make it to the interest of Indian tribes among us voluntarily to become citizens of the United States and not by the coercion of acts of our Congress.

Our petition of last year was from fifteen States; that of the present year represents every State of the Union and several of the Territories, and has many more than double the number of last year's signatures. The work of circulating the petition and accompanying pamphlets, has been done by few persons, and chiefly by Christian women already busy in benevolent work; yet the roll contains the names of people of all occupations and in all ranks of society; of great business firms and manufacturers; of distinguished men and officials; of judges, governors, and embassadors to foreign courts; of authors and editors; of the faculties and students of not a few of our most noted collegiate and theological institutions, and of literary and art associations. Besides all these, the roll includes the signatures of women's mission boards, Christian associations, and other benevolent societies; the names of pastors and bishops of the churches; also the records of the indorsement of a rising vote from various church meetings of different denominations; of meetings held specially to consider the Indian question; of ministers' unions in different towns and cities and of various other bodies. All these and many other evidences reveal the fact that the *moral sentiment* of those classes who largely make and control public opinion already requires governmental faithfulness to our Indian treaties. For this your petitioners most earnestly and respectfully pray.

Mrs. A. S. QUINTON,
*Secretary of Indian-treaty-keeping committee*, Philadelphia, January, 1881.
Mrs. MARINE J. CHASE, Philadelphia,
Miss MARY L. BONNEY, Philadelphia,
Mrs. GEORGE DANA BOARDMAN, Philadelphia,
Mrs. AMELIA S. QUINTON, Philadelphia,
Miss FRANCES LEA, Philadelphia,
Mrs. MARGARETTA S. SHEPPARD, Philadelphia.
Mrs. J. R. JONES, Philadelphia,
Mrs. EDWARD D. COPE, Philadelphia,
*Committee.*

The body of this petition is exceedingly brief and couched in proper terms, and I ask that it without reading may be published in the RECORD as if it had been read.

The VICE-PRESIDENT. The Chair hears no objection.

The petition was ordered to be printed in the RECORD, and referred to the Committee on Indian Affairs, as follows:

*To the Senate and House of Representatives in Congress assembled:*

We, the undersigned, men and women of these United States, resident in or near ——, do most respectfully, but most earnestly, pray the Houses of Congress to take all needful steps to prevent the encroachments of white settlers upon the Indian Territory, and upon *all* Indian reservations; also, to keep all treaties with the Indians until they are changed by the mutual and free consent of both parties, and to guard them in the enjoyment of *all* the rights which have been guaranteed them upon the faith of the nation.

## REPORTS OF COMMITTEES.

Mr. COKE, from the Committee on Commerce, to whom was referred the bill (H. R. No. 5532) establishing a life-saving station at Louisville, Kentucky, reported it without amendment.

Mr. HAMPTON, from the Committee on Military Affairs, reported a bill (S. No. 2111) for the construction of a counterpoise battery; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. HAMPTON submitted a report on the bill (S. No. 1599) for the relief of Dr. A. Sidney Tebbs, reported by him May 5, 1880; which was ordered to be printed.

Mr. CONKLING. The Committee on Commerce, to which was referred the bill (S. No. 2096) to authorize the construction and maintenance of a railway bridge across the Niagara River, direct me to report it back favorably with one amendment; and in making this report I beg to make also one remark.

This bridge is one authorized by the statutes of the State of New York and by the statutes of the Dominion of Canada. Across it is to run a railway, which citizens of the State of New York are engaged in constructing. Should they not have the sanction of Congress to go on with their work, it will defer them a year in their proceeding. I do not venture to ask that the bill be considered now for fear that some Senator may exercise his individual right of objecting; but I venture to hope that the Senate will allow me, perhaps to-morrow, at all events at an early day, to call up the bill, to which I think nobody upon knowing its contents will object.

Mr. JONES, of Florida, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1962) appropriating money for the purchase of a site and the erection of a suitable building for a post-office and other Government offices in the city of Minneapolis, State of Minnesota, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 6493) to provide for the construction of a public building at Jackson, in the State of Mississippi, reported it without amendment.

Mr. ALLISON. The Committee on Appropriations have instructed me to report back the bill (H. R. No. 7029) to provide for a deficiency in the appropriation for interest on the 3.65 loan of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes, without amendment. I ask that it may be placed upon the Calendar, as I shall call it up probably during the day.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. MORRILL. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the joint resolution (S. R. No. 142) relative to the erection of a monument at the Wyandot mission, Upper Sandusky, Ohio, to report it with amendments. I give notice that, if there is no objection, to-morrow morning I shall ask to have the resolution considered by the Senate.

Mr. VEST, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1874) to provide for the erection of a public building in the city of Quincy, in the State of Illinois, reported it without amendment.

Mr. DAVIS, of Illinois. I have not troubled the Senate very much this winter. It is very important that the bill just reported, having received the consideration of the committee, should pass the Senate, so as to go to the House. I therefore ask the indulgence of the Senate to take it up now.

The VICE-PRESIDENT. Is there objection?

Mr. EDMUNDS. I presume I shall be glad to vote for the bill to-morrow, but with two or three hundred hungry and starving widows with little private claims of three or four hundred dollars waiting on this Calendar to be reached, I must stand by them.

Mr. DAVIS, of Illinois. We cannot get it up to-morrow; that is the trouble.

Mr. EDMUNDS. We can get up the other bills, then.

The VICE-PRESIDENT. Objection is made, and the bill will be placed on the Calendar.

## REPORT ON COTTON-WORM.

Mr. WHYTE. I am instructed by the Committee on Printing to make a favorable report upon the concurrent resolution of the House of Representatives providing for the printing of 30,000 copies of the second revised edition of Bulletin No. 3 of the United States Entomological Commission, being a report on the cotton and boll worms, with means of counteracting their ravages, and to ask that immediate consideration may be given to the resolution.

The resolution was considered by unanimous consent, and concurred in, as follows:

*Resolved by the House of Representatives of the United States of America, (the Senate concurring.)* That there be printed at the Government Printing Office 30,000 copies of the second revised edition, with necessary illustrations, of Bulletin No. 3 of the United States Entomological Commission, being a report on the cotton and boll worms, with means of counteracting their ravages; 10,000 copies thereof for the use of the Senate, 18,180 for the use of the House, and 1,820 for the Interior Department.

## NATIONAL BOARD OF HEALTH REPORT.

Mr. WHYTE. I am also directed by the Committee on Printing to make a favorable report and recommendation of the joint resolution (H. R. No. 224) to print 6,000 copies of the report of the National Board of Health, and I ask also that that may be immediately considered.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs that there be printed and bound, under the direction of the National Board of Health, 6,000 copies of its annual report, with accompanying documents; and authorizes the board to expend from the appropriation heretofore made for its use not to exceed $1,500 for the preparation of illustrations for the report; 1,500 copies of the report to be for the

use of the Senate, 3,000 copies for the use of the House of Representatives, and 1,500 copies for the use of the National Board of Health.

Mr. EDMUNDS. I wish to ask the chairman of the committee how much it will cost to print these 6,000 copies?

Mr. WHYTE. It will cost $5,000.

Mr. EDMUNDS. And how many thousand copies have already been printed?

Mr. WHYTE. None.

Mr. EDMUNDS. This is the first print?

Mr. WHYTE. Yes, and it has been delayed because there was a mass of documents from various experts, which we have eliminated.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. DAWES (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2106) for the relief of Nathaniel McKay and the heirs of Donald McKay; which was read twice by its title, and referred to the Committee on Claims.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2107) to provide for the payment of a part of the interest on the sum of $250,000, under the treaty of 1856, to the Seminole Indians now in Florida; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. McDONALD (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2108) appropriating money to pay Theophilus Fisk Mills, sculptor, for the plaster cast and likeness of General Rawlins from the face of the deceased; which was read twice by its title, and referred to the Committee on the Library.

Mr. GARLAND (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2109) to establish a uniform system of bankruptcy; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VOORHEES asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2110) appropriating $75,000 for the improvement of the Wabash River; which was read twice by its title, and referred to the Committee on Commerce.

BALTIMORE AND OHIO RAILROAD COMPANY.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the commissioners of the District of Columbia be, and they are hereby, directed to transmit to the Senate a copy of the contract or terms of settlement with the Baltimore and Ohio Railroad Company mentioned in the letter of the commissioners to Hon. EPPA HUNTON, chairman of the House of Representatives Committee on the District of Columbia and dated March 25, 1880.

JAMES H. REEVE.

Mr. BECK. I desire, if there is no further morning business, to call up the resolution which I offered the other morning, on which I gave notice I should ask to be heard to-day.

The VICE-PRESIDENT. In pursuance of notice heretofore given, the Senator from Kentucky calls up——

Mr. INGALLS. I had desired to call up the resolution that I offered yesterday relative to the counting of the electoral votes, but if the Senator from Kentucky desires to speak on this resolution——

Mr. BECK. I do.

Mr. INGALLS. Of course I waive that——

Mr. BECK. Thanks.

Mr. INGALLS. Announcing that I shall take the earliest opportunity to ask for action on the electoral-count resolution.

Mr. VOORHEES. I want to appeal to the Senator from Kentucky to allow me to correct an error by which an officer of the late war who has suffered two amputations of the same leg is the victim of a mistake, and I know the Senator from Kentucky will justify me when I make the statement.

In the close of the Forty-fifth Congress the Senate passed a bill granting a small increase of pension from $20 to $24 a month to Captain Reeve, late a captain in one of the New York regiments. The bill went to the House but was not acted upon by the House in that Congress; but immediately upon the opening of the present Congress, at the extra session of 1879, the House passed a similar bill and sent it here. It has been the impression of the Senate Committee on Pensions, and my impression until yesterday, that that House bill had become a law. My attention having been called to it, the chairman of the Committee on Pensions and myself hunted the matter down carefully, and we are satisfied that the House bill sent here, similar exactly to the Senate bill which had been passed the Congress before, has not been acted upon. I ask, therefore, that the Senate will pass at this time the bill which I hold in my hand.

Mr. WITHERS. I will state in confirmation of what the Senator from Indiana has said that the records of the committee show that the case was called in committee; that the bill was reported favorably from the Committee on Pensions; and that in January, 1879, it passed the Senate.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2180) granting an increase of pension to James H. Reeve. It proposes to allow James H. Reeve, late captain and brevet major in the Third Regiment New York Volunteer Infantry, from June 26, 1865, a pension at the rate of $24 per month in lieu of the pension now paid him, deducting therefrom the amounts already paid.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CALENDAR OF PENSION BILLS.

Mr. WITHERS. By permission of the Senator from Kentucky, I desire to announce that to-morrow morning I shall ask the unanimous consent of the Senate to take up the pension bills unobjected to on the Calender and pass them. It is important at this period of the session that they should be disposed of.

FREE SHIPS.

Mr. BECK. I now ask for the reading of the resolution on which I desire to be heard.

The Chief Clerk read the following resolution, submitted by Mr. BECK January 25, 1881:

*Resolved*, That all provisions of law which prohibit our citizens from purchasing ships to engage in the foreign carrying trade or which prevent the registration of them as American ships when owned, commanded, and officered by citizens of the United States, ought to be repealed, and to that end Senate bill No. 741, or a bill containing the general provisions thereof, ought to pass.

Mr. BECK. Mr. President, my excuse for desiring to be heard at this time is that the sub-committee of the Committee on Finance, Senators KERNAN, MORRILL, and myself, after hearing distinguished representatives of the National Board of Trade, and others, including Mr. Roach on one side and Captain Codman on the other, and after a careful examination of the voluminous reports and arguments laid before us, were unable to agree as to the best mode of reviving or restoring our almost extinct carrying trade to and from other nations on the high seas. When our disagreement was reported the committee consented that I should present my views to the Senate and the country in this form; the others will doubtless do so at a suitable time, and we hope soon to lay before the Senate for its action a bill which will at least determine what we think most likely to accomplish the great objects we all have in view. The bill we have been considering reads as follows:

A bill amendatory of title 48 of the Revised Statutes of the United States, so as to authorize the purchase of foreign-built ships by citizens of the United States for use in the foreign carrying trade.

*Be it enacted, &c.*, That so many of the various provisions of title 48 of the Revised Statutes of the United States entitled "Regulation of commerce and navigation," embraced in chapters 1 to 9 of said title, and from section 4131 to section 4305, both inclusive, as either prohibit or restrict citizens of the United States from purchasing ships built in other countries, to be used in the foreign carrying trade of the United States, or which impose taxes, burdens, or restrictions on such ships when owned by American citizens which are not imposed on ships built in the United States, are hereby repealed; and it shall be lawful hereafter for all citizens of the United States to buy ships built, in whole or in part, in any foreign country, and have them registered as ships of the United States, and when so registered such ships so bought shall be entitled to all the rights and subjected only to the same regulations as are now provided by law for the government and management of ships built wholly within the United States and owned and controlled by citizens thereof.

I would have preferred that the bill before the Senate should have been first considered in the House of Representatives, as the full measure of relief can be more effectually given there under the power to originate money or revenue bills. We can, however, originate bills regulating commerce, and to that end modify existing navigation laws. The bill I had the honor to introduce, and now propose to advocate, purposely omitted all provisions relative to ship-stores, tonnage-dues, taxation, free material for construction or repairs, all of which the House might claim could only be acted upon in bills originating in that body. I hope they will make amendments to this bill embracing them when we send it there, as I trust we shall.

I am wholly unable to understand why American citizens should be prohibited from purchasing ships for the foreign trade where they can buy them cheapest, when all the other nations in the world have that privilege, and run their free, cheap ships to and from our ports, carrying our vast exports and imports to and from our markets, while our people are so handicapped by the high prices charged for American-built ships that they are distanced in the race, or unable to enter into the contest. I represent a people who raise fine horses, and their speed is often tested. We would consider a man a fool who should insist on making his horse carry one hundred and fifty pounds in a race when all his competitors of like age only carried one hundred and ten. Yet his folly would be no greater, and his chances of success no worse, than the maintenance of navigation laws which handicap the American ship-owner by refusing to allow him to enter the contest on the free-ocean highways of the world unless he pays 20 per cent. more for his ship than any of his competitors pay for theirs.

A ship is but a vehicle, a wagon, a car, or train, call it what you will, adapted to the highway over which it has to travel; the highway is free, and on it our ship-owners when they leave our coasts have to compete without any protection with the ship-owners of all other nations, and are entitled to an equal chance with them so far as legislation can give it. We cannot tax or impose burdens on our competitors, and every tax or restriction we impose upon our own ship-owners, or common carriers on the high seas, only enables the carriers of other nations not so burdened to do the work and make the profits which we would do and make if we had an equal chance. Protection cannot be extended to the foreign carrying trade; its operations are all beyond our jurisdiction. Protection to all home industries, including the coastwise traffic, is equal to all who engage in them; foreign interference there can be taxed or excluded; no advantage is given to one over another in the particular business. How

the policy of protection may affect the general public or the revenues of the Government in these cases is another question depending on variant conditions.

It is enough to show, in order to ask for cheap ships, that American ship-owners *cannot be protected* in their foreign business, and can only compete when they are allowed to own ships which cost them no more than those owned by their competitors. Even then it is properly claimed that they labor under disadvantages enough; that wages here are higher, that more and better food is demanded by our sailors than by those of other nations. That is all true, but we have had experience in that regard. Up to 1860 we built the ocean-going ships, then in use, as cheaply as other people; the relative wages paid to and the supplies required by our sailors were as much higher than those of other nations then as now, yet we had, in comparatively a few years, built up more tonnage than all the world besides, except England, and we had almost passed her. Why may we not do it again, and obtain, as we had then, 75 per cent. of the carrying trade to and from this country, instead of 17 per cent., as we have now, and get a fair share of the trade of other countries with each other. Well-fed and well-paid men do more work, and do it better, than ill-paid, ill-clad and half-starved men will or can. These conditions won in *ante bellum* days in ocean competition, and will do it again.

England did not hesitate to repeal her navigation laws in 1849. When she needed cheap ships she bought them from us, manned them with her own sailors, earned and pocketed the freights, and never supposed that she was either degraded or humiliated as a maritime power by repealing the navigation laws passed in Cromwell's time under altogether different conditions, and when different ideas as to the relations of nations to each other prevailed. There is no sentiment in business. All the nations are now arming with the Prussian Krupp gun and the Austrian Whitehead torpedo. What do they care where they are made? We sell our Springfield rifles and Colt's revolvers to all nations. Do these arms lose any of their efficiency because they are not manufactured by the nation whose soldiers and sailors use them? Much of the machinery in our great manufacturing establishments is imported from England and elsewhere. Is it less efficient for that cause? Are our manufacturers degraded by its use? Why should ships be the only machine, vehicle, or implement that American citizens are prohibited from buying abroad.

If objection is made that England would be our shipbuilder and would thus be strengthened and enriched at our expense, while our own shipbuilders would be driven out of employment, the answer is, that we are building almost none now, that our foreign commercial marine is dwindling year by year and is almost certain to continue to do so, that the monopoly of the shipbuilding for the coastwise and interior trade being 60 per cent. of the whole is all that that industry can properly ask or expect the country to give it, and that other and far more important interests must not be sacrificed to the dog-in-the-manger policy demanded by a few shipbuilders who do not build ships for the foreign trade. There is not a single iron sailing-vessel to-day bearing the American flag, while iron ships are commanding much higher rates of freight then the best wooden ships, and a very large proportion of the heavy tonnage of the world is yet carried in sailing vessels. There is not a single American iron steamship that crosses the Atlantic Ocean from the great port of New York, and there is not likely to be for years to come unless we repeal our navigation laws.

At a national convention held in Boston, October 6, 1880, Mr. W. T. Lincoln, president of the New England Ship Owners' Association, said, when speaking of the decadence of our foreign carrying trade:

The figures will show to what an alarming extent this has prevailed:

SHIPS AND BARKS BUILT IN THE UNITED STATES.

| | | | |
|---|---|---|---|
| In 1855 | 381 | In 1878 | 81 |
| In 1856 | 306 | In 1879 | 37 |

And this condition of things exists under the laws to protect the ship-building interests. While we built, in 1879, 43,000 tons of registered vessels, there were sold to foreigners 37,000 tons, abandoned 24,000 tons, and lost 87,000 tons—making a total of 148,000 tons. It should be here stated that the sales to foreigners have been chiefly ships that have nearly outlived their usefulness, and at low prices. In view of all these facts, can it be denied that we should not have suffered such a decline if we had been permitted by our laws to have purchased vessels upon the same terms as other nations, in the cheapest market? If it can, and truly be denied, then there is no reason why we should not continue our downward course until our flag is driven from the ocean. There is no escape from such a conclusion. Iron ships are superseding the wooden. In every important respect they have proved more desirable. They secure a higher classification for a longer term of years, they are maintained at less expense, carry more cargo upon equal tonnage, and obtain higher rates of freight, and even at the enhanced rates command the preference. In the port of Calcutta iron ships obtain one dollar per ton, and in San Francisco one dollar and a quarter per ton, more than the best wooden vessels. The reason for this may be found in the difference in the rates of insurance and in the less liability of damage to cargo.

It is a most remarkable fact that, despite the boasts that have been made that iron ships can be built at the same price in this country as upon the Clyde, *there is not a single iron sailing ship under our own flag.* While all other nations are privileged to buy in the cheapest market, we are excluded, and for the purpose, we are told, of protecting American industry. We seem to overlook the fact that the ocean is the great highway of commerce, that the antiquated navigation laws of other countries have been repealed, so that comparatively few obstructions now exist to a perfect freedom of commerce. The large increase of the shipping of other nations, the sharp competition that has existed for business, have for several years reduced the rates of freight to unprecedented low figures. Only by the practice of the strictest economy, and by freedom from disasters at sea, could the ship-owner make the receipts equal the expenses. Meanwhile our Government has not taken the first step in assisting our ship-owners to meet this change—I may say, this revolution in this branch of business—and consequently our flag is being driven from the ocean. Lines of ocean steamships are constantly being established between this country and Europe to meet the ever-increasing demands of the trade.

We did boast of one line of American steamships from Philadelphia to Liverpool, but even that exists only in name, as one-half of that line is now composed of steamers sailing under the flag of Great Britain. A most impressive fact with respect to our trade with Europe was published in the American Ship, of New York. It stated that the grain fleet dispatched from that port last year numbered 2,987 vessels, carrying 102,312,568 bushels of grain, of which 1,075 were steamers, carrying 42,426,535 bushels, the remaining 1,822 being sailing-vessels, carrying 59,892,033 bushels. *All of this tonnage includes not one* American steamer, and only 74 American sailing-vessels. It is estimated that over one hundred millions of dollars per annum are paid to foreign vessels for the transportation of our produce.

This is truly a deplorable condition for a great and prosperous nation, possessing a large line of sea-coast, and engaging in such an enormous trade with the nations of the world.

There are but two courses to pursue—one is to adopt the principles of a semi-civilized age and impose restrictions upon commerce, which will be sure to cause retaliatory measures by other nations; the other is to be in accord with the progress of the age, and remove the restrictions that already exist, a relic of former days.

These statements might be verified by official tables, but it is unnecessary; the facts are too well known to require elaborate proof. The Secretary of State has furnished us at this session much valuable information in regard to our foreign carrying trade. I refer specially to the report of Hon. Edward F. Noyes, our minister to France, who, by order of the State Department, devoted six months to an investigation of our commerce and carrying trade in the Mediterranean. After stating the extent of his investigations, and the desire of the people to have extended commercial relations with us, he adds:

But I experienced a sense of humiliation that the inhabitants of the East have so little to remind them of the existence and resources of the United States. The first time I saw the American flag on the Mediterranean was at Villa Franche, where our naval fleet was lying at anchor, as I started on my journey. Again, on one of the same war ships, the Enterprise, at Jaffa. For the third time, over the vessel purchased by Captain Gorringe, in which to transport the Egyptian obelisk from Alexandria to New York; and once more on our war frigate, the Swatara, at Gibraltar, on her way to China. In not another single instance, in port or on the sea, did I observe the Stars and Stripes, except at the masthead of the steamers on which I sailed. The flags of other nations, the English, French, Spanish, Italian, Austrian, Russian, and many others, were everywhere afloat, in the harbors and on the high sea, while the exceptional appearance of our own excited curiosity and comment among the Orientals, because it had been so rarely seen of late.

I was informed by our consul at Smyrna that formerly as many as seventy-five or eighty American vessels had been seen in that port at one time. Last year there were but three, all told.

During the year 1879 two hundred vessels bound for the United States, with a tonnage of 300,000 tons, touched at Gibraltar, of which less than forty, and these of small capacity, were American bottoms. Formerly from one hundred and fifty to two hundred American vessels visited this port every year.

These examples, which are not exceptional, serve to illustrate the falling off of our shipping in these waters.

Our consul at Naples, Mr. B. O. Duncan, refers to the report of Mr. Noyes, and, after showing the immense commerce of the countries bordering on the Mediterranean Sea, the larger portion of which is American, and the fleets engaged in transporting it, adds:

All these foreign vessels engaged in the carrying trade between the Mediterranean and the United States show that there is no want of business. But the trouble is our vessels are not able to compete with them for it, for the very simple reason that it costs an American ship-owner more to build or buy and run a vessel than it does a foreigner. For this reason it was that Mr. Phelps, of New York, had to run his fruit steamers last year under the English flag instead of under the American.

Until this disadvantage can be overcome in some way, it will be vain to hope for a return of our commercial prosperity, and again to see our flag floating, as formerly, in every commercial port. It is certainly a question worthy of careful consideration and of wise legislation. The most sure and simple way to restore this prosperity would no doubt be to allow our merchants to buy ships where they can get them on the best terms, like the Italians, Germans, and other foreigners are allowed to do.

AMERICAN VS. FOREIGN BUILT SHIPS.

The effort to protect our few ship-builders by not permitting our merchants to buy ships abroad has simply had the effect of preventing a return of our commercial prosperity without benefiting our ship-builders, for our few vessels built by them at a greater cost cannot compete in the carrying trade with vessels that cost less. While foreign steamers and sailing vessels are continually finding cargoes in Naples and other Italian ports for New York, our vessels are very frequently returning in ballast, after discharging their cargoes of petroleum or tobacco, because they cannot afford to accept the rates offered for carrying fruits, marble, sulphur, rags, &c. In my humble opinion, the only possible way to remedy this evil is to permit the purchase of foreign-built vessels, and to admit free of duty all material that enters into the construction or running of ships, steam or sail. I am well aware that this is quite contrary to all the ideas of our protectionists. But in this case I think it is manifest that the idea of protecting our ship-builders results in preventing the improvement of our commerce without benefiting them. The idea I have seen suggested of remedying the evil by levying a tonnage duty on foreign vessels entering our ports would be such a violation of the reciprocity clause in our treaties of commerce that it would most certainly be resented by levying a similar duty on our vessels; so nothing would be gained.

I confess that I was afraid to quote from this very intelligent consul, apprehending that he might be dismissed, as Hon. David A. Wells was some years ago from another bureau for daring to tell disagreeable truths. I therefore wrote to the State Department and was glad to learn that the distinguished and liberal-minded Secretary of State, instead of punishing him, had promoted him to consul to Smyrna, with $500 additional annual salary. The facts stated by these gentlemen need no comments to enforce them.

Although not directly in connection with the point I am now presenting, I cannot resist reading a very able article from the New York Times of January 12, 1881, which was handed to me yesterday, especially as it embodies the views of Mr. Webster, which sustain the general positions I am seeking to maintain in this argument. The article is as follows:

In view of the attempts that have been and are to be made at Washington to induce the National Government to revive American commerce by granting bounties to ship-owners, it is interesting to notice the comments made upon the growth of our merchant marine, fifty-seven years ago, by Hon. Daniel Webster. At

that time Mr. Clay had proposed what was known as the tariff of 1824—a distinctively protective measure, and Mr. Webster, who was then opposed to protection, as he continued to be in theory throughout his life, pointed out in his celebrated speech on the tariff the burden of expense that these enactments would lay upon the shipping interest. "If anything should strike us with astonishment," he said, "it is that the navigation of the United States should be able to sustain itself. Without any Government protection whatever, it goes abroad to challenge competition with the whole world, and in spite of all obstacles it has yet been able to maintain eight hundred thousand tons in the employment of foreign trade. How, sir, do ship-owners and navigators accomplish this? How is it that they are able to meet and in some measure to overcome universal competition? It is not, sir, by protection and bounties, but by unwearied exertion, by extreme economy, by unshaken perseverence, by that manly and resolute spirit which relies on itself to protect itself. These causes alone enable American ships still to keep their element and show the flag of their country in distant seas. But when we consider that the articles entering into the composition of a ship, with the exception of wood, are dearer here than in other countries, we cannot but be utterly surprised that the shipping interest has been able to sustain itself at all."

In making this statement Mr. Webster defined the exact state of the case. We were not at the time favorably situated to compete with European nations for the carrying trade of the world, and yet our superior shrewdness and tact gave us an ascendency; for, placing the average tonnage of vessels at that time at three hundred tons each, which would be a very liberal allowance, we had nearly three thousand vessels of all kinds engaged in foreign trade, and the American flag was to be seen in all of the sea-ports of the world. One advantage which we then had was found in the restrictive measures imposed by foreign nations on their merchant tonnage. Thus, an English vessel loading in the East Indies was compelled to take her cargo to Great Britain, from which place it must then be sent to the continental ports, and on account of this arrest of the voyage American ships were preferred by those shipping cargoes to Germany, Holland, and other European countries. But, as we have said, our chief superiority was in the admirable and economical manner in which our vessels were managed.

Mr. Webster was right in one respect. The imposition of the tariff, with its protective features, seriously interfered with this economy. In order to maintain their families, American officers and men were obliged to demand higher wages. But the severest blow given to the economical administration of shipping was in opening of the trade with California. For a short time our American merchants made large sums of money by the enormous freights they received, and from 1849 to 1854 they were willing to pay almost any price to competent captains and officers. At the end of that time the trade equalized itself by the number of vessels that came into it; but though large profits were no longer obtainable, the scale of wages established and the custom of fitting out the vessel with a plentiful supply of fresh meats, canned meats, &c., was still insisted on. So that instead of being the most economically managed, the American ships were the most extravagantly managed vessels afloat. And it is their misfortune that they labor to-day under the same disadvantage.

During the hearing before the sub-committee, Captain John Codman submitted a very able letter from Charles H. Marshall, of New York, addressed to himself, dated January 1, 1881, the closing paragraphs of which I will read:

The American ship-owner is, to sum it up concisely, in this position: He cannot build iron vessels in this country as cheaply as they can be built on the Clyde, the assertions of Mr. John Roach to the contrary notwithstanding. He cannot build or buy his vessels abroad because our stupid and antiquated navigation laws, like slavery and polygamy, relics of barbarism, forbid him to do so. If he should purchase vessels built abroad, he must sail them under the English flag, and own them by a subterfuge. Practically, then, he is in a position where he can neither build nor buy. Moreover, the condition of ownership in this country are much more onerous than those in England, and her enlightened policy in this regard is in strong contrast with ours. The American ship-owner is taxed by the general and local governments, while in England his competitor is free from such taxation. The consular system is a great burden on American shipping, which is made to bear actually more than the entire expense of conducting it. Under the English consular system the fees levied on vessels in foreign ports are small and unimportant, and any deficiency is borne by the national Treasury.

To give the American shipping interest a chance, and to enable it to recover a part of the carrying trade which it has lost, I would suggest, as measures which should be adopted, the following.

First. The repeal of the navigation laws so as to enable the American ship-owner to buy his vessels abroad, and obtain for them American registers.

Second. The repeal of the duties on all articles of every kind and nature whatever which are used in ship-building.

Third. Abolition of taxation on American vessels by either the general or local government.

Fourth. Permission for American vessels engaged in foreign trade to take their stores out of bond duty free.

Fifth. A revision of our consular system so as to bring the fees imposed on vessels in foreign ports on a parity with those of England.

Sixth. Changes and modifications in the laws relating to seamen, you have submitted to me six propositions, which are as follows:

"1. The admission to American register of all vessels of over three thousand tons, subject to the same laws regarding ownership that now prevail.

"2. The admission of all materials to be used in the construction and repairs of vessels of over three thousand tons duty free.

"3. The adoption of a new tonnage measurement, based on actual carrying capacity, and excluding the space occupied by engines and boilers, and accommodations for officers and crew.

"4. Exemption from taxation, local and national, on all vessels engaged in the foreign trade for more than eight months of the year.

"5. Permission for all American vessels in the foreign trade to take their stores and ship chandlery out of bond duty free.

"6. A general revision of our laws relating to seamen, and also those regulating the consular service, so that the charges which now weigh so heavily on American shipping at home and in foreign ports may be diminished and be made to accord, as far as possible, with those imposed under the English system."

I fully approve of the suggestions contained in them, which are in many respects identical with my own; and, as a beginning in the direction of restoring the American carrying trade, I believe they would be of invaluable service. By restricting the admission to American registers of all vessels of over three thousand tons, they practically protect the coasting trade, while giving opportunities for competition in the foreign trade.

The adoption of a new tonage measurement, based on actual carrying capacity, is a just and wise measure.

To your propositions, therefore, as a whole, I give my cordial assent, and I am confident that their adoption would open the way for a gradual and partial restoration of American shipping to the proud position which it once occupied. Any other remedies, such as subsidies or bounties, are, according to my mind, highly objectionable, and would prove generally inoperative.

They would tax the many for the benefit of the few, and those favored few would be the only ones who would derive the advantage. The great amount of American ship-owners would be compelled to compete, not only with their foreign rivals, but with those of their own countrymen who receive exceptional favors from the Government. It is plain, therefore, that American shipping, as a whole, would not be benefited by subsidies; but, on the contrary, be restricted to a still narrower compass.

Whether all these suggestions and recommendations are such as ought to be adopted or not, they are worthy of serious consideration and are in my opinion in the right direction.

As it is true that we now pay to foreign nations over $100,000,000 annually for the transportation of our freights, and at least $20,000,000 to carry our passengers and mails, the lion's share of which goes to England, and as this condition must exist for years to come under any system of taxation for subsidies that can be devised to induce the production of American-built ships for the foreign trade, it is not easy to see how England is so much interested in our buying ships from her, or how the *stale slang* of British gold being at work to carry free ship bills, can be used successfully to excite prejudice against them. England's share of what we now pay annually to foreign nations is not less than $75,000,000; that sum would purchase for us three hundred iron steamers at $250,000 each, or seven hundred and fifty iron sailing vessels at $100,000 each, every one of which would at once be placed in competition with England in all the ports of the world for the carrying trade of the nations, bringing their earnings here to be spent, instead of as now draining from us $120,000,000 a year, which never returns, but strengthens and enriches people who are our rivals in time of peace, and may at any time become our enemies in war. *This item our official statisticians take great care to conceal in reporting the balance of trade.*

Does any sane man believe that England desires to change the existing condition of things, and see us once more become her competitor on the high seas? Is it not obvious that the sum we would pay the ship-builders of England for the ships we may buy is a mere bagatelle compared with the immense power and profit she now acquires and holds by the utter prostration of our commercial marine, and our inability to compete with her either for our own or any other carrying trade? The life of an iron ship, steam or sail, is not less than twenty years; the single profit to the builder is insignificant compared to the many annual trips she makes during her life-time; and it must not be forgotten that if we owned ships on fair terms we could to-day compete for freights not only from one Mediterranean port to another, but we could compete from London to Liverpool, from Glasgow to Dublin, from any English port to any other, as she has thrown off all restrictions, coastwise included. It is not her interest for us to buy her ships to engage in the work she now monopolizes.

Worse for us than all else, our policy of maintaining absurd, obsolete navigation laws which we copied from England but which she abandoned years ago, has not only enabled her to quadruple her commercial marine in the last twenty years but we foolishly furnish her the principal means of support for her legions of trained sailors, the men upon whom she relies to humiliate if not to crush us in the event of war. *Where are ours?* Where are the trained sailors of whom we were so proud in the days of our maritime greatness? Who have we to defend the thousands of miles of coast on the Pacific, the Atlantic, and the Gulf, or our seaboard cities when war comes? No foreign foe will ever again invade our soil. If the late civil war was an unmitigated evil in every other regard, it at least developed the fact that we have when united military prowess such as the world never saw before, and that our men can be called from their plows and their workshops and be converted into soldiers on short notice, but England and the other maritime nations know equally well that sailors cannot be trained in a day, nor a year. They know that we have *none* now. Our future wars must be on the sea. And does any sensible man believe that England, for the sake of selling us cheap ships, desires to see us once more active competitors with her for the carrying trade of the world, and see American sailors once more enlisted and trained to resist her power and bid defiance to her fleets? Mere questions of individual profit are too insignificant to be seriously considered when national power, prosperity, and supremacy are involved as they are in this great problem.

I cannot but think that the statement of the proposition renders argument unnecessary. If there is truth or force in the maxim which all protectionists assume as the basis of their tariff and subsidy arguments that it is our duty in time of peace to prepare for war, and have all the necessary means at our command to carry it on successfully, surely in the present condition of the country in its relations to the other nations of the earth, American sailors above all other interests and classes should be protected, encouraged, and held in readiness for their country's service.

At the Boston convention Mr. Lincoln said:

Those who owned and sailed ships know that American seamen do not now exist. Our ships are now manned by foreigners, and the laws oppress the ship-owner.

And the first preamble to the resolution adopted by the convention reads:

Whereas it is a well-known fact that American seamen are fast becoming things of the past; and

Whereas we formerly pointed with pride not only to our fine American ships but to the fine body of American seamen who manned them.

I refer to these things only as proof of the statement that the American sailor's "*occupation's gone.*" All of them worth anything have taken service on the great foreign steamship lines, or on their fine iron sailing ships. The miserable old wooden sailing craft which

compose what we have left, are manned with the meanest and cheapest sailors of all nationalities, Chinese, Norwegians, negroes, and mongrels, so that it is not uncommon to find on a ship with ten hands three or four different languages spoken, the men not being able to understand each other.

Again, because I must confine my remarks to suggestions and avoid elaboration or extend them to an unreasonable length, the problem in the proper solution of which we are more interested than any other people is, how to reach the markets of the world with our products at the least cost. Our abominable protective tariff system not only adds 40 per cent. to the cost of our products, but prevents our people from engaging in producing manufactures to any great extent beyond what can be consumed at home. Why? Because the moment their products leave our shores they come into unprotected competition with free goods, manufactured from free materials, by cheap labor; so that agriculture is and must continue to be the pursuit followed by a large majority of our people, and the relative proportion must increase year by year.

Machinery is rapidly reducing the number of operatives and skilled laborers once required in our manufacturing establishments and workshops. Each new machine that performs the work of five men drives five men out of that business and forces them to make a living some other way, most probably on the free or cheap lands of the West. We have the best machinery in the world; it is to-day able to perform the work which twenty years ago hundreds of thousands, yes, millions of trained workmen, would have been needed to perform. Unlike the ship on the ocean, it does not pretend to compete with foreign machinery or foreign labor or capital, though able to do so; it is protected by law against all outside interference; its owners are content to monopolize the home market; congressional authority guards it through tariff taxation against foreign competition; its owners are content to surrender to other nations the trade of all the rest of the world for the privilege of extorting exorbitant prices for its products from fifty million people in the United States. It can now produce in six months all that this people can consume in twelve, and as it neither eats, drinks, nor needs fuel or clothes when idle, it can wait without loss or sacrifice till its products are consumed and then furnish a new supply. Its owners care nothing about the suffering and want of its servants while it is idle; they are, perhaps, Chinese or other foreign paupers. They are certainly the cheapest bone and muscle that can be procured from any country. No degradation is felt by the American machine-owner either in using foreign machinery or by driving out American by Chinese or other pauper labor when he can make money by it, notwithstanding the horror he professes to feel when we propose to allow our people to buy cheap ships to reach foreign markets with the products of our farms.

These monopolists do not want ships, they have no use for them, they will not sell their goods for the prices they are worth in the open markets of the world, and they cannot get more anywhere else except at home. They resist the importation of goods as an invasion of their monopoly. They would not care, indeed they would be glad, if there was not a ship on the seas; then their protection would be absolute. But, Mr. President, the products of the farmer *must* go abroad; the manufacturers and other non-producers of this country cannot consume half of them; and when there they must be sold for as low a price as any *foreign pauper* will sell like articles for in that market. Tariff protection does not reach farm products there. With no power to increase the home demand for our surplus which is diminishing relatively every day as non-consuming machinery is displacing human labor in the production of manufactures and the handling of freights; with railroad extension on the grandest scale, and immigration now reaching five hundred thousand a year, stimulating enormously the production of crops, and extending rapidly our already almost boundless agricultural area, some idea of the immensity of which may be formed from the fact that Texas alone contains over two hundred and seventy thousand square miles, while England, Scotland, and Ireland contain only 121,000, it becomes, as I said, the problem of the day how to reach foreign markets with our agricultural products and leave a living profit to the producer. Official statistics show that nine-tenths of our vast exports are purely agricultural products, not further advanced in the manufacture than the conversion of wheat into flour or hogs into pork. The New York Herald of January 15, 1881, says in this regard:

> With increase of population in the West and Northwest has come a remarkable growth in agriculture. To say nothing about other crops, the wheat production of the United States has increased since 1865 from one hundred and fifty million to nearly five hundred million bushels, and the production of Indian corn from seven hundred million to fifteen hundred million bushels, while from the ports of New York and Boston alone the shipments of cattle have risen from comparatively nothing a few years ago to $6,000,000 in 1879.

All men know that the whole cost of transportation is paid by the producer. If you and I, Mr. President, propose to buy a cargo of wheat or provisions to sell in the Liverpool market, we first learn what we can sell it for there, what it will cost to transport it from Kentucky, or wherever we buy it, to the seaboard and from, say, New York to Liverpool; we ascertain what will be the insurance, commissions, interest, and a reasonable profit, and we can only afford to pay the farmer for his product what remains of the Liverpool price after deducting all these things; he bears all the burden. The cheaper the transportation the more he gets; the heavier the cost, the less he realizes; he is above all other men most interested in cheap ships, low freights, and active competition. Whatever tends to stimulate competition and prevent combinations in the carrying trade on the land or the sea benefits the producers of the country; hence the struggle. I in common with many others am working to improve the great free water ways of the United States in order to hold in check railroad combinations.

The Eads jetties at the mouth of the Mississippi have been of incalculable value to the West. The continuance of the improvement of the navigation of that great river and its tributaries, on which every man has a right to place a barge or a boat to float his products to the point where he meets the ocean-going ships, would save millions to the people, and millions more would be saved if they could meet free, cheap ships there to haul their products to their ultimate markets. I could name five railroad magnates who can meet to-day and in five minutes make an agreement to increase freights a few cents a bushel on grain and a dollar or so a ton on other goods, and thus add $100,000,000 or more of taxation or burden on the people; and there is now no means to prevent it and no remedy for the wrong, so the great English, French, and German lines can by combination double ocean freights as they did on wheat in 1873, and thus take millions out of the pockets of the producers of the West. As I would do all possible by opening free water ways to render railroad combinations if not impossible at least more difficult, so I would give our people free ships, free stores, freedom from tonnage dues and consular fees, and freedom from every possible tax in order, as far as legislation can effect it, to render combinations of foreign ship-owners very difficult if not impossible.

Every reflecting man must see the uncertain, the very precarious tenure by which the present prosperity of the country is held. We are necessarily large exporters. Our exports are of a character that must go to market when ready; the fat hog cannot be kept; provisions, flour, indeed all agricultural staples, must be sold and consumed when prepared for market. We have no ships in which to transport them. We cannot build them, and are not allowed to buy them abroad. If England, France, and Germany, to whom we have surrendered our carrying trade, should go to war with each other, as they have often done and may do again at any time, although we may continue to maintain the most friendly relations with all of them during the strife, we would suffer more than all the belligerants. The destruction of the merchant ships of either by the cruisers of the others would take our products to the bottom of the ocean. Even the suspension of their traffic or the blockade of their ports would leave our exports to rot on the wharves or be consumed by warehouse charges. *National bankruptcy would soon follow;* yet the honest earnest efforts of those of us who seek to avoid and avert such calamities by allowing our own citizens to buy cheap ships in which to carry our own goods are characterized as being made in the interests of England, and as being designed to destroy the industries of the United States. When the Franco-Prussian war broke out Congress was in session and on the 15th of July, 1870, President Grant sent a message to both Houses advising them of the fact, and of the inadequacy of our ships to carry our freights and mails, saying:

> I submit to the consideration of Congress that the interests of the country will be advanced by the opportunity to our own citizens to purchase vessels of foreign construction for the carrying trade of the country.

And he urged upon Congress the propriety of considering these important questions. Congress adjourned in less than twenty-four hours after that message was received, doubtless as the best means of avoiding even a discussion of the subject. Then, as now, the protected monopolists determined to allow no interference with their privileges, no matter what happened. Even the power and influence of General Grant was not sufficient to secure for his recommendations a respectful consideration. It is a conceded fact that Germany purchases from England the ships which she runs in our trade. We allow the Germans all the rights and privileges in English-built ships which we allow American citizens in our home-built vessels, and yet prohibit our own people from buying ships on the same terms the Germans do. Section 4229 of the Revised Statutes of the United States reads thus:

> No other or higher rate of duties shall be imposed or collected on vessels of Prussia, or of her dominions, from whencesoever coming, nor on their cargoes, however composed, than are or may be payable on vessels of the United States, and their cargoes.

We have by treaty with Sweden and Norway granted the same rights to the people of those countries that the Germans have; while by treaties with Great Britain, France and other great commercial countries, we accord to them all the rights and privileges given to the most favored nations, so that we practically allow the world, except our own citizens, to enter into free competition, in free ships, for our carrying trade. Surely the Senate has a right to originate a bill to give American citizens the same rights that by treaty, without consulting the House of Representatives, it has given to all other nations; therefore I did not feel that any prerogative of the House was invaded or impaired by seeking to pass first in this body the bill I introduced to regulate our carrying trade, by the repeal of navigation laws which injure ourselves and give advantages to citizens of foreign countries.

I am unable to appreciate the wisdom of a policy which transfers the carrying trade of the United States from American to German

and other foreign ship-owners, by forcing the American to pay $400,000 for a ship which they can buy for $300,000; or, failing to do that, prohibit him from engaging in the transportation of freights or passengers to and from this country, or any other.

Mr. President, if you and I owned farms side by side, equal in every respect, and raised the same crops on each, and you were prohibited from owning reapers, threshers, or wagons, to cut, prepare, or haul your produce to market, while I had all of them, of the best quality, bought in the cheapest market, and used them to secure my crop without outlay of money, doing all that work for you besides, charging you ten or twenty per cent. for doing it, would I not get rich much faster than you? Could I not, should I so determine, easily bankrupt you by refusing to cut, thrash, or haul for you, and letting your grain rot in the field? That is precisely the relation that foreign nations occupy toward us to-day. They take a large share of the profits of our crops for carrying them to market, and could bankrupt us by refusing to haul for us.

I would be glad, of course, to see all our ships built at home; but that cannot be done. They are not built here. If they could be they would. The pretense that the late war destroyed our carrying trade no longer deceives anybody; it was only crippled temporarily. To-day we have less than one-half the tonnage in the foreign trade that we had when the war closed, while nearly all the other branches of industry have doubled, and many of them have increased fourfold. These industries could be protected from foreign competition, and they have been; the tax-payers and consumers have paid and suffered enough in order to afford the protection demanded, but the ships in the foreign trade were necessarily beyond the reach of protection. Congress could not reach out into the ocean and drive other people from it, and our ships are gone.

Something must be done, unless we are prepared to abandon forever the carrying trade of this country and of the world to foreigners, and pay them whatever they demand for doing the work. The American sailor must disappear, and our power even to defend our coasts and seaboard cities be given up, unless we re-establish in some form our mercantile marine.

It is said that our people will not buy ships and engage in the foreign carrying trade even if they are allowed to have free ships for that purpose. If they do not the right to buy will do no harm even to the would-be ship-builders. Men of intelligence made themselves absurd enough to tell our sub-committee that all sorts of miserable, worthless ships would be palmed off upon our people if they were allowed to buy them abroad, and long lists were paraded of worthless ships which English agents were now prepared to offer. It is a poor compliment to the intelligence of our people to say that they do not know what they want and what the thing offered is worth. I suppose a man who needs a ship for a particular purpose can select it and contract for it as well as a manufacturer who needs and buys an English engine or any other piece of machinery in his factory can select it, and can as well be trusted to attend to his own interests. Apprehension is sometimes absurdly expressed lest ships built on the Clyde might not be as loyal and as patriotic in time of war as ships built on the Delaware. I suppose a Krupp gun, though made in Prussia, shoots as well from the turrets of an English iron-clad as if it had been cast on the Thames or the Mersey; and the Whitehead torpedo, though made in Austria, will do its work as well from Cherbourg or Sandy Hook as if it had been constructed there. All that class of arguments appeal only to prejudice.

The bitterest opponents of free ships admit the present deplorable condition of our commercial marine, the almost total destruction of our carrying trade, and the extinction of our sailors. The reports of our consuls, of our statisticians, and of our ship-builders agree that we have touched bottom; they admit that we can neither be strong as a belligerent nor prosperous as a people until our once envied position on the high seas is restored; but with few exceptions they dare not tell the truth and expose the true cause of our humiliation as a maritime nation. They whine over the destruction of a few wooden ships during the war, and the transfer of others to foreign flags, which they would not allow our people to take back when the danger was over, fearing dismissal from official position if they venture to say aught that may be distasteful to their masters. They unite in the cry for subsidies to be granted to American ship-builders, who already have a monopoly of ship-building for the coastwise trade, which is 60 per cent. of all we have. The cry is raised under the pretense of the necessity for carrying the mails, or some other subterfuge, so as to equalize the cost of their ships with the price foreigners pay, and thus enable our own ship-builders to charge what they please. Subsidy and taxation enough can equalize anything. When asked whether we are to be required to tax the people to an extent sufficient to enable Congress to subsidize every American ship on every line and on every sea, whether she is propelled by sail or steam, they hesitate, and are divided in opinion as their interests vary. Of course the only logical proposition is to treat all alike; otherwise, if one set of American ship-owners are furnished with money out of the public treasury to enable them to drive all the unsubsidized American ships off the high seas, that result would not cheapen our transportation, nor increase our tonnage in the carrying trade; it would simply create a monopoly in the hands of the protected few on the subsidized lines, and the tax-payers, from whom the money is taken, would derive no benefit from, indeed, would be injured by, the subsidy.

It would be too big a job, Mr. President, to tax the people enough to subsidize all the ships needed in our rapidly growing carrying trade to the extent necessary to pay American ship-builders the price they demand for the ships they propose to furnish beyond what other nations now pay for theirs. That has to be done or the proposed subsidy system would fail to accomplish the object its advocates propose; and it is a serious question what new objects or subjects of taxation Congress could devise from which to raise the necessary means to furnish the subsidies demanded. Will the men of wealth consent to a tax on their incomes to furnish the means? I doubt it. Will Congress restore internal-revenue taxation on manufactures or taxes in the form of licenses to carry on professions or trades? Of course not. An increase of tariff taxation, as we all know, would diminish instead of increase revenue. That source of supply can only be increased by reducing protective and prohibitory duties; and all the subsidy seekers and their retainers are at the same time advocates of high protective tariffs.

Senators need not deceive or delude themselves with the assumption that there is to be a continual large surplus of revenue under our present system of taxation. In their zeal to appear patriotic or to pander to the soldier element they have by the arrears-of-pension bill—which I congratulate myself in having opposed—fastened upon the country a heavier and more enduring burden than the national debt, and one which will drain the pockets of the tax-payers longer. Over $500,000,000 is now the Commissioner's estimate of the amount required for arrears alone. It was said $30,000,000 was the maximum when the law was passed. The annual pension-roll has run up from about $30,000,000 to over $50,000,000 in a year or so; it will soon reach a sum larger than all the annual expenditures of the Government ever reached prior to 1860. Pensioners never die. Pensions are paid now to over ten thousand people as survivors of the war of 1812, which closed sixty-five years ago, and many plain people believed there were not many more than ten thousand soldiers, all told, engaged in it.

But that is a digression. The high protective tariff, against which it is in many quarters regarded as worse than treason to speak, has more to do than all else with the prostration and destruction of our commercial maritime and the ruin of our carrying trade. That system which was built up during the war to meet temporary exigencies and our navigation laws combined constitute an ingenious plan of disguised taxation, to give American manufacturers the right clandestinely and under false pretenses to force the American people to pay them 50 per cent. more for the products of their machinery than they are worth, or than they can make any other people pay. It is so adjusted as to cripple if not prohibit the sale of American manufactures in countries other than the United States, and to protect foreign nations and especially England in a monopoly, as against us, of the carrying trade of the world. The whole system is vicious, and but for our immense territory and almost inexhaustible resources would before this have proved ruinous.

To illustrate: the necessity for a great railway is made apparent in order to extend commerce, cheapen transportation, and furnish facilities for intercourse among our people. Congress makes large grants of lands to the private corporation that works up the scheme, and I may note here that it has granted to railway corporations since 1860 more lands, belonging to the people, all within twenty miles of railroads, than there is in the thirteen States which formed the United States. That is the railroad's share of the spoils. The people expect in return a cheap road and cheap transportation. Do they get it? No. The railroad corporation has to agree to build its road with American rails, which are protected to an extent of $28 a ton, and use other costly machinery. It is not allowed to furnish cheap transportation or build a cheap line. When finished it does not compete with existing lines. They combine, pool their issues, keep up prices, pocket the proceeds of the lands, and denounce any Senator or Representative who ventures to criticise their conduct or who seeks to limit their power. The railroad thus built removes the mere physical obstacles, but Congress by its tariff legislation creates far more formidable ones.

After reaching, say, the Pacific Ocean, which is free, over the roads we paid for, we cannot trade with China, Japan, or the Indies. Congress has placed an insurmountable obstacle, which Senators and Representatives here dare not remove, in the form of a tax prohibiting nearly all goods from all these countries from being landed on our shores, for fear the people who built the road may get cheap supplies. And after they reach that or any other ocean on the road so built, they are not allowed to send their products to any other port of the United States unless they are sent in an American-built ship. Our people cannot buy their own ships abroad, and if a foreign ship is ready to carry from the railroad port to any other United States port for $1 a ton and the American-built ship asks $5 to do it, the producer must pay the $5 or let his goods go to waste. All combinations work together to rob alike the producer and consumer.

I repeat, the protected American manufacturer cares nothing about ships; he does not need them, and of course does not want them. He cannot or will not send his products abroad. He knows that when they leave our shores they are worth no more than similar goods made by so-called foreign paupers, against whose labor he has been protected at home by tariff taxation. The very act of sending his manufactures abroad is an admission that he does not need protection at home, and that our taxation for his benefit is wrongfully or at least

unnecessarily imposed. He would rather not send his goods abroad than make that admission; therefore he cares nothing about cheap ships.

He is equally opposed to goods being imported which may compete with his; he prefers to have a monopoly of home markets. He may not say so, but Mr. Carey, of Philadelphia, spoke the sentiments of most of this class when he said that it would be a blessing to the American people if all foreign intercourse was cut off and the great, free ocean highways of the world were converted into seas of fire. No aid need be expected from that class for any measure which seeks to cheapen anything or which tends to liberalize our intercourse with the world.

Protectionists boast, and seem to regard it as a conclusive argument in favor of their system, that they are obliged to charge higher prices because they pay higher wages to their operatives than are paid for like services elsewhere. One thing is certain, they employ the cheapest labor they can procure, whether it is Asiatic, African, European, or American. No navigation laws prohibit that. Of course they pay higher wages. Men do not labor for money alone. Their necessities compel them to labor for what money will procure. The dollar is the pound-weight, the yard-stick, the bushel-measure. As a pound-weight, a dollar here only weighs out to the laborer ten pounds of sugar; in England it weighs fifteen pounds. As a yard-stick, 85 here only measures to the laborer one pair of blankets; in England it measures two pair. And so it is with all else that he or his family need for clothing or comfort. As a bushel-measure, however, a dollar here will measure 50 per cent. more wheat, flour, or provisions than it will in England. Why? Because they are farm products. The price of all these things is regulated by their market value in unprotected foreign markets. Protection does not reach the farmer, except as it compels him to pay out of what he sells in open market in competition with all the world 50 per cent. more than any of his foreign competitors pay, and more than they are worth for the clothing and other necessities for his family, for the machinery and tools he is compelled to have to produce and prepare his crops for market; and so-called protection compels him to pay the high wages to his laborers necessary to enable them to buy at protective-tariff rates what they and their families require in order to live as comfortably as the laborers of other countries.

Whenever it is conceded that any article is produced here in such quantity that it cannot be consumed at home, but the surplus must be sold abroad, it necessarily follows that the price of the surplus in the foreign market regulates the home price of the whole product. Take as examples cotton, wheat, tobacco, or any like great staples: they rise and fall here as prices vary in Liverpool, Paris, and Berlin. Our producers of these and like staples cannot be protected. The pretended protection by tariff duties on the importation of any articles of that character is simply a delusion, if it is not a fraud. Articles not produced in sufficient quantities here to supply the home consumption occupy a different relation. Take sugar as an example. We consume about nineteen hundred million pounds annually; 90 per cent. of it is imported. The average tariff duty being 60 per cent., the home producer of course sells his product 60 per cent. higher than he could if foreign sugars were free. I may as well state here the effect cheap supplies have on consumption as illustrated by sugar. We are constantly boasting of how well fed our people are, and how near the starvation point the people of England hang. There sugar is free and cheap, the consumption of it is sixty-five pounds a year for every man, woman, and child in the land. In the United States it is thirty-eight pounds per capita. The English people are at least not starving for want of sugar. I am not seeking to interfere with the sugar tariff. It produces $42,000,000 of revenue annually, while steel rails, with $28 a ton protection against foreign invasion and protection by a patent against home competition, enables eleven corporations, whose product is over one million tons a year, to pocket $28,000,000, less the few millions they have to subscribe periodically for campaign-corruption funds, in order to secure power to the party that maintains their privileges, which protection provides little or no revenue to support the Government, and gives no relief to the tax-payers.

The effect of the monopoly given to the blanket manufacturers is perhaps worse on the laboring classes than the Bessemer steel monopoly, especially during such a winter as this. Nearly 100 per cent. tax as protection is given on coarse blankets such as the poor must have, forcing them to pay $4 for what no other laborers in the world pay over $2 for, with no revenue received from the tax. It is simply stealing that much out of their hard earnings in ways they know nothing of. Little wonder they must charge higher wages than other people or starve. Little wonder we have factories closed half the year and operatives striking for increase of pay.

Our monopolists cannot exact their prices from any other people than our own, therefore our exports of manufactured products are comparatively insignificant, and the employment of our skilled laborers in manufacturing establishments is very precarious. It is only when manufacturers have marked up their prices so high that consumers can afford to pay the true value of what they want in open market and the tariff tax to boot, rather than submit to their extortions, that the Government gets any revenue. Our large revenues of late grew out of the exorbitant prices so demanded, which was called a boom by those who pocketed the congressional bounty.

One of the greatest evils growing out of this vicious system of protection is that under it there can be no assurance of stability. It is like the petroleum bonanza, which was so profitable at first that everybody rushed into it until the product became so great and the prices fell so low that the man who had most of it was poorest. It does not take long when the market is limited to the wants of our people and all trade with the 1,400,000,000 people in the outside world is abandoned to other and wiser nations for our manufacturers, after everybody who could have rushed into the business, to overstock the market and bankrupt each other. Low prices follow, revenues dwindle, consumers of course will not pay the foreign price and the tax; they can do better by closing up the overstocked home bankrupt estates at forced sales.

But, Mr. President, I have wandered somewhat from the free ship question. I confess that I do not hope to recover our former prestige on the seas, even with free ships and the removal of all possible burdens from the carrying trade, while the present abominable tariff is maintained. Therefore I could not help referring to its pernicious effects. An American may start a free, cheap ship to-day with all the restrictions we can by legislation take off removed, side by side with an English ship off the capes of Delaware, Sandy Hook, or anywhere else, with precisely the same cargo on board, and, if such a possibility could be imagined, composed of manufactured goods which cost precisely what the similar goods on board the English ship cost, and they may sail side by side to any American, European, African, or Asiatic port, and the Englishman has every advantage. He is prepared to trade. The men who want the goods often have no money, but they have copper, wool, and other raw materials that he wants, and he swaps his manufactured goods for their raw materials and starts home with what his manufacturers need, furnishing supplies to English laborers to work up into another cargo for him to take back and swap again. He has a full and profitable load both ways, and he can carry cheaply because he has.

All trade, all commerce is barter. You must take what I have or I cannot buy what you seek to sell. The conditions as regards climate, education, or opportunities of some other people enable them to produce certain things which we need better and cheaper than we can. Other conditions enable our people to produce other things that they need better and cheaper than they can produce them, therefore we trade and both are benefited. New Hampshire raises potatoes, Cuba raises oranges. Cuba wants potatoes, New Hampshire wants oranges. The New Hampshire man carries his potatoes to Cuba and swaps them for oranges; both parties are benefited and the greatest profit is with the party that did the hauling to supply what both needed. *That is the carrying trade.* In that the American is crippled by the abominable tariff enacted under pretense of protecting American industry, but really devised to enrich a favored few at the expense of the mass of the people. The American, in the case put, offers his cargo for sale alongside of the Englishman; it is equally good; the people at the port where he landed want it and offer all they have in exchange for it, just as they did to the Englishman. He cannot trade for any of them, because he cannot land what they offer at any port in the United States without paying on an average 45 per cent. on the value of what he brings back.

The American producer of like articles is willing to furnish the same things for 42 per cent. more than they are worth, therefore he must sell his cargo abroad for money, and of course take less for his goods in order to get it, and often return home without a cargo. He must either charge the expenses of his trip both ways to the freight he carries out, or work at great disadvantage with his English competitor; if he charges both ways on the cargo he carries out, the producer suffers; if he cannot do that, he suffers. Therefore, as I said, I feel the embarrassment our tariff imposes on our ocean-carrying trade after we have relieved the ship-owner all we can. My idea is that whatever aid any business receives that does not naturally pertain to the business itself is, in the end, detrimental to it; or when government seeks to support it by outside subsidy it ends in failure. Whatever lightens the burdens on ships or anything else in what inheres to the business helps it.

Mr. President, I do not expect nor do I propose to repeal our tariff laws, firmly as I believe that we, above all other people—with our energy, intelligence, and versatility of talent; with a continent under our control, with every variety of soil and climate, with free trade among ourselves—are more interested in free trade with all nations than any other people. I would not destroy, or cripple even, any artificially sustained industry by a sudden change. I would reduce taxation gradually, and thus increase the revenue by inviting fair competition from all quarters and by removing prohibitory obstructions; revenue should be the prime object, protection the incident. I would simplify the present compound and complex mode of assessing duties so that honest business men could understand them. A tax, as now, on the same piece of goods of so much, according to the number of threads to the square inch; so much specific, and so much ad valorem, is both absurd and dishonest. I would lighten the burdens of the laboring poor by allowing them to procure the necessaries and comforts of life at reasonable rates, so that their wages might procure as near as possible what the wages of laborers in other countries now purchase for them.

It is not honest legislation which takes at least 30 per cent. of a laborer's day's wages from him to protect or subsidize any set of men or corporations or the machinery they own, or which requires the

humblest man in the land to pay as much to support the Federal Government as Mr. Vanderbilt does with his untold millions, yet that is the fact to-day under our tariff taxation. I protest against the imposition of additional taxation on the people to raise money to pay subsidies to any set of men, either under pretense of carrying mails on steamship lines or on any other false and absurd pretense; nor would I restrict trade or commerce by discriminating or oppressive regulations. They only produce retaliatory measures. France, the richest country in Europe, now prohibits any article of American manufacture from being landed on her soil, while she allows the manufactures of England and Germany to enter her ports on an average tariff of 10 per cent. She thinks that she punishes us in this way for our taxation of her manufactures. If she knew how well content our manufacturers are with the monopoly they now have of our home markets, and could realize how little they care for or desire to have a free market such as France would afford, she would not care to enforce restrictions which make no difference. France now takes our grain, provisions, petroleum, alcohol, and other things that her people must have at cheap rates.

In short, our whole system of protection is robbery of our own people to enrich favored combinations of wealth and power at home, and starve, by restricting sales to this country, the laborers whose work depends upon the continuous running of the machinery owned by these pets of Congress. I would exhaust legislative power in earnest efforts to compel cheap production of manufactures here and force the machine-owners to send their products abroad in order to require increased home production, and thus extend our commerce and carrying trade by their sale to all nations, taking in return the necessary materials for the production of other or like manufactures, so that our operatives would have continuous instead of uncertain employment. We might double or quadruple our various industries and thus furnish a home market for a much larger portion of our agricultural products than we can now.

As the first great practical step in accomplishing these ends, I would repeal our navigation laws so far as they prohibit the purchase of ships abroad by our people for the foreigh trade, hoping that the vast shops for repairs which must at once spring up would soon become yards for ship-building, as I believe with our exhaustless resources in iron, coal, and lumber, and the mechanical skill of our people, they would soon become. The truth is, we are now a corporation and combination ridden people. I do not know that the shackles can be broken. Disorganized militia rarely fight regulars successfully, no matter how just their cause or how superior the number on their side may be. Privilege and power working together generally succeed. The people will yet learn and understand that the present tariff is carefully adjusted to protect the American manufacturer in forcing American consumers to pay them on an average for everything he makes 45 per cent. more than it is worth, while our navigation laws now operate with equal power to protect the foreign ship-owner from American competition. Congress and the country are now agitated with grand projects for canals and ship-bearing railways from the Atlantic to the Pacific by Panama, Tehuantepec, and Nicaragua. The Monroe doctrine, American protectorates, and all sorts of patriotic buncombe is the order of the day. If we had all these routes open—and I want them all—in the present condition of our commercial marine, they would be of very little value to us as carriers on the high seas. England, France, and Germany would utilize them as they do the great Suez Canal, on which the American flag is never seen except on some ship belonging to the Navy.

The first step in the right direction that I have observed is that of which we were advised last month by the late Secretary of the Navy when he notified Congress that he had taken possession of the grand harbors and coaling stations of Chiriqui and Golfito, on the Atlantic and Pacific sides of the Isthmus of Darien about equidistant between the proposed Panama and Nicaragua routes, in close proximity to inexhaustible mines of coal. Up to this time England controls the world's commerce through her coal trade perhaps more than through any one agency. With a coal area less than that of either Kentucky or Pennsylvania, she produces and uses over 160,000,000 tons a year. We produce less than 60,000,000. Her population is not more than half what ours is, but her coal is sent to and sold at every port and commercial station in the world. She has her stations secured by treaty with every nation on the east and west coasts of South America, and to-day we cannot send a steamship from our Atlantic to our Pacific ports unless she consents to sell us coal at her stations, as we have none of our own.

Mr. President, I have pointed out some of the obstacles in our way. I do not pretend that free ships will remove them all. The charges for pilotage, for consular fees, for tonnage dues, perhaps should all be released, free stores should be allowed, every federal tax can be taken off, and perhaps influence might be exerted here to induce the States to remove local taxation from all ships engaged in the foreign trade, I am not now prepared to say how. For example, Maryland is urging Congress to build a ship-canal connecting the Chesapeake with the Delaware, to avoid the tedious, difficult, and often dangerous navigation round the Capes. It would cheapen the transportation of all western products greatly. It is of course costly. Suppose we furnish the money to build it on condition that Maryland shall remove all State and local taxes on foreign-going ships, *and she does it.* New York and all the other States must follow, and the producers and ship-owners would be alike benefited. Other and better means may be suggested. The present requirements as to the discharge of sailors in foreign ports need amendment. They are extremely oppressive on our ship-owners, and measurements of tonnage should be limited to the actual freight-carrying capacity of the ships. Everything that the American ship-builder needs to build or repair ships for the foreign trade, from a compound engine down to a rivet, should be absolutely free. If I could I would allow him to pay off the wages of his laborers in free clothing, blankets, and other necessaries for themselves and their families, so that the cost of his labor in building and repair of ships in his yard should be lightened.

My sole object is to take all steps possible at the earliest moment, and at the least cost, to restore our commercial marine and regain our share of the carrying trade of the world. I oppose the tariff taxation and subsidy system as I would oppose building a Chinese wall round the borders of this Republic. I have no more respect for the obsolete navigation laws of Cromwell than I have for the laws that burned witches, or prosecuted men for their religious opinions, in his day. "Old times have changed, old manners gone." Men of different nationalities no longer think it necessary to destroy each other in order to be great. They seek to trade rather than fight, and by exchange enable each to have the comforts which the varied climates, conditions, and talents of all can supply. Free intercourse means cheapness and abundance of all these things to the masses. Restriction on trade and intercourse, taxation and subsidy, all produce scarcity and increase cost.

England and her dependencies buy now more than one-half of all we sell to the world. They are our best customers, because they art allowed to buy at prime cost. They are rich because their earninge purchase more than the same amount will elsewhere. Believing thas a liberal policy will make us the greatest people upon earth, I seek to remove all restrictions as rapidly as possible; and as we are building no ships for foreign trade, and have none, I trust Congress will allow our people to buy them as all other people do, and enter the contest for the business of the world once more on something like fair terms.

Mr. BLAINE. Mr. President, if the Senate will indulge me I should like a few moments, not to reply with any elaboration to what the Senator from Kentucky has said but to speak very briefly on the various points suggested by him. I should not like to have such a speech as he has delivered go out from the Senate of the United States unanswered for a single day, and I propose, therefore, to review his position at least in part. I regret that I am compelled to speak without preparation and with no data except such as I recall from memory.

The first observation I desire to submit is that the honorable Senator from Kentucky very frankly admits, and did not even attempt to argue against it, that this policy looks forward to a permanent dependence of the United States upon England for her ships. The only slight attempt that the Senator made to rebut the conclusion was in the faint hope expressed by him that the repair shops which would grow up on this side of the water might develop into machine shops and ship-yards large enough and numerous enough to construct steam vessels; but throughout the entire argument of the Senator he went upon the presumption, which I repeat he did not even attempt himself to rebut, that his policy looked to a proclaimed and a permanent dependence of this country upon England for a merchant marine. I do not believe the Senate of the United States or the Congress of the United States or the people of the United States are prepared to make that declaration.

It is a fact equally remarkable that for the past twenty-five years—or make it only for the past twenty years, from the beginning of the war to this hour, the Congress of the United States has not done one solitary thing to uphold the navigation interests of the United States. Decay has been observed going on steadily from year to year. The great march forward of our commercial rival of old has been witnessed and everywhere recognized, and the representatives of the people of the United States have sat in their two houses of legislation as dumb as though they could not speak, and have not offered a single remedy or a single aid. And this has gone on until now the Senator from Kentucky rises in his seat and proposes to make a proclamation of perpetual future dependence of this country upon England for such commerce as she may enjoy, holding up as models to us Germany, Italy, and the other European countries that are as absolutely dependent upon Great Britain for what commerce they enjoy as the District of Columbia is for its legislation upon the Congress of the United States.

During these years, in which Congress has not stepped forward to do one thing for the foreign commerce of this country, for all that vast external transportation whose importance the Senator from Kentucky has not exaggerated but has strongly depicted, the same Congress has passed ninety-two acts in aid of internal transportation by rail; has given 200,000,000 acres of the public lands, worth to-day a thousand million dollars in money, and has added $70,000,000 in cash, and yet, I repeat, it has extended the aid of scarcely a single dollar to build up our foreign commerce. An energetic and able man who found a great ocean highway unoccupied, and had the enterprise to put American vessels of the best construction and great power upon it, has been held up to scorn and to reproach because he came to the American Congress and said, "If you will do for this line what the Empire of Brazil will do, I will give you a great line of steamships

from New York to Rio Janeiro." The Empire of Brazil had said to this enterprising man, "We will pay you a hundred thousand dollars a year if you will run this line;" and New England Senators, I regret to say, who represent the protective system in this country, said with a quiet complacency, "If Brazil is willing to pay for that, we need not." Brazil has got tired paying all and we paying none. Just as soon as it was found that we would not pay, a combination of English ship-builders said, "We will put on our ships and run that American line off; we will carry the coffee of Brazil to the United States for nothing; we will break down this attempt of the United States to begin a race upon the ocean;" and they have pretty nearly succeeded, while we have looked on with apparent unconcern, and by our indifference favoring the efforts of the English line.

Yet during the whole of Great Britain's mastery of the sea, when she had been seeking every line that could be found on which a steamer could float, she has never put on lines to carry from an American port to any foreign ports, but only to her own. You cannot get a British and South American steamship line except on the triangular system that will go from New York to Liverpool taking breadstuffs or cotton, from Liverpool to Rio Janeiro taking British fabrics, from Rio Janeiro to New York bringing coffee and dye-woods; but when the proposition is made that they shall go back from New York to Rio, they decline because they do not want to interfere with the prosperity of England at home by furnishing transportation to any point for American fabrics in competition with British fabrics. The result is that if this Brazilian line shall be taken off, as in all probability it will if the United States extends no aid, then the letters of the United States, of the merchants of New York and Philadelphia and Baltimore and Boston, will be conveyed to Rio Janeiro via Liverpool and reach that point over two great lines of British steamships.

Mr. President, the frank admission of the honorable Senator from Kentucky took away a large part of the argument which I thought I should have to make, and that was to prove that if the United States to-day is incompetent to compete with Great Britain in the manufacture of iron ships, and if you admit iron ships from Great Britain absolutely free of duty, you will be still more incompetent to do it next year. It takes, in the language of the trade, what is called a great "plant" to build steamships; it takes a large investment of money; it takes large and powerful machinery; it requires the investment of millions to start with; and if in addition to all that has been done abroad to build up English ship-yards we pour into them all the patronage that can come from this country, I should like the honorable Senator from Kentucky or any other Senator to tell me exactly at what point of time it will come to pass that any feeble effort on this side will begin to compete with those great yards. If you abandon it this year because you are unable, you will be far more unable next year, you will be still less able the year ensuing, and every year will add to the monopoly of British power in that respect and to the absolute weakness and prostration of American power in competition. But I will say that the frank admission of the honorable Senator from Kentucky of the future and perpetual dependence upon England removes the necessity of arguing that point. He frankly admits it with all its damaging force.

Mr. President, *fas est ab hoste doceri;* it is always lawful to be taught by an enemy. Great Britain has been our great commercial rival, and since the first Cunard steamship came into Boston, just about forty years ago, when Great Britain seeing that steam was to play so great and commanding a part in the navigation of the world first made her venture, from that time down to the close of 1878, she had paid from her treasury to aid great steamship lines all over the world a sum exceeding forty million pounds sterling, more than two hundred millions of American dollars. I know it is a favorite argument with those who occupy the position of the honorable Senator from Kentucky that Great Britain started upon this plan and followed it for a long period of years, and afterward abandoned it. Sir, she has never abandoned it. She has only abandoned its extension to those lines that were strong enough to go alone, and the British post-office report for the year 1879 shows that under the despised and ridiculed head of postal aid, to which the honorable Senator from Kentucky was pleased to refer with such sneers, Great Britain paid last year £783,000, well-nigh four million dollars in coin.

France gets her steamships from England. France has adopted the commercial policy which the honorable Senator from Kentucky thinks would be the revival of the American shipping interest; but does France by the mere fact of getting her ships built at Birkenhead or on the Clyde abandon the plan, which has been for thirty years in operation under her government, of aiding her ships? Why, sir, last year France paid 23,000,000 francs—more than four and a half million dollars—to aid her steamship lines. And when the celebrated line of France, the company known as Messageries Imperiale, competed too sharply in the Mediterranean waters after the opening of the Suez Canal, when that great French company competed with the Peninsular and Oriental Company of England and was likely to endanger its supremacy by a sharp rivalry, Great Britain promptly stepped forward and added £100,000 to the Peninsular and Oriental subsidy. That is the way Great Britain has abandoned the idea of aiding her great commercial interests!

Italy, that is hemmed in upon a lake, with a territory that does not touch either of the great oceans, is running up largely in steam-navigation; Italy last year paid 8,000,000 francs; and even Austria, that enjoys but a single seaport on the upper end of the Adriatic, pays $500,000 toward stimulating commercial ventures from Trieste. Now the United States cannot succeed in this great international struggle without adopting exactly the same mode that has achieved victory for France. What is it? It is not to help A B or C D or E F or anybody else by name, neither Mr. John Roach, nor Mr. John Doe nor Mr. Richard Roe, but to make a great and comprehensive policy that shall give to every company a pledge of aid from the Government of so much per mile for such a term of years. Let the American merchants feel that the Government of the United States is behind them. Let the United States take from her Treasury per annum the $4,000,000 that Great Britain is paying as a postscript to her $200,000,000 of investment; let the United States but take $4,000,000 per annum—and that is not a great sum for this opulent country—let that be used as a fund to stimulate any company from any port of the United States to any foreign port, and, without being a prophet or the son of one, I venture to predict that you will see that long deferred, much desired event, the revival of the American merchant marine.

Let us do one thing more where England has pointed the way for us. We have nine navy-yards without a navy. If we will put the expense of those navy-yards into the building up of great private ship-yards, it will form subsidy enough if that hated word shall not offend the delicate ears of my friend from Kentucky; it will afford aid enough, if that be more to his taste; it will give help enough, in conjunction with the saving on the construction of naval vessels, to float an entire scheme for the revival of American navigation.

We not only withhold our hands from any possible aid to the American merchant marine, but we keep up the shadow of a shell of a navy on the most expensive basis that ever a navy was attempted to be organized in the world. Great Britain I believe never had but three navy-yards. We support nine. Great Britain's navy is really fifteen times as large as ours is nominally.

Mr. President, we have the largest ocean frontage of any country on the globe. We front all continents; we border the two great seas and the greatest of gulfs. We are necessarily by our position in need of a navy.

The honorable Senator from Kentucky has apparently given this subject wide and deep attention, and I should be glad in some subsequent effort of his to be informed, after he has brought this country to a state of absolute dependence for our mercantile marine upon Great Britain, how he proposes to uphold our navy, how he proposes to build the vessels, where he is going to get his ship-carpenters? I do not speak of the sailors; you can get them from outside. How is he going to retain among this people and in this people the very rudimentary art of ship-building for large ocean-going steamers when his policy absolutely forbids the remotest prospect of any vessels being built here?

I do not expect this Congress to do anything; I am not talking with the slightest hope that that will come about. I know it will come some time. I know the scheme of the honorable Senator from Kentucky, even if Congress should adopt it, would disappoint everybody. It would disappoint everybody except the English ship-builder; it would not disappoint him. Yet I venture to say it would not be followed at all as the honorable Senator says by Americans largely investing in British ships; and the reason why I say that is because they can do it to-day without the aid of new law, and yet they do not. The Williams and Guion line, half American, half British, opens just as good an investment, if you are looking at it merely from the money side, as though they were an American registry. The honorable Senator from Kentucky himself has told us that the Philadelphia line is now running one-half British-built vessels. Why not all? He says that money is not sentimental. I agree to it; and if the object of going into navigation is altogether apart from any considerations of national flag or national defense, if that be the sole end and aim, then I remind the honorable Senator from Kentucky that any man who has a thousand or a million dollars to invest can freely invest it in a British bottom, and he would escape much taxation that he would find if he registered in New York or in Boston; and he could in many ways perhaps expedite the gathering of profit unto himself by keeping a British register rather than by accepting one from America.

It opens no possible temptation to a man desiring to invest in navigation to say to him, "you may go abroad, to England, and buy a vessel and bring her to New York and we will allow you to register there at the custom-house, and you may float the American flag." "No, I thank you," the shrewd investor replies. "If I do that I am going to have more taxation than I shall have in Liverpool or Bristol, I prefer to keep the registry over there," just as the Williams & Guion line does. There are gentlemen in New York deriving dividends from that line just as there are gentlemen in Philadelphia deriving dividends from the line there that is partly made up of British vessels. The very moment you disconnect the entire idea of a national marine and the building of it here, the very moment you put it down on the simple basis of dollars and cents, regardless of anything American in it, then there is no temptation whatever, and you offer no extra inducement by saying that the vessel may be registered here, not the slightest in the world, and it would not be done. When the Senator from Kentucky holds up the brilliant prospect that the repair shops might be the germ and the seed of a future marine, he in effect

if not by intention abandons all idea of building ships on this side of the water. And I make bold to tell him that in five years there would be such an utter abandonment, not only of investment from this side but of building from this side, that the American marine would have ceased to be; "the house of Braganza would have ceased to govern," as Napoleon said when he marched into Portugal.

This subject, Mr. President, never can be considered intelligently; it never can be decided, as ultimately it must be, without taking into account at the same time the naval establishment of the United States and the mercantile marine of the United States. The naval establishment must be the outgrowth of the mercantile marine, just as it always has been, just as it always will be, and where you have no mercantile marine out of which to grow it, you never will have, and no nation ever has had a naval establishment worthy of the name. As recently as the beginning of the late war the maritime States of this Union were able to offer in that great struggle seven thousand competent officers of the various grades of the volunteer navy, and put on the decks of the blockading fleet seventy thousand American sailors. Now the Senator from Kentucky, and I think justly, said that a great deal had been made or attempted to be made out of a few vessels having been taken by blockade-runners and destroyed, and others frightened into registry abroad, and that many were dating the downfall of the American mercantile marine from that cause, which was one cause, but I quite agree with him that it was not the largest cause, and that it was not by any means the principal cause. I quite agree with him that it was coincident merely.

But another thing happened just about that time of which the commercial world at least has taken great heed. Up to that date steam-vessels had not been good or great freighters. The side-wheel steamer that did business between this country and Europe was not a great carrying vessel; she required too much coal; her engine took up too much space; but right in the midst of our war, by a succession of inventions—partly American and partly British—there was a complete revolution effected in ocean-going steamers, and that revolution, as I have had occasion once before on the floor of the Senate to call attention to, can best be described by stating this formula: that prior to that date a vessel of 3,000 tons on a voyage of given length had to make 2,200 tons allowance for coal and machinery, and only 800 tons for freight, while now it is precisely reversed, and they can take 800 tons only for coal and machinery and 2,200 tons for freight. That is the revolution which Great Britain effected, with the numerous advantages coincident with, and therefore oftentimes confused with, that other cause which prostrated us by reason of the war. But the Senator from Kentucky is correct in stating that the destruction of the vessels, large as it was at the time and grievous as the calamity was to individuals and to the country, was not the great principal cause which brought about the revolution from sailing-vessels to the steam marine.

The carrying capacity of an ocean-going steamer is something very surprising to men who have not examined it. The very first steamer of the Roach line, so called—and they are by no means as large steamers as those of the Cunard and White Star lines between Liverpool and New York—on the very first steamer that went out from New York to Rio, besides an assorted cargo, which in a manifest would seem to be more than could be got into the hold of the vessel, there were rolled into that hold twenty thousand barrels of flour. It seems almost incredible when you think what that would take in the way of railroad freight trains. That would be two hundred car-loads at one hundred barrels to the car, and that was run directly into the hold of that vessel. That is where these vessels have gained so enormously in the carrying trade. It is merely by their huge, prodigious capacity for freight.

It is idle to fight against the inventions of the world; it is idle for us to fold our arms and suppose that wooden vessels are to maintain anything like the importance they have hitherto had in the commerce of the world. I think I understand something of that subject. I have the honor to be from the State that has built more wooden vessels than all the rest of this Union beside, I believe. Within thirty miles of my own residence is a town of only ten thousand people there is the largest wooden ship building place on the globe to-day. I know some little of that subject; and while the days of wooden ships are by no means over, while they will be a great and needful auxiliary in the commerce of the world, yet it is manifest and is proven that the great highways of international commerce, such as the North Atlantic, the West India seas, the route from San Francisco to Asia, that from San Francisco to Melbourne, and in various and sundry and divers other directions, will be occupied, and occupied almost to the exclusion of sailing-vessels, by the ocean steamers. The United States can take a great part in that race; they can take a great part in it just whenever they make up their mind that the instrumentality by which England conquered is the one which we must use; they can take it whenever they make up their minds that a mercantile marine and a naval establishment must grow and go together hand in hand, and that the Congress of the United States is derelict in its duty if it passes another naval appropriation bill without accompanying it in some form with some wise and forecasting provision looking also to the upbuilding of the American merchant marine.

What the honorable Senator from Kentucky was pleased to say in regard to the protective system and its horrible crimes I have no time to answer. The unfortunate venture which was made in the late campaign on that subject had its origin in Kentucky; and if the honorable Senator is putting this as an element to gloss over the remarkable blunder that somehow or other crept into the Cincinnati platform through the agency of a brilliant Kentuckian I have no special desire to reply to him. I concede to him, as I think he will concede to me, that politically it was a blunder, and all the efforts of the distinguished gentleman who ran as the candidate of the democratic party to get back onto the protection platform only ended in making that which was before serious end in a half farce.

Mr. President, I say to the upholders of protection that those who are interested—and the election showed that the overwhelming public opinion of this country is interested in keeping up American manufactures against foreign manufactures—I say to them that cannot be permanently done without building up the commercial marine of this country. And if any of the gibes and taunts that the Senator from Kentucky so freely distributed to the manufacturing interests of the country shall come to the notice of and shall wake up the men in New England and elsewhere who are enjoying the benefits of a protective tariff to the necessity of extending the strong arm of the same Government for the upholding of its commercial marine, then those gibes and taunts will not have been addressed in vain, and I for one shall thank the honorable Senator from Kentucky for that portion of his masterly speech.

Mr. BECK. I only desire to occupy a moment or two, Mr. President, to say that I am glad the presentation I have made of what I thought was best for the country in regard to our commercial marine has called forth the premier of the next administration, and I am glad as well that the two systems are so distinctly indicated in the views presented by each of us.

He has not denied, because he knows it is true, that we have little or no foreign carrying trade now; that it has dwindled since the war from about 30 per cent. then to less than 17 per cent. now; from 75 per cent. in 1860 to less than 17 now. He does not deny the existence of the fact that we are paying to foreign nations $120,000,000 a year to do our work, which goes to build them up because they are doing for us that which we ought to do, and by doing it we would have this money to be spent at home; nor does he deny the fact that we have by treaty and by law given to Belgium, Germany, Norway, Sweden, England, and France the right to carry our goods from our ports and bring their goods to our ports in cheap foreign-built ships, and have thus handicapped our own people so that we cannot do it at all.

He does not deny that the American sailor is now almost unknown upon the sea and that the sixty or seventy thousand sailors we had at the beginning of the war, all of whom we could call into the service of the country, have been transferred to England and other nations, and that we have no means of defense to-day either upon our Pacific or Atlantic or Gulf coast or to protect our great seaboard cities; and he admits that we are furnishing the money to England with which she is paying her eighty or one hundred thousand sailors while we are lying prostrate at her feet. Nor does he deny the fact that in the event of a foreign war or war among foreign nations themselves we should suffer more than any of them by the destruction or detention of our commerce. But his remedy for all these evils is further taxation upon the people. Will he tell us on what he will impose more taxes in order to raise the subsidy money? He cannot by increasing the tariff raise it, and he will not consent to reduce it. He cannot impose it upon any article of internal revenue that I know of without also reducing the receipts.

Mr. President, subsidies mean taxation and nothing else. I propose that we shall lighten burdens; that we shall take off restrictions; that we shall reduce the taxes imposed upon our own laboring people; that we shall endeavor to encourage our manufacturers to send their products to all the nations of the earth, instead of remaining here and loading our workingmen down as they do now; that we shall allow our own people to do what we allow Germany, Norway, England, Sweden, and France to do, and thus trade on equal terms and keep our own money at home.

I have never said one word against Mr. Roach; he is an enterprising citizen; but I deny the policy of subsidizing Mr. Roach's line or any other man's line of ships so as to drive out of the trade to Rio thirty vessels trading from Baltimore, for the meaning of the subsidy to him is to drive out every one of those Baltimore ships, just as it would be upon any stage-line where the Government furnished money to pay all the expenses of a favored set to run off the other stage-lines. Of course the moment those lines were run off the favored one could charge what it pleased when it obtained the monopoly. That is not my idea of the best mode of extending commerce or trade anywhere.

Nor do I propose to interfere with the coastwise trade of the country, which is to-day 60 per cent. of all we have, and is a monopoly *absolute*, so much so that the ship-builders and ship-owners of Maine and elsewhere, all along our coasts on the Atlantic, the Pacific, and the Gulf, can charge our own people what they please without interference so far as foreign nations are concerned. I am content that they may have it, and 60 per cent. of all we have in the shipping business seems to me to be monopoly enough; even that is all wrong on principle.

But I do insist that without additional taxation, when the object can be accomplished by the removal simply of existing burdens, so as to enable our own people to run ships built abroad but owned by

citizens of the United States, commanded by citizens of the United States, officered by citizens of the United States, we ought thus to build up again our once great commercial marine and have again our sixty or seventy thousand sailors that we could call to the defense of the country if any foreign nation ventures to insult us.

I do not propose to answer now any of the political suggestions of the Senator from Maine. I approved the plank, as I always have done, of a tariff for revenue. Mr. Watterson was right; it is true, honest, democratic doctrine. In 1876, when the convention met at Saint Louis, there was a plank in the democratic platform stronger and more earnest than that inserted at Cincinnati in 1880, and we carried the country on it, although we were cheated out of the Presidency. On the question even now, with all the money that could be drawn from the subsidized corporations of the country, whether the Bessemer steel corporations, the national banks, or any other monopoly, the record shows that our candidate, General Hancock, obtained 4,444,313 votes as against 4,437,981 for General Garfield, being a majority of the popular vote for Hancock over Garfield of 6,332, so that the popular condemnation was not against us as the Senator alleges. And I believe to-day that whenever the people of this country understand that the party question is between liberalizing trade and extending commerce on one side and narrowing it down and subsidizing a few men at the expense of all the balance of the people on the other, the majority on our side will become still greater, and the men who are seeking to take money out of the Treasury to put it into the pockets of a few will not find themselves as strong as they think they are. But I will debate these questions hereafter, when the matter is more fully before the Senate. I only repeat now that I hope the country will look at the presentation that I have made and at the counter-proposition made by the Senator from Maine, and I have no fear of the result.

Mr. BLAINE. Mr. President, the Senator from Kentucky has dwelt at considerable length upon the monopoly of the coasting trade which is enjoyed by the United States. He ought to know, and certainly does know, that the United States has been industriously engaged for the last twenty-five years in breaking down the coasting trade. When the United States paid $70,000,000 in constructing a railway across the continent, they took the largest half of the profit of the coasting trade of this country, and the railways that have gone along the coast and up and down in various directions have reduced the coasting trade of this country to a minimum as compared with what it was twenty-five or thirty years ago. So the great nest of commerce which the honorable Senator thinks he leaves in the monopoly of the coasting trade, I desire to inform him, has been removed by the railway system which the Government of the United States has built up with a subsidy ten times as large as that which is now required for the revival of external and foreign commerce.

When the honorable Senator from Kentucky desires the steamships that are to do the traffic of this country to be built abroad, he forgets to tell in the interest of the laboring man what is a well known, widely recognized fact, that if you build a ship worth $500,000, there is only $5,000 of raw material in it, and that $495,000 is labor. So that the Senator from Kentucky proposes legislation that will take this enormous employment of labor to the other side of the ocean, and expend it in foreign countries. He forgets also that every steamship floating from the country that builds her, in whose ship-yards she is repaired, employs as large a number of men on shore as she does at sea. All this labor the honorable Senator proposes to employ on the other side of the ocean. As a plan for adding to the commercial importance and the absolute monopoly of the British marine, the honorable Senator from Kentucky may be trusted to have suggested the most wise and certain cause by which that even could be brought about.

The honorable Senator, in the early part of his remarks, said that out in Kentucky, where they raise and run horses, a man would be considered an idiot to put one hundred and fifty pounds on the back of a race-horse against one that was running with only one hundred and ten. Oh, the Senator from Kentucky does not propose to do that at all. He simply proposes to withdraw the American horse from the race. [Laughter.]

Mr. MORRILL. Mr. President, I do not propose to occupy the time of the Senate to any great length, but I am unwilling that the Senator from Kentucky, as a member of the Finance Committee, should present his views and leave the country to suppose that all the Committee on Finance entertained no other notions than those presented by him. I think the people of the Atlantic coast, the ship-builders, will be as much surprised at obtaining information from Kentucky as to ship-building as the Senator from Kansas yesterday was at obtaining information from the East in relation to the Indians.

Mr. President, the Senator from Kentucky proposes a bill here for the introduction of free ships. I do not regard that at present as a practical question. If it shall ever come up as a practical question here in the Senate, I shall hope to take some part in the debate; but I suppose that we should have no more right to introduce a tariff bill in the Senate for free ships than for any other article, or than we would have to introduce a bill for the introduction of mail cars for the carrying of our mails upon our railroads, or the introduction of wagons for the carrying of mails.

I desire to state that the Committee on Finance received a large delegation in relation to this subject, and if I can sift evidence in what the witnesses gave as facts and opinions, I must say that the evidence was overwhelmingly against the idea of having free ships. They almost with one voice declared that they could not run them under the present existing laws if they were to be admitted free.

I agree cordially with the Senator from Kentucky in relation to the amendment of our laws so as to give some aid and favor to the ship-going interests; for instance, in relation to the measurement of a ship. At the present time we measure everything so as to include the quarters of the men, the hold for coal, the space for machinery, and it all has to pay tonnage duties, whereas for foreign ships there is only included the actual space for freight.

But I am also in favor of allowing these ships to have free stores, and also that they shall not be compelled to pay pilotage when they do not require it. I am also in favor of allowing the ownership of vessels to be held in such a way that one man with a fractional share in a ship shall not be held for the debt of the whole, but only to the extent of his interest in the ship.

But I take it that the great obstacle at the present time against our foreign trade is the local taxation. Ships are held to be personal property, and at New York and various other places they are excessively taxed, so that when they are engaged in foreign trade they are unable to compete with foreign ships, which come and go free of such taxes.

Great Britain, to be sure, repealed her navigation laws in 1849, but she had begun the system of subsidies as early as 1841, and she is continuing them down to this day, paying now almost four millions per annum for subsidies. She has thus monopolized the trade. Her ships are on the ocean, and whether they earn much or little they will continue to run; and unless we can give some aid that shall be substantial in its nature it appears to be utterly impossible that we can restore our carrying trade.

I believe nearly all the ship-owners in the country, on the lakes and on the Atlantic coast, have been represented in various conventions, at Cleveland, at Norfolk, at New York, and at Boston; and they almost unanimously condemn the idea of free ships, and have passed resolutions against them. Under such circumstances I think that the owners and builders of ships upon the lakes and upon the Atlantic sea-coast are better entitled to have their opinion heeded than even that of the Senator from Kentucky.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The resolution will lie on the table subject to the call of the Senator from Kentucky.

## PUBLIC GROUNDS IN CHICAGO.

Mr. EDMUNDS. I ask leave at this time to present the views of the minority of the Judiciary Committee on the bill (S. No. 1935) to confirm to the city of Chicago the title to certain public grounds, reported yesterday by my honorable friend from Illinois, [Mr. DAVIS.]

The views of the minority were ordered to lie on the table and be printed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed a bill (H. R. No. 6527) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake known as Carr Lake, situated near said city, in which it requested the concurrence of the Senate.

## LANDS IN SEVERALTY TO INDIANS.

The PRESIDING OFFICER. The Chair will lay before the Senate the unfinished business, which is the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes. It is before the Senate as in Committee on the Whole, and the pending question is on the amendment of the Senator from Kansas, [Mr. PLUMB.]

Mr. WINDOM. I ask that the regular order may be informally laid aside for the purpose of taking up the naval appropriation bill.

Mr. COKE. In view of the fact that there is a regular appropriation bill before the Senate ready to be acted upon, I will consent that the unfinished business may be informally laid aside.

The PRESIDING OFFICER. If there is no objection, the regular order will be laid aside without prejudice for the purpose indicated by the Senator from Minnesota.

## NAVAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes.

Mr. WINDOM. Before the Secretary proceeds to read the bill I will make a very brief statement in regard to it. The amount of the estimates for 1882 is $15,022,331.01. The amount appropriated by the act for 1881 is $14,405,787.70. The amount appropriated by this bill as it passed the House is $14,461,037.55. The net amount added by the Senate Committee on Appropriations is $259,750. The total of the bill as reported to the Senate is $14,720,787.55. The bill as reported is therefore less than the estimate by $301,543.46, and it exceeds the amount appropriated by the act for 1881, the current year, by $314,989.85.

The additions made by the Senate Committee on Appropriations to the bill as it passed the House are as follows: increase for Hydro-

graphic Office, $5,000; for equipment of vessels, $50,000; for contingent expenses Bureau of Equipment and Recruiting, $5,000; for construction and repair of vessels, $100,000; and for repairs and preservation of steam machinery, $100,000.

The total increase is $260,000, from which there is a reduction of $250. These additions will be explained, if desired, as the reading of the bill progresses; and I ask that the amendments, which are not numerous, may be acted upon as they are reached in order during the reading of the bill.

The PRESIDING OFFICER. The Secretary will read the bill regularly, and the amendments will be acted upon as they are reached.

The Secretary proceeded to read the bill. The first amendment reported by the Committee on Appropriations was, in line 52, after the word "interest," to insert "transportation of funds;" so as to read:

For two secretaries, one to the Admiral and one to the Vice-Admiral, clerks to fleet-paymasters, paymasters of vessels, clerks at inspections, navy-yards, and stations, and extra pay to men enlisted under honorable discharge; commission and interest; transportation of funds, exchange and mileage, and for the payment of any such officers as may be in service, either upon the active or retired list, during the year ending June 30, 1882, in excess of the numbers for each class provided for in this act, and for any increase of pay arising from different duty, as the needs of the service may require, $486,725.

The amendment was agreed to.

The next amendment was, in line 135, under the head of "Bureau of Navigation," to increase the appropriation "for drawing, engraving, purchase of chart paper, and printing and photolithographing charts, correcting old plates, preparing and publishing sailing directions, and other hydrographic information," from $40,000 to $45,000.

The amendment was agreed to.

The next amendment was, under the head of "Bureau of Equipment and Recruiting," in line 212, to increase the appropriation "for equipment of vessels: for coal for steamers and ships' use, including expenses of transportation; storage and handling; hemp, wire, and other materials for the manufacture of rope; hides, cordage, canvas, leather; iron for manufacture of cables, anchors, galleys, and chains; furniture, wood, hose, bake-ovens, and cooking-stoves; boat-detaching apparatus; life-rafts for monitors; heating apparatus for receiving-ships; and for the payment of labor in equiping vessels and manufacture of equipment articles in the several navy-yards," from $800,000 to $850,000.

The amendment was agreed to.

The next amendment was, in line 225, to increase the appropriation "for contingent expenses of the Bureau of Equipment and Recruiting, namely: for expenses of recruiting and fitting up receiving-ships; extra expenses of training-ships; freight and transportation of equipment stores; transportation of enlisted men and boys; printing, advertising, telegraphing; books and models; stationery; express charges; internal alterations, fixtures, and appliances in equipment-buildings at the several navy-yards; foreign postage; car-tickets, ferriage, ice; apprehension of deserters; assistance to vessels in distress; continuous-service certificates and good-conduct badges for enlisted men, including purchase of school-books for training-ships and extra medals for boys," from $55,000 to $60,000.

The amendment was agreed to.

The next amendment was, under the head of "Bureau of Construction and Repair," in line 325, to increase the appropriation "for preservation of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; labor in navy-yards and on foreign stations; preservation of materials; purchase of tools; wear, tear, and repair of vessels afloat, and for general care and protection of the Navy in the line of construction and repair; and incidental expenses, namely, advertising and foreign postage," from $1,500,000 to $1,600,000.

The amendment was agreed to.

The Secretary read the following proviso from line 326 to line 329, inclusive:

That $150,000 of this amount shall be immediately available for the purpose of converting the ships Brooklyn and Lancaster into flag-ships.

Mr. WINDOM. At that point I should like to submit an amendment. I move to insert the words "repairing and," so as to read "for the purpose of repairing and converting." I think the mere expense of converting them into flag-ships ought not to cost very much money; but it is for repairing and converting into flag-ships.

The amendment was agreed to.

The Secretary continued the reading of the bill. The next amendment of the Committee on Appropriations was, under the head of "Bureau of Steam Engineering," in line 340, to increase the appropriation "for repairs and preservation of machinery and boilers in vessels on the stocks and in ordinary; purchase and preservation of all materials and stores; and patent rights, purchase, fitting, and repair of machinery and tools in the navy-yards and stations; wear, tear, and repair of machinery and boilers of naval vessels; incidental expenses, such as foreign postages, telegrams, advertising, freight, photographing, books, and instruments," from $800,000 to $900,000.

The amendment was agreed to.

The next amendment was, after the word "dollars," in line 341, to insert:

*Provided*, That $75,000 of this amount shall be immediately available for the purpose of converting the ships Brooklyn and Lancaster into flag-ships.

Mr. WINDOM. I desire to move the same amendment in that proviso. Before the word "converting," in line 343, I move to insert "repairing and," so as to read "repairing and converting."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The Secretary continued the reading of the bill. The next amendment reported by the Committee on Appropriations was, under the head of "Marine Corps," in line 507, after "California," to strike out "and for two private horses for commanding officer at the same place, seven hundred and fifty," and insert "five hundred;" so as to make the clause read:

For forage for three public horses, one for messenger to commandant and staff, Washington, District of Columbia, and two for general use at marine barracks, Mare Island, California, $500.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. BURNSIDE. I offer as an amendment to this bill the following section, and I will state that it is in the language of a bill which I introduced in the Senate and had referred to the Committee on Naval Affairs, and it meets with their approval:

SEC. 2. That sections 1418, 1419, and 1420 of the Revised Statutes relating to enlistments of marines in the naval service be, and hereby are, amended by striking out the word "sixteen" and inserting in its stead the word "fourteen."

Mr. WINDOM. I have no objection to this amendment. I understand it is approved by the Committee on Naval Affairs.

Mr. DAVIS, of West Virginia. Will the Senator state what it means?

Mr. WINDOM. It simply means to admit boys to the training-school at fourteen instead of sixteen years of age, which I understand is approved by the Naval Committee.

Mr. BURNSIDE. With the approval of their parents.

Mr. WINDOM. I have no objection to it if the Naval Committee thinks it is important. Of course it is subject to the rule and can only be admitted by unanimous consent.

Mr. DAVIS, of West Virginia. If the Senator from Minnesota has examined it and believes it to be right I have no objection, but from the reading of the amendment I could not say whether it was proper or not. I take it, though, as it comes from the Committee on Naval Affairs and the Senator who has charge of the bill has examined it and approves it, it is right, though I do not know anything about it myself.

Mr. WINDOM. It does not require much examination. It is a mere question as to whether the boys should be admitted at fourteen or sixteen.

Mr. DAVIS, of West Virginia. It is a mere question whether a boy shall enter the marine service at fourteen, instead of sixteen as the law now stands.

Mr. BURNSIDE. The naval service.

Mr. WINDOM. That is all there is in it. It is subject to the rule if any one chooses to raise the point; but I do not feel like raising the point of order.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

### INTEREST ON THREE-SIXTY-FIVE LOAN.

Mr. ALLISON. I now ask to call up the deficiency bill relating to the interest on the 3.65 bonds of the District of Columbia, reported this morning.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 7029) to provide for a deficiency in the appropriation for interest on the 3.65 loan of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

### HOUSE BILL REFERRED.

The bill (H. R. No. 6527) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses a certain lake known as Carr Lake, situated near said city, was read twice by its title and referred to the Committee on Public Lands.

### HOTEL AT FORTRESS MONROE.

Mr. JOHNSTON. I ask the Senate to proceed to the consideration of the bill (S. No. 1843) to authorize the Secretary of War to grant the use of certain land at Fortress Monroe, Virginia, for the erection of a hotel. I am sure there will be no objection to it.

Mr. ROLLINS. Is it the purpose of the Senator to ask the immediate consideration of this bill?

The PRESIDING OFFICER. That is the motion.

Mr. ROLLINS. I shall object to its consideration at the present time. I want to make some inquiries in reference to it.

Mr. JOHNSTON. I can answer any inquiries now if the Senator wants to make them.

Mr. ROLLINS. I want to examine the matter before I give my consent to the bill.

The PRESIDING OFFICER. Does the Senator from New Hampshire object to the present consideration of the bill?

Mr. ROLLINS. Yes, sir.

CHANGE OF NAME OF A BANK.

Mr. PLATT. I ask the Senate to take up for consideration Senate bill No. 1905, which is a bill changing the name of a national bank in the city where I reside. It will only take the time required to read it, I presume.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1905) changing the name of the First National Bank of West Meriden, in the county of New Haven, and State of Connecticut.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

STEAMSHIP DESSOUG.

Mr. KERNAN. I ask the consent of the Senate to take up the joint resolution (S. R. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug. It is only to change the name of the ship, owned by Americans, which brought over the obelisk. I think, if Senators will hear the joint resolution read, there will be no objection to it. It was reported, I believe unanimously, by the Committee on Commerce.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FORT LEAVENWORTH MILITARY RESERVATION.

Mr. PLUMB. I ask the Senate to proceed to the consideration of the bill (S. No. 159) to provide for the sale of certain portions of the Fort Leavenworth military reservation.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the Secretary of War to sell to the Kansas Central Railway Company (a corporation created under the laws of the State of Kansas) all that portion of the Fort Leavenworth military reservation which lies east of the wagon-road between Leavenworth City and Fort Leavenworth and south of Corral Creek, and also a tract lying north of Corral Creek and east of the Government corrals, being a piece of land extending 1,250 feet north from Corral Creek and 1,500 feet east from the Government corrals, and containing, in all, about one hundred and thirty-four acres.

Mr. ALLISON. I desire to ask the Senator from Kansas why it is that this land is to be sold to a particular railroad company?

Mr. PLUMB. In 1868 Congress granted a right of way to such railroad companies as might build through the reservation. There are two railroads: the Rock Island is one and the Kansas Central railroad is the other. The land to be taken is land which is not necessary for reservation purposes at all, and cannot be used by reason of the fact of its being greatly depressed and in the break, so to speak, of the ravine up which the railroad runs.

Mr. ALLISON. I happen to know from information that there are two railroads occupying this reservation.

Mr. PLUMB. Yes.

Mr. ALLISON. The proposition of the bill is to sell to one of them to the exclusion of the other. For aught I know this may be all right enough, but it seems to me that if these two railroad companies desire to occupy that reservation or a portion of it they ought to have an equal opportunity.

Mr. PLUMB. But there is an arrangement made or understanding between the companies that their rights shall not interfere. The Senator will notice that the right of the other railroad company is preserved in the last part of the first section, and also in the last section. There is no controversy of that kind whatever. It has been entirely understood between them, so far as their occupancy there is concerned, and the bill will preserve equally the rights of both.

The PRESIDING OFFICER. The bill was reported from the Committee on Military Affairs, with an amendment, which will be read.

The CHIEF CLERK. In section 2, after line 6, it is proposed to insert "and if said survey and appraisement shall be approved by the Secretary of War, then;" so as to read:

The Secretary of War shall appoint three commissioned officers of the United States Army, who shall cause an accurate survey and map to be made of the said lands, and shall appraise their value; a report of which appraisement, accompanied by a map and description of said lands, shall be made by said commissioners to the Secretary of War, and if said survey and appraisement shall be approved by the Secretary of War, then, upon the payment into the Treasury of the amount of such appraisement within eighteen months from the date of the report of said commissioners, a patent shall issue to the said Kansas Central Railway Company, or its assigns, for the lands described in the report of the said commissioners.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NIAGARA RIVER BRIDGE.

Mr. CONKLING. I ask, as this seems a convenient opportunity, that the Senate take up and act upon Senate bill No. 2096, reported from the Committee on Commerce. I cannot think there will be any objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 2096) to authorize the construction and maintenance of a railway bridge across the Niagara River.

Mr. CONKLING. The committee report an amendment, an additional section reserving the power of Congress to control the matter.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. It is proposed to add:

SEC. 3. That the right to alter or amend this act so as to prevent or remove all material obstructions to the navigation of the said river by the construction of the said bridge, is hereby expressly reserved.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HOTEL AT FORTRESS MONROE.

Mr. JOHNSTON. I ask the Senate to proceed to the consideration of the bill (S. No. 1843) to authorize the Secretary of War to grant the use of certain land at Fortress Monroe, Virginia, for the erection of a hotel.

The PRESIDING OFFICER. Is that the bill which was objected to just now?

Mr. JOHNSTON. Yes; but the objection is withdrawn, I understand.

The PRESIDING OFFICER. The Secretary will report the bill for information.

The Chief Clerk read the bill.

The PRESIDING OFFICER. The bill is before the Senate as in Committe of the Whole.

Mr. WHYTE. Whenever any part of the public land adjacent to a fortification has been granted for private use, it has been usual to make application to the War Department, so that Congress may be informed whether the application, if granted, would injure the purposes and uses to which the fortification may be devoted. I should like to know, therefore, before the bill is proceeded with, whether there is any recommendation from the War Department in favor of making the use that is proposed of this strip of land in front of the fort at Fortress Monroe.

Mr. JOHNSTON. I cannot state that the Secretary of War has been consulted on this subject. I do not know whether he has been; but the bill itself puts the whole matter under the control of the War Department.

Mr. LOGAN. I suggest to the Senator from Virginia to let the Clerk read the bill again.

Mr. WINDOM. Before the proceedings go further, I ask if the bill is liable to objection now?

The PRESIDING OFFICER. It is before the Senate regularly, and open to amendment.

Mr. WHYTE. The question I did not understand as having been put to the Senate, because I certainly should have objected. I did not understand that objection was asked and that the bill was before the Senate, because I rose immediately after it was read and inquired whether there was any recommendation, for I think it is essential that there should be some recommendation before a bill of that character should pass.

Mr. LOGAN. I ask for the reading of the bill.

The Chief Clerk again read the bill.

The PRESIDING OFFICER. As there seems to be a misunderstanding as to the order of the Senate, the Chair will now ask if there is objection to the present consideration of the bill.

Mr. INGALLS. The rule relative to an objection to the consideration of a bill applies only to bills in the morning hour under the Anthony resolution. This bill is moved by the Senator from Virginia, and a majority of the Senate can take it up if they please.

The PRESIDING OFFICER. That is true, but the Chair dispensed with the regular order of a motion and simply submitted the question if there was no objection to its consideration.

Mr. LOGAN. The bill is reported from the Committee on Military Affairs, and, as understood by the committee, without the matter having been referred to the Secretary of War and without a report from him, but a provision was put in the bill that the whole thing should be done under his supervision; that he might lease this property or not, as he saw proper; so that it would be a matter for him to investigate, and if the Department thought it was a proper thing to do it could be done. It is a mere authority given to the Secretary of War for that purpose and nothing more. He has entire power given to him in the bill, which covers the point suggested by the Senator from Maryland in reference to the information that should be obtained from him. It is entirely in his hands to allow the erection of the buildings, or to displace the buildings at any time when he sees proper if they shall have become inconvenient to the officers in command at the fort.

That is the object of the bill, and all that is in it so far as that point is concerned. The bill was considered by the Committee on Military Affairs, and I was authorized to report it with an amendment, which is now in the printed bill, substituting for the word "grant" the word "lease;" and there was no discussion about it. It is a matter that is left entirely in the discretion of the Secretary of War, and there was no objection to it in committee on that ground.

Mr. WHYTE. Mr. President, I do not think the Senator from Illinois has worded his discretionary clause so as to apply to the permission to use the ground. The buildings while being erected are to have the approval as to their construction of the Secretary of War, and they are to be removed in case he finds they are injurious, I suppose, to the public interest; but the authority to grant the use of the property has no guard about it whatever.

Mr. LOGAN. It is a mere authority given to the Secretary. It does not require him to do it.

Mr. WHYTE. But I think the Senator from Illinois knows pretty well that the grant of an authority to any officer of the Government is generally presumed to be a direction, and it requires a good deal of backbone to resist the application which comes to the War Department after such an authority is granted without limitation. Now I shall make no objection to this bill if after the word "authorized" the words are inserted "if he shall deem the public interest will not be injured thereby."

Mr. JOHNSTON. There is no objection whatever to that.

Mr. WHYTE. Then I will make no objection to the bill.

Mr. LOGAN. The Senator referred to what had been incorporated in the bill, and said that it did not strike him as being sufficient to satisfy his judgment. I did not draft the bill, nor did I incorporate anything in it except the word "lease," which struck me as sufficient; and it so appeared to the committee. I have no charge of the bill. I have nothing to do with it except that it was referred to me by the committee and I reported it. That was all I had to do with it except to insert that amendment by the consent of the committee. I know nothing about it further than that; but if I had charge of the bill I would say that I could see no objection to the Senator's suggestion, because I do not think it changes it a particle.

Mr. JOHNSTON. I think the bill means that now, but I have no objection to the amendment.

Mr. McMILLAN. I know nothing about the premises embraced in this bill; but I think as a matter of prudence a bill of this kind should be submitted to the Secretary of War in the first instance. The Department knows all that will affect the buildings owned by the Government at that place; we do not; and if the Department had inspected this bill and given to the Senate its opinion approving the contents of the bill, then we could readily pass it without hesitation. The bill itself it seems to me is imperfect. For instance, in addition to the clause to which attention has been called by the Senator from Maryland, the last proviso reads:

*And provided further*, That said buildings or improvements shall be removable at the pleasure of the Secretary of War whenever, in his judgment, the public interests may require it.

But that does not imply that the Government shall not pay for the expense of removing these buildings. The Government may remove them if the public interest require it, but it may pay for them also. I think that we should have a little more time, and that the Department should have an opportunity of inspecting this matter and giving to us its deliberate opinion upon it. I hope the Senator from Virginia will not press the bill at this time.

Mr. JOHNSTON. I should be very unwilling to press anything unduly; but really I can inform the Senator from Minnesota that there was a hotel erected on the same place before the war, by permission of the Secretary of War, and as I understand it, without undertaking to speak by authority, this measure is desired by the officers in command there.

Mr. INGALLS. Is this an enlargement of the Hygeia Hotel or a rival structure?

Mr. JOHNSTON. It is to be another hotel. There is one hotel there, which is insufficient. This is the fact about that. In addition to the convenience of the officers there, which is to be regarded, it should be borne in mind that this point has got to be a sort of sanitarium. It is a place where invalids from the North going to Florida rest in the fall and in the spring. It is a place of great public resort. The present hotel there is entirely inadequate to the travel. It is desired for the accommodation of the officers there and the public. As certain classes of invalids go from the North to Florida every year and return, they do not desire to go directly to Florida, but make stopping points—go first to Fortress Monroe, then to South Carolina, and then to Florida, and return the same way. In the fall and spring seasons this place is crowded with invalids. The present hotel accommodations are entirely inadequate, and this measure, I understand, is entirely agreeable to the officers in command there and is desired by them. It is put under the control of the Secretary of War, to prescribe the plan, to have general control of the whole matter. He can refuse to execute this bill if he chooses, after we pass it, because he is authorized to do so on the face of the bill and by the amendment proposed by the Senator from Maryland. It is a waste of time, therefore, to refer it to him now. He can refuse to execute it after it is passed, if he chooses to do so.

Mr. LOGAN. I desire to say but a word inasmuch as the bill came from the committee through my hands representing it. I cannot see, for the life of me, why it would not be just as easy to amend this bill, if it needs amendment, right here as to postpone it. As I said before I know nothing about it and care nothing about it except that it seems to me to be a fair bill, and one that certainly cannot injure the public. I have been to Fortress Monroe and I know that another good hotel there would be no disadvantage to the public. I am satisfied of that. There is one occupying a part of the grounds there and why there should not be another I cannot understand. I do not see any good reason for it.

So far as the objection that is made in a legal point of view to the right of the Government is concerned, I have but little to say. We have of course in a great body like this experts in the law who can always find objections. If these Senators will examine bills that have passed heretofore giving the same kind of authority they will find that this bill is literally copied from bills that have passed heretofore. I know it is a very easy matter for us always to find out some reason why a bill should not pass, or to suggest that a bill should read a little different from what it does, on the principle that a great many people dislike the Bible because they did not write it themselves, and we find that objection very frequently to bills in this Senate Chamber. A bill that a man writes himself is always right, but a bill drafted by somebody else is seldom ever right.

The objections that are made to this bill are such as can readily be obviated by a very slight interpolation in the bill, of a few words, if gentlemen see proper to propose them. I will agree to the amendment suggested by the Senator from Maryland; I would also, as far as I am concerned, if I had charge of the bill, agree to the one suggested by the Senator from Minnesota if it makes it more satisfactory; but he will find by examining the books that authority has been given to the Secretary of War to allow the erection of buildings on the grounds of the Government at quite a number of places heretofore. This bill is almost a literal copy of such laws passed heretofore. I do not think it will take five minutes to amend it and perfect it if gentlemen desire to have it changed in any way.

The PRESIDING OFFICER. The question is on the amendment of the committee, in line 5, to strike out "grant" and insert "lease."

The amendment was agreed to.

The PRESIDING OFFICER. The question now will be on the amendment offered by the Senator from Maryland, [Mr. WHYTE,] which will be read.

The CHIEF CLERK. After the word "authorized," in line 5, it is proposed to insert, "if he shall deem that the public interest will not be injured thereby."

The amendment was agreed to.

Mr. McMILLAN. I propose to amend the bill by adding:

And such removal shall be at the expense and cost of the person or persons owning such building and improvements.

Mr. JOHNSTON. I have no objection at all to that.

Mr. LOGAN. Nobody objects to that.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

## ASSAY OFFICE AT SAINT LOUIS.

Mr. COCKRELL. I ask the Senate to proceed to the consideration of House bill No. 6025, a bill reported by my colleague, who has charge of it.

The Chief Clerk read the title of the bill (H. R. No. 6025) to establish an assay office in the city of Saint Louis, Missouri.

Mr. ALLISON. Let the bill be read for information.

The PRESIDING OFFICER. The bill will be read in full for information.

The Chief Clerk read the bill at length.

Mr. CONKLING. What committee reported this bill?

Mr. VEST. The Committee on Mines and Mining.

Mr. CONKLING. Has this bill ever been before the Committee on Finance?

Mr. VEST. No, sir; it came from the Committee on Mines and Mining, because it does not propose to establish a mint but simply an assay office.

Mr. CONKLING. Will the Senator inform me whether any of the acts now on the statute-book, establishing assay offices, have ever come from any committee except the Committee on Finance?

Mr. VEST. I do not know that any of the acts for the establishment of assay offices merely have ever come from that committee. They are generally acts to establish a mint and assay office.

Mr. CONKLING. I do not wish to interfere with the bill of the Senators; but I am quite sure that the assay offices which have been established have been established under legislation coming in each House from the committee called here the Committee on Finance. I do not know whether any members of that committee are attending to this matter or not. Certainly it is not my business to volunteer to interfere with the wish of the Senators from Missouri, but I am quite sure the fact is as I state it.

Mr. VEST. The Senator from New York will permit me to say that the bill was reported some days ago. It is a matter of considerable importance to the city of Saint Louis. When it was reported, I attempted to have it passed at once, but the Senator from Vermont, [Mr. MORRILL,] a member of the Committee on Finance, raised the same question now raised by the Senator from New York. I then saw the chairman of the Committee on Finance, and he agreed with me that the bill properly came from the Committee on Mines and Mining. It is not to establish a mint, and is not any branch properly of the duties of the Committee on Finance. It is simply a mining ques-

tion; and it is not the first bill for such a purpose that has been referred to the Committee on Mines and Mining. There are other bills now under the consideration of the Committee on Mines and Mining.

Mr. CONKLING. Meaning no harm whatever to this bill, I venture to make this remark: if two committees of this body promiscuously and accidentally as the case may be are to have charge, as they will have under the present suggestion, of the matter of establishing assay offices, I feel quite sure it will lead to confusion and contrariety of proceeding in the Senate. Other bills of this sort have been reported by the Committee on Finance. The honorable Senator from Missouri, if I caught his words aright, said that other bills had been sent to his committee, but this is the first bill which has been reported from the Committee on Mines, as far as he knows, and my recollection fortifies him in that impression.

Meaning to make no objection to this bill, not knowing but that it is highly meritorious, I venture to suggest that on any subject, and particularly one of this sort which appeals of course to the emulation and disposition of localities, there should not be a selection of committees, so that one Senator introducing a bill sends it to one committee and another Senator introducing a bill on the same subject sends it to another committee, and thus a double or treble opportunity is given to the bill. It is a rule I believe you, Mr. President, will bear me out in saying, with all well conducted courts that when there has been action by one member of the court in granting or refusing an injunction, an order, or whatever it may be, it is bad practice to go to another and try the experiment there. Such I think should be the parliamentary usage; and if this mode of doing business prevails, if in a given case the Committee on Finance is hostile to the establishment of an assay office the way will be to refer the bill in that instance to the Committee on Mines and Mining. Reversing the illustration, if the Committee on Mines and Mining have indicated that they are opposed to it, or if anybody presumes that they are opposed to it, then the way will be to refer that bill to the other committee, and thus to find some judge of the court who will grant the order although the other judge would not do it.

As I say, I know nothing against the merits of this bill. I do not wish to impede the Senators from Missouri one moment in considering their bill; but I thought as my attention was directed to this point, I ought to call the attention of the Senate to the fact that there seems to be now—unintentionally and inadvertently no doubt—a proceeding which will have the effect of splitting and dividing between two or for aught I know more committees an entire subject which ought to belong to some one.

Mr. COCKRELL. I think there is no trouble about this. This bill legitimately and properly belongs to the Committee on Mines and Mining. We have daily occurrences here where a certain class of cases different by a mere hair from another go to one committee while the others go to another committee. A claim for losses sustained by a postmaster by reason of depredations, as a safe broken open and a robbery committed before he has refunded the money to the Government, goes to the Committee on Post-Offices and Post-Roads. If he has paid the Government and asks to be indemnified, the usual rule has been to send such claim to the Committee on Claims. We have now before the Finance Committee a series of cases that four years ago were before the Committee on Claims. There is a mere shadow of difference between them, but no exception is taken.

I trust there will be no objection made on this point or in opposition to the bill. It is a just and legitimate bill and has been reported by an appropriate committee. That another committee might have kindred jurisdiction, or very nearly so, cannot interfere with the legitimate jurisdiction of this committee; and so it has been held. The Committee on Finance act upon a certain case; the Senate considers it because it acts upon it. Had that case gone to the Committee on Claims, the Claims Committee would have considered it and the Senate would have entertained their action.

Mr. BAYARD. Mr. President, I had no knowledge of the introduction of this measure or of its reference; but the Senator from Missouri [Mr. VEST] did say something to me at the time the bill was brought back into the Senate from the Committee on Mines and Mining with a favorable report.

It is true that heretofore in the usage of this body, so far as I am informed, all matters connected with the minting of money have been sent to the Committee on Finance; but the Senator drew my attention to the fact that this was not a bill to establish a mint, but a bill to establish an office for the reduction of ores of the precious metals into marketable shape, not in the shape of coin. At any time it would have been far from my desire, after any committee had acted on a subject, to take exception to their action, and much more strongly when it would have been a claim for the jurisdiction of a committee of which I happen to be the chairman. If the question had been raised originally on the introduction of the bill, I should have said this bill was germane to that class of bills which are sent exclusively to the Committee on Finance, though I do not know any bill by which we have established an assay office at all within the last ten or twelve years; but as another committee have, without my knowledge, acted upon the bill and reported in favor of it, I thought it would be rather in excess of the courtesy of the Senate and of my own sense of duty for me to have asked that a bill which had been so considered should be recommitted to the Committee on Finance especially when the subject might properly be germane to the duties of the Committee on Mines and Mining. That is all I wish to say.

Of the merits of this bill I know nothing. I take it for granted it has been properly considered by the committee who had it in charge. I merely desired to explain why it was that the Committee on Finance have not charge of this bill, and why it was that I have not claimed for that committee jurisdiction when I heard the bill had been favorably reported by another committee of the Senate.

The PRESIDING OFFICER. If there is no objection to the present consideration of this bill, it will be regarded as before the Senate as in Committee of the Whole.

Mr. ALLISON. I do not wish to interpose any objection to the consideration of this bill, but I doubt very much the propriety of passing it. It is perfectly apparent to my mind at least that if we pass it at all we should appropriate a larger sum of money than is proposed in the bill. An assay office cannot be established at Saint Louis, or anywhere else, with an appropriation of $10,000. I shall not interpose an objection to the consideration of the bill.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole.

Mr. ALLISON. Now I ask that the report of the Director of the Mint be read to the Senate, if there be one.

The PRESIDING OFFICER. The Secretary informs the Chair that there are no papers or reports accompanying the bill.

Mr. VEST. There was no report with the bill. I have a printed statement about it.

Mr. ALLISON. I only desire to say a word further. If we establish an assay office at Saint Louis, it is manifest that there will be applications for similar establishments at Kansas City, at Omaha, and at Chicago. These are all places where minerals in various forms come, and there seems to me to be no reason why an assay office should be established at Saint Louis that would not apply to all these other cities. The Committee on Finance have had discussions for several years with reference to the location of an additional mint. This assay office will grow into a mint certainly, and in this way the question of another mint in the West will be settled by indirection. I think that is a subject of sufficient importance to be fully and carefully considered by the appropriate committee. If the Senator from Missouri has carefully considered this subject and believes that Saint Louis is the best of all the western cities in which to establish a mint, and that another mint is necessary, then perhaps this bill might as well be passed; but otherwise it seems to me it ought not to be considered at this time.

Mr. VEST. There is a printed report which I cannot put my hands on now, but the facts are substantially these: the head of the mints is favorable to the establishment of this assay office in Saint Louis; and the report shows the necessity for its establishment.

Mr. ALLISON. Do I understand the Senator from Missouri to say that this bill meets the approval of the Director of the Mint?

Mr. VEST. Yes, sir.

Mr. ALLISON. And of the Secretary of the Treasury?

Mr. VEST. Yes, sir; I so understand.

Mr. ALLISON. If that be true, I shall certainly interpose no objection.

Mr. VEST. The bill passed the House of Representatives without any objection at all and was considered by our committee. We had before us at the time a printed report.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

### THE UTE COMMISSION.

Mr. TELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be, and is hereby, directed to transmit to the Senate the report of the commission known as the Ute commission, appointed under the act of June 15, 1880.

Mr. TELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be, and is hereby, directed to transmit to the Senate all correspondence between the Secretary of the Interior and the commission known as the Ute commission; also, all correspondence between the governor of Colorado and the Secretary of the Interior concerning the Ute Indians, since the 15th day of June, 1880.

### THE MARINE CORPS.

Mr. McPHERSON. I desire to give notice that I will on Monday next call up the bill (S. No. 1933) to establish and equalize the grades and regulate appointments and promotions in the Marine Corps.

### LOUISIANA JUDICIAL DISTRICTS.

Mr. LAMAR. I ask the Senate to proceed to the present consideration of the bill (H. R. No. 4050) to divide the State of Louisiana into two judicial districts.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and insert:

That the parishes of Caddo, Bossier, Webster, Claiborne, Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Bienville, Red River, De Soto, Sabine, Winn, Natchitoches, Jackson, Caldwell, Franklin, Tensas, Concordia, Catahoula, Grant, Vernon, Rapides, Avoyelles, Saint Landry, La Fayette, Saint Martin's, Vermillion, Cameron, and Calcasieu, in the State of Louisiana, shall constitute, and is hereby created, the western judicial district in

that State; and the district court now existing in Louisiana shall, from and after the passage of this act, be known as the district court for the eastern district of Louisiana, and all the parishes in said State not above named shall belong to said district.

SEC. 2. That all suits not of a local nature in the circuit and district courts against a single defendant, inhabitant of said State, must be brought in the district where he resides, but if there are two or more defendants, residing in different districts, such suits may be brought in either district.

SEC. 3. That all prosecutions for crimes or offenses hereafter committed in either of said districts shall be cognizable within such district, and all prosecutions for crimes or offenses heretofore committed in the district of Louisiana shall be commenced and proceeded with as if this act had not been passed.

SEC. 4. That all civil suits in law or equity which have arisen in the parishes composing said western district, or against persons residing therein, or concerning lands situated therein and now pending, together with all process, writs, recognizances, and records belonging thereto, shall, with the consent of all the parties, be transferred to said western district.

SEC. 5. That there shall be held semi-annually in said district two stated sessions of the district and circuit courts at each of the following places, to wit: At Opelousas, on the first Mondays of January and June; at Alexandria, on the fourth Mondays of January and June; at Shreveport, on the third Mondays of February and July; at Monroe, on the first Mondays of April and October.

SEC. 6. That a person learned in the law shall be appointed by the President of the United States, by and with the advice and consent of the Senate, district judge thereof, with a salary of $3,500 per annum, payable quarterly, and with the same powers and duties of the district judge of the United States for the district of Louisiana as it now exists, and such as are conferred on him or required of him by this act. And the said judge shall appoint a clerk of the district court in the western district, and a clerk of the circuit court for said district shall be appointed in the same manner as other such clerks are appointed, and who shall receive for the services performed by them the same fees and compensation that are allowed to the clerks of such courts holding their sessions in New Orleans, in the same State, and shall be subject in every respect to the same restrictions and responsibilities; and the district and circuit courts for the eastern district of Louisiana shall be held in New Orleans, as heretofore. And it shall be the duty of the clerks of the district and circuit courts of the United States in New Orleans, whenever the courts shall so order, to transmit, by some safe conveyance, or to deliver to the clerks of the courts in the western district, or their order, the original papers in all such cases as properly belong to the court in the western district by the provisions of this act, together with a transcript of the proceedings had therein.

SEC. 7. That the President of the United States, by and with the advice and consent of the Senate, be, and hereby is, authorized to appoint one person as marshal and one as district attorney for the said western district of the United States within the State of Louisiana created by this act; and that the terms of appointment and service, together with the duties and responsibilities of the said marshal and district attorney, respectively, for the district aforesaid shall be in all respects the same within their said district as the terms of appointment and services, the duties, and responsibilities of the marshal and district attorney, respectively, of the eastern district of the State of Louisiana.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

THE BRIG GENERAL ARMSTRONG.

Mr. PENDLETON. I ask the Senate to proceed to the present consideration of the bill (S. No. 166) for the relief of the captain, owners, officers, and crew of the late United States private-armed brig General Armstrong, their heirs, executors, administrators, or assigns.

Mr. BURNSIDE. I move that the Senate adjourn.

The PRESIDING OFFICER. Before that motion is put, the Chair will lay before the Senate the unfinished business, which is the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

The question is on the motion of the Senator from Rhode Island, that the Senate do now adjourn.

The motion was not agreed to; there being on a division—ayes 15, noes 25.

Mr. SAUNDERS. I should like to have unanimous consent of the Senate to take up a bill.

The PRESIDING OFFICER. There is already a bill before the Senate.

Mr. TELLER. It has not been taken up.

Mr. McMILLAN. It has not been taken up.

The PRESIDING OFFICER. The Chair asked if there was objection to the consideration of the bill and he heard none.

Mr. TELLER. That was before the bill was read.

The PRESIDING OFFICER. It was read by title under an order of the Chair.

Mr. SAUNDERS. What is the bill?

The PRESIDING OFFICER. The bill will be again reported by the Secretary.

The Chief Clerk again read the bill.

The PRESIDING OFFICER. The bill has been read the third time, and the question is on its passage.

Mr. PLATT. It strikes me that this bill ought not to pass without a little more consideration, at this time. When it was before the Senate on a former occasion there was a discussion about it. It is a claim which dates back to 1814, and there are very many things which may be said in my opinion against the passage of the bill. I do not desire to discuss it at this time, but I think the Senate ought to be informed of the nature and character of the bill.

Mr. PENDLETON. Mr. President, this bill has been before the Senate during this session and the last. It has been accompanied by a report very carefully prepared, in which reference is made to documents and diplomatic correspondence which give the history of the case. I had supposed that every Senator had made up his mind upon it. Attention was called to it by the Senator from Massachusetts and the Senator from Connecticut at the last session when the bill was up for consideration. I do not desire, unless objections are made to its passage, to consume the time of the Senate in stating the history of the event out of which the claim grew and the diplomatic correspondence which has ensued between the respective governments, because it is quite voluminous, and I should be glad to be spared myself the trouble and to spare the Senate the time of its discussion. If, however, objection is to be made to the bill, I shall feel it my duty to have the report read which lies upon the table of every Senator.

Mr. BURNSIDE. Will the Senator from Ohio object to allowing this bill to go over as the unfinished business until to-morrow? and then Senators will have an opportunity of examining the report.

Mr. PENDLETON. I have no objection to the bill going over to any fixed time.

Mr. BURNSIDE. It can come up as unfinished business to-morrow.

Mr. PENDLETON. I have no desire to detain the Senate with a discussion of it to-night; but I have tried for weeks past to bring this bill before the attention of the Senate, and I will not willingly consent to any course which will result in its indefinite delay.

Mr. BURNSIDE. I say to the Senator from Ohio that when I made my motion to adjourn I thought the bill had been taken up. I did not submit my motion to adjourn with a view to defeating the Senator in having the bill taken up, and I have no objection to its being taken up. I ask that it be taken up to-morrow by common consent immediately after the morning hour.

Mr. PENDLETON. If the bill can be taken up to-morrow or the next day at any fixed hour, I have nothing to say. I do not desire to press it on the attention of the Senate to-night, but I can consent to no course which will displace it.

Mr. BURNSIDE. Then I ask that unanimous consent be given that the bill be taken up to-morrow immediately after the morning hour, and that being done I move an adjournment.

Mr. INGALLS. I must object to any arrangement that will displace what I believe to be, by unanimous consent, the unfinished business for to-morrow; that is, the Indian severalty bill. I have no objection to an assignment being made for the consideration of the Armstrong bill at some day after that has been disposed of.

Mr. PENDLETON. I shall have no objection to an arrangement by which it shall come up immediately after the disposal of the regular order.

Mr. BURNSIDE. Then I make that suggestion.

Mr. McPHERSON. Then I move to take up Senate bill No. 1206.

Mr. BURNSIDE. I move that the Senate adjourn.

Mr. McPHERSON. I ask the Senator from Rhode Island to withdraw that motion, because there is a bill reported by his colleague which I wish to have taken up.

Mr. BURNSIDE. I withdraw the motion.

Mr. PLATT. I have no desire to delay the consideration of this bill. I thought it was too important a bill to be considered at this late hour in the afternoon. I should like the arrangement now proposed, that it shall follow the Indian severalty bill. I think there can be no objection to that.

The PRESIDING OFFICER. That, the Chair understands, is the understanding of the Senate.

JOHN THORNLEY.

Mr. McPHERSON. I move to take up the bill (S. No. 1206) for the relief of Medical Director John Thornley, United States Navy.

Mr. COCKRELL. I ask for the reading of the report in that case.

The Chief Clerk read the following report, submitted by Mr. ANTHONY February 4, 1880:

The Committee on Naval Affairs, to whom was referred the petition of John Thornley, medical director, United States Navy, praying for restoration to his former position in the Navy, beg leave to report as follows:

Dr. Thornley was placed on the retired list June 1, 1861, a board of surgeons having pronounced him unfit for active duty. It seems that the examining board further declared that Mr. Thornley's disability was not incurred in his line of duty as medical director, and at that time Thornley was unable, through force of circumstances, to produce satisfactory evidence to the contrary. At a later period he succeeded in obtaining positive evidence, which had not previously been submitted, that his disability had occurred in the line of duty, and asked to submit the evidence for consideration before a competent tribunal. Upon statement of the facts to Hon. R. W. Thompson, Secretary of the Navy, the matter was referred to the Chief of the Bureau of Medicine and Surgery. Under date of May 15, 1878, the Surgeon-General recommended that Dr. Thornley's case be referred to the retiring board for readjustment.

On the 12th of November, 1878, a medical board was convened at the Navy Department for the further investigation and consideration of such documentary evidence as might be produced by Dr. Thornley. After a careful consideration of all the evidence relating to the origin of the said disability of Dr. Thornley the board reached the conclusion that the disability causing the retirement of Medical Director John Thornley had its origin in the line of duty. This report was approved by Secretary Thompson, and Dr. Thornley's name was ordered on the records of the Department from the 1st of January, 1879.

The Secretary of the Navy further says that, "having been retired upon insufficient evidence as to the origin of his disability, he is of opinion that Dr. Thornley's claim is just and deserving of favorable action of Congress."

In consideration of the above facts the committee report favorably on Dr. Thornley's petition.

Mr. COCKRELL. I ask the Senator from New Jersey to let us see the act of March 3, 1873, which I have been unable to find. I desire

to call the attention of the Senate to this case. This, it appears, is not the first time this man has been before Congress for relief, and I want to get the history of the case. I ask for the reading of the act referred to in this bill. I cannot find it.

Mr. McPHERSON. I do not know that I can turn precisely to the act itself. But prior to 1873 all naval officers who were retired were retired on the same rate of pay. Officers on furlough received one-half pay, and all officers retired, whether disabled in the line of duty or otherwise, received the same rate of pay. In 1873 an act was passed retiring officers, disabled in the line of duty, on three quarters pay. I think I can turn to it in the Revised Statutes, although I cannot find it now on the moment. That act covered that particular point.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole.

Mr. COCKRELL. I am objecting to its further consideration.

The PRESIDING OFFICER. Does the Senator object to the consideration of it?

Mr. COCKRELL. I am not objecting to its being considered; but I am objecting to its passage.

Mr. TELLER. I object, if that will do any good.

Mr. BURNSIDE. I move that the Senate adjourn.

The PRESIDING OFFICER. Before the Chair puts that motion he will state that the unfinished business is the Indian severalty bill. The Senator from Rhode Island moves that the Senate adjourn.

The motion was agreed to; and (at four o'clock and forty-five minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### THURSDAY, *January* 27, 1881.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. There are several gentlemen present asking for recognition on matters which the Chair thinks will not occasion the least discussion.

Mr. SPEER and Mr. COFFROTH demanded the regular order.

The SPEAKER. The regular order is the morning hour for the call of committees.

ADVERSE REPORTS.

Mr. UPDEGRAFF, of Ohio, from the Committee on Invalid Pensions, reported back adversely the bill (H. R. No. 6692) granting a pension to Rebecca Tamsett; and also, from the same committee, adversely, the bill (H. R. No. 6087) granting a pension to John H. Longbottom.

The SPEAKER. The bills will be laid upon the table and the reports printed.

Mr. UPDEGRAFF, of Ohio. In both of these cases the pensions have already been granted by the Department; I therefore ask that the committee be discharged from the further consideration of these bills.

The SPEAKER. The reports being adverse, the bills will be laid upon the table and the reports printed.

ISABEL M'DOWELL.

Mr. UPDEGRAFF, of Ohio, also, from the same committee, reported back favorably the bill (H. R. No. 2910) granting arrears of pension to Isabel McDowell; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

DISBURSEMENT OF APPROPRIATION FOR TENTH CENSUS.

Mr. FINLEY. Mr. Speaker, I am directed by the Joint Select Committee on the Census to report back a letter from the Secretary of the Interior asking additional allowance for compensation of the disbursing clerk, who has charge of the disbursement of the census fund, with the recommendation that the allowance asked for be granted, and that the same be referred to the Committee on Appropriations.

It was ordered accordingly.

MAJOR JACOB E. BURBANK.

Mr. DIBRELL, from the Committee on Military Affairs, reported back adversely the bill (S. No. 313) for the relief of Major Jacob E. Burbank.

Mr. BROWNE. Mr. Speaker, I desire to present the views of the minority in that same case, and ask that it be printed along with the report of the majority, and that the bill be referred to the Calendar.

The SPEAKER. The minority report will be printed with the report of the majority, and the bill, with an adverse recommendation, be placed on the Calendar.

JOHN M. M'CLINTOCK.

Mr. CARLISLE, from the Committee on Ways and Means, reported back, with a favorable recommendation, the bill (S. No. 142) for the relief of John M. McClintock; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

UNIFORM SYSTEM OF BANKRUPTCY.

Mr. ROBINSON. I am instructed by the Committee on the Judiciary, to whom was referred a bill to establish a uniform system of bankruptcy throughout the United States, to report to the House certain testimony and arguments on said bill submitted to the committee, and to ask that the same be printed and recommitted.

Mr. MILLS. I wish to ask if it is proper that this argument should be printed at the expense of the Government? I think it is customary whenever gentlemen want to impress any matter upon Congress that they themselves print their argument and lay it before Congress. Here an argument is made in favor of a system of bankruptcy and sent to us, and Congress is asked to print the argument. I do not think that should be done.

Mr. ROBINSON. The gentleman from Texas labors under a misapprehension. The committee gave a hearing, took the testimony, and present it to the House. I am instructed to ask for its printing and recommittal.

Mr. WARNER. That is very commonly done.

Mr. MILLS. The printing of testimony is customary, but not the printing of arguments.

The SPEAKER. This has usually been done for the information of members of committees and of the House. It has been done by the Ways and Means Committee.

The motion of Mr. ROBINSON was agreed to.

ORDER OF BUSINESS.

The Committee on Coinage, Weights, and Measures having been called,

Mr. STEPHENS said: Will the Chair now entertain a motion for the consideration of a report from the Committee on Coinage, Weights, and Measures?

The SPEAKER. That cannot be done under this call.

MARGARET J. RYAN.

Mr. MAGINNIS, from the Committee on Military Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 4587) for the relief of Margaret J. Ryan; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

POST-ROUTE BILL.

Mr. MONEY, from the Committee on the Post-Office and Post-Roads, reported a bill (H. R. No. 7036) to establish post-routes.

The SPEAKER. This is the bill known as the post-route bill, and it is reported for printing and recommittal.

The bill was read a first and second time, and was recommitted to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. COBB. On page 950 of the RECORD my name is on the list of those who did not vote on a call of the House. I desire to have the RECORD corrected. I was present and answered to my name.

The SPEAKER. The Chair is informed by the Clerk that the roll-call does not show that the gentleman answered to his name. The gentleman is not recorded as having answered when his name was called.

Mr. COBB. I did answer. I was present at every roll-call and answered.

The SPEAKER. If there be no objection the gentleman's name will be entered as present. It does not change the result.

Mr. CONGER. It might change the result in some cases.

Mr. COBB. This was simply on a call of the House.

The SPEAKER. It cannot change any result in this case.

Mr. CONGER. I have no objection to the gentleman's name being recorded in the call of the House. To do this, however, might on some question change the result as to the matter of a quorum.

The SPEAKER. It does not do that, and it was for that reason the Chair suggested that the gentleman's name should be recorded.

There was no objection.

ORDER OF BUSINESS.

Mr. SPEER rose.

Mr. COX. Has the call of committees been completed?

The SPEAKER. It has.

Mr. SPEER. I yield to the gentleman from New York.

Mr. COX. I rise to a question of privilege. I am instructed by the Committee on Foreign Affairs to report back a resolution of inquiry.

Mr. TOWNSHEND, of Illinois. I have risen for a similar purpose.

Mr. SPEER. I do not mean to yield further than to the gentleman from New York.

Mr. TOWNSHEND, of Illinois. I have a similar report to make.

Mr. CONGER. If the business of yesterday, which is so important a business, is next in order, I call for the regular order.

Mr. COX. The gentleman from Georgia has yielded to me.

The SPEAKER. The regular order is demanded.

Mr. COX. I have risen to a question of privilege.

The SPEAKER. The Chair recognizes the gentleman from Georgia [Mr. SPEER] on a question of higher privilege.

Mr. COX. The Chair does not know what is my question of privilege.

The SPEAKER. The Chair does know. It is a resolution of inquiry reported back by the Foreign Affairs Committee.

Mr. COX. I would like to have the resolution read before I am ruled out.

The SPEAKER. The Chair recognizes the gentleman from Georgia, who is on the floor for a question of the highest privilege.

Mr. COX. The gentleman from Georgia yielded to me.

The SPEAKER. But the gentleman from Michigan has demanded the regular order.

Mr. COX. Not before the gentleman from Georgia yielded to me.

The SPEAKER. The gentleman from New York would have been recognized if the gentleman from Michigan had not objected.

Mr. COX. Then I shall have to pass this.

The SPEAKER. The Chair will adhere to the rule. The gentleman from Georgia is recognized.

## CONTESTED ELECTION—YEATES VS. MARTIN.

Mr. SPEER. I call up the report of the Committee on Elections on the contested-election case of Yeates *vs.* Martin, first congressional district North Carolina. I ask that the report of the majority of the committee be read.

Mr. KEIFER. Let the report of the minority also be read.

Mr. REAGAN. I wish to inquire of the Chair if it can be insisted on as a right that the reports shall be read?

The SPEAKER. In view of the fact that the House will be called upon to vote on this election case, gentlemen might, perhaps, desire to hear the reports on both sides read.

Mr. CONGER. I am very desirous a question of higher privilege should come before the House.

The SPEAKER. This touches the right of a member to his seat and has been generally considered a question of the highest privilege.

Mr. CONGER. I understood the Chair to state when the other question came up that he could not imagine a question of higher privilege than one affecting the election of the President of the United States.

The SPEAKER. The Chair has not been asked this morning to recognize any gentleman on that subject.

Mr. CONGER. But at the adjournment yesterday the House was dividing on a proposition connected with that subject.

The SPEAKER. The gentleman in charge of that matter is not pressing it. That is all the Chair knows about it.

Mr. CONGER. If it need any urging from this side of the House to have him press it, I think he can have it.

The SPEAKER. The Chair himself would be inclined to consult with the gentleman and advise him to go on with it, if the gentleman from Michigan [Mr. CONGER] wants to have the individual opinion of the Chair on the subject.

Mr. SPARKS moved across the Hall toward Mr. CONGER'S seat.

Mr. CONGER. I hope the church militant does not come over to this side for the purpose of provoking a quarrel with me. [Laughter.]

Mr. SPARKS, (returning to his seat.) I simply wanted to suggest to the gentleman that it was hardly senatorial to press this question now. [Laughter.]

Mr. SPEER. In order to save time, I will withdraw the demand for the reading of the majority report.

The SPEAKER. The demand for the reading of the report is withdrawn.

Mr. SPEER. The case of the contestant, Mr. Yeates, has received, and, as I think, has merited the approval of the Committee on Elections. I desire to say in the outset of my remarks, that judging from the statements made on this floor yesterday the gentleman from Ohio [Mr. KEIFER] seems to be under an erroneous impression in regard to the action of the majority of this committee about this report. Literally the gentleman was accurate. All the members of the majority of the Committee on Elections did not affix their names to the majority report; but that was owing to the accidental circumstance that they were not all present when the report was adopted. The report as presented by the majority is approved, and, as I think, earnestly approved, by the majority of the Committee on Elections. I think that it is right and impartial, and that its conclusions are sound in view of the law and the evidence.

I believe that if I can for a little while hold the attention of gentlemen to the consideration of the important matters in this case, I can make it clearly apparent that the contestant is entitled to the seat which is in controversy. It is difficult to argue these contested-election cases here, as they are matters in which general interest is not taken. Therefore I beg leave to invoke the attention of the House to the consideration of the questions here involved.

This contest arises about the election which was held on the 5th day of November, 1878, in the first congressional district of North Carolina. There were three candidates at that election: Mr. Yeates, the democratic candidate; Mr. Martin, the republican candidate; and Mr. Respass, who occupied the position of an independent republican.

After consolidating the votes the returning board of North Carolina, consisting of the governor, the secretary of State, the attorney-general, and two State senators, gave the certificate of election to Mr. Martin, the sitting member, in view of a narrow alleged majority of 51 votes. The Committee on Elections, on examination of the vote and the poll and the returns of the several precincts which it will be necessary for us to consider, have reported that Mr. Yeates should be seated on an evident majority of 156 votes, if one view of the case is taken, and a majority of 92 votes if another view is taken.

The first question to which I desire to call the attention of the House is the action of the county canvassing board in the poll of Providence Township, in the county of Pasquotank. In that township Mr. Yeates received a majority of 39 votes. The election was a fair one; there were no charges of fraud or mismanagement; there were no pretenses of intimidation there. Yet the canvassing board of that county refused to give to Mr. Yeates the 39 majority which had been polled for him in that precinct. They based their refusal upon the ground that the judges of the election at that precinct appointed the registrar to carry up and deliver the returns to the county canvassing board.

The contestee in his brief, page 29 of the record, admits that these 39 votes ought not to be rejected. And the report of the minority of the committee, page 24, admits that this objection is not sufficient to justify the committee in rejecting the return of that township. But the minority insists that while they make that admission the contestee is entitled to a gain somewhere else; that is in Salem Township, which they allege was excluded for the same reason that Providence Township was excluded. Now, the most cursory consideration of the evidence in this case will demonstrate the fact that that conclusion is not warranted.

Mr. KEIFER. It is stated in the record in exactly that way.

Mr. SPEER. If the gentleman will possess himself in patience, he will have full opportunity to reply to me. I think his remark is predicated upon a misunderstanding of what I have said.

Mr. KEIFER. No, sir.

Mr. SPEER. The gentleman states, if I do not misunderstand him, that it is stated in the record that the vote of Salem Township was rejected for the same reason that the vote at Providence Township was rejected.

Mr. KEIFER. Yes, sir.

Mr. SPEER. Now, let us see what the record says. I oppose the record to the statement of the gentleman from Ohio. "The votes, as returned to the board of canvassers from the precincts of Salem and Providence, were not received and counted by the board on account of informality, and therefore not counted in the above statement." What informality? The same informality? Certainly not. It does not say that the vote of Salem Township was rejected for the same informality for which the vote of Providence Township was rejected. The only record on the subject, which I have just read, and which is taken from the certificate of B. F. Overman, the clerk of the board of county canvassers, fails to disclose what the informality was in either precinct. We have to go to the evidence elsewhere in the record to show what the informality was in either case.

When we go to the record evidence in regard to Providence Township, we find that the informality was that the registrar carried up and delivered the returns to the county canvassing board. The minority report itself states that that is not sufficient reason for rejecting the returns. When we go to the evidence in regard to Salem Township, we find a great many points of informality other than that mentioned in connection with Providence Township.

Now, the committee is not asked to reject those votes at Salem Township; 135 votes there had already been rejected by the proper election authorities of North Carolina; and in order to sustain the claim of gentlemen on the other side we are asked to overturn and set aside the action of the authorities of that State, and to do so without any sufficient evidence—indeed, in an entire absence of evidence going to show that that action ought to be set aside.

One point of informality there is this: the evidence of the contestee himself discloses the fact that the polls at Salem precinct were not opened until twelve o'clock in the day, when the law is mandatory that they shall be opened at seven o'clock in the morning; that before they were opened a large number of voters at that precinct had left; that not more than one-half of the vote of the precinct was polled; that there was no registrar appointed; that officers who held the election were not sworn. The evidence discloses all of this informality with regard to Salem Township. Yet gentlemen would assume that the only informality there was identical with the informality at Providence Township.

Mr. Speaker, I have but to refer to the evidence in order to demonstrate that my statement is borne out and sustained. I refer to the evidence of James S. Wilcox on page 56 of the record. He says that he was present at Salem Township and acted as registrar. He is asked who was the regularly appointed registrar for Salem precinct for that election. He says that it was J. S. Lister. He admits that he was appointed registrar by one F. M. Godfrey. He is asked, "What time were the polls opened?" He declares that the polls were not opened until twelve o'clock. He admits that he saw as many as twenty-five or thirty people who were prevented from voting at that precinct because of the failure to open the polls at the hour appointed by law.

A MEMBER. What hour is that?

Mr. SPEER. Seven o'clock in the morning. The polls were not open until twelve o'clock. He is asked whether he was sworn as registrar for Salem precinct at that election; he says he was not. He is asked whether the judges or inspectors of the election were sworn;

he says they were not. He admits that he was not a magistrate or a person authorized to administer an oath.

Now lest it may be thought that this is partisan testimony—the testimony of a democrat in behalf of Mr. Yeates, I call attention to the fact that this witness is a republican. He says:

I was mayor of Elizabeth City for the year 1876; was nominated by the republican party and elected by the votes of both parties. I was county commissioner for two years, from about 1872 to 1874. I was nominated by the republican party and was elected by the votes of both parties. In 1875 I was appointed by the county commissioners sheriff of the county to fill the vacancy of John T. Price, sheriff, and 1876 I was nominated by the republican party for sheriff of the county and was elected.

Q. For whom did you vote for Congress at the November election, 1878?
A. I voted for Joseph J. Martin.

There is the evidence which proves that the informality at Salem precinct was not the same as the informality at Providence precinct. Therefore Mr. Yeates is admittedly entitled to have counted for him the 39 votes which were rejected at Providence Township, and Mr. Martin is not entitled to have counted for him any of the 135 votes rejected at Salem precinct because those votes were properly rejected by the authorities of the State.

Mr. Speaker, I desire to call attention briefly to the law in reference to a failure to open the polls at the time provided by the statute. I read from McCrary on Elections:

The better opinion seems to be, however, that a considerable deviation from the hours fixed by law for keeping open the polls must render the election void. Thus, in Pennsylvania, it has been determined that where the law required the polls to be kept open until ten o'clock and they were closed at eight, the election must be set aside. (Pennsylvania District Election, 2 Parsons, 526.) So also if they be opened at a much later hour than the time prescribed by law.

In summing up the conclusions in view of the authorities on this point, McCrary says:

From all the somewhat conflicting authorities upon this subject the following may be gathered as the governing rules:

* * * * * * *

If the deviation from the legal hours is great, or even considerable, the presumption will be that it has affected the result and the burden will be upon him who seeks to uphold the election, to show affirmatively that it has not. But if the deviation from the legal hours is but slight, the presumption will be that it has not affected the result, and the burden will be upon him who attacks the validity of the election to show affirmatively the contrary.

Now, if you turn your attention to the evidence you will find that the vote at Salem precinct that year, the polls having been opened at twelve o'clock, was only 193, as against a vote of 434 at the same precinct two years before when the polls were opened at the proper hour. Therefore the authority which I have quoted is entirely opposite. Here the deviation was great—from seven o'clock till twelve o'clock. Five hours of the time allotted to the election were taken away by this culpable negligence or fraudulent conduct on the part of the managers. The poll discloses the fact that a large number of the voters of that precinct were in this way deprived of the privilege of voting.

In view of the authorities it does not matter whether there is a failure to keep the polls open as late as the time fixed by statute, or whether there is a failure to open the polls at the hour fixed by the statute. In either case if the deviation is considerable, the election is vitiated.

Mr. KEIFER. To what authority does the gentleman refer?

Mr. SPEER. I read from Brightly's Election Cases, page 257:

We think that if the fact be as stated in the petition in regard to Corridon township—namely, that the election was not opened until two o'clock p. m. of the day, instead of between six and seven a. m., as required, the return should have been rejected.

Gentlemen on the other side perhaps failed to find this authority; for, if I mistake not, a distinction is drawn in the opinion of the minority of the committee between failure to open the polls in the morning at the appointed time, and failure to keep them open at night so long as is required; but there being no difference in principle the reasoning of the majority of the committee upon this subject is unanswerable. The report of the majority declares:

The soundness of this rule is indisputable, otherwise the door is opened for unmeasured frauds. Suppose, for instance, in a heated election, one party should by accident be prevented from polling its heavy vote until late in the afternoon, how easy would it be for a partisan board of managers to defeat a man who otherwise would be the choice of the people. And, again, by refusing to open the polls at the time fixed by law in the forenoon of election day, and by delaying for three or four hours and systematically challenging the voters, and consuming as much time as possible with each voter, it would be easy to procrastinate, so that the hour of closing the polls should arrive and a large vote remain unpolled.

But, Mr. Speaker, we are not confined to that objection as to the informality of the election at Salem precinct. There were only two inspectors there, while the law of North Carolina is imperative that there shall be four inspectors of election, besides a registrar. The law requires that the inspectors should be sworn. They were not so sworn, but the sheriff, who acted as a mere intruder, presumed, outside of his limited powers, to administer the oath when he had no authority to do so.

The same argument which I have made in reference to the Salem precinct applies to South Mills precinct, which is considered immediately afterward in the report of the majority. At that precinct, as I have stated, there were but two inspectors, when the law required four. The returns were signed and certified by persons who really were not election officers under the laws of North Carolina, and any other citizens present had the same right with them to receive votes and certify and send up the return.

On this subject the evidence is very plain. The evidence of M. N. Sawyer, page 30, discloses he was sheriff of the county, and that he administered the oath to the inspectors:

Q. Did you administer the oath to the inspectors of the polls in South Mills Township on said day?
A. I did to those who were present, but I left the polls at about eleven o'clock, and up to that time there were but two of the regularly appointed inspectors, besides the registrar, at the polls.

John W. Barrington testifies, record, page 31:

Q. Were you at the polls at the time of the opening of the same?
A. I was not, but came down twice to vote, and the polls were not opened, and came the third time and they were opened; when I left here, after coming the second time, I think it was then between nine and ten o'clock, and the polls were not then opened.

He goes on further to say there were but two inspectors holding the election besides the registrar.

The testimony of John E. Spence, found on page 36 of the record, is as follows:

Q. Do you know who were appointed judges or inspectors of the polls at said precinct by the board of justices for said county; and, if so, who of them were present and were qualified at the opening of said polls?
A. I was told by the sheriff that Joseph N. Spence, Wiley N. Gregory, Evan Overton, and James H. Sawyer were appointed inspectors to conduct said election; of these, Joseph N. Spence and Evan Overton were only present.
Q. Were you as registrar, together with those inspectors who were present at the opening of the polls, sworn, as required by law, by any one authorized to administer oaths?
A. I was not sworn at any time nor by any one as registrar.
Q. Were there four inspectors present through the day conducting the election?
A. There was not but three inspectors conducting the election during the day.

Now, sir, when you take into consideration the evidence that the poll at this precinct was not opened until ten o'clock; when you take that together with the other facts I have stated, it is clear the poll at that precinct should have been rejected; and the authority upon that subject is very distinct and pertinent.

I refer to the case of James Jackson against Anthony Wayne, (Contested-Election Cases,) decided in the year 1792. This case came up from Georgia. The law of Georgia required that three magistrates should preside in holding an election, and it was held that a return by three persons, two of whom were not magistrates, was defective. It is superfluous to quote other authorities in support of this position.

It is insisted in reference to this precinct that one of the two inspectors who officiated was drunk, and the report shows by a singular infelicity that gentleman was made the special custodian of the ballot-box.

Bribery also is insisted upon; and on that point it becomes my duty to quote from the testimony of the witness Barrington, page 33 of the record:

Q. Were you told by any one prior to the day of the election that Mr. Kehoe, of the republican executive committee of the State of North Carolina, was going to send down $2,500 for electioneering purposes, and that a portion of that sum would be sent to you?
A. I was. I was told by Joseph J. Martin that Mr. Kehoe was going to send down $2,500 to him (Martin) for electioneering purposes, and that he (Martin) would send some of it to me, and wanted me to do all I could with it in his interest.

But, sir, it is not necessary for the committee to dilate on this evidence. It is clear the polls were not opened in compliance with the law; that the requisite number of inspectors had not officiated; that those who did officiate were not sworn, and that but one-half of the registered vote at that precinct was polled. And on that point let me again cite McCrary, that—

Where the laws required the polls to be kept open until such an hour, and they were closed before that time, and it appeared that a full vote had not been cast, the court held the election to be void, and rejected the return of the precinct.

The court held as follows:

When an election is closed up one or two hours before the time, and it is manifest from the assessment there were numerous citizens who had not voted, and sufficient to have changed the result, we will, on this ground, set the election aside as utterly void.

Here the polls were not opened until three hours after the time provided by law, and here one-half of the registered vote was not polled; and in view of these facts, this authority is in point and is controlling.

Now we come to Hamilton precinct, where the contestee received a majority of 64 votes, and I will limit my argument on this point to reading the report of the committee as applicable thereto:

At Hamilton precinct likewise the contestee received a majority of 64 votes, and the contestant objects to the vote being counted, for the reason that the contestee acted as the registrar of the election. The law of North Carolina (laws of 1876–77, section 5, page 517) is mandatory on this subject. It declares "that no person who is a candidate for any office shall be a registrar, or judge, or inspector of an election." It is impossible for us to conceive of a provision more distinct in its terms or one which is from necessity more mandatory than this. It is conceded by the contestee in his brief that he did for a time act as registrar at this precinct. In the interest of the purity of elections, the committee are compelled to reject the vote of a precinct where a practice so reprehensible has been adopted by the claimant of this honorable and responsible office. No man should be permitted to be judge in his own case or take advantage of his own illegal act. The evidence fails to show that the conduct of Mr. Martin was justifiable, fair, and impartial while acting in this important official character; and even if it should be held that this conduct on the part of the contestee did not of itself vitiate the result of the poll at that precinct, it will be admitted that the contestee, who conducted his own election in this way, must have affirmatively shown that no illegal advantage was taken because of his action.

Mr. HOUSE. I would like to ask the gentleman whether any proof was introduced on that subject?

Mr. SPEER. There was some negative proof introduced by the

contestee's witnesses who testified that they did not know of anything illegal; but the committee, or a majority of the committee, were of the opinion that the contestee himself ought to have been and was a competent witness, and could have cleared up any doubt which might have existed; having acted in the capacity of registrar of elections and having discharged some of the duties of that position, the committee deemed that it was obligatory upon him to exonerate himself from any imputation of unfairness which might from that state of affairs have rested in the minds of the committee.

Mr. HUMPHREY. Will the gentleman permit me to ask him a question?

Mr. SPEER. Yes, sir.

Mr. HUMPHREY. Is not that raising rather a strong presumption against a party who might not know anything of the rules of evidence?

Mr. SPEER. I will state in reply to the gentleman that the contestee in this case is a distinguished lawyer of the State of North Carolina. He has been district attorney of that State, and it would be certainly a violent presumption to conclude that the gentleman did not know the rules of evidence sufficiently well to enable him to determine the fact whether or not he might be permitted to testify under such circumstances.

Mr. HUMPHREY. That may be very true, but it was hardly proper, it seems to me, for the gentleman to volunteer himself as a ready or willing witness. In my judgment it would have been proper, and eminently proper, for the committee, aware of the fact which is stated by the gentleman from Georgia, to have called him before them as a witness in a case of that kind.

Mr. SPEER. I am not aware of any principle of evidence existent in North Carolina or existent here which would prevent a gentleman from testifying in a contested-election case in his own behalf, or which requires the committee to manage his case for him. If there is such a principle of evidence I have never met with it in my reading.

We now come to Vandemere. At this precinct the polls were not opened until after eleven o'clock, or over four hours after the time fixed by the law. More than one-third of the voters at that precinct failed to vote, and a large number of them left the polling place before the polls were open under the belief that no election was to be held. There the registrar of election himself admits in his testimony, and though his mind seems to be not over clear on the subject, yet in substance he testifies that he did say there would be no election held there on that day because of the lateness of the hour. Over one-third of the voters at that precinct, as I have stated, did not vote. To apply the rule laid down by the leading authority on elections in this country, Mr. McCrary, which I have quoted to these facts, it was obligatory upon the committee to reject this vote also.

The contestee claims that he is entitled to 108 votes counted for him at the Merry Hill precinct, and in that way to reduce the majority which this investigation has given to Mr. Yeates. This will not be seriously claimed, I apprehend, by any fair judicial mind on the committee, even though it differs with the general conclusion reached by the majority. The reasoning on this subject is unanswerable. The law of North Carolina provides that the ballots shall be on white paper, and may be printed or written or partly written and partly printed, and shall be without device. These tickets contained a device. An attempt has been made to meet the force of this statute by citing the case from Indiana on this same subject. But the reasoning of the report in reply to that is a sufficient refutation of that claim. I will read an extract from it:

> Under the Indiana statute the court say that the statute "does not authorize the inspectors and judges to reject a ballot upon the discovery of such a mark or embellishment at the time of counting out the ballots which could not be seen by the inspectors at the time it was voted." The North Carolina statute is express that the ballots shall be without device, and that if the ticket shall have a device upon it, it shall not be numbered in taking the ballots, but shall be void. This difference in the statutes renders the Indiana decisions inapplicable, and the sole question is, are the words "republican ticket" on the inside of a ballot a device within the meaning of the North Carolina statute. With the policy of the statute we have nothing to do; one purpose of the statute may have been to prevent bystanders from knowing from observation how the voters voted. No statute can altogether prevent this; experts can easily distinguish between different kinds of white papers, and the printing of the ballots of the opposite parties would ordinarily be done at different printing offices with different type and ink, and the arrangement of the names of the persons and of the office, the punctuation, and the place on the ticket of the printed matter would ordinarily be different and apparent to a well-trained eye. The intention of the statute could be easily evaded if it did not also prescribe the size of the ticket and the size of the type, which the North Carolina statute has not done. Still the statute, such as it is, must be enforced, even if some provisions have been omitted that are necessary completely to appreciate its intention.
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> Another purpose of the statute may have been to compel, as far as is possible, the voter to select the persons he votes for independently of any contrivances on the ticket calculated to inform or misinform him of the opinions of the persons voted for, because devices are often contrived to mislead. Either way, we think that words prominently printed on a ticket and intended to designate or describe it, and which have a distinct meaning in themselves, such as, if untrue, might mislead the voter, and whether true or untrue would render the ticket easily distinguishable, must be held to be a device within the meaning of the law. (McCrary on Elections, § 401.) These votes were rejected by the State authorities, and we think rightfully.

Nor, Mr. Speaker, does the report of the minority of the committee controvert that position? That report was prepared, I may be permitted to say, by the hand of a gentleman distinguished for his legal acumen, his knowledge of precedents and authorities, a gentleman who has just been honored by an elevation to the supreme court of a State which has honored itself in the selection made; I refer to the distinguished gentleman from Massachusetts, [Mr. FIELD.] That gentleman in his minority report does not differ from the views of the majority of the committee in reference to this matter. He says:

> These votes were rejected by the State authorities and were not included in Mr. Martin's returned plurality. We leave to the consideration of the House whether these votes should now be counted for Mr. Martin or not.

Sir, that is not a very decided denial coming from such strong stalwart authority. The gentleman, with the report of the majority of the committee before him, is silent upon that subject.

Mr. CHALMERS. Will the gentleman permit me to ask him a question?

Mr. SPEER. Yes, sir.

Mr. CHALMERS. I desire to ask the gentleman by whom that portion of the majority report was prepared which is printed in small type?

Mr. SPEER. I am not at liberty to disclose that fact.

Mr. CHALMERS. I ask if that was not prepared by the same gentleman to whom he has just referred? I have a copy of a report said to have been prepared by him, and that portion now appearing in the majority report in small type appears in that copy of the minority report, and my information was that the distinguished gentleman from Massachusetts [Mr. FIELD] had prepared it. I desire to know if that is true or not.

Mr. SPEER. Nothing, Mr. Speaker, can be inferred from my remarks that will lead to the conclusion that the gentleman from Massachusetts has devoted any portion of his time to the preparation of any other papers save the minority report printed by order of the House. To that alone my remarks have been directed. It is sufficient for the purposes of my argument for me to say that that report does not controvert the argument as made by the majority of the committee. And in itself that fact should be sufficient to satisfy any impartial judicial mind within the sound of my voice that the position as taken by the majority of the committee is sound and unanswerable.

We now come down, sir, to a precinct which rejoices in the euphonious name of Goose Nest. Here Mr. Martin claims that the action of the authorities of North Carolina should again be set aside, and that 154 votes should be counted for him. On what is that claim based? It is based upon the evidence of one W. A. Johnson, a swift witness—I may be permitted to say one of the swiftest witnesses whose testimony I have ever had the privilege of examining, either before this committee or elsewhere. What does W. A. Johnson say? Mr. Johnson says in his testimony that he stood by and saw 154 voters come up to vote for Mr. Martin; he inspected every one of their ballots; he knew that all of those 154 voters would vote for Mr. Martin; and they were rejected by the board of inspectors of that election.

Now I say on that subject that Johnson's testimony is not credible. Why? G. C. Lamb, the register of deeds of that county where that precinct is located, is called. He testifies taking the list in his hand which Johnson has established and verified by his remarkable evidence; he compares it with the registration list. When we take the testimony of Mr. Johnson we find Mr. Johnson says all these names so refused were called from the registration books of said precinct at the times those voters presented themselves to vote. We turn to Mr. Lamb's testimony. He compares the registration book of Goose Nest precinct with that list as given by the testimony of Mr. Johnson, and they do not correspond. That evidence affords a very material difference.

What is the conclusion? Mr. Johnson, whose evidence is the only evidence on which the contestee bases his claim that the action of a board consisting of two republicans and two democrats shall be set aside, that gentleman has willfully sworn falsely to a material fact. Well, what is the legal conclusion? False in one thing false in all. A witness who swears falsely to a material fact cannot be credited at all. That rule of evidence is applicable everywhere; it is applicable in every court in every State of this Union, and it is applicable on the floor of this House.

Now, sir, I invoke another rule of evidence as applicable to that precinct. It was incumbent on Mr. Martin to provide the best evidence of which the nature of the case would admit. Where are these 154 voters? Why were they not called? Not one of them was called as a witness. Where were they? They were there in that precinct, all residents there; yet not one of these men was brought up to testify that his vote was illegally rejected by that board and that if he had not been rejected he would have voted for Mr. Martin. The committee, therefore, in view of that failure of evidence do not think they are justified in overturning the action of the board of the judges of election in that county, and giving Mr. Martin 154 votes on the testimony, the unsupported testimony, of this swift witness, W. A. Johnson.

Now, sir, why were any votes rejected at that precinct? They were rejected because they were registered in another precinct, and because when these persons went to vote at Goose Nest precinct they did not comply with the law of North Carolina that they should furnish evidence that their registration was changed to that precinct in order to make their votes valid. They came up without complying with the law. That law had been made public. It was recognized by every voter who did vote. Every man whose vote was rejected was rejected because of a failure to comply with that law. This law was construed by the board of managers both in receiving the votes

and in consolidating the returns for that county. These managers were equally republicans and democrats; and yet the committee is called upon to set aside the action of that board upon the unsupported testimony of W. A. Johnson. The committee declines to do it.

To sum up the argument: this gives Mr. Yeates 39 votes which were illegally taken from him in Providence Township, and which the contestee admits were illegally taken. It deprives Mr. Martin of the illegal votes in the precincts I have mentioned wherever they have been demonstrated to have been illegal by the evidence under the law. It refuses to support his monstrous claims for 135 votes in Merry Hill precinct and 154 at Goose Nest precinct. And an easy calculation will give an honest majority of 156 votes to Mr. Yeates, and he therefore is entitled to his seat.

In conclusion I desire to say for myself that I have not looked at this evidence in any partisan light. No gentleman on the floor of this House can truthfully accuse me of being a partisan. On every question that has come before the Committee on Elections where the rights of republicans were proven and demonstrated by the law and the evidence my vote is uniformly recorded for them. On the Donnelly-Washburn case I voted as I thought was right. On the Mason-Duffy case, on the Loring-Boynton case, on the Bisbee-Hull case, on the McCabe-Orth case, and on the Iowa cases my votes have been everywhere recorded according to what I thought was right and proper in behalf of the republicans.

In this case I think the right is with Mr. Yeates. Independent in all things, I desire to maintain that right, and I declare that under the law and the evidence he is entitled to his seat as a member of this House.

Mr. SPRINGER. I desire to say that two hours will be yielded to gentlemen on the other side, to be controlled by the gentleman from Massachusetts, [Mr. FIELD.]

Mr. KEIFER. What is the suggestion of the gentleman?

Mr. SPRINGER. It is that two hours will now be yielded to gentlemen on the other side, to be controlled by the gentleman from Massachusetts, [Mr. FIELD.]

Mr. KEIFER. By whom will it be yielded?

Mr. SPRINGER. By this side of the House.

Mr. KEIFER. By you?

Mr. SPRINGER. Yes, sir.

Mr. KEIFER. The gentleman had better first obtain the two hours to yield. He has one hour which he can take care of himself.

Mr. SPRINGER. I do not understand the remark of the gentleman. To what does he refer?

Mr. KEIFER. My remark is that the gentleman from Illinois does not control the time of this House.

Mr. SPRINGER. If the gentleman does not desire any time I will move the previous question.

Mr. KEIFER. I say that the gentleman does not control the time of this House.

The SPEAKER *pro tempore*, (Mr. STEVENSON.) The Chair will say that this discussion is entirely out of order. The present occupant of the chair has not been advised of any agreement in regard to the time to be occupied in the discussion of this case.

Mr. KEIFER. When this matter closed yesterday—if the Chair will look to the record of the proceedings of yesterday he will discover that the Speaker of the House then in the chair said that no arrangement at all had been made in regard to the time to be occupied in the consideration of this case.

Mr. SPRINGER. I have not said that any arrangement was made.

Mr. KEIFER. Then by what rule does the gentleman from Illinois rise in his place and say "we will now yield two hours to the other side?"

Mr. SPRINGER. I think the uniform rule in matters of this kind has been that the committee reporting in any case controls the debate on it in the House. That has been the rule ever since I have been a member of this House. We have now taken nearly one hour on this side of the question. In order that the other side may have a fair opportunity to be heard, I have stated to them that they might now proceed for two hours to argue this case. What will take place after that I have not presumed to state and will not now state.

Mr. KEIFER. If I understand the gentleman——

The SPEAKER *pro tempore*. The gentleman will give way for a moment. The Chair is advised that no arrangement was made on yesterday in regard to the time to be occupied in the discussion of this case. The Chair will therefore recognize the gentleman from Ohio [Mr. KEIFER] as entitled to the floor.

Mr. KEIFER. I do not ask to be recognized at this time; other gentlemen are entitled to preference in that respect.

Mr. SPEER. I think the remark of the chairman of the Committee on Elections [Mr. SPRINGER] was simply in accordance with the custom heretofore followed in this House of allowing the discussion to alternate between the different sides of the House. We on this side have now occupied an hour, and if gentlemen on the other side choose to do so they can take two hours, and then we will take an hour. That statement was made without any view of closing the debate.

Mr. KEIFER. I suppose that is what was meant by the gentleman from Illinois, [Mr. SPRINGER.]

Mr. McMAHON. I think the remark of the gentleman from Illinois [Mr. SPRINGER] amounts to a notice to the other side of the House that after three hours further debate he will take the floor and call the previous question on this case. There is nothing unusual in that, and it is only fair to the other side of the House that such notice should be given. It is no effort to control the time for debate, because if the House at the end of that time does not want to proceed to vote upon this case, all it has to do is to vote down the demand for the previous question. I think the gentleman from Ohio [Mr. KEIFER] has been in this House long enough to know that such has been the practice.

Mr. KEIFER. I understood the remark of the gentleman from Illinois [Mr. SPRINGER] in the same way in which my colleague [Mr. McMAHON] puts it. I can only say that he was unfortunate in his manner of expression.

Mr. TOWNSHEND, of Illinois. This debate is out of order and I object to it.

Mr. SPRINGER. It is in order.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Massachusetts [Mr. FIELD] as entitled to the floor for one hour.

Mr. SPRINGER. I have a right to explain my position. The gentleman from Massachusetts [Mr. FIELD] stated yesterday that four hours would be a fair time for the discussion of this case. I believe that at this late stage of the session the House would be doing injustice to itself and to the other business before it by consuming a longer time than four hours in the discussion of this case. With the view of terminating the debate within that time, I made the announcement that I did when I first arose. I believe it is fair; gentlemen on the other side must admit it to be fair; and upon the fairness and impartiality of that statement I stand.

Mr. FIELD. Mr. Speaker, I stated yesterday that my personal opinion was that four hours before the calling of the previous question and one hour afterward—the whole time to be equally divided between the persons holding opposite opinions—would be, in the state of business before the House, a reasonable time for this debate, but that I could not bind this side of the House if objection was made; and objection was made. I therefore take the floor for one hour in my own right, under the recognition of the Chair.

This election in North Carolina was, speaking in general terms, a fair and honest election. If any gentlemen have any imagination that there was intimidation, violence, or fraud in the general conduct of that election, they are mistaken. The conduct of the people, the conduct of the election officers, the conduct of the candidates, speaking in general terms, has been honest, fair, and in every respect commendable. It is therefore an election contest to be determined without any feeling whatever derived from extraneous sources—to be determined by a careful examination of the facts and the law.

Now a few general considerations. It is not disputed by anybody that Mr. Martin received a plurality of the votes actually cast. It is not disputed by anybody that Mr. Martin received a plurality of the votes actually returned and canvassed, and found by the election authorities of the State of North Carolina to be entitled to be counted and returned for him. It is not contended that any person voted at that election who was not entitled to vote. Therefore there are no fraudulent votes to be deducted on either side. It is not contended that any person entitled to vote was refused the right to vote, except in the case of Goose Nest precinct, where from 120 to 150 voters for Mr. Martin were for reasons which I shall hereafter explain excluded. It is contended that 39 more votes than were returned for Mr. Yeates were cast and should be counted for him. This is all the addition that anybody contends should be made to Mr. Yeates's returned votes. But if these 39 votes be added to his returned vote, they do not elect him. It is contended that Mr. Yeates has suffered somewhat by delay in opening the polls in certain precincts. The reasons of that delay and its effect upon the election I shall discuss hereafter; but if all the injury that Mr. Yeates proves that he received from that delay be allowed in his favor, if all the votes of all the persons who would have voted for him but for that delay be added to his vote, this does not elect him.

Therefore, to elect Mr. Yeates, deductions must be made from votes actually cast for Mr. Martin—actually returned, actually canvassed, and actually counted for him—not a deduction of votes of voters who were not entitled to vote, but a throwing out of whole precincts in which Mr. Martin had a majority, by reason of some alleged informality in holding the election or in the appointment or qualification of the officers of the election or some delay in opening the polls. Now, the main ground upon which this is attempted to be done is in consequence of a delay in opening the polls in certain precincts. The effect of this delay was not in any precinct to make the time of the election so short that all persons who desired to vote could not do so; for in every case where there was delay there was ample time for everybody to vote who desired to vote; and everybody who desired to vote did vote. There is no case in which the polls were closed too soon. In every case it was a delay in opening the polls; and this delay in every case was occasioned by a conformity, or attempted conformity, to the laws of North Carolina. It was not an arbitrary delay, but a delay necessary to comply with the laws of that State.

Now, in general terms the laws of North Carolina in reference to this subject are these: the board of justices of the peace of the county appoint a registrar, who is the presiding officer of the election. This board of justices of the peace also appoint four judges of election, two of whom shall be of a different political party from the registrar. If the registrar refuses or neglects to attend on the morning of elec-

tion, then the board of justices of the peace of the township appoint a registrar; and if the judges of election refuse or neglect to attend on the day of election, the registrar appoints the judges. In every case in which this delay occurred it happened that either the regularly appointed registrar was not present or all of the judges were not present, and some delay was inevitably occasioned by getting the board of justices of the peace together to appoint a registrar, or some delay was occasioned by the registrar appointing from the voters judges of election to serve in the place of those who were absent. In every case where the delay occurred there was no abandonment of the election; it was a continuous attempt to get the board of election officers full and to go on with the election. In every case in which a person left before this board was organized, he knew, or might have known, that the attempt was going forward to hold the election, and that in all probability the attempt would be successful and an election would be held, and as these are all small country precincts, that ample time and to spare would be given to every man to vote who desired to vote.

Now, in the first place, before I consider this election in its details, I must call attention to a few considerations of public policy. If it be held by this House that in North Carolina, whose laws provide for the filling of vacancies in the election officers on the day of election, which must necessarily take some time, it being implied that the time necessary to fill such vacancies shall be taken on that day, for it cannot be done beforehand—if this House holds that delays so occasioned, which work no injury to anybody except by requiring the voters to wait until these vacancies are filled, render the whole election at that precinct void, a temptation is held out to the minority in every precinct to occasion such a delay.

It would be possible under such a holding for a minority in any precinct to occasion a delay by the two judges of that minority being absent, so that in that event the majority, however large, would be altogether thrown out and destroyed. It is not good policy in construing the election laws of a State to so construe them that a minority in any precinct can have it at their own will to destroy the votes of the voters of that precinct, and any such effect ought, if possible, to be avoided.

It is, as has been said, plainly the intention of the laws of North Carolina that there shall be and must be some delay in filling these vacancies, for the laws have made no provision for filling them before the day of election, and it cannot be known until after seven o'clock in the morning of that day whether the regularly appointed officers will appear or not, and therefore delay is contemplated by the law. It is one which the law necessarily implies, and where the delay in opening the polls is nothing more than the law contemplates and where it has worked no injury to anybody except to compel a voter to wait until the vacancies are filled, I say such a delay is in accordance with law and does not at all vitiate the election.

In the third place, in reference to this whole subject of not opening the polls soon enough, or closing the polls too soon, every single case known to me except the case in Pennsylvania, depended upon closing the polls too soon. Every single case which has been decided that I know of, except the case of Pennsylvania, and that is not a decision, because it is held in that case that the specifications of the petition were not sufficient to enable them to consider the question, and so it is mere dictum on a petition not set out in which the laws of the State were entirely different and the reasons for delay not given at all—I say every case known to me in which either an election has been declared void or the vote of the precinct has been thrown out has been when the poll has been closed too soon.

And there is a reason for that. Every voter has the right to suppose that the polls will be kept open until the regular hour of closing, and he has a right to refrain from going to the polls until a reasonable time of that hour, and if he is cut off from voting by reason of the polls closing too soon, he is deprived of a right he has.

But there is no right under the Constitution and laws either of the United States or of North Carolina that a voter shall be able to deposit his vote the moment he goes to the polls. It is enough for him that during the legal hours when the poll must be kept open he has sufficient time and opportunity to deposit his vote. And no case can be shown, I am satisfied, in which under any such circumstances as these the vote of the precinct has been thrown out. And it would be manifestly unjust to everybody to throw it out; and it would occasion injustice and wrong in any election to be held in the State of North Carolina, for some delay in any precinct in which the regularly appointed officers do not appear is inevitable.

Now, Mr. Speaker, having made these general observations, I will ask the House to consider this case in its details. And first I will consider the case of South Mills precinct which has been thrown out by a majority of the committee, and in which Mr. Martin received a plurality of 64 votes.

The law of North Carolina requires the polls shall be opened at seven o'clock and closed by sunset. In this precinct of South Mills the poll was opened at nine and a half or between nine and ten o'clock. The reasons why the polls were not opened earlier are given by the registrar in these words:

> It was not opened earlier, first, because the inspectors were not present; second, there was no one present to qualify them; and, third, we had no house in which to hold the election.

In regard to the house, that does not appear further in the case, and I suppose one was seasonably obtained, but the difficulty of obtaining inspectors, by which is meant judges, and of qualifying them, is the difficulty in this precinct. It ought to be observed that the voters have nothing to do with the appointment of these officers and no control over their appointment. They have nothing to do with the qualification of these officers, and no control over their qualifications. Ordinarily they appear there and find certain persons holding the election with the books. They go up and deposit their ballots and then go off, and suppose, and have a right to suppose, from the appearances that the election is being regularly held.

One moment on what is known as the law of *de facto* officers and the validity of the acts of *de facto* officers so far as the public is concerned. In courts of law the acts of *de facto* officers are valid so far as the public is concerned. The question of *de jure* right is only examined on some proceeding by the Commonwealth or State to try the title to the office. The *de facto* officer is one who is in by color of appointment or election, and who is publicly exercising the duties of the office. Any person so found anywhere publicly exercising the duties of an office, apparently in by color of authority, may act upon the application of any other person upon matters within the jurisdiction of the office, and these are valid acts as between strangers. This doctrine has arisen in courts of law where an officer was not sworn or was not sworn according to law, yet his acts are held to be valid. Parties before him, if a judge, cannot know whether he is sworn or not. He is in by color of appointment or an election and publicly exercising the duties of the office, and his public acts, so far as the public are concerned, are valid.

Now, when you come to apply the law of defective appointment or defective qualification to elections of officers, there are many reasons why it should be applied liberally. In a court where the bench and the bar are highly trained in their profession, there may be some reason why a strict compliance with technicalities should be required, and some knowledge or diligence demanded which is not expected of other persons who are not so trained. But in an election you are dealing with a great body of the people, who are voters; you are dealing with all degrees of intelligence, and dealing with persons of all sorts of pursuits, many of whom are not educated in the law, and the object of an election is to obtain an expression of the will of these persons in reference to candidates for office. That is all. And when you have got that, and are satisfied that you have it correctly, fairly, and honestly given, the formality or informality in the absence of fraud in the appointment of the officers who have conducted the election is not a matter of the substance of the election itself, and ought not to invalidate the act of the voter.

There is so much authority of reason for this that it is not worth while to cite any cases.

What, then, are the facts in regard to South Mills precinct? There was a regularly appointed registrar; there were two of the regularly appointed judges of election, and two were absent. Mr. Pritchard was appointed one of the inspectors or judges by the registrar, and did serve for a short time, when Kenneth R. Sawyer took his place and served, as the registrar thought, until the close of the election, but as Sawyer himself has sworn, until a half hour of sundown; and Sawyer is probably correct. There was then a registrar and two inspectors of election present during the whole election, and a third inspector who was present—either Pritchard or Sawyer—until one-half an hour before the close of the polls.

It becomes important to consider as a matter of law if we assume in this case, and it is a concession to the argument of the gentleman from Georgia, that this election was held by only a registrar and two judges. What is the effect of it? They were the regularly appointed registrar and the regularly appointed judges. The statutes of North Carolina make the registrars and judges of election an election board. Section 20 of chapter 275 of the acts of 1876 and 1877, provides that when an election shall be finished the registrars and judges of election, in the presence of such of the electors as may choose to attend, shall open the box, count the ballots, and read aloud the names of persons who shall appear on each ticket. I will read the statute:

> When the election shall be finished, the registrars and judges of election, in presence of such of the electors as may choose to attend, shall open the boxes and count the ballots, reading aloud the names of the persons who shall appear on each ticket; and if there shall be two or more tickets rolled up together, or any ticket shall contain the names of more persons than such elector has a right to vote for, or shall have a device upon it, in either of these cases such tickets shall not be numbered in taking the ballots, but shall be void, and the said counting of votes shall be continued, without adjournment, until completed and the result thereof declared.

There is another section of the statute, which at this moment has escaped me, which provides that the registrar and judges of election shall superintend the election——

Mr. MANNING. If the gentleman will permit me, I will state that he will find it in section 9.

Mr. FIELD. I have before me section 9.

Mr. MANNING. It is about the middle of the section.

Mr. FIELD. I will read section 9. I am very much obliged to the gentleman from Mississippi for calling my attention to it. Section 9 provides:

> That the said judges of election shall attend, &c., and they, together with the registrars for such precinct or township, &c., shall open the polls and superintend the same until the close of the election, &c.

It is then established that the registrar and judges of election shall together constitute a board for opening the polls, superintend-

ing the election until its close, and opening the ballot-boxes, and at the end counting the votes.

Now, on general principles of law, when a board is constituted, a majority of that board form a quorum, and can act with the full authority of the board. But in North Carolina it is not left to the general principle of law.

Chapter 108, Battle's Revised Laws of North Carolina, section 2, clause 2, is:

All words purporting to give a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority.

Now, here is a board of five persons to superintend the election, count the ballots, and so forth, three of whom are confessedly present the whole time.

Mr. MANNING. May I ask the gentleman a question?

Mr. FIELD. Yes, sir.

Mr. MANNING. What does the gentleman mean by "and so forth?" He says, superintend the election, count the ballots, and so forth. What act is to be performed by the registrar or judge of election after the ballot is counted? Is it to certify the return?

Mr. FIELD. I understand so. I shall endeavor to speak of that hereafter.

Mr. MANNING. I wish to call the gentleman's attention to his error just there, which I think is an important one. I supposed the gentleman was of that impression; but where he stopped reading from section 9, a moment ago, he will find these words:

They shall keep poll-books, in which shall be entered the name of every person who shall vote, and at the close of the election the judges of election—

Mark you, not the judges of election together with the registrar, but—

the judges of election shall certify the same over their proper signatures—

The signatures of the judges—

and deposit them with the register of deeds for safe keeping.

Mr. FIELD. That is not the return which goes to the county canvassing officers.

Mr. MANNING. And where is the gentleman's authority for the certificate of the registrar in connection with the judges?

Mr. FIELD. The poll books go to the register of deeds. But so far as South Mills is concerned, it is not one of the issues of this contest that the return was not properly certified to the county canvassing board. There is no such issue in the cause. But in one or two other cases there is a certificate of the precinct officers which I notice is signed by the registrar and the judges of election, from which I inferred that it was the duty, as understood in North Carolina, of the registrar and judges of election to sign those returns.

I also call the attention of the gentleman from Mississippi to section 38 of the same statute, which he read, which is in these words:

Any registrar or judge or judges of election appointed under the provisions of this chapter, or any county canvassers or commissioners or register of deeds, clerk, or sheriff, failing or neglecting to make the returns and perform the duties required of him by this chapter, for the non-performance of which any penalty has been hereinbefore imposed, shall be fined, &c.

That distinctly implies that it is the duty of the registrar as well as of the judges of election to make returns, as well as perform other duties; and the only copy of a precinct return in this case has the name of the registrar as well as of the judge of elections signed to it. Section 8 also makes provision for the registrars and judges acting together in determining challenges. But I have almost forgotten where I was in my argument as to this South Mills precinct.

Mr. MANNING. I shall not interrupt you again.

Mr. FIELD. It was a very kind interruption.

Mr. MANNING. I was about to ask you another question, but shall not press it.

Mr. FIELD. So much, then, for the fact that this election board was not full. There is no suggestion or evidence in the case that the votes were not actually cast as returned; not a particle of evidence; nothing of that kind. It is proposed to throw out this precinct on the ground that the board was not properly constituted.

Mr. CALKINS. Will the gentleman allow me to ask him a question?

Mr. FIELD. Yes, sir.

Mr. CALKINS. You have read from Battle's Revised Laws of North Carolina all the words purporting to give a joint authority, &c. Do I understand your position is that a majority of the board having acted the return is therefore good?

Mr. FIELD. Certainly; that they are one board for this business. For certain other purposes it is possible that they are to be distinguished; but they are put together as one board for opening the poll, superintending the election, opening the ballot-boxes, counting the vote, and, as I believe, for making the return of the votes.

Now, the next issue in this precinct—and I am speaking longer, or shall if I go on in this way, than I meant——

The SPEAKER *pro tempore*, (Mr. STEVENSON.) Does the gentleman request that he shall not be interrupted?

Mr. FIELD. I do not make that request. The interruptions have been very kind and only elucidate the case.

The next issue in evidence, for it is not in the notice of contest in this precinct, is that a Mr. Overton, one of the judges, was drunk. There is no testimony that he was drunk. I do not understand the habits of the people of North Carolina very well, and have no reflections to make on the people of that State. But Mr. Overton is not present to defend himself against charges, and I do not wish to go any farther than the evidence.

The testimony is that Mr. Overton was under the influence of spirituous liquors; and that is all the testimony in the case, except the testimony of Mr. Barrington, in regard to whom there is some testimony about his reputation for veracity, which testimony I will read in a moment. Overton seems to have been active in the discharge of his duties so far as you can glean from the testimony. Barrington, in regard to whom there is some dispute about veracity, and who was a partisan of Respass, and who was a mulatto school-teacher, who had more trouble in this election than anybody else, because he was getting up a bolt in the republican party, the only effect of which might be to elect my friend Mr. Yeates, testifies in regard to this matter as follows:

Q. Was the receiver of the ballots so much under the influence of liquor that he was unable to attend to the discharge of his duties at the polls?

A. He staid at the polls, but I think he was too drunk to be fit for business that day.

That is the only place where the word "drunk" occurs.

Q. Do you know that he did not discharge the duties of his office that day?

A. I do not.

Q. Was he in the discharge of his proper duties at the times you were around the polls during the day?

A. He was.

That is the whole of Barrington's statement. So far as Barrington saw him he was in the proper discharge of his duties; that he was too drunk to attend to them is a thought or an imagination of his. And no other person puts it stronger than that he was under the influence of spirituous liquors. But it is plain from the testimony that he was in the performance of his duties actively, so far as you can gather the facts from it, during the day.

Whether it is quite safe in administering the laws of North Carolina to invalidate the acts of the people there because one of the election officers smelt of whisky on election day, I must leave to gentlemen who are more familiar than I am with the public policy of that State. [Laughter.]

The next objection to South Mills precinct in evidence, but not in the notice of contest, is that there was an adjournment for dinner. It has been settled over and over again that in these country districts, where there is ample time and more for everybody to vote, where an adjournment for dinner is sometimes taken and sometimes not—a I fancy it is frequently taken by people who are accustomed to dine in the middle of the day—such adjournments do not invalidate an election.

The next objection in evidence, but not in the notice of contest, is that this Mr. Overton, when they adjourned for dinner, took the ballot-box, locked it, took the key and carried the box to the house of Mr. Spence, who is a democrat, and who was the registrar at that election, and who probably went with Mr. Spence to dinner and put the ballot-box in an unoccupied room of Spence's residence, locked the room, and the ballot-box remained there while they were at dinner for an hour, and then he took the box and carried it back to the place of voting. That was a very reasonable and proper precaution.

Mr. Spence testified:

Q. Do you believe that the ballot-box was safe from interference during the adjournment for dinner?

A. I do.

He also gives this testimony:

Q. Has it not always been customary here to adjourn the voting at noon for dinner?

A. Sometimes they adjourn for dinner and sometimes they do not.

There is no evidence or suggestion in this case that the ballot-box was tampered with in the least particular. That is all there is of South Mills precinct, but it is on these grounds that, although the democratic State authorities of North Carolina counted the vote of that precinct for Mr. Martin, it is here proposed to throw it out and to deduct 64 votes from the returned vote of the sitting member.

The next precinct is Vandemere precinct. These are all small precincts, where everybody knows everybody. In the Vandemere precinct Mr. Yeates received 31 votes and Mr. Martin received 71 votes; the majority for Mr. Martin being 40. Here the polls were not opened until eleven o'clock and fifteen minutes. The reason given was that it took until that time to get enough men from both sides to serve as inspectors of elections. Mr. Holton, the registrar, puts the opening of the polls at near eleven; Mr. Gatlin puts it at eleven o'clock and fifteen minutes. That is the only objection to this poll. What I have said about the delay in opening the polls at South Mills applies to this case.

If it becomes important in any event to determine how many votes Mr. Yeates lost by reason of voters being unwilling to wait until the polls were opened, it may be said that one man supposes about ten or fifteen; another about six; Mr. McCotter says five. Eight witnesses in all are produced who swore that they either left or did not go to the polls under the belief that no election would be held, and that they would have voted for Mr. Yeates.

In regard to the South Mills precinct, so far as I remember, there is no evidence of any particular person who left the polls, or did not go to the polls, and who would have voted for Mr. Yeates, or at most but one such person. Now, if these eight persons in the Vandemere precinct, all the persons in regard to whom there is any definite evi-

dence that Mr. Yeates suffered by reason of the delay in opening the polls, and the one vote at South Mills were added to his vote, still it would not elect him.

The next precinct is Hamilton precinct, in regard to which the charge is made that Mr. Joseph J. Martin acted as registrar in "checking off the names of persons who presented themselves to vote and doing other and like duties of that office." Now as this is a matter which in some respects affects the conduct of the sitting member, I will read the whole evidence in the case, as it is short, so that gentlemen may determine for themselves what he did, whether it affected the election and whether it had any such effect on the election as to vitiate the whole vote. First I read the deposition of Justus Everitt:

JUSTUS EVERITT, being duly sworn, says, in response to the following question in writing:

Q. State whether you were present at the election in Hamilton, in Martin County, North Carolina, on the 5th day of November, 1878, at which election Jesse J. Yeates and Joseph J. Martin were candidates for a seat in the present Congress of the United States, and what acts, if any, the said Martin did in reference to the conducting and managing said election. State fully his acts and conduct at said election.

A. I was there a part of the time, and Mr. Martin was also present and had charge of the registration books, and had charge when I left, which was in a few minutes.

Cross-examined:

Q. What Mr. Martin did, was it done in the presence of the poll-holders?
A. It was.
Q. Did Mr. Martin act corruptly?
A. Not that I know of.

I ought to state that there are poll-books in addition to registration books. The registration books contain the names of those who are registered, and the poll-books contain the names of those who vote. I read next the deposition of J. G. Carraway:

JONATHAN G. CARRAWAY, being duly sworn, says, in response to the following question in writing:

Q. State whether you were present at the election held in Hamilton, in Martin County, North Carolina, on the 5th day of November, 1878, at which election Jesse J. Yeates and Joseph J. Martin were candidates for a seat in the present Congress of the United States, and what acts, if any, the said Martin did in reference to the conducting or managing said election. State fully his acts and conduct at said election.

A. I was present on the day of election spoken of; Mr. Martin was present around the polls, and I saw him check off some of the registered names of voters as they voted; and my impression is that at one time he came around the counter where the judges of election were, and while on the side of the counter where the judges of election were I think he did not check off any names while there; and when he checked off names he was on the side of the counter where the people came up to vote.

Further this deponent saith not.

Cross-examined:

Q. How many names did Mr. Martin check off the poll-book?
A. I can't say positively, but I think he checked off some forty or fifty.
Q. Was the checking off done in the presence of the poll-holders?
A. I think it was, or a majority of them.
Q. Did Mr. Martin act corruptly in checking off the names?
A. Not that I know of.
Q. Who received the votes?
A. W. K. Gladson.
Q. Was any man's name deposited in the box before his name was checked off of the poll-book?
A. None that I know of
Q. Were you one of the judges at said election?
A. I was acting as registrar for Mr. Justus Everitt, who was the legally appointed registrar.
Q. Was the election conducted fairly?
A. So far as I know.
(The counsel for the contestant objects to the above upon the ground that it is going into new matter.)
Q. What party do you belong to?
A. To the national democratic party.
Q. Who did you vote for?
A. I voted for Jesse J. Yeates.
(The counsel for the contestant objects to the two above questions upon the grounds of the first objection, as being immaterial or irrelevant.)
Q. How was the party divided of those votes that was checked off by Mr. Martin?
A. I don't know.

Now the statute of North Carolina provides that no person who is a candidate for any office shall be a registrar, or a judge, or an inspector of elections.

Mr. HAMMOND, of Georgia. Will the gentleman permit me to ask him a question?

Mr. FIELD. Certainly.

Mr. HAMMOND, of Georgia. What excuse did Mr. Martin render for being there and acting in that capacity?

Mr. FIELD. He has not rendered any; he has not testified in the case.

Now, Mr. Martin was not appointed to either of these offices. So far as appears, all the offices—namely that of registrar and those of judges of election—were filled. It seems that Mr. Martin did not act corruptly; that the election was fairly conducted; that he took no part in receiving votes or keeping the poll-book; and there is no evidence that any person was permitted to vote who was not entitled to vote, or that any person entitled to vote was prevented from voting, or that any votes were improperly received or counted, or that Mr. Martin's conduct had any effect whatever upon the election. In the face of this evidence, to throw out the vote of this whole precinct for an act of indiscretion on the part of Mr. Martin would, it seems to me, be extraordinary; and a majority of the committee do not report in favor of throwing it out.

The next question is as to Providence Township. A plurality of 39 votes in that township, cast for Mr. Yeates, were not counted by the county canvassing board, because the registrar, not one of the judges of the election, was sent as a messenger with the returns. By the law one of the judges of the election, which perhaps in this case should not include the registrar, should have been sent as a messenger.

For that reason this return was excluded. I think this House has somewhat larger powers than that board had; and the mere fact that a messenger, even if not authorized by law, was sent with the returns should not, in the absence of any evidence that the returns are incorrect, prevent Mr. Yeates from receiving those votes; and they have been granted to him.

The next precinct is Salem precinct, in which Mr. Martin's plurality was 135. This precinct has not been counted for Mr. Martin; and if he is entitled to receive it he is entitled to receive 135 more votes than have been returned for him. It was alleged that the return of this precinct was rejected on the same ground upon which the return from Providence precinct was rejected, namely, that a registrar instead of a judge of election was the person selected to carry the precinct returns. I did not know until recently that this was disputed. There are other objections to this precinct which I will consider; but I did not understand these others to be the grounds on which the county canvassing board acted. Now, the evidence is not direct, but it is by implication. I read from the testimony of the clerk of the county canvassing board:

Q. State whether you were a member of the county canvassing board for the county of Pasquotank, who canvassed the returns from the several precincts in said county at said election.

A. I was registrar of the election at Salem precinct, and brought the returns of the election from that precinct to the county canvassing board of said county, at the request and by the direction of the poll-inspectors who conducted the same, and claimed the right to act as a member of said returning board, but by a majority vote of the board I was not allowed to do so.

Q. Were you present when said board considered said returns, and do you know what action they took in regard to them?

A. I was present; they proceeded to canvass the returns from Salem precinct, and refused to count them.

Q. State whether there is in your office, as register of deeds for said county, any record of the action of the canvassing board for the county of Pasquotank in reference to the returns from said precinct at said election?

A. Yes. It appears from a book among the records of my office, styled "Election book," which book I now hold in my hand, that the following entry was made on page 47 of the same, headed "Record of an election held for Representative in Congress and senators and representatives in the General Assembly, on Tuesday after the first Monday in November, 1878, in the county of Pasquotank, North Carolina," to wit:

"The votes as returned by the board of canvassers from the precincts of Salem and Providence were not received and counted by the board on account of informality, and therefore not counted in the above statement. Signed, R. F. Overman, clerk board county canvassers."

It will be noticed that Salem and Providence are put together in the same certificate; the same reason is given for the rejection in each case, namely, on account of informality, though the informality is not expressed. The only reason given by the witness why he was excluded from the board, in connection also with the rejection of the Salem return, is, that he as registrar brought the returns. So I think the assertions which have been made heretofore—not in this House but in the argument—are borne out by fair implication from the testimony, that the ground of the rejection of the Salem returns was that an alleged illegal messenger was sent with them in the same manner as in the case of Providence Township.

Besides, it is said in the report, which is called the report of the majority, (although signed with some limitations by only seven members of a committee of fifteen,) that the county canvassing board is a ministerial board; and if so they could not inquire into and determine the other objections to Salem precinct.

Now, another objection to Salem precinct is, that the polls were not opened until twelve o'clock. This was for the same reasons that I have before stated—the difficulty in filling the places of the officers of election who were absent. As to the persons who left during this necessary delay, there is no evidence how they would have voted. There is the statement of one or two witnesses that in their opinion a majority of those persons would have voted for Mr. Martin, but there is no such definite evidence as would enable anybody to determine how they would have voted. It is urged that before the polls were opened some 25 or 30 voters had left; but my contention of law is that these votes in no event should be counted. It was the duty of those voters to remain. It is impossible to ascertain how they would have voted.

Another statement, by way of objection, is that nearly one-half of the entire vote of the precinct was not polled. Now, this was an election for member of Congress alone. The election for State officers had been held in the preceding August. The whole vote throughout the district at this congressional election falls below the vote at the State election. In this precinct more than one-half the vote at the State election was polled, but something less than the vote at that election. So far as you can get at averages, Mr. Martin lost double the number of votes that Mr. Yeates did; but you cannot count votes at an election for members of this House on the theory that at some other election more voters have voted.

The next objection is that no registrar was duly or legally appointed. Now, the fact in this case is (and it shows the necessity for delay under the election laws of North Carolina) that Mr. Lister, who was both justice of the peace and a registrar, was taken sick on

the morning of the election; that he sent the registration books by the earliest conveyance to the polls with directions to carry them to Mr. Godfrey, who was the only other justice of the peace of the township, justices of the peace of the township having authority, in case of the illness of the regularly-appointed registrar, to appoint a registrar. Mr. Lister sent the registration books with directions to have them carried to Mr. Godfrey and to have a registrar appointed. That was done; Godfrey appointed Wilcox registrar and Wilcox acted as registrar during the day, an appointment satisfactory to Lister, although he had not previously agreed to it because he did not know of it. And Mr. Wilcox being thus in under color of authority, an unexceptionable man as appears, acted as registrar throughout the day.

It is also said "that other officers of election were not duly appointed or sworn." They were duly enough appointed, I think. The inference is the judges were all regularly appointed, there is no evidence that they were not, and they were sworn by the registrar who, so far as appears, was not authorized to administer an oath. I do not know whether he was or not, but it has been settled over and over again, that whether an election officer is sworn or not, that does not invalidate the election. And there is no doubt suggested whatever that the vote given is not the true vote. Everybody was permitted to vote who was entitled to vote and desired to vote. There was no crowding. There was more than ample time for every one to do so, and I cannot understand on what principle elections can be conducted in North Carolina except on such principles as under these circumstances will render the actual vote cast by legally qualified voters valid votes.

We come next to Merry Hill precinct. In Merry Hill precinct, 108 votes cast for Mr. Martin were thrown out and not counted for him, because they had on them, on the inside at the top of the ticket, the words "republican ticket." These ballots had been procured to be printed by Mr. James B. Martin, an active democratic politician and an active supporter of Mr. Yeates, although Mr. Yeates had nothing to do with it, for the purpose of getting republican voters to cast them and then have them thrown out under the law of North Carolina by the precinct board. It was the trick of an active and unscrupulous politician with whom Mr. Yeates, it is but justice to him to say, had nothing whatever to do.

Gentlemen who agreed with me in committee upon all the other questions in this case differed with me in opinion whether under the laws of North Carolina which are cited in the report those votes should be counted or not counted. I was of the opinion that by the strict law of North Carolina they should not be counted; other gentlemen were of the opinion they should be. The grounds of my objection are very well stated in the report of what is called the majority of the committee. I have nothing further to say about it, but to leave it to the determination of the House.

We come then to Goose Nest precinct, which is the last precinct. From one hundred and twenty to one hundred and fifty voters tendered their ballots for Martin at this precinct, and they were challenged and their ballots rejected. The ground of the rejection was that they had not received a certificate of removal from Hamilton precinct. Goose Nest precinct and Hamilton precinct had been separate precincts until September, 1876. In September, 1876, they were consolidated and made one precinct, the voters voting at Hamilton. August 5, 1878, the precinct of Goose Nest was re-established, separated from Hamilton, and the registrar for Goose Nest appointed, who was required by the board of county commissioners to transfer from the register of votes of Hamilton precinct the names of such registered voters as were residents of Goose Nest precinct, which he did. He thus made up the registration list of Goose Nest precinct, which had been discontinued for a year and eleven months. Monday, the day before the election, although by the law the board had no right to meet on that day, but were bound to meet the preceding Saturday, (see section 8 of the registration laws of North Carolina of 1877,) on Monday that board decided in the afternoon that they would not permit the voters registered in Goose Nest precinct to vote, although they resided in that precinct, had always resided there and were otherwise entitled to vote—unless they obtained certificates of erasure of their names from the Hamilton registrar. This fact was known probably to but a few persons, I do not know to how many. The democratic registrar at Goose Nest rushed over that afternoon to the registrar at Hamilton, got from one to two hundred certificates of erasure from the Hamilton registrar, presumably democratic, brought them to the registrar at Goose Nest, and the fact that a certificate had been obtained was entered on the registration book of Goose Nest; but the majority of republicans knowing nothing of this decision of Monday, knowing their names were on the registration books of Goose Nest, prepared under the authority of the county commissioners, did nothing of the sort. They had no intimation, so far as I know, that any such thing was required. The list of persons who offered to vote for Martin is given. There are two or three witnesses to it. It was compared with both registers. As I have said, at least 120 of them presented their ballots for Mr. Martin next day; but they were challenged and their ballots were rejected.

I have set out in the report the whole matter in regard to Goose Nest, and as I have but two or three minutes left I will say only this, that to obtain new registration the personal oath of the person registering is required; and if the law applied to this condition of things no one of those persons for whom the democratic registrar procured certificates ever personally applied or ever took the oath, and you have between one and two hundred voters of the precinct who, in that case, illegally voted, which renders the legal precinct vote uncertain, and the 132 plurality returned from that precinct for Mr. Yeates could not be counted for him.

And in the second place, and I will not trouble the House to read the law, the requisition of a certificate does not apply at all to the separation of a precinct into two precincts, but only when a man removes from one precinct to another. The law is this:

> And if an elector has previously been admitted to registration in any ward, township, or precinct in the county in which he resides, he shall not be allowed to register again in another ward, precinct, or township in the same county, until he produces a certificate of the registrar of the former township, ward, or precinct, that said elector has removed from said township, ward, or precinct, and that his name has been erased from the registration books of the ward, township, or precinct from which he has removed.

None of these electors had removed from any precinct. They continued to reside at the time of the election where they had previously resided, and the statute referred to has no application to this state of things. Under the view I have taken, if you add to Mr. Martin's returned plurality, *i. e.*, 51, the plurality for him in Salem, *i. e.*, 64, and the rejected votes at Goose Nest, at least 120, and subtract the 39 additional votes given Mr. Yeates at Providence, Mr. Martin's plurality is 267; and if you add the votes for Mr. Martin at Merry Hill which were not counted because they had on them the words "republican ticket," Mr. Martin's plurality is 375. These last are the device votes.

[Here the hammer fell.]

Mr. KEIFER. Mr. Speaker, of course if any gentleman upon the other side of the House desires to be heard, he is entitled to the floor. If not, I shall continue the argument on the same side of the question.

Mr. RUSSELL, of North Carolina. Mr. Speaker, I would like to be heard on this question.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from North Carolina that although he has assented to his desire to be recognized, the Chair is informed and understands that the custom is to recognize members of the Committee on Elections in preference.

Mr. RUSSELL, of North Carolina. I was promised a portion of the time of the gentleman from Massachusetts, [Mr. FIELD,] who indicated his intention of yielding to me a part of his hour.

Mr. FIELD. When I began my argument it was my intention to speak only forty minutes, but as I was urged by gentlemen around me to go on and take my whole hour I did so. I did promise to give twenty minutes of my time to the gentleman from North Carolina, [Mr. RUSSELL.]

Mr. KEIFER rose.

The SPEAKER *pro tempore*. The Chair will recognize the gentleman from North Carolina or the gentleman from Ohio, [Mr. KEIFER,] in accordance with their desire as they shall arrange between them.

Mr. KEIFER. Then I will proceed at this time.

Mr. Speaker, it has seemed to some gentlemen on this floor, as they indicated a few days ago, that we were considering two cases here as though each were a pure matter of favor. When we were considering the case of Mr. Bisbee of Florida *vs.* Mr. Hull some gentlemen thought we ought to couple it with this one, because in that case it was proposed to turn out a man who was a democrat and put in a republican, and that we ought as a matter of reparation and by courtesy all agree that we should now turn out a republican and put in a democrat. I wish to say that up to this moment, although I think I have given due consideration to the report of the committee, as well as to the argument of the distinguished gentleman from Georgia—and I will say for him that it is the best argument I think that side of the question is susceptible of—I have learned of no higher or better reason than that for unseating Mr. Martin, and that in my judgment it is proposed here to commit a great outrage upon the gentleman from North Carolina. I would not speak in this way if I did not feel that I was justified by the report of the majority in saying that in every case—every case I believe with the exception of the one where it is claimed that the gentleman from North Carolina himself was guilty of an act of indiscretion in regard to a certain voting precinct—all that is claimed here in effect is that the democrats have contrived at the election held in the several precincts in North Carolina, over which a contest arises, a scheme by which they might fix up a plan for unseating this man and putting another one in his place. We will see if we do not show this as we go along.

I intend to consider this case, I think, as impassionately as possible. It ought to be kept in mind that the election held on the 5th day of November, 1878, was an election for members of Congress in the State of North Carolina, and that it was coupled with no election for any other officer whatever. It was a simple question as to who should be chosen for Representative in Congress, and was not complicated by any State, municipal, or township election. The returning board of North Carolina is composed of the governor, the secretary of State, the attorney-general, and two State senators; the latter appointed by the governor from each of the two parties. The canvass made by this State board gave Mr. Martin his seat by 51 majority. Now, it is conceded, I think, on all hands that the county canvassing board

had no right to reject the vote of Providence Township, in Pasquotank County, North Carolina. In that township the contestant received a majority of 39 votes. I want to say, Mr. Speaker, that I have saved myself a very great deal of trouble in the consideration of this case over this question as to whose duty it was to bear the returns from the voting places to the county seat. It is claimed—and I do not care whether that is true or false—that a registrar of a voting precinct could not be chosen properly under the laws of the State of North Carolina to carry the returns to the county seat. There is some little difference of opinion on that point, but we bottomed a case a few days ago in which we all were happily united upon this principle, that it matters not what irregularities had taken place from the time the votes were put into the boxes up to the time they came to be considered and counted here in the House, that it matters not what irregularities were shown as to the returns if we had the vote or the returns before us here, which would indisputably show the real vote cast, that it was our duty to count it. That is the law, and has never been disputed, so far as I know, unless in this present case. So it is unnecessary to write long reports or to make long speeches to show that A ought not or that B ought to have carried the returns, if we have the returns here. It is our duty, in fairness to the people and as an act of justice to the man elected, to give him the benefit of the votes cast.

I agree that it was not right to reject the vote of Providence Township, which gave to the contestant 39 majority, simply because the wrong man may have carried the returns to the county seat.

I find in the briefs of counsel for the contestant this same question discussed as to whether it is not the duty of the House on the same ground that we admit this voting precinct to reject Salem precinct in the same county. It is not very clearly shown, I admit, in the certificate that was read by the gentleman from Georgia whether or not these two precincts were rejected by the county board solely on the ground that the right man did not carry up the returns. But it is argued all through the case, and the distinguished gentleman himself in preparing and presenting his report to this House assumes that was the state of things, and says we are not called on in this township to reject that vote—the vote of Salem township—because he says it is already rejected. And that is the *summum bonum* of all his argument in the report against counting the vote in Salem township, which was rejected on the ground that the right man did not carry the returns to the county seat.

The difficulty about counting that precinct was that it gave a majority of 135 for Mr. Martin, the sitting member. That was the trouble about its being counted. There was no trouble about counting 39 votes for the contestant; there was no difficulty, no legal trouble about that.

But I admit, and I shall come to that as I go along, that there is some question made on another ground as to counting the vote of Salem precinct. But I shall consider that when I consider the same question as applied to other precincts in other counties.

The contestant objects to counting the vote in several precincts because polls were not opened at the proper hour. This objection applies to precincts giving the contestee the majorities following: Salem precinct, Pasquotank County, 135; South Mills precinct, Camden County, 64; Vandemere precinct, Pamlico County, 40. The votes in South Mills and Vandemere were canvassed by the returning boards. The vote in Salem was not canvassed.

Now, Mr. Speaker, the registrar in each of these precincts, J. S. Lester in Salem, John E. Spence in South Mills, and H. C. Holton in Vandemere, were democrats. I may say as a matter of fact that all the registrars in the State of North Carolina were democrats. Now in these three precincts it is claimed that the contestee, the republican, should not be entitled to have counted for him the majorities that were cast for him because, as the facts show, democratic registrars connived, schemed, planned, and arranged so that the polls should not be opened until after the hour of seven o'clock in the morning. They planned it and arranged it and sent democrats through the township saying that they would not open the polls, when in fact they did open the polls after the time fixed by law.

Mr. MANNING. You do not pretend to have any testimony for that?

Mr. KEIFER. Yes sir; and it is democratic testimony, too.

Mr. MANNING. I give notice to the gentleman that I will assert and undertake to maintain that there is not a syllable of proof to justify the criticism he is now pronouncing. And I will show that the gentleman in the statements he is now making is giving way too much to his passion instead of manifesting that impartiality which ought to characterize the discussion of a case like this.

Mr. KEIFER. I will say to the gentleman from Mississippi that I am the mildest mannered man, I trust, and the best tempered man in this House. [Laughter.]

Mr. MANNING. I hope when I take the floor I will not be so reckless of the testimony, as I understand it, as the gentleman from Ohio is now illustrating himself to be.

Mr. KEIFER. That which hurts gentlemen always makes them squeal.

Mr. MANNING. I give you notice that I will make good what I have just stated.

Mr. KEIFER. I have named the men who are the registrars. I am hardly required, in order to satisfy a gentleman who is possessed of an acute, reasoning, logical mind—I am hardly required to go and get some man to swear that these democratic registrars got somebody else to perpetrate this outrage when it was their duty to prevent its being done. Do you want me to call a witness to swear that Holton did not manage Vandemere precinct in Pimlico County so that the polls were not opened until after seven o'clock? Why, he swears he did it himself, if you want that. The gentleman from Mississippi wants the proof. The fact is admitted that all these registrars were democrats. They did call on some men to serve as inspectors, but took pains to call on men who would not serve when there were plenty around who would serve. It is shown that when democrats found the polls were not opened at the hour fixed they scattered off like rats. That is not the language of the witnesses, but the effect of what some of them say. It seems that the democrats only ran off for fear the polls would be opened and they might have a right to vote. Some of them hastened away, according to the proof, after the polls were just about being opened.

Now, who is to blame that these polls were not opened? Not the contestee, but the friends of the contestant. It is proved, I think, to the satisfaction of everybody that these precincts where they did not succeed in getting the polls opened at precisely seven o'clock in the morning were largely republican precincts. No democratic precinct suffered such a hardship. I say that impassionately.

Mr. MANNING. We prefer, I think, to take the conclusion that Mr. FIELD reached. I say that in reply to all which the gentleman states so impassionately.

Mr. KEIFER. There were a few republicans who went away in one place where it was publicly stated that the polls would not be opened. I think gentlemen will want to rely on something more than Mr. FIELD if they expect to satisfy the judgment of this House. Mr. FIELD reaches a conclusion fairly. I wish they would take him in everything. Gentlemen must not assert that his conclusion is in opposition to what I am saying on this question, for it is not.

Mr. MANNING. I do assert it, and the testimony will show it.

Mr. KEIFER. Does the gentleman say that these registrars were not democrats?

Mr. MANNING. That is begging the question; you must live up to your sweeping charge.

Mr. KEIFER. I am willing to yield to any proper question without getting into a mere colloquy. I always yield to gentlemen for proper questions.

Mr. MANNING. I do not want to interrupt you any further.

Mr. KEIFER. I do not want to get into any colloquy about this matter of testimony. It is proper to say that there was a man by the name of Wilcox, who was substituted along in the day in one of these precincts for registrar, and he was not a democrat. He got the polls opened as quickly as he could after he was substituted.

Mr. MANNING. I do not want you to modify what you have said.

Mr. KEIFER. I do not modify it. I say that the registrars who had the duty of opening these polls in every instance were democrats. It is said some of the election officers were not sworn, or if sworn, it was by persons not authorized to administer oaths. The authorities and the argument already made make it clear that this can make no difference. I will not stop to argue that, for if these officers performed their duty and committed no fraud or wrong, they became *de facto* inspectors and judges of elections, and the election under the law must stand just the same as if they had been *de jure* officers. In this the whole blame was on the democratic registrars and other officers.

Now, no fraud is shown to have taken place in any of these precincts where they say the polls were not opened in time. None is charged, none is alleged. None of these persons had a right to leave the polls until the registrar and other officers whose duty it was to open the polls had left. And they have no right to complain now that they were not permitted to vote.

There is one of the polling precincts, that of South Mills, where the additional objection is made that a democratic board and a democratic registrar or judge of election by the name of Overton, when they went to dinner, took the ballot-box, locked it up in a room and kept it there, and after they got through dinner took the box back to the voting place and the election went on.

Now, we are asked to decide, and I believe some of the members of the Election Committee hold, that that act ought to destroy the majority which the sitting member received in that precinct. Saying nothing now about any scheme or contrivance, for it may not have been a scheme on the part of the officer in that case, the law is against throwing out that vote. There is a recent case in my own State precisely in point, (19 Ohio St., 25,) and the decision follows the uniform decisions all over the country. In those decisions it is held that unless there was fraud, unless somebody was wronged, unless somebody was prevented from voting, the election should not be declared void. There is no charge of fraud or wrong done in this case.

In Hamilton precinct, Martin County, 64 votes are to be excluded because Mr. Martin, the sitting member, in the presence of the democratic registrar, assisted to check off some of the votes. I repeat that 64 votes are to be excluded from the vote of the sitting member, because a democratic registrar allowed or permitted or requested the sitting member to check off the list some few of the names of those who voted.

Now, the testimony shows that no person was harmed. The testimony affirmatively shows that there was no corruption in that case.

The testimony clearly shows that no man was prevented from voting, that there was no harm done any one, and that there was nothing done by Mr. Martin, as registrar at all, except in one or two instances to act as the hand in striking off votes of the democratic registrar, who was there, and who himself swears that there was no corruption and no harm done.

I understand that only a minority of the Committee on Elections hold that the objection urged on that account is a valid objection. Perhaps it would be well, in order to make the point clear, (for it is an important matter,) to call attention to the testimony in this case upon that point.

I will read all the testimony that has any material bearing on the subject of the alleged misconduct of Mr. Martin. I read first from the testimony of Justus Everitt, who says he was present at the election in Hamilton precinct, Martin County. He further says:

I was there a part of the time, and Mr. Martin was also present and had charge of the registration books, and had charge when I left, which was in a few minutes.

Cross-examined:

Q. What Mr. Martin did, was it done in the presence of the poll-holders?
A. It was.
Q. Did Mr. Martin act corruptly?
A. Not that I know of.

Now I read from the testimony of Jonathan G. Carraway, the democratic registrar. In answer to a question, he says:

I was present on the day of election spoken of; Mr. Martin was present around the polls, and I saw him check off some of the registered names of voters as they voted; and my impression is that at one time he came around the counter where the judges of election were, and while on the side of the counter where the judges of election were I think he did not check off any names while there; and when he checked off names he was on the side of the counter where the people came up to vote.

I read further from his cross-examination:

Q. How many names did Mr. Martin check off the poll-book?
A. I can't say positively, but I think he checked off some forty or fifty.
Q. Was the checking off done in the presence of the poll-holders?
A. I think it was, or a majority of them.
Q. Did Mr. Martin act corruptly in checking off the names?
A. Not that I know of.
Q. Who received the votes?
A. W. K. Gladson.
Q. Was any man's name deposited in the box before his name was checked off of the poll-book?
A. None that I know of.
Q. Were you one of the judges at said election?
A. I was acting as registrar for Mr. Justus Everitt, who was the legally appointed registrar.
Q. Was the election conducted fairly?
A. So far as I know.

(The counsel for the contestant objects to the above upon the ground that it is going into new matter.)

Q. What party do you belong to?
A. To the national democratic party.
Q. Who did you vote for?
A. I voted for Jesse J. Yeates.

That is all the testimony in the record, I think, bearing on this question. So I may leave that point.

Now, Mr. Speaker, if gentlemen feel that I have spoken with some earnestness or even passion on this subject of the exclusion of votes because democratic registrars did not go to the polls in due time, let them reserve their feeling for this next point. In Merry Hill precinct, Bertie County, 108 votes cast for Mr. Martin where thrown out because of an alleged "device" upon the tickets. Now let me state the facts of this matter. A man, said to be a distinguished lawyer of the State of North Carolina, named J. B. Martin, (please do not confound him with J. J. Martin,)—J. B. Martin, a distinguished lawyer and the attorney in this case for Jesse J. Yeates, unblushingly swears that he hired a man by the name of Bond, a democratic printer, to print these tickets which were thrown out, and which we are told are not to be counted. J. B. Martin had them printed with this so-called "device" upon them; he himself, according to his own testimony, distributed them to unsuspecting persons—colored persons and others—and this caused these tickets to be voted; and when he found they were being voted he went and appealed to the judges of election, a majority of them democrats, to throw them out; and they did his bidding!

As soon as this contest came up we find J. B. Martin appearing as the counsel of Jesse J. Yeates in this case; and the majority of the committee say that it would be a righteous thing to purge the ballot-box in this precinct by not allowing these tickets to be counted for Mr. J. J. Martin. If anybody disputes the facts I will prove them from the record. The majority of the committee say that the purity of the ballot-box in North Carolina requires that these tickets with this wonderful "device" upon them should not be counted. Perhaps it would be a good thing to put into the RECORD the testimony of this most unsavory gentleman. It would take too much of my time to read it, but unless there is objection I will print as a part of my remarks the testimony of J. B. Martin himself upon this point, and also the testimony of Mr. Bond, Mr. J. B. Martin being the man who had the tickets printed, who distributed them, who then had them rejected, and Mr. Bond being the man who printed them. Here is the testimony of J. B. Martin:

Q. What is your age and occupation?
A. James B. Martin; age thirty-five; occupation attorney-at-law; resident of Bertie County.
Q. Just previous to the congressional election in 1878 did you have printed some tickets, as follows: "Republican ticket. For Congress, J. J. Martin;" if so who printed them, and how many of them were received by you?
A. I did. I did not receive to exceed one hundred and fifty. Wm. M. Bond, of Edenton, printed them.
Q. Were those received by you prior to the election?
A. I received them night before election.
Q. What did you do with them?
A. A part of them were put in an envelope and directed to Daniel Cooper, and deposited in Nicholls's store, at Merry Hill precinct, in a box, where the public got their mail. I think some of them were placed near the voting place in a box near the polls.
Q. Who directed the envelope?
A. I did.
Q. Who is Daniel Cooper?
A. A negro politician of the republican party.
Q. Was he an active supporter of Mr. J. J. Martin at said election?
A. I presume so, from the fact that he distributed those tickets very rapidly.
Q. Who did you support?
A. Jesse J. Yeates.
Q. Did you and James B. Nicholls put up those tickets in packages at the time and place mentioned?
A. We put them up in one package and directed them to Daniel Cooper.
Q. Who requested you to have those tickets printed?
A. No one.
Q. Is Cooper an ignorant man?
A. I judge he could read from the fact that he examined those tickets and compared them with others.
Q. Was any representation made to Cooper that those tickets were sent by J. J. Martin?
A. No such representation made to him by myself, nor any other person to my knowledge.
Q. Was the envelope containing the tickets stamped with a United States postage-stamp?
A. It was not, to the best of my knowledge and belief.
Q. Were any of these tickets voted at Merry Hill precinct at said election?
A. Tickets similar in appearance were voted at said election—about one hundred and nine, as I am informed. I am not positive as to the number.
Q. Were the said tickets so voted refused to be counted for J. J. Martin, candidate for Congress, at said November election held at Merry Hill precinct, Bertie County, in said congressional election and State?
A. I do not know of my own knowledge.
Q. What is your best information and belief as to that?
A. Basing my answer on hearsay evidence, they were not counted.
Q. By whom were the said tickets thrown out and refused to be counted?
A. I do not know of my own knowledge.
Q. What is your best information and belief on that point?
A. From hearsay testimony, by the judges of election at said precinct, on the ground of device and voting more than one ticket; the device consisting in the words "republican ticket" printed on the said ballot.

(Answer to the two preceding questions objected to on the ground of hearsay.)

Q. What was the political complexion of the board of judges of election?
A. My impression is that J. E. Nicholls, J. H. Brown, T. J. Webb, and James W. Smith were the judges of election, all of whom were democrats, and supported J. J. Yeates for Congress.
Q. Did you not advise the judges of election that these tickets were illegal and should not be counted?
A. I did.
Q. Did you send or give any tickets to D. C. Winston, in form "republican ticket. For Congress, J. J. Martin?"
A. I did.
Q. About how many?
A. About twenty-four.
Q. Is D. C. Winston a resident of Windsor, Bertie County, a lawyer, and a strong supporter of Joseph J. Yeates in said election?
A. He is and was.
Q. Do you know if D. C. Winston received said tickets?
A. I was informed by D. C. Winston that he received them.

Cross-examined:

Q. Did you see any official connected with said November election take any of those tickets, "Republican ticket. For Congress, J. J. Martin," and publicly exhibit them to republican voters, and advise them that said tickets were illegal?
A. I did; Mr. J. C. Freeman, the registrar. My impression is they were so exhibited by him before any of them were voted.

Redirect by counsel of contestee:

Q. Did Mr. Freeman do this at your request?
A. He did not.

Further this deponent saith not.

J. B. MARTIN.

*Deposition of William M. Bond.*

William M. Bond, a witness on part of the contestee, Joseph J. Martin, being duly sworn, deposes and says:

Q. What is your name, age, and occupation?
A. William M. Bond; age, twenty-one; occupation, newspaper man.
Q. In the fall of 1878 were you editor and manager of the Chowan Gazette, a democratic newspaper published in Edenton, North Carolina?
A. I was.
Q. Do you know James B. Martin, of Merry Hill precinct, Bertie County.
A. Yes.
Q. Was he then and is he now a leading democratic politician in said county?
A. Yes. He was an active democratic politician of that county.
Q. Did he hold any official position in said county at that time?
A. I think he was chief-justice of the inferior court of that county.
Q. Was he, in the congressional election in November, 1878, an active supporter of Jesse J. Yeates?
A. I think he was.
Q. Who were candidates for Congress in the first congressional district of North Carolina in November, 1878?
A. J. J. Yeates, J. J. Martin, J. B. Respass, and I. S. Chamberlain.
Q. Were you, just previous to said election, requested by any one, and, if so, by whom, to print several hundred tickets, of which the one attached is a copy? Please state if the said tickets were printed and delivered or received by any one; and, if so, by whom; and any other facts connected therewith.
A. I was requested by J. B. Martin to print said tickets for him, of which the attached is one. I printed several hundred of them, and sent them to Mr. J. B. Martin, and he stated afterward that he received them.
Q. Were they printed and received prior to the November election, 1878?
A. They were.

(Contestant's counsel declines to cross-examine.)

Further this deponent saith not.

W. M. BOND.

Witness: WM. P. GURLEY.

REPUBLICAN TICKET.
For Congress:
J. J. MARTIN.

The question presented here is whether you shall unseat J. J. Martin because the counsel for Jesse J. Yeates succeeded in getting these votes, which are called fraudulent, cast for J. J. Martin. That is the proposition that gentlemen are invited to come up to. It is said that these tickets were fraudulent because they had a "device" on them. Now was there a "device" on these tickets? What was the form of the ticket? It was a very small ticket, having printed at the top of it the words "Republican ticket," then followed the words "for Congress," then followed the words "J. J. Martin." The ticket was printed upon white paper, and was in every respect in accordance with the law of the State of North Carolina. There was no "device" on it in the proper meaning of the term. It is claimed that the "device" consisted of the words "republican ticket" on the face of the ticket and at the head of it. I refer to the law of North Carolina. From section 18, chapter 275 of the laws of North Carolina of 1875, I read all that has any bearing on this question:

The ballots shall be on white paper and may be printed or written, or partly printed and partly written, and shall be without device.

The question is whether printing on the face of the ticket at its head in ordinary type the words "republican ticket" constitutes a device. What is a device? Let us take the definition as given by Webster, and see whether we find anything indicating that the sacred name "republican" when it precedes the word "ticket" constitutes a "device." A late edition of Webster gives this definition of device:

That which is formed by design or invented; scheme; artifice; artificial contrivance; stratagem; project; generally used in a bad sense.

Worcester gives the same definition. It is a word which had a meaning in heraldry, and it has a well-understood meaning in mechanics. It is a word used sometimes in criminal law. It has no meaning difficult to understand when used in the connection here. It is anything connected with bad. Any scheme, any plan, anything that is intended to operate for evil on the minds of others, might be called a device.

Here is the ordinary ticket such as we find everywhere, and there is nothing in the claim except as it existed in the minds of Martin and his willing tools, the judges down there—J. B. Martin, I mean. There is no decision of any of the courts of North Carolina showing that a heading when printed on the inside of a ticket is a device.

To go into the history of this matter a little, there was a time when they had embellishments, distinguishing marks on the back, especially of tickets in States South, and some of them North, and the Legislatures of those States struck at that sort of thing; that is, the use of those emblems, those distinguishing things, and which it was supposed were the means of intimidating voters. It was supposed they worked harm, and I am told some democrats went so far as to say it was a means by which unlettered whites and blacks were enabled to tell when they were voting the republican ticket. They used to have large tickets with the face of General Grant in every imaginable shape and form upon the back of them, so that if the voter saw any part of the ticket, if a colored man saw the face of that great war hero and statesman, he knew that he was voting the right ticket; he would know that he was voting the right ticket even if he could not read the face of it. Some of this legislation was on the theory that it was wise to prevent this sort of thing. The law may be all right, Mr. Speaker; I am not here quarreling with it, but I am only referring to this to show this legislation was not intended or designed to be a blow at the ordinary ticket, such as is voted everywhere all over the country.

I intended, Mr. Speaker, to give the use in which the word device appears in several places in the Holy Bible, and as it lies before me, I believe I will do it now. Job, speaking of the powers of the Almighty, chapter v, verse 12, says: "He disappointed the devices of the crafty." David, in praising the goodness of God, says, Psalms xxxiii, verse 10: "The Lord bringeth the counsel of the heathen to naught; He maketh the devices of the people of none effect." Paul uses the same word in his second epistle to the Corinthians, chapter ii, verse 11: "Lest Satan should get an advantage of us, for we are not ignorant of his devices." All connect it with bad, with evil. Here it is used in the same sense, although used by legislators in the State of North Carolina.

Now to the authorities for one moment. It is claimed on the part of gentlemen who make the majority report in this case that they were unable to find anything that was satisfactory to themselves except where they gleaned it from a private paper of some other gentleman. I have been a little curious to look at some of the authorities which are cited in that printed paper, and I assert—and I wish while gentlemen are correcting me they would go to this and correct it—I assert that every authority cited in that report which the gentleman adopts and takes home to himself—I assert, sir, that every authority cited on the subject of a device is exactly in the face of the conclusion of this report.

I will invite your attention first to the Indiana case, a case in 35 Indiana, 275. Here, Mr. Speaker, we get the precise question exactly, where the words "republican ticket" were printed on the head of the ballot on the same side where the names of the candidates were printed. The statute of the State of Indiana was much more stringent and severe than the statute of the State of North Carolina. But I will read an extract from it:

SEC. 23. That all ballots which may be cast at any election hereafter held in this State shall be written or printed on plain white paper, without any distinguishing marks or other embellishment thereon, except the name of the candidates and the office for which they are voted for, and inspectors of election shall refuse all ballots offered of any other description: *Provided*, Nothing herein shall disqualify the voter from writing his own name on the back thereof.

Now, then, the case was exactly like this one. The court said that at the October election in 1870 there were ballots voted for the contestee with the words "republican ticket" printed at the head and on the same side the names of the candidates were printed. That is exactly our case. Then the court goes on to say that "the only question before us is, was this such a distinguishing mark or embellishment as to require the inspectors to refuse the ballots when offered. This question was directly before this court in a former case and was answered in the negative." They say in that decision they fully indorse the case in 29 Indiana, 308. That decision I have before me; and these two cases, I beg you, Mr. Speaker, and gentlemen of this House to note, are cited in the report of the majority as sustaining their claim that if there be printed on the face of the tickets the words "republican ticket" it is a device. Neither of them sustain the conclusion of the report of the committee, and it looks to me as if somebody might have been intending to perpetrate a stupendous joke on the majority of the committee.

But there is another authority cited. Section 401, McCrary on the Law of Elections, has been quoted and we ought to look at that and see how far it supports the claim of gentlemen upon this question. I will read the section referred to:

It has been also held that where the statute provided that all ballots should be written or printed upon white paper without any marks or figures thereon, to distinguish one from another, ballots upon paper tinged with blue, and which had ruled lines, were legal ballots within the meaning of the act.

This case was decided in 15 Illinois, 492:

This ruling, however, went upon the ground that the ruled paper was not used with any intent to violate the statute.

Certainly J. J. Martin did not intend to violate the statute of the State of North Carolina even though J. B. Martin, counsel of Yeates in this case, did intend to commit an outrage upon Mr. J. J. Martin by attempting to unseat him; and the voters of that State did not intend to violate the law.

But I continue reading from McCrary:

It is quite clear that when the statute distinctly declares that ballots having distinguishing marks upon them shall not be received, or shall be rejected, it should be construed as mandatory and not simply directory.

And so it was held by the supreme court of Pennsylvania under a statute of this character, that ballots having an eagle printed thereon were in violation of the law and should be rejected.

Now, then, the American eagle was considered in the Pennsylvania case in reference to whether it constitutes an embellishment or not. We might draw a fine distinction even about this. We find this cited as authority here, and as conclusive in principle against the voice of the majority as cited in their report.

Then we are also referred to section 403 of McCrary, (and I believe it is the last,) which refers to the California cases. This section is as follows:

The supreme court of California has very recently had occasion to consider the force and effect of a statute regulating the size and form of ballots, the kind of paper to be used, the kind of type to be used in printing them, &c. The court held, and we think upon the soundest reason, that as to those things over which the voter has control the law is mandatory, and that as to such things as are not under his control it should be held to be directory only. * * * The conclusion of the court was that the purpose and object of the statute was to secure the freedom and purity of elections and to place the elector above and beyond the reach of improper influences or restraint in casting his ballot, and that it should have such reasonable construction as would tend to secure these important results. And so construing the statute, the court conclude that a ballot cast by an elector in good faith should not be rejected for failure to comply with the law in matters over which the elector has no control, such as the exact size of the ticket, the precise kind of paper, or the particular character of type or heading used, &c.

These references are put into the report, and they might mislead; not purposely, but unintentionally put in to make gentlemen believe that there was some authority somewhere that would hold that such a ticket as was rejected in this Merry Hill precinct in Bertie County, North Carolina, was a "device," and that such ticket was cast in violation of the law; whereas every authority upon the subject, including especially those cited by the majority of the committee in their report, supports the contrary doctrine.

I will not pursue this subject further. There is but one other precinct that I need refer to. The contestee claims that there were 139 voters who would have voted for him in Goose Nest precinct of Hamilton County, North Carolina, if they had been permitted to do so in a just and fair election. I believe that the gentleman from Massachusetts [Mr. FIELD] who has given the most attention to the testimony in this case, and given the contestant the advantage of any doubt, cuts this number down to 120. These 120 persons were refused their ballots in this precinct because they were not registered there. Now, if they were not registered there, there was no person registered there, unless perhaps there may have been a few, three or four or as high as a dozen; but there was no registration of 132 democrats that voted in that precinct although the majority of the committee do not find any difficulty in counting them, while the votes of these 120 or 139, as the case may be, who were not registered were not received. The statutes of North Carolina, as has been fully and elaborately explained by the gentleman from Massachusetts, [Mr. FIELD,] that is the statute on the subject of registration of voters in cases where they have removed from the places where they have been properly registered, is clear and plain in the light of that explanation.

But not one of these voters did remove; not a single one of the 120 removed from the place where they had been living and were at the time of the election, and where they lived when they voted or tried to vote. Hamilton precinct was divided and Goose Nest precinct was cut off from it, and these names were transferred to the new precinct rolls. There was no case of removal; they were transferred on the books simply. The judges of election, however, refused to allow the republicans to vote. A democrat went the night before the election, and in violation of the law, as admitted I believe by everybody who has examined it, succeeded in getting certificates of transfer for the democrats from the democratic registrar of Hamilton precinct, on which judges of election in Goose Nest precinct permitted democrats to vote. But the next day it was "unlawful" for the republicans to attempt to vote, and certificates were refused to them by the very same persons who gave the certificates to the democrats. They could not find any authority for giving them to the republicans.

I put this case on the ground that no action was required on the part of any of these voters; it was not a case of removal; they were simply voting where they were by law placed—in a new precinct—and if we turn to the statute on the subject that will be made quite plain. Section 7 of the law relating to registrars of North Carolina says:

No elector shall be entitled to register or vote in any other precinct or township than the one in which he is an actual and *bona fide* resident on the day of election, and no certificate of registration shall be given.

Now, section 12 of the same act contains the words which I will ask the Clerk to read, down to where provision is made for the form of the oath.

The Clerk read as follows:

And if an elector has previously been admitted to registration in any ward, township, or precinct in the county in which he resides, he shall not be allowed to register again in another ward, precinct, or township in the same county, until he produces a certificate of the registrar of the former township, ward, or precinct that said elector has removed from said township, ward, or precinct, and that his name has been erased from the registration books of the ward, township, or precinct from which he has removed; and the identity of any person claiming the right to be registered in any precinct of the same county, by virtue of such certificate, with the person named therein, shall be proved by the oath of the claimant, and when required by the registrar, by the oath of at least one other elector.

Mr. KEIFER. That is as far as the Clerk needs to read. The balance of the section gives the form of the oath.

Now, it will be noted that that section refers to cases of removal. Only when a man removes from one voting precinct to another is it necessary for him to apply in person and have his name erased from the books of the place where he had been registered, and then get a certificate so that he may register in another place. But these voters that tendered their votes in this Goose Nest precinct did not remove. The precinct was established around them.

I come now to the further point that I suggested: the one hundred and thirty-two democrats who voted in this precinct on certificates that were issued on the application of one person voted illegally if it was necessary for this twelfth section of the statutes relating to registers in that State to be complied with. Why? Because each one of them would have had personally to apply and take an oath himself as to his removing, and if required by the registrar, furnish other evidence of the fact of his removal. So that all the certificates that were used—and this is a fact not disputed in the case—all the certificates that were used by democrats were certificates that were illegally issued. And although the judges of election were notified of that fact, they received the democratic votes here and refused the republican voters who offered their votes. And the Hamilton precinct registrar refused to give certificates on the day of the election to these republicans when they applied for them.

In conclusion, I may add that this House is asked and expected to affirm and confirm all these outrages upon the sitting member and vote in the contestant. We are asked now to put our confirmation and our sign of approval upon all these outrages on the people of the first district of North Carolina, on the sitting member, and on the country.

We are asked by our vote here, to-day or to-morrow, whenever we reach it, to say it is all right for contrivances, schemes, acts of omission or acts of commission to be worked out to consummation by officers of election to defeat the voice of the people in that district. We are asked to approve of the premeditated act and conduct of a man who unblushingly appears as an attorney in this case, and comes here swearing that he himself set up a scheme, or device, or plan by which he robbed one hundred and eight men in his own precinct of their elective franchise. And we in the House of Representatives in the Congress of the United States are, by our votes, asked to say that this J. B. Martin did a nice, decent thing, because it only operates to exclude a republican from his seat. We are asked then to say as to these illegal acts on the part of the judges of election in this precinct in Hamilton and the Goose Nest precinct, in their refusal to allow these men to vote, they did right in allowing democrats to vote who were exactly in the same position so far as the law was concerned.

I may have been earnest, and if the gentleman from Mississippi [Mr. MANNING] proposes to say that I have been passionate I offer this single excuse, that I have been asked as a part of my duty, not alone as a member of a committee but as a member of this House, by my act and vote to approve of this sort of thing. My voice and vote shall be against such action. I warn gentlemen that whether the day is come now, or whether it is only near at hand, or whether it is still in the remote future—I warn gentlemen that the sooner they put the seal of infamy upon all such proceedings as this and upon all men who countenance them, who aid them, who are auxiliaries to these grave crimes against the elective franchise the better—I warn them that the day is coming when all such persons will be swept from the Halls of Congress, and forever. The American people South as well as North—I am happy to say I believe that the Southern people are equally ready to do so—will stamp down in a political point of view all those persons who are willing to approve of such conduct as we will here approve if we adopt the report of the majority.

My conclusion is that Mr. Martin is entitled to hold his seat, and I find his true majority to be 375.

Mr. RUSSELL, of North Carolina. Mr. Speaker, the questions involved in this case, in their details, are somewhat difficult——

Mr. SPRINGER. I ask if the time of the gentleman from Massachusetts [Mr. FIELD] has expired? I mean the two hours.

Mr. RUSSELL, of North Carolina. Was there any understanding of that sort?

The SPEAKER *pro tempore*, (Mr. STEVENSON.) The two hours have expired.

Mr. RUSSELL, of North Carolina. I do not understand we are proceeding on this side of the House under any arrangement.

Mr. SPRINGER. I did not say any arrangement had been made. I wish to know how much time the gentleman desires.

Mr. RUSSELL, of North Carolina. I have the floor and will proceed without any understanding from the other side. I believe we have failed to arrive at any understanding in this matter; and, having the floor, I will proceed to say what I have to say on this case, which will not occupy any long time.

Mr. SPRINGER rose.

Mr. RUSSELL, of North Carolina. I decline to yield.

Mr. SPRINGER. I did not ask the gentleman to yield the floor. I simply give notice that at the close of his remarks I will move the previous question.

Mr. RUSSELL, of North Carolina. Then I will keep the floor. Now, sir, no graver question can be presented to this House than one like that which this House is called upon to determine in this case. It goes to the very foundation of government in America. Cases like this are to determine whether in the not remote future free government shall exist in America or not.

We have a crop of from twenty to forty or fifty contested-election cases for the next House of Representatives. Every man knows that for the last ten or fifteen years, and happily for those who have gone before us it cannot be said of the time prior to that—for the last ten or fifteen years it is well known and understood of all men that election cases before this House have been decided by both political parties in a manner which was wrong and which was an infamy that unfortunately nothing can blot from the history of this country. It is known and believed generally by the American people that controversies of this character are decided and settled not by the rules of law, not by equity and justice and honesty, but according to the political necessities and the partisan exigencies of the occasion.

Therefore I have said that in the next Congress there will be from twenty to fifty contested seats. I shall undertake to show that if the principles contended for by the majority of the Committee on Elections are to be adopted as a law by this House, somewhere from twenty to fifty gentlemen from the Southern States certified to the next House of Representatives will walk out some morning and give place to men who will be counted in whether elected or not. I say that if you adopt the reasoning of this Committee of Elections, it will count out your members from the cotton States in the next Congress.

Mr. MCMAHON. We will see.

Mr. RUSSELL, of North Carolina. It is not necessary to say now whether the elections in 1880 in many of those districts were fair or unfair; it is not necessary for me to say now whether the members certified from those districts should be counted out on other reasons or not; but I say that if they are counted out on the ground that not more than one-half of the party vote as compared with preceding elections was polled, which is coolly insisted on in this case, it will be a tolerably bad joke for some of the cotton States in the next Congress.

What is this case? Without going into details, it is briefly this: the sitting member was elected by about 400 majority, fairly, honestly, equitably elected by about 400 majority. The returning boards of his district, finding that he had been elected, proceeded to the discharge of their high and important functions and undertook to count him out, and, as they supposed, they did count him out. [Laughter.]

Now, owing to the fact that this district is not well gridironed with telegraphs and railroads, but consists largely of sounds and inland seas, not having an opportunity to telegraph and communicate among themselves quickly and rapidly, they did not count out enough. They made a mistake in their figures, and instead of counting out 400, as they should have done, they counted out only about 320 or 330 votes for the sitting member.

Now, any returning board that cannot put up a better job than that ought to be abolished, [laughter;] and I understand there is a serious talk down there in our country to abolish them.

There are seven precincts in the controversy in this case. That is to say, there are seven precincts that are called in question by the pleadings in this case. As to one of those precincts, it must be ad-

mitted by every candid man that the contestant is in the right. That is the precinct of Providence, in the county of Pasquotank, where the returning board threw out a precinct that gave 39 majority for the contestant. They actually flung out a democratic precinct. [Laughter.] But at the same time it happened, accidentally, of course, that they flung out a republican precinct that gave 135 majority for the contestee. They threw out those two precincts by the same order; they rejected them at the same instant. The record of the board shows that they rejected them for the same reason. Yet we are asked to decide here that they rejected the democratic precinct wrongfully, but they rejected the republican precinct rightfully.

I say again, and it cannot be successfully denied, I think, that so far as the returning board below is concerned—and gentlemen in their report undertake to make a point on that—they undertake to say that we are not now called upon to reject this vote of Salem precinct because it has already been rejected. Now, did anybody ever hear before that this House was concluded by the finding of the returning board below? Are we not sitting here as the ultimate board to decide the whole question, to go behind the returns and count the vote and settle the whole controversy? That is the purpose for which this House, under the Constitution, sits in determining the election, returns, and qualifications of its own members.

Therefore, we are asked to reject the 135 votes of Salem township. It is not the county board that rejects them, but we will be rejecting them if we refuse to count them in this case. There you have it. The two precincts were rejected by the board at the same time and for the same reason.

What was the reason? It was not a reason at all, it was a pretense—that the registrar, who was one of the election board that held the election and took the votes and made the returns,—brought them to the canvassing returning board of the county, as a member of that board, having been appointed by the election board of that precinct.

The North Carolina statute says that the election judges shall appoint one of their number, who shall constitute a member of the returning board of the county, called technically by the statute the canvassing board.

The statute in its phraseology seems to make a distinction between a registrar and an election judge; but any man who will read the statute broadly must admit that there is no distinction so far as the functions of the registrar and the election judges are concerned in the conduct of the election. Every North Carolina member on this floor knows that the registrar in our State is regarded as a member of the election board, just as much as the judge of elections, the poll-holder, the inspector, as the statute indiscriminately calls him. The registrar votes upon the question of the admissibility of a vote. He sits there with the inspectors, taking part in their proceedings; he receives or rejects votes with them, and is to all intents and purposes a member of that election board. The reason why the statute uses the two designations—registrar and election judge—is simply this: that the registrar has additional duties to perform—duties independent of and additional to the duties performed by the election judges. But so far as the conduct of the election itself is concerned you have a board of five members, one registrar and four inspectors. And when the statute in reference to matters of this sort speaks of election judges it means the election board, including the registrar. For example, you find in the statute a clause which says that the election judges shall, after the election is concluded, deposit the registration books with the registrar of deeds for the county. This plainly means that the registrar, as well as the election judges, shall do this, for the registrar is the man who has these books. The election judges, if you are going to take a distinction between them and the registrar, cannot do this, because they have not the books. Hence, when the law says that the election judges shall deposit these registration books, it means the election board. If the intention was to constitute two separate bodies, consisting of the registrar upon the one side and the four inspectors on the other, then the statute ought to have required that the registrar should do this duty, because he is the only man that can do it.

But, sir, is there any lawyer who will seriously contend that even if this construction of the statute is proper it would make any sort of difference? Who cares how the returns may have reached the canvassing board? They were there; they were honest returns; nobody questioned them. Why should they not be counted? This registrar was appointed one of the canvassing board of the county. Was he not a good *de facto* officer? Will anybody pretend that when an election is honestly held by *de facto* officers when a returning board counts the vote as *de facto* officers, in the absence of complicity or conspiracy or fraud, will anybody pretend for a moment that the action of such officers is not valid? It does seem to be somewhat seriously contended, to be sure, by the committee with reference to this Salem precinct, that reasons of this sort are sufficient to invalidate returns and disfranchise freemen. They say:

> The committee are not asked to reject this vote. It is already rejected by the proper authorities of the county, and this record furnishes a conclusion only. Aside from the fact that this board, in the absence of proof to the contrary, is entitled to the legal presumption that they have done their duty, the evidence discloses that there were other and vital informalities in the conduct of the election at that precinct. * * * The evidence of the contestee discloses that the polls were not opened until twelveo'clock, when the law is mandatory that they should be opened at seven; that before they were opened a large number of the voters of the precinct had left; that not more than half of the vote of the precinct was polled; that there was no registrar appointed, and that officers who held the election were not sworn.

Now, it seems to me that it would be difficult to compress more of error into the same space than is found in the extract I have read. The committee seem to proceed upon the idea of the judge who was deciding a demurrer that gave twenty-three grounds or causes of demurrer to a declaration, each being a separate and independent ground. After argument, the judge said he was satisfied that no one of the grounds of demurrer was of any account whatever, but considering them altogether, and inasmuch as there were twenty-three of them, he would sustain the demurrer; and he did. So the committee seemed to think that inasmuch as there was no good and sufficient reason for disfranchising two or three hundred men in this precinct, they would give a large number of very bad and insufficient reasons, and thereby strengthen the case. First, they say that this returning board is entitled to a presumption in its favor; that the board having counted out the vote in that precinct, it lies upon the contestee to show that the board was wrong; that every presumption is in favor of the rightfulness of the action of these officers upon the general principle *omnia præsumuntur rite esse acta*. I contend that precisely the contrary is the law. When those officers counted out that vote they exceeded their jurisdiction; they exercised a judicial function which, according to the settled election laws of North Carolina and of almost every other State, no returning board has the power to do. If anything is established in the law of this country it is that these election boards are invested with ministerial powers and functions only; that they have nothing in the world to do but to receive the returns, add them up, make the computation, and declare the result. The courts of North Carolina have so held repeatedly; so that no lawyer of that State would for a moment think of making any such point as this in any court for which he had any respect whatever. The canvassing board is not entitled to the benefit of the presumption that their action was correct; but, on the contrary, the presumption is directly against them; nay, it is not a presumption but an absolute conclusion that they violated their duties, because, whether there was cause to reject that return or not, they had no right to decide the question. They should have received that return and counted it. Every one of them is liable to a criminal prosecution in the courts of North Carolina for usurpation of authority and malfeasance in office.

Further, the committee say the evidence discloses "that the polls were not opened until twelve o'clock when the law is mandatory that they should be opened at seven." Now, did anybody ever hear before that it vitiated an election and disfranchised men because that sort of a directory provision in a statute was not strictly complied with? Does not everybody know that you would disfranchise the whole country, you would break up elections all over this land, if you required every minute direction of your election laws to be strictly complied with? I undertake to say there is not one election in a thousand throughout this country where every detail of the statute is strictly complied with. I would confidently rely upon the recollection and judgment of gentlemen on this floor of all parties to sustain me in that assertion. Then they say that before the polls were opened a large number of the voters of the precinct had left. Now, sir, if there is anything clear at all it certainly is that no man should leave the polls because the polls do not happen to be opened at the very moment required by the law and without stopping to inquire whether there is any probability they will be opened during the day. If he leaves in the absence of any reason to believe that no election will be held there during the day, then it is his fault and he has no right to complain, much less to demand because his vote was not received, therefore the whole poll shall be thrown out. There can be no sort of merit in the kind of plea which is sought to be set up here by the contestant.

But at the same time it may be just as well to say here, and it will dispose not only of this but the same complaint in regard to several other of these election precincts, that if you allow the contestant every vote which he claims, every vote which he says he lost on that account, it will only amount to some twenty or thirty, or at the farthest forty. If you gave him every one of them even in reference to which he suggests only a prejudice, it could not possibly change the result but would allow the sitting member to retain his seat. So much, then, for all this talk about the polls being opened one at nine, another at eleven, and another perhaps at twelve o'clock.

Why, Mr. Speaker, the evidence shows the fact is that at these precincts, where all this talk is made about the polls having been opened too late, every single voter on the registration books might have been voted in two hours. The testimony is that the polls, all of them, were open for five hours and most of them for six, seven, and eight hours. The vote itself was about one-half of the registration. There were no candidates voted for save for member of Congress. There was only one ballot and one box, and there might have been voted in those seven or eight hours at every precinct 1,500 or 2,000 men. I say, indeed, that if every man on the registration books, including even the dead men and the men who had removed out of the precincts—because many of them remain on the registration books in spite of all attention—if every living man residing in the township noted on the registration books had been there and offered to vote, you might voted every one of them in two hours at least. But the

polls were open more than double that time, indeed more than treble that time, and yet, notwithstanding that fact, it is actually proposed here by this committee to reject the whole poll and disfranchise every man who did vote because the poll was not opened at seven o'clock in the morning.

I undertake to say that no case can be found where an entire poll has been vitiated upon the mere ground that the direction of the statute in regard to the time was not exactly complied with. Cases may be found where polls have been vitiated because the election was stopped, or because the poll was closed before the time fixed by law, and where it appeared affirmatively that such action resulted in great mischief by preventing voters casting their votes. I say no case can be found—and I do not think gentlemen on the other side have found or can find any such case—where the courts have held, merely because the poll was opened too late or too early, the entire precinct should be disfranchised.

Now, sir, there is another precinct in which it is gravely proposed to cast reflection upon the sitting member and to deprive him of some 64 votes of his majority upon the ground that he happened to take up a book, at the request of a political opponent who was the registrar at that precinct, and check off a few names as they came up and voted. The election law of that State prohibits any candidate for election from acting as registrar of election. Some gentleman on the other side, I believe it was the gentleman from Ohio, inquired what Mr. Martin was doing on that day, and how he explained his usurping the functions of an election officer? I suppose the answer to the first question would be that he was there on that day, presuming, as a free American citizen, he had a right to be there; and, in the second place, being afflicted with the ordinary folly of the American citizen, he was a candidate for Congress, and was there looking after his own interest. [Laughter.] I suppose that would account for the first crime he committed.

Now, as to why he did the other thing, and that is, complied with the request of his political opponent. I suppose he did just as any man under the same circumstances would have done. Being requested by the registrar of election to assist him for a moment, and not supposing anybody in the world would take advantage of it, he complied with that request. He sat there for a few minutes and checked off some names, acting as agent of this officer of election. Why, I suppose if he had given these election judges a drink of water, that, too, would have been complained of. They might as well charge him with giving Overton the liquor with which they allege he got drunk on that occasion. I do not know that any one of these things would have vitiated the election. There is no evidence he acted in a judicial capacity in passing upon the question whether a man should be rejected or not. There is positive evidence that he merely acted in a purely ministerial way. There is evidence that men voted there while he was acting as registrar. There is not a line of testimony to show anybody was prejudiced by his action. The most you could do would be to reject the votes, if any, received at the time while he was thus acting, and that only when there has been positive evidence of wrong-doing on his part.

Here he was one of a board of five. Suppose this registrar of election had gone off and no one had taken his place, would it be pretended that this vacated the poll? Can it be claimed the case would be any stronger or that it would be any worse if there had been a vacancy in the office of registrar, leaving four, which certainly is a quorum of five, to act and carry on the election? It does not appear that his voice or vote influenced in any way the result of the election on the admission or rejection of any vote while he was acting in that capacity.

In Goose Nest precinct they have rejected some one hundred and twenty votes because the registrars failed to give a certificate upon the allegation that it was necessary under the election laws of North Carolina they should obtain a certificate from the registrar, it having been ordered by the county commissioners previously that this precinct of Goose Nest should be established, and all those living at Goose Nest should vote at Goose Nest, and not at Hamilton as they had done before.

Now, sir, a candid examination of the election statutes of North Carolina will convince any man, I think, that in that matter the law is silent. Here is a provision that the commissioners may establish a new poll, that they may select a number of election precincts already existing and declare that parties living within certain boundaries in that election precinct shall vote at the new places. Other duties and powers are prescribed; but in reference to this point to which I am now referring the statute is silent. These commissioners and these registrars of election did precisely what they ought to have done under, not directly under, the law, but in the absence of any provision of the statute thereon. Having the authority under the statute to establish new polling places, that authority gave them the power to do what was necessary to establish these precincts, and to establish them it was necessary to provide for registration, and to provide that the registration should be prior to any election; and they did it. How? By simply directing the registrar of any new precinct to obtain the names of the voters from the old precinct and put them upon the new books, and by doing this it would entitle them to vote. They did it; they complied with this requirement of the law, but these registrars and the election judges met together on the Monday before the election on Tuesday when the law required them to meet on Saturday, and came to the conclusion that inasmuch as they found something or other in the statute that says a man must have a certificate when he moves from one township into another before he can vote, that they would reject every vote presented in that precinct unless it be accompanied by a certificate. The democratic registrar goes to the old precinct and obtains the name of every democrat, and gets a certificate signed for every one of them. On the next day they are voted because they have a certificate. The republican voters go and demand the certificate from the same registrar who had granted it to the democrats who got it before the election, and they are refused. They tender their votes on the day of election and are refused. They are refused because they have no certificate, which they could not obtain from the democratic judges of election and which was not necessary for them to have under the statute. They have complied with the statute in all other respects. They have done everything that was demanded of them or that men can do. They have first applied for the certificate that was not necessary and, being refused, they tendered their votes and the votes were rejected.

Now, what else could they do? Under the election laws of this country, which I have now before me, but which I will not stop to read, governing the election of members of Congress, cases of this sort are provided for. It is universally conceded that wherever an elector tenders his vote or offers to do that by law required to be done, that he shall be held to have complied with the law, and shall be entitled to all the benefits as much as if his vote was received and counted.

Then in the case of Merry Hill precinct, they rejected 108 votes upon the ground that there was a device upon the ticket. I hold in my hand, Mr. Speaker, one of these tickets. There it is. There is a ticket, and such a ticket as I venture to say is voted and used by the people of three-fourths of the States of this Union. And what is the device upon it? It contains the words, "Republican ticket; for Congress, J. J. Martin." Because the words "Republican ticket" are on the top of it and on the inside of it, it is gravely held that this is a "device" under the election laws of North Carolina and that it should not be counted.

The election law of North Carolina in this respect is mandatory, not merely directory. If the law had simply said that no ticket should be used which contained a device upon it, why this question could not arise at all, because of course any court would hold that that was a mere direction of the statute, and even a violation of it would not vitiate the vote. But the statute goes further and declares that in counting the votes the inspector of election shall reject all votes which have a device upon them. That makes the law not merely directory but mandatory; and I admit that if this is a device within the meaning of the statute, then the votes should not be counted. Now, I hold that it is not a device upon any fair construction of the statute. Why, sir, the contemporaneous history of that clause in the election laws of North Carolina is well known and such as any court would take notice of. We have been in the habit, especially we republicans living in the State, of using devices such as pictures upon our republican tickets until in the year 1871 in a contest for a constitutional convention. At that time it was charged by the republicans against the democrats that their purpose was to strike down the homestead guarantee of our constitution. When we came to the election we got up a lot of tickets with a homestead on the back of them, a picture representing a house or something of that kind, and with some expression written under it, "Save the homestead," perhaps, or some such motto. That ticket was used largely throughout the State; in fact it was very generally used throughout the State, and it resulted in a defeat of the democratic party at that election by about ten thousand votes. At the next session of the Legislature they stuck a clause in the election laws declaring that no ticket thereafter should have any device upon it.

Now, sir, the principle of construction in this case is plain. A law that is penal in its character, or a law that is in derogation of common right—especially a law that is in derogation of popular right—must be construed strictly. If the Legislature intended any more than they said, why did not they say so? If they intended that words and expressions, a sentence, should be a device, why did they not say so? A statute of this sort must be construed precisely as you would a statute that imposed a penalty or enacted a crime. Suppose a man should be indicted in the courts of that State, for example, for using a ticket with a device on it, and the construction of the statute was invoked, would any court say that in the absence of plain language showing the intention of the Legislature they can hold that man to criminal pains and penalties? Would they not say this is a criminal statute: we must construe it strictly: we do not find any words there that embrace this case; we must construe it in favor of the citizen and against the State? That is the rule of judicial construction everywhere. And so here; it is in derogation of popular right and it must be construed strictly; that is, no further than the words necessarily import. Every doubt must be given to the citizen. So that, Mr. Speaker, upon this general and established principle of statutory construction it would be, it seems to me, determined without argument by any court in this land that this was not a device.

But, sir, it is not a device on any principle of construction. You may construe it broadly, liberally, or strictly as you choose, and you cannot get out of the word "device" a meaning which will include an ordinary English expression. Device means an emblem in that

connection; a picture. It does not mean a statement in words. And, sir, let it be remembered that the contestant in this case, who seeks to avoid these tickets, is taking advantage of the act, perpetrated, if not by himself, by one of his supporters and principal friends. Let it be remembered that it is a trick disreputable in itself and indefensible on any ground whereby it was intended to disfranchise all the men at that precinct in the interest of this contestant. I ask the Clerk to read the testimony of J. B. Martin on that point.

The Clerk read as follows:

J. B. Martin, a witness on part of the contestee, Joseph J. Martin, being duly sworn, deposes and says:

Q. What is your name, age, and occupation?

A. James B. Martin; age, thirty-five; occupation, attorney-at-law; resident of Bertie County.

Q. Just previous to the congressional election in 1878 did you have printed some tickets, as follows: "Republican ticket. For Congress, J. J. Martin;" if so, who printed them, and how many were received by you?

A. I did. I did not receive to exceed one hundred and fifty. William M. Bond, of Edenton, printed them.

Q. Were those received by you prior to the election?

A. I received them night before election.

Q. What did you do with them?

A. A part of them were put in an envelope and directed to Daniel Cooper, and deposited in Nicholl's store, at Merry Hill precinct, in a box, where the public got their mail. I think some of them were placed near the voting place, in a box near the polls.

Q. Who directed the envelope?

A. I did.

Q. Who is Daniel Cooper?

A. A negro politician of the republican party.

Q. Was he an active supporter of Mr. J. J. Martin at said election?

A. I presume so, from the fact that he distributed those tickets very rapidly.

Q. Who did you support?

A. Jesse J. Yeates.

Q. Did you and James B. Nicholls put up those tickets in packages, at the time and place mentioned?

A. We put them up in one package and directed them to Daniel Cooper.

Q. Who requested you to have those tickets printed?

A. No one.

Q. Is Cooper an ignorant man?

A. I judge he could read, from the fact that he examined those tickets and compared them with others.

Q. Was any representation made to Cooper that those tickets were sent by J. J. Martin?

A. No such representation made to him by myself, nor any other person to my knowledge.

Q. Was the envelope containing the tickets stamped with a United States postage stamp?

A. It was not, to the best of my knowledge and belief.

Q. Were any of these tickets voted at Merry Hill precinct at said election?

A. Tickets similar in appearance were voted at said election—about 109, as I am informed. I am not positive as to the number.

Q. Were the said tickets so voted refused to be counted for J. J. Martin, candidate for Congress, at said November election held at Merry Hill precinct, Bertie County, in said congressional election and State?

A. I do not know of my own knowledge.

Q. What is your best information and belief as to that?

A. Basing my answer on hearsay evidence they were not counted.

Q. By whom were the said tickets thrown out and refused to be counted?

A. I do not know of my own knowledge.

Q. What is your best information and belief on that point?

A. From hearsay testimony, by the judges of election at said precinct, on the ground of device and voting more than one ticket. The device consisting in the words "republican ticket" printed on the said ballot.

(Answer to the two preceding questions objected to on the ground of hearsay.)

Q. What was the political complexion of the board of judges of election?

A. My impression is that J. E. Nicholls, J. H. Brown, T. J. Webb, and James W. Smith were the judges of election, all of whom were democrats, and supported J. J. Yeates for Congress.

Mr. RUSSELL, of North Carolina. That is sufficient. Now, there it appears that there was a fraud deliberately planned—not by the contestant himself, there is no evidence of that, but by his friends, in furtherance of his election; that this man was his counsel in this very case, if not his counsel at that time, and I do not know he needed a counsel then, but that the contestant has since recognized this man and used him to assist him in obtaining a seat upon this floor.

This man, a prominent politician of his political party in that county, the presiding magistrate of the inferior court of that county, as appears by the evidence—this man who, according to the evidence, had charge of the interests of the contestant in that county, deliberately plans and perpetrates a fraud by which he gets 108 votes, imposing them upon the ignorance, as he thought, of these voters, into the box, and then stands up and says, "I object to their being counted." And they count them out at his demand. And this House is asked to sustain conduct of that character.

This man J. B. Martin did not know and he did not care whether those words "republican ticket" were a device under the laws of North Carolina or not. All he wanted was an excuse to urge whereby he could get up some pretext or other for rejecting one hundred and odd votes. So he goes to printing tickets and has printed a lot of tickets with those words, "republican ticket," printed on them. And then he goes and puts these into a post-office directed to a leading politician of that precinct, and directed in such a way as to produce on that man's mind the impression they had come from the republican candidate for Congress; and that republican politician, not seeing there was anything wrong about them—and we say here there was nothing wrong about them, we say if that republican politician had been the Chief-Justice of the United States he might have put that construction upon the law—takes those tickets and uses them, he gives them to the republican voters at the precinct, they are put into the box; and thereupon this J. B. Martin jumps up and objects to their being counted.

Sir, even if on a technical construction of this statute these votes were not lawful, where is the man who would honestly and conscientiously accept office on such terms?

Without discussing the details of this case further, I remark, in the same spirit in which I began this discussion, that if a precedent is wanted for the reversal of popular verdicts for the Congresses that shall come after us, if a precedent is wanted whereby the reversal of popular verdicts may be justified, if a precedent is wanted whereby a flagrant and atrocious wrong may be pleaded in defense of another wrong, no better opportunity can be found than is presented by this case. In a few weeks, as we all know, power in this House swings to the other side of this Chamber, and then you of the majority will have no right to complain if they follow in your footsteps and inscribe upon their banners the indefensible sentiment: "The villainy you teach me I will execute."

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced the passage of the following bill and joint and concurrent resolutions without amendment:

A bill (H. R. No. 2180) granting an increase of pension to James A. Reeve;

Joint resolution (H. R. No. 266) ratifying the settlement of taxes made by the District commissioners with the Baltimore and Ohio Railroad Company;

Joint resolution (H. R. No. 224) to print 6,000 copies of the report of the National Board of Health; and

Concurrent resolution to print 30,000 extra copies of the second revised edition of the report of the United States Entomological Commission on cotton and boll worms.

CONTESTED-ELECTION CASE—YEATES VS. MARTIN.

Mr. JONES rose.

Mr. SPRINGER. I rise to move the previous question. Whatever discussion takes place on this case let it be after the previous question is ordered.

Mr. KEIFER. I did not fully understand the gentleman's statement.

Mr. SPRINGER. I stated I rose to move the previous question.

Mr. KEIFER. The gentleman from Texas [Mr. JONES] desires to speak, and is ready to speak now.

Mr. SPRINGER. After the previous question is seconded there will be another hour for debate.

Mr. KEIFER. There are two or three other gentlemen who desire to speak.

Mr. TOWNSHEND, of Illinois. I call for the regular order.

Mr. SPRINGER. Three hours have been given to gentlemen on that side, which I think is sufficient for the discussion of the case at this stage of the session.

Mr. KEIFER. I warn the gentleman that he will not, perhaps, make progress by pressing his motion. I think he will find he has made a mistake if he undertakes to cut off debate.

Mr. SPRINGER. I desire to give a fair and full opportunity to discuss this case, and I think the gentleman from Ohio will not say we have not given that opportunity.

Mr. KEIFER. So far as I am personally concerned, I have had my hour; but gentlemen ought not to endeavor to cut off debate on so important a question as this.

The SPEAKER *pro tempore*, (Mr. STEVENSON.) The gentleman from Illinois [Mr. SPRINGER] moves the previous question on the pending resolutions.

The question was taken upon seconding the previous question; and upon a division there were—ayes 109, noes 1.

Mr. KEIFER. No quorum has voted.

Mr. BOUCK. I move that the House now adjourn.

Mr. HUNTON. I hope the House will not adjourn; a session has been ordered for this evening.

Many MEMBERS. Regular order!

The SPEAKER *pro tempore*. The Chair will call the attention of the House to a previous order in respect to a session this evening.

Mr. TOWNSHEND, of Illinois. The gentleman from Ohio [Mr. KEIFER] said the other day that there would be no factious opposition to this case.

The SPEAKER *pro tempore*. Under a previous order of the House this evening is set apart for the consideration of business from the Committee on the District of Columbia.

Mr. HAYES. We do not want any more night sessions.

Mr. BURROWS. A motion to adjourn is in order.

The SPEAKER *pro tempore*. The Chair understands that.

Mr. BURROWS. Then I call for the regular order.

The SPEAKER *pro tempore*. The Chair made the statement he did for the information of the House.

The question was taken upon the motion to adjourn, and upon a division there were ayes 106, noes 111.

Before the result of this vote was announced,

Mr. KEIFER called for tellers.

Tellers were ordered; and Mr. KEIFER and Mr. SPRINGER were appointed.

Before the tellers took their places,

Mr. RYON, of Pennsylvania, and Mr. BLAND called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 118, nays 115, not voting 59; as follows:

YEAS—118.

| | | | |
|---|---|---|---|
| Aldrich, William | Davis, George R. | Loring, | Shallenberger, |
| Anderson, | Davis, Horace | Lounsbery, | Sherwin, |
| Bailey, | De La Matyr, | Lowe, | Singleton, J. W. |
| Baker, | Deering, | Marsh, | Smith, A. Herr |
| Ballou, | Dunnell, | Martin, Joseph J. | Stone, |
| Barber, | Dwight, | Mason, | Taylor, Ezra B. |
| Bayne, | Einstein, | McCoid, | Thomas, |
| Belford, | Errett, | McCook, | Thompson, W. G. |
| Bisbee, | Ferdon, | McGowan, | Tillman, |
| Blake, | Forsythe, | McKinley, | Townsend, Amos |
| Blount, | Fort, | Miles, | Tyler, |
| Bouck, | Frye, | Mitchell, | Updegraff, J. T. |
| Bowman, | Gillette, | Monroe, | Updegraff, Thomas |
| Boyd, | Hall, | Murch, | Urner, |
| Brewer, | Hammond, John | Newberry, | Valentine, |
| Briggs, | Harmer, | Osmer, | Van Aernam, |
| Brigham, | Haskell, | Overton, | Van Voorhis, |
| Browne, | Hawk, | Pacheco, | Voorhis, |
| Burrows, | Hawley, | Page, | Wait, |
| Butterworth, | Hayes, | Pound, | Washburn, |
| Calkins, | Henderson, | Prescott, | Weaver, |
| Camp, | Hiscock, | Ray, | Wells, |
| Cannon, | Horr, | Reed, | Whiteaker, |
| Carpenter, | Humphrey, | Richardson, D. P. | Wilber, |
| Claflin, | Jones, | Richardson, J. S. | Williams, C. G. |
| Cobb, | Jorgensen, | Robinson, | Willits, |
| Conger, | Keifer, | Russell, Daniel L. | Yocum, |
| Cowgill, | Kelley, | Russell, W. A. | Young, Thomas L. |
| Crowley, | Lapham, | Sapp, | |
| Daggett, | Lindsey, | Scoville, | |

NAYS—115.

| | | | |
|---|---|---|---|
| Acklen, | Davis, Joseph J. | Ketcham, | Ross, |
| Aiken, | Davis, Lowndes H. | Kimmel, | Ryon, John W. |
| Armfield, | Deuster, | King, | Samford, |
| Atherton, | Dibrell, | Klotz, | Sawyer, |
| Atkins, | Dickey, | Ladd, | Shelley, |
| Bachman, | Dunn, | Le Fevre, | Simonton, |
| Beale, | Elam, | Manning, | Slemons, |
| Beltzhoover, | Ellis, | Martin, Benj. F. | Smith, William E. |
| Berry, | Finley, | Martin, Edward L. | Sparks, |
| Bicknell, | Forney, | McKenzie, | Speer, |
| Blackburn, | Geddes, | McMahon, | Springer, |
| Bland, | Goode, | McMillin, | Stevenson, |
| Bragg, | Gunter, | Mills, | Talbott, |
| Buckner, | Hammond, N. J. | Money, | Thompson, P. B. |
| Cabell, | Harris, John T. | Morrison, | Townshend, R. W. |
| Carlisle, | Hatch, | Muldrow, | Tucker, |
| Clardy, | Heilman, | Myers, | Turner, Oscar |
| Clark, Alvah A. | Henkle, | New, | Turner, Thomas |
| Clark, John B. | Henry, | Nicholls, | Upson, |
| Clements, | Herbert, | O'Connor, | Vance, |
| Clymer, | Herndon, | O'Reilly, | Waddill, |
| Coffroth, | Hill, | Persons, | Warner, |
| Colerick, | Hooker, | Phelps, | Wellborn, |
| Converse, | Hostetler, | Philips, | Williams, Thomas |
| Cook, | House, | Phister, | Willis, |
| Covert, | Hunton, | Poehler, | Wilson, |
| Cravens, | Hurd, | Reagan, | Wise, |
| Culberson, | Johnston, | Richmond, | Young, Casey. |
| Davidson, | Kenna, | Robertson, | |

NOT VOTING—59.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Field, | Knott, | Ryan, Thomas |
| Barlow, | Fisher, | McLane, | Scales, |
| Bingham, | Ford, | Miller, | Singleton, O. R. |
| Bliss, | Frost, | Morse, | Smith, Hezekiah B. |
| Bright, | Gibson, | Morton, | Starin, |
| Caldwell, | Godshalk, | Muller, | Steele, |
| Caswell, | Harris, Benj. W. | Neal, | Stephens, |
| Chalmers, | Hazelton, | Norcross, | Taylor Robert L. |
| Chittenden, | Houk, | O'Brien, | Ward, |
| Cox, | Hubbell, | O'Neill, | White, |
| Crapo, | Hutchins, | Orth, | Whitthorne, |
| Dick, | James, | Price, | Wood, Fernando |
| Evins, | Joyce, | Rice, | Wood, Walter A. |
| Ewing, | Killinger, | Robeson, | Wright. |
| Felton, | Kitchin, | Rothwell, | |

So the motion to adjourn was agreed to.

At the conclusion of the second call,

Mr. RYAN, of Kansas, said: I desire to withdraw my vote. I voted inadvertently, and am paired with Mr. CALDWELL, of Kentucky.

The vote of Mr. RYAN, of Kansas, was accordingly withdrawn.

Mr. RICHMOND. I desire to state that Mr. ROTHWELL is detained at his room by sickness.

Mr. HUNTON. I ask that the reading of the names be dispensed with.

Mr. WARNER. I object.

The Clerk proceeded to read the names of those who had voted.

The following pairs were announced:

Mr. FERNANDO WOOD with Mr. DICK, for to-day.

Mr. STEELE with Mr. CHITTENDEN, with the right on the part of Mr. STEELE to vote when necessary to make a quorum.

Mr. RYAN, of Kansas, with Mr. CALDWELL, for the remainder of to-day.

Mr. CHALMERS with Mr. CASWELL, for this evening.

Mr. SINGLETON, of Mississippi, with Mr. NORCROSS, until Monday next.

Mr. ROTHWELL with Mr. PRICE.

Mr. KLOTZ with Mr. MILLER, until Monday next.

Mr. STEPHENS with Mr. BINGHAM.

Mr. KITCHIN with Mr. FORD, until further notice.

Mr. MORTON with Mr. MCLANE, until Monday next.

Mr. O'NEILL with Mr. MULLER.

Mr. COX with Mr. HAZELTON, for the remainder of to-day.

Mr. WHITTHORNE with Mr. WHITE.

Mr. JOYCE with Mr. WRIGHT.

Mr. ROBESON with Mr. EWING, for one week, commencing to-day.

Mr. BLISS with Mr. KETCHAM.

Mr. GIBSON with Mr. CRAPO.

Mr. TAYLOR, of Tennessee, with Mr. HUBBELL.

Mr. HUTCHINS with Mr. WALTER A. WOOD.

Mr. YOUNG, of Tennessee, with Mr. HOUK.

Mr. JAMES with Mr. O'BRIEN.

Mr. FISHER with Mr. BRIGHT.

The result of the vote was then announced as above stated; and thereupon (at four o'clock and fifty-five minutes p. m.) the House adjourned.

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## PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. WILLIAM ALDRICH: The petitions of Eliel, Kollenberg & Hiller and 14 others; of Henry Schmidt and 14 others; and of John Lussem and 39 others, manufacturers of cigars in Chicago, Illinois, for the reduction of the tax on cigars to $5 per thousand—to the Committee on Ways and Means.

By Mr. BARBER: The petitions of John B. Thiesen and others; of Herman Scholz and others; of Peter Schaefer and others; and of H. S. Barnett and others, of Chicago, Illinois, of similar import—to the same committee.

By Mr. BEALE: The petition of H. H. Sibley, for leave to prosecute his claim against the Government in respect to the Sibley tent—to the Committee on the Judiciary.

By Mr. CAMP: Two petitions of citizens of New York, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of George H. Upham, for arrears of pensions—to the Committee on Invalid Pensions.

By Mr. COFFROTH: The petitions of William H. Burkey and 20 others, soldiers of Pennsylvania, against the passage of Senate bill No. 496—to the same committee.

By Mr. CULBERSON: The petition of Asa Weems and others, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of the same parties for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of the same parties that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of Burgess Clark and others, of similar import—to the same committee.

Also, the petition of T. S. Cooper and others, for the passage of an interstate-commerce bill—to the Committee on Commerce.

By Mr. DAVIDSON: A bill making an appropriation for the improvement of the Suwanee River, Florida—to the same committee.

Also, a bill making an appropriation for the improvement of the Appalachicola River, Florida—to the same committee.

Also, a bill making an appropriation for the improvement of the Choctawhatchee River, in Florida—to the same committee.

By Mr. GEORGE R. DAVIS: The petition of F. Seeger & Co. and 30 others, manufacturers of Chicago, Illinois, for a reduction of the tax on cigars to $5 per thousand—to the Committee on Ways and Means.

By Mr. DUNNELL: The petition of David E. Stewart and 10 others, citizens of Minnesota, for the passage of the Geddes pension-court bill—to the Committee on Invalid Pensions.

By Mr. ELLIS: Memorial of the mayor and council of the city of New Orleans, Louisiana, asking that the United States assume maritime jurisdiction over the waters of Bayou Saint John and excavate a harbor channel connecting that bayou with the Mississippi River at some point near the upper line of Carrollton, and also below the barracks—to the Committee on Commerce.

By Mr. GEDDES: The petition of Jacob Bailey, George Elliott, Joshua Clark, William Clark, and 33 others, citizens of Knox County, Ohio, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of the same parties, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of the same parties, for such amendment of the patent laws as will protect innocent purchasers against fraudulent vendors of patents—to the Committee on Patents.

Also, the petition of the same parties, for such legislation upon the subject of interstate commerce as will secure equality of privileges in transportation—to the Committee on Commerce.

By Mr. JOHN T. HARRIS: The petition of Edward S. Ruggles, of Virginia, for the removal of his political disabilities—to the Committee on the Judiciary.

By Mr. HUMPHREY: The petition of S. C. Jones, Thomas Hum-

phrey, and others, of Cylon, Wisconsin, for legislation to regulate interstate transportation—to the Committee on Commerce.

Also, the petition of the same parties, for an income-tax law—to the Committee on Ways and Means.

Also, the petition of the same parties, for the passage of a law making the Commissioner of Agriculture a Cabinet officer—to the Committee on Agriculture.

By Mr. HUNTON: The petition of citizens of Virginia, for a post-route from Happy Creek to Venus, Virginia—to the Committee on the Post-Office and Post-Roads.

By Mr. LAPHAM: The petition of Seth N. Hedges, brevet major-general of volunteers, and 56 other soldiers, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. McMILLIN: The petition of J. M. Davis, for compensation for money expended in the service of the United States—to the Committee on Claims.

Also, the petition of H. B. Davis, T. H. Butler, and 180 others, citizens of Tennessee, that J. M. Davis be paid for money expended by him—to the same committee.

By Mr. MORRISON: The petition of August Fernan and others, citizens of Belleville, Illinois, for a reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. MURCH: The petition of J. W. Black and 13 others, citizens of Searsport, Maine, for the passage of Senate bill No. 496 as amended—to the Committee on Invalid Pensions.

Also, papers relating to the pension claim of Ann Hunter—to the same committee.

By Mr. PHELPS: The petition of H. Trowbridge's Sons and others, of New Haven, Connecticut, for the passage of the bill providing that the duty upon sugar shall be assessed upon the quantity delivered from warehouse instead of the quantity entering into warehouse—to the Committee on Ways and Means.

By Mr. PRICE: The petition of the Board of Trade of Davenport, Iowa, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, the petition of 48 citizens of Le Claire, Iowa, for additional appropriations for the Mississippi River—to the same committee.

By Mr. RAY: The petition of Bela Sawyer and 28 others, citizens of New Hampshire, against the passage of the Bentley sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. RICE: The petitions of the Washington and Moen Manufacturing Company and others, and of S. K. Heywood & Co. and others, of Worcester, Massachusetts, for the passage of a national bankrupt law—to the Committee on the Judiciary.

By Mr. SHERWIN: The petition of F. J. Barbian, for a reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. E. B. TAYLOR: The petition of citizens of Ohio, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of the same parties, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of the same parties, for legislation regulating interstate commerce—to the Committee on Commerce.

By Mr. THOMAS UPDEGRAFF: The petition of 63 business associations, firms, and individuals, of Dubuque, Iowa, for the appropriation of $1,100,000 for the improvement of the Mississippi River above the mouth of the Illinois River—to the same committee.

By Mr. WASHBURN: The petition of A. A. Higden and others, that the indemnity limit of the Saint Paul, Minneapolis & Manitoba Railway Company be opened for settlement—to the Committee on the Public Lands.

By Mr. WEAVER: The petition of E. K. Hayes and 42 others, of Stoneham, Massachusetts, for the payment of maturing Government bonds with surplus money in the Treasury and by issuing Treasury notes—to the Committee on Ways and Means.

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## IN SENATE.

### FRIDAY, *January* 28, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

Mr. HAMLIN. Mr. President, I have received and present to the Senate the credentials of Eugene Hale, of Ellsworth, Maine, elected by the Legislature of Maine, as a United States Senator for six years from the 4th of March next, and to fill the vacancy which will be occasioned on the expiration of the term which I am now serving.

I move that the credentials be read and placed upon the files of the Senate.

The credentials were read and ordered to be filed.

Mr. PLATT presented the credentials of JOSEPH R. HAWLEY, elected by the Legislature of Connecticut, a Senator from that State, for the term commencing March 4, 1881; which were read, and ordered to be filed.

The VICE-PRESIDENT presented the credentials of SAMUEL J. R. MCMILLAN, elected by the Legislature of Minnesota a Senator from that State for the term commencing March 4, 1881; which were read, and ordered to be filed.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting a communication from the superintendent of the Government building on the corner of Seventeenth and F streets, in the city of Washington, recommending an appropriation of $7,500 for a hydraulic passenger elevator for that building, and an additional sum for compensation of an operator at the rate of $720 per annum; which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Secretary of War, transmitting copy of reports of the Chief of Engineers, and Major J. W. Barlow, Corps of Engineers, on the bill (S. No. 2001) authorizing the Secretary of War to release a right of way in lands in Groton, Connecticut, Fort Griswold reservation; which was referred to the Committee on Military Affairs.

He also laid before the Senate a letter from the Secretary of War, transmitting a communication from the Chief Signal Officer recommending an addition to the sundry civil appropriation bill appropriating $5,000 for observing the movements of the Rocky Mountain locusts, and giving notice to the farmers of the country, of the said movements; which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting, in compliance with a resolution of the 8th instant, a report of the Superintendent of the Census in regard to alleged frauds in the enumeration of the inhabitants of South Carolina.

Mr. PENDLETON. The Senator from South Carolina, [Mr. BUTLER,] when a communication on this same subject was sent to the Senate, asked that it should lie upon the table, that he might make some remarks upon it. As he is not in his seat now, I suggest that this communication take the same course.

The VICE-PRESIDENT. The communication will be laid upon the table and printed.

PETITIONS AND MEMORIALS.

Mr. CONKLING. I present a memorial signed by a great number of soldiers of the State of New York, protesting against legislation in regard to pensions and favoring the bill to appoint two surgeons in each congressional district. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. PLUMB presented the petition of John F. Miller and several others, citizens of Newton, Harvey County, Kansas, praying for an amendment to the bill, now pending, to establish terms of the United States circuit and district court at Wichita, Kansas; which was referred to the Committee on the Judiciary.

Mr. HAMPTON presented a memorial of the Chamber of Commerce of Charleston, South Carolina, in favor of the enactment of a national bankrupt law; which was referred to the Committee on the Judiciary.

He also presented the petition of R. Kingsland and 37 others, merchants of Columbia, South Carolina, praying for the enactment of a national bankrupt law; which was referred to the Committee on the Judiciary.

Mr. LOGAN presented the petition of Henry Murdock and several other manufacturers of cigars, of Chicago, Illinois, praying for the reduction of the internal-revenue tax on cigars from $6 to $5 per thousand; which was referred to the Committee on Finance.

He also presented the memorial of B. F. Mullin and several other citizens of Mason City, Illinois; the memorial of E. S. Cusick and several other citizens of Homer, Illinois; and the memorial of Daniel Long and several other citizens of Urbana, Illinois, all surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which were referred to the Committee on Pensions.

Mr. THURMAN presented additional papers to accompany the bill (S. No. 2046) granting a pension to Thomas Worthington; which were referred to the Committee on Pensions.

Mr. McMILLAN presented the memorial of A. R. Keifer and several other citizens of Saint Paul, Minnesota, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and in favor of what is known as the Geddes pension bill; which was referred to the Committee on Pensions.

Mr. BALDWIN presented the memorial of Nathan Stockwell and 41 others, citizens of Hickory Corners, Michigan, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. JOHNSTON. The Select Committee on the subject of pleuro-pneumonia and other contagious and infectious diseases of cattle and other domestic animals, to whom was referred the bill (S. No. 2097) for the establishment of a bureau of animal industry, and for the suppression and prevention of contagious diseases among domestic animals, have directed me to report it with amendments. I give notice

that on Tuesday next, after the conclusion of the business of the morning hour, I shall ask the Senate to take up and consider the bill.

Mr. COKE. As a member of the special committee having in charge the bill just reported by the Senator from Virginia, I desire to say that I do not concur in all the provisions of the bill.

Mr. GROOME, from the Committee on Pensions, to whom was referred the petition of Virginia Gardner, widow of the late Commodore William H. Gardner, United States Navy, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. McPHERSON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2331) granting pensions to the widow and minor children of Michael Meenan, deceased, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WALKER, from the Committee on Public Lands, to whom was referred the bill (S. No. 1997) to quiet the title to certain lands in the upper peninsula of Michigan, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 2026) to affirm to the State of Michigan certain lands heretofore granted to said State to aid in the construction of a railroad, and for other purposes, reported adversely thereon; and the bill was postponed indefinitely.

Mr. HILL, of Georgia, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. PLUMB on the 21st instant, directing the payment of certain witnesses before the Committee on Privileges and Elections, asked to be discharged from its further consideration, and that it be referred to the Committee on Privileges and Elections; which was agreed to.

Mr. BROWN, from the Committee on Pensions, to whom was referred the bill (H. R. No. 859) granting a pension to William H. Scribner, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1470) granting a pension to Francis H. Bird, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. JONAS, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 1220) for the relief of Henry M. Rector and John H. Russell, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 1637) granting a pension to Ellen M. Godfrey, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2547) increasing the pension of Mary A. Steece, widow of Tecumseh Steece, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. KIRKWOOD. I am also directed by the Committee on Pensions, to whom was referred the bill (H. R. No. 1579) granting a pension to Mrs. Sallie T. Ward, to report it adversely. The Senator from Kentucky [Mr. WILLIAMS] who takes a decided interest in this bill is not in his seat; he desires that it go on the Calendar, and I move that it take that direction.

The VICE-PRESIDENT. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. SAUNDERS, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 1920) to provide for the sale of a part of the reservation of the Omaha tribe of Indians in the State of Nebraska, and for other purposes, reported it with amendments.

Mr. PLATT, from the Committee on Pensions, to whom was referred the petition of John Johnson, praying for arrears of pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. BAYARD, from the Committee on Finance, to whom was referred the bill (S. No. 1960) to amend section 5171 and repeal section 5176 of the Revised Statutes in relation to the circulation of national banks, reported it without amendment.

Mr. EDMUNDS. I am directed by the Committee on Private Land Claims, to which was referred the bill (S. No. 1439) to confirm the Stratton survey of the pueblo of San Francisco, to report that we have examined the same and that we find it is an ordinary case of a confirmation by the judicial courts under the California land commission act of 1851 of the pueblo of San Francisco, and that the only real question is the execution of the decree and applying it to the land. The statutes require the location of the decree to be done by the executive officers of the United States; and the committee as at present advised see no reason for the interference of Congress, but think that the matter, so far as we now understand it, ought to be left to the authorities where the law has left it in such cases. We therefore recommend that the bill be indefinitely postponed.

The bill was postponed indefinitely.

## BILLS INTRODUCED.

Mr. WHYTE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2112) authorizing the inspection and issue of an American register to the British steamship Gulnare; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DAWES asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2113) to establish the rights of the Ponca tribe of Indians, and to settle their affairs; which was read twice by its title, and referred to the Committee to examine into the circumstances connected with the removal of the Northern Cheyennes from the Sioux reservation to the Indian Territory.

Mr. SAUNDERS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2114) for the relief of Captain W. W. Ivory; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. KIRKWOOD. I have been requested by a citizen of Iowa to present for reference a bill, which I send to the table, and with it the articles of incorporation of the company named in the bill. I have not had time to read either the bill or the articles of incorporation, but I desire that the bill, with the accompanying papers, be referred to the Committee on Post-Offices and Post-Roads.

By unanimous consent, leave was granted to introduce a bill (S. No. 2115) to aid the United States Postal Telegraph Company in the construction and operation of postal telegraph lines; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. KERNAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2116) to authorize the United States district court to proceed in the case of the executors and heirs of Augustin de Yturbide, deceased, appellants, against the United States, appellees, and hear and determine the same on its merits; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2117) to legalize the collection of taxes on account of shares of stock in national banks; which was read twice by its title, and referred to the Committee on Finance.

Mr. WALLACE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2118) granting a pension to Emma A. Ramsey; which was read twice by its title, and referred to the Committee on Pensions.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2119) to authorize the publication of a descriptive catalogue of all Government publications from July 4, 1776, to date; which was read twice by its title, and referred to the Committee on Printing.

Mr. BLAINE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2120) for the establishment of United States ocean mail service and the revival of foreign commerce in American steamships; which was read twice by its title.

Mr. BLAINE. I want the bill referred to whatever committee has under consideration the bill which was discussed by the Senator from Kentucky [Mr. BECK] yesterday, which, I believe, is the Committee on Finance. As the bill only contains two sections, if the Senate will give me permission, I should like to have it read. It is offered as a substitute for the bill of the Senator from Kentucky.

The bill was read at length, and referred to the Committee on Finance, as follows:

*Be it enacted, &c.*, That the owners of American steamships of 3,000 tons register or upward, constructed after approved models and equal in accommodations, safety, and speed to the mail-carrying vessels of any nation, shall be entitled to receive for carrying the United States mails on regular lines of such steamships from any port or ports in the United States to any foreign port or ports, mail compensation not exceeding $30 per nautical mile per annum for the distance one way for twelve round trips per annum; $45 per mile for twenty-four trips, and $60 per mile for forty-eight trips per annum; in accordance with contracts to be made for such mail transportation by the Postmaster-General after public advertisement for proposals with the lowest bidders on each line, for terms not exceeding fifteen years, and upon all the conditions for securing rapid and efficient transportation which are usual or established by law in similar cases.

SEC. 2. Only those steamships shall be accepted for such service which have been built in American ship-yards, of American materials, and by American mechanics; and they shall be commanded by citizens of the United States, and manned by crews of whom at least three-fourths are American citizens; and before being accepted they shall be duly inspected under the direction of the Postmaster-General and the Secretary of the Navy; and such Secretary may also allow any officer of the Navy leave of absence for not exceeding five years for the purpose of serving on such ships, which absence shall be without pay, but without prejudice to rank or promotion.

Mr. WALLACE. I ask leave to introduce a joint resolution, and I desire that it lie on the table so that I may call it up at some future time, in order to submit some remarks upon it when the Senate shall do me the pleasure to hear me.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 148) proposing an amendment to the Constitution, changing the mode of electing President and Vice-President of the United States; which was read twice by its title, and ordered to lie on the table.

## HARBOR OF REFUGE ON PACIFIC COAST.

Mr. FARLEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to furnish the Senate with a copy of the report of A. F. Rogers, of the Coast and Geodetic Survey, on the proposed harbor of refuge for the Pacific coast.

## JAMES H. REEVE.

Mr. VOORHEES. Yesterday the Senate considered and passed the bill (H. R. No. 2180) granting an increase of pension to James H.

Reeve. The Senator from Virginia, [Mr. WITHERS,] the chairman of the Committee on Pensions, was then present and confirmed the statement that I made on which the Senate passed the bill. I learn from the Senator from New Jersey [Mr. MCPHERSON] that the Senator from Virginia, who is absent to-day at home, has addressed him a note on the subject. I ask that the bill be withheld from the President until Monday, when the Senator returns, so that he may take any action he desires.

Mr. INGALLS. The Senator had better enter a motion to reconsider the vote by which the bill was passed.

Mr. VOORHEES. I will say to the Senator from Kansas that if the Senator from Virginia, when he returns on Monday wants to enter a motion for reconsideration, he can do so.

Mr. INGALLS. But in the absence of a motion to reconsider, have the officers of the Senate any right to withhold the bill, it having passed? I should say not.

Mr. JOHNSTON. As the absence of my colleague has been referred to, I desire to state that he was called home by a telegram announcing the death of his sister, and that he will be here on Monday.

Mr. HARRIS. I will enter a motion to reconsider the vote by which the bill was passed, so that it may be reserved.

The VICE-PRESIDENT. The motion to reconsider will be entered. That will stay it.

Mr. HARRIS subsequently said: I entered a motion this morning to reconsider the vote by which the Senate passed the bill (H. R. No. 2180) granting an increase of pension to James H. Reeve. I am informed by the Secretary that the bill has been returned to the House of Representatives. I now move that the Secretary be instructed to ask its return.

The motion was agreed to.

## PUBLIC GROUNDS IN CHICAGO.

The VICE-PRESIDENT. The business of the morning hour is concluded.

Mr. DAVIS, of Illinois. I gave notice on Tuesday last that I would ask the indulgence of the Senate to take up this morning the bill (S. No. 1935) to confirm to the city of Chicago the title to certain public grounds.

Mr. EDMUNDS. I hope the Senator from Illinois will not try to take up that bill this morning. I hope we shall go on with the order of the Calendar under the Anthony rule, if there is nothing else to be done. The report was only made two or three days ago, and the views which I had the honor to submit are only just this morning printed and laid on the table. In addition to that, since the minority report which I submitted has been made, I have received information from respectable sources in Chicago that the tax-paying portion of that city are strongly opposed to this measure, that they regard it as one that is to result in a great injury to the tax-payers of that city for reasons which they state and which I cannot debate on the mere taking up of the bill; and from other parties I have just received at my desk protests in respect of certain private rights that are going to be affected, as they say, by the passage of this bill, which I have not had time to examine, and I do not know what they are.

Mr. DAVIS, of Illinois. I can satisfy the Senator on that point.

Mr. EDMUNDS. That may be; but I think it would be more satisfactory in respect to a bill of this great importance that there should be a little time to allow the tax-paying people who are interested to be still further heard from, and to allow the persons who claim that their private rights are to be injured to have time enough to enable Senators to understand what their pretensions are. I hope, therefore, that the Senate will go on with the pension cases or something, and not take up this bill this morning.

Mr. DAVIS, of Illinois. Mr. President, it is of the highest importance that if this bill is acted upon by this Congress it should be acted upon in this body very soon. It is of no use to keep it here for two or three weeks and go on with the Calendar. I presented the report of the Judiciary Committee on Tuesday last, and then gave notice that I would ask to take this bill up to-day. I certainly have not asked the indulgence of the Senate very much this winter, and I do not see why we cannot as well consider the bill now as in the future. If any particular day within two or three days could be set for its consideration, I should have no objection to that; but everybody knows that every other Senator has got some important bill that he wants acted upon, and inasmuch as I have got the ear of the Senate now, I do not see why the bill should not be taken up and acted on.

The VICE-PRESIDENT. What motion does the Senator submit?

Mr. DAVIS, of Illinois. To set aside the Anthony rule.

The VICE-PRESIDENT. The Senator from Illinois moves to postpone the pending order, which is the consideration of the Calendar under the Anthony rule, for the purpose indicated by him, and the question is, Will the Senate postpone the pending order?

Mr. LOGAN. I desire to say a word in reference to this bill that my colleague wishes to have taken up by the Senate. It is of the utmost importance that this bill should be acted on as soon as possible if it is to be passed this session. It is a bill of very great importance to the people generally and especially to the city of Chicago.

So far as the private rights of individuals mentioned by the Senator from Vermont [Mr. EDMUNDS] are concerned, I do not think there will be anything found in this bill that will interfere with the private rights of any individual or individuals. It is a bill that is certainly desired by the people there; and although there may be objections to it, in my judgment there can certainly be no valid objection to its passage when it is understood by the Senate.

I hope, therefore, that the motion of my colleague will be agreed to and that the bill may be taken up and have the Senate understand its provisions and see whether there is anything objectionable in it or not. I think they will find that there is not.

Mr. CONKLING. Mr. President, the rule of the Senate forbids me upon this motion to speak to the merits of this bill. For that reason, I shall not do so, but I have another. If upon the bill being considered it turns out that it is wanting in merit, I wish to hold myself entirely free upon being informed of that to oppose the bill and to vote against it. I rise, however, for the purpose of saying that this matter has recently been considered quite fully; I may say, I believe, without impropriety, first by a sub-committee of the Judiciary Committee and afterward by the Judiciary Committee itself at two meetings. A report from that committee is here, a printed report covering some four pages; the matter is fresh in recollection all around; and for myself, I feel that I could act upon it now, at least as far as we may go before we ascertain that there is something which has not been brought to the notice of the committee, better than I could were it to lie over to a future day. It is a fresh transaction now before us; and for one I should be very glad to act upon it. And referring to what has been said by the Senator from Vermont, if after the bill is taken up it turns out that he has information which was not considered by the committee which changes the aspect of the case, the bill can be laid aside or deferred then; but it seems to me that as far as the matter is now understood, it will be convenient and desirable to go on with it.

In addition to that, as the Senator from Illinois [Mr. DAVIS] has said, if the bill is to be acted upon by both Houses at this session of Congress there is no time to be lost. If it be an unmeritorious bill, this is a very good time to defeat it; if there be merit in it, concerning as it does the convenience of a great many people, this is an opportune moment to consider it. Therefore I shall vote to take up the bill.

Mr. MCPHERSON. Mr. President, evidently the bill now sought to be taken up is likely to provoke discussion and take considerable time. I wish to say that the Senator from Virginia, [Mr. WITHERS,] the chairman of the Committee on Pensions, gave notice yesterday that he intended calling up to-day the unobjected pension cases on the Calendar. As this bill is likely to take a large amount of the time of the Senate, I would suggest that the pension cases be first considered.

Mr. THURMAN. Why does the Senator suppose the bill will take much time?

Mr. MCPHERSON. We have already had sufficient indications of that.

Mr. THURMAN. The whole thing is in a nutshell; the case can be understood in ten minutes by the Senate.

Mr. MCPHERSON. I am willing to consider it for a reasonable time.

The VICE-PRESIDENT. The question is on the motion of the Senator from Illinois to postpone the pending order.

Mr. COKE. I hope that the motion of the Senator from Illinois will not prevail. There is a bill, which is the unfinished business, that I think ought to be acted on. Will this motion affect that?

Mr. CONKLING. This does not interfere with the Senator's unfinished business.

Mr. COKE. Then I shall make no objection.

The VICE-PRESIDENT. The question is on the motion of the Senator from Illinois to postpone the Calendar of general orders.

The motion was agreed to.

The VICE-PRESIDENT. Will the Senate now consider the bill named by the Senator from Illinois?

Mr. MCPHERSON. I desire to call up unobjected pension cases on the Calendar reported from the Committee on Pensions.

The VICE-PRESIDENT. The pending question now is, Will the Senate consider the bill (S. No. 1935) to confirm to the city of Chicago the title to certain public grounds?

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that all the right and title of the United States to the streets and grounds dedicated to public use in that part of the city of Chicago, in the State of Illinois, known as "Fort Dearborn addition to Chicago," subdivided and platted under the authority of the Secretary of War in 1839, shall be relinquished and granted to that city and its successors, with authority to sell and convey so much thereof as lies south of the south line of Randolph street and between the east line of Michigan avenue, as now laid out and improved, and the roadway of the Illinois Central Railroad Company, for the erection thereon of a railway passenger station-house and other purposes incident thereto.

Mr. EDMUNDS. Now let us hear the report, Mr. President.

The VICE-PRESIDENT. The report will be read.

The Chief Clerk read the following report, submitted by Mr. DAVIS, of Illinois, on the 25th instant:

The Committee on the Judiciary, to whom was referred the bill (S. No. 1935) entitled "A bill to confirm to the city of Chicago the title to certain public grounds," have had the same under consideration, and have directed me to make the following report:

The public grounds referred to in the bill are situated in that part of the city of

Chicago known as "Fort Dearborn addition." It appears that this addition is a subdivision of the fractional southwest quarter of section 10, in township 39 north, of range 14 east of the third principal meridian, containing, according to the official Government survey made in 1821, 57.32 acres. It is bounded on the north by the Chicago River and on the east by Lake Michigan.

For many years, commencing as early as 1804, the tract was occupied by the Government as a military post and Indian agency, and in the year 1824, at the request of the Secretary of War, was formally reserved from sale for military purposes. In the year 1839, Mr. Poinsett, Secretary of War, under the direction of the President, appointed Matthew Birchard, solicitor of the General Land Office, as the agent of the War Department for the purpose of selling such portion of the reservation as was no longer required for military purposes, or for the use of the light-house which had been erected upon the land near the mouth of the river. The agent was directed to subdivide the land into town lots, and to procure and execute the necessary survey and plat thereof. After recording the plat, he was instructed to make an estimate of the value of each lot, availing himself for this purpose of the best information he could obtain at Chicago, and then to advertise the lots for sale to the highest bidders, reserving, however, from sale the light-house and buildings connected with it, and such quantity of land as he should think necessary to retain for the use of the light-house. Should the bids offered for the lots be considered inadequate, he was authorized to decline them.

Acting under this authority, Mr. Birchard proceeded to Chicago, and, after a conference with a committee appointed by the common council of the city, adopted a plan for the proposed subdivision. In conformity to the provisions of the State statute then in force, providing for the making and recording of town plats, he caused the land to be surveyed by the county surveyor, and a map or plat of the survey to be made, on which the entire tract was subdivided into blocks, lots, streets, alleys, and public grounds. The plat, duly certified by the county surveyor and acknowledged by Mr. Birchard, was recorded in the county registry of deeds; and for more than forty years it has been recognized by the Executive Department of the Government as a lawful and duly authorized subdivision of the land thereon described. It has also received the express recognition of Congress in disposing of some of the lots not sold in 1839. (see act for the relief of Jean Baptiste Beaubien, 10 Statutes at Large, page 805.) The plat was styled "Fort Dearborn addition to Chicago." Sales were made by Mr. Birchard of most of the property, and the Government is reported to have received more than two hundred and eighty thousand dollars for the lots sold. The sales were confirmed by the Secretary of War, and no suggestion has ever been made that the property did not bring its full value at the time, or that the plan adopted for selling it was not advantageous to the Government.

The lots having been sold as delineated upon the recorded plat, the purchasers acquired an interest in the streets and public grounds on which their lots abutted; and it is manifest that the Government could not after the sale make any disposition of those streets or public grounds inconsistent with the use to which they had been dedicated. The attempt to do so, if it had the power, without the consent of the lot-owners interested, or making adequate provision for their compensation, would be a flagrant act of bad faith.

The statute of the State, with the provisions of which the agent evidently intended to comply in making and recording the plat, provided that the land intended to be used for streets, commons, or other public uses, and noted as such on the plat, should vest in fee-simple in the town or city where they were situated, to be held in the corporate name thereof for the uses and purposes thus expressed or intended. By virtue of that and subsequent statutes of a similar character, the legal title to the streets and other public grounds in the different towns and cities of Illinois, with rare exceptions, is vested in the local municipality, the simple acknowledgment and recording of the plat on which they are laid down operating as a sufficient conveyance from the donor and as a general warranty against him and his heirs to the donee, for the uses and purposes thus indicated.

It appears, however, from a decision made a few years since by the United States circuit court at Chicago, that the presiding judge was of the opinion that although the streets and public grounds in Fort Dearborn addition to Chicago had been lawfully dedicated with the consent of the Government, through its authorized agent, to public use, yet in consequence of certain technical informalities in making the plat, the dedication operated as a common-law dedication, and not under the statute, and therefore that the legal title to the streets and public grounds was still in the United States, subject to the public use, which had been affixed to them—the United States, however, having no control over them inconsistent with the purpose for which they had been dedicated. The bill proposes that this mere naked legal title shall be relinquished to the city of Chicago; and your committee are of opinion that the General Government has no interest in retaining that title, after having parted with all beneficial interest in the property forty years ago for ample consideration.

The bill further proposes that the consent of Congress shall be granted to the sale and conveyance by the city of Chicago of a portion of the ground dedicated to public use upon the plat of this addition, for the erection thereon of a railway passenger station-house, which, it appears, is intended for the joint use and accommodation of several important railway lines entering the city upon the tracks and right of way of the Illinois Central Railroad Company which lie immediately adjacent.

The facts relating to this feature of the bill appear to be substantially as follows: The eastern boundary of Fort Dearborn addition is Lake Michigan, and the southern boundary is Madison street. Randolph street lies two blocks north of Madison street and runs parallel with it to the lake. Between these two streets, a small piece of ground irregular in shape, lying east of blocks 12 and 15 and between them and the lake, is delineated on the plat, across which were written the words, "Public ground, forever to remain vacant of buildings," and in an explanatory statement written on the margin of the plat and signed by Mr. Birchard, as agent of the Secretary of War, there is this declaration: "The public ground between Randolph and Madison streets, and fronting on Lake Michigan, is not to be occupied with buildings of any description." A street ninety feet wide, called Michigan avenue, was extended many years ago in a direct line through this public ground from Randolph street on the north to Madison street on the south. The ground lying east of this avenue and between Randolph street and Madison street was, at the time of the subdivision in 1839, a narrow strip of land on the margin of the lake, nearly eight hundred feet long, and varying in width from about fifty feet at Randolph street to about one hundred feet at Madison street. In 1852 the width of the strip had been reduced by gradual abrasion, caused by the action of the lake, to twenty-two and a half feet at Randolph street, and at Madison street the entire surface of the strip had worn away and completely disappeared beneath the waters of the lake. This process of erosion had then been going on for many years along the whole city front upon the lake shore.

During that year the Illinois Central Railroad was constructed. By virtue of its charter, and an ordinance of the city passed pursuant to the provisions of the charter, the railroad company was authorized to occupy for its right of way a space three hundred feet wide in front of fractional sections 10 and 15, in the open waters of the lake, upon the condition, which was complied with, that the company should construct a breakwater along the east line of its right of way sufficient to protect the shore from further encroachments by the lake. The inner line of the right of way was established at a distance of four hundred feet east of the west line of Michigan avenue. The tracks of the company along this part of its line were originally laid upon piles driven into the bed of the lake, but the entire space included within its right of way was subsequently filled with earth and converted into firm ground. Inside of this right of way there remained for many years in front of the strip of public ground above described, and of the shore for a considerable distance south, a basin of smooth water, which has been filled up by the city within a few years past, and a part of it improved as a public park. In this way the space between the natural shore and the roadway of the railway company has been reclaimed from the lake, and the ground east of Michigan avenue, now desired for a passenger station-house, has a uniform width of three hundred and ten feet. To that portion of the ground rescued in this artificial manner from the lake, at the expense of the city, it would seem that the General Government has no color of title, it being the settled doctrine of the Supreme Court, laid down in several well-considered cases, that the title to the bed of the great navigable waters of the country is vested in the States respectively and not in the United States. The Government grants and surveys along our great inland lakes and rivers have for this reason never been extended below the limits of high-water.

As to that part of the ground which formed the natural shore, while it has been held that the legal title is still in the General Government, yet it is also clear that it is a bare legal title, divested of any beneficial or equitable interest. The ground has been effectually dedicated to public use, and the Government cannot divert it from that use. In effect, it holds the technical legal title in trust, for the use and benefit of the public and the adjacent property-owners.

It further appears that the parties beneficially interested in the use, namely the State of Illinois, as representing the general public, and all the property owners, with perhaps a single exception, have given their consent to the sale of the ground by the city for the purposes mentioned in the bill. The city of Chicago, as the representative of that portion of the public more immediately concerned, by the unanimous vote of its city council, has asked for this legislation; and no one has appeared before your committee to oppose it. The bill does not interfere with private rights, all such rights being carefully guarded. It proposes merely to grant the consent of Congress to a change from one public use of the property to another, which, in the judgment of those directly interested, has been rendered necessary by the increase of population and business and other circumstances affecting the interests of the public in that quarter of the city.

Your committee are of opinion that the desired consent should be granted. Why should Congress refuse it? If it does refuse, the ground will still remain subject to the use to which it was originally dedicated. The Government can neither sell the land, nor lease it, nor use it. Nor is there any reason to think that it will derive the slightest profit or advantage from maintaining the original dedication. In the price obtained for the adjacent lots it has received pay for the property once, at its full value; and your committee are therefore of opinion that the consent asked for should be granted gratuitously, and without imposing any onerous conditions.

Your committee report the bill, with amendments, and recommend its passage.

Mr. EDMUNDS. Let us hear the views of the minority, Mr. President.

The VICE-PRESIDENT. The views of the minority will be read.

The Chief Clerk read the following views, submitted by Mr. EDMUNDS on the 27th instant:

Prior to June, 1837, the United States was the owner, in its political character, as a part of the cession of the Northwest Territory, of a tract of land at Chicago known as the Fort Dearborn reservation, bounded north by the Chicago River and east by Lake Michigan; the southern and western boundaries being upon public lands that had before been disposed of in the usual way. In that year, under the authority of law, the Secretary of war proceeded to lay off into lots and sell several blocks of land to private purchasers, with streets intersecting, and leaving unsold the northerly point of the reservation at the junction of the Chicago River with Lake Michigan, and a quantity of land lying along the lake shore near the southern part of the reservation. On the official plan of the reservation, showing the lots to be sold, this last-named unsold land is left not laid out, and on the plan at that point were entered the words, "Public ground, forever to remain vacant of buildings." In the year 1849 the Supreme Court of the United States, in a case with the city of Chicago, decided that the United States did not stand in the attitude of a mere private owner of the property, and that the public authority of the city of Chicago had not acquired the right to open streets over the unsold portions.

Afterward certain railway companies, acting, as it is said, with the permission of the State of Illinois and the city of Chicago, built a railway track in the shoal water in front of this reservation, and erected freight buildings, &c., outside of the shore-line. It is a fact conceded on all sides that the keeping open of the part marked public ground any longer will be of no benefit to the adjoining proprietors nor to the general public, but that the adjoining property will be increased in value by the erection, on a part of this reserved land, of a railway passenger depot. The railway companies have offered, or are willing to pay, the sum of about $500,000 for that part of this ground so marked as to remain without buildings, and some adjacent ground in which the United States has no proprietary interest, it is said; but it is believed this sum is far below the actual value of the land. This adjacent part, in which the United States has no interest, constitutes only one-third of the ground proposed to be used for this purpose, so that the property of which the United States confessedly owns the fee is worth at least $333,000. Over this land of the United States, under the implied covenant not to build upon it, arising from the entry on the plan before referred to, the people of the city of Chicago have, at most, a right of passage, and the abutting proprietors the right of view. The city of Chicago wishes to surrender its right of passage to the railway company, and the abutting proprietors desire it to be done, as a benefit to their property, and by this bill the United States is to sell all its right in the land, being the absolute ownership of it, subject to the easement of passage and view before mentioned, and allow the city of Chicago to take the whole purchase money. It appears to me that this is simply giving away the property of the United States to a party who has, at most, an easement of passage on it, in order that he may sell it for more than half a million of dollars.

I am unable to see the justice of this. The United States might, with more propriety, ask the reverse. It may be true that the value of the property subject to the easement of passage and view is practically nothing; but it is equally true that the value of the easement is nothing as the subject of sale for any purpose, if indeed such a right could be a subject of sale except as appurtenant to the adjoining property. In this state of the case the most that can be claimed for the city is, that it and the abuttors and the United States stand on equal ground; neither owns anything in the land of any salable value, but each of the three parties are willing that the easements shall be surrendered and the lots sold for business purposes, connected, it is true, (as it is in most cases of business transactions,) with the promotion of local public interest. How can it be right, then, in such a case, that the owners of the easement shall take the whole of the purchase-money and deprive the owner of the fee of any share of it? I think, then, that the United States ought not to be called upon to convey this land without being paid a fair proportion of the purchase-money, and that to do so would be to give several hundred thousand dollars, justly belonging to the Treasury of the United States, to the treasury of the city of Chicago. I am not able, therefore, to agree to the passage of the bill. Aside from this main question, the bill is so framed as, I fear, to expose to danger the rights of the United States in other parts of the Fort Dearborn reservation than that I have especially referred to, to injury, and possibly to the loss of control over the lot marked number "1" on the plan referred to, and the street on the south and west of it, as well as to its water-front.

Respectfully submitted.

GEO. F. EDMUNDS.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) There are amendments proposed by the Committee on the Judiciary.

The CHIEF CLERK. The first amendment reported by the Committee on the Judiciary is, in line 9, after the word "with," to strike out "authority to" and insert "the consent of the United States that said city may."

Mr. EDMUNDS. Inasmuch as the Senate has thought fit to take up this bill now on the suggestion that if it appeared that there were any private rights in danger, or that there was any doubt or difficulty about it, it could then go over, I feel it to be a duty to lay before the Senate and ask to have read a letter from Leonard Swett, and Messrs. Curtis, Earle, and Burdett, counsel for parties objecting, it seems, to this legislation, together with the protest which they have just sent me. How far it bears upon the case I have not had time to see because it was only five minutes before the bill came up that the papers were laid on my desk.

Mr. DAVIS, of Illinois. I think I can make an explanation satisfactory even to the Senator from Vermont.

Mr. EDMUNDS. That may be; but I presume we ought to do justice to people of the United States who in a respectful way protest against the passage of a bill, however humble and obscure they may be; and inasmuch as these gentlemen say that they have no other opportunity to be heard, and that this bill comes suddenly upon them, and that they represent private rights and private interests, and as they are known to me to be respectable persons, I think they are entitled to a hearing, and I believe they will have it.

The PRESIDING OFFICER. The papers sent up by the Senator from Vermont will be read.

The Chief Clerk read as follows:

WASHINGTON, D. C., *January* 28, 1881.

SIR: We beg the favor of your attention to the inclosed protest. Private persons believing they have rights in the tract covered by Senate bill 1935 have incurred large expense in their defense and are in good faith pursuing their remedies in the proper Department and courts. Under such circumstances it seems to them that they may justly ask that any legislation had should contain a proviso protecting their rights by leaving open their remedies.

On behalf of such parties we take the liberty to request (should this view seem to you just) that you offer such amendment as may be effective for that purpose.

We are, very respectfully,

LEONARD SWETT,
CURTIS, EARLE & BURDETT,
*For Parties Claimant.*

Hon. GEO. F. EDMUNDS,
*United States Senate.*

Protest against the proposed grant to the city of Chicago, for the benefit of the Illinois Central Railway Company, of lands in said city known as the "lake front," without protection to the legal and equitable owners of portions of the same.

*To the honorables the members of the Senate and House of Representatives:*

GENTLEMEN: There are now pending before you several bills to confirm to the city of Chicago, for the use of the Illinois Central Railway Company, certain lands of the United States within the said city, generally known as the "lake front tract," and formerly included in the Fort Dearborn military reservation.

The lands embraced in these bills are of very great value, being worth, at a reasonable estimate, not less than $5,000,000.

Aside from the question of transferring for the uses contemplated by the bills, or for any use, such large values without consideration to the United States, we respectfully advise you of the fact that a number of the citizens of the United States claim interests, both legal and equitable, in portions of said tract under the general and special laws relating to the disposal of the lands of the United States; that some of them are prosecuting such rights before the proper department of the Government, and that others have commenced and are prosecuting with due diligence actions at law and suits in equity for the ascertainment and enforcement of their rights. Herewith is exhibited a certified copy of one of the bills in chancery now pending.

Under these circumstances we respectfully protest against the passage of any law which may tend to obstruct the proper legal tribunals in administering the justice demanded by the said claimants, or which may abridge them of any of their rights.

If it shall be deemed best to enact the proposed legislation, we respectfully ask that a proviso be inserted which will fully and effectually protect these and all other private rights.

LEONARD SWETT, *Chicago, Illinois.*
CURTIS, EARLE & BURDETT,
*Washington, District of Columbia, for Parties Claimant.*

Mr. EDMUNDS. I do not think it necessary to take the time of the Senate to read the bill in equity. I do not wish unnecessarily to occupy the time of the Senate in having read, at present, at any rate, for I do not know how material it is, the statements in the bill in equity, a copy of which is submitted with this memorial. They can be referred to in the discussion if it is desirable. It may be that they are important, but, as I said before, I have had no opportunity to read them, for the reason that the papers were only sent to me while I was sitting here as the bill was about to be taken up.

I have this to say on the case as it now stands, and then, for aught I see about it, my duty will be done: so far as it respects private rights of claimants to some portion of this land, it probably would not be difficult to frame an amendment to the bill, if any amendment be necessary, which would protect them, and I presume that no objection would be made to that, because I can hardly suppose that my friend from Illinois would, under any circumstances, assent to the passage of any bill which would disturb private interests.

Mr. DAVIS, of Illinois. This bill does not, and I should like to answer the other point if I have time.

Mr. EDMUNDS. You shall have the time. The protection of private interests, which these gentlemen think are not protected by the bill as it stands now, can be provided for.

That brings me, then, to the next question that I think it my duty to call the attention of the Senate to, and that is the vagueness and generalization of the language of the granting part of the bill. The granting clause in the bill is:

That all the right and title of the United States to the streets and grounds dedicated to public use in that part of the city of Chicago, in the State of Illinois, known as "Fort Dearborn addition to Chicago," subdivided and platted under the authority of the Secretary of War in the year 1839, be, and the same hereby is, relinquished and granted to the said city and its successors.

That is a sweeping grant of all the lands of the United States within that division of Fort Dearborn reservation which have been in any way "dedicated to public use." It covers the whole of all the streets and avenues around and between and along the property that has hitherto been sold out to private parties; it covers the whole of all the land occupied by streets and avenues along the lake front where for a long distance there have been no private sales; it covers the whole of the street which bounds on the south—if I recollect the points of the compass correctly—the present public ground of the United States at the very junction of Chicgao River and the lake, as it appears on the map, and is marked No. 1 on the diagram that was submitted to us, where I think there has been and perhaps is now a light-house. What the rest of that ground, a large block apparently, is occupied for, I do not know, and I do not know that any evidence was submitted to the committee about it.

Mr. DAVIS, of Illinois. It is an irregularly shaped piece.

Mr. EDMUNDS. It is an irregularly shaped piece and a pretty large piece. There is a frontage which the United States may now use; and assuming—for which assumption I have no authority, because I do not know how the fact is—that this very lot, the most valuable of the whole for business and for public purposes such as light-houses and so on, which lies at the very junction of the river and the lake where they come together though not at a right angle, has not been dedicated to public use, yet the street which surrounds the whole land side of it has in the sense of this bill, because it has been opened and has been used and is being used now. I should be unwilling for one to have the United States cede to the city of Chicago its right to control, to have the dominion over that street on its own land inasmuch as it has property abutting the whole length of that street on one side as well as some property on the other though most of the property on the other side is property sold out into lots. I do not think that would be a very wise thing to do. When you go to the other three sides or the one elliptically curved side the water front goes all around in this form, how much of that water front is being used by the public in some sense and how much of it will pass by this conveyance to the city of Chicago with the right to build up in front of the light-house of the United States any other buildings or structures that it may see fit to put upon that corner of land, I do not know.

My honorable friend in submitting his report and that of the majority of the committee seems to think that the law is clear, that the land under water in front of the property of the United States belongs to the State, and as a consequence (although they do not seem to say that) that the United States owning a lot of land of this kind, and subject to no public easement at all, I will say, have no riparian rights whatever, and hence that it would be within the competence of the State of Illinois to authorize to-day the whole of that front around this corner reservation that I am now speaking of, to be built up with warehouses, docks, railroad stations, and other things, and thus cut off the approach to the land of the United States by water entirely.

I have not got sufficiently wise in the law to understand that to be the true state of the law. The Supreme Court of the United States has decided more than once, and I think rightly, that when the United States have parted with their title to the lands that they own in a State which border on the public waters of the State or of the United States, they have also parted with their dominion of the land under the water in front of the sold lands, and that they have no right to go and grant outside of that line public lands as the subjects of conveyance. I understand that to be the law, and I think it ought to be; but that is quite a different question both practically and legally from saying, as the committee seem to imply, that where the United States, either in its sovereign character or as a private owner, is the proprietor of land lying upon the shore of navigable water, the United States has no riparian rights whatever, and therefore would have no right (if this were its private property subject to no easement at all,) to sell this land with the right to build a wharf out in front of it.

So then this bill in its first clause containing this general grant of all the rights of the United States in the whole of the Fort Dearborn addition to Chicago, containing this most valuable lot at the junction of the river and the lake, as it appears to me, will give pretty strong ground for somebody to say hereafter that we have surrendered to the city of Chicago all the dominion as a riparian or as a sovereign proprietor over this land, which they say is not covered by this bill. That can be corrected by an amendment if they do not mean it; if they do mean it it is better to leave the bill as it is.

My honorable friend also says in his report that the land under water in front of this place, that was not to be built upon, belonged to the State, and that the State gave it to the Illinois Central Railroad Company, and therefore that the amount of pecuniary interest which the United States could have in this property under any circumstances is much less than it would otherwise be. If my friend is right

in his premises he is right in his conclusion; but inasmuch as the consent of the United States was never given to the passage of this railway over the riparian front of this property of the United States I disagree with him. If the United States has the property in the land it has the property also, or whatever it may be, the riparian right in front of the land, although, as has happened in a great many other cases, the Illinois Central Railroad Company being a pretty strong corporation, stronger than the United States I dare say, has chosen to take possession of it and occupy it.

The PRESIDING OFFICER. The hour of half past one having arrived, the Chair will lay before the Senate its unfinished business, which is the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

Mr. ALLISON. I ask that it be informally laid aside to go on with this bill.

The PRESIDING OFFICER. Is there objection to laying aside the unfinished business informally that the bill under consideration at the close of the morning hour may be continued?

Mr. EDMUNDS. I do not think it ought to be laid aside, because as I said before I do not think there has been a fair chance for the people who are opposed to this bill, as they are respectable people in Chicago, to be heard.

Mr. CONKLING. Will the Senator from Vermont let me make a suggestion to him? I suggest to him that it would be fair to let the regular order be laid aside at least long enough for some member of the committee to make a brief statement in reply to what the Senator has said.

Mr. EDMUNDS. I have no objection to that.

Mr. CONKLING. I am quite frank for one in saying that I do not care to go out to the public as having concurred in a report which is obnoxious to all the objections the honorable Senator has made; and therefore I would be glad at this time if an opportunity might be given to the Senator from Illinois or to some member of the committee to state the view, however mistaken that view may have been, which the committee took, in answer to the observations of the honorable Senator from Vermont.

The PRESIDING OFFICER. The regular order, then, will be informally laid aside.

Mr. EDMUNDS. I have not nearly concluded what I wish to say. I have not come to the main point of this bill, but I should be glad to hear my friend from Illinois now.

Mr. CONKLING. Why does not the Senator conclude?

Mr. EDMUNDS. It will take me an hour.

Mr. DAVIS, of Illinois. I hope the Senator from Vermont will finish.

Mr. COKE. I am willing to yield the unfinished business for a while, with the understanding that it may be called up at any time.

The PRESIDING OFFICER. That is the understanding of the Senator.

Mr. DAVIS, of Illinois. I think if the Senate sufficiently understood this case they would see that it was not subject to the criticism which has been passed upon it by the Senator from Vermont. In 1839 the United States laid out the Fort Dearborn addition to Chicago, and believing that it would be better for the sale of lands that there should be public open ground fronting upon all lots, they designated upon that plat that this public ground should not be occupied by buildings. That plat has been recognized by the General Government and action taken upon it in granting lands. The property-holders were undoubtedly interested in having that remain a public square. At that time the best resident portion of Chicago was in this addition along Michigan avenue on Lake Michigan. Now, by the change of circumstances, it is not used at all as residence property, but must be used for business purposes.

The General Government could have had nothing else than a fee-simple title, subject to its use by the people of Chicago. They have no right or interest in the matter otherwise than that. Now the simple matter is, shall that use be changed; shall that remain as it is now, a public park, or shall a portion of it at least—we ask but a very small portion of it—be used by the city for the purposes of a grand railway depot for several important railroads? The people who own lots fronting this public square ask for it; the State of Illinois asks for it; and my colleague and myself, who represent the people of Chicago, say that they ask for it; and they know all about this thing. When I left Chicago in December I did not hear a dissenting voice upon this subject.

Now the simple inquiry is, shall the United States, who have granted the fee-simple title to this land subject to its use, consent that the use shall be changed? That is all there is in the case.

It is well for the Senate to understand that this public plat of the ground that we ask for runs from Randolph street on the north to Madison street on the south. When this ground was laid out, Michigan avenue was not extended from Randolph street to Madison street; it was afterward extended by the city; but in 1839, at the time this plat was made, the lake shore was fifty feet from Michigan avenue east at Randolph street and one hundred feet at Madison street. In 1852, by abrasion, at Randolph street, there were but twenty-one and a half feet between the avenue and the lake, and at Madison street there was nothing at all; it had all gone into the lake by the process of erosion; and that process was cutting away the shore of the lake along the entire east front of the city. In 1852 the charter of the Illinois Central Railroad was granted by the State of Illinois. The inner line of that road was within four hundred feet from the lake shore. Three hundred feet of the right of way were given in the lake, and for thirty years the railroad has had possession of that right of way.

Mr. CONKLING. Was the railroad laid on piles?

Mr. DAVIS, of Illinois. The railroad was laid on piles in the lake, at great expense. The company agreed to fill this in with earth and to erect a breakwater; and it is in consequence of the erection of that breakwater that this whole front of the lake has been saved to the city and State.

Mr. CONKLING. Did the railroad company pay for the breakwater, the piling, and the filling in?

Mr. DAVIS, of Illinois. Yes, sir; paid for everything connected with it, large sums of money. That left stagnant water along the lake shore; but between Randolph and Madison streets, which is the only ground now in controversy, some years after the right of way was filled in with earth, the city of Chicago went to work and reclaimed that.

Recollect that before the Illinois Central Railroad went there, by the process of abrasion the lake was gradually encroaching on the shore, had cut it off in one place one hundred feet and in another over thirty feet; and by the erection of this breakwater, if I may so term it, of the Illinois Central Railroad, by putting down these piles and filling up with earth, they were enabled to fill up the water between the inner line and the lake shore. That is really the land that the city asks to lease or sell to the Illinois Central Railroad for depot purposes for themselves and for several other important railroads. That is all. The rest of Dearborn Park, as it is called there now, is preserved; there is no proposition to do anything with that. Of this original ground there is the smallest possible portion yet as it was when the plat was laid out in 1839.

Mr. CONKLING. And the residue of it is artificially made ground?

Mr. DAVIS, of Illinois. Artificially made ground. I do not want to go into a discussion of the legal question with my friend from Vermont, because there is not time. I should like to do it if there was time. It is artificially made ground that the city of Chicago asks, through her Senators on this floor, who know her whishes, the privilege of leasing or selling to this railroad company for that grand object. The people who own these lots wish this use changed.

There is no use of this property to them as it is now. All the ground down there is used for business purposes; and if they can have a magnificent depot, costing two or three million dollars, they conceive that they are more benefited by it than by letting this park remain as it is.

Is the Government of the United States to pursue a "dog-in-the-manger" policy and say "you shall not change the use?" Why should not the use be changed when the public call for it? The public in Chicago call for it, and the public in the State of Illinois call for it; and the property owners, the only persons who are interested, call for it.

Now, Mr. President, a word about this Valentine land-scrip which is introduced in the Senate. That was not before the committee at all. I understood last night that there was something about it, but I think any gentleman who will listen to me five minutes will be satisfied that there is nothing in it.

In 1842, Micheltorena, governor of Mexico, granted to Miranda a large tract of land. Ortega and Valentine presented their claims before the land commissioners of California in 1853; they presented themselves as adverse claimants. Valentine dropped out for some reason by his own laches and neglect. So far as Ortega's heirs are concerned, the claim came up in various stages and was finally rejected by the Supreme Court, having been rejected by the land commission, and its decision affirmed. Then Valentine came before Congress, and, although it was his own laches that he had not presented his claim, Congress in the abundance of its charity and mercy gave him the privilege of going ahead, and, if possible, proving his claims to all these lands that in consequence of his laches were owned by homestead people and had been sold at public sale and private entry. Now Congress said he should not have a title to these lands, even if he proved it, because by his own neglect he had lost it:

> But in lieu thereof the claimant or his legal representatives may select, and shall be allowed, patents for an equal quantity of the unoccupied and unappropriated public lands of the United States, not mineral, and in tracts not less than the subdivisions provided for in the United States land laws.

Now, sir, would you suppose it possible that that Valentine scrip was sought to be located upon this piece of made land in the city of Chicago? Stating that particular proposition, would you suppose it possible? I heard of this thing last night. The Valentine scrip claim was rejected by the Secretary of the Interior. The land on which Thomas B. Valentine attempted to locate his scrip was that part of the new-made land which lies between the natural shore, as it existed in 1821, when the first official Government survey was made, and the present margin of the lake. Just think of such a thing! A Commissioner of the Land Office smelt that out, I understand, and resigned his office, on the ground that here were four or five million dollars awaiting his action, from which he could get large fees as counsel. The Secretary of the Interior properly held

that there was no such public land belonging to the Government, and if there were, that a part of that ground was occupied, and had been for nearly thirty years, by the railroad company, and the residue had been appropriated by the United States to public use in 1839. The Valentine scrip could be located only on the "unoccupied and unappropriated public lands of the United States." The land in question was not "unoccupied" or "unappropriated;" nor was it "public land" within the meaning of the act of Congress.

Mr. President, this decision of the Secretary is in accordance with two decisions of the Supreme Court, in which I wrote the opinions, namely, Leavenworth, Lawrence and Galveston Railroad Company *vs.* United States, (92 U. S. Reports, 733;) Newhall *vs.* Sanger, (92 U. S. Reports, 761.) In the first of these cases it was held that the term "public lands" is used in our legislation to describe such lands as are subject to sale or other disposition under general laws, and to which a complete title is vested in the Government. No other land is subject to survey and division into sections. Hence, a grant of "land" in general terms cannot be construed to embrace lands in the possession of an Indian tribe, to the use and occupancy of which they are entitled by treaties so long as they may choose to occupy the same. The grant embraces only such lands as could be sold and enjoyed, for Congress cannot be supposed to have thereby intended to include land previously appropriated to another purpose. The policy which dictates such grants confines them to lands which Congress could rightfully bestow without disturbing existing relations and producing vexatious conflicts. As the transfer of any part of an Indian reservation secured by treaty would also involve a gross breach of the public faith, the presumption is conclusive that Congress never meant to grant it.

These reasons are equally conclusive that Congress never intended, by the use of the words "unoccupied and unappropriated public lands of the United States," used in the act for the relief of Valentine, to allow lands to be selected by him in the heart of a large city, which had been dedicated by the United States to the public forty years ago, and had been for that length of time in the actual enjoyment of the public.

In the second case above cited (Newhall *vs.* Sanger) it was held that lands within the boundaries of an alleged Mexican or Spanish grant, which was *sub judice*, are not public lands within the meaning of the land-grant acts, and that they do not become public lands until the question of title is settled. If the claim under the alleged grant be finally rejected the lands then fall into the category of public lands; but the judicial rejection of the claim cannot be antedated so as to render operative a grant of public lands, made in general terms, which would be otherwise without effect; which cuts this case up by the roots. It is so preposterous that it would hardly seem any decision need have been rendered on the case.

The decision of Secretary Schurz in the Valentine case being to the effect that there were no such public lands belonging to the United States as those selected by Valentine, that decision is understood to be final and conclusive in the absence of fraud. (See Vance *vs.* Burbank, 101 U. S., 519; Marquez *vs.* Frisbie, 101 U. S., 473; and cases there cited.)

The bill reported from the committee does not, however, affect in any way any legal right or claim of Valentine. The bill simply relinquishes to the city of Chicago the right and title of the United States, whatever it is. It could not deprive either Valentine or any one else of any property, right, or interest in the public grounds.

Now, Mr. President, in relation to block 1 at the head of the lake, my friend from Vermont certainly knew that that was not within the purview of this bill, and I have prepared this section to be added:

That nothing in this act contained shall be held to impair or in any way affect the right or title of the United States in or to block 1 in said Fort Dearborn addition to Chicago.

I do not know whether it belongs to the United States or not, or whether it has ever been sold; but at any rate this provision will secure that. There was no intention whatever to take that in.

Mr. CONKLING. Does the Senator offer that amendment?

Mr. DAVIS, of Illinois. I offer that amendment.

Mr. EDMUNDS. You had better say "block 1 or streets or waters surrounding it."

Mr. DAVIS, of Illinois. I am perfectly willing.

The PRESIDING OFFICER. There are a number of amendments reported by the Committee on the Judiciary to be acted upon. The amendment of the Senator from Illinois will be received and acted on in order.

Mr. EDMUNDS. Mr. President, the statement of my friend from Illinois in respect to the situation of this land in regard to filling, is not precisely in accordance with the representations that I understand to be made in the printed application and brief in favor of the passage of this bill, and to which the drawing that I hold in my hand, a copy of the original plat of survey, is attached; and from this it appears that the shore line is a good way outside of Michigan avenue. It is true that this plat was made a long time ago, in 1837.

Mr. DAVIS, of Illinois. I think I have stated it correctly in my report.

Mr. EDMUNDS. I am only speaking of the facts we had before the committee; and as I understood from statements made before the committee and from the statements of the counsel of one of the railroad companies that were made to me as one of a sub-committee (which has been referred to: otherwise I should not have referred to any sub-committee,) there has been and is large ground between what would be the extended east line of Michigan avenue and the lake at the narrowest place, or a part of the way; I do not remember the precise detail nor do I think it very material.

Now, Mr. President, my friend from Illinois having been heard as my friend from New York desired that he should be, and inasmuch as what I have to say regarding the other part of this bill—the real situation of the respective interests of this property—will take some time; and still more for the reason I stated when I asked that the bill be not taken up until to-morrow, I call for the regular order. I shall not object to my friend taking up the bill to-morrow and going on with it.

Mr. DAVIS, of Illinois. But suppose I cannot get it up to-morrow? Is it not better that we settle this now? The Senator from Vermont cannot take a half-hour, I think. The chairman of the Committee on Indian Affairs is willing to defer his bill a little while longer. I do not know that we can get this up to-morrow. My friend from Kansas [Mr. INGALLS] has a resolution about the presidential count, and the chairman of the Committee on Pensions [Mr. WITHERS] wants to take up pension bills. It seems to me it would be no more than fair to let me have a vote on this to-day.

Mr. INGALLS. I suppose the Senator from Illinois, if he desires the further consideration of this bill, can move it. There is no parliamentary obstacle to the further consideration of this bill as I understand, the morning hour having expired.

Mr. CONKLING. There is certainly no technical reason why the Senator from Illinois cannot move to postpone the unfinished business. There is, however, a reason of courtesy which would stand in the Senator's way. The honorable Senator from Texas, chairman of the committee having charge of the other bill, has been very obliging in allowing, after the expiration of the morning hour, this bill and the Senator from Illinois to proceed. I can readily understand, therefore, that the Senator from Illinois does not like to submit a motion now, the effect of which would be, if it carried, to displace the business which the honorable Senator from Texas has in charge, and in respect of which he has been so courteous and obliging. Therefore I wish that we might, if we could, continue by consent the consideration of this bill in the hope of getting a vote upon it, or at least in the hope of getting out the facts as far as they exist, if in truth they were not fully before the committee. The Senator from Illinois says that the Senator from Texas is quite agreed further to accommodate him and to allow this bill to proceed. I suggest that at least those Senators who wish to say anything about it might be allowed to do so.

The PRESIDING OFFICER. The Senator from Vermont has called for the general order.

Mr. EDMUNDS. Mr. President, I hope I shall not be misunderstood about this business; but if I be, I cannot help it. The matter is of course of not the slightest personal interest to me; but I think it is not very unusual in this body when a bill of this character first comes up, if some member of the committee thinks he is obtaining information which bears upon it and wishes to have it go over for a day before he proceeds to conclude what he has to say about it, to grant such a postponement. There are courtesies on both sides. It was with that view, and not with any special reference to the Indian bill, that I called for the regular order. Of course it is in the power of the Senate to deny to me the right to further examine this bill and get to understand the information which by letter and otherwise is being communicated to me, in which there may be nothing at all. I do not intend to commit myself to anybody's representations until I find out what they mean. I should be glad to have it done; and if the Senate is unwilling to do that, then of course I must submit.

Mr. THURMAN. Mr. President, I said that it need not take more than ten minutes for the Senate to understand this bill. I meant precisely what I said. The majority of the committee—all of the Committee on the Judiciary but one—report in favor of the bill. The Senator from Vermont makes a minority report; but, if I understand him, he does not object to the release provided for in the bill; all that he asks is that if the railroad companies pay any consideration for the conveyance or lease by the city of Chicago to them, the United States shall share in that consideration. If I am right in this, there is no objection to the release, and the only question is whether the United States shall exact its portion of the purchase-money that may be paid by the railroads. We considered that matter very fully in committee, and we thought the United States had been paid once, and that it had no salable interest, and that it would not be becoming the Government to ask any part whatever of this purchase-money. That is our opinion; that is my opinion; I entertain it very strongly; and now, if I am right in this, if there is no objection to the release, and it is a simple question whether or not the United States shall demand a part of this purchase-money, that I take it is so small a matter that unless some Senator feels moved to speak further we might as well vote on the bill at once.

Mr. LOGAN. I rise to make a suggestion to the chairman of the Committee on Indian Affairs, who has charge of the bill which is the regular order. Of course I can speak for no one but myself; but being on that committee I shall certainly render him any assistance I can to have his bill disposed of; and I presnme there will be no objection if that bill shall be laid aside for the purpose of disposing of this bill,

to replacing that in its order as soon as this bill is disposed of. I think everybody will be willing to do that, and we can take it up right after this and go on with it. I should be very glad if the Senator from Texas would allow that to be done, so that this bill may be disposed of. It is a matter of very great importance to the constituents of my colleague and myself, and we fear that unless it is disposed of now it may not have a chance for a fair hearing again.

Mr. COKE. I am very anxious to have the bill which is the unfinished business disposed of. It has already occupied considerable time. Still, if I can maintain the position of that bill before the Senate as the unfinished business, I am perfectly willing to yield temporarily to the bill of the Senators from Illinois.

The PRESIDING OFFICER. The regular order has been demanded, and must be proceeded with unless a motion is made to postpone it, as the Chair understands the rules.

Mr. EDMUNDS. That is clear enough. If my friend from Illinois is unwilling to allow this bill to be postponed until to-morrow——

Mr. DAVIS, of Illinois. Wait a moment. I am perfectly willing——

Mr. EDMUNDS. My friend will allow me to state my position. I say if he is willing to allow this bill to go over until to-morrow in order that a very small and weak minority of the committee may have a little more time to understand what the representations are that are made to him by letter and in these protests and other letters that have not been read mean, and which representations were not before the committee at all, I shall be glad. If he is not willing to do that, perhaps my duty will be done by finishing what I have to say now.

Mr. DAVIS, of Illinois. The Senator has no right to throw that insinuation by covering his question with innuendoes and suggestions that these letters show so and so. I am as open as day upon this bill; I want to conceal nothing about it. I represent with my colleague that constituency, and I think I know their views. I have no sort of objection to this bill going over until to-morrow, if I can have it disposed of to-morrow.

Mr. ALLISON. Why not agree that it shall be taken up to-morrow after the morning hour?

Mr. DAVIS, of Illinois. Very well.

Mr. EDMUNDS. I said before that I should help to get it up to-morrow.

Mr. ALLISON. Then I ask unanimous consent that this bill be taken up to-morrow after the morning hour.

The PRESIDING OFFICER. After the hour of half past one?

Mr. ALLISON. After the morning business.

Mr. COKE. I would ask the Senator from Iowa to explain what he means by "morning hour."

Mr. ALLISON. At the conclusion of the morning business. I think we can finish the bill in charge of the Senator from Texas to-day.

Mr. COKE. But if we fail to do so I shall still claim for it its position as the unfinished business of the Senate for to-morrow.

The PRESIDING OFFICER. The Senator from Iowa suggests that this bill be taken up to-morrow after the routine business of the morning hour has been gone through with. Is there objection? The Chair hears none, and that is the understanding.

Mr. HARRIS. Within the morning hour?

The PRESIDING OFFICER. After the routine business of the morning hour shall have been disposed of.

Mr. EDMUNDS. Before this subject passes away now, I wish to assure my friend from Illinois that he did me injustice in speaking of insinuations. I made none; I had none in my mind; but I did state just as I hope he would if the cases were reversed and it was Burlington, Vermont, that was interested, that I wanted to understand what these letters, which I am receiving, mean, and I stated also that I did not know that there was anything in them at all. I certainly meant nothing to reflect on either of my friends from Illinois; they may be sure of that.

Mr. DAVIS, of Illinois. I rose to say, but the Senator would not give place to me, that I was perfectly willing to have the bill considered to-morrow, provided it could be done. Then the Senator went on and stated about these various things that he had received from Chicago or elsewhere as if I was unwilling that the light should be turned on.

Mr. EDMUNDS. No, I did not say you were unwilling that the light should be turned on.

Mr. ALLISON. This matter is understood to be the regular order for to-morrow after the routine business of the morning hour.

Mr. DAVIS, of Illinois. Is it understood that this will be the regular order to-morrow after the morning hour?

The PRESIDING OFFICER. It is understood that the bill will be taken up after the routine business of the morning hour shall have been gone through with.

Mr. WALLACE. Not displacing the Indian severalty bill in charge of my friend from Texas?

Mr. ALLISON. Of course not.

### AMENDMENT TO APPROPRIATION BILL.

Mr. VEST submitted an amendment intended to be proposed by him to the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

### SPANISH CLAIMS.

Mr. MORGAN submitted the following resolution; which was read:

*Resolved*, That the Secretary of the Treasury is directed to furnish to the Senate a statement of the name of each claimant whose claim has been allowed by any court, judge, or commissioner, acting under the laws of the United States enacted to carry into effect the ninth article of the treaty with Spain, proclaimed February 22, 1821, and the amount allowed on each claim by such court, judge, or commissioner, and the amount paid on each claim by the Government of the United States, and the date of the judgment, order, or decree rendered in each case, and the date of the payment made thereon.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. EDMUNDS. I think it will be somewhat expensive to get all that information; but I do not object if the chairman of the Committee on Finance does not.

The resolution was considered by unanimous consent, and agreed to.

### ORDER OF BUSINESS.

Mr. FARLEY. I ask to take from the Calendar the bill (S. No. 1210) for the relief of certain officers of the Navy, for the purpose of considering the bill now. It will take but a very short time. I move to postpone the pending order for that purpose. If the discussion in determining upon the passage of the bill shall take any time, I will consent that it go over until to-morrow, so as not to interfere with the pending order; but I want to take the bill from the Calendar that it may be before the Senate. It has been passed once by this body; has been reported twice by the Committee on Naval Affairs, and is amply recommended. It is important that the bill should be passed at this stage of the session so that it may go to the other House. The substance of the bill is for the relief of certain naval officers who have passed an examination by the board of admirals created for that purpose. My judgment is that the consideration of the bill will require no debate. The persons interested are very anxious about it, and I have tried on four or five occasions to have the bill taken up. I earnestly ask the Senate to consider it at this time; and I say to the Senator from Texas that if it takes any time I will consent that it go over until to-morrow.

Mr. COKE. I cannot yield any further unless I am voted down by the Senate.

Mr. ROLLINS. I will say that I think the bill which the Senator from California wishes to have considered will take some time.

Mr. COKE. We desire to go on with the consideration of the Indian severalty bill. I am informed by a Senator that the bill proposed to be taken up by the Senator from California will lead to a great deal of debate. I have already yielded now more than an hour, and I do not think I can yield further in the interest of the bill which I have in charge.

Mr. JONES, of Florida. I fully concur in everything that has been said by the Senator from California in regard to the bill which he asks the Senate to consider. It is really a very hard case. In 1878 the Committee on Naval Affairs reported the bill, which does nothing more than justice to two of the most meritorious officers of the naval service, to whom great injustice had been done, as I claim——

Mr. INGALLS. The Chair will remember the rule that a discussion upon the merits of a bill is not in order on a motion to proceed to its consideration.

The PRESIDING OFFICER. There is no motion to proceed to the consideration of the bill named.

Mr. HARRIS. What is the question pending before the Senate?

The PRESIDING OFFICER. The unfinished business is before the Senate.

Mr. HARRIS. I understood that the Senator from Texas called for the regular order, and I was not aware of the fact that any motion was pending.

The PRESIDING OFFICER. The regular order is now before the Senate.

Mr. SAUNDERS. I do not wish to antagonize the bill now before the Senate, but I should like to have the unanimous consent of the Senate to take up and pass a bill that relates to the Territories which have no representative here. As I say, the Territories have no representative here, and each Senator has to consider himself as the agent and representative of a people of that kind. The bill is a House bill which has been referred to a standing committee and is reported back without amendment, and I think it will be passed without any objection whatever.

Mr. COKE. I call for the regular order.

The PRESIDING OFFICER. The regular order will be proceeded with. The Senator from Texas objects to giving way any further.

### LANDS IN SEVERALTY TO INDIANS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes, the pending question being on the amendment proposed by Mr. PLUMB in section 5, line 15, after the word "void," to insert:

*And provided further*, That the lands so allotted may be leased for such term and on such conditions as may be prescribed by the Secretary of the Interior.

The amendment was rejected.

Mr. PLUMB. I move to amend the bill by inserting after the word "act," in section 2, line 13, the following words:

The lands to be so subdivided and allotted as to give to each and every person who is a member of either of said tribes of Indians, and entitled by birth, marriage, adoption, or otherwise, to their proportionate share of said lands as hereinafter provided. Rolls containing the names of all persons entitled to a distributive share in the land of such tribe or band shall be made out and certified by the chiefs of said tribes or bands, the same to be forwarded to the Secretary of the Interior as soon as practicable, and be by him approved;

So as to read:

Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run, dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act, the lands to be so subdivided and alloted as to give to each and every Indian, &c.

The trouble about the bill in regard to the matter of allotments is that there is no way of ascertaining who are members of the respective tribes. My proposition is that the chiefs of the tribes shall make out rolls for this purpose, which shall be sent to the Secretary of the Interior, and by him approved. Then there will be a basis for the allotment. Unless there be some provision authorizing the ascertainment of that fact, the persons whose duty it may be to make the allotment will proceed wholly in the dark.

Mr. COKE. I hope the amendment will not be adopted. The bill covers the whole ground amply, and has been so constructed as to be harmonious. I cannot see that the amendment will in any way improve it, but, on the contrary, will make it somewhat objectionable.

Mr. PLUMB. I think the Senator from Texas did not quite catch the scope of the amendment proposed. It is almost literally the provision of a bill reported from his committee—the Committee on Indian Affairs—with reference to the allotment of lands in severalty to the Peorias, Piankeshaws, and Quapaws, and the other confederated tribes of the Indian Territory. I think the Senator is quite mistaken in saying that the bill provides fully for the subject-matter of the amendment. If the commissioners go to a reservation for the purpose of allotting these lands, if the bill should ever become a law, it will be necessary that they should have some basis on which to proceed. They must know who are members of the tribe, and how are they to find out? Under this amendment the chiefs themselves will make out the rolls and send them to the Secretary of the Interior, by whom they are to be approved.

The question of tribal membership is one of those things which a person outside is not competent to settle alone. Persons are drawn into a tribe by affinities of various kinds, and become as much members of the tribe, although they may have been born elsewhere, as though they were of the blood of the tribe. An instance in point may be cited in the case of the Osages and the Quapaws. A couple of years ago, for the purpose of locating the Poncas in the Indian Territory, the Indian Department provided for the migration of the Quapaws from their reservation to that of the Osages, in order to take them away from the reservation designed for the Poncas. A portion only of the tribe went away, the Osages consenting. They located there among the Osages; they remain there to this day, and are there now. A short time ago the Quapaws who remained on their reservation brought the matter to the attention of the Interior Department that some measures might be taken to reunite the tribe. Thereupon the Osages held a council and resolved that they desired that the Quapaws should remain there on their reservation and become a part of their tribe. The Quapaws themselves expressed a similar desire; and there has been practically for all purposes of association, and as far as they can, for the sharing of community rights, an incorporation of that part of the Quapaw tribe into the Osage tribe. If that is satisfactory to them should it be unsatisfactory to anybody else? Indians become members of other tribes, white men become members by marriage, by adoption, with no particular form it is true, but it amounts substantially to an incorporation into the tribe. When this measure comes to take effect, if it does, and is to be carried out——

Mr. COKE. Will the Senator allow me to ask him a question? When an Indian of another tribe is incorporated in the manner referred to by the Senator, is he not then a member of that tribe, and are not the tribes all provided for in the bill.

Mr. PLUMB. When the commission or whatever authority goes to a reservation for the purpose of allotting these lands, it must take some tribal authority as to who are members of the tribe, or else it cannot determine with any accuracy who are the members. The amendment provides simply how it shall be ascertained through the tribal authority who are the members of the tribe.

I do not know that I quite understood the purport of the question of the Senator from Texas; but if I did it was that if a member of the Quapaws, we will say, for instance, happens to be with the Osages, if he is not provided for among the Osages he may be among the Quapaws; but the trouble about that is that he may be with the Osages when the allotments are made for the Osages, and he may not be with the Quapaws when the allotments are made there. If he desires to be with the Osages and to take his chances with that community for property, for association, and for his tribal or other relation, and the Osages are willing, that ought to settle it; the Government ought not to interfere; because if you once commence to draw the line you will have to draw it in a great many cases. There are Arapahoes among the Cheyennes, and the reverse; there are Cheyennes among the Comanches. Members of all these tribes perhaps are among the Kiowas; and the Southern Cheyennes and Northern Cheyennes are more or less affiliated. Unless you have some tribunal, and that too a tribunal within the tribe, which shall have the power and the authority to settle the question of the membership of the tribe, the allotment of lands in severalty will not be a settlement at all of the questions in which the tribes are interested.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas, [Mr. PLUMB.] [Putting the question.] The noes appear to have it.

Mr. PLUMB. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. TELLER. I should like to ask the chairman of the committee what possible objection there can be to the amendment. It seems to me it is a useful provision.

Mr. COKE. My objection to it is that it cumbers the bill with something that is not necessary. It is within the sound discretion of the Interior Department in executing the bill to take such measures as will accomplish the purpose that the amendment of the Senator from Kansas proposes to accomplish, and it can be done just as well without his amendment as with it under the bill as already constructed.

Mr. MORGAN. I do not understand that the bill as it has been prepared and reported from the committee gives to the Secretary of the Interior the power to determine what Indians belong to a certain tribe by nativity, by consanguinity, or by adoption. The Senator from Kansas has very properly said that in every tribe of Indians there are some who claim to be Indians of that particular tribe by adoption. The object of the amendment, as I understand it, is to furnish to the Government an authentic statement from the heads of the Indian tribes as to those persons who are living with them who are really members of the tribe, and that that is all of it, so that they will be entitled to their lands in that tribe, instead of going somewhere else to get them. Nothing, it seems to me, can be simpler than that, and it is altogether necessary that the amendment should be adopted.

The Senator from Texas says the amendment destroys the harmony of the bill. He has not suggested wherein the harmony of the bill is disturbed by it at all, and surely this is not a procrustean bed that is made for us here, upon which we are to be measured and tied down, without the opportunity of saying a word or offering an amendment, for fear we might disturb the harmony of the bill. If there is anything in the bill that needs to be disturbed, it is the harmony of it, or rather the inharmony of it, as will be seen by reference to various of its provisions.

The Senate I think has a friendly desire to make out of this measure something that is really valuable and something that will go into operation. It seems to me that it is not a sufficient argument against a proposition to amend the bill in such an essential particular as the Senator from Kansas has suggested, that it may disturb the harmony or theory of the bill as it rests in the mind of the Senator from Texas or the committee. It cannot be denied that there should be some provision in the measure by which the tribal relation of every Indian in a tribe shall be ascertained authentically, and in accordance with the usage of the particular tribe. That is all that is proposed by the amendment. If it is the object of the committee to vote down every amendment, then, as a matter of course, if the Senate sustains the committee in that, and they are enabled to have the bill just as it is, all debate, all propositions to amend, are entirely useless. I do not think it is a sufficient answer to the amendment of the Senator from Kansas that it does not, according to the views of the Senator from Texas, comport with the harmony of the bill. The bill leaves out that feature, and it ought to be put into it in order to make it a useful, serviceable, and just measure.

Mr. COKE. The bill has already amply provided for the very thing attempted to be provided for by the amendment of the Senator from Kansas. It directs the President when in his judgment it is proper, and an Indian tribe desires it, to allot lands to the individuals of the tribe. How can the President allot lands to the individuals of a tribe without first ascertaining who those individuals are? It devolves upon the President and upon the Indian Department under this bill to ascertain who the Indians are belonging to each tribe, who is entitled in the tribe, as a matter of course, before they can make the allotment to the individuals of the tribe.

I do not wish to cumber the bill with unnecessary amendments; and besides I have a great deal of doubt as to whether many of the amendments that are being offered to the bill are intended for any other purpose than to load it down so that it will be impossible to pass it. I do not mean to say that it is anybody's intention to do that, but I do mean to say that the amendments which have been tendered to the bill are offered by gentlemen who have shown no friendship for the purposes sought to be attained by the bill.

I oppose this amendment because it is unnecessary. I will oppose no amendment that I believe to be necessary or proper. The committee has already accepted one amendment and will perhaps accept others; but we do not choose to take counsel or advice, or receive the lectures of gentlemen who while they profess to be friendly to the bill are using every possible means to defeat it, and whose amendments, and substitutes, and motions to strike out, if they had prevailed, would have left hardly the enacting clause of the original bill standing.

Mr. PLUMB. If the Senator from Texas referred to me as in the

slightest degree offering amendments for the purpose of impairing the bill as a practical measure, he is entirely mistaken. I believe that the bill as it is now is not calculated to carry out the purpose for which it was intended; and if I give the committee credit for good intentions I am at least a little ahead of them there, because they have not given that to me. I do give the committee credit for intending to settle the Indian question by this bill; and I am reminded of a remark that was made to me by a gentleman yesterday, who said he would vote for the bill because he thought it would settle both the Indian question and the Indians at the same time. I desire to recognize to the fullest extent, in the legislation in the adoption of which I shall participate, the obligations of humanity to the Indian and the obligations of law as well. I want any measure that may be passed to be substantially a finality of this question. I have the best of reasons for desiring it. No Indian war and no trouble with an Indian of any kind occurs except such as occurs in the western country, because that unfortunately is the only place where there are any Indians with whom we have trouble; and wherever that trouble occurs it gives rise to the statements made freely that the western people have provoked the conflict, have made the trouble, by reason of their disposition to encroach upon the rights of Indians. I want this or any bill that may be passed to so settle the question as that we may no longer come under that reproach. I do not say that it has been deserved heretofore; I say it has not been deserved.

The bill relates to the adjustment of relations that are to be permanent, to the settlement of boundaries between the property of Indians and white men by whom they are to be surrounded. It is desirable that the bill shall receive the utmost consideration; and as much as I respect the Committee on Indian Affairs of the Senate and the chairman of that committee, I am not willing to subordinate my judgment to his upon the statement which he substantially makes, that this bill is the sum of human wisdom upon this subject. I think the bill can be amended in such a way as to accomplish the object that he has in mind. He differs with me, as a matter of course, as he has a right to do; but I beg him to take notice that the offering of amendments to this bill is not an indictable offense and ought not to be referred to on the floor of the Senate as exceeding the prerogative of a member of this body.

The Senator from Texas says in substance that the President of the United States has got to do this or else he cannot carry out the provisions of the bill, and he proposes that the President of the United States shall take the power to do these things by implication and not by direction, and that Congress shall not say what machinery the President shall use in order to carry it out. I propose to put into the hands of the President of the United States ample power to carry out the provisions of the bill, if it shall be passed, in such a way that he shall not have arbitrary power, but that he shall have power within certain limits. Suppose the President in the exercise of the power implied under this bill says that a certain Indian is not a member of the tribe and sets him out on the prairies; suppose he says that of a hundred Indians; then we shall have so many non-reservation Indians, Indians not provided for at all, and we shall be called upon at the very next session of Congress to appropriate money to feed them, to support them. That act of the President, by the misuse of the discretion which he is said to have under this bill, may produce not only a great wrong to the Indians themselves but to the people of the United States who will be called on to support them as well. I want the bill made sufficiently plain in its terms; I want the scope of the powers of the President under it to be sufficiently enlarged, and at the same time put within proper limits, so that we may know precisely what he is going to do, and what the result of his action will probably be.

Mr. MORGAN. I do not know how often I shall be compelled to disclaim any disposition to antagonize this bill, because of the fact that I have some views about it which I think ought to be incorporated in it by way of amendment. I have made the disclaimer heretofore, and I now reassert that I am in harmony with the purposes of this bill, but I do not believe that it is a bill calculated to effect the purposes it was intended to accomplish. So far as I have had anything to do with an attempt to perfect the bill, it has been merely to save it from an act of *felo de se*. I am entirely satisfied that if the bill is passed in its present form, it is incapable of being executed, and desiring the principle of the bill to be carried into effect, I wish to put it in a form where it can be executed.

The Senator from Texas has not informed us how the President is going to be informed as to who are the members of a tribe. The Senator from Kansas is attempting to get into the bill a provision by which the ruling men, the chiefs of the tribes, may bring testimony before the proper recording agent as to those persons who belong to a tribe. It has been suggested by a Senator near me—and I will call the attention of the Senator from Kansas to the suggestion—that the bill might open the door for the adoption into a tribe hereafter of white men, who might be enterprising, with a view of getting into the tribe and getting the benefit of the Indian reservation. I suggest to him, if the amendment is liable to that objection, that he amend it by inserting "any Indians adopted," so as to exclude the idea that a white man can be adopted hereafter into the body of the tribe, and thereby receive the benefits of the reservation.

Mr. PLUMB. So far as that part is concerned, I do not know that I would have any objection, and still there are white men who have intermarried with Indians and who have been so intermarried for a great many years. It is the custom among the Cherokees and Choctaws, (and I believe they embody not only all the sum of Indian wisdom, but of all other wisdom,) to not only permit these intermarriages but to adopt the person so intermarried and to give him all the benefits which the original members of the tribe had in the property.

Mr. MORGAN. Then I suggest to the Senator that he so modify his amendment as to say "persons heretofore adopted," so as to cut off the possibility to which I have alluded.

Mr. PLUMB. I am entirely willing that that should be done. I was going to call the attention of the Senator from Alabama to the fact that the rolls to be made by the chiefs are not to be final, but they are to be the basis of information upon which the President proceeds. They are to be certified to the Secretary of the Interior. He then has got before him the statement of the chiefs. If there is any explanation made by a member of the tribe or by anybody else to show that injustice has been done, it is for him then to institute such inquiry as will result in eliminating persons from that roll who do not belong there. Without something of this kind where are you going to begin? You cannot take a census of an Indian tribe as you might take the census of an ordinary white family, because they roam about, they are not easily to be found. They are resentful about these things; they do not give information in regard to the members of their tribe or the members of their families, if they can avoid it. The taking of a census of an Indian tribe is the hardest thing in the world to do. The ascertainment of the fact through white sources of information or ordinary inquiry as to who belongs to a tribe, is something attended with a great deal of difficulty; but you can go to the chiefs and they can tell you at once who are the members of the tribe. Then having made out this roll, the roll is to be transmitted, if my amendment should be adopted, to the Secretary of the Interior, and is to be submitted to his inspection through the agencies he has at his command, in order to see whether or not it conforms to the truth.

If, as the Senator from Alabama suggests, any point may be made in regard to the adoption of persons hereafter who might receive this benefit, I am willing to modify the amendment I have offered. I think, perhaps, that is a valuable suggestion, because we are setting up here a landed aristocracy, and it may be that ambitious white men will be glad to become members of that aristocracy. Consequently it may be a good idea to limit the provision to people who have been adventurous enough to take upon themselves the burdens of Indian compact heretofore.

Mr. MORGAN. I hope the Senator from Kansas will modify his amendment so as to insert the words "heretofore adopted," or in some way to prevent persons from being admitted into a tribe hereafter, white persons particularly. Then it seems to me there can be no objection to the adoption of his amendment, because it furnishes evidence upon which the Government can make the registration and be assisted in making it.

Mr. BUTLER. I should like to ask my friend from Alabama if the bill now does not provide for the very point which he and the Senator from Kansas are attempting to reach? Does it not allow the President of the United States to ascertain who among the tribes are entitled to land in severalty? It seems to me so, and I cannot understand, as I have caught the spirit and purpose of the amendment, how it will facilitate the division in severalty which the Senators from Alabama and Kansas say they intend to accomplish. It seems to me it would be a great deal better to leave the President, under the general discretion the bill gives him, to make the allotment according to the information which he himself may procure in his own way.

Mr. COKE. The amendment of the Senator from Kansas would restrict the President to one method, while the bill as it now stands leaves him to every source of information.

Mr. MORGAN. No Senator has yet pointed out the provision of the bill which authorizes the President to ascertain who are members of the tribe. The argument made by the Senator from Texas is that it is to be inferred that the President will have the power to locate the tribe. However, my eye has not fallen on any provision yet which authorizes him to designate who are members of the tribe, but after they are designated, of course he can locate the tribe.

Mr. COKE. I will say to the Senator from Alabama that the authority of the President for the ascertainment of the individuals among the tribes is derived from the fact that it is made his duty to have the lands allotted in severalty to each individual Indian, which he cannot do without first finding out who they are.

Mr. MORGAN. I hope the Senator from Texas will not become excited about this business. It is a very business transaction, and it is not necessary to have any animated speech about it.

Mr. COKE. The Senator from Alabama need not give me advice on that point.

Mr. MORGAN. Of course it is no advice from me. I think, though, the Senator needs to take counsel of his own wisdom about this matter. I refer him to himself as the embodiment of wisdom, from which he can possibly derive no incorrect opinion in regard to his conduct, or mine either.

The President of the United States is to locate the Indians of a tribe upon certain tracts of land, and yet the bill does not point out any means by which the President is to ascertain who the tribe is by registration. You locate an Indian of one of the Sioux bands, of which

there are a great number, upon a certain reservation. He has relationships, and tribal relationships, among the Arapahoes and the Cheyennes in the Indian Territory. After you have got him located there, without any registration being required to be made by law, what is to prevent that Indian from going off and making a location in another tribe? There is nothing in the bill to prevent it; there is no measure provided by which that can be prevented.

The object of the Senator from Kansas is merely to provide a machinery which will throw some restraint about the Indian in question by identifying him with his tribe, and then by registering him, so that after he receives his location he may be known of all men as an Indian who was located in that tribe. Certainly it is an improvement of this bill, and not in hostility to any feature or principle contained in it, that the Indians should be registered, that they should be registered by families, particularly when you allow lands to be allotted to the head of a family, and that they should thereby be designated. It is advantageous to all who may be concerned in the location and registration of an Indian to be able to derive information from the heads of families or from the heads of the tribe as to whether the Indian belongs to and is identified with that tribe or not. It is to prevent fraud, to prevent overreaching, to prevent uncertainty, that the Senator from Kansas offers these amendments, and not for the purpose, as I have repeatedly said, of attempting to obstruct the passage of this bill in any proper form.

Mr. BUTLER. It seems to me that the second and third sections are ample to accomplish the purpose for which the Senator from Alabama and the Senator from Kansas contend. The second section reads:

That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, &c.

The third section provides:

That the allotments provided for in this act shall be made by special agents appointed by the President for this purpose.

It seems to me that it will be utterly impossible for the Senate to provide a more perfect machinery to carry out the provisions of this bill, than is provided in these two sections. My apprehension and difficulty in regard to the amendment of the Senator from Kansas would be that it provides that all persons who have been adopted by the several tribes shall be allowed lands in severalty. What would be easier than for 1,000, 10,000 or 20,000 white men to be adopted by any tribe and divide the lands, and get their share in severalty, thereby defeating the very object and purpose of the bill, as I contend? It seems to me it would be very unjust to the Indians. It would certainly not be in accordance with the intent and purpose of the bill as I understand it, which is that the Indians shall have their lands in severalty, and all that is over and above the allotment in severalty, they shall have the benefit of when it is sold.

The PRESIDING OFFICER. The Senator from Kansas has modified his amendment. The modification will be read.

The SECRETARY. It is to add to the amendment as originally offered the following proviso:

*Provided*, That no white man who shall hereafter intermarry into any tribe, or be adopted therein, shall be entitled to any of the benefits of this act.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas as modified by him, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 13, nays 31: as follows:

YEAS—13.

| | | | |
|---|---|---|---|
| Booth, | McDonald, | Rollins, | Vest. |
| Brown, | Morgan, | Saunders, | |
| Eaton, | Plumb, | Teller, | |
| Jones of Florida, | Pugh, | Vance, | |

NAYS—31.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Wis., | Ingalls, | Platt, |
| Baldwin, | Coke, | Johnston, | Randolph, |
| Beck, | Davis of W. Va., | Jonas, | Slater, |
| Blair, | Farley, | Kernan, | Walker, |
| Bruce, | Garland, | Logan, | Wallace, |
| Burnside, | Hampton, | McMillan, | Williams, |
| Butler, | Harris, | Morrill, | Windom. |
| Call, | Hill of Colorado, | Pendleton, | |

ABSENT—32.

| | | | |
|---|---|---|---|
| Anthony, | Davis of Illinois, | Hill of Georgia, | Paddock, |
| Bailey, | Dawes, | Hoar, | Ransom, |
| Bayard, | Edmunds, | Jones of Nevada, | Saulsbury, |
| Blaine, | Ferry, | Kellogg, | Sharon, |
| Cameron of Pa., | Groome, | Kirkwood, | Thurman, |
| Carpenter, | Grover, | Lamar, | Voorhees, |
| Cockrell, | Hamlin, | McPherson, | Whyte, |
| Conkling, | Hereford, | Maxey | Withers. |

So the amendment was rejected.

Mr. TELLER. I wish to offer an amendment to the sixth section. I know that the bill is as perfect as human ingenuity can make it, as the committee have had their attention called to the whole subject; but here is a proposition that probably is an oversight, and I want it amended. It is provided in the sixth line of the sixth section "that their lands shall not be subject to taxation or execution upon the judgment, order, or decree of any court." That ought to be qualified so that they shall not be subject to taxation, judgment, &c., for a period of twenty-five years, because that will make it in harmony with the rest of the bill. Therefore I move to amend, by inserting after the word "court," in the eighth line of the sixth section, the words "for a period of twenty-five years after the issuing of patents thereto;" so as to read:

*Provided*, That their lands shall not be subject to taxation or execution upon the judgment, order, or decree of any court for a period of twenty-five years after the issuing of patents thereto.

I presume it is the intention of the committee to have it in that way, and as it is morally certain that this land will be the property of white men immediately after that time, I do not think there is any reason why it should be forever exempted from taxation. If in our anxiety to provide for the Indians we may do that, we should not let our anxiety go so far as to extend it to the white men who will become the owners thereafter.

Mr. COKE. I see no objection to that amendment.

Mr. INGALLS. The whole proviso in section 6 is a duplicate of the first proviso in section 5, which reads:

*Provided*, That the lands acquired by any Indian under and by virtue of this act shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable, and not subject to taxation, lien, or incumbrance for the period of twenty-five years from the date of the patent, which said restrictions shall be incorporated in the patents when issued.

I suggest to the chairman of the committee that the proviso in lines 6, 7, and 8 of section 6, down to and including the word "court," be stricken out from the bill, inasmuch as it is merely a repetition of what appears in section 5.

Mr. TELLER. If that is done, of course my amendment would not be required. If it is not done the amendment I suggested should prevail.

Mr. INGALLS. The proviso in section 6 is merely a repetition of the one that occurs in section 5. It is superfluous, and might be omitted properly from the bill.

Mr. COKE. I thought the amendment proposed by the Senator from Colorado would be agreed to without objection, and I did not object to it. I do not know that the proviso is superfluous entirely. If the Senator from Kansas insists that it is, and is clear——

Mr. INGALLS. I have examined both provisos, and one is a repetition of the other, a duplicate, and it ought not to appear in the bill; but if it is retained of course the amendment offered by the Senator from Colorado should be incorporated. I suggest to simplify the bill, as what appears in one section is not necessary in another, that the second proviso be omitted.

Mr. COKE. I have no objection.

The PRESIDING OFFICER. The Senator from Colorado can then withdraw his amendment, and the Senator from Kansas can move to strike out the proviso.

Mr. TELLER. I withdraw my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Colorado is withdrawn.

Mr. INGALLS. I move, then, that the proviso contained in section 6 down to and including the word "court," in line 8 of that section, be stricken out, in the following words:

That their lands shall not be subject to taxation or execution upon the judgment, order, or decree of any court.

The PRESIDING OFFICER. The question is upon the amendment of the Senator from Kansas, [Mr. INGALLS.]

The amendment was agreed to.

Mr. MORGAN. I offer the following amendment, to come in as a new section:

SEC. 10. That the Secretary of the Interior shall cause to be established at each Indian agency on the reservations included in the provisions of section 1 of this act a system of continuous registration of the members of each tribe by families, as the family is recognized in civilized society: *Provided*, That where the head of any family is a husband having more than one wife, such wives shall be registered in the order in which they were taken in marriage; and all such wives of the polygamic family shall inherit property as daughters; but after the first registration no man shall have registered more than one living wife; and all polygamic marriages contracted subsequent to the first registration shall be void for all the purposes of registration and inheritance under the provisions of this act.

Mr. CONKLING. May I ask the Senator from Alabama do these daughters-in-law, as they are to be, consist of all the wives except one? As I listened to the language, all the wives, one as much as the others, would become daughters-in-law.

Mr. MORGAN. The reason for that is that by the law of the Indian tribes all the wives of Indians stand to them on the same footing. No preference is given to one wife over the other.

Mr. CONKLING. Then all share and share alike and *pro rata*?

Mr. MORGAN. They all share and share alike. I should like to remark of the amendment that it has been prepared by a gentleman who has had very great experience in reference to the tribal relations of the Indians and the family relations of the Indians, and has made the subject a study for very many years and is thoroughly familiar therewith—Major Powell.

The bill makes provision for the location of each head of a family on a quarter-section of land. It makes further provision that on the death of an Indian his lands shall descend according to the law of the Territory or of the State where the lands are found. By the amendment offered by the Senator from Missouri [Mr. VEST] and accepted by the committee, this bill is extended to the Indian Territory, with the exception of the five civilized tribes. That leaves the law of

inheritance which is to apply to the Indians in this state: In Alaska, where there is no law, there will be no inheritance; in Idaho, Wyoming, and other Territories where there is territorial law there will be inheritance according to the law of the Territory, whatever it may be; in Nebraska and Kansas there will be inheritance according to the laws of those States; and so in North Carolina, and so in New York, where there are Indians sustaining tribal relations. When we come to the Indian Territory, the only law of inheritance that can be made to apply under this bill as it is now will be the law of Indian inheritance, and it is at that point we shall find ourselves in contact with this difficulty: The Indians have neither law nor religion that tolerates the holding of land in severalty between themselves. It is a crime against the institutions and laws of the Indians on this continent that they shall hold lands in severalty. That has been the law of every Indian tribe, with the exception of the five civilized tribes, so far as my reading has extended, since we first found them upon this continent. It is a crime against their law to hold land in severalty or to undertake to do so; it is an offense against their religion. Lands are held as communal property, and they are held really as chattels or personal property by a system that has prevailed and which allows each Indian to occupy the particular land upon which he is resident. When you come to administer this system in the Indian Territory under the provisions of this bill as it now stands, a bill which it is supposed does not need amendment and cannot be amended, we shall find that there is no law of inheritance whatever for Indian lands in that Territory.

The bill then provides that the Indians residing in the States shall inherit according to the laws of the States; the Indians residing in organized Territories shall inherit under the laws of those Territories; the Indians residing in the Indian Territory shall not inherit at all because there are no laws of inheritance at all; and the Indians residing in Alaska shall not inherit because there is no law there at all. That is the position in which the inheritance part of this bill is.

Now, suppose that you undertake to transmit land by descent from the head of an Indian family who may be located on a quarter section under the provisions of this bill. It may be the father of the family or it may be the mother of the family, as in the case of an old Indian woman who had no child at all, but had certain domestics around her and who was held to be the head of a family within the meaning of the Creek treaty of 1832, declared so by the Supreme Court of the United States. You start now with the head of a family, the father, I will say, who is located upon a quarter-section of land, and you want to find out who are his heirs at law. That man under a law which we recognize, a law which we enforce, had a right to a number of wives, because we tolerate, respect, and enforce the laws of the Indian tribes as a means of governing them; and by the adoption of the system of tribal government, by the statutes of the United States, which adoption is contained in this bill, and which adoption is contained in every measure that we have ever yet enacted in reference to the disposal and government of an Indian tribe, we enact by law that that man has a right to two, three, four, or as many more wives as he can get together and sustain. He is dead, and you want to settle the question of inheritance, not merely between the wives but between the children of the various wives. Under our system of laws the children of the subsequent wives to the first would not inherit from that father at all, they could inherit only from the mother. Under the system of civilized institutions, as I understand, there would be no inheritance in that case except from the mother, because all the children under our system of laws would be illegitimate except the children of the first wife. Then they must trace their inheritance through the mother. Whom does she inherit through on the death of her husband? Not from him. There is no law of any civilized country, no law of any State or Territory by which under the provisions of this bill you can trace the descent of the land from the husband to his wife or even to his children.

Now, there should be and must be, in order that this bill shall have any operation for the benefit of the Indians, an establishment created by law which shall be known as the Indian family, through which the *propositus* of inheritance and inheritable blood may be found, so that the property may descend. It therefore becomes our duty to annex as a condition of this grant of one hundred and sixty acres to the Indian, that in order to ascertain who the family is to which this law of inheritance or descent may apply, all the members of each tribe shall be registered by families; and the only way to get rid of the difficulty of the plurality of wives is that which has been suggested in the amendment, to treat each of the wives alike, not one superior to the other, but each upon a footing of entire equality, and allow the descent to commence in that way.

But the amendment provides that after that has been done, after the patent shall have issued to the Indian, then he shall not be allowed to have more than one wife recognized by the laws of the United States. He must then adopt the monogamic relation, and drop his polygamy as a condition of the grant, and after that time an Indian who marries can have but one lawful wife, and of course that must be the wife that he first marries.

Is there not some necessity for the enactment of this additional section to this bill? Why, Mr. President, this honorable committee with its distinguished chairman will find itself laboring for the next ten years, I think, in trying to expound this bill after it has passed in reference to the law of descent, unless you commence by this act of Congress with a positive and lawful organization of the family and declare that descent and inheritance shall descend from that family down through the regular channels while time shall last. When you undertake to apply civilized institutions to the Indians in this country, including the laws of inheritance and of descent, you are necessarily compelled to establish by law the groundwork of the action by organizing the family into such relationship as is prescribed by law, and to declare that a family thus organized shall be a family known within the meaning of this statute.

I cannot get rid of the difficulty that is in the bill by the adoption of the amendment of the Senator from Missouri, [Mr. VEST,] because I cannot understand how it is possible that any law of descent or of inheritance can apply to a man in the Indian Territory when there is neither tradition nor law there for the purpose of carrying land from one Indian to another by descent; but I am now speaking in reference to the country outside of the Indian Territory, and am desirous to give the bill as much scope as it is possible to give it, and you will find yourselves beset with difficulties which have agitated the lawyers in certain portions of this country for twenty or thirty years unless you adopt a provision of this kind.

I remember perfectly well when I was a little boy to have seen an Indian woman who was wounded in one of the battles General Jackson fought against the Creek Indians. She had a grandson by adoption, whose mother was the daughter of that Indian woman by adoption. She claimed a head right; she claimed the right to be located on a half section of land, being the wife of a chief, under the treaty of 1832, and under a statute which contained a provision that gave to each head of a family a tract of land. The locating agent not regarding her as the head of a family refused to locate her there. A cabin was put up on the place by the man who bought the land from the Government of the United States which undertook to sell it. She brought suit for that tract of land. That case remained in the courts of the country for thirty years, coming twice to the Supreme Court of the United States before it was finally decided, and the only question in the case was whether that old Indian woman was the "head of a family" within the meaning of that treaty. I submit if it is not better, I submit if it is not indispensable that we should in the enactment of this law, start a system which is wise and just in itself, which shall operate on the foundation upon which descent and inheritance may take place in reference to these lands. Left to Indian laws and Indian traditions, there is no such thing as descent of lands or inheritance of them. The truth is that in most of the Indian tribes of the Northwest the male members of the family do not inherit to the father at all. The daughters and wives inherit to the father. Of course that rule applies to personal property, because they have not got anything but personal property. An Indian daughter or an Indian wife takes the property in preference to the male members of the family. They are supposed to be able with their implements of hunting and agriculture, or whatever else they possess, to sustain themselves. The Indian laws, therefore, all cut off the male members of the family entirely from the inheritance. We are compelled, then, if we establish the "head of a family" and take any measure at all in regard to the descent or inheritance of real estate, to commence by ordaining in this statute who shall be the head of a family and the degree of relationship in which the members of a family shall inherit one to the other. To get rid of the polygamous feature of Indian family society, we are compelled to place the wives of Indians as they now are upon the footing of daughters. Therefore it is that I offer the amendment.

Mr. COKE. Under the bill as reported the Indian Territory was excluded from its operation entirely, there being no general law of inheritance in the Indian Territory as there is in the States and organized Territories. Since the amendment of the Senator from Missouri has been adopted, which struck out the words "Indian Territory" and inserted instead the names of the five civilized tribes in that Territory, so as to exclude them specifically, there are other Indians in the Territory upon whom the bill will operate, who, as the bill now stands would be, as the Senator from Alabama says, without any law on the subject of alienation and inheritance. It is the purpose of the committee, in order to remedy this defect before the voting on the bill is closed, to offer an amendment which will make the law of one of the States contiguous to the Indian Territory—say the State of Kansas—the law in the Indian Territory. That is the purpose of the committee. When that is done, the only Indians in the United States who will not be under the law of some State or Territory—that is, of those who may accept the provisions of the bill—will be the Alaska Indians, and there is no law in Alaska for Indians or anybody else. If the bill should be passed in its present shape, the Indians in the Indian Territory would be in no worse condition than they are already, for those upon whom this bill may operate have no general law of inheritance now. But it is deemed best by the committee that the bill be amended by placing the laws of Kansas over such Indians in the Indian Territory as may accept the provisions of the bill.

Now, as to the question about the heads of families, raised by the Senator from Alabama.

Mr. TELLER. I wish to make an inquiry of the Senator from Texas. If the legislation is to take the form suggested, and we are to *en masse* enact the laws of some particular State for these Indians, I should like to know beforehand what State it is. I want to look

up the statutes before I say that they shall be applicable to the people of the Indian Territory, and I want to know whether the Senator can now name the State that he proposes to take his laws from?

Mr. COKE. I spoke of the committee. I had spoken to, perhaps, two or three members of the committee. We have taken no *pro forma* action on it. Those to whom I have talked on the subject suggested the laws of the State of Missouri or the laws of the State of Kansas; and if I have to draw the amendment I shall propose that the laws of the State of Kansas be made applicable to the Indians in the Indian Territory who may come under the operation of this bill, if it is enacted, so far as the alienation and inheritance of property are concerned.

With reference to the question of polygamy and the constitution of the Indian family, I can see no necessity for any amendment on that subject, for the simple reason that the laws of the States and Territories where the lands are situated and the Indians reside will settle and determine all such questions. I see no use in Congress legislating upon a subject which the laws of the States and Territories will take care of whenever real questions arise, and it will be remembered by the Senate that this bill, if enacted, does not *ipso facto* become a law to the Indians anywhere. It must be believed by the President of the United States, in the sound discretion vested in him, that it is desirable that it shall be executed upon certain Indians, and those Indians must desire the benefits of the law and express that desire to the authorities before the bill becomes operative upon anybody.

The difficulties seen by the Senator from Alabama do not appear to me. I believe the President is going to be practical in his construction of his duties and powers under this bill; I believe he will not consent that the law shall be placed over a tribe of Indians not prepared for it and where difficulties will be produced by its operation; and I believe that every question suggested by the Senator from Alabama will be met and solved by the laws of the States and Territories where the Indians and the lands are. I do not wish to see the bill encumbered with anything of this sort. This is a general bill, simply outlining a general policy, leaving to the laws of the States and Territories where the Indians are a great deal to do. If we attempted to exhaust the subject here we should have very much more to do than to consider the amendment offered by the Senator from Alabama.

We are simply trying to prepare the Indian for citizenship, not forcing him to take lands in severalty, not requiring by an iron rule that this law shall be placed on every tribe of Indians, whether it is applicable or not; we are simply vesting in the President of the United States a sound discretion to do the things provided for in this bill when, in his judgment, it is wise to do them, and when the Indians are civilized enough to desire them done. That is all. We do not believe that the President is going to enforce this bill if it becomes a law in a way to operate harshly upon the Indians, or raise questions that are insolvable either by Congress or by the courts of the States and Territories. We believe that the President will be discreet, that he will understand the purpose of the bill, which is to do the best we can toward preparing these Indians for the duties of citizenship, and that he, too, will do the best he can, seconding the efforts of Congress, to relieve the Government of the burden of their support at as early a day as possible by making them self-supporting, by placing them on the highway to the result which all of us desire to see accomplished in advancing the Indians toward civilization, the acquisition of property, self-reliance, and self-support.

Sir, the difficulties pointed out in this bill by gentlemen who oppose it are innumerable, but I can see none of them. If it is an unwise bill the President will not execute it; he will not enforce it. If it brings hardship to the Indians they will not accept it, and their consent is necessary. The President must believe that the bill will advance the interests of the Indians, and the Indians must consent before there will be anything done. The President must believe that the laws of the States and Territories where the Indians are who propose to accept this bill are ample for their protection, and that the laws of alienation and descent, and all other laws, are such as the Indians can live under and ought to live under. All these things must concur, and when they do all will admit it is best for both the Government and Indians that the allotment should be made as the bill provides.

Mr. MORGAN. Mr. President, I regret very much to differ with the Senator from Texas in regard to the bill. He surely ought to understand it better than I do, but he either misunderstands its purport or I do. Now, the Senator from Texas says that whenever the President executes this law it is to be submitted to the particular tribe to be affected for their ratification, and whenever he thinks that the laws of descent of any State or Territory will be proper for the Indians the President will submit this act for the ratification of the Indians, but that the Indian cannot be compelled to ratify it, but they will do it willingly. The Senator says the Indians will never ratify the act by the concurrence of two-thirds of the male members as long as they see the difficulties in the way which I suppose will be encountered in proceeding to put it into execution. Now, to the first proposition let us see what the ill says, for I have no doubt at all of the good intentions of the Senator from Texas and of the committee; but I must take the bill by its language and not by any intent that may be locked up in the mind or heart of Senators. Here is the language of the bill on which the President puts his proposition before the Indian tribe:

> The President be, and he hereby is, authorized, whenever in his opinion any reservation of such Indians is advantageous for agricultural purposes, to cause said reservation to be surveyed or resurveyed, if necessary—

and to locate the Indians by heads of families and individuals upon that reservation.

Mr. COKE. Will the Senator read the ninth section?

Mr. MORGAN. The ninth section is that the law shall not have any operation and effect at all until the Indians act; and taking the Senator on his own understanding of his own bill, he said awhile ago distinctly that this bill authorized the President, whenever he thought it was to the advantage of the Indian tribe, in reference to the capacity of that Indian tribe to seek civilization, to execute this law by tendering it to the Indians for their ratification. The language of this bill is not that. It is that "he is hereby authorized whenever in his opinion any reservation of such Indians is advantageous for agricultural purposes." The President in the enforcement of this law looks at the condition of the land, and not at the condition of the Indian. If the reservation upon which the Indians are located contains agricultural land, then the President is bound to put the proposition before the Indians if he is of that opinion, but it says not one word about their condition in reference to civilization, their education, their religion, their progress in social institutions. It all depends entirely on the value of the lands, and whether they are adapted to agricultural purposes; and yet the Senator from Texas understands so little about his own bill that he gets up and gravely informs the Senate of the United States that the condition on which the President is to put this law in operation is the condition of the Indians and not the condition of the land.

Mr. COKE. The Senator from Alabama will allow me to suggest that the matter is by the bill left entirely to the discretion of the President and the consent of the Indians.

Mr. MORGAN. Then I am incapable of understanding that part of the bill, and I think every Senator on the floor is bound to agree with me that there is but one condition-precedent in this bill, and that is not the situation or condition of the Indian tribes but the condition of the land in reference to its advantages for agricultural purposes, and that only.

The Senator proceeds further and says that the President is also to judge before he tenders this law to the Indians for ratification whether the laws of inheritance of the respective States and Territories, where this land may be found, are suitable to the Indian tribal or family organization. I do not find any such privilege or condition as that in this bill in reference to the President, and it is the first time that the idea ever occurred to me, and it seems to me that it is entirely a distortion of the purposes of this bill to assume that it has any such meaning in it. Let any Senator point out the language which makes it one of the conditions upon which a tribe is to be tendered the opportunity of ratifying or disaffirming this law that he shall be satisfied with the laws of inheritance and descent of the particular State or Territory in which the Indian is found.

Mr. COKE. The Senator will allow me to say that I have given a construction to the language of the bill which I believe it is fairly susceptible of.

Mr. MORGAN. But the Senator puts upon the language embodied in this bill a construction which is a matter of legal impossibility. He says the President shall determine whether, in his opinion, the laws of descent of the particular Territory or State are equal to the protection of the Indian family before he shall submit this law for ratification to the Indian tribes. I have found no langnage in the bill that hinted at such a power as that.

Mr. BUTLER. The Senator will allow me a moment. May I ask him why Territories cannot regulate this matter of descent after we turn over the Indians to their laws?

Mr. MORGAN. For the reason that you convey a fee to the head of a family, and you subject him by the bill itself whenever he receives a patent for his land to the laws of the particular State or Territory in which he may be found. That is what the bill accomplishes; and it is too late, after we have yielded up the whole subject by transferring this man to the jurisdiction of the States and Territories in reference to the laws of inheritance and every other law, then to commence congressional action for the purpose of reversing that which you have done. What I complain of about the bill is that we are hurrying into a system that is ill-digested, that is not understood, and that cannot be explained, for various efforts have been made on this floor to explain it, and no Senator has succeeded yet in making a reasonable explanation.

The Senator proposes, he says, by an amendment which he has not offered yet, to pick up some State around there, the State of Texas, or Arkansas, or Missouri, or Kansas, and provide that the laws of inheritance and descent in one or the other of these States as he may select shall become the law of inheritance and descent for Indians within the Indian Territory. There is a body of land, a great deal of it, very fertile, larger than some of the largest States of this Union, about as large as three or four very respectable States in point of area. Now let us see what condition we have got ourselves into as to that Territory when such an amendment is adopted. I will take the laws of Kansas and I will ask the attention of the honorable Senators from Kansas while I ask them a question. Is there any law in the State

of Kansas which provides for the disposal by descent or inheritance of land in favor of the wives of a man who has more than one wife?

Mr. INGALLS. If the Senator asks me that question, I will state that I do not know an instance in the State of Kansas of a man that has more than one wife.

Mr. MORGAN. I believe the State of Kansas is living up to all its other privileges.

Mr. INGALLS. The intention of her citizens is to avail themselves of all their privileges as far as they know them; but to answer the Senator seriously, there is no law on that subject that I am aware of in Kansas.

Mr. MORGAN. Nor is there any law in Missouri, or Arkansas, or in Texas to that effect. Then when the Senator from Texas selects a State which he intends to make the State whose laws shall regulate the inheritance of this Indian land in the Indian Territory, we have a large body of Indians there, numbering, I believe, some sixteen or eighteen thousand, many of whose men have two, three, four, or five wives. You go to the Indian with your proposition.

Mr. COKE. The bill as it is now may possibly not cover the Indian Territory in that regard, and does not provide as to Alaska; and so they would have exactly the same law as they have now.

Mr. MORGAN. What is the law of inheritance in the Territory of Washington? I cannot recite the particular law; I do not know that they have got any; but all they have is subject to be repealed by an act of Congress in that Territory or in any other organized Territory of the Union. The necessary effect of this bill will be this, if it is passed in the form in which it has come from the committee: when you locate a man as the head of a family on a quarter-section of land which may be within the borders of a State, whether it is New York, North Carolina, Nebraska, Kansas, or wherever else it may be, and that man dies, his family relation is totally dissolved by the law of that State as an illegitimate union; his children are deprived of all inheritance of blood, except perhaps the children of the one marriage, and you destroy the family relation in your attempt. It shows the impracticability of undertaking to thrust upon the Indian by an act of Congress civilization in a wholesale way.

The committee understand now the difficulty which appears in reference to the Indian Territory, but they seem to have been so dead in love with their bill that they would not look at anything that criticised it in the slightest degree. The honorable Senator from Texas consented to the amendment of the Senator from Missouri not knowing at the time, not thinking at the time that the bill could have a possible imperfection, even when pointed out by the honorable Senator from Missouri; but it has a great many.

The Senator from Texas speaks about the ninth section of the bill, a clause which I shall move to strike out, and why? Upon great constitutional grounds as well as upon plain grounds of public policy. What is the ninth section?

SEC. 9. That the provisions of this act shall not extend to any tribe of Indians until the consent of two-thirds of the male members twenty-one years of age shall be first had and obtained.

We solemnly enacted this into a law governing the policy of the United States in reference to Indian tribes. At the moment that this law is enacted we find Indians in States and in Territories also, and in unorganized territory, in the possession of land. These lands are held by them under treaty stipulation and also under acts of Congress ratifying and confirming treaties. Who can take the title away from them? Nobody but Congress. Do you take it away by this bill? Certainly you do not until they ratify the act. What else do you do in reference to it? You confirm them in their title until two-thirds of the Indians shall consent to give it up. I do not believe there is a lawyer in the United States who upon a careful examination and consideration of this bill would differ with me upon that proposition in connection with it. Here is a grant of land made by act of Congress and by treaty to the Indians and they hold and occupy it until Congress shall otherwise direct, and Congress comes in and says that it will not otherwise direct until two-thirds of the male members of each tribe shall consent that it shall otherwise direct. Putting these enactments together and considering them *in pari materia*, it seems to me to be impossible to hold otherwise than that this is a proclamation of a grant to the Indians in perpetuity until such time as two-thirds of the male members of each Indian tribe entitled to a reservation shall give their consent to give it up.

There is another thing about this. Congress some years ago undertook a complete revolution in its policy of regarding the Indians as tribes with whom treaties could be made. There was a solemn enactment passed by the Congress of the United States that hereafter no Indian tribe should be considered in any sense such a tribe, or such a nation, or such a State that we could entertain treaty relations with that tribe. This was a revolution of the policy that had been pursued in this Government from its foundation, for I think the honorable Senator from Kansas said the other day there were more than five hundred treaties now standing, more or less, in force that we had made with them since the organization of this Government.

Having abandoned entirely the treaty-making power, what else do we do? We proceed not by negotiating with the headmen of the tribe, but with two-thirds of the men twenty-one years of age and upward, recognizing their tribal relation, recognizing their tribal rights in this very bill. There is here no dissolution of the tribal relation; there is here no control of it. There is here a most emphatic and a most explicit recognition of it. While we no longer treat with the headmen of the tribes under the treaty-making power, to be ratified and confirmed by the Senate, we enact laws in the nature of contracts to be made with a majority or two-thirds of the men twenty-one years of age and upward, and these laws are to have effect on the Indians until this majority vote and say they shall not have effect. If there ever was the elevation of a race of people into a condition where they could make treaties with you, it is in the very body of this bill, and it is an entire reversal of the policy that we fixed when we said to the country, "Hereafter we will make no treaties with Indian tribes."

What is a contract with an Indian tribe? Is it anything else than a treaty? Unless you get every member of the tribe to sign it, it is no contract at all in the ordinary sense of the word, because there are parties to it who are not bound to it by their voluntary assent. A contract is an agreement entered into between two or more consenting minds upon a consideration. You have got here an agreement made with a tribe of Indians represented by men who are twenty-one years of age and upward; the women are not represented at all; and yet they are the owners of a large part of the Indian property. The widows who may be heads of families are not represented; the boys or young men under twenty-one years of age are not represented; and yet these young men constitute, as we know, in Indian government a most important part of the whole tribe. They have more to do with the control of Indian government than any other branch of any tribe. These are not consulted; the children are not consulted. One-third of the men may vote against it, and if they are voted down two-thirds of the male members of the tribe twenty-one years of age and upward can take the property of the rest of the tribe and dispose of it absolutely, and they can give their consent or withhold their assent to the power of the Government of the United States to enact laws to bear upon them.

Mr. COKE. Will the Senator yield to a question?

Mr. MORGAN. Yes, sir.

Mr. COKE. Is not the title to Indian land now in the Indians in the political community or tribe?

Mr. MORGAN. No, sir.

Mr. COKE. Then it is in the individuals.

Mr. MORGAN. Not at all. If it is I have read the decisions of the Supreme Court of the United States in vain. There is but one case in which it has ever been so held, and that was the case of a treaty which expressly said that the fee-simple was conveyed by the Government of the United States to the Indian tribe. I refer to a case in 17 Wallace. In the Cherokee case that point was raised in the Supreme Court of the United States. Because the treaty stipulation contained a provision that the Indian should have a patent to the land it was held that the fee-simple had been conveyed by the Government; but where you merely locate an Indian tribe upon a reservation and do not in the treaty or by an act of Congress make them a grant of the allodium or fee-simple to the land their title is only a title of occupancy; and the Government of the United States not only has the right to move them, but there is a law standing on the statute-book, which the chairman of the Committee on Indian Affairs certainly ought to know, that where an Indian tribe located upon a tract of land as a reservation, it makes no difference by what solemnity of treaty engagement, engages in hostilities against the Government of the United States, the President, without more, without the action of Congress or of the judiciary, has a right to dissolve the tribal relation and remove the Indians from it. No, sir; there never was a greater mistake than that suggested by that honorable Senator that the title to these lands belongs to the Indians of this country.

Mr. COKE. I have referred to the fact that under the decisions of the Supreme Court the title to Indian lands is vested not in the individuals but in the political community designated by the name of tribe, and that the individuals have no more right to the land and no more title to any portion of that land than a citizen of the United States has to any portion of the public lands.

Mr. MORGAN. The title to an Indian reservation, whatever it is, is invested in the tribe and not in the individual; but the next question arises, what is that title? Unless the Government of the United States has relinquished to the Indian tribe the title in fee it is only a title of occupancy. That is the sort of title it is, and all reservations (unless perhaps the reservation in favor of the five civilized tribes) granted to them by treaty or by an executive order, are held by the Indians not as owners of the fee-simple but they are held by the Indians by a title of occupancy which we can reverse at any minute in the world. It is only a question of morality, a question of good faith on our part, whether we will remove them or not. Here stands a law on the statute-book which declares that whenever they commit hostilities as a tribe against the United States of America the President shall dissolve the tribal relation and remove them off the lands and take from them all the benefits, annuities, and everything else.

Now, it is proposed to take men who are in this attitude under our laws, and whom we are trying to civilize, and to erect them into tribal communities of that degree of power and dignity so as to enable them to check the power of the Government of the United States, until two-thirds of the male members twenty-one years of age of each tribe shall consent to the enactment of our laws. Why, sir, here are laws on the statute-book that relate to the Indian in every pos-

sible phase, form, and condition in which he can be found—criminal laws; laws disposing of property and life; laws which take property out of his hands and put it into the hands of an agent for sale; laws sequestering certain species of property for sale, and putting the proceeds of it in the Treasury of the United States; laws that reach every Indian in the nation, and hold him more a slave than a man, a thousand times. Look over the statute-book of the United States, and for years and years we have been enacting them, and never did we think it was necessary to get the consent of an Indian tribe that these laws should go into effect. But now it seems to be necessary to get their consent that this law shall go into effect. Why so? It is because the grasping hand of power, which like a good many other things has not been seen by the Senator from Texas—for he says there is not a thing I see that he can see—it is the grasping hand of power which undertakes to say that an Indian hereby shall be brought in contact with the law, so that by some slippery operation their lands may be secured. It may be that the Indians will consent to its going into effect, and say what lands they will receive or what lands they decline to receive, and then the unallotted portion of their land is to be sold; or if a whole tribe refuse to accept the allotment, and yet consented to the enactment of the law, what becomes of the land? It may all in that way get into the hands of one man in this country, so that he may have the power not merely to control the Indians, but the power to control the movements of population throughout the West.

Senators may not see it. I do not expect from what I say to induce them even to look at it, but the time will come when they will see it. The time will come when they will find that they have lent themselves to the most pernicious system that was ever invented in the land.

No, sir; if we expect to move in the government of the Indian, let us move like a Congress and not like suppliants at the wigwams of these different bands for consent to govern them. When the Indian understands that you intend to govern him and provide proper rules for his action, which he must observe, then you have made an advance toward his civilization which is worth all the powder and shot you have thrown away on him for one hundred years. When you legislate for him, legislate for him, and let him understand that, like myself and every other man in this country, he must bow to the constitutional authority of the law-making power. The moment he gets to understand it, he is a half-civilized man. There are more than five hundred different tribes in the United States, each with a different law. You organize your government of agents and commissioners; you draw upon the Treasury year after year for money to supply them with traveling expenses and salaries and outfits; you go to the camp of the Indians congregated on the bank of a river or a creek or a plain somewhere; you submit this act of Congress; you undertake to explain to the Indians that which the Senators themselves do not understand—the true construction of the law. You want to induce them to accept it. You want to get two-thirds of the Indian men of the particular tribe to accept a law before it can become an enactment. How long will it take to carry such a law into effect in this country?

You send out agents for the purpose of getting the consent of the Indians, and then you will have cases coming back upon you like the case of the Ponca Indians, where the Secretary of the Interior has to come out before the world and acknowledge that the Indians were deceived. They rightfully held lands under a treaty, but they were taken from the Niobrara and carried down to the Indian Territory, and the excuse that is made for it is that the agents who were sent there to negotiate with the Indians came back and reported that they had got the consent of the tribe to go; and, Mr. President, a broader and a deeper falsehood than that was never uttered by mortal man. But these slippery fellows, who wanted to make money out of the Indians, came back and reported that they had got their consent, and then they were hauled as captives, first the chiefs, and then the tribe, down to that Territory, and there they were imprisoned, and there they are imprisoned to this day, and the Secretary of the Interior has been apologizing as well as he could to the country for it from that day to this.

So in regard to all these other tribes or many of them; the same story will be repeated. The Indians, some few drunken fellows or some men bribed with beads or tobacco or knives, will say: "Why, we are ready to treat with our Great Father," or our great grandfather, or our great grandmother, or somebody else who is great and grand—"we are ready to treat with you." Then they and the agents sit down and talk; the presents are brought to the Indians; their pockets are filled with a little *douceur;* and then they are ready to treat. Treat about what? Whether this law shall become a law or not. Enacted by Congress, approved by the President, it is no law until the Congress of the United States has invited the Indian chiefs to become parties and two-thirds of them say it shall be a law. There is not one particle of the enactment in all the system of law brought you by this committee that can become a law until two-thirds of the Indians have consented to and ratified it.

Sir, if you progress in that way toward the control of Indians by the authority of written laws, you will be a century making the slightest impression upon them. Those men of the Indian tribes who are conservative and who are looking to the interest and welfare of their families, will say this to you: "True you present this law to me to be ratified; can you remove us from off this territory?" "No; the law itself says we cannot do it." While this law is not operative on a particular tribe of Indians, it becomes a law nevertheless, and a law which controls one class of Indians absolutely and without their consent.

Turn to the fourth section of this bill. There it provides for Indians not residing on reservations, and gives them the right to select land in any State or Territory of the American Union whether the lands there are surveyed or unsurveyed. If you will look at that fourth section of the bill you will see that the law will govern Indians who do not belong now to particular tribes, and they are provided for with homesteads and the right of entry on lands with no charge for office fees or anything of the sort, to a degree that rises far above the privileges of any white man in the United States. There is no condition about that section. If it is enacted it becomes a law to these Indians, and all the lands that are provided for in the fourth section are given away to these Indians upon the terms and conditions therein mentioned. And I invite Senators to turn to that fourth section of the bill and see how far this bill becomes operative even without the consent of two-thirds of the tribe where they are not on reservations, and then they will see something about the harmony of the bill; then they will understand the principle of the bill which will not admit of the slightest criticism here without giving offense to Senators.

Now, Mr. President, though I get no credit from some quarters for the candor of my statements, I want to make provision of law by which the Indian shall receive land in severalty, believing that that is the best means of giving him a start toward civilization, and knowing as well as the Indians now know that through that means and that agency alone are they to be expected to take a start to retrieve themselves from the unfavorable position in which they are found to-day. Knowing that they have no other resource left; knowing that they are surrounded on every side by powerful communities; seeing the light of civilization and its dazzling examples glittering before their eyes continually, they may be induced and will be induced by thousands and tens of thousands, as I hope in a short period of time, to accept so much of civilization as shall relate to the culture of the soil, the raising of stock, and other descriptions of useful property; and that is the starting-point in the civilization of every man. It is to teach him to support himself by the labor of his own hands and by the skill he possesses, whatever it may be, to maintain himself and his family. But if you leave it to the headmen and chiefs and influential men of the Indian tribes to say when they will accept a system that dissolves their family relations, that bastardizes their children, that destroys their hope and power of inheritance, that makes them citizens of each State where they may be found in reference to all the duties and obligations and burdens of citizenship without conferring upon them the rights of citizenship there, and which at the same time, under the amendment which has been voted down in this bill, denies them the rights of citizens of the United States—when you bring this measure before these Indians and tell them that they can accept that or else live on their reservations with their lands in common as their religion teaches them to do and as their experience of hundreds of years has taught them to do, you will not get a two-thirds majority to adopt your bill; and then all this structure will fall to the ground, not because it is not right, not because it has not engaged the attention and the votes of the Senate and House of Representatives and the approval of the President of the United States, but because merely ninety Indian men out of a tribe refuse to let it become a law.

Sir, your progress in government, if these are the steps you are taking, will be a progress that will realize nothing but disaster in time to come. This bill cannot be executed, and the honorable Senator from Texas to-day apologizes for it before the Senate by saying that if the bill did not go into effect it would not do any harm, or words to that effect, and it would be a harmless measure. Have we been engaged here for a week in the debate of a measure that is to be harmless, that the President can enforce or not enforce, as he pleases? What does the Senator from Texas mean the Senate to do for the public welfare, to organize itself into a mere debating society, and conclude with a resolution that is of no more effect than the resolution of a debating society? We pass a bill on the recommendation of a committee that may never become a law, and therefore cannot do any harm!

Only last year that celebrated Ute bill was passed which has a provision for a two-thirds ratification; and the honorable Senator from Colorado, [Mr. TELLER,] the day this debate opened, virtually called for the report of the Ute commission, a commission that has been in operation now for nearly a year in the Ute Indian territory for the purpose of getting the Ute Indians to ratify a law that contained the same provision as to its ratification.

Mr. COKE. I have had an interview with the Secretary of the Interior on the floor of the Senate Chamber, and he has authorized me to say that there is nothing in the reports or correspondence of the Ute commission which would have the slightest weight whatever against this bill.

Mr. MORGAN. Yesterday evening the honorable Senator from Colorado introduced a resolution, and the Senate adopted it, requiring the Secretary of the Interior to lay that information before this body.

Mr. COKE. He will do it.

Mr. MORGAN. But he has not done it, nor will he ever do it until the debate on this bill is over. The Ponca commission that went down to investigate the condition of Ponca affairs has not yet reported, and will never report while an argument can be drawn from their action and transactions against this pet policy of the Secretary of the Interior. A man who does not know as much about Indians as the honorable Senator from Kansas, a man who was raised in a country that does not know what an Indian is, after a brief experience of one presidential term, and after having committed a blunder if not a crime in the case of the Ponca Indians, for which he has been apologizing and excusing himself from that day to this, withholds the information due to the Senate, and comes and communicates to the chairman of the Senate committee that in the opinion of the Secretary of the Interior everything is all right in the Ute bill and its execution. I do not believe that the statements of the honorable Secretary will be justified by the evidence in that case when it comes to be examined by a committee of the Senate.

Mr. COKE. The papers will be sent to the Senate.

Mr. MORGAN. I do not want to vote on this bill until I see that report and get that information.

Mr. EATON. You never will.

Mr. MORGAN. I am afraid not. I am afraid I shall not live long enough to see it. But, sir, that was a small dose of the immense bolus of physic that is now being administered to this country; that only related to the Ute Indians and the State of Colorado, and they then said that was the one measure which was necessary to prevent war and to enable the Indians to get land in the country. They have tried that policy. This bill has been put to a severe test by this arrangement. Now we are asked to swallow the whole affair and make this law universally applicable to every Indian in the United States, even in Alaska and the Indian Territory, while the Secretary of the Interior does not deign to inform us, though the resolution of the Senate has been passed, what he has done under that bill, how much it has cost, what Indian has been located under it. I would ask the honorable Senator from Colorado, for it is in his country, if he has heard that any Indian of the Ute tribe has ever yet been located under the bill we passed last year?

Mr. TELLER. I would say that none have received allotments. I said the other day the prospect was no better for their location now than it was when we passed the bill.

Mr. ALLISON. The preliminary provisions of the treaty have not been complied with yet. It is impossible for any location to be made.

Mr. TELLER. Why not?

Mr. MORGAN. Does the Senator from Iowa call it a treaty?

Mr. ALLISON. To gratify my friend I will call it an agreement.

Mr. MORGAN. I supposed the honorable Senator was consulting his own convictions about it. He calls that a treaty which is an act of Congress, which would become a bargain when agreed to by the Indians.

Mr. TELLER. I should like to ask the Senator from Iowa what preliminaries he refers to? The treaty has been signed; the money has been paid; I do not know what more is to be done. The Indians are still there, and if they are ever moved it will take the Army to move them.

Mr. MORGAN. The Indians are to have their land after they are removed.

Mr. HILL, of Colorado. If the Senator from Alabama will allow me one moment, I should like to make a remark on that point. I have stated on this floor, in explanation of the reasons why the land has not been allotted to the Ute Indians in severalty, that before those provisions of the treaty could be carried out which were required in advance of the allotment of the land winter had set in. I have stated that the commission who were to go out and take a census of the Indians and provide for the payment of the money did not reach there until August or September. The delay was caused by the opposition to the passage of the bill. It should have passed last February, but it did not get through until the 15th of June. That alone accounts for the failure to remove the Indians thus far.

No one knows better than my colleague that it would be impossible to move these Indians in the heart of winter. Surveyors cannot go out to select lands and survey them with four or five feet of snow on the ground. It was the lateness of the passage of the bill that prevented the land from being allotted to the Indians, as was contemplated, last summer.

Mr. MORGAN. I will ask the Senator from Colorado what time did they get the treaty to the Indians for their signatures?

Mr. HILL, of Colorado. I do not know the exact date; but I should think it was not earlier than October.

Mr. MORGAN. If it took from June to October to get one tribe of Indians to consent to an enactment of this character, how long will it take to get five hundred to consent?

Mr. HILL, of Colorado. I wish to say further, in answer to the Senator from Alabama, that when the census had been taken and when the Indians had signed the agreement—not two-thirds, as he stated, but three-fourths had signed the agreement—then a certain amount of money was to be paid them. That was provided for in the agreement, and it took time to get the money there; and I assert that it was on account of the time required to carry out these provisions of the Ute bill that no lands have been allotted.

Mr. TELLER. If the Senator from Alabama will yield to me a moment, I think I understand something about this Ute business. On the 15th of June we passed the bill and it was approved by the President. There was no reason why the commission should not have been upon the ground in ten days, and if the Indians were prepared to do what it was asserted here again and again upon this floor by authority of the Secretary they were prepared to do, the treaty ought to have been signed in fifteen days more.

Mr. President, the money that was sent there to be paid to those Indians was their money and had been due them and unjustly withheld by the Secretary of the Interior for more than four years. It was their money that he sent there to be paid. It was not our money. It had been due and had lain in the Treasury ready to be paid whenever he made an order to pay it, and he ought to have sent with that commission this money to have been paid to the Indians.

And, Mr. President, after the treaty was signed by these Indians—and it was not in October; my colleague is mistaken; it was earlier than that that this treaty was signed—after the treaty was signed and before the money was paid, the commission must go to the city of Denver and remain there for some considerable time waiting for this money to come out to be paid to the Indians. Now, Mr. President, they have succeeded in getting the agreement signed. I believe an investigation will show that it was signed under peculiar, not to say not very creditable circumstances, and I have not the slightest doubt that time will demonstrate the correctness of my supposition on that point.

The commission that was sent have never yet located an Indian upon the land that they were to go out and look upon, with the exception of the land on the La Plata, and they do not know to-day, except as they get it from hearsay, whether it is a suitable place to put the Indians or not. No order has been made for survey; no effort has been made for survey. When the money was appropriated we were told that they were to go there immediately and that the whole thing was to be settled.

I said that they had not brought peace to Colorado, and I say here now, and the whole people of the State will sustain me, and every officer of the Government who is honest and whose attention has been called to it will sustain me, that but for the presence of United States troops after the treaty was signed there would have been open and flagrant war between the white people of that State and the Indians, and not begun by the white people either. My colleague knows that fact, everybody knows it in the State, that but for the troops that were at Los Pinos and the troops that were at Fort Lewis and the troops at Fort Garland there would have been open war after the treaty had been signed by three-quarters of these Indians.

I said the other day, and I repeat here again, that there never was such a farce on the face of the earth as there is in procuring the signature of a common Indian to a treaty. He has not the slightest knowledge of it. In 1877 we sent out a commission to Colorado to treat with them, and the commission went there with the instruction from the Secretary to pay them the money that was due them, provided they would agree to sign the treaty, and if they would not agree to sign that treaty, to withhold and keep the money and return it to the United States Treasury—money that was due them by the solemn obligation of this Government. This was one of the great troubles we had with the Ute Indians, that the Secretary of the Interior (who now assumes to be the champion of the Indians, and whose friends are ready to decry any man as the foe of the Indian who does not sympathize with him in his sentiments upon this question) withheld their money; and it was that same Secretary who said to his commission, "Pay this, provided they sign the treaty; and if they do not, you return with their money in your pockets, and you put it back into the Treasury."

Mr. President, no man can say honestly whether this treaty will be a good treaty or not; but certainly nothing has happened, nothing has occurred, nothing has come out of it that will justify any man in saying on this floor or anywhere else that it is a success or that it promises to be a success. If it promises anything it promises to bring on the Indian greater troubles and on the whites greater troubles than we have had heretofore. That is what I am satisfied will be the result of that treaty and nothing else.

Mr. MORGAN. Mr. President, whatever else has taken place in reference to the execution of the Ute treaty, this one fact must be admitted, that if the purpose of that treaty was to locate Indians in severalty on the public lands, no part of that purpose has yet been accomplished. I think we should have had all the information which can be derived from the action of the Government in its effort to locate Indians under that bill upon the public land for the purpose of being the better able to understand what will come of this measure after we have enacted it. That is my complaint against the action of the Government in reference to the information that ought to have been sent to us from the Ute country.

The honorable Senator from Colorado says the Indians are there yet and he very much apprehends that they will remain there until they are removed by force. Then what becomes of the proposition that the Indians have ratified this treaty in order to get upon agricultural lands? I suppose it is extremely doubtful, extremely debatable whether the lands to which they are to be carried are equal to those from which they are being carried in respect of the advantages of agricultural location. But if the Indians have signed that treaty as it is called, or that contract, it is not in reference to the

obtaining of land in severalty at any location for themselves, but it has evidently been with reference to obtaining the ready money that was to be paid to them for that consideration. I remember distinctly well that in that bill we were to pay Ouray a thousand dollars a year as salary—the chief of an Indian tribe paid by the Government of the United States a thousand dollars a year salary—for what? For nothing else than to get his influence to persuade the Indians to sign that contract. That is part of the farce the honorable Senator from Colorado speaks of, and very justly, too, in reference to getting the Indians of any tribe to sign a contract with the Government under an act of Congress. There are not many Indians in the United States who can understand a contract when submitted to them, who can understand all the provisions of this enactment of Congress, and certainly very few if any of them will be able to understand for a long time to come the legal effect of the provisions relating to the family and relating also to the descent of the title to this land upon their posterity after they are dead. Whatever Indians may be obtained to consent to an enactment of this kind will be influenced by such measures as the Government can bring to bear on them to control them in their action, and I fear very much that they will not be influenced by a desire to hold their lands in severalty. That is what I desire to accomplish under the bill, to have the Indians make this start toward civilization by getting homesteads in severalty, and I do not think it is wise to put it in the power of two-thirds of a tribe of Indians to say to one-third "you shall not have your land in severalty."

Now let me ask, Mr. President, how you are going to locate an Indian on one of these reservations on land in severalty under this bill until two-thirds of the Indians of that tribe shall have consented that the bill shall become a law? It is about true that not more than one-third of the male members of any Indian tribe in the West are ready to-day or will be ready in five years from to-day to take land in severalty and go into the business of agriculture, go to hard work and labor. I think that we may very well count upon that fact. Suppose, however, there may be just a little less than a third that desire to do it, you have passed this law in Congress, you take it to the tribe and submit it to them, and they say "for certain considerations influencing us we will not consent that this law shall become operative on our tribe;" then the two-thirds who do not desire to engage in agricultural pursuits have the absolute power to shut out these men from taking land in severalty under this bill.

It seems to me that the ninth section of the bill is not worth anything at all. Strike it out, and let us legislate for these Indians as we would for anybody else under the control and jurisdiction of Congress by making laws for them that are wise and beneficial, and then compel them to accept them, and go on compelling them to obey them whether they accept them or not. There is nothing harsh in that, nothing cruel in that, nothing that is going to offend an Indian even, because they acknowledge now the supremacy of the Government of the United States, and they are not going to be offended with us if we in a wise, just, and prudent way exercise our power in their control.

I think that the honorable committee will do well to abandon that view of the case, to allow the Indians to become subject to the laws of the United States as everybody else is, for the proposition I state cannot be denied, that if we have the power to pass this law and put it into force by consent of two-thirds of the Indians of a particular tribe, you have the right to put it in force without the consent of two-thirds. I do not see how that proposition is to be answered as a matter of power and jurisdiction. If we have power to pass this bill at all we have the power to pass it, although we may not get the consent of a single Indian in the Territory, and the bill itself by conferring this power upon two-thirds of the Indians to nullify, to abrogate, or to refuse to allow this law to be put into operation, concedes the principle that Congress has the jurisdiction to legislate as it sees proper on this subject. I do not think there is any doubt about our power to do it, and I believe we shall subject ourselves to continual harassment and be continually disappointed in our hopes if we pass a law conditioned that it shall become a law only with the approval of the Indians.

But, Mr. President, the amendment that is under discussion relates to a different subject. The amendment will have to be adopted, it seems to me; before we can start a law of inheritance from the Indians at all we must annex a condition of that kind to the grant and put them in the line of civilization in reference to the descent of their property, and to do it we are compelled to reverse all the Indian traditions and tribal relations that exist between them in reference to the power and influence of the family.

Mr. HILL, of Colorado. Mr. President, I desire to say that any objection to this bill based upon the statement that the Ute Indian bill has proved a failure is at least very unjust. All the provisions of the Ute Indian bill have been carried out up to this time as far as it is possible to have done it. It is true no lands have yet been allotted, and the reason for that, as I have stated before, is that the work cannot be done in that certain part of the country in the winter. Time was required to accomplish the various purposes of the bill; that is, those which were precedent to the act of removing the Indians.

The law required that a complete census should be taken of these Indians. That census was not completed, I believe, until very late in the fall. I cannot state the exact date—perhaps my colleague can—but I know it was a late day in the fall. The money could not be paid till the census was taken. My colleague says this money was due to those Indians under former treaties. Perhaps it was due to them under former treaties. Nevertheless it was to be paid to them under the provisions of the act of Congress, and it could not be paid to them until the other provisions of the act had been executed. The result was that before the money could be taken from the Treasury for that purpose and sent to Colorado snow had fallen.

Now as to the matter of securing the signatures of those Indians; I was not present with the commission when the signatures of the Indians were obtained. I know nothing personally as to how they were obtained. My colleague has intimated that there was something wrong in the manner of obtaining the signatures. He was not present any more than I was when the signatures were taken. He has no other source of information than I have, and that is simply the report of the individual members of the commission. I have conversed with every member of the commission but one, and I never have heard it stated by one member of the commission that there was anything fraudulent or anything wrong or unfair in the manner in which this business was conducted. I have heard the statement plainly and unequivocally made by three of the commission that it was done with perfect freedom and fairness, and that no improper influence was brought to bear upon the Indians.

I do not know what further information my colleague can have upon that subject than that furnished by the commission, and I am very sure he cannot get any such information from the commission as he has indicated here. My colleague has alluded to the danger of an Indian war in Colorado, the danger which occurred last fall. I can state in a very few words all there is of it. An Indian was killed by a white man, a freighter on the road to the agency. That man was arrested. He was held in confinement at a house on the reservation. The Indians gathered around the house and demanded that he should be given up to them. The agent was there. Some of the members of the commission were there. There were several other persons present at the time. They refused to surrender him. Finally they agreed with the Indians that this man should be sent for trial to the town of Gunnison, and he was sent off in charge of four men. While on the road he was taken from the guard by the Indians. They seized him and carried him into the woods and shot him. Who is to be blamed for this proceeding I do not presume to say. The matter is in the courts now, and it will be tried there, and I hope the guilty party will be punished, whether he is an Indian or a white man. This unfortunate event created a good deal of excitement on the border; but what has that to do with the merits of this bill, or what has it to do with the general question of settling the Indians upon lands in severalty?

There has been a good deal said by the Senator from Alabama about the failure of the Secretary of the Interior to submit a report from the commission. When was that report called for? Not until just at the close of the session yesterday. I think at the very close of the session yesterday my colleague introduced a resolution calling on the Secretary for this report. He will make it. I have no doubt it will be here within a day or two. But what report can the commission make? They can only report what progress has thus far been made, and that will cover exactly the facts which I have stated here; the commission went to Colorado; they took the census of the Indians; they got the agreement ratified by three-fourths of them. The money has been paid, and there the matter rests. It remains now to remove the Indians to the place where the lands are to be allotted to them, and that will be done early in the spring, I have no doubt.

It is suggested to me by the Senator from Ohio that the resolution of my colleague did not reach the Secretary till this morning, and now it is intimated by a Senator that the Secretary of the Interior is guilty of some crime because he has not furnished the report of that commission when the resolution calling for it never reached him till this morning.

Mr. BURNSIDE. I move that the Senate adjourn.

Mr. WHYTE. I suggest to the Senator from Rhode Island that there are a number of nominations on the table.

Mr. BURNSIDE. Well, let us proceed to the consideration of executive business. I make that motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After forty-four minutes spent in executive session the doors were reopened, and (at five o'clock and ten minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 28, 1881.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

### CONTESTED ELECTION—YEATES VS. MARTIN.

Mr. SPEER. Mr. Speaker, having charge of the contested-election case of Yeates *vs.* Martin, I desire to come to some understanding with the gentleman from Massachusetts, [Mr. FIELD,] who has charge of the case as presented by the minority of the committee. I

desire to know how much more time gentlemen on the other side desire for debate.

Mr. FIELD. So far as I have any authority or any information, I will say that two hours more time for debate on this side is all that we desire. If any member has any objection to such a proposition, I hope he will make it now.

Mr. VALENTINE. I understand there are four gentlemen on this side who desire to speak on this question.

Mr. FIELD. I am not so informed. If the gentleman knows of four, I wish he would state who they are.

Mr. VALENTINE. The gentleman from Texas, [Mr. JONES,] the gentleman from Indiana, [Mr. CALKINS,] and I think there are two others.

Mr. SPEER. I am entirely willing to assent to the proposition of the gentleman having charge of the case on the other side, and if it is agreeable to the House, I will call the previous question at two o'clock to-morrow.

Mr. FIELD. After two hours more have been given to this side, whenever that may be.

Mr. KEIFER. I do not wish to interfere with the suggestion of the gentleman from Massachusetts, except that I have been notified of three gentlemen who wish to speak on this side.

The SPEAKER. Do they want an hour each?

Mr. KEIFER. I do not believe they want to speak an hour each; but I cannot say anything positively about that.

Mr. SPEER. The proposition of the gentleman from Massachusetts is entirely fair. I will say to my friend from Ohio [Mr. KEIFER] that three hours have been occupied on that side already, and only one hour on this side. We propose to call the previous question at two o'clock to-morrow, giving the other side the two hours additional which the gentleman in charge of the case says will be required.

Mr. KEIFER. Unless some of the gentlemen desiring to speak should object to that proposition, I will not object.

Mr. SPEER. Then I will call the previous question two hours after the reading of the Journal to-morrow.

Mr. O'NEILL. I object to the limitation of two hours.

Mr. McMAHON. It is not competent for the gentleman from Pennsylvania [Mr. O'NEILL] to object.

The SPEAKER. The whole matter is within the control of the House; but the respective parties in charge of the case have assented to two hours' additional debate on behalf of the minority report.

Mr. O'NEILL. I do not consider that they have absolutely accepted the two hours.

Mr. DAVIS, of North Carolina. I desire to make an inquiry. Was it not stated the other day by gentlemen on the other side that three hours would be regarded as fair time, and was not an assurance given by one gentleman on the other side that if such time were allowed there would be no factious opposition so far as his influence went?

The SPEAKER. It seems that a longer time than was originally contemplated is desired.

Mr. KEIFER. There was no agreement to the limit of three hours, I think.

The SPEAKER. So far as can be agreed, the understanding now is, as stated by the gentleman from Georgia, that two hours additional for debate will be allowed to gentlemen advocating the minority report, after which, the gentleman states, he will call the previous question.

Mr. KEIFER. In order that there may be no misunderstanding, I wish to state that, while I am not now objecting myself, there are other gentlemen who desire to speak and who may object to this limitation, though I think they can arrange to speak within the time indicated.

Mr. SPEER. I trust so, Mr. Speaker, because it was distinctly understood, when I consented to a postponement of this case for a day when it was first called up, that after ample time had been allowed for debate there would be no dilatory proceedings.

Mr. KEIFER. The statement of the gentleman is entirely correct; but I did state that we wanted a fair time for discussion, and that a fair time for discussion was so long as gentlemen in good faith desired to debate the question. I assent to what the gentleman has said in that respect.

Mr. TOWNSHEND, of Illinois. If no agreement is reached I hope the gentleman from Georgia will now call the previous question.

Mr. SPEER. I stand by my statement.

The SPEAKER. The gentleman from Georgia does not call the previous question.

Mr. SPEER. I do not call the previous question now; but I give notice (and I trust there will be no objection to this) that to-morrow, two hours after the reading of the Journal, I will call the previous question.

Mr. KEIFER. That would depend upon whether we have a morning hour to-morrow.

The SPEAKER. This question would take precedence of the morning hour.

Mr. SPEER. After two hours more have been given for debate on the other side, I will call the previous question.

The SPEAKER. The gentleman does not now claim the floor so as to interfere with the consideration of private business to-day?

Mr. SPEER. No, sir; I do not desire to antagonize private bills.

The SPEAKER. The Chair so understood.

ORDER OF BUSINESS.

Mr. COX. I rise to a privileged report.

The SPEAKER. The gentleman had better move, in the first place, that the morning hour be dispensed with.

Mr. TOWNSHEND, of Illinois. I make that motion; to dispense with the morning hour.

The SPEAKER. The Private Calendar is large enough without further additional reports from committees. The only effect of receiving reports in private cases from committees would be to place the matters where they could not be reached. The Chair thinks the hour had better be devoted to the consideration of private bills already on the Calendar.

The motion of Mr. TOWNSHEND, of Illinois, was agreed to, (two-thirds voting in favor thereof,) and the morning hour for the reception of reports from committees was dispensed with.

HALIFAX FISHERIES AWARD.

Mr. COX. I rise to make the following privileged report from the Committee on Foreign Affairs; which I ask the Clerk to read.

The Clerk read as follows:

*Resolved*, That the Secretary of State be requested, if not incompatible with the public interest, to communicate to this House all information in the State Department not heretofore communicated to Congress in reference to the Halifax fisheries award of $5,550,000 paid by this Government to Great Britain, and especially relating to the alleged fictitious statistics and perjured testimony imposed on the arbitrators, and upon which evidence the award was made. And also, whether this Government has taken any steps to procure a verification of the recently published statement of Professor Henry Youle Hind on this subject.

The resolution was adopted.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TORPEDOES.

The SPEAKER. There are several such resolutions which the Chair will now recognize, there being no objection.

Mr. TOWNSHEND, of Illinois. I send to the Clerk's desk a substitute reported by the Committee on Expenditures in the Navy Department for the resolution referred to that committee.

The SPEAKER. The substitute will be read.

The Clerk read as follows:

*Resolved*, That the Secretary of the Navy be, and hereby is, directed to communicate to this House any proposals which may have been made to the Navy Department for sale to the United States of torpedoes during the past two years, together with all reports which may have been made by officers of the United States Navy with regard to torpedoes. Also to inform the House what sums of money have been appropriated and expended for experiments with torpedoes under direction of the Navy Department during said period, and that he will communicate any other information on this subject not inconsistent with the public interest.

Mr. TOWNSHEND, of Illinois. I ask the adoption of the substitute in lieu of the original resolution.

Mr. O'NEILL. I object to that.

The SPEAKER. Under the rule the resolution has to be reported within one week.

Mr. O'NEILL. I understand that; but does it not require unanimous consent to consider it now?

The SPEAKER. Not to come in.

Mr. O'NEILL. Very well, then; I hope the gentleman will have better luck than I had, for the resolution I had referred to the Committee on Appropriations for the completion sufficiently of the post-office building in the city of Philadelphia to allow its occupancy for post-office purposes has been buried in that committee now for two or three weeks.

Mr. CONGER. The latter part of the resolution seems to provide that the information should be furnished if not incompatible with the public interest, but that does not refer to the other part of the resolution.

The resolution was again read.

Mr. CONGER. The gentleman will see there is absolute requirement there shall be a report on the first part, while the latter part provides the information shall be furnished if not inconsistent with the public interest. It seems to me the subject of torpedo experiment is a secret in the control of this Government, and ought to be kept so except so far as this House ought to have that information. This would require that information in regard to our torpedo system should be given the gentleman which perhaps ought not to be. Under the circumstances I hope the resolution will be amended by making the clause "if not inconsistent with the public interest" relate to the whole resolution.

Mr. TOWNSHEND, of Illinois. I am not authorized by the committee to accept any amendment; but I do not see any objection to the modification proposed by the gentleman from Michigan.

The SPEAKER. The Chair hears no objection, and the modification is adopted.

Mr. TOWNSHEND, of Illinois. I think the resolution accomplishes the same purpose now.

The substitute, as modified, was agreed to, and the resolution, as amended, was adopted.

Mr. TOWNSHEND, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SMITHSONIAN INSTITUTION REPORTS.

Mr. HAYES, from the Committee on Printing, reported back joint resolution (H. R. No. 364) providing for the printing of the Smithsonian Institution reports, and for other purposes, with amendments.

The resolution was read, as follows:

*Resolved, &c.*, That 3,000 copies of each of the reports of the Smithsonian Institution, together with the documentary history and journals and life and writings of James Smithson, with illustrations, be printed from the stereotype plates now in the Congressional Printing Office, of which 1,500 shall be for the use of the House, 500 for the use of the Senate, and 1,000 for the use of the Smithsonian Institution.

The amendments were read, as follows:

Line 4, after the words "together with," strike out "documentary history and journals and."

Line 8, after the words "five hundred," insert "and fifteen."

Lines 9 and 10 strike out the words "one thousand" and insert in lieu thereof "nine hundred and eighty-five."

The amendments were agreed to; and the joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HAYES moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASSISTANT TO JOURNAL CLERK.

Mr. HENRY. Mr. Speaker, I desire to make a privileged report from the Committee on Accounts. The committee report favorably upon the following resolution referred to them.

The Clerk read as follows:

*Resolved*, That the Clerk be, and he is hereby, authorized to employ for the remainder of the session one additional clerk, who shall be paid out of the contingent fund of the House the compensation paid to committee clerks.

Mr. DUNNELL. Where is this additional clerk to be employed?

The SPEAKER. At the desk, to assist the journal clerk, in consequence of the lameness of his hand by reason of constant writing. The report will be read.

The report is as follows:

The Committee on Accounts, to whom was referred a resolution authorizing the employment of one additional clerk in the office of the Clerk of the House for the remainder of the session, having carefully considered the same, respectfully report that the additional clerk here asked for is necessary on two grounds: First, an increasing pressure of work in the Clerk's office, always incident to the close of a session of Congress; second, the physical disability of the journal clerk by reason of what is known as pen-paralysis. The committee therefore unanimously recommend the passage of the resolution.

The resolution was agreed to.

Mr. HENRY moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE TO PRINT.

Mr. HUBBELL. I desire, Mr. Speaker, to ask unanimous consent to print some remarks in the RECORD upon the joint resolution regulating the count of the electoral vote for President and Vice-President.

There was no objection. [See Appendix.]

CONTAGIOUS DISEASES OF DOMESTIC ANIMALS.

Mr. WILSON. Mr. Speaker, I wish to make a privileged report from the Committee on Printing, on House joint resolution No. 362, referred to that committee.

The SPEAKER. The report will be read.

The CLERK. "Joint resolution (H. R. No. 362) to authorize the printing of 100,000 copies of the special report of the Commissioner of Agriculture, relative to diseases of swine, and infectious and contagious diseases incident to other domestic animals;" with amendments.

Mr. WILSON. Let the report be read, which will indicate the amendments proposed by the committee.

The Clerk read as follows:

The Committee on Printing, having considered the accompanying joint resolution to authorize the printing of an extra edition of the special report, No. 34, of the Commissioner of Agriculture, having considered the same, respectfully report it back to the House with the following amendments:

"In line 3 strike out the words 'one hundred' and insert in lieu thereof 'fifty;' in line 8 strike out '60,000' and insert in lieu thereof '30,000;' in line 9 strike out the word 'twenty-five' and insert in lieu thereof 'twelve;' in lines 10 and 11 strike out the words 'fifteen thousand' and insert in lieu thereof 'seventy-seven hundred.'"

These amendments propose to reduce the number of copies ordered to be printed one-half, and in the distribution to avoid any surplusage in the hands of any officer of Congress.

The cost of the publication of an edition of 100,000 copies will be about forty-two thousand dollars; of an edition of 50,000 copies the cost will be a little more than one-half of said sum.

The committee respectfully recommend the passage of the resolution with the above amendments.

Amend the title, to read "50,000 copies" instead of "100,000 copies."

The amendments were agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

PRIVATE LAND CLAIMS.

Mr. GUNTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate bill 818, to provide for ascertaining and settling private land claims in certain States and Territories, and ask that the same be referred to the Committee on Private Land Claims.

There was no objection, and it was ordered accordingly.

POSTAL LAWS OF THE UNITED STATES.

Mr. SINGLETON, of Illinois. Mr. Speaker, I ask unanimous consent to present the petition I hold in my hand, from 10,000 citizens of the United States, on the subject of the postal laws. The petition is brief and respectful, and I ask that it be printed in the RECORD without the names and referred to the Committee on the Post-Office and Post-Roads.

Mr. CONGER. What is that petition?

Mr. SINGLETON, of Illinois. It is in reference to the postal laws of the United States.

Mr. TOWNSHEND, of Illinois. The gentleman does not ask the printing of more than the petition; he does not ask the printing of the names.

There was no objection, and it was ordered accordingly.

The petition is as follows:

*To the Senate and House of Representatives of the United States in Congress assembled:*

1. The undersigned citizens of the United States respectfully but earnestly remonstrate and petition against any further legislation by your honorable bodies in the form of postal laws or otherwise, which shall have the effect to abridge the freedom of the press and of speech and the inviolability of the mails.

2. Your petitioners pray that the postal laws of the United States may be revised and limited to purely postal purposes and brought clearly within the Constitution, and that all attempts to establish a censorship and espionage over the mails, based upon the sentiments and meaning of the matter mailed, may be abandoned, and that all fines and imprisonment heretofore imposed under such laws may be repaid or relieved.

3. Your petitioners respectfully represent that their motive in signing this petition is not sympathy with nor a desire to further the evils against which those laws are ostensibly directed, and which your petitioners believe can otherwise be obviated, but from the conviction that those laws on the part of the General Government are dangerous in themselves, that they have been grievously abused, and that as precedents they plainly fall within the warning of President Madison:

"It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of the noblest characteristics of the late Revolution. The free men of America did not delay until usurped power had strengthened itself by exercise and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much soon to forget it."

Your petitioners therefore earnestly submit that those laws should be repealed or limited to strictly postal purposes, and that the criminal or other objects of government sought to be obtained by them should be attained by the ordinary course of governmental administration.

And your petitioners will ever pray, &c.

PRIVATE BUSINESS ON THE CALENDAR.

Mr. COFFROTH. I move that the House resolve itself into Committee of the Whole on the Private Calendar.

The House divided; and there were—ayes 92, noes 42.

So the motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the Private Calendar, Mr. HUNTON in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the Private Calendar. The Clerk will report the first bill upon the Private Calendar.

The Clerk read as follows:

A bill (H. R. No. 3784) to compensate Asa Weeks for his labor in perfecting torpedoes and torpedo machinery and the art of torpedo warfare for the sole and exclusive benefit of the United States and for other purposes.

Mr. MORSE. My colleague, [Mr. HARRIS of Massachusetts,] in charge of this bill, not being here, I move that it be passed over.

Mr. FINLEY. I hope that the bill will be passed over for the present.

There was no objection and it was ordered accordingly.

The CHAIRMAN. The Clerk will report the next bill upon the Calendar.

The Clerk read as follows:

A bill (H. R. No. 936) relinquishing the right of the United States to an island therein named.

MARK WALKER.

Mr. O'NEILL. I wish to ask a parliamentary question, Mr. Chairman. The committee rose on last Friday week, while we had under consideration a bill for the reinstatement of Mark Walker in the Army. Does not that bill keep its place upon the Calendar?

The CHAIRMAN. The Chair understands that the bill to which the gentleman from Pennsylvania refers will come up in the House after the committee shall rise.

Mr. O'NEILL. The Chair is under a misapprehension. The committee rose while that bill was under consideration without having ordered it to be presented to the House. I looked for that bill of course to be at the top of the Calendar to-day.

Mr. BROWNE. That bill I presumed was passed in Committee of the Whole, and has been reported to the House, and will not come up until we go back into the House.

Mr. O'NEILL. No, sir, that is not the case; the gentleman is mistaken. The committee rose while that bill was under consideration before it was reported to the House. I only wish that it had passed the committee. The bill to which I refer is House bill No. 249 for the relief of Mark Walker. The committee rose while that bill was under consideration, and of course under the rules I hold that the bill comes up first.

The CHAIRMAN. The gentleman from Pennsylvania is correct;

the bill to which he refers was not concluded when the committee rose at its last session. The Clerk will report the bill.

The Clerk read as follows:

*Be it enacted*, &c., That the provisions of law regulating appointments in the Army are hereby suspended for the purpose of this act, and only so far as they affect Mark Walker, late first lieutenant Nineteenth United States Infantry, and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate and, by and with the advice and consent of the Senate, appoint said Mark Walker, late first lieutenant Nineteenth United States Infantry, to the same grade and rank of first lieutenant held by him on May 13, 1878, and that the said Walker shall thereupon be placed upon the retired list of the Army, provided the same shall be recommended by the retiring board: *Provided*, That the acceptance of the provisions of this act shall be a waiver of all rights, present and prospective, under the pension laws of the United States.

Mr. ROBINSON. Let the report be read.

Mr. O'NEILL. The report was read and will be found in the CONGRESSIONAL RECORD, pages 648 and 649.

Mr. SPARKS. I ask that the report be again read.

The report was again read.

MESSAGE FROM THE SENATE.

Here the committee informally rose, and Mr. BLACKBURN took the chair as Speaker *pro tempore*.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, without amendment, bills of the House of the following titles:

A bill (H. R. No. 7029) to provide for a deficiency in the appropriation for interest on the 3.65 loan of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes; and

A bill (H. R. No. 6025) to establish an assay office in the city of Saint Louis, Missouri.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes; and

A bill (H. R. No. 4050) to divide the State of Louisiana into two judicial districts.

The message further announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 2096) to authorize the construction and maintenance of a railway bridge across the Niagara River;

A bill (S. No. 1905) changing the name of the First National Bank of West Meriden, in the county of New Haven and State of Connecticut;

A bill (S. No. 1843) to authorize the Secretary of War to grant the use of certain lands at Fortress Monroe, Virginia, for the erection of a hotel;

A bill (S. No. 159) to provide for the sale of certain portions of the Fort Leavenworth military reservation; and

A joint resolution (S. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug.

MARK WALKER.

The Committee of the Whole resumed its session.

The CHAIRMAN. The question is on laying the bill aside to be reported favorably to the House.

Mr. DIBRELL. When this bill was up for consideration on the last private bill day I moved to strike out the enacting clause. The report which has been read is an elaborate argument made by a claim agent in this city for the benefit of the claimant. No member of the committee has ever written such a lengthy report on that claim.

Mr. O'NEILL. I think that statement is a great reflection on the Committee on Military Affairs.

Mr. DIBRELL. The main question is whether Congress will put this man on the retired list which was created for the benefit of officers who have served for a long time in the Army of the United States or who have been disabled by wounds and disease contracted in the service; whether they will take a man who has been cashiered and dismissed the service for drunkenness on duty and put him on the retired list. The act creating the retired list limits it to four hundred. I understand there are on it now three hundred and ninety-nine, and the addition of this man will make the four hundred. The retired list costs the tax-payers of the country $900,000.

This man has been drawing a pension at the rate of $24 a month, and has been drawing that pension for some time. That is ample for a man who was tried by a military commission for drunkenness on duty, pleaded guilty, was sentenced by that commission to be discharged from the service, and whose sentence of dismissal was confirmed by the President. I think it would be a great outrage on soldiers placed on the retired list for meritorious service to have this man forced among them with equal rank, because he was dismissed from the service for having disgraced himself and the uniform he wore. I renew my motion.

Mr. WHITE. Will the gentleman from Tennessee allow me to ask him a question?

Mr. DIBRELL. Yes, sir.

Mr. WHITE. I was not present at the meeting of the Committee on Military Affairs, of which I am a member, when this bill was considered. Did I correctly understand the gentleman from Tennessee, my colleague on the committee, to say that this officer was tried by a military commission—regularly tried?

Mr. DIBRELL. Yes, sir. He was tried by a regular court-martial, pleaded guilty to the charge of drunkenness on duty, and was sentenced to be dismissed by the court-martial.

Mr. WHITE. Do I correctly understand that he receives a pension of $24 a month?

Mr. DIBRELL. He does.

Mr. WHITE. How did he receive a pension after dismissal from the service?

Mr. DIBRELL. I do not know. He does receive that pension. The report so states.

Mr. WHITE. Was the pension bestowed under the general law or by special act?

Mr. DIBRELL. I do not know.

Mr. HAWLEY. He got it through, being a volunteer, independently of the sentence of the court-martial.

Mr. BROWNE. I regret exceedingly the Committee on Military Affairs seems to have forgotteen they have made a favorable report on this case. The bill seems to have been reported by the authority of the committee; and I have a somewhat distinct recollection that the committee authorized the report to be made.

Mr. DIBRELL. My colleague will not say the report was unanimous, I reckon.

Mr. BROWNE. It is sufficient, Mr. Chairman, that the committee authorized a favorable report.

Now, what are the facts in this case? Mark Walker was for seventeen years in the volunteer and regular service, an officer without reproach. He is not a drunkard; it is not so alleged; it does not so appear in the proof. While in the regular line of duty he incurred disease. He is physically a wreck, and that is the result of his military service. There is no question that his disability was incurred in the line of his duty. Under the law he was as much entitled to go on the retired list of the Army as if he had been wounded in battle. Just at the time he had made his application to be retired, and had been denied because at the time there existed no vacancy, he was unfortunately in a single instance so far under the influence of intoxicating liquors that it was observable by those who witnessed his presence on undress parade.

The report of the Committee on Military Affairs shows his physical condition at that time; it was one of great suffering. I do not say that we should mitigate the offense of using intoxicating liquors; but I do say that if every officer of the Army of the United States should be dismissed by court-martial for an offense of this character we would not have enough commissions in the Army perhaps to take charge of a platoon.

Mr. McMILLIN. Do I understand the gentleman to charge that all the officers of the Army get drunk?

Mr. BROWNE. No, sir; I do not charge anything of the kind. I say that if men who may be found simply in the condition which the facts show Mark Walker to have been in on this occasion shall be dismissed the service, it would diminish very materially the number of officers in the Army.

As I have said, we have the case here in a nutshell; there should be no controversy about it. An officer who has performed faithful service for seventeen years, and who during the time of his service incurred disabilities in the line of his duty which have made him a physical wreck, at a time when he was entitled to a place on the retired list, is unfortunately found in that one single instance, against the whole current of his past life, in a state of partial inebriation. A court-martial is convened for his trial, but he is in such condition that for thirty days the court had to adjourn from day to day so that he might be in a condition to enable him to appear before it. When he did appear he pleaded guilty, and under the inexorable rule of military law, without sympathy and without pity, he is dismissed the military service of the United States.

Mr. BLAND. I would like to ask the gentleman——

Mr. BROWNE. In a moment.

Mr. BLAND. Merely a matter of information.

Mr. BROWNE. Certainly, with pleasure.

Mr. BLAND. I desire to inquire of the gentleman from Indiana [Mr. BROWNE] if there was so much excuse for his offense, because of his condition requiring him to take intoxicating liquors for the benefit of his health, why was not that fact laid before the military tribunal? Why did he plead guilty?

Mr. BROWNE. He plead guilty, for what reason I do not know. But a man afflicted as he was, perhaps without the benefit of counsel, conscious of the fact that he was at the time under the influence of intoxicating liquor, might well plead guilty. I cannot see that it is any worse for him to have gone into that tribunal and acknowledged the fact without putting the Government to the trouble of proving it, than if he had delayed the court for days and days by controverting the charge and at the end been found guilty.

I suppose another reason why he plead guilty was that he entertained the hope that, under the circumstances, his long and gallant services would be taken into consideration—his record without a blemish, a record of which any officer of the Government might be proud. He might have hoped that, having regard to all that, the authorities would mitigate the punishment and that he would not be dismissed the service of the United States.

I regret that officers of the Army and men out of the Army are in the habit of using intoxicating liquors. I would, if it were possible,

that every officer of the Republic was qualified by reason of his daily walk and conversation to be the superintendent of a Sabbath school or the president of the Young Men's Christian Association. But that is not so, and I do not think that it is indispensable to efficiency in military life that it should be so.

We select men for this business of throat-cutting and brain-bespattering, this general business of death-dealing, because of their courage, because of their ability to command, because they are fitted for that particular service. They are selected, I say, for these reasons. But I apprehend it ought not to be regarded as an insuperable objection to a man going out of active service and upon the retired list of the Army, that in a single instance and upon one occasion he has been intoxicated.

I hope the Congress of the United States will not set this precedent, that they will not permit the ignominy and obloquy of a dismissal from the service of the United States to attach to the record of an officer who has had so long a gallant and distinguished career. I say I hope the Congress of the United States will not permit that record to remain upon this gallant soldier simply because he was guilty of this one mistake, or, if you please, of this single crime against the military law.

Some of my colleagues on the Committee on Military Affairs seem to be opposed to this restoration. I suppose that if this officer had simply betrayed his trust as a commanding general, if he had been under some grave suspicion of having betrayed his country to the enemy, of having failed in the presence of the enemy to execute some important order upon which the result of a great battle hinged, and had been found guilty of the offense charged, of that great crime, by a properly constituted court-martial—I suppose this Congress would be expected with alacrity to come forward to remove that record and restore that officer either to his position in the service or create for him a rank and put him upon the retired list, thereby making him a pensioner of all the people.

But Mark Walker was not a general; he was not a colonel. He went into the service as a private, and rose by his merits until he became a major, or perhaps in the regular service a lieutenant. He was at one time a citizen of my State—I believe he is a native of it; and by his military career he has added luster to the history of a State that has written on the battle-fields of the Republic a record which challenges the admiration of the nation if not of the world.

I hope, Mr. Chairman, that this report of the Military Committee will be sustained by the Committee of the Whole, and that we shall recommend to the House the passage of this bill.

Mr. SHALLENBERGER obtained the floor.

Mr. STEPHENS addressed the Chair.

The CHAIRMAN. The Chair will recognize the gentleman from Georgia [Mr. STEPHENS] next.

Mr. SHALLENBERGER. I desire to offer an amendment to the bill.

The CHAIRMAN. The gentleman will please send up his amendment.

Mr. SHALLENBERGER, (after a pause.) I believe I will withhold my amendment for the present.

The CHAIRMAN. Does the gentleman retain the floor?

Mr. SHALLENBERGER. No, sir; I relinquish the floor.

Mr. STEPHENS. Mr. Chairman, I do not know what amendment the gentleman from Pennsylvania [Mr. SHALLENBERGER] intends to submit; but I wish to say that I am in favor of the passage of this bill. I know Mark Walker; and I know that what the gentleman from Indiana [Mr. BROWNE] has said of him is true. He is physically a wreck—a wreck not from intemperance, not from too free indulgence in intoxicating liquor, but from rheumatism. That rheumatism, as shown by the evidence before the Committee on Military Affairs, was contracted in the service of the United States. There is no evidence that I have seen or heard of that Captain Walker was an habitual drunkard.

Mr. RYAN, of Kansas. He was not.

Mr. STEPHENS. I understand he was not. I know not how the fact was; but there is in the evidence no such allegation. Now, the testimony is that upon the occasion in question Captain Walker, feeling an attack of rheumatism coming on, took a dose of morphine, and after that took some intoxicating drink. All persons who know the effect of morphine with an intoxicating draught after it, know that the tendency is to unduly excite the brain temporarily. There is no evidence that Captain Walker was ever in that condition before or ever failed to discharge his duty faithfully. His physical suffering, his present wrecked condition, arose from exposure, to which he was subjected in the discharge of his duty in the field. I wish to say nothing further, except that in my judgment this man should be put upon the retired list, as he ought to have been before he was called out on that dress parade.

Mr. O'NEILL. Mr. Chairman, in connection with the closing remark of the gentleman from Georgia, [Mr. STEPHENS,] I will make a statement. Long before this court-martial convened, Lieutenant Mark Walker, of the regular Army, formerly a major of volunteers, and subsequently breveted a captain in the regular Army for gallant conduct, had applied to be put on the retired list. He had made his application through me, having become a citizen of my district where his friends resided. That application was refused, not because he was not worthy to be placed upon the retired list, but, as General Townsend, late Adjutant-General of the Army, states in his communication, because there were nearly four hundred applications in advance of his. At that time, in view of all the facts of this case, which were well known to me, in view of the whole history of the man, with whom I have been well acquainted since he came to reside in Philadelphia within the boundaries of my district, I begged the Secretary of War and the Adjutant-General to grant an order placing him upon the retired list. The Secretary of War himself did not seem to be so much opposed to it, because subsequently, when the proceedings of this court-martial had been sent to the War Department, that official hoped to find that this circumstance of Captain Walker's reeling at dress parade (which I believe, as the committee report, was the effect of a dose of morphine) had happened at least one day in advance of the President's order relative to drunkenness, so that he might have recommended to the President that the sentence be mitigated and that he be returned to his position. I state this of my own knowledge.

I give Lieutenant Walker all credit for pleading guilty. The court had been convened and had adjourned; it had not done any business for thirty-four or thirty-five days, but had been adjourned from day to day through the kindness of members of the court, to suit the convenience of Lieutenant Walker. Finding that his health was failing, that he was not getting better, Lieutenant Walker, a sick man, scarcely able to walk to the room where the court was convened, came before it and pleaded guilty like a man. He did not even set up the excuse that the trouble was "malaria." [Laughter.] He had not the opportunity to state to the court that the judge-advocate of the court and the principal witness ready to come before it were his juniors as lieutenants.

Now I will say to my friend from Tennessee [Mr. DIBRELL] that I might just as well state that there was perhaps some interest on his part for these gentlemen who were juniors of Lieutenant Walker, as for the gentleman from Tennessee to say that some claim agent in Washington prepared this report. The report in this case was prepared by one of the members of this House who stands to-day the peer of the gentleman from Tennessee, and who is fit to draw a report upon any case submitted to him.

Mr. DIBRELL. I of course meant no reflection upon the gentleman who made the report in this case; but I know it is customary for these claim agents to bring in these long reports, for I have had them submitted to me; but I have never adopted one of them and never expect to do so.

Mr. O'NEILL. I do not know what may be the custom of members of the Military Committee in the preparation of their reports; I know nothing about that. But, sir, this poor man, broken down in health, not able to be out of his bed to-day to watch the progress of his case, still suffering from this same fearful malady, acute rheumatism—this poor man who happened to come under the order of the President of the United States by just three weeks, is discharged from the Army; and when appeals are made to the President to reinstate him the application is not granted.

Mr. Chairman, there is no member in this House less willing than I am to make excuses for men the habit of whose life is to get intoxicated. There is no member who feels more deeply than I do that the great curse of the earth is rum and rum-drinking—a greater curse, indeed, than war or disease or the most fearful pestilence. I do not wish to stand here, therefore, to make defense for any man who is a habitual drunkard; but I do say to this House that from the beginning to the end of this case my friend from Tennessee [Mr. DIBRELL] and my friend from Illinois, [Mr. SPARKS,] the chairman of the Committe on Military Affairs, have opposed it step by step. I do say that the whole of this case from the beginning to the end shows Mark Walker to have been a gallant soldier, and, as my friend from Indiana [Mr. BROWNE] has very well said in his remarks this morning, deserving kindness, worthy of clemency, if for no other reason than because of this dreadful disease brought upon him by the services which he rendered the country. Why, sir, if this court-martial had been held within the last year instead of within three weeks after the President's order had been promulgated saying no clemency would be shown where there had been drunkenness, I feel that I am justified in stating in this case even the same clemency would have been shown by the President of the United States that has been shown by him to eleven officers in the Army, the records of whose trials and convictions on charges of drunkenness I hold in my hand. As in these cases, I believe the President of the United States, in his discretion and good judgment and merciful feeling, would have mitigated the sentence of Mark Walker just as he has done these eleven other officers to whom I have referred.

Mr. HOUSE. I wish to ask the gentleman a question for information. Does he yield for that purpose?

Mr. O'NEILL. Yes, sir.

Mr. HOUSE. Was this officer charged with only a single act?

Mr. O'NEILL. Yes, sir, that is all; and charged by a junior lieutenant, who was the witness ready to go before the court. The judge-advocate also was a junior lieutenant.

Now, sir, *per contra*, the president of that court-martial wrote a letter stating that clemency ought to be shown to Mark Walker, who having plead guilty to this single offense, occurring under the circumstances already related, had under the Army regulations to be sentenced to dismissal, and from the further fact that he was a true soldier with a most honorable record.

Mr. SPARKS. The accusation was drunkenness, and he plead guilty to that. I do not suppose there could be any specification that he was drunk all the time.

Mr. O'NEILL. The specification was that he was drunk on undress parade, and that is all the specification there was. He was followed, I presume, at the time by this junior lieutenant, who was ready to appear before the court-martial and swear away the gallant record of this man during the whole war of the rebellion, for a single offense of staggering.

Mr. HOUSE. What I wish to know is whether this officer is a habitual drunkard, whether he got repeatedly drunk, or whether there is only one act of drunkenness charged against him?

Mr. O'NEILL. Only one act is shown by this record, and no other allegation is made. The president of the court-martial recommended mercy and clemency, and the Judge-Advocate General of the Army, General Dunn, recently retired, also recommended clemency. The surgeons who saw this officer in his sickness for several years have certified because of acute rheumatism and some affection of the heart, I think, he had undergone a treatment of morphine and stimulants, and yet, notwithstanding that fact, he always was ready to do duty every day, taking but a leave of absence of a few months only in the course of years of intense suffering. Surgeon Basil Norris, of the United States Army, said that he should not have been on duty for three or four years, but should have had leave of absence until he had recovered.

Now, Mr. Chairman, after the records which are here in the case of these eleven officers who have been restored to their positions in the Army, and in whose cases the sentences of courts-martial had been mitigated, all of them having been convicted of drunkenness upon various occasions—here are their records, and gentlemen can look at them, but I do not wish to read the names as I do not wish to bring before the country the recollection of the fact that these men were convicted of drunkenness and other charges too; but, sir, in view of the fact that these eleven officers were restored to their rank in the Army after short suspensions, I do not see how any man can refuse to vote in favor of this case.

Mr. McCOOK. My friend from Pennsylvania will allow me. He has given his personal knowledge of this man, but he did not, however, to the satisfaction of my mind at all events, answer fully the question propounded by the gentleman from Tennessee in reference to the specific charge for which this man was tried and convicted, that is, drunkenness on duty. A man may be an habitual drunkard and yet never found drunk on duty. Will the gentleman from Pennsylvania inform me for my personal information as to his personal knowledge of the habits of Mark Walker?

Mr. O'NEILL. I reply confining myself to the record. [Laughter.]

Mr. McCOOK. You spoke of your personal knowledge.

Mr. O'NEILL. Yes; and I speak of that too. But in the first place I refer to the record before the House. He was charged with drunkenness on duty. The specification is—let me read from the record.

*Charge*—Drunkenness on duty, in violation of the thirty-eighth article of war.
Specification: In that First Lieutenant Mark Walker, Nineteenth Infantry, being on duty in command of his company at undress-parade at retreat at Fort Lyon, Colorado, on or about December 24, 1877, was found drunk.
To which charge and specification the accused, First Lieutenant Mark Walker, Nineteenth Infantry, pleaded "Guilty."

I never knew him to be a drunkard. I never knew him to be an habitual drinker except as he was advised by the surgeon to take stimulants, which we all know are prescribed at times for this dreadful disease of acute rheumatism. Here he is to-day in the city of Washington lying in bed fearfully sick, where he has been for nearly two weeks, suffering in the same way, and, for all I know, using the same stimulants prescribed for him while he was in the Army. And yet, sir, eleven men have been restored. I do not know but that every man who has been tried by a court-martial in the Army for drunkenness may have been reinstated. Now, we only ask under this bill to put this man on the retired list, or authorize the President, if he shall so desire, to recommend him to the Senate to be placed upon the retired list, and then if that is done he relinquishes, of course, his pension. Nothing more is asked than that.

Mr. SPARKS. Mr. Chairman, when the House was in Committee of the Whole and had this question before it on a preceding day, this case was quite fully discussed, and would have then been disposed of but for the desire of a majority that the committee should rise. I want to state now, as then, to this committee, that personally I know nothing of this man. I know nothing further of him than is presented to us by the record and proofs in this case. I think that every member of the committee will agree with me that it will be well for the Army that all incompetent officers shall be got out of the service. No gentleman has taken higher ground upon that question than the gentleman from Indiana [Mr. BROWNE] who has preceded me in this discussion in favor of this bill. A military man himself, and a good one, he has felt the great importance of clearing the Army of incompetent and worthless officers. A day or two ago a bill was ordered to be reported from that committee for the organization of a permanent board of well-selected Army officers with a view to accomplish this very thing, which met the sanction and approval of that gentleman. Now, what are the facts in the case here presented to this committee as appear of record? A court-martial was convened to try a charge and specifications against this man Walker. Now let me read that charge and the specifications:

*Charge*—Drunkenness on duty, in violation of the thirty-eight article of war.
Specification: In that First Lieutenant Mark Walker, Nineteenth Infantry, being on duty in command of his company at undress-parade at retreat at Fort Lyon, Colorado, on or about December 24, 1877, was found drunk.
To which charge and specification the accused, First Lieutenant Mark Walker, Nineteenth Infantry, pleaded "Guilty."

This charge and the specification were carefully examined and passed upon by the court-martial.

Now, I will read the finding and sentence of the court, and also the approval of the President of the same.

*Finding.*—The court, having maturely considered the evidence adduced, finds the accused, First Lieutenant Mark Walker, Nineteenth Infantry, as follows:
Of the specification, "Guilty."
Of the charge, "Guilty."
*Sentence.*—And the court does therefore sentence him, First Lieutenant Mark Walker, Nineteenth Infantry, "*to be dismissed the service of the United States.*"
II. The record of the proceedings of the general court-martial in the foregoing case of First Lieutenant Mark Walker, Nineteenth Infantry, having been forwarded to the Secretary of War, and by him submitted to the President of the United States for his action, the following are his orders thereon, namely:

"EXECUTIVE MANSION, *April* 23, 1878.

"The foregoing proceedings, findings, and sentence of the general court-martial in the case of First Lieutenant Mark Walker, Nineteenth Infantry, are confirmed.
"R. B. HAYES."

Here we have the entire case. An effort was being made on the part of the military authorities to get rid of men who were disgracing the Army. Here is a charge against this man of drunkenness on duty. A court-martial is regularly organized; they pass upon the facts and take the admission of the accused to the truth of these facts. They find him guilty as charged in the specification. They sentence him to dismissal from the Army and that sentence is approved by the President of the United States. These are the facts and the entire facts submitted to us by the record. Now, we are asked in the passage of this bill to restore that man to the Army in the rank which he then held, and of which he was deprived by said court-martial, in order that he may go upon the retired list of that rank. I protest, Mr. Chairman, in the name of the tax-payers of this country, against this; I protest in the name of the good officers in the Army, and for the efficiency of the service, that this shall not be done. This, sir, I do without a particle of prejudice against this man, and without any knowlege of the facts except what is set forth in the record, and admitted by him and his advocates to be true.

I presume he has been a good soldier; I know nothing to the contrary. But he has been dismissed from the service after a fair and regular trial and sentence of a court-martial on a grave charge for a grave offense, and that dismissal after mature consideration has been affirmed by the Executive. By virtue thereof he is now out, and I think he should remain there. Besides that, sir, (how I do not know,) he has been pensioned. The gentleman from Indiana and the gentleman from Pennsylvania speak of his disability. I presume that he is disabled from the fact that he made application to the Pension Bureau for a pension and is now drawing a pension at the rate of $24 a month, and under the arrears act has received further a very considerable sum of money. All this he has received in consideration of the wounds, injuries, and disability incurred by him in service. Now, sir, I think, judging from the record and a fair consideration of the character of the man, that he has been paid all that is due to him. But he wants Congress, and that is the object of this special bill, (for the law keeps him where he is,) to specifically designate him exceptionally as a proper person to go upon the retired list and get thereby four times the pension he is now drawing. In my judgment, sir, many a worthier man is going without any pension at all at this moment.

Mr. O'NEILL. Then it is because their claims are shut up on the Private Calendar, and by the fact that we do not consider it every Friday and stick to it.

Mr. SPARKS. Is the gentleman charging me with being a hinderance in that direction?

Mr. O'NEILL. No, sir; but I am simply stating the reason why they do not get their rights.

Mr. SPARKS. If the gentleman does not allude to me, of course it is not incumbent upon me to answer him.

Mr. O'NEILL. I only wanted to get that on the record as a fact.

Mr. SPARKS. All right.

So far as the report now before us is concerned nothing whatever, I apprehend, need to be said. The majority of the Committee on Military Affairs reported favorably in the case. That is certainly true or it would not be here thus reported. I do not remember the minute details of the case, but presume that must be the fact or it would not now be before the Committee of the Whole. I do not know who drew the report, nor is it material. It is here with whatever benefit the sanction of the majority of the committee can give it. I was not and am not of that majority, but as a member of the minority, and believing that the case is not meritorious but absolutely unjust, oppose it.

Mr. BROWNE. Will my colleague on the committee at that point allow me——

Mr. SPARKS. Certainly.

Mr. BROWNE. I disclaim any purpose of reflecting on the committee.

Mr. SPARKS. I did not understand the gentleman to do so.

Mr. BROWNE. I simply said what I did in response to my colleague from Tennessee, who said the committee had employed a claim agent to get up the report.

Mr. DIBRELL. I did not say the committee employed a claim agent. I know it is customary for claim agents to get up reports.

Mr. SPARKS. I think the gentleman from Indiana [Mr. BROWNE] mistook the statement of the gentleman from Tennessee, [Mr. DIBRELL.] But in any case the report must have been submitted to the committee and concurred in by the majority before it was presented to the House. So there is nothing in the manner of getting up the report to cavil about. This is the whole of the case in a nutshell. Are we going to take this man and put him back into the Army so that he can go on an overfilled retired list—a man who has violated the rules and regulations of the Army, who has admitted his guilt, and who, by a regularly organized court-martial, has been sentenced to dismissal, that sentence having been confirmed by the President, and who is now out of the service drawing a very considerable pension? Or, he being now out of the service, ought we not to say to him, remain there?

I regret that the gentleman from Indiana [Mr. BROWNE] should have gone outside of this record to bring in here another case now pending on the Calendar, and to lecture members of the committee who take different views from himself in regard to it. I desire to say to the gentleman, however, that that case is by no means analogous to the one now before us. He alluded to the Porter case (if I correctly interpreted him) by saying "that gentlemen have sanctioned the restoration of high officers who were found by court-martial guilty of unfaithfulness and disobedience of orders when a great and decisive battle was impending," &c. It is true that in that case a court-martial did convict. But it is equally true that the accused did then, and has from that hour to this protested his innocence, in which he has been sustained very largely by the press and the best sentiment of the country. And it is not unknown to the gentleman that in a subsequent examination of that case by three of the most eminent military men of this country and age, (Generals Schofield, Terry, and Getty,) after more than ten months' patient consideration, they most fully and completely exonerated him from all the charges preferred against him, and in their report, instead of finding guilt, allege that—

Porter's faithful, subordinate, and intelligent conduct that afternoon saved the Union Army from defeat, &c.

And further, speaking of the disasters of the engagement, that—

Whoever else may have been responsible, it did not flow from any action or inaction of his.

And still further, speaking of the court-martial findings:

We believe not one among all the gallant soldiers on that bloody field was less deserving of such condemnation than he.

But, sir, the Porter case is not now up for consideration, and has no relevancy. The case now before the committee is a plain one. It is simply a question of whether or not, through sympathy, we shall take this man Walker from where he has placed himself and put him to the detriment, as I think, of an efficient service, in the Army on the retired list, there to draw pay at the rate of 75 per cent. of the full rank of a position which he by his own misconduct disgraced and forfeited.

Mr. BROWNE. Just a moment. I certainly did not intend directly to allude to any case pending before Congress or anywhere. What I meant to say was that we day after day have been considering the applications of men who were in high commission in the Army, putting them upon the retired list in ranks above the ranks held by them; doing that after they had retired from the service by resignation. We have, in other words, been in haste to compliment men who held distinguished positions and high rank in the Army. I protest that while we have been doing this in behalf of colonels, brigadiers, and major-generals, we ought to do something for men in a more humble rank who, perhaps, did not perform service so conspicuous, but who to the extent of their power and authority performed their duties equally well. I say let us now do something for a meritorious lieutenant, after we have done so much for colonels, brigadiers, and major-generals.

Mr. DIBRELL. Will the gentleman answer me one question?

Mr. BROWNE. I shall endeavor to do so.

Mr. DIBRELL. Among the cases you refer to of colonels, brigadiers, and major-generals placed upon the retired list, is there one who pleaded guilty to charges which led to his dismissal from the Army?

Mr. BROWNE. They have gone voluntarily out of the service to accept more remunerative employment in some cases. In other cases they have gone out of the service voluntarily on resignation, and are not in the service at all. We have reported (I do not say the gentleman from Tennessee has concurred in that action) in favor of putting them back into the Army again by putting them on the retired list.

Mr. DIBRELL. But you will never find my vote in the committee or elsewhere recorded in favor of one of them.

Mr. BROWNE. I will not say the gentleman from Tennessee has done anything so magnanimous. I acquit him of that.

Mr. LE FEVRE. This case was fully discussed in the committee. There was a fair majority in favor of reporting this bill. I will say, in justice to the minority, they opposed this case in the committee. I directed the making up of this report, and I was favorable to the relief sought for by Mr. Walker. I directed the gentleman who made this report to set forth all the charges that were made against Mr. Walker, and then give his official record as found in the War Department. I will say also that I did not write the report, but I did suggest all the points in it as there made, and I am responsible for this report as it stands.

There is very little of the report except the official record, which was easily obtained from the War Department, and which I directed to be placed in the report. I also, in view of the fact that there was a strong opposition to the case in the committee, had all the charges against Mr. Walker set out in the report. I think from my standpoint it is a fair one to both sides of the question. As for writing it in detail I did not, but I suggested all the points and examined the report after it was written, and indorsed it as my report, and so did the committee.

The CHAIRMAN. The question is upon the motion of the gentleman from Tennessee, [Mr. DIBRELL,] to strike out the enacting clause of this bill. The effect of that motion, if agreed to, will be that this bill will be reported to the House with an unfavorable recommendation.

Mr. PHILIPS. I would like to ask the gentleman who made this report a single question, so that I may be able to vote intelligently. As I understand it, this officer admitted the correctness of certain charges which were made against him, and the court-martial upon that admission found him guilty. I desire to ask whether any new facts have since been developed which were not brought before that court-martial?

Mr. LE FEVRE. I will state to the gentleman——

Mr. PHILIPS. I want to know whether the committee heard and determined the case simply upon the record as made up by the court-martial?

Mr. LE FEVRE. They did to a certain extent. They had before them the letter of the president of the court-martial.

Mr. PHILIPS. Did that letter develop any new facts which were not brought to the consideration of the court-martial?

Mr. LE FEVRE. You will find on page 5 of the report the letter of the president of the court-martial giving his opinion and impressions of the case.

Mr. PHILIPS. Does that letter contain anything more than the impressions of the president of the court-martial?

Mr. LE FEVRE. That is all.

Mr. PHILIPS. It contains no new facts?

Mr. LE FEVRE. None.

Mr. MILLS. I desire to ask gentlemen who have investigated this case if they have considered the question of the power of Congress to set aside the judgment of a court of competent jurisdiction, and to grant relief by restoring this officer to his former place in the Army? I remember that in the case of Fitz-John Porter, when it was under discussion in the Senate, a very able argument, as it appeared to my mind, was made by a Senator from Wisconsin, in which he took the ground that a court-martial was a court ordained and established by the Constitution, with competent jurisdiction to hear and determine such matters as arose in connection with officers of the Army, and that its judgment was conclusive and beyond the power of the Legislative Department of this Government to disturb. I am not satisfied that that position is not unanswerable. I think that before we are called upon to pass upon this question that matter ought at least to be deliberated upon by a committee of this House. That is one objection I have to acting upon this case now.

There is another objection. The object of establishing courts-martial in the Army is to enable the Army to preserve its discipline, and all officers of the Army know that discipline is an essential; that without it an army is a mob; its efficiency depends upon discipline. Now, if Congress is going to regard itself as a court of appeal to which all complaints may be brought from the judgment of courts of the Army, you will absolutely destroy the whole binding force of courts-martial in the Army, and thereby weaken if not destroy the discipline of the Army.

Mr. STEPHENS. Will the gentleman yield to me for a moment?

Mr. MILLS. Certainly.

Mr. STEPHENS. I do not look upon this bill as at all undoing the judgment of a court. This House has no jurisdiction whatever over the decisions or judgments of courts of any kind. By the judgment of this court-martial, under the rules and articles of war and with the final approval of the President of the United States, this man was put out of the Army. We are asked only to restore him so far as to put him upon the retired list, not to put him back regularly into the Army. We do not undo the judgment of the court. Suppose that he was justly and properly dismissed the Army——

Mr. MILLS. Let me ask the gentleman this question?

Mr. STEPHENS. Certainly.

Mr. MILLS. Can this man go on the retired list without the action of Congress with that judgment of the court-martial on record?

Mr. STEPHENS. Without the action of Congress? No.

Mr. MILLS. Then of course to that extent we go behind the judgment of the court-martial.

Mr. STEPHENS. Not a bit. It is an appeal to this House which is within its competent authority and jurisdiction to grant. I was going to say that suppose this man was justly dismissed the Army

and for an offense which we can excuse but which the court-martial could not. This case presents views other than were submitted to that court-martial. This report discloses the fact, established by surgeons' certificates again and again, that this man was diseased with rheumatism; and that at the very time he went on this undress parade he was suffering from an incipient violent attack of rheumatism. Moreover, this report shows that this man had taken, under the prescription of a physician, morphine for the disease with which he was suffering.

But I did not intend to go into any of the details of this case. I intended only to reply to the idea of the gentleman from Texas, [Mr. MILLS,] that we could do nothing for the relief of this man because of the judgment of that court-martial.

Mr. MILLS. As I have said, I am not perfectly satisfied that we cannot give this man relief; but I am very strongly inclined to the opinion that Congress has no right to interfere with and disturb the decisions of courts-martial in the Army, any more than it has the right to disturb the decisions of the civil courts of the country.

The Constitution of the United States has provided for courts-martial, and the judgments of those courts cannot be executed until the President of the United States—and there is your court of appeal—until the President of the United States has passed upon them and approved them. He is the highest executive officer in the land. He is the commander-in-chief of the Army, and it is proper that an appeal from the judgments of the courts-martial should be carried to him. He is as much charged with the duty of preserving the discipline and efficiency of the Army as he is with the duty of executing any law passed by Congress.

Now if we should establish the rule that Congress has the right to hear these appeals; that when a man has been tried according to the old English idea, confronted with the witnesses against him, provided with compulsory process to compel the attendance of his own witnesses, tried by his peers, his brother officers; when the whole case has been heard and judgment passed upon him; when he has appealed to the highest court to which he can go, to the President of the United States, the commander-in-chief of the Army, and the President has affirmed the judgment of the court below—if you establish the rule that you will nullify the whole judicial processes of the Army by which discipline can be enforced and efficiency among its officers maintained, you will destroy the whole efficiency and morale of the Army by making Congress one grand court of appeal to which every officer can come and call upon his friends in Congress to go behind and override and trample down the decisions of courts ordained by the Constitution for the purpose of preserving the discipline of the Army, and making it efficient for the purpose for which it was established.

Mr. KEIFER. Mr. Chairman, I desire to say a single word in order to explain the situation of this case. I think that the gentleman from Texas [Mr. MILLS] has not studied this case, or he would not make here the point that he says was made by the distinguished Senator from Wisconsin in another notable case. There is no parallel between the two cases. In the case which was under discussion by the Senator from Wisconsin, there was a judgment of disqualification to hold office. In that case it was claimed (and I agree with the gentleman from Texas it was rightfully claimed) that Congress had no right to interfere with the execution of that judgment; that it could not be interfered with except through the pardoning power of the President. But here there is no disqualification. This man was simply dismissed from the service, and to-day under the law he is as eligible to appointment to a position in the Army as any other man out of the Army.

Mr. MILLS. The argument of the Senator from Wisconsin was not placed upon the ground that the gentleman states, but on the broad ground that there was a court ordained by the Constitution into whose judgments we could not inquire.

Mr. KEIFER. I agree (and that is the exact effect of what I said) that we are not to inquire into their judgments; and in passing this bill we do not do so. The court-martial dismissed this man from the service, but did not disqualify him from holding office, military or civil, in the future. He might have been reappointed, as others have been, the next day; and no law would have been violated. Here it is proposed simply to remove by operation of law a rule of law which prohibits appointments in the Army above a certain rank from civil life. That is the effect of this measure. We are not setting aside any sentence; we are simply setting aside for this particular case the law that now regulates the action of the President in the making of appointments and promotions in the Army. In thus providing for the retirement of this officer we are doing what we can very properly do by law. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The question is on the motion of the gentleman from Tennessee, [Mr. DIBRELL,] to strike out the enacting clause of the bill.

Mr. BURROWS. Is it in order to strike out the enacting clause in committee and thereby kill the bill? Should not the motion be simply to report the bill back to the House with the recommendation that the enacting clause be struck out?

The CHAIRMAN. The Chair stated that if the motion should prevail the effect would be to report the bill back to the House with an unfavorable recommendation.

Mr. KEIFER. And if the motion should be agreed to the Committee of the Whole would rise at once for the purpose of reporting the bill to the House.

The question being taken on the motion of Mr. DIBRELL to strike out the enacting clause of the bill, it was not agreed to, there being ayes 26, noes 56.

The CHAIRMAN. The question is now, Shall this bill be laid aside to be reported favorably to the House?

Mr. WRIGHT. I would like to inquire of the gentleman from Ohio, [Mr. LE FEVRE,] who I believe has charge of this bill, whether before the court-martial this man was charged with having been intoxicated upon more than one occasion.

Mr. LE FEVRE. The charge applied only to this one occasion; and this was when he was on dress parade.

Mr. WRIGHT. Well, Mr. Chairman, if we go upon the principle of discharging a man from the military service because on a solitary occasion he has happened to be intoxicated, the effect might be that we would have no Army at all. [Laughter.] We have an illustrious example of a certain woman who had committed an offense, and who, when her accusers had disappeared, was told to go and sin no more.

Now, so far as the finding of this court-martial is concerned, I maintain that this Congress is a bigger court than any court-martial that was ever appointed in the Army for the purpose of investigating a charge against an individual. It may be true that in general the principle *stare decisis* should apply to the judgment of courts-martial; but in extreme cases, where there ought to be a remedy, and where the ordinary course of law does not furnish a remedy, then I think there is occasion for Congress to interfere and exercise its power. If this court-martial did wrong, as it undoubtedly did in dismissing this man for a single offense, then I maintain that Congress is justified, according to the laws of justice, reason, and humanity, in reversing the decision that was improperly made. In view of this principle and of the fact that there has been but a single offense charged, I shall vote to pass this bill, and to that extent overrule the judgment of the court-martial.

Mr. MAGINNIS. This officer was most unhappy, at least in the time of his court-martial. Others have been similarly tried, many others similarly sentenced, but few others have failed to escape the execution of such severe sentence. His case came before our gracious President in one of those fits of reform which have passed like spasms over the term of this administration—rarely lasting long, but severe while they lasted. When the President came to this capital with all the odor of Ohio sanctity about him, and all the virtuous ardor of the Sunday school and temperance society around him, there was a change presaged in the atmosphere of official life. The people believed that the new occupant of the White House would atone for the somewhat questionable methods by which he reached the presidential chair by such wise and patriotic reforms as would purify the political life of the people and improve both the civil and military service.

You will remember the civil service order, its grand promise and its weak performance; the professions with which it was put forth, the constant practice with which it was violated; beginning and ending with the appointment of all who had helped the Administration into place, either by participation in the election frauds of Florida and Louisiana or the scarcely more reputable defense of these methods before the electoral commission. The life has been crushed out of a well-meant movement in our politics by the hypocrisy of its professed friends, and the echo of the trumpet blast of civil-service reform with which the Administration heralded its advent comes back with mocking hilarity to laugh it out of office.

But there was one branch of the public service where no reforms were needed; where all that was desired was to maintain its ancient discipline and custom, in appointment, promotion, and discharge. The Army was beyond the reach of machine politics. But we were led to believe that even the *morale* of the Army was to be improved by these same beneficent influences. Temperance order No. 1 was also issued from the White House. The Army was warned that thereafter any officer who should be found guilty of being drunk on duty, or drunk under any circumstances, should be peremptorily dismissed. It was the misfortune of the officer whose case is being considered that the proceedings of the court which tried him reached the President immediately after this order was issued, and while he was filled with this virtuous and indignant ire against drunkenness. Hence this officer, with so much to excuse, was peremptorily dismissed. But, Mr. Chairman, as in the case of the civil-service spasm, this zeal for military reform soon passed away. The severe precedent has been rarely followed. This was about the only victim. One of the New York papers published the other day two or three columns of court-martial cases, where the sentence was mitigated or set aside. The officers have been similarly tried under similar charges, by similar courts-martial, and with much more aggravating circumstances; but as the proceedings did not reach Mr. Hayes while he was in the fever of reform the offenders saved their commissions, as in many instances was right. But surely all these mitigations and interferences and pardons were infinitely more powerful in breaking down the discipline of the Army than the passage of this bill would be.

But, Mr. Chairman, the discipline and *morale* of the Army have received worse blows than this. The rules of appointment and promotion have been settled for a long time in the military service of the United States. Advancement has been based on merit and length of service. Officers have not been compelled to turn themselves into

place-hunters and to seek promotion by personal intrigue and political influence. The old soldierly way of relying upon the recommendations of their superiors, on their service, and on their merit was well adapted to secure zeal, intelligence, and devotion to duty. Surely if the evils of the civil service could not be reformed, the better methods of our military service might be maintained. But under the rules that have been adopted to fill vacancies in the Army all its old customs have been disregarded, the service filled with heart-burnings and complaints of favoritism, and our modest soldiers turned into a horde of applicants, seeking by personal and political means and unsoldierlike methods the advancement which is not assured to them in any other way.

Just look, Mr. Chairman, at the recent staff appointments. Overloaded and cumbersome as the staff is, with many officers retained more as a reward for past than a need of future services, one would think that all vacancies should be filled from two classes of men. Deserving officers on the frontier serving against the Indians, making such midwinter marches as were recently made against the Sioux, through deep snows and cold 40° below zero, or equally hard marches under the burning suns of summer, might well look forward to promotion to these pleasant and profitable staff appointments as a reward for their services in behalf of the flag. It had grown to be the policy of the Government to make such appointments; and when the Administration did go outside of the Army it was to reward some gallant and meritorious volunteer soldier who had served through the war without even the reward of a regular commission when it closed. Of such are hundreds of young men who learned the profession of arms only to lay it down; who have high business capacities and who are in every way worthy and deserving of these staff appointments when their tastes lead them to seek for them.

But recently, Mr. Chairman, we have seen civilians, the sons of politicians, the sons of personal friends, without any claim upon the Government, having never done anything in the service or for the Government, advanced over the heads of these meritorious officers, advanced over the heads of men who had made splendid records in the war, and appointed to these life positions which captains and lieutenants of twenty years' standing covet with longing hearts.

You have recently seen orders retiring certain officers of the Army. Were those retirements made from the oldest and most enfeebled officers, as the very law and principle of retirement contemplates? Were they made with due regard for all the rights of gallant men whose records are the glory of their country? Or were they made with a view to finding places for the rewards of favorites? It would seem, as a high officer of the Army said to me, as if the President would promise places to his friends, and then look over the Army Register to see who he could retire in order to make the desired vacancy—as purely personal in making a place as he was in filling it.

In order to make a vacancy among the brigadier-generals, one would think that General McDowell would have been selected for retirement. I have great respect for General McDowell, but the history of the country shows that he went into the war with greater advantages than any other officer and came out of it with less glory. In the very beginning of the struggle he was advanced to the front rank of command and intrusted with the most important enterprises. He was given greater opportunities than any other man, and yet, whether it was his fault or his misfortune, he was dropped by the wayside; and the close of the war found him without a command in the field. On the other hand, here was that tough, wiry, and grizzled old soldier, Ord, an officer who from the time he went into the Army had always been called on to perform the hardest service, and who had always performed it with success; who had no soft places around the headquarters of commanding generals or carpet service around the capital; who had made a most glorious record in the war; who in the final battles with the army of Virginia had marched his corps sixty miles on one forced march and stopped the retreat of Lee and compelled the surrender at Appomattox; whose claims for the highest positions were discussed at the close of the war; who then went to the western plains and was successful there, and was then sent to the Mexican frontier. You will remember the complications that threatened us with Mexico, and the outrages that were being committed on that border when he took command. The whole country was alarmed. But the wise and brave soldier honorably and successfully settled all these troubles, and his reward was his peremptory retirement, while General McDowell, his senior, was continued in active service with the rank of major-general. Ord was retired as brigadier, and would so have remained had not this Congress, by an act that will be a greater honor to Ord than would his regular promotion, given him the grade which he had so gallantly earned.

In the law corps of the Army, the Bureau of Military Justice, the senior officer has been retired, and one of the junior members jumped to the very front for personal reasons to the great injustice of his seniors.

Now, Mr. Chairman, I believe in the retirement of superannuated officers, especially chiefs of bureaus. The want of promotion causes great discontent in our service, but that stagnation should only be removed by beginning at the head and permitting officers to go up in their grade and order in accordance with military usages, and I have again to repeat that if there has been any injury to the discipline of the Army, it has not come from the acts of Congress, or the passage of bills like this under consideration, but from the violation of the rules and usages of promotion and appointment by this administration in its expiring days. It is personal and political favoritism which has disheartened and is demoralizing the Army of the United States.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

Mr. O'NEILL. I wish to give notice, Mr. Chairman, or rather I think that the gentleman from Ohio [Mr. LE FEVRE] gave notice two weeks ago that he would ask when we get into the House that Senate bill No. 2, which is now upon the Speaker's table and covering this same case, should be substituted for this bill.

Mr. DIBRELL. That requires unanimous consent, and I shall object.

### FORT CHARTRES ISLAND.

The next business on the Private Calendar was the bill (H. R. No. 936) relinquishing the right of the United States to Fort Chartres Island.

The bill, which was read, provides that all the right, title, and interest of the United States in and to all that island or body of land situated in the Mississippi River opposite Fort Chartres Island, which said Fort Chartres Island is designated in the Government surveys as United States survey No. 737, claim No. 2107, in Randolph County, Illinois, and said island or body of land hereby conveyed is commonly known as "Bruce's Island," and may be further designated as being opposite the mouth of the Establishment Creek and lands adjacent on the Missouri shore, in Sainte Genevieve County, Missouri, and between said Establishment Creek's mouth and the adjacent lands in Missouri and said Fort Chartres Island, or United States survey No. 737, in Illinois, in the Mississippi River, shall be granted, relinquished, and conveyed by the United States in fee-simple and in full property to John R. Boas or his legal representatives; provided that nothing contained in the provisions of the act shall directly or indirectly comprehend, include, extend to, grant, relinquish, or convey the whole or any part of any lot, tract, piece, or parcel of land which has heretofore been granted by the United States.

The report, which was read, is as follows:

The Committee on Private Land Claims, to whom was referred the bill (H. R. No. 936) entitled "An act relinquishing the right of the United States to an island therein named," having had the same under consideration, beg leave respectfully to report:

The question of relinquishing said right was fully considered by the Committee on Private Land Claims in the Forty-fifth Congress, and a bill (H. R. No. 5439) relinquishing said right was reported unanimously by that committee at the third session thereof, but said bill was not reached upon the Calendar. The statements in the report accompanying said bill having been duly verified by your committee, with the letter of J. M. Armstrong, Acting Commissioner of the General Land Office, are set forth in the language of the former report, as follows:

"The evidence shows that this island lies in the middle of the Mississippi River, fifty miles below the city of Saint Louis, and is the product of gradual deposits by said river first forming a sand-bar, and thence increasing with every recurring flood for the past fifteen or twenty years. The river flows with equal volume and breadth on both sides. It is known as 'Bruce's Island,' from a half-crazy man of that name who built a house upon the island, and died and was buried there some years ago. Other attempts have been made to inhabit it, but the overflows have prevented its permanent occupation. Now the Government is asked to pass this act in the interests of peace and good order, and as a guarantee to neighboring proprietors against intrusions from river pirates, outlaws, and nondescript vagabonds who may make it their retreat and the abode of vice.

"It further appears that Mr. F. W. Brickey, who owns the entire Illinois shore opposite, where he has done business for the last thirty-five years, desires the passage of this act for the reasons stated, and has quitclaimed to Mr. John R. Boas, the grantee named in this bill, all right, title, or interest which he may have.

"Although Mr. Boas, it appears, owns a large part of the land opposite this island on the Missouri shore, and the party contiguous to him makes no claim, he would not have the proper standing in court to assert his rights against any intruder who claimed by virtue of possession, without such relief as the act herein contemplated would convey.

"While the grantee asks the Government to relinquish all of its interest in this island to him, it is his opinion that it really has none.

"In the case of Jones *vs.* Soulard, (24 Howard, United States Supreme Court Reports, pages 63-65,) the Supreme Court of the United States thought it a general rule, too well settled as part of the American and English law of real property to reopen to discussion, where a grant of land mentions the water line in general terms as the boundary line, that it confers the proprietorship on the grantee to the middle thread of the stream and entitles him to the accretions; and that the size of the stream makes no difference where it is above tide-water; to hold that it did would be a dangerous tampering with riparian rights, involving litigation concerning the size of rivers, as matters of fact, rather than proceeding upon established principles of law. Yet the opinion prevails with some that the title is in the United States. In fact, parties have undertaken to pre-empt it, but have been driven off by high water.

"Some of our ablest legal minds are of the opinion that the island is a bastard; that the United States having ceded all its proprietary rights to the States of Illinois and Missouri to the center of the Mississippi River, it has no title to lands formed within their boundaries since that time; that the State of Illinois has no rights. The same is true of Missouri; her supreme court has asserted in the case of Adams *vs.* the City of Saint Louis (32 Mo. Reports, page 25) that the State of Missouri by virtue of its sovereignty does not acquire title to lands that have formed in the Mississippi River since the legal existence of the State, and that it is not an accretion or formation attached to the shore, and cannot be claimed by the adjoining proprietors. The dilemma can be obviated only by uniting all possible claims in one. Hence this bill.

"The Commissioner of the General Land Office having reviewed this case in a communication to the chairman, dated January 10, 1879, attached hereto, concludes by saying that he "perceives no objection to the passage of this bill," and the committee unanimously recommend the passage thereof."

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DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., January 10, 1879.*

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, inclosing House bill No. 5439, providing for the relinquishment to John R. Boas of the right, title, and interest of the United States to an island in the Mississippi River, opposite Fort Chartres Island, Illinois, and opposite the mouth of

Establishment Creek and lands adjacent on the Missouri shore, the said island being commonly known as Bruce's Island. You also inclose a letter from Mr. Boas, dated Saint Louis, November 30, 1878, describing the island and stating his reasons for desiring to obtain control thereof, said letter being accompanied by a diagram showing the location of the island and by letters from Mr. F. W. Brickey, the owner of the lands on the Illinois shore opposite the island, showing that he has executed a quitclaim deed relinquishing his rights as riparian owner to Mr. Boas.

It appears upon examination that the said island is situated between township 5 south, range 10 west, third principal meridian, Illinois, and township 39 north, range 8 west, fifth principal meridian, Missouri.

To your request for the opinion of this office upon the merits of the bill, I have to state that inasmuch as the island has never been surveyed, and is not now surveyable under the regulations on account of being inarable, and as the bill provides that nothing contained therein shall directly or indirectly comprehend, include, grant, or relinquish any tract or parcel of land, in whole or in part, which has heretofore been granted by the United States, this office perceives no objection to the passage of the bill.

The papers inclosed in your letter are herewith returned.

I am, sir, very respectfully, your obedient servant,

J. M. ARMSTRONG,
*Acting Commissioner.*

Hon. T. M. GUNTER,
*Chairman Committee on Private Land Claims,*
*House of Representatives.*

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MRS. FANNY S. CONWAY.

The next business on the Private Calendar was the bill (H. R. No. 1583) for the relief of Mrs. Fanny S. Conway, of Louisville, Kentucky.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and is hereby, directed to pay to Mrs. Fanny S. Conway, widow of Dr. Ed. Conway, lost in the Grampus in 1843, out of any moneys in the Treasury not otherwise appropriated, the sum of $700, being the amount due and unpaid her under act of Congress.

The report is as follows:

That, having considered the same, they do recommend its passage.

In presenting this report they submit to the House the letter of the Fourth Auditor of the Treasury, that the House may know why the sum of money now sought by Mrs. Conway was withheld from her. It appears that the husband of Mrs. Conway, Dr. Ed. Conway, was an assistant surgeon in the United States Navy; that while on duty as such officer on board the United States vessel Grampus, said vessel with all on board was lost. It further appears that Congress in 1854 passed an act giving to the widows or heirs at law of such persons lost on board said vessel "twelve months' pay, in addition to the pay due to the said deceased at the date of the loss of the vessel."

Now, the accounting officers of the Treasury claim that inasmuch as the officer in question had given an order on his pay, known as an allotment order, for the benefit of his family and for their support during his absence at sea, and under which order $270 had been paid by the Treasury, they had a right to deduct this amount from the twelve months' pay granted by Congress, and did so.

Your committee do not agree to this construction of the act of 1854. To them it is apparent that Congress did not contemplate a settlement of accounts with the lost, but meant a gratuity or compensation to the living, in consideration of their loss or deprivation. In the service of the Government their stay and support had been taken away from them, and, recognizing this, a just, liberal, and beneficent Government intended to make them some compensation, and that compensation was twelve months' pay in addition to what was due the deceased, be that little or much; and so believing, your committee recommend the passage of the bill, which gives the widow the amount so deducted by the accounting officers of the Treasury.

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TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
*January* 20, 1880.

SIR: The papers in the case of Mrs. Fanny S. Conway, widow of Edwin H. Conway, deceased, late assistant surgeon of the United States ship Grampus, transmitted with your letter of the 18th instant, are herewith respectfully returned.

In reply to your inquiry, I have the honor to state that Assistant Surgeon Conway, before sailing in the Grampus, granted an allotment in favor of a James T. Harrison, and upon that allotment the sum of $270 was paid in excess of the amount charged against his pay. It appears that in the settlement of Mrs. Conway's claim for the gratuity of twelve months' pay authorized by the act of July 27, 1854, the overpayment on the allotment was deducted from the gratuity, in conformity with the uniform practice of the accounting officers in such cases.

An allotment of any portion of an officer's pay at that time was, by the express regulations of the Navy Department, restricted to his family, and it was accordingly assumed that in this instance the allotment, although registered in favor of Mr. Harrison, was intended for the benefit of Mrs. Conway, and from the fact that she speaks in her letter to Hon. Mr. Willis of the allotment as left to her, it is highly probable that the accounting officers were correct in assuming that she received the $270; and if such were the fact it was properly deducted from the gratuity.

It can readily be seen that the family of an officer who had granted an allotment upon which hundreds of dollars may have been received after his death, and before his loss became known, would have a decided pecuniary advantage over the family of an officer lost by the same calamity who had given no allotment, if the overpayment already made by the Government should not be deducted. It is evident that Congress intended the pay of the officer to be considered in connection with the gratuity for the grant of twelve months' pay to the families of those lost in the Somers, (9 Stat. at Large, 332,) Washington, (10 Stat. at Large, 748,) and Grampus, (10 Stat. at Large, 799,) was "in addition to the pay due the said deceased" at the date of the loss of the vessel.

The above, as far as I can judge, appear to be the principal reasons why the accounting officers declined to allow Mrs. Conway's claim for the full amount of the gratuity.

I am, sir, respectfully, your obedient servant,

WM. B. MOORE,
*Acting Auditor.*

Hon. W. C. WHITTHORNE,
*House of Representatives.*

The bill was laid aside to be reported to the House with a favorable recommendation.

MRS. ELIZABETH P. PAGE.

The next business on the Private Calendar was the bill (H. R. No. 1902) for the relief of Mrs. Elizabeth P. Page.

The bill was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Elizabeth P. Page, widow of the late Captain Hugh N. Page, the sum of $136.85, being the balance of pay due the said Hugh N. Page as captain in the United States Navy: *Provided*, Said payment shall not be made until the said Elizabeth P. Page files with the Secretary of the Treasury copies of her letters of administration, showing that she is the lawful representative of the said Hugh N. Page.

Mr. VAN VOORHIS. I move that the reading of the report be dispensed with.

Mr. WHITE and Mr. BREWER objected.

The report is as follows:

At the date of the resignation of the said Captain Page, who was a captain in the United States Navy, there was due him as such a small balance of $136.85.

The record of Captain Page in the Navy was a brilliant and honorable one. He entered the Navy in 1811, and during the memorable engagement on Lake Erie on the 10th day of September, 1813, he was attached as a midshipman to the squadron of Commodore Perry. He exhibited such coolness and intrepidity on the occasion referred to that the Congress of the United States voted him a sword in recognition of his gallant and efficient services.

When the State of Virginia passed her ordinance of secession Captain Page tendered his resignation as an officer in the Navy, which was accepted by the Secretary. At that time there was due him a small balance of $136.85, which your committee thinks should now be paid to his widow.

By the act of March, 1867, it became unlawful for the Treasurer of the United States to pay to Captain Page the amount due him, as he had, by serving in the confederate navy, "encouraged and sustained the late rebellion."

That law provided that no such payment should be made until otherwise ordered.

Your committee are of the opinion that Congress should now "otherwise order," and allow the widow to receive the money fairly earned by her late husband while honorably and faithfully serving the Government. They therefore recommend the passage of the accompanying bill.

Mr. BREWER. Mr. Chairman, I desire that the minority report be also read.

The CHAIRMAN. Without objection the minority report will be read.

There was no objection.

The minority report is as follows:

Hugh N. Page, the husband of the claimant, was appointed a midshipman in the Navy in 1811, and was promoted to a captaincy, and served faithfully until on the 10th day of April, 1861, when he wrote to the Navy Department, stating that as his native State, Virginia, had withdrawn from the Union, he therefore tendered his resignation as a captain in the Navy. On the 14th of May, 1861, his resignation was accepted. At the time of his resignation there was a balance due him of $136.85, and the bill in question is presented by the widow of the late Captain Hugh N. Page, who is now deceased, to recover the balance due her said husband. If these were all the facts to be considered, there could be no question but what the claim should be paid, and the same would undoubtedly have been paid at any time upon presentation at the office of the Fourth Auditor of the Treasury; but there are other important facts to be considered. Soon after Page's resignation, he entered the confederate service, and, without doubt, served thereafter the enemy of the United States in its efforts to destroy the Government as faithfully as he had served his own country for many years before. Whether Captain Page died while trying to destroy the Government of the United States, the minority of the committee is unable to state. In 1867 Congress passed the following act in the form of a joint resolution, and the same stands as section 3480 of the Revised Statutes:

"It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression, and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim, or demand, until this section is modified or repealed. But this section shall not be construed to prohibit the payment of claims founded upon contracts made by any of the Departments where such claims were assigned, or contracted to be assigned, prior to the 1st day of April, 1861, to the creditors of such contractors, loyal citizens of loyal States, in payment of debts incurred prior to the 1st day of March, 1861."

This act was passed, as we learn from the discussion which took place during its consideration in the Senate, for the very purpose of preventing the payment of just such claims as the one in question The joint resolution was presented in the House by Mr. Delano, of Ohio, on December 20, 1866; and, by unanimous consent, immediately put upon its passage, and passed without opposition. It went to the Senate, and was referred to the Judiciary Committee, and soon reported back to the Senate by Hon. Lyman Trumbull, chairman of the committee, and it passed the Senate February 2, 1867, with slight amendments, but without opposition, or even the calling of the yeas and nays. Congress, by this act, attempted to draw a broad distinction in the payment of claims between those who had been loyal to the Government and those who had been disloyal, and the law-making power only enacted that which the people with nearly one voice demanded. Take the case in question. Captain Page for many years served his country, but he was well paid for his patriotism and service. He had been promoted from time to time until he became a captain, which at that time was the highest rank known in the naval service; but in an evil moment he withdrew his allegiance from his Government and struck down the flag of his country with the sword which his country had presented to him.

The enactment of said law was to punish a class of men of which Captain Page was one. If the law was wrong when enacted it is wrong now and should be repealed; but if it was right when enacted, then it is no less right now and should be maintained. True, the claim in this case is but for a small amount, but the principle is as important as if the claim was for a million of dollars. The minority of the committee, believing the law was right when enacted and right now, is opposed to its repeal in whole or in part. If this bill should become a law it changes the principles enacted in the law of 1867. Undoubtedly there are thousands of similar claims against the Government, held by those who left the military or naval service of the United States and went into rebellion, and there is no reason for making the claim in question an exceptional case. If it is allowed and paid, then all other claims covered by the statute should be paid also and the statute itself repealed. The effort to pass this bill, in the opinion of the minority of the committee, is an attempt to do in parts that which the sentiment of the House and country will not permit to be done as a whole. Being opposed to the repeal of the act in question, so we are opposed to the payment of any claim the payment of which was prohibited by the act itself. We therefore respectfully recommend that the bill do not pass.

M. S. BREWER.
J. F. BRIGGS.

Mr. BREWER. Mr. Chairman, I do not wish to take any great length of time in discussing the question involved in this case. It is simply this, that the husband of the claimant in 1811 entered the naval service of the United States. He served as a faithful officer until 1861 when the State of Virginia withdrew her allegiance from the General Government. He sent in his resignation setting forth those facts to the Secretary of the Navy. The resignation was accepted soon after. After the resignation had been forwarded to the Secretary of the Navy he immediately entered the confederate service. How long he served in the confederate navy I am unable to state. Whether he was killed in the service of the confederacy or not I am wholly unable to state. But we find that he died at some time afterward and that the widow now comes to Congress and presents her bill asking that the sum due him when he sent in his resignation to the Secretary of the Navy shall be paid. There is no question between the majority and the minority of the committee, but what there was due to Captain Page at the time he resigned, the sum of $136.85.

In 1867 Congress sought to cut off and prevent the payment of all such claims and passed an act which is set forth in the minority report. This act prohibited any department of the Government to pay any account, claim, or demand against the United States which accrued prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the rebellion or who during such rebellion was not known to be opposed thereto and distinctly in favor of its suppression. It was introduced in the House and immediately put upon its passage without objection from any one. It went to the Senate and was referred to the Committee on the Judiciary, and was reported by the chairman thereof, Mr. Lyman Trumbull, then a Senator and chairman of that committee.

It was enacted for the very purpose of preventing the payment of claims such as this; and in order to show that fact I desire to call the attention of the committee to the discussion of the measure which took place in the Senate of the United States at the time it was pending before that body. After the committee had made its report and recommended at that time a slight change in the resolution as it passed the House by striking out of the bill the clause "or in favor of any person who during such rebellion was not known to be opposed thereto and distinctly in favor of its suppression," the chairman of the committee proposed to amend, and so stated to the Senate when he made his report, and in the discussion of that amendment Mr. Trumbull uses this language:

> As the resolution comes from the House, before the Government would be authorized to pay, it must appear affirmatively that the party asking the payment had been loyal and true to the Union.
>
> If those words are stricken out then the Government is prohibited to pay to any one who took part in the rebellion. The question is, whether it must appear affirmatively that the man was a loyal man before you can pay a claim which originated against the Government of the United States before the rebellion. There are cases, as I am informed, where parties had claims against the Government of the United States before the rebellion for services, perhaps in the Army, and subsequently joined the rebellion. The object of this resolution is to prevent the Government of the United States paying those parties and any of those claimants, although they may be pardoned now.

Mr. Hendricks, also a member of the Committee on the Judiciary of the Senate, uses this language. He was in favor of the amendment proposed by the committee that made the report. He goes on to say:

> It is a little difficult to understand from the phraseology of this resolution what will be its effect. I recollect to have asked the Senator from Illinois, the chairman of the committee, when the committee was investigating it, what was the purpose of it. As I understood from him, the main object was to prevent the payment of any claims to military men for services prior to the war when the claimants themselves had gone into the rebellion.

Hence we say that the very object in passing this act was to cut out just such claims as this bill contemplates; and we find that this statement, as contained in that act, was approved by the chairman of the Committee on the Judiciary, as well as all of its members, and was so stated upon the floor of the Senate at that time by Mr. Hendricks, then a Senator of the United States and a member of the Committee on the Judiciary.

Now, Mr. Chairman, it may be stated by the gentleman who made the report—the majority report—that the time has come for ordering otherwise. These claims were not to be paid "until otherwise ordered," and the gentleman sets forth in his report that the time has now come, in the judgment of the committee, when it should be otherwise ordered.

I should like to know why it should be ordered now any more than at the time the act was passed that these claims should be paid. If it was right that these claims should be paid, then it was wrong to enact the law. If it was right they should not be paid, then it is no less right now.

Our friends who make this report may come and say this is but a small sum, $136.85. They may say that this lady who now presents this claim as the widow of Captain Page is poor and needy. They may seek to play upon the sympathies of this committee and of the House so as to secure the passage of this claim. I know how easy it is to raise a sympathetic feeling in the minds and hearts of members of this House. We saw it illustrated here in the passage of a bill which but a little while ago was before the committee. And it is the fact that claimants come here before the House and before the Committee of the Whole and present but one side of the case, and appeal to the sympathies and hearts of the members for relief.

Now, I say the widow of Captain Page could acquire no higher rights against the Government than those possessed by her late husband; and if it had been right to have paid this claim, then it should have been and would have been paid to Captain Page years ago, instead of its being claimed for the widow now. The same principles are involved upon this claim, and in this case, as would be involved if there was a million dollars concerned; no more and no less.

We are establishing a precedent to-day, and if we pass this bill then we ought immediately to repeal the act by which the payment of this claim and those of others like it is prevented. If this claim is right, which is presented by Mrs. Page, then I say there are a thousand others who have equally meritorious claims, and they should be paid as well as this widow. I insist we ought not to attempt to do here in part what we in my judgment in this Committee of the Whole, or in this House, will not do in whole, and what the country would not approve of our doing.

I apprehend that if any gentleman should come in here and ask that this law should be repealed which prevented the payment of any claims of those who went into rebellion against the Government, such a proposition would not receive the vote of one-third of the members of this committee. And yet we are asked to pay a claim which we are compelled, in order to pay, to repeal the act in question to the amount of this claim.

Since I have been a member of this House there have been many petitions presented here asking that amnesty might be granted to those who were serving the country in the Army or Navy and withdrew from that service and went into rebellion against their Government. We have been asked to grant amnesty to these men, and it has always been done; and when the question has been raised, as it frequently has been on this side of the House, that these parties were seeking to recover the amounts which might have been due to them at the time they withdrew their allegiance to the General Government we have been told by members upon this floor that they never would vote for any such bill. And now the question is presented fairly, squarely, and plainly before the committee. I wish that this might be made a precedent, such a one as will establish for all time to come whether this House desires to overthrow that act which was passed by the Congress of the United States in 1867, and which was passed at that time through the lower House of Congress without an opposition vote, and which was passed by the Senate without the calling even of the yeas and nays upon the vote. The justice of the act at that time was recognized by all. Is it any more unjust now than it was in 1867? I apprehend not. The Congress of the United States at that time sought to draw the broad distinction between the men who remained loyal to the Government and the men who became disloyal to the Government. Are we ready to-day to break down that distinction which was made by the passage of that act? If we are, then let us pass this bill. If we are not, then let us sustain the law that was enacted in 1867.

Mr. GOODE. Mr. Chairman, I regret that the gentleman from Michighan [Mr. BREWER] seems disposed to make such strenuous opposition to this little bill. What is it? If I can get the attention of the committee for a moment, I am sure that gentlemen on both sides of the Chamber will agree with the majority of the Committee on Naval Affairs that the bill ought to be favorably considered.

And I want to say, Mr. Chairman, for the information of gentlemen on the other side of the House surrounding the gentleman from Michigan who has just spoken, that this is a unanimous report from the Committee on Naval Affairs, with two exceptions. The bill was very carefully considered in the Committee on Naval Affairs, and that committee, with two exceptions, have reported it back with a favorable recommendation.

Mr. BRIGGS. Will the gentleman permit me one word?

Mr. GOODE. Yes, sir.

Mr. BRIGGS. Does the gentleman mean to say that all the committee were present, at the time this bill was considered, and voted on?

Mr. GOODE. I think I am warranted in saying that if the members were not all present, every member of the committee, with two exceptions, advocated the passage of this bill. I wish the gentleman from Massachusetts [Mr. HARRIS] were here to-day. I wish the gentleman from Pennsylvania [Mr. HARMER] were in his seat. But I feel warranted in the declaration that, with the exception of two members, the gentleman from New Hampshire [Mr. BRIGGS] and the gentleman from Michigan, [Mr. BREWER,] this bill has met the favorable consideration of the Committee on Naval Affairs.

It appears from the report that Captain Hugh N. Page entered the United States Navy as a midshipman in 1811. He was present at the battle of Lake Erie under Commodore Perry, and exhibited such conspicuous gallantry on that occasion that the Government voted him a sword. He remained in the service of the United States until the breaking out of the civil war in 1861, when he tendered his resignation for the reason stated by him, because his native State had adopted her ordinance of secession.

Now just here let me say that the report of the committee is slightly inaccurate. I do not attach any blame to the gentleman from Michigan, [Mr. BREWER.] He was misled by the report of the majority of the committee. Since that report was submitted I have been informed that it was slightly inaccurate in this: it says that Captain Page entered the service of the Confederate States. That is a mistake. He was too old a man to render any service, being seventy

years of age when the war broke out. All he did was to tender his resignation in proper form as an officer of the Navy of the United States; which resignation was accepted by the Government.

I want to be frank with this committee; I want to do justice to all parties concerned. Therefore I say that I have no doubt if Captain Page had been of military age he would have entered the service of the Confederate States. He tendered his resignation in the Navy of the United States, but it is not true that he went into the confederate service, because, as I have said, of his extreme old age, he being at least seventy years of age at the time of his resignation.

Mr. HAWLEY. Did he state any grounds in his resignation?

Mr. GOODE. The only ground was that his native State of Virginia having adopted an ordinance of secession, he tendered his resignation as an officer of the United States Navy; that was his only reason.

It appears that at the time of that resignation, which was accepted by the Government of the United States, there was a small pittance of $136.85 standing to the credit of Hugh N. Page on the books of the Department. It is not disputed by gentlemen of the minority of the committee that this money was fairly and honorably earned by Captain Page. It is not disputed by anybody that the Government owed it to him at the time of his resignation, and owed it for faithful services rendered during a long and brilliant career. He died with this little pittance standing to his credit. His widow now comes, as his legal representative, and asks the Government to pay to her, as the representative of her late husband, what was legally due to him at the time of his death.

Gentlemen say it is a just claim; gentlemen say the amount is due; gentlemen say it has been fairly and honorably earned; but they are unwilling to pay it because of section 3480 of the Revised Statutes.

Now I submit to this Committee of the Whole that it was never contemplated by the Government of the United States to confiscate forever a claim like this. I apprehend the Government only intended to suspend for the time being the payment of such claims. Why? It was the period of reconstruction. The States had not yet been fully restored to the Union. Nobody knew then how many such claims might be preferred against the United States, and Congress in its wisdom, in 1867, thought that it would be good policy to suspend the payment of these claims until they should think proper to "order otherwise." They never intended to confiscate them. The Government never undertook to confiscate the property of any man who went into the rebellion.

I claim that this is as much a debt due to the estate of Captain Hugh N. Page as if he had held the bonds of the Government at the time he died. It was to his credit upon the books of the Department. He had earned it. He had rendered a *quid pro quo*, and it stood to his credit at the time of his resignation, and stands to his credit to-day on the books of the Treasury Department.

The gentleman from Michigan [Mr. BREWER] says it shall not be paid. Why? Because section 3480 of the Revised Statutes provides that it cannot be paid until "otherwise ordered," until the section is modified or repealed. Was it ever designed by Congress to say that it should never be paid at all? Is not that practical confiscation? At the request of friends around me I will read the section:

> It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression, and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim, or demand, until this section is modified or repealed. But this section shall not be construed to prohibit the payment of claims founded upon contracts made by any of the Departments where such claims were assigned or contracted to be assigned prior to the 1st day of April, 1861, to the creditors of such contractors, loyal citizens of loyal States, in payment of debts incurred prior to the 1st day of March, 1861.

Now, I submit that the statute and the debate referred to by the gentleman from Michigan, [Mr. BREWER,] which occurred in the Senate in 1867, show that the whole purpose of the Government at that time was to suspend for the time being the payment of these claims until the States were fully restored to the Union and until these claims could properly be inquired into; in other words to suspend them temporarily until Congress in its wisdom should "order otherwise."

My friend from Michigan and my colleague on the Committee on Naval Affairs [Mr. BREWER] says that it was the purpose of Congress to punish men who had gone into the rebellion. I beg him to remember that the Government has never undertaken to confiscate the property of any rebel. And I submit to him and this committee that if the design was to punish, it was never intended by the Government to punish beyond the grave. Captain Page is dead, long since dead. If it was intended to punish him he has been punished by the withholding of the payment of his claim during his lifetime.

Was it intended to apply the doctrine to his widow, or to his legal representatives? Was it intended to punish them on account of his supposed disloyalty? What right had this Government to do any such thing? Can Congress pass a bill of attainder? Would it not be practically a bill of attainder if you should now say that, although this money was due to Captain Page at the time of his death for honorable and meritorious services to the Government, his widow and his estate should not have it because he was a rebel? I want to know whether such legislation is not to all intents and purposes a bill of attainder; whether you are not undertaking to pursue Captain Page beyond the grave and taint his blood because of disloyalty? Is not that the effect?

I did not intend to say anything on this bill. I supposed that the Committee of the Whole would vote on a little case like this without discussion; but I felt it proper to say this much, that members might understand exactly the point involved.

I repeat, here is a little sum of $136.85 due to the late Hugh N. Page. It is admitted on all hands that the money is in the Treasury to his credit; it is admitted that he earned it fairly; it is admitted that his record in the service is honorable and brilliant. The Government at one time voted him a sword. The fact is that when the war broke out he resigned, went home, and remained quietly there during the war, not being able to participate in the war on account of his extreme old age. His representative, his widow, comes now and asks that this money may be paid to her. There is nothing in the way but section 3480 of the Revised Statutes, which simply suspended the payment of this claim for the time being. I hold that this is as much a debt due from this Government to the estate of Hugh N. Page as if his widow held the bond of the Government. Gentlemen cannot escape from that proposition. This is a debt, an honest debt, due for services rendered; and my doctrine is that it is the part of wisdom and of policy for governments as well as individuals to pay their honest debts. I hope the Committee of the Whole will report the bill favorably.

Mr. CONGER. Mr. Chairman, one after another of these old claims comes creeping into this House, stained all over with the record of their disloyalty. When they come they always have their advocates. The reasons given for passing this class of bills are always plausible. If it is a claim on behalf of a college; it is an "old college" that has educated great men, and the passage of the bill is demanded, and demanded by the gentleman from Virginia in favor of education. Year after year, day after day, William and Mary College is made the entering wedge; and gentlemen are rallied to the support of that bill by plausible arguments in favor of education, in favor of antiquity, in favor of "the first educational institution on the continent." No matter what the subject may be there are always plausible, eloquent, sympathetic reasons given for the passage of the bill. Generally there is great force added to the bill because it is a "little" thing. I think I have observed—and if I am mistaken in this the gentleman can correct me—I think as a general rule my friend from Virginia gathers all his intellectual forces around a "little" thing. Because it is small, because it is weak, because it is feeble, he comes to its rescue with a chivalry worthy of himself.

Now, what is this case? What does it present to you and to me and to this committee and to the American people? Sir, it is the history of an adopted son of this Republic placed in command above his fellows, commissioned to rule over other citizens in the Navy of the United States. As a gallant young man, on the broad waters of the lake which bounds my State, he won distinction with hundreds of other men. Was the country ungrateful for his services? Far back in that war of which Lake Erie was the scene, Congress rewarded the valor of this young man, presented him a sword; encouraged him from that time thenceforth and forever, while his hand had the power, to wield that splendid gift of his country given him in reward of allegiance, of fidelity, of valor—to wield it for the country which thus honored him, which thus glorified him, which thus told the world how the Republic would reward its faithful and devoted sons. Years passed on—a half century of honors, of promotion—until this man was elevated to the highest rank in the Navy which our laws recognize—honored, trusted, loved; and there came a time when in the madness of the hour, instigated by traitors, by rebels, that State of Virginia tore down the banner of the Union and proclaimed to her sons that she set up an independent government for herself. Virginia, not the most deserving by far, but the most honored of all the States in the American Union, was the first to lay an unholy hand upon the banner of the Union and strike at its life. And this son of Virginia, for fifty years the honored representative of that State in the Navy of the United States, engaged then in upholding the flag of his country, honored with the highest command which could be given to the son of any State, immediately upon hearing that the State to which he belonged had become dishonored—had become traitorous, had rebelled, had struck down the flag, had withdrawn from the association which had honored the State, not which the State had honored—resigns that high position, hands back to the Government with scorn and derision the honors conferred upon him, resigns his high commission, but carries off in his old trembling hand the sword which the nation had given him, carries it off to use it to strike the heart of the nation which gave it. [Laughter on the democratic side.] Ah! those gentlemen laugh and sneer; perhaps they did the same. [Laughter on the republican side.] I do not envy the smile that gathers upon the faces of some gentlemen on the other side of the House—the smile of their derision at the picture I have drawn. It is a becoming exhibition of the contortions of which the human face is capable under adverse circumstances. [Laughter.] It treats well of the wisdom and power of that Creator who can make a face subservient to the rule and will of the mind, which shall show a contrary feeling to that which exists within the breast sometimes. [Laughter.] Now, sir, that is the picture of this man.

The gentleman says he was too old to engage in the confederate

service. He was not too old to resign and leave the service of his country. He was not too old to tell the officials of his Government that he did resign because his State was treacherous, because it was rebellious, and that he was hurrying to leave the service of his country that he might fling himself, old as he was, trembling as he was, paralyzed as he was, with his remaining vital forces into the arms of his treacherous and rebellious State, to aid it either by force of arms or by counsel and advice and encouragement.

Ay, sir, it is reported to have been said by a distinguished general in the service of the United States that the South had robbed the cradle and the grave to bring strength to their cause. Here was this man not yet in the grave. Here was this man who had gone to Virginia to aid Virginia in its treason. The law said to all such men and all officers of this Government, a law enacted and re-enacted: if you will thus, in the day of your country's emergency and danger, forsake your post of duty, there shall be no payment made to you for services either past or present. That law for twenty years almost has stood on the statute-book of the nation. That law for six years almost standing there has never been attacked by any man whose face now lights up with sneers at what I say. There is boldness among you, infinite boldness; but no man has had the courage to propose the repeal of that section. No man has dared to stand up before the American people and declare that law was improper or unnecessary or ought to be repealed. It remains to-day, sir, for the gentleman from Virginia——

Mr. GOODE. If the gentleman will allow me, I think he is in error in that statement. It is my recollection that repeated efforts have been made to repeal section 3480 of the Revised Statutes. Repeated efforts have been made in the other Chamber if they have not been made here, and there the question has been debated but postponed and defeated in various ways.

Mr. CONGER. If there is such an effort, it is of record. I ask the gentleman for the record. I never heard of it in this Chamber. I never heard any allusion to or request for the repeal of this law in this Chamber except the remark of a gentleman from Kentucky made, as it is said, inadvertently that when the democracy gained the control of this House, and the other end of the Capitol, and of the Presidency, there should be a repeal of all the reconstruction laws which, and which, &c.

Mr. BLACKBURN. Will the gentleman illustrate his usual fairness by refusing to garble and butcher a record that lesser lights of the republican party without credit to themselves have butchered before him?

Mr. CONGER. Does the gentleman deny the remark as far as I quoted it?

Mr. BLACKBURN. I deny——

Mr. CONGER, (interrupting.) Does the gentleman deny the remark as far as I have quoted it?

Mr. BLACKBURN. I do, and say the RECORD denies it for me.

Mr. CONGER. Then I turn to the RECORD.

Mr. BLACKBURN. Then read the whole sentence.

Mr. CONGER. Ah! as far as I quoted it. I said "repeal all of the reconstruction acts."

Mr. BLACKBURN. The word "reconstruction" is not in that speech.

Mr. CONGER. Well, "all war measures and which and which," as the gentleman inserted in the RECORD.

Mr. BLACKBURN. And which the gentleman is not fair enough to quote to the letter.

Mr. CONGER. "All war measures," "war legislation, which and which."

Mr. BLACKBURN. And the "which and which" which I dare you to tell. [Laughter.]

Mr. CONGER. The gentleman may tell "which and which," some of which we have heard and the rest we saw in the RECORD. But that, Mr. Chairman, is not what I am commenting upon.

Mr. BLACKBURN. Does the gentleman say that this speech was not published as delivered?

Mr. CONGER. I have nothing to say about that.

Mr. BLACKBURN. The gentleman seems to be willing to say things by implication which he seems to lack the recklessness to utter by direct assertion.

Mr. CONGER. The gentleman's remarks are of record.

Mr. BLACKBURN. And when they are referred to upon the floor of the House I would accept it as evidence of fairness if he who makes the reference would quote the record.

Mr. CONGER. I simply say what I have stated. There are other remarks, too, which I have referred to repeatedly——

Mr. BLACKBURN. It does not suit your purpose to quote them.

Mr. CONGER. I do not quote them. The gentleman may quote them at his leisure.

Mr. BLACKBURN. The gentleman from Michigan might improve his speeches on the average if he would reproduce that one of mine. [Laughter.]

Mr. CONGER. The gentleman does not deny so much as I have quoted of the RECORD. He added to that whatever he chose. That is enough for me. That is enough for my purpose, and that is collateral to what I am saying. The gentleman is not figuring in this discussion, I would have him to understand. The gentleman from Virginia was occupying my attention when he chose to interrupt.

Mr. BLACKBURN. If the gentleman from Michigan will allow me, in justice to himself and to me, I do enter a protest against his purpose of making a garbled quotation, or doing injustice to anybody, however obscure the individual.

Mr. CONGER. I will now read, as I understand, what the gentleman has said.

Mr. BLACKBURN. Will the gentleman read a full sentence, and not a portion of one?

Mr. CONGER. I will read two sentences; I will double on the gentleman.

Mr. BLACKBURN. What book does the gentleman read from; the CONGRESSIONAL RECORD?

Mr. CONGER. I read from a document you will not dispute.

Mr. BLACKBURN. I ask that the gentleman read from the official record of the House.

Mr. CONGER. I have stated that I will read the language of the gentleman, and he will not deny it.

Mr. BLACKBURN. Will the gentleman answer the question? Does he read from the official record of this House, or from a republican campaign book?

Mr. CONGER. The gentleman can deny what I read if it misrepresents his statement.

For the first time in eighteen years past—

I am quoting now what I understand was said by the gentleman from Kentucky.

For the first time in eighteen years past the democracy are back in power in both branches of this Legislature, and she proposes to signalize her return to power, she proposes to celebrate her recovery of her long-lost heritage, by tearing off these degrading badges of servitude and destroying all the machinery of a corrupt and partisan legislation.

Mr. BLACKBURN. I ask what document the gentleman is reading from.

Mr. CONGER. That is one sentence.

We do not intend to stop until we have stricken the last vestige of your war measures from the statute-book.

Mr. BLACKBURN. Is that the end of a sentence? I ask the gentleman to read a little farther.

Mr. CONGER. Up to that point I quoted, and then said: and which and which and which. [Laughter on the republican side.]

Mr. BLACKBURN. What was the "which" the gentleman refers to? I desire the gentleman from Michigan to answer either one of two questions: has he stopped at a semicolon or has he read to the end of the sentence? and has he read from the official records of this Congress? I dare the gentleman to read on.

Mr. CONGER. Mr. Chairman, this daring matter may have some influence and may be important among school-boys of a tender age, but not among gentlemen. [Laughter on the republican side.]

Mr. BLACKBURN. I only dared the gentleman to do right. I thought it included tender judgment as well as tender age.

Mr. CONGER. Now, sir, I will read again. I read that part of the sentence to which I have already referred, and then went on saying, "and which and which and which."

Mr. BLACKBURN. And I did most emphatically deny that that was the end of the sentence, and asked the gentleman to continue.

Mr. CONGER. Cannot the gentleman contain himself until I finish.

Mr. BLACKBURN. Let me say to the gentleman from Michigan that I appreciate the fact that is well known to everybody in this House, that of all men he is the only one that never finishes. [Laughter on the democratic side.]

Mr. CONGER. Now, I will read. I have finished the gentleman from Kentucky. [Laughter.] I am finishing him off.

Mr. BLACKBURN. I doubt not the gentleman has probably tired of it by this time.

Mr. CONGER. "We do not intend to stop"—and I do not intend to stop either. [Laughter on the republican side.] "We do not intend to stop until we have stricken the last vestige of your war measures from the statute-books, which, like these, were born of the passions incident to civil strife, and looked to the abridgement of the liberty of the citizen."

Mr. BLACKBURN. I say that now. I say it again.

Mr. CONGER. And which and which, as I said before. [Laughter on the republican side.] But the gentleman himself was so anxious that I should embody in my remarks something which he has said and have it go out in my speech that he has continued to interrupt me after I had already quoted him, and keeps me reading on and reading on. [Laughter.]

Mr. BLACKBURN. I knew it would improve the gentleman's speech.

Mr. CONGER. And there, with his usual magnanimity, he says, I "never finish." Now, I dismiss the gentleman from Kentucky, if he is willing. I was discoursing somewhat upon the comment of a more distinguished gentleman, if I may be permitted to say so, or be allowed to pay that high compliment to my friend from Virginia. I allude to my friend from Virginia who critcises this report, a distinguished gentleman from a more distinguished State, as the honorable chairman will permit me to say in his presence. [Laughter.]

I was saying, sir, if I can recollect so far back as the time when the gentleman from Kentucky came to my assistance, that a distinguished general of the Union forces had declared that the confederacy—and I am very sure that without being personal I may say that

there are persons here who will remember what I now repeat, and know whether that remark is true or not; if so, I call upon them to dispute or deny it—this gentleman has said that they were robbing the cradle and the grave to fill up their armies. And here is a living man, though only seventy years of age, quite a young man compared with some venerable gentlemen upon this floor whose actions point to great activity and greater age. He was in the service. The report of the committee declares that he entered the confederate service, and I won't deny that statement, but will criticise it, I must confess, with a great deal of reluctance lest it will be taken advantage of by the fiery gentlemen on the other side of me as attempting to discredit the report of the committee. Now, however, the gentleman from Virginia permits himself, after the report has been read, to stand up and say that the report is not true; that the report is false; that when it says this gentleman entered the confederate service it states what is not true. Who made that report? What gentleman of that committee is responsible for imposing upon this committee and upon the country a false report that can be contradicted here with a breath?

Mr. GOODE. Will the gentleman allow me?

Mr. CONGER. I yield.

Mr. GOODE. I am the author of that report, and I am responsible for it.

Mr. CONGER. Here? [Laughter.]

Mr. GOODE. Wait a moment. I deem it due to candor and fair play to say to the House, that since the report was prepared and submitted it came to my knowledge that in that particular it is inaccurate. The report stated that he entered the confederate service. I have learned since that he did not enter the confederate service. But in fairness and in candor I state at the same time my belief to be that he only was prevented from doing so by extreme old age. I do not want to mislead the committee, and I would not do injustice to the memory of the dead. I think Hugh N. Page, if alive, would not thank me for representing to the American Congress that he was not willing to go with his native State into a struggle like that.

Mr. CONGER. Ah, sir, if a man has to apologize for not having entered the confederate service there are few on that side from the South but would escape the necessity, although my friend is not one of them. They do not need the apology of age or anything else that they did not enter the confederate service.

But, sir, the report of the committee was read, the minority report was read, and comments were made upon the case; and it was not until the bill was opposed that my friend from Virginia saw fit to correct the report of which he stated he was the author. That is not material. To this question it is immaterial whether this veteran officer of our Navy entered the confederate service or not. He publicly declared to his native land and to the officers thereof that he resigned his commission and left the service because his State had become traitorous to the Government, and he wanted to go with his native State. What he did, how he worked, how he fought, how he labored, or what prevented it is immaterial. With me the point is that, bearing in his hand the sword presented to him by a nation for his gallant services, he went into the heart of treason, gave his influence to the cause of treachery, and bore his sword to attack his native land, to strike down its banners, to destroy its Government.

Sir, the gentleman from Virginia [Mr. GOODE] has told this committee that he would not do so much injustice to the memory of a once gallant officer of the United States as to say here before us that he would not have entered the confederate service if he had not been prevented by age and infirmity. I will do the justice to the boy that fought on the waters of Lake Erie. I will do the justice to one who bore our flag on all the oceans of the world and before all countries, an honored, loved, and respected man until he fell, in that fatal hour when the whole country was filled with political graves, and he fell into one of those graves to be dishonored forever. I will do him the justice to say that I believe if that man were alive now the recollection of his associations with his beloved land, of the honors once conferred on him, of the flag which he bore, of the country he fought for, of the patriotism of which he had been so bright an example, of all the long years of his life up to that moment, would have prevented him from ever coming here and asking for the pitiful sum of $200, for the sake of which the salutary law enacted by one Congress, reaffirmed by another, untouched during all these twenty years, should be repealed in his behalf. No, sir, in his heart to the hour of his death there was the consciousness of his association with a great, and grand, and glorious, and growing republic; and if it did not hasten the hour of his death that he had in the fatal moment proved false and treacherous to the flag he bore, to the nation which had honored him, I can at least conceive he went down to his grave surrounded by sad memories of reproaches continually sounding in his ear until the death-knell shut off all perception of earthly things.

No, sir, the American people do not wish that law repealed. If that side of the House desire for any purpose, and so inconsiderable a one as this, to be on record for the repeal of the law which no hand has dared to touch for twenty years, I invite them to the issue. It seems to me as if the infinite variety of blunders of the democracy would insure their ruin without any effort from our side of the House; and I say let them put their votes on record, even in this case, which is an entering-wedge for thousands and hundreds of thousands of dollars to be taken out of the Treasury to pay up for the rebellion which is past.

Mr. HOUSE. It seems to me that this discussion has taken a very wide range and aside from the merits of the case now before this committee. To what the gentleman from Michigan has seen fit to say on this occasion in reference to the South and in reference to this side of the House I care not to reply. It is not the first time that that gentleman has bawled himself hoarse in that case. It is not the first time the bloody shirt has been invoked by that gentleman to cover the cause of injustice.

What is the case before this committee? It is the case of an aged widow asking—for what? For the pitiful sum of $136 which this Government owed to her dead husband—owed before there was any war of the rebellion—for services that he had rendered his country. Nobody disputes that. She is the widow of a man who had reflected honor upon his country's flag in the past. This claim is for services he then rendered.

Does the Government owe him that money or not? Does anybody dispute that the Government owes it? Suppose, Mr. Chairman, that I owed you the sum of $130, and you and I were afterward to have a dispute or a falling out, and in order to punish you I repudiated the debt and refused to pay it. Between individuals such conduct would be infamous. Shall the Government place itself in that position toward this old widow?

This Government has never attempted to confiscate this debt. If it had been confiscated, confiscation could not have lasted beyond the life of this officer; his heirs would have been entitled to it. Whatever may have been his faults, or whatever in the estimation of gentlemen may have been his crimes, he has passed beyond the praise or the censure, the reward or the punishment of the House.

His aged widow is now here asking for the payment of the sum of $130 which the Government owed her husband for services he had rendered. That is the question. This House can refuse to pay this claim. The claim is seized upon by the gentleman from Michigan [Mr. CONGER] as an occasion for delivering to this side of the House a lecture, and to vent what seems to be his inexhaustible spleen against the South and the cause of the South upon this side of the House, which has southern Representatives. This claim is made the occasion of the long speech which he has delivered here—the claim of the old widow of an officer who reflected credit upon his country; the widow now coming here and asking the Government to pay the small debt that it owed to her dead husband.

It does seem to me that there could not be a more meritorious claim presented to Congress than the claim of this old widow. I have nothing more to say about it.

Mr. BRIGGS. I signed this minority report, and signed it for the purpose of bringing this question directly before this House. There is not any question as to the military history of this man. There is not any question as to what services he rendered the United States down to the time that Virginia seceded from the Union. There is no controversy about those facts.

And I do not think there is any dispute about another fact, that the Government did owe him the sum stated in this report for services rendered prior to the time of his resignation. Now, why is it that that debt has not been paid? Because of the fact that you have a statute or the section of a statute which forbids the payment of this claim and all claims of like character.

Mr. BEALE. Just at this point let me inquire of the gentleman if the section to which he refers forbids the payment of such claims as this to the heirs of the party? Does it not confine its operation to the parties themselves?

Mr. BRIGGS. The statute has been read here a half dozen times to-day; and it is embodied in this report, and the gentleman can construe it as well as myself.

I say there stands the statute. If it is not a bar to the payment of this claim, why is this bill here? Why does not the party go directly to the proper authorities and collect the amount of the claim? I suppose the majority of the Committee on Naval Affairs believe that that section of the statute is a bar to the payment of this claim and of all claims of a similar character.

If that statute is wrong, then let gentlemen bring in a bill to repeal it, and not seek to fritter it away and destroy its effect and influence by piecemeal as they are doing in this case. When I signed that report I desired to bring this question directly before this House. Is section 3480 of the Revised Statutes wrong? If wrong it should be repealed. If it is right its principles should be adhered to.

It is said this is a small claim. It is a small claim. It is said also that this widow woman is old and poor. I presume that may be so. It is a case which appeals to the sympathy of every individual who understands its merits. But it is just one of those cases which are always selected as an initiative step; which are always selected as the most suitable and proper for establishing precedents that may be followed hereafter. I say to gentlemen, come up and act upon this measure like men. If that law is wrong, repeal it. If it is not wrong, then stand by it and refuse to pass this bill which would be a practical repeal of it.

Mr. WILSON. Will the gentleman allow me to make one suggestion?

Mr. BRIGGS. Certainly.

Mr. WILSON. Is this House bound by the provisions of that law? Is it not perfectly competent for this House to grant the relief asked for?

Mr. BRIGGS. That is what I say; that when you pass this bill you practically suspend the operation of that law.

MESSAGE FROM THE SENATE.

The Committee of the Whole rose informally, and Mr. HUTCHINS took the chair as Speaker *pro tempore*.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate requested the return by the House of a bill of the following title:

A bill (H. R. No. 2180) to increase the pension to James H. Reeve.

MRS. ELIZABETH P. PAGE.

The Committee of the Whole resumed its session, and proceeded with the consideration of the bill (H. R. No. 1902) for the relief of Mrs. Elizabeth P. Page.

Mr. COX addressed the committee. [See Appendix.]

Mr. CHITTENDEN. Mr. Chairman, I am sincerely sorry that my colleague should suspect me of any unpleasantness toward him. I am one of his early and true friends, and he ought to know it. I believe in six years and a half I have not been tempted to utter a word in this place indicating any sense of hate toward any one. In all the accidents of debate, I am sure there cannot be found a syllable of hatred in anything I have ever said. And I certainly have not risen at this time to say anything of that sort. I am myself a widow's son, and a widow's name seeking justice is never mentioned in my hearing without touching the most sensitive part of my nature. If there be an act upon the statute-book of the United States which prevents the payment of these $130 honestly due to the widow of a once faithful naval officer of the United States, it seems to me that act should be repealed or modified.

I know a little historic incident connected with the outbreak of the rebellion which has some pertinency and a lesson for my friend from Michigan, [Mr. CONGER.] I knew a merchant in New York who sat by the side of an old commercial correspondent as the wires were about to tick that Virginia had seceded from the Union. The Virginian said, "What shall I do if my State secedes?" The merchant said, "If you have purchased your goods, take them and do the best you can; no man who knows you will refuse to deliver them even after Virginia has seceded." Within half an hour the news came that Virginia had seceded. The Virginian then said to the merchant, "You of course will not trust me now." The merchant said to him, "You purchased the goods fairly on yesterday. I will send them and I will take all the risks. I have known you for ten years and know that you will pay for them if you can; let the consequences be what they may, every dollar of the merchandise shall go if you want it." It did go.

Five years after the war was over, or perhaps three, this merchant of Richmond, Virginia, Breeden by name, a thorough rebel who gave his all for the success of the confederate cause, returned to the merchant in New York and paid for the goods, every dollar, principal and interest.

Now, it seems to me that if there be a widow asking for $130 honestly due her husband who was an officer of the United States Navy, a debt for services which preceded the rebellion—if this Congress refuses to pay the debt, they, in my judgment, do an act which appeals to the manhood outside of Congress to see that another Congress shall find a way to pay it with double interest. [Applause on the democratic side.]

Mr. BRAGG. Mr. Chairman, I regret, sir, that upon a bill of this kind the debate should have taken so wide a range as it has taken here to-day. I have been charmed by the beauties of my friend from New York, [Mr. COX.] But I regard this question as involving one of principle; and I am not to be driven from the views I entertain upon a question of such a character by any glittering generalities, supported by poetry and all the beauties and flowers of rhetoric.

I remember well the history of a gentleman in the old army who earned for himself a reputation second to none as a great and brave officer as he led his forces through the snows and stood before the walls of Quebec. If his record were to be discussed here now, are we to be driven from the consideration of the fact as to where he ended by the brilliancy of his career in the outset? The same line of argument that was taken by the gentleman from New York might equally well be applied to him. Arnold fought nobly, bravely, and well; but Arnold deserted the flag of his country in a trying hour of its need.

It may be said that the beneficiary under this bill was the wife of a hero of Lake Erie. Well and good. Far better for him had he died sustaining the flag of his country in the glorious battle upon Lake Erie than to have died having in his latter years, when too old to do service in the line of his duty, spat upon that flag by tendering the resignation of his commission in the hour of his country's greatest peril. [Applause on the republican side.]

This is a question, Mr. Chairman, in my judgment, which is, as I have said, a question involving a principle. It is a bill which involves, it is true, a very trifling amount.

It was not the stamp tax that brought on the Revolution. It is the principle involved and underlying this thing. Shall we wipe out all legislation which prevents men once in the service of the United States and who abandoned their duties from coming back again as claimants upon the public Treasury, because, forsooth, the leader of the claimants is a lady, old and gray, whose husband, in his youthful days, did serve his country with honor and distinction? If we do away with the principle here, where shall we end? If we pay this woman because she is old, if we pay her because she is needy, that is one thing. But if we pay her because she was the wife of an officer who resigned and under whose resignation there comes up this bill and penalty which deprived him of his pay, he having placed himself in the position of suffering the penalty, that is another thing.

Mr. DAVIS, of North Carolina. Was there any such law in existence at that time; any law that would deprive him of his pay?

Mr. BRAGG. There was this law, and it is recognized everywhere, that he who deserts his country's flag in the hour of his country's peril is entitled to no respect from that country afterward, except such as she gives him by a mere generosity and as a gratuity.

Mr. DAVIS, of North Carolina. If there was no such law, then there is a constitutional right.

Mr. BRAGG. Mr. Chairman, I am not here to discuss the Constitution. If I were, I should say that the gentlemen who broke the Constitution and fled from it are not the men to hold it before me and ask me to support it. [Applause on the republican side.]

If this bill pass there is no man who was in the American service, whether civil, military, or naval, but will come back to the Treasury of the United States for something which may have been due him for some few days before he deserted his country.

I am anxious, Mr. Chairman, as anxious as any man in this House, never to see again or hear of the subject of the southern rebellion. It strikes me as deeply and keenly as any man upon the floor of this House, and I would fain wipe it out forever from sight and memory. But I say to my friends from the South, that when you want to end this controversy, when you want to close up these memories, it is no proper way to do it by bringing forward claims here and presenting them for consideration which keep alive those memories by constantly stirring up something that involves the discussion of the rebellion and the troubles which have grown out of it.

The difficulty lies precisely there. It is in vain to ask the people of the North to close their eyes when their ears listen continually to the rapping at the Treasury door and asking for what is due, involving a discussion of all that preceded and all that took place during the war. I say, let the rebellion sleep where it does sleep; let the tree lie where it fell, and do not longer present before this House these irritating subjects for discussion.

Mr. HAWLEY. I have but a few words to say. Much that I would have said has been anticipated by the gentleman from Wisconsin, [Mr. BRAGG,] to whom I personally tender my thanks for what he has uttered.

If I were asked whether I were willing, in behalf of a venerable lady, the widow of a deceased officer who had done service to the country in years gone by, to waive any technical point of law on her behalf, I should have little to say. If I were asked to remedy the asperities and harshness of a general law by giving my little subscription to pay the sum claimed as due to this lady, I should have nothing to do except to make and pay my subscription. But when a gentleman presents a bill of this description, and says to me, vehemently, that it is as good a debt as any represented by any Government bond, and when he says to me that nothing in the world has been done to forfeit any obligation this Government was under, he revives issues and revives sentiments that I desire as much as any man should be at rest.

"Done nothing to forfeit the obligations of the Government" to him? Educated from extreme youth to be a sailor, a defender, a professional defender in arms of the Republic, receiving its honors and its pay for half a century; an old man to be sure, but so much the greater the obligation, and then when the life of the Government was threatened, why his age is given as his only excuse for not being engaged in warfare against it. Why, sir, the records of the Department are full of tenders made by men of equal or possibly greater age, who scorned to be relieved by any technical right of exemption from the obligation to serve their country, and who came forward to offer it the feeble remnant of their days—to offer it their lives. But this man threw down his commission on the express ground that he must follow his State; that he was under no obligation to fight for the flag of his country; that on the contrary he was under an obligation to leave it to be trampled down by its enemies.

Now I am not going, on account of this man's devotion to the State-rights doctrine, to speak of him unkindly. My feeling toward him is not one of unkindness at all. I apprehend perfectly well how the younger and the older men too of the South were devoted to the doctrine of State rights. I am a State-rights man to a very large extent myself. I am not speaking of him unkindly, but when a man says to me he has done nothing whatever to forfeit the obligation the Government was under to him, I am compelled to fall back on the abstract principles of the case and to say he had done everything to forfeit every right he had in the world. The law upon the statute-book gives the punishment of death to the rebel; and if you drive us to the letter of the law I am obliged to say that. I am the last man to revive the painful past; but that was and is the law.

Do not tell me he had done nothing when he had done everything. If you come to us on the generous side, asking to waive the past, I will be found as ready to do so and to shake hands as any man in the land. I see before me men who were engaged in the rebellion. I believe I see before me—yes, I see before me—men who laid down

their commissions to go into the rebellion. If you will let me alone, I will say nothing unkind to them. I will not do so in any emergency. But if you force us to the issue I must state the truth, however harsh it may seem.

The general law which says these debts shall not be paid is a good law. Whether I might waive the enforcement of that law in any case depends upon the particular circumstances. But we will not waive it if it be demanded as a right. Done nothing to forfeit! Why the fourteenth amendment is the eternal judgment of the people of this land that a man who went out, after giving his oath to support the Constitution, and aided and abetted the rebellion, forfeited every right he had to be again trusted in office. What does that amendment to the Constitution say?

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

That is the judgment of the nation after the appeal to the highest arbitrament known among nations. Somebody was right and somebody was wrong in that war, and somebody won.

That is the judgment of the people of this country as to who won in that war. Now, do not tell me that this man did nothing to forfeit anything, when he threw down his commission and willfully engaged in the rebellion. Invited to shake hands, I will drop controversy and go more than half way to meet you. But when you come to the logic of the law and the abstract justice of the case, and claim as unforfeited rights what would otherwise be fraternally granted for the sake of reconciliation, we have something else to say.

Mr. GOODE. Does the gentleman from Connecticut [Mr. HAWLEY] hold that even if it be admitted that Captain Page committed a sin in tendering his resignation, the Government has a right to visit that sin on his widow and his children?

Mr. HAWLEY. He virtually committed the crime of treason. If he fell a hair's breadth short of the crime, it was because he was physically incapable of committing it. And the gentleman from Virginia [Mr. GOODE] proudly boasts here to-day that this man would have committed active, overt treason in the field but for his age and physical disabilities.

Mr. GOODE. And would you follow him beyond the grave for that?

Mr. HAWLEY. No, I will not follow him beyond the grave. I will go with you to his grave and build a monument over it for the services which he before rendered his country.

Mr. GOODE. We do not ask you to build a monument.

Mr. HAWLEY. I recall what the woman said of Benedict Arnold who has been referred to here. She said that she would take the leg which he lost at Saratoga and embalm it and bury it with all the honors of war, and hang the rest of his traitorous carcass upon the gallows. I have nothing against the military record of this old man; I honor it as much as any one can.

Mr. GOODE. And yet the gentleman would confiscate what belongs to his estate.

Mr. HAWLEY. I am speaking of the legal question. Do not mix up pathos and poetry and sympathy for the venerable lady presenting this claim with the argument upon the legal aspect of the case. I say that neither he nor his estate nor anybody representing it has a moral right, and as the statute stands has not the legal right to a dollar of this money. I am not now saying that I will not vote for this bill. But gentlemen should not say that this man had done nothing to forfeit his claim and that it is a legal debt due him. [Cries of "Vote!" "Vote!"]

Mr. HOOKER. I desire to say but a single word. I regret that the gentleman from Wisconsin [Mr. BRAGG] and the gentleman from Connecticut, [Mr. HAWLEY,] on a simple proposition to pay so small a sum of money as that embraced in this bill, should seem willing to extend the range of discussion so far as this debate has been extended. Sir, it would seem that there can scarcely be a claim presented here that does not give occasion for some reference to the war of the rebellion. There never could have been a claim of this kind presented to the Congress of the United States but for the act which was passed in 1871, when the republican party had a majority in the House of Representatives, a majority in the Senate, and a republican Executive. It was because the Government believed then, when the opposition had absolute control of the legislative and executive departments of this Government, that common justice required that whatever of money the Government had collected under what was known as the captured and abandoned property act should be paid to those who could show they were entitled to it.

The gentleman from Wisconsin [Mr. BRAGG] deprecates the fact that claims should stand now upon the Calendar of this House from any Southern State asking anything from this Government. Sir, the Government itself gave these claimants the right to appear here. The Supreme Court of the United States has repeatedly decided and especially in the case of *ex parte* Garland, that when either by general act or special pardon a man had been forgiven his offense he was restored to all the rights of citizenship as if he had never committed such offense.

Something has been said by the gentleman from Wisconsin [Mr. BRAGG] comparing the men who were engaged in the confederate cause with Arnold, of black fame in the Revolution. If history teaches us aright, Arnold was a traitor to his country for a money consideration. I know of no man in the South who took sides for his section of whom that can be said.

It is not the first time in the history of our English-speaking people that a war of words has culminated in the wager of battle. From the time when our English-speaking ancestors on the banks of Runnymede extorted from King John the great writ of personal liberty; from the time when the English Parliament made its declaration of rights and passed its bill of rights, down to that memorable period in our own history when our ancestors on American soil assembled and declared that these colonies are, and of right ought to be, free and independent States—from all these instances we learn that it is not strange that our people, loving liberty, should sometimes differ and that a war of words should culminate in the wager of battle.

From the time of the war of the roses, when the red and the white struggled for predominance, and every fair field in England was ensanguine with Saxon blood shed by Saxon hands, down to that period when our own Revolution occurred, it has not been a strange thing for the English-speaking people to contend with one another.

The war of the rebellion occurred from a conviction of right on the one side and of right on the other. We submitted the question to the wager of battle. It was decided against us. We laid down our arms under the terms of the capitulation at Appomattox and in North Carolina.

What were those terms? I beg gentlemen on the opposite side of the House to remember they were that the men who were in arms against the Government should lay down those arms, retire to their homes, and yield obedience to the Government and its laws. What was stipulated on the other side? That when they did this they should have the protection of the Government, not its constant taunts and threats.

When you sent General Grant to the South he returned and reported to you that, taking all the Southern States together, in the main, they were prepared to reassume their relations to the Federal Government, to rehabilitate their States and resume allegiance to the Government. And that great general, when he had returned from his visit abroad and his visit to Mexico, spoke at Bloomington, Illinois, upon the temper and disposition of the southern people. In that speech, made only a few months before the nomination of the republican party for the Presidency, he said: "I have been from Philadelphia to Mexico, and on my return I have passed through all the rebel States. In all of them I have been received with great consideration and respect. Side by side, on committees of reception, stood the men who once wore the gray and the men who once wore the blue; speeches receiving me were made by the men who once wore the blue and the men who once wore the gray. I say to you that their eyes are as familiar with the colors of our flag as yours are. Simple justice requires it to be said that we have no right to doubt the loyalty of the men who once wore the gray to the flag of the nation." That was the sentiment of General Grant, and it was in keeping with the testimony he had previously given.

Now, when you talk about consigning to infamy men who acted from convictions of duty—such men as Robert E. Lee and Stonewall Jackson and Algernon Sidney Johnson—when you want to put upon such men a brand like that which you put upon the name and character of Arnold, allow me to say that, however great in intellect or power may be the man who makes this attempt, he will fail. For great as was the chief soldier of the confederate armies when he led his hosts to battle, he was greater still when that war was over and he retired to the shades of academic life to devote the remainder of his years to teaching the young men of the land he loved so well. When he died, Mr. Chairman, all over this land there was heard a universal regret that a great and good man had fallen. And as the wail of grief broke from his own loved mountain-side, it was caught up by the long swell of the Atlantic and wafted to the distant shores of the Old World, to come reverberating back in all the languages and tongues of the nations of the earth. [Applause.]

One word more and I have done. There have been, as I have said, instances of rebellion in the English nation. There was a memorable instance of rebellion on the part of the American colonies against Great Britain, and George Washington ranks as the first rebel of this country. But there was another scene enacted on another occasion, in which the rebel was punished. I allude to that memorable scene which occurred in an English court of justice, when, as the judge was about to pronounce sentence upon Robert Emmet, the prisoner from his place in the dock pronounced upon that judge a sentence which has been repeated by every schoolboy in our land, and which will live as long as the English language shall have a tongue to speak it or a pen to write it—as long as the heart of any English speaking man shall beat in response to the sentiments of liberty that Robert Emmet then uttered in pronouncing sentence upon a judge who had soiled the ermine that he wore. England erected a gibbet upon which Emmet was executed; and it was thought by some that through all the coming ages the finger of scorn would be pointed at him and contumely would be his only reward. But, Mr. Chairman, that gibbet was simply the foundation of the grand, magnificent pedestal upon which posterity has erected to the convicted rebel and traitor, Robert

Emmet, a monument which shall be more lasting than brass; for, Mr. Chairman, he stands upon its summit, and death hath only made him marble and immortal. [Applause.]

Mr. REED. Mr. Chairman, I dislike to interrupt the flow of eloquence which has proceeded from the other side—a torrent of eloquence so strong that it has even moved my friend from New York [Mr. COX] to depart from his usual custom of amusing the House and devote himself to really serious talk. I am glad on that account that this discussion has arisen, although I think I shall point out reasons why it is a pity that such discussions occur. My friends, this business of the past is not to be got over by fine speeches, or by labored eulogiums, or by discussion of the great and fine traits of generals who deserted their country in the hour of peril. There has been a great war; that war has been decided; and at the same time all the questions connected with it. The country demands that there shall be peace upon these subjects forever. Nobody desires it more than gentlemen upon this side of the House. We are tired and sick of alluding to the Southern rebellion and to Southern claims; and it is never our fault if this subject is brought up. It has never come up for discussion before this House except when some gentlemen on the other side (and especially the gentleman from Virginia) have attempted insidiously to break down the laws which this country has approved and which this side of the House is determined to stand by.

And we say to you that the verdict of the people of this country is clear and unmistakable, that none of you shall wipe out the war legislation which has been passed during the last ten or a dozen years. Now, I ask you why not accept the situation and accept the fact? Why are you everlastingly bringing up these topics of discussion? You know perfectly well you cannot bring one of them up without our discussing the facts connected with them, and you know a discussion of the facts connected with them always leads to scenes such as we have had this afternoon. Why, then, do you do it? Why do you come forward always after you have stirred up the discussion and say you really wish we would not talk about this? The idea of treading upon people and then reproaching them for making outcry! The idea of everlastingly ringing the changes on this subject and then getting up in—I was going to say hypocritical way, but perhaps that is strong language—but getting up and talking about your desire to have this subject buried! We want it buried just as much as you do. We want to forget about the rebellion, but we do not want to be called upon every day in the week, not to forget but to forgive.

Gentlemen, I want you to heed the warning which has been given you so well by the gentleman from Wisconsin, for I say to you he represents strong portions of your party in our part of the country. What we want, democrats and republicans alike, if we can have it, is oblivion of the past. At least we do not want everlasting discussions on the subject, and you are everlastingly provoking them.

Now you come up and say that this is a little matter; this is paying a widow $130. You must know that the principle upon which this bill goes would repeal this entire section of the statute. You know we are unwilling to repeal it. You know that every time you present a bill for southern claims you always present something that has a sympathetic side, and you urge it on that sympathetic side, and when you get it passed you know you mean to use it for a legal precedent. I say that course of action, coupled with the declaration you want quiet and silence, is not that manly and straightforward course of action which you ought to indulge in if you want the past forgotten, and if you want this country to be united and to go on prosperously and harmoniously, and prosperously because harmoniously.

Mr. WRIGHT. I have but a word to say. I have on all occasions, Mr. Chairman, voted against all claims presented by confederate people. I should continue to do so if I were a member of this House for any length of time to come. But this is not that case. This man, although he had sent in his resignation, yet at the time he sent his resignation in the Government owed him $130.85. Now, let me tell you, and I wish to state it in the hearing of every man here. This woman comes here as the widow of a brave man who behaved most courageously under Commodore Perry on Lake Erie, who served his country faithfully and well, and whose claim is just. It is just because it was owed before the rebellion began. It was a contract made between her husband and the Government. Nor do I think the statute law covers the case presented here. But I have to say further that which will perhaps more interest the House than this, and that is this: In my judgment, this bill is going to fail. There is no power here to pass it. If the friends who have it in charge will withdraw it from the files of the House, I will give that woman my check for the whole amount. [Applause.]

Mr. GOODE rose.

Mr. GUNTER. I move the committee rise.

Mr. GOODE. I have the floor. I am much indebted to the venerable gentleman from Pennsylvania. I appreciate the motive which prompted him to make the suggestion. It does honor to his heart. But I want this House and the country to understand that the widow of Hugh N. Page, the hero of Lake Erie, is not here begging alms. We come to ask the passage of this bill as a matter of simple, naked justice. The Government owed her husband for valued and distinguished service rendered. The Government owes that husband's estate to-day, and I maintain that if the Government now pursues him in his grave and says it will not pay the widow, that Government is guilty of rank repudiation. And if gentlemen on the other side are prepared to repudiate an honest debt, let them take the responsibility of setting an evil example and to look out for other debts due by the Government. [Cries of derision from the republican side of the House.]

Mr. GUNTER. I move the committee rise.

Mr. GOODE. I hope the gentleman will withdraw it, that we may have a vote.

Mr. GUNTER. I withdraw the motion that the committee rise on condition there shall be a vote at this time; but I do not withdraw it for further discussion.

Mr. GOODE. I move, then, that the bill be laid aside to be reported to the House with the recommendation that it do pass.

Mr. BURROWS. And pending that motion, I move the committee rise.

The committee refused to rise.

The question recurred on Mr. GOODE'S motion that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The committee divided; and there were—ayes 79, noes 69.

So the motion was agreed to.

Mr. WHITE. I desire that we shall have a yea-and-nay vote in the House upon that.

Mr. COFFROTH. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HUNTON reported that the Committee of the Whole, having had under consideration the Private Calendar, had instructed him to report sundry bills to the House, some with and some without amendments.

Mr. WHITE. I move that the House do now adjourn.

The SPEAKER. There were some bills coming over from a former sitting of the Committee of the Whole which should be first considered. There was a bill undisposed of, the title of which will be read.

The Clerk read as follows:

House bill No. 356, with amendments, a bill to provide for the sale of certain New York Indian lands in Kansas.

The SPEAKER. This bill occasioned discussion. The question was then pending when the committee rose. There were other bills behind it that gentlemen supposed would not occasion discussion. The Chair has been requested to ask that it be laid aside until such bills as shall provoke no discussion are disposed of.

Mr. WHITE. I move that the House do now adjourn.

The SPEAKER. Pending the motion of the gentleman from Pennsylvania, the Chair desires to lay before the House certain executive communications, and also a request for leave of absence.

### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. KELLEY until Tuesday next, on account of important business.

### ORDER OF BUSINESS.

Several members demanded the regular order.

The SPEAKER. The regular order is on the motion of the gentleman from Pennsylvania, that the House do now adjourn.

The House divided; and there were—ayes 107, noes 25.

So the motion was agreed to; and accordingly (at four o'clock and fifty-three minutes p. m.) the House adjourned.

### PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BEALE: The petition of Matilda Harding, for a pension—to the Committee on Invalid Pensions.

By Mr. BOUCK: The petition of the Chamber of Commerce of Milwaukee, Wisconsin, for the passage of the bill regulating interstate commerce introduced by Mr. REAGAN, and against the bill known as the Henderson bill—to the Committee on Commerce.

By Mr. CALKINS: The petition of William McCormick, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. CASWELL: A paper relating to the petition of L. E. Porter for an extension of a patent for a sugar-mill—to the Committee on Patents.

By Mr. COX: The petition of census enumerators of New York, for additional compensation—to the Committee on the Census.

By Mr. CRAPO: Memorial of George B. Loring relating to his expenses in the contest of E. Moody Boynton against him for a seat in Congress—to the Committee on Elections.

By Mr. LOWNDES H. DAVIS: The petition of citizens of Cape Girardeau County, Missouri, for a reduction of the tax on cigars to $5 per thousand—to the Committee on Ways and Means.

By Mr. DEERING: Three petitions of citizens of Iowa, for legislation to prevent the spread of pleuro-pneumonia—to the Committee on Agriculture.

Also, the petition of ex-soldiers of the late war, for the passage of the Geddes pension-court bill, and for the defeat of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. FORT: The petition of William Woods and others, of Illinois, of similar import—to the same committee.

By Mr. GEDDES: The petition of William R. Snook and 32 others, soldiers of the late war, citizens of Paulding County, Ohio, of similar import—to the same committee.

By Mr. GILLETTE: The petition of Jacob F. Lough and 30 others, citizens of Clark County, Iowa, for legislation to prevent the spread of pleuro-pneumonia—to the Committee on Agriculture.

By Mr. HEILMAN: The petition of manufacturers of cigars and tobacco, of Evansville, Indiana, for a reduction of the tax on cigars to $5 per thousand—to the Committee on Ways and Means.

By Mr. HUBBELL: The petition of H. A. Danville and 40 others, citizens of Michigan, for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of the same parties, for the passage of an income-tax bill—to the Committee on Ways and Means.

Also, the petition of the same parties, for a change in existing patent laws—to the Committee on Patents.

Also, the petition of the same parties, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

By Mr. REED: The petition of C. C. Collins, for change of the name of the yacht L. T. Davis—to the Committee on Commerce.

By Mr. SAWYER: The petition of N. H. Lincoln, M. E. Waller, J. H. Griffith, and others, citizens of Clay County, Missouri, for the passage of a judicious interstate-commerce law—to the same committee.

Also, the petition of the same parties, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of the same parties, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

By Mr. WILLIAM G. THOMPSON: The petition of Joseph Kaschman and others, of Cedar Rapids, Iowa, for a reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. WILLIS: The petition of citizens of Louisville, Kentucky, for an appropriation in behalf of the widow and children of Lawrence McNamee, killed while in Government employ—to the Committee on Claims.

By Mr. WISE: The petition of J. M. Abraham and 30 other soldiers, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. WRIGHT: The petition of citizens of Luzerne County, Pennsylvania, for a post-route to be established from Hemlock Creek to Sweet Valley, Pennsylvania—to the Committee on the Post-Office and Post-Roads.

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## IN SENATE.

SATURDAY, *January* 29, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

### EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting, in compliance with a resolution of the 20th instant, a communication from the Superintendent of the Census respecting the execution of the law for taking the tenth and subsequent censuses.

The VICE-PRESIDENT. This communication, with the accompanying documents not already in print, will be printed and laid on the table.

Mr. KERNAN. I see that the chairman of the Committee on the Census is not in. It may lie on the table until he comes in.

The VICE-PRESIDENT. The resolution calling for the information was introduced by the senior Senator from New York, [Mr. CONKLING;] and the papers will lie on the table subject to his order or the order of any Senator.

### CREDENTIALS.

Mr. LAMAR presented the credentials of James Z. George, elected by the Legislature of Mississippi a Senator from that State for the term beginning March 4, 1881; which were read, and ordered to be filed.

### PETITIONS AND MEMORIALS.

Mr. WALLACE presented resolutions of the Board of Trade of Philadelphia, in favor of the passage of a law preventing the adulteration of food and drugs; which were referred to the Committee on Commerce.

He also presented the memorial of Sidney J. Brauff and 58 others, citizens of Allegheny County, Pennsylvania, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was referred to the Committee on Pensions.

Mr. ALLISON presented the memorial of Reuben Coomes and 6 others, citizens of Lacey, Iowa, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, presented resolutions of the Chamber of Commerce of Milwaukee, Wisconsin, in favor of the passage of the Reagan bill for the regulation of interstate commerce, and remonstrating against the passage of what is known as the Henderson bill; which was referred to the Committee on Commerce.

Mr. HOAR presented the petition of G. Henry Whitcomb & Co., and several other manufacturers of Worcester, Massachusetts, and the petition of S. K. Heywood & Co., manufacturers of boots and shoes, of Worcester, Massachusetts, praying for the early enactment of a national bankrupt law; which were referred to the Committee on the Judiciary.

Mr. GROVER presented a memorial of the Legislature of Oregon, in favor of an appropriation for the purpose of commencing the construction of a permanent improvement of the mouth of the Columbia River in that State; which was referred to the Committee on Commerce.

### REPORTS OF COMMITTEES.

Mr. EDMUNDS, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 1414) authorizing claimants to the Rancho de Napa, in Napa County, California, to prove up their title, reported it with amendments.

### BILLS INTRODUCED.

Mr. WALLACE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2121) to authorize the Secretary of War to contract for the legal right to make and use the metallic cartridges adopted for the Army service; which was read twice by its title, and referred to the Committee on Patents.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2122) to retire Captain Douglass Ottenger, of the Revenue Marine Service; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2123) to amend section 1864, chapter 1, title 23 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. GROVER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2124) appropriating $250,000 for the construction of a harbor of refuge at Port Orford, Oregon; which was read twice by its title, and referred to the Committee on Commerce.

Mr. KERNAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2125) for the relief of Mrs. Susan E. Willard; which was read twice by its title, and referred to the Committee on Claims.

Mr. WALLACE (by request) asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 149) for the printing of 20,000 copies of the Medical and Surgical History of the War of the Rebellion; which was read twice by its title, and referred to the Committee on Printing.

### WITHDRAWAL OF PAPERS.

On motion of Mr. MORGAN, it was

*Ordered*, That leave is granted to withdraw the petition of Mrs. A. S. Quinton, secretary of the Indian treaty-keeping committee, and others, which was presented in the Senate on the 27th January, 1881, and referred to the Committee on Indian Affairs, with a view to its being presented to the House of Representatives.

### AMENDMENT TO A BILL.

Mr. SAUNDERS submitted an amendment intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

### CASTING OF ELECTORAL VOTES.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the Judiciary be, and it is hereby, instructed to inquire and report its opinion touching the constitutional legality of the votes of any electoral college given for President and Vice-President of the United States on a day other than that fixed by law for the casting of the votes of the electors in all the States.

### COUNT OF ELECTORAL VOTES.

Mr. INGALLS. I move the present consideration of the resolution offered by me on a previous day relative to the counting of the electoral votes. I ask that it may be reported to the Senate.

The VICE-PRESIDENT. The resolution will be read.

Mr. DAVIS, of Illinois. That may interfere with the order of business for this morning. That is not the regular order.

Mr. EDMUNDS. It will not interfere; you will have time enough; I shall not take ten minutes.

Mr. INGALLS. I understand that under the rule this resolution comes properly within the morning hour, it being a resolution offered on a previous day and on the Calendar.

The VICE-PRESIDENT. The Senator is right; it comes up as a matter of right.

The Chief Clerk read the following resolution, submitted by Mr. INGALLS on the 26th instant, and the Senate proceeded to consider it:

*Resolved*, That the Senate will be ready to receive the House of Representatives in the Senate Chamber on Wednesday, February 9, at twelve o'clock meridian, for the purpose of being present at the opening and counting of the votes for President and Vice-President of the United States. That two persons be appointed tellers on the part of the Senate to make a list of the votes for President and Vice-President of the United States as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which

shall be entered on the Journals, and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the Journals shall be deemed a sufficient declaration thereof.

Mr. BAYARD. Mr. President, I am very glad that the Senator from Kansas has brought this matter to the attention of the Senate. I move that the resolution be referred to the Select Committee for the consideration of the electoral vote for President and Vice-President of the United States.

The VICE-PRESIDENT. The Senator from Delaware moves that the resolution be referred to the select committee on the subject of the electoral count.

Mr. EDMUNDS. Mr. President, I am not able to see at this present moment why such a resolution should be referred as it merely provides for the simplest formality necessary or useful to the convenient discharge of the constitutional duty on the occasion referred to of the President of the Senate and of the two Houses of Congress. That is all. It is perfectly well known that nearly a year ago the Senate passed a general regulation called a joint rule for all cases of presidential elections. We have not been advised that the House of Representatives has agreed to that. That is all that I am justified or entitled to say in reference to its fate. It is now only I believe nine days——

Mr. INGALLS. Eight legislative days.

Mr. EDMUNDS. There are only eight legislative days before the duty you, sir, have to perform, whatever may happen, will devolve upon you; and I think, therefore, it is high time, and particularly as no conceivable question of dispute can arise, that the Senate should invite the House of Representatives to attend in the strictly, and only strictly constitutional place, in the presence of the President of the Senate of the United States for the purpose of being present with whatever constitutional function—I am not speaking of powers—may devolve upon the two Houses upon that occasion.

I cannot conceive what there is in the nature of this resolution that should require its reference to any committee. If the Senate is not willing to adopt it now, let it be rejected or laid upon the table, or postponed until to-morrow or next week; but what subject of inquiry or ground of investigation there may be by a committee that happens to exist instructed to inquire into the state of the law—if I remember the formation of that committee, and I think I do—respecting the elections of President and the counting and declaring of the result, I am unable to see. I hope, therefore, that the motion to refer will not prevail.

Mr. BAYARD. Mr. President, I recognize as fully as the honorable Senator from Vermont I think could desire the necessity for action by the two Houses of Congress upon this most important subject; and the reference that I have proposed is for the purpose of facilitating in the usual and regular manner the object which I suppose to have been had in view by the honorable Senator who introduced this resolution. A special committee was raised by this body more than a year ago entitled a Select Committee to take into consideration the ascertainment and declaration of the result of the election for President and Vice-President——

Mr. EDMUNDS. The state of the law on that subject, I think.

Mr. BAYARD. I believe I have given the title of the committee.

Mr. INGALLS. Let me read for the information of the Senate the title of the committee to which the Senator refers: "To take into consideration the state of the law respecting the ascertaining and declaration of the result of the elections of President and Vice-President of the United States."

Mr. BAYARD. The Senator has read it correctly. I had transcribed it upon a memorandum. That is the title of the committee.

The present resolution certainly touches matters germane to the purpose for which that committee was expressly created by this body. It is for the purpose of having prompt action upon this subject that I have submitted the motion for reference. I know that the days are drifting by very rapidly and the time is near at hand when the functions of the two Houses of Congress, whatever they may be, must be exercised under the Constitution in respect of this important question of ascertaining and declaring the result of the late election for President and Vice-President.

I do not propose at this time, nor would it be proper for me at this stage of the discussion, to refer at all to the action of the Senate one year ago, or to the fact that we were preparing then for certain possible contingencies which have been rendered by subsequent events unnecessary for present consideration. However interesting and important they may be in the principle to which they relate, much of the rule that was adopted by the Senate and which now has gone before the House of Representatives for their action, has been rendered unnecessary by subsequent events. Time has settled many questions that were then contingent; and my object in moving this reference is to expedite the action of the Senate in the usual and regular way through a committee appointed for a purpose germane to the object of this resolution to make a recommendation of action upon the part of the Senate, to be met by corresponding action I trust on the part of the House, and to facilitate the performance of our constitutional duties as two Houses of Congress upon this important subject.

Therefore I trust that there will be no misunderstanding by gentlemen in supposing there is the least desire to delay. On the contrary, there is a desire to facilitate the execution of the powers of the Senate over this subject, at least in the motion I have made, that this matter be referred to the committee indicated.

Mr. INGALLS. Mr. President, in prescribing the discharge of a constitutional duty, section 142 of the Revised Statutes says:

> Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors, and the certificates, or so many of them as have been received, shall then be opened, the votes counted, and the persons to fill the offices of President and Vice-President ascertained and declared, agreeable to the Constitution.

As the Senator from Vermont has already stated, there remain but eight legislative days between this and the period when that most important function of Congress is to be discharged. The votes have been registered; the certificates, as I understand, are in the custody of the officer designated by the Constitution; and thus far there has been no action by either House looking toward the assembling of the two Houses in the manner provided by the Constitution for the purpose of ascertaining one of the most significant and important facts that we are called upon to ascertain under the Constitution.

The resolution that I have offered is one that is strictly in accordance with the earliest precedents on the subject. It purposely and sedulously and studiously avoids all reference to every disputed question as to the right of any officer, or of either House of Congress, or of both Houses jointly, to decide upon any question that may arise either as to a disputed certificate or a duplicate return; and I have felt, inasmuch as there has been no effort made from any source hitherto to determine what shall be done upon this day of days in order to ascertain what shall be the course of this Government for the next four years after the 4th of March, that it was necessary and essential that some early action should be taken by the Senate. It has been delayed from considerations of courtesy until those questions should no longer rightfully be considered as having authority to prevail.

The motion that the Senator from Delaware has made to refer this resolution to a select committee of the Senate, I have no doubt is made with the best of motives and purposes, but the Senator will observe that that committee is a select committee for a specific purpose, which is to inquire into the state of the law. It is now, as I am reminded, a standing committee of the Senate although it was originally a select committee. That committee has discharged its functions, as I understand, by reporting a measure which has hitherto received the sanction of the Senate. But this resolution is not intended to ascertain the state of the law, but to meet an immediate, pressing, and imminent emergency.

Of course I am aware that the majority of the Senate of different political views from my own have control of this matter and can do with the resolution as they see fit; and if there can be an assurance that this resolution, or some resolution upon this subject that shall effectuate the purpose of the Constitution and the declarations of the law, will be reported at an early day, I do not know that personally I should object to it; but we have already ascertained from the action of that committee what their purposes and views are, and I believe with all respect to that committee, and with all respect to the Senator from Delaware who moves the reference, that if this resolution is referred it will either sleep or it will come forth amended in some important particulars that will render it ineffectual so far as the object that I have in view is concerned, to wit: to meet this question that is now imminent upon us, not what is the state of the law upon this subject, but how shall the two Houses get together on the 9th day of February to discharge a constitutional duty imposed upon them under the laws of Congress.

I shall, therefore, I believe, oppose the motion and ask for action on the part of the Senate on the resolution.

Mr. MORGAN. The election of President, the votes in which we are about to count, was the twenty-fourth presidential election in the Union. The votes at twenty of those elections have been counted, under resolutions of each of the Houses, in the Chamber of the House of Representatives. The votes at four of these elections have been counted in the presence of the Senate upon resolutions originating in the Senate inviting the House of Representatives to join this body for the purpose of ascertaining and counting the votes. In the largest majority of instances, in almost every instance, these resolutions have not been passed earlier than within three or four days before the time for counting. The two Houses have been in a state of entire composure upon this subject except in two instances, I believe, when questions arose by way of anticipation as to whether the votes of certain States should be counted. Then Congress, in one branch or the other, took up the subject earlier, for the purpose of considering and determining in advance what should be the action of the two Houses in certain particular cases, of which I believe there were only two.

I do not understand how it can be asserted by the honorable Senator from Vermont, if I did not misunderstand his assertion, that this resolution proposed the only constitutional method of counting the vote, or that the only constitutional method of counting the vote was to be in the presence of the Senate and in the Senate Chamber. That honorable Senator introduced into the Senate a bill as a substitute for the resolution which was adopted by the Senate last year, which provided by law that the votes of the electors for President and Vice-President should be counted in the House of Representatives. It certainly is a modern discovery of the Senator from Vermont that the electoral vote can only be counted in the Senate. I do not know what new light has been brought to bear upon the mind of the Senator to bring him to that conclusion; but certainly it is one of more recent

date than that which illuminated his mind at the time he brought in the bill which proposed to enact a law that the counting of the vote should be in the presence of the House of Representatives and in their Chamber.

Now, what necessity is there for departing from a precedent which the Senate has observed since 1809 uniformly in reference to the place at which the two Houses usually assemble for the counting of the electoral vote? We understand that this Chamber is not sufficiently large, has not the conveniences to accommodate the House of Representatives in addition to the body that is here now. It would be a matter of almost impossibility to organize the two Houses in this Chamber, or to have them assemble in this Chamber in such a convenient manner as to enable them to transact business with propriety. I suppose it was in consideration of that fact that in 1809 we inaugurated the system, from which there has been since no departure, that the Senate would meet with the House in the Hall of the House of Representatives for the purpose of counting the votes. But now it is asserted, as I understand the proposition, that the vote can only be counted in the Senate Chamber, and in the presence of the President of the Senate, presiding over the Senate in this House. That is a question which, being brought forward at this late day, is one that seems to me worthy of some consideration; and I think the motion of the Senator from Delaware to refer the resolution to this committee is entirely a proper and well-timed motion, in order that that feature of the case may be considered, if no other.

It has twice occurred, in counting the electoral votes, that the question has been raised as to whether a State had cast its electoral vote in conformity to the express requirement of the Constitution, and a question of that kind is now pending, as we are informed, in reference to the State of Georgia. Heretofore Congress has undertaken by resolution to ordain and prescribe what was the state of the law with respect to counting the vote of a State which had not cast its vote at the time prescribed by the Constitution. That question is now presented for the consideration of the country, and it seems to me entirely proper that we should now consider whether the vote of the State of Georgia is to be counted or whether it is not to be counted, precisely as the same question was considered by the two Houses in reference to the votes of other States in times that are past.

For my own part I do not desire to see these two Houses brought together, and to see any question of dispute arising between them without any rule or regulation established in advance for the settlement of such a question. It is therefore proper, it seems to me, that this committee should take into consideration at least that question, and perhaps other questions that may arise in reference to the counting of the votes of the different States. I refer to this one question because the country is entirely informed of the fact that the votes of the electors of the State of Georgia were cast one week after the electors of the other States of the Union had met in their various electoral colleges and cast their votes. It may not be the disposition of some Senators to have this question settled in advance, or, indeed, the Senate itself may not come to that conclusion. I understand a resolution that has just been adopted has sent that question to the Committee on the Judiciary, so that that matter of debate and dispute may be solved; and the Senate should not adopt a rule inviting the House to this Chamber or prescribing any regulation for the meeting of the two Houses, at least until that committee has acted on that question.

It is very well known that before the last presidential election and before any question arose in the country as to the State of Georgia or any other State, with a view to prescribing some regulation governing the action of the two Houses no matter how the presidential election might turn out, the Senate adopted a rule and sent it to the House of Representatives. Is it entirely becoming in the Senate of the United States, before the House has acted on that rule, now to send them a different proposition and thereby indicate a purpose on the part of the Senate, to abandon the ground they have taken or the principles involved in that rule? It seems to me that a proper sense of respect for the House of Representatives would lead us to give them ample time to consider that question before we undertake to reverse our own action and recall that which we have so solemnly done.

The House of Representatives, it may be said, has had ample time to act upon it, but we are not to be the judges of that fact. It is not my right to allude to what has taken place in the House of Representatives, but I think I can say to the honorable Senators on the other side of the Chamber that the party represented by those who sympathize with this side of the Chamber are not responsible for any delay that has taken place in the adoption of that rule, or of any other measure.

The honorable Senator from Kansas says, if he had the assurance that this committee would act promptly, that the committee would not delay its action, he would be satisfied to have this resolution go to the committee. I should like to ask that honorable Senator if he has discovered on the part of this committee, or any member of it, a disposition to delay action on any question connected with the counting of the electoral votes?

Mr. INGALLS. The Senator did not exactly quote my language. I said that personally I should have no objection on assurance being given that early action would be had, but that inasmuch as that committee had already expressed their views upon the subject I apprehended that perhaps there would be delay or else amendments, and I thought it better to ask, therefore, action on the part of the Senate.

Mr. MORGAN. The Senator from Delaware has very properly suggested that a great many of the questions that were anticipated by the order taken in the Senate upon the rule it adopted have not actually arisen in this presidential count. Some of the questions, however, have arisen and have to be disposed of by the action of these two Houses or by the action of somebody else. The Vice-President must decide the question for the Senate and for the House of Representatives, or else it must be decided by some concurrent action of the two Houses. It may be that there are parts of that rule as adopted by the Senate which are not now material to be enacted into the form of a joint agreement between the two Houses; but certainly there are portions of that rule which are not included in the resolution of the Senator from Kansas, which are necessary to be considered; and the democratic party, I may say, and also the members of that committee have not the slightest disposition to delay action, but on the contrary their disposition has been urgent all the time to quiet the mind of the country in reference to this great matter, so that the Senator from Kansas need have no apprehension of a want of attention, diligent attention, on the part of this committee to the consideration of his resolution if it shall be referred.

Mr. HILL, of Georgia. Mr. President, I shall vote for the motion to refer this resolution, because I believe it is the best method of securing action in this case. Unfortunately we have no law regulating the count of the votes for President and Vice-President of the United States. I suppose the matter has lost much of its interest because everybody in this country concedes that Mr. Garfield has been elected President of the United States by the people in the manner prescribed by the Constitution, and he will be inaugurated; and if all the gentlemen on the other side of this Chamber, and all the gentlemen of like politics on the other side of the House of Representatives were to retire and go to their homes, he would still be inaugurated by the majority that would be left, and peaceably inaugurated. So far as the next count is concerned, nobody need have any apprehension of trouble. But of course there ought to be some method of proceeding, I admit that, so as to secure order in counting the votes, so as to prevent the commission of errors; but we should make no unnecessary concessions as to who has the right to count the votes, and all that kind of nonsense, as you will excuse me for terming it.

But I rise now to say that I had not given this subject very great attention until recently. I have devoted myself to it recently with some degree of care. I have concurred in the action taken heretofore, have voted for the joint resolution I believe reported by the Senator from Alabama. I take it for granted those matters have become of small moment now; but after having given this subject the attention that I think it deserves, I simply want to say that in my judgment this provision of the Constitution, which provides for the counting of the vote for President and Vice-President ought, like all other provisions of the Constitution, to be carried out by law of Congress. That is what I want to put on record as my opinion in this matter.

The twelfth article of amendment says, in the language of the original Constitution itself:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

Of course my opinion is that the votes cannot be counted by the President of the Senate except under the direction of the two Houses. But how will you get the two Houses together? How will you get the President of the Senate to preside over the joint convention? What shall be the process of doing it? It must require the concurrence of two Houses. How shall the votes be counted? Who shall determine which is a legal vote and which is an illegal vote? Take the very question alluded to and arising now from my own State. The Constitution explicitly provides that Congress shall fix the time for choosing electors and shall prescribe the day on which the electors shall cast their votes, which day shall be the same throughout the United States. My State has cast her vote not on the day prescribed by Congress; in all other respects she has complied with the Constitution and the law. Somebody must determine whether that vote cast on another day ought or ought not to be counted. Who is to determine it? How are you to get at the determination? What shall be the proceeding? I wish simply to say that, in my judgment, these and many other things satisfy me that this whole matter of counting the votes for President and Vice-President and carrying out the provision of the Constitution in relation thereto ought to be regulated by law.

Suppose you pass a joint rule, what Congress does that joint rule bind? Can this Congress pass a joint rule of the two Houses to bind the next Congress? If it be matter of joint rule, or matter of mere rule, it is subject to change at any time by either House. I believe that question was up four years ago, and it was decided by an overwhelming majority of the gentlemen of both parties that a joint rule was adopted by each Congress for itself. Suppose, then, you pass a joint rule now that binds this Congress and we count the vote according to the joint rule, as this is the Congress that has to count the votes; but that fixes nothing as to the next Congress and fixes nothing as to the Congress that shall count the vote in 1884. The Congress which counts the vote in 1884, if the matter is to be regulated by joint rule, may adopt its own joint rule and not be bound by the joint rule adopted by this Congress. It is very clear to my

mind that there is but one way out of this difficulty to avoid future trouble, and that is that this whole matter ought to be carried out by a law which no one House can repeal, which shall be binding as every other law; and when that is the law on the statute-book we shall all comply with and all will be compelled to comply with it. I believe the highest duty of the Judiciary Committee is at as early a day as possible, either at this session or the next, to prepare a well-considered bill on this subject, report it, and let it become a law.

Mr. EDMUNDS. Mr. President, the Senator from Alabama [Mr. MORGAN] seems to think that I have got some new light respecting the Constitution touching the powers and duties of the President of the Senate and the place where he is to exert them. If that were true, it would be a subject of congratulation to me, for I think the more true new light we get about the Constitution, the better; and if it would not be offensive, I would humbly submit that it might not be injurious for other Senators to try to get fresh illumination and from higher and wider sources than mere party warmth, respecting the true and fundamental meaning of that great instrument that secures us all.

But, Mr. President, I do not know that I am entitled to claim the benefit of these congratulations at this time. I did not say that I thought that this place was under all circumstances the only place where constitutionally the votes for President and Vice-President could be counted.

Mr. MORGAN. Then I misunderstood the Senator from Vermont. I understood him distinctly to state that.

Mr. EDMUNDS. What I did say was that it was the place where most naturally and, construing the Constitution strictly, perhaps where constitutionally it may be done, inasmuch as the Constitution says, not the person who happens to be President of the Senate, but that officer who may be the Vice-President or the President *pro tempore*, the official chief of the Senate, shall do a certain thing on a certain day. Now, where do you find the official chief of the Senate? You find him nowhere except in the place that you now, sir, so well occupy, unless you say that it is competent for the Senate of the United States to adjourn its sitting from one room in the Capitol or one part of the town which constitutes the capital to another, and that authority I do not mean to deny and I do not mean to take time to discuss it. But I say that in the absence of such an adjourned meeting and in the absence of other provision connected with it for the concurrent assembling of the two Houses to be in the presence of the act that you as chief of this Senate are to perform, this Chamber, this place is where this duty that the Constitution imposes upon you ought to be performed and must be performed and I hope will be performed according to the Constitution; and if it happens that some other part of the Government, over which you have no control, fails to perform its constitutional duty of being in the presence of that great event, that the event will nevertheless go on for whatever legal consequence may follow from it, and that would not be a very difficult question in my mind as a matter of law.

So we may dismiss that part of it. Then we come down to the question of convenience in respect of this resolution. Inasmuch as the House of Representatives have not been able now for a year to come to an agreement touching this matter, I think it would not be very courteous for the Senate to send a resolution to the House of Representatives that on the second Wednesday in February the President of the Senate, attended by the Senate, will appear in that House, take possession of the chair of the Speaker, and proceed to count the votes, or take possession of the area behind the seats. That would be an unseemly proceeding. Consequently in the absence of coming to any solution of the question proposed by the Senator from Alabama, the Senator from Kansas has proposed this, which is precisely the resolution that the Senate passed in the year 1801 when there was a great contest and a great doubt as to who should come out to be the President of the United States in the state of things that then existed, and when the two Houses had failed, as they have now, to come to any common understanding beforehand upon the subject; and that was, as this resolution declares, that the Senate would receive the House of Representatives on the day fixed by law and at an hour named, and proceed to execute the formality.

What is the objection? The Senator from Alabama says there is a physical objection. I think he is mistaken. We have had impeachment trials in this Chamber when the House of Representatives attended in a body to present their articles; and we know from the space of this apartment that every member of the Senate and every member of the House of Representatives and all the proper officers of the two Houses can find sufficient and ample and convenient room, if we dare to take the step of excluding for the time being the people who grace our sittings by courtesy, to do that act or any other act. So much for that.

I am sorry that the Senator from Alabama has chosen to refer to parties about this business and to say, if I understood him, that it is not the fault of the party of which he is one of the great chiefs that his scheme has not been acted upon before now. The Constitution, in respect of this affair, has nothing to do with parties that I know of. We have to do with the constitutional duty of the two Houses to be present and of the President of the Senate to do an act, and then another act to follow, whoever may do it. I do not go into that at all. Happily, in this instance, it is of no possible consequence who does it, as a fact; as a precedent it may be but as a mere formality of arithmetic and computation and reading, it is not of the least consequence either as a precedent or any other thing who does it whether you do it, sir, or the Secretary at the desk does it, or the gentlemen whom we are accustomed to call tellers do it.

Mr. President, if this matter were now pending in the Senate on the resolution proposed from the committee of which my friend from Alabama is the chairman, and any number of gentlemen in the Senate of whatever party should believe that the proposition was not only unconstitutional but revolutionary, and that it had been put in such a form that its unconstitutionality could not be met in the way that the Constitution provides for meeting unconstitutional legislation, and that is by the veto of the President of the United States and a reconsideration by the two Houses, then I say that that body of gentlemen would be justified, in my opinion, in leaving it to those who chose to adopt such a supposed unconstitutional and revolutionary method to carry it out themselves if they could.

The VICE-PRESIDENT. The Chair calls the attention of the Senator from Vermont to the fact that the morning hour has expired. He presumes there will be no objection to the Senator proceeding and finishing his remarks.

Mr. EDMUNDS. So that, Mr. President, it appears to me that the wise thing for the Senate to do is to consider this resolution now, which is precisely the resolution of the fathers under the same circumstances. If it should be thought preferable to endeavor to arrange the formalities by a conference, then if this resolution is not referred some gentleman can move as an amendment to it that a committee of three Senators be appointed to confer with such similar committee as the House of Representatives may choose to appoint to arrange this formality. I do not know that I should object to that; but to send this resolution, pure and simple as it is founded on the action of the fathers in a similar case, to a standing committee of nine members appointed to consider lawful provisions and not formalities, is simply to say in my judgment that we shall take no step about it in time, or at least no effective step about it; because we can readily see that if that committee were to adhere to its original opinion that there ought to be a joint rule of general provisions, or, as the Senator from Alabama has said, that it would not be courteous to the House of Representatives to take any step until it shall have acted upon the proposition sent there nearly a year ago, there is an end of any usefulness to this resolution.

So I hope, Mr. President, not as a party man or a party Senator, but as one member of the Senate desiring to perform my duty in getting the two Houses into your presence on the occasion referred to, that this resolution will be considered now and adopted in some form or other.

The VICE-PRESIDENT. The morning hour has expired.

Mr. THURMAN. I hope the vote will be taken on the motion to refer and without further debate.

The VICE-PRESIDENT. Is there objection? The Chair hears none. The question is on the motion of the Senator from Delaware to refer the pending resolution to the Committee to take into consideration the state of the law respecting the ascertaining and declaration of the Result of the Elections of President and Vice-President of the United States.

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. HILL, of Georgia, (when Mr. BROWN'S name was called.) My colleague [Mr. BROWN] has been necessarily called away from the city. He is paired on political questions with the Senator from Colorado, [Mr. TELLER.]

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS,] who has been called away by a calamity in his family. If he were present, I should vote "nay."

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, I should vote "nay."

Mr. WALLACE, (when his name was called.) On all political questions I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] If he were here, I should vote "yea."

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia [Mr. DAVIS] on all political questions, and this assumes that character.

The roll-call was concluded.

Mr. ANTHONY. I have been paired with the Senator from West Virginia [Mr. HEREFORD] up to Thursday; but I do not see him in his seat and I prefer not to vote. I should vote "nay" if I felt at liberty to vote.

The result was announced—yeas 29, nays 18; as follows:

YEAS—29.

| | | | |
|---|---|---|---|
| Bayard, | Garland, | McDonald, | Thurman, |
| Beck, | Groome, | Morgan, | Vance, |
| Butler, | Hampton, | Pendleton, | Vest, |
| Call, | Hill of Georgia, | Pugh, | Voorhees, |
| Cockrell, | Johnston, | Randolph, | Walker. |
| Coke, | Jonas, | Ransom, | |
| Eaton, | Jones of Florida, | Saulsbury, | |
| Farley, | Lamar, | Slater, | |

NAYS—18.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Wis., | Hill of Colorado, | Morrill, |
| Blair, | Conkling, | Hoar, | Platt, |
| Booth, | Davis of Illinois, | Kirkwood, | Rollins. |
| Bruce, | Dawes, | Logan, | |
| Burnside, | Edmunds, | McMillan, | |

ABSENT—29.

| | | | |
|---|---|---|---|
| Anthony, | Ferry, | Kernan, | Wallace, |
| Bailey, | Grover, | McPherson, | Whyte, |
| Baldwin, | Hamlin, | Maxey, | Williams, |
| Blaine, | Harris, | Paddock, | Windom, |
| Brown, | Hereford, | Plumb, | Withers. |
| Cameron of Pa., | Ingalls, | Saunders, | |
| Carpenter, | Jones of Nevada, | Sharon, | |
| Davis of W. Va., | Kellogg, | Teller, | |

So the motion to refer was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following joint resolutions; in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of special report of Commissioner of Agriculture, relative to diseases of swine, and infectious and contagious diseases incident to other domestic animals; and

A joint resolution (H. R. No. 364) providing for the printing of reports of the Smithsonian Institution, and for other purposes.

The message also returned to the Senate, in compliance with its request, the bill (H. R. No. 2180) granting an increase of pension to James H. Reeve.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled joint resolutions; and they were thereupon signed by the Vice-President:

A joint resolution (H. R. No. 224) to print 6,000 copies of the report of the National Board of Health; and

A joint resolution (H. R. No. 266) ratifying settlement of taxes made by the District commissioners with the Baltimore and Ohio Railroad Company.

PUBLIC GROUND IN CHICAGO.

Mr. DAVIS, of Illinois. The Chicago lake-front bill is now the regular order.

Mr. ALLISON. By unanimous agreement yesterday it was understood that that bill should come up this morning.

Mr. DAVIS, of Illinois. That was the reason I objected to the resolution of the Senator from Kansas being taken up.

The VICE-PRESIDENT. The Senate, as in Committee of the Whole, under the understanding of yesterday, proceeds to the consideration of the bill (S. No. 1935) to confirm to the city of Chicago the title to certain public grounds. The amendments reported by the Committee on the Judiciary will be read in order.

The first amendment reported by the Committee on the Judiciary was, in line 9, after the word "with," to strike out "authority to" and insert "the consent of the United States that said city may;" so as to read:

That all right and title of the United States to the streets and grounds dedicated to public use in that part of the city of Chicago, in the State of Illinois, known as "Fort Dearborn addition to Chicago," subdivided and platted under the authority of the Secretary of War in the year 1839, be, and the same hereby is, relinquished and granted to the said city and its successors, with the consent of the United States that said city may sell and convey so much thereof as lies south of the south line of Randolph street, and between the east line of Michigan avenue, as now laid out and improved, and the roadway of the Illinois Central Railway Company.

The amendment was agreed to.

The next amendment was, in line 15, after the word "station-house," to strike out "and other purposes incident thereto" and insert "or any other public purpose consistent with the health and convenience of the people of said city;" so as to read:

For the erection thereon of a railway passenger station-house or any other public purpose consistent with the health and convenience of the people of said city.

The amendment was agreed to.

The next amendment was, after the word "exist," in line 19, to strike out "to compensation on account of the change of use to which the public ground herein authorized to be sold and conveyed was originally dedicated by the United States" and insert "nor shall any such change of use be made unless the owners of the lots facing the 'public ground' lying between Randolph street and Madison streeet, to the extent of at least three-fourths of the aggregate linear frontage of said lots, shall have given their consent thereto in writing;" so as to make the proviso read:

*Provided*, That nothing herein contained shall deprive the owners of contiguous lots of any valid right or claim, if such exist; nor shall any such change of use be made unless the owners of the lots facing the "public ground" lying between Randolph street and Madison street, to the extent of at least three-fourths of the aggregate linear frontage of said lots, shall have given their consent thereto in writing.

Mr. EDMUNDS. I think I ought to call the attention of the Senate, so that the Senate will vote understandingly, to the point of this amendment. The amendment seems to go upon the theory, as the bill does, that there are private and personal rights of property in these abutters who own in their own right separate and several lots. Now this amendment proposes to give the consent of Congress with whatever responsibilities may follow from that, inasmuch as Congress now owns the fee which is said to have been dedicated to this use, to this change of the use of the property, if a certain majority,—three-fourths I believe—consent to it. Now if the one-fourth whose consent is not necessary should insist upon their private rights, the force of this act is to deprive them of them nevertheless; so far as the action of Congress is concerned it authorizes that to be done. What will be the responsibility in the way of private bills hereafter for redress in behalf of these people, I do not know. Of course I take it that if these private rights are vested once, they could hardly be divested by the consent of three-fourths in number of people who had separate titles and no connection with each other. And so far the act would be effectual provided there are these private rights that Congress cannot affect, about which I say nothing just now; but I thought it right to call the attention of the Senate to the possibilities that might flow from such a provision. As I said yesterday, I do not expect to have my views prevail respecting the impropriety of this legislation in general; but at the same time not wishing to retard it at all, I thought it due from me as one member of the committee to state to the Senate the difficulties that may possibly arise.

Mr. DAVIS, of Illinois. This provision does not interfere with any private rights, nor is it intended to. Congress gives its consent that the city of Chicago shall change this use, so far as it can give any consent, upon the application of three-fourths of the property holders who are interested in the question. One or two property holders might object, if you said the consent of all should be requisite, and the use could not be changed at all; but their rights are not interfered with. You have, after all, to buy them out either by a voluntary contract with them or by condemning the interest that they have. It seems to me that, not to give the consent of Congress unless all the adjoining owners agreed, would defeat the very object of the bill, because any person who felt that he could get a very large sum from the common council would interpose an objection. I know there is one person who objects, and of course his lot will have to be bought or he will have to be satisfied in some way. All of these property holders that abut there must be satisfied. It strikes me that it would defeat the whole object of the bill to require more than three-fourths. It was originally two-thirds; but I enlarged it myself to three-fourths.

The amendment was agreed to.

Mr. DAVIS, of Illinois. As all the amendments of the committee are now disposed of, I move to add as an additional section the following:

SEC. 2. Nothing in this act contained shall be held to impair or in any way affect the right or title of the United States in or to block 1, or the streets or waters surrounding it, in said Fort Dearborn addition to Chicago.

The amendment was agreed to.

Mr. DAVIS, of Illinois. I have two amendments upon which the committee has not passed, but to which I think my friend, the Senator from Vermont, will not object. The bill gives "the consent of the United States that said city may sell and convey so much thereof" of the public ground as is specified. The larger power, in the opinion of the committee, embraced the smaller; license to sell and convey includes a license to lease; but some over-scrupulous persons doubt this. Therefore, I move, in line 10, after the word "may," to insert the words "lease or;" so as to read "the consent of the United States that said city may lease or sell."

The amendment was agreed to.

Mr. DAVIS, of Illinois. I have another amendment that is in the interest of the public. At the end of line 15 I move to insert:

For the joint use of all such railway companies as may be willing to unite on equal terms in such lease or purchase and the construction of the said station-house by paying their just proportionate share of the cost or expense thereof.

The amendment was agreed to.

Mr. EDMUNDS. I have not the committee's print of the bill, but the proviso that appears in the original bill from line 15 to line 20 reads:

That nothing herein contained shall deprive the owners of contiguous lots of any valid right or claim, if such exist, to compensation on account of the change of use to which the public ground herein authorized to be sold and conveyed was originally dedicated by the United States.

That confines the security of private rights to the adjoining lot-owners.

Mr. THURMAN. The words beginning "to compensation" down to the words "United States" have been stricken out and other language substituted.

Mr. EDMUNDS. As I said yesterday, a Chicago gentleman named Swett, who I am told by my honorable friend from Illinois is a highly reputable gentleman in all the respects at least that bear upon this question, maintains, I do not know whether wisely, and legally, and well, I presume not——

Mr. DAVIS, of Illinois. Did not our committee pass upon his views?

Mr. EDMUNDS. Yes, but our committee unhappily,—I wish it were,—is not the end of the law. He maintains that this conveyance by the United States will have the effect, supposing it be valid, to deprive his clients of existing legal rights. My friend from Illinois thinks it will not, because he thinks they have not any existing legal rights. I do not know whether they have; I presume they have not; but the Constitution has not invested me with the right to decide just at this present moment whether they have or not. They have shown in their petition or protest, which I presented yesterday in connection with this bill, that they are trying to assert what they claim to be their legal rights in the courts. Therefore in order to guard the United States against doing injustice and against making itself

responsible for having done injustice, if it turns out that there are existing any other legal rights, I move to add, after the word "United States," at the end of the proviso in the print I have before me, the words "nor shall this act affect any valid and lawful adverse private right." That is, I believe, the phrase that is put into all bills of this kind to guard against misconception. I presume my friend from Illinois will have no objection.

Mr. DAVIS, of Illinois. I do not want Congress to recognize anything about this Valentine scrip case; it is so barefaced. The bill does not interfere with any private right whatever.

Mr. THURMAN. It cannot.

Mr. DAVIS, of Illinois. It cannot interfere with any private right at all. I do not want the Congress of the United States to recognize that case in any way, and it will be supposed that it does recognize it, because the Senator from Vermont says that it is upon the application of these Valentine scrip men that he makes the motion to amend the bill. The idea that Congress ever intended, in the heart of a great city, to allow Valentine, a California speculator, to get these lands is something to which I do not want to give assent.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) The amendment of the Senator from Vermont will be reported.

The CHIEF CLERK. After "United States," in line 22, it is proposed to insert "nor shall this act affect any valid and lawful adverse private right."

Mr. EDMUNDS. I will add "if any such exists," so as to preclude any recognition, which I certainly did not mean to make.

Mr. THURMAN. I think it is of no earthly consequence whether the amendment is adopted or not. I cannot for the life of me see any use in it, because how a release by the United States of its right to insist on the purposes of this dedication can take away any man's private right is a little beyond my comprehension. I do not see, therefore, that Mr. Valentine or anybody else can be injured by the simple consent which the United States gives to an alienation of its property by the city of Chicago, the United States not joining in any conveyance or making any guarantee or warranty or anything of the sort, but simply releasing or waiving its right to insist upon the purposes of the dedication. I do not know that the amendment will do any harm. The truth about it is that the words as they stand, if I understand this Valentine claim, if it had any validity, would include Valentine. I do not understand that Mr. Valentine has located his floating scrip upon the property that was originally a part of the Fort Dearborn reservation.

Mr. DAVIS, of Illinois. No, it is upon new lands made by the Illinois Central Railroad by its track and filling in.

Mr. THURMAN. He has endeavored to gobble up with fifty dollars' worth of scrip what his counsel say here is worth $5,000,000. I am not very much disposed to aid in doing anything of that kind; but if it is necessary for him to be protected by anything that is in the bill, if he has any claim, he does abut upon the very land to which we release our right, and therefore he does come under the very terms of the bill as it now stands, and I do not see any necessity for amending it.

The PRESIDING OFFICER. The morning hour has expired. By unanimous consent the Senate will continue the consideration of this bill.

Several SENATORS. Certainly.

The PRESIDING OFFICER. The Chair hears no objection, and the Indian severalty bill is informally laid aside.

Mr. EDMUNDS. I am a little surprised to hear my friend, the chairman of the Judiciary Committee, and the only real barrier that stands between private rights and the Treasury of the United States and the over-running armies of invasion that always surround those two things, object to this amendment.

As I said when I offered it, I have no admiration for Mr. Valentine's claim as far as I understand it, but I am not able to see, as my friend from Ohio apparently seems to see, that I have any right as a Senator, if Valentine has any legally existing title to this present fort, to deprive him of it because I think so. The Constitution has left it to a different tribunal to do that thing; and if the same experience happens to us if we reject this amendment that has happened to us a good many times before, if it should turn out, as I hope it will not, that these people have got any legal rights by this alleged location, we shall be called upon to respond and shall have to do it. Inasmuch as it is said that we have not got anything but a barren title and are not to have any part of the three-quarters of a million of money that is to be given for it, I thought it due to the protection of public interests and to fair play as to private rights to offer precisely the amendment that, without objection, and by unanimous consent, on every other bill that has ever been presented of an analogous character has been agreed to.

I think the Senator from Ohio is somewhat in danger of being mistaken in supposing that the bill as it stands secures the right of Valentine, if that is his name, if he has any right. The language of the bill referring to the existing plat and dedication, as it is called, in speaking of abuttal, refers to those who have bought property from the United States as a part of the Fort Dearborn addition, and have paid their money for it, and I think any court would so construe it; but having offered this amendment and explained it, it is for the pleasure of the Senate to say what they will do.

Mr. TELLER. Let the amendment be reported.

The CHIEF CLERK. In line 22, after the words "United States," it is proposed to insert "nor shall this act affect any valid and lawful adverse private right, if any such exists."

Mr. EDMUNDS. Let us have the yeas and nays on that.

The yeas and nays were ordered.

Mr. CONKLING. Mr. President, the yeas and nays being ordered, I venture to assign my reasons for voting against the amendment. The phrase "rights or remedies, if any," as suggested in the amendment, has always been endeared to me since it was incorporated in the so-called electoral bill. It was then the child of western genius, and now it is the adopted child of the East. "Rights, if any." I commence by making obeisance to the great legal principle preserved by that phraseology.

Had the words suggested by the Senator from Vermont, even without this potential "if any," been reported by the Judiciary Committee, I should see no objection to it, because I agree entirely with the honorable Senator from Ohio, that with or without these words the pending bill exerts no influence upon the legal rights of any claimant of this property except the United States. But the protest having been laid upon all our tables, I suppose,—it was laid on mine, yesterday, and I listened to a part of it as read by the Secretary of the Senate, which protest puts forward a particular claim,—the question is whether the Senate wishes to give to that claim such authority, such effect, not in law but for other purposes, as will come from the adoption of an amendment in some sort recognizing it.

I do not know this claimant. I have no right to say, and no wish to say, anything disparaging of him. I heard a statement of the Senator from Illinois yesterday, in which statement was incorporated a decision of the Supreme Court, the Senator from Illinois himself holding the pen for the court when that decision was made; and respecting that decision, and believing what is said in it, and by the Senator, we cannot resist the conclusion that this is rather a desperate claim, a claim which may be wielded by this individual or it may not, a claim which may be a tool in the hands of speculators, and possibly if it were any city except Chicago I should say in the hands of strikers; that is what they are sometimes called in other cities, men who have some dormant charter, some latent claim, some desperate or preposterous thing, which if it can receive countenance somewhere so as to give it buoyancy and consideration may be made the means of extorting money, of driving a bargain, and sometimes such things are so used as to levy blackmail and contributions. As I have said, I do not mean to characterize this claim; I have no right to say anything to disparage it; I have no power to say anything which legally would disparage it; but when I see that the bill leaves it *in statu quo*, that it does not impair it in any regard, I object, upon the presentation of this claim in the Senate, to the adoption of an amendment avowedly for its benefit, putting in special words which may look, not perhaps to a court which would see through the thing, but to other persons in some other forum, as if here was a serious mare's nest, and which might possibly drive some board of directors or a common council or trustees negotiating to think that to extinguish this thing, pestilent though they might regard it, they had better give a pretty large *douceur* than to run the risk of being tangled by injunctions and ensnarled by litigation and by controversy.

I know how far the Senator from Vermont would be from offering an amendment which would have by any intention of his any such effect; but I submit to the Senate that when the bill saves the rights of everybody, and, as I understand it, parts with nothing which belongs to the United States, that is enough. Here is a technical estate in the United States of no money value. For forty-two years this land has been effectually and irrevocably dedicated to the public use. I say irrevocably, because among other things abutting owners have bought not only upon a record which dedicated it, not only upon a plot which exhibited it, but upon the express sanction of the ministers of the Government itself, and therefore no grantor, be it a Government that may sometimes assume to be a law unto itself, or an individual amenable to law, can ever again be heard to say that this property thus dedicated shall be resumed.

The light-house having been transplanted to another and a distant site, there being no possible use of preserving open view and vacancy of land, the question is, whether this irrevocably dedicated strip of land and the much larger area of land artificially and expensively made, where once and always before the waters of the lake were, shall be kept, as the honorable Senator from Illinois said, with a dog-in-the-manger disposition, of no use to anybody, or whether a great and growing community shall be permitted to so far change that use as to utilize the property for the benefit of all. I say of all, because in this day of incessant locomotion, in this day of railways and railway centers, in the city of Chicago with its conveniences, to alight from a car and to get into that car in comfort at all seasons of the year, is not only a public use, but a use which concerns every citizen of the Republic from its center to its circumference. The whole question is whether such a use, suitable, convenient, needed, shall or shall not be made of a piece of property in which the United States has no more money interest than it has in the Hanging Garden of Babylon or the Hundred Gates of Thebes.

Mr. THURMAN. That is strong enough.

Mr. CONKLING. And it is true, too. Therefore when some Senator rises to say that he proposes that the Government shall take tribute out of this purchase-money the suggestion gains no sympathy from

me, and that, because in addition to my belief that it would not be right, I think the last, the worst, the most pernicious policy which can be pursued by a great government is to play in any case the part of a Sir Giles Overreach, or to attempt by might to overstep those barriers which conclude individuals.

Such being this case, Mr. Valentine being left untouched, and this not being Valentine's day, I am opposed to selecting him and putting any buoyancy for any purpose anywhere in a claim which having undergone scrutiny in the highest judicial forum has been pronounced groundless, and under which, if I understand it, Mr. Valentine proposes, as the Senator from Ohio has said, with a plant of $50 to cast out his shoe over $5,000,000 of property. I have heard sometimes of putting in a shoe-string and taking out a tan-yard as typical of speculations, but I must think that this piece of enterprise would exceed even that. Yet if Mr. Valentine with a scrip can reduce to *possessio pedis*, or something else, five million dollars' worth of property in Chicago, that is the misfortune of Chicago. I do not wish to be art or part in intimidating, in frightening, in alarming, in suggesting to laymen or anybody else, that the claim is any bigger now than it was when somebody caused this pamphlet to be printed and spread around on the desks of Senators. I am willing that it should be just as valid as it was before that pamphlet came in here; I would resist any amendment to cut it off; but I would not like to see proceedings here which anywhere might have the effect of attaching a fictitious or unreal value to this so-called claim.

Therefore, I propose for one to adhere to the bill as it was reported by the committee, I may say, I think, without trenching upon a rule or committing an impropriety, not only after consideration but after unusually careful consideration, and as it stands now still further defended from the possibility of doing injury by the abundant caution which the Senator from Illinois has exhibited in the amendments he has added. I am willing to stand there, although I observe that in the interest of somebody considerable public attention has been drawn to this matter, considerable animadversion has been bestowed upon it, and I believe it has somewhere been denominated as a job, as if something improper was involved in it.

The Senator from Vermont has submitted as a minority of the Judiciary Committee his views, of which I say that I think they are stated with remarkable candor. I cannot see that any friend of this measure has a right to find any fault with the statement which the honorable Senator has made; and the effect of that statement is to show that the Government has no estate here of any value whatever, (if I read this report aright, none at all,) but that inasmuch as these parties propose among themselves that a new use shall be imparted to this property, it might be well to insist that the United States should receive some benefit, some pecuniary advantage, some emolument; I know not what word would exactly describe it; recompense or payment would not, because that implies that the Government has something to part with. I do not think so. On the contrary, I am willing that the city of Chicago and the whole people who go and come through Chicago, should avail themselves conveniently of a piece of property of no value to the Government, which the Government is forever estopped from resuming, and which, as it is now, is of very little utility in any way whatever.

Mr. GARLAND. Mr. President, an interesting question is presented under the amendment, in one aspect of the case an important one, and I ask the indulgence of the Senate only for a few moments to give my views upon it.

All the points involved in the bill were maturely considered by the Committee on the Judiciary, except the point that is now presented by the amendment of the honorable Senator from Vermont. The consideration of that has come into the Senate since the bill was reported, upon a protest, a copy of which I have in my hand, signed by Mr. Swett, of Chicago, and Curtis, Earle, and Burdett, of the District of Columbia, for the parties claimant. After stating in general what they conceive to be certain claims upon some of this property, they close the petition in this way:

> Under these circumstances we respectfully protest against the passage of any law which may tend to obstruct the proper legal tribunals in administering the justice demanded by the said claimants, or which may abridge them of any of their rights.
>
> If it shall be deemed best to enact the proposed legislation, we respectfully ask that a proviso be inserted which will fully and effectually protect these and all other private rights.

I suppose out of abundant caution the attorneys for the claimants thought it best to present this paper to Congress. As I understand the law and the current decisions without dispute in the courts of the United States and the courts of the States, this is unnecessary. There are just two ways for the Government of the United States to part with its title to land. One is by a grant of Congress, and the other is by a patent. It matters not how many grants may be given or how many patents may issue to a particular piece of land, it affects no existing right upon that land upon the part of any claimant; he is not compromised a particle; he is not prejudiced in the least, because the holder under the grant or patent would be considered in a court of equity simply a trustee holding the title for the claimant if he makes his claim good, upon that elementary principle of equity that those things are considered in equity as done which ought to be done. In the case of Ryan *vs.* Carter, in 3 Otto Reports, 93, where that question came up, the Supreme Court held that it was unnecessary to put in words of this sort, because the party stood, if he had his right, just as he stood before. To illustrate: if Valentine has claims to this property, forty grants from Congress or forty patents would not affect those claims if they have already been perfected as far as the party claimant could perfect them. The party claimant might simply have to sue somebody else, or he might have to change his remedy. If the title goes to the city of Chicago or any person else under this proposed law, Mr. Valentine's claim, or a claim under, by, or through him, would simply be to make these persons parties to the proceeding, as in the nature of a purchaser, pending a suit, of property that is in litigation.

Then while sometimes it is true, as was said by the Senator from Vermont, that these phrases are put in saving the rights of claimants, it is surplusage, it is unnecessary. You do not affect Mr. Valentine, you do not put him one inch higher or one inch lower by this act. It simply changes possibly the form and the person against whom he must seek his remedy. It does not obstruct the legal tribunals in administering the justice demanded at all. If the proceedings are before the Department here the Department has washed its hands of it by this grant, and he then has his remedy in the courts. If they are before the courts they simply have to change the parties in the suits, if the suits are pending.

It is not worth while to go over all the litigation and all the cases that have been decided so often and so repeatedly upon this proposition. I think the amendment of the Senator from Vermont under the state of the case is unnecessary, it is mere surplusage; it does not give Mr. Valentine any better right than he had before. The whole question outside of this one proposition was considered maturely and at length by the Judiciary Committee, and I think the amendment is an unnecessary one.

Mr. EDMUNDS. The distinguished Senator from Illinois yesterday, and the still more distinguished Senator from New York to-day, have decorated, if I may borrow a phrase of an orator with whom I have the pleasure of an acquaintance, my humble minority report as an instance of the dog-in-the-manger policy.

Mr. CONKLING. Will the honorable Senator suffer himself to be interrupted for one moment?

Mr. EDMUNDS. With pleasure.

Mr. CONKLING. I wish for myself, and for everybody whose remarks I have heard, to disclaim, the understanding of the Senator from Vermont. So far from his report being a dog-in-the-manger report, if I have read it aright, he makes no objection to this property being used in the way and under the circumstances proposed. He only says that he wants a portion of the consideration money to come to the United States; not even, if I understand it, to enlarge that consideration money, but to have the United States share in it. That is no dog-in-the-manger policy, and therefore the remark can have no possible reference, I submit, to the honorable Senator or to his minority report.

Mr. EDMUNDS. I did not feel hurt by whatever application could be made of the remark, although I certainly understood it in that sense, or I should not have referred to it, because it is of no possible consequence to the Senate, I suppose, what may be the particular attitude in which I may happen to be viewed by anybody, and it is not of very great consequence probably to the public at large. I shall try to do my small duty in the best way I can.

It strikes me, on the main question about the price for which this is to be sold, that if a man who has a right of way across my farm, that I have granted to him and agreed that I will put no buildings upon that property, although I may raise, if I choose, as the United States may, potatoes or cabbages for the Chicago market upon it, afterward comes to me and says, as the city of Chicago does to Congress now, "I have got a right to have you keep that ground open, and I have a right to pass over it and across it, and to have a view over it, but I have found a man who is willing to put up a grist-mill for the benefit of all this farming neighborhood on that very spot, and I can get $10,000 for these five acres of land if I only owned it to sell to him; I cannot sell him my right of passage for a grist-mill because a grist-mill cannot be built on a right to cross or a right to view; those foundations would not be very good as you may imagine. Now, just give up to me the title to the property and I will sell it for the grist-mill. My title is as barren of value as a purpose of sale as yours is; you cannot sell it for a grist-mill and get anything for it for the reason that the man having bought the land would have no right to put up the grist-mill. I cannot sell my interest, and that is the right to pass over, for anything because the man who bought the right to pass over just as if he had bought your land without my consent could not have any right to put up a grist-mill." As I look at it, with great respect to the majority of the committee, (I must probably presume that I am wrong and that the Senate will think I am,) that is a fair statement of the case. The city of Chicago, if it represents the public, the abutters if they represent their private rights, as of course they do, have a property interest in the nature of an easement over this property, I will assume, and I think they have. That property interest is not worth a dollar. They could not sell it for a dollar to any human being altogether or separately. The United States always has owned the land itself. It could not sell the land probably for a dollar, I will assume, for the reason that the man who bought it could not make any use of it except to plant potatoes and cabbages; he could not build upon it; he could not devote it to any practical business use in the city.

Mr. JONES, of Florida. Who would object to the use, the adjoining proprietors?

Mr. EDMUNDS. They would object, they say; although it is said, and I believe truly, as I have stated in the very brief statement of views that I submitted, that the owners of this adjoining property, the lots around it, would have their property increased in value by building it up for any kind of a commercial business purpose. It is right at the mouth of the river, in the heart now of the great tumult of activity that belongs to the city. Their property would be increased in value 25 or 30 per cent., I have not the least doubt; yet they have a right probably to stand up and say "we have got this right of view, and unless we can be paid we will not give up the right;" and that it is not an answer, and I doubt if it is, to say "it will be a benefit to you," because if it be an absolute right of view or passage, if we care anything about the property of private citizens, we cannot deprive them of it unless it be done under a State law or a United States law of condemnation for public purposes, which is outside of this measure.

Mr. JONES, of Florida. Will the Senator from Vermont permit me to ask him a question? Then I understand that his amendment will apply as well to the rights of the adjoining proprietors of this property as to the Valentine claim?

Mr. EDMUNDS. Most certainly.

Mr. THURMAN. But they are already provided for.

Mr. EDMUNDS. No. My friend from Ohio, with great respect, I fear is mistaken about that. The bill not only provides that we merely release whatever right the United States has in it (if it stopped there they would be provided for) but it says that the consent, which is merely another word for authority, of the United States is given to this grantee to devote that property to a different use from that to which it is now subjected, if three-fourths of the abutters are willing to consent. Suppose the other fourth are not, how are their rights protected? If they sue, here comes the act of Congress which says that Congress had the dominating authority over this property, it has chosen to authorize this change whether you, one-fourth, consent or not. I wish to make a general provision, not merely as to Valentine, although I will say as to Valentine, as I have said before, without any present belief in the validity of his claim, I think that the Constitution has not authorized me to denounce it and condemn it in this way when he has suits pending in the judicial courts of the United States to assert it. Therefore I say that I think the Senate not only as in respect to him but as in respect to every man there, and there are a great many interests, and every corporation, and there are a great many of those, ought to say that we do not intend by this action of ours to deprive any man of whatever the law now gives him. That is what we are most careful to say in all other bills. I know the respect that is due great corporations, such as were referred to this morning in the amendment offered by the Senator from Illinois; but whatever the Senate does in respect of this sale, and as I have no expectation to preserve to the United States any share in this property, which as it is is good for nothing to them and as it is good for nothing to other people who are going to get the money for it, I did suppose that the amendment which I have now offered would be satisfactory to the chairman of the committee and to the Senator from Illinois.

Mr. LOGAN. Mr. President, I much prefer to vote upon the question rather than to detain the Senate by any argument; but I desire to call the attention of the Senate to one suggestion made by the Senator from Vermont. He says that the city of Chicago could not sell this land without the consent of the Government for any sum of money, nor could they derive any benefit from it. The reason for that is that the Government of the United States has the fee in the soil. True, the fee is in the Government, but the dedication of the land by the Government for the use expressed deprives the Government from any right that is of any value to it in the sense of obtaining any consideration for it. The Senator from Vermont says the city of Chicago could not sell it for any sum of money. Neither could the Government of the United States; and the only interest the Government of the United States has in this property is simply the fee, as I have stated, without the power to sell or lease or to do anything with it except that it may consent to change the use. That is all there is in this proposition, and all the question there is in this bill.

I must confess that I have been somewhat surprised to see the opposition made to it, and the remarks that have been made outside of this Chamber, when it is a proposition consented to by nearly everybody in the city of Chicago as well as the State of Illinois. It is desired on the part of a large majority of the people represented by my colleague and myself. There are but two reasons that would ordinarily be urged by some people for not changing this use. One is the reason that would be given by the gentlemen who are attorneys for the Valentine-scrip location, as it is called, and the other one, which the Senator from Vermont has not had brought to his notice, but which I will now do, and that is the pleasure of one of the Chicago base-ball clubs—the only use the ground is now put to, which may or may not be an important matter to the Senator from Vermont.

Mr. CONKLING. Is that a base-ball club?

Mr. LOGAN. Yes, a base-ball club. The ground is sometimes used for large political meetings that gather on these lots that are fenced in for the use of the base-ball club. This is the only use made of it except merely to allow the people to look over it or across it on the beauties of the lake. The park which is used for the benefit of the public is south of Madison street, and on which rests the exposition building.

I do not wish to discuss the legal proposition which has been discussed so ably on both sides. My colleague has made a report which covers the whole question, so far as the legal aspect of the case is concerned, as well as the justice of the case. I did not wish to say anything which would improperly characterize the opposition of persons outside who desire to defeat this bill; but their opposition is not in the interest of the public; it is not in the interest of the city of Chicago; it is not in the interest of the people of Illinois; it is not in the interest of the people generally; but this bill is in the interest of the general public, and is one which will be beneficial to the whole country, and certainly can be no detriment to any one.

So far as the provisions of the bill in reference to the rights of individuals are concerned, all rights are protected. It was well said by the Senator from Arkansas that Congress has not power to-day to legislate the right any individual has lawfully acquired out of his hands. All the legislation that could be passed by Congress could not affect the rights of individuals which lawfully exist in this property, if they have any rights. Their rights would be pressed to the courts. So I think the amendment proposed is an immaterial one, and performs no office except merely the one suggested by the protest, a mere naked suggestion that there might rest in some far-reaching imagination a mere possibility of some hidden, mysterious claim that may have floated over this property. Sir, this bill is a proper one, and as now amended is ample to protect all rights that may exist, and I hope it will pass without further amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, upon which the yeas and nays have been ordered.

Mr. INGALLS. The amendment proposed by the Senator from Vermont is so obviously right and so entirely in accordance with the law as it now exists, as I understand it, that I should hesitate to vote against it were it not for the fact that I am confident it would not change the status of any of the parties concerned in the bill. The fifth article of amendment to the Constitution provides that no person shall be deprived of life, liberty, or property without due process of law; and I think the courts have repeatedly held that a legislative enactment is not due process of law. I shall therefore vote against the amendment.

The Secretary proceeded to call the roll.

Mr. MORRILL, (when his name was called.) On this question I am paired with the Senator from Maine, [Mr. BLAINE.]

The roll-call having been concluded, the result was announced—yeas 9, nays 39; as follows:

YEAS—9.

| | | | |
|---|---|---|---|
| Anthony, | Jones of Florida, | Morgan, | Saulsbury, |
| Blair, | McMillan, | Platt, | Teller. |
| Edmunds, | | | |

NAYS—39.

| | | | |
|---|---|---|---|
| Allison, | Eaton, | Kirkwood, | Slater, |
| Beck, | Farley, | Lamar, | Thurman, |
| Burnside, | Garland, | Logan, | Vance, |
| Butler, | Groome, | McDonald, | Vest, |
| Call, | Hampton, | Pendleton, | Voorhees, |
| Cameron of Wis., | Harris, | Plumb, | Walker, |
| Coke, | Ingalls, | Pugh, | Wallace, |
| Conkling, | Johnston, | Ransom, | Williams, |
| Davis of Illinois, | Jonas, | Rollins, | Windom. |
| Dawes, | Kellogg, | Saunders, | |

ABSENT—28.

| | | | |
|---|---|---|---|
| Bailey, | Cameron of Pa., | Hereford, | Maxey, |
| Baldwin, | Carpenter, | Hill of Colorado, | Morrill, |
| Bayard, | Cockrell, | Hill of Georgia, | Paddock, |
| Blaine, | Davis of W. Va., | Hoar, | Randolph, |
| Booth, | Ferry, | Jones of Nevada, | Sharon, |
| Brown, | Grover, | Kernan, | Whyte, |
| Bruce, | Hamlin, | McPherson, | Withers. |

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of special report of the Commissioner of Agriculture, relative to diseases of swine and infectious and contagious diseases incident to other domestic animals, and the joint resolution (H. R. No. 364) providing for the printing of reports of the Smithsonian Institution, and for other purposes, were severally read twice by their titles, and referred to the Committee on Printing.

REVOLUTIONARY BATTLEFIELDS.

Mr. RANDOLPH, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1805) relative to revolutionary battlefields, reported in lieu of it a bill (S. No. 2126) relative to revolutionary battle-fields, &c.; which was read twice by its title.

Mr. COCKRELL. I wish to say that that report is not unanimous.

WITHDRAWAL OF PAPERS.

On motion of Mr. KERNAN, it was

*Ordered*. That James L. Casey be permitted to withdraw from the files of the Senate the papers in his pension claim, copies of the same being left on file.

THE GENEVA AWARD.

Mr. GARLAND. I desire to correct the record. Last Monday when I reported from the Committee on the Judiciary the Geneva award bill, by mistake I suppose in my own statement of the matter, the bill that was introduced by the Senator from Vermont [Mr. EDMUNDS] was indefinitely postponed. The order should be that it go on the Calendar and that the bill of the committee be regarded as a substitute in the nature of an amendment. I wish to correct the record by unanimous consent.

The PRESIDING OFFICER. That correction will be made if there be no objection.

LANDS IN SEVERALTY TO INDIANS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Alabama, [Mr. MORGAN.]

The Chief Clerk read the amendment submitted by Mr. MORGAN, as follows:

Add as a new section:

SEC. 10. That the Secretary of the Interior shall cause to be established at each Indian agency on the reservations included in the provisions of section 1 of this act a system of continuous registration of the members of each tribe by families, as the family is recognized in civilized society: *Provided*, That where the head of any family is a husband having more than one wife, such wives shall be registered in the order in which they were taken in marriage; and all such wives of the polygamic family shall inherit property as daughters; but after the first registration no man shall have registered more than one living wife; and all polygamic marriages contracted subsequent to the first registration shall be void for all the purposes of registration and inheritance under the provisions of this act.

Mr. INGALLS. Why does the Senator from Alabama attempt to establish the relationship of father and daughter between the polygamous wives, rather than daughter and parent, or grandmother, or cousin, or aunt?

Mr. MORGAN. When the head of an Indian family who has received a patent for land and who is made a citizen of the State or Territory in which he lives dies, the inheritance of some of these wives under the laws of the State or Territory may be attended with very great difficulties under the bill as it stands.

Mr. INGALLS. Why, Mr. President, the bill provides that each member of a family other than the head, as I understand it, shall be entitled to one-eighth of a section, without attempting to discriminate between wives, or daughters, or any other relatives. It seems to me that the amendment is very objectionable in the first place as recognizing the validity and sanctioning the legality of these relationships that ought not to be recognized at all. And in the second place it is unnecessary because being members of the Indian's family they are already provided for in the existing provisions of the bill.

Mr. MORGAN. They are already provided for in the bill in reference to land to which a head-right is given, but no provision is made in reference to lands taken by the head of the family when the laws of the Territory or State shall operate after the death of the Indian for the transmission of these lands to his or her heirs. The laws of descents and distribution of the different States are adopted by the bill as being the law which must govern in the disposal of this property after the death of the Indian. It is, therefore, necessary to provide some law by which several wives may be enabled to inherit from the head of the family, unless we intend to cut them off entirely. I submit to the honorable Senator from Kansas, however, that we recognize practically the polygamous relation among the Indians. We have no law prohibiting polygamy among them and we recognize the Indian governments in all these tribes as between themselves; we have done so in numerous instances, both in criminal and civil matters; therefore it is necessary, when we transfer them to a different jurisdiction on the establishment of civilization, that we should do so under such conditions as will enable them to inherit from each other without embarrassment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama.

The amendment was rejected.

Mr. TELLER. I move to amend, in section 6, line 6, after the word "reside," by inserting:

*Provided*, That no Indian shall be punished for polygamy who, at the time of such allotment, was practicing the same in accordance with the usage or custom of the tribe to which he belonged.

Mr. ALLISON. There is no provision in this bill for punishing anybody.

Mr. TELLER. The provision of the bill is that they shall be subject to the State laws, and the laws of the States punish polygamy. Therefore, unless you intend to punish the Indians who are now practicing polygamy in accordance with their laws and their religious ideas the moment they become the owners of land by allotment, this ought to be put in. They are subject to the State laws from the moment the land is allotted to them, and those who are not within the States but are within the Indian Territory are to be subject, according to the chairman's statement yesterday, to the laws of Kansas, and the laws of Kansas do not allow a man to have more than one wife, and as we learned from the Senator from Kansas yesterday that very many of the Indians have two wives, I do not see that the committee can object to the amendment.

Mr. COKE. I have not consulted with any other member of the committee; but so far as I am concerned, I have no objection to the amendment.

Mr. HOAR. I desire to ask the Senator from Colorado whether, if I understood his explanation, this is an amendment which limits the power of State courts to punish offenses against their laws; and if so, whether we can do it?

Mr. TELLER. We provide in section 6 that Indians to whom allotments are made shall be subject to the laws, both civil and criminal, of the State or Territory in which they may reside. Many of these Indians have a plurality of wives. These wives that they have been married to in accordance with the Indian law, I think they should be allowed to keep if they see fit. If you do not, you will not have any allotments to that class of Indians, unless they take them in ignorance of what they are to suffer. I am asking, in reference to these Indians, just what the early Christian Church allowed to its converts. In the very earliest times, when the heathen who had a plurality of wives in accordance with the customs of the country joined the church, he was not required to put them away. I do not think these Indians ought to be required to put away their wives. They ought to be prohibited from marrying any more, but not from keeping those they have already married.

Mr. HOAR. My point I did not make clear to my friend from Colorado. I suppose that Indians upon a reservation in the tribal relation are not within the jurisdiction of the criminal laws of a State. An act of Congress may undoubtedly take away that shield, may destroy the tribal relation, and very likely do what this statute in express terms undertakes to do—that is, subject the Indian to State law; but it is not because the United States have any authority in the world to extend the operations of State law over anybody. They cannot enact whom the State may punish, whom it may take jurisdiction over—that depends on the State constitution and laws—except by the removal of this barrier, just as they admit a foreigner by naturalization; and the moment he is naturalized he is subject to the State laws that apply to citizens. But having done that, we certainly, as it seems to me, have no constitutional authority to say that a State shall not punish an offense committed by anybody who for any reason is subject to it. We could not in a naturalization law say that Turks should be admitted to be naturalized citizens hereafter, but that they should not be punished by the law of any State for polygamy or adultery if they brought over their plural wives with them. So if you make an Indian subject to the law of the State, it is not by limiting or by extending the operation of that law; it is by taking away from the Indian the tribal character; but you cannot constitutionally take away from the Indian the tribal character and say, provided, however, that a certain fact shall be hereafter a defense to him against the State law which is not a defense to anybody else.

Mr. TELLER. The chairman of the committee announced that it was not the purpose of this bill to destroy the tribal relation. I differed with the committee, and thought it did destroy the tribal relation; but if it does not destroy the tribal relation, then my amendment ought to be adopted, because then the shield may be partially withdrawn or wholly withdrawn at the will of the Government. The Government may say, we will allow you to punish for a certain character of offenses, and for a certain other character of offenses we will not. Of course if the tribal relation is absolutely annulled, then I think there is point in the suggestion made by the Senator from Massachusetts; but the bill proceeds upon the theory that the tribal relation is not dissolved. I understand the chairman says he accepts the amendment.

Mr. COKE. I understand that for polygamous practices in accordance with the laws and customs of the tribes occurring anterior to the date of the allotments there is no punishment under this amendment.

Mr. TELLER. That is it.

Mr. COKE. With that understanding I see no objection.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) If there is no objection the amendment is agreed to.

Mr. HOAR. I object.

The PRESIDING OFFICER. The Chair will put the question on the amendment.

The amendment was agreed to.

Mr. VEST. I offer the following amendment: after the word "provided," in line 19 of section 5, insert:

And the laws of the State of Kansas regulating the descent, alienation, partition, and distribution of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act.

Mr. MORGAN. I should like to have the honorable Senator explain what is meant by "so far as practicable." I do not understand that language.

Mr. VEST. We extend to the Indians in the Indian Territory the laws of descent provided for by the State of Kansas wherever these statutes can be practically operative as to descents between father and child, as to the partition of estates, &c., and I think they should apply in the Indian Territory. I prefer that the laws of the State of Kansas should apply to this land, because Kansas extends along the border of the Indian Territory for a much longer distance than any other State. The State of Arkansas and the State of Missouri both

adjoin this Territory, but the State of Kansas borders for a longer distance upon the Territory than they do.

Mr. MORGAN. I suppose by the substitution of the word "applicable" for "practicable" it would come nearer the idea.

Mr. VEST. I used the word "practicable" because it was doubtful whether "applicable" would be sufficient. These laws are to operate in so far as they can be put into actual practice.

I have heard a good deal from the Senator from Alabama upon the subject of polygamy. I do not think we ought now to legislate on that subject. It is a very serious one. Whether the Government of the United States has recognized it as a sort of a religion in the Indian Territory, or not, I shall not now discuss. At any rate I do not choose to take any legislative action on the subject now. I believe it does exist in some of these tribes, and if it does I only propose to apply to it as far as I can the statutes of civilization.

Mr. MORGAN. As I shall vote for the amendment of the Senator from Missouri, I am compelled to confess that I do not know what I am voting for, for I have not studied the laws of Kansas, nor the laws of Arkansas or Missouri or Texas, or any of the neighboring States, to determine what laws we are imposing on these Indians in the distribution of their property and the descent of their real estate. We are compelled to act in the dark. I suppose the honorable Senator from Kansas, if he would explain the whole system of laws of that State, might be able to satisfy the Senate that it was a better system than the system of any contiguous State or any system we might adopt ourselves; but I think we are rushing rather headlong and rashly into this great question to undertake to provide for so large a Territory as the Indian Territory, with the enormous population that is there and that is to assemble there hereafter, what shall be the law of descent and distribution, when I think the large majority of the Senators have not had a moment's time for the consideration of this question, and do not know anything about it. I cannot force myself to vote for a law of this magnitude and this importance without having at least some information and some time to inform myself as to what the law is on which my vote is to be taken.

Mr. VEST. The laws of the State of Kansas are about like those of my own State and all the Western States in regard to descent and distribution—father, mother, brothers and sisters and their descendants. If there is any Western State that has any other law of descent, I am not aware of it. They may differ in some provisions, but without having carefully examined the statutes of Kansas I have no doubt that is the system.

Mr. PLUMB. I think the proposition of the Senator from Missouri simply extends the rule already laid down in the bill by the second section, which provides that these Indians in all their rights and so on shall be subject to the laws, civil as well as criminal, of the Territories and States in which they happen to be situated. This is simply extending the laws of the State of Kansas not only over the Indians within its limits, but similarly over the Indians in the Indian Territory. We are not here to inquire whether or not the laws of the States and Territories in which these Indians live are such as we should adopt for them if we had that to do, but we simply say as the Indians are there they shall be content with the laws made for white men, executed by white men, and under which white men enjoy their rights. That is just what is said by the amendment of the Senator from Missouri upon this particular point.

While I am not here to defend the laws of the State of Kansas, I can only say that the people of Kansas get along very well under them, and I think on the whole they are good enough for the Indians in the Indian Territory, or any other Indians.

Mr. MORGAN. If we knew what they were we could probably determine whether they were good or not, but I do not know that they are any better for the Indians than the laws of Texas. A Senator says, "any of them are good enough." That is about the principle of this matter, that anything is good enough for an Indian without our knowing what it is. Anything at all is good enough for him, and yet the Senator from Kansas has not told us what the laws of descent in Kansas are.

Mr. PLUMB. I do not care to unfold the volume of statutes and take up the time of the Senate, but if the Senator is desirous of knowing precisely what that statute is I will refer him to the Library, where he can get the volume and read it.

Mr. MORGAN. I cannot afford to leave the Senate Chamber while this bill is under consideration to go to the Library to hunt up a subject that I do not know anything about, and perhaps it might take me a week to understand it if I had access to the proper books.

One section of this bill gives to the Indians the benefit, if you may so term it, of the laws of the States and Territories in which they are found. There is some principle in that. A man ought to be governed by the laws of the Territory in which he is found when he is brought within the reach of the power of the law of the United States, whether it is local or general; but when you undertake to extend over that man the law of a territory in which he is not found it is becoming on the part of a deliberative body like this to understand what the law is that we propose to impose upon him, and whether it is applicable in its provisions and in its principles to the Indians of that territory. The Senator from Kansas says the people of Kansas get along well enough under their laws. I see that they do, but the answer is that the people of Kansas are not Indians. Perhaps there may be some other system of laws in Texas or elsewhere under which Indians could get along better than they could under the laws of Kansas. I think the Indians have been removed out of Kansas pretty rapidly; not many of them remain there now entitled to reservations. Many of them have been sent off to the Indian Territory, and I suppose the people of Kansas instead of conforming their laws to the condition of the Indians have so framed them as to get rid of the Indians and adapt them to the white civilization and not to Indian civilization.

I think we are pushing this measure with too much haste, and by the time we get through with it we shall have a web that it will take a great many years to unravel unless we repeal it the next session of Congress.

Mr. SAULSBURY. The subject of the treatment of Indians is a subject about which I know nothing at all, and I confess with frankness after hearing discussions for nearly ten years in this Chamber on the subject of how best to manage the Indian tribes of this country, that I have never yet seen any man who knew much more about it than I did myself.

Now, in reference to this particular amendment I do not know whether it would be a proper amendment or not. It is an attempt, just as this whole bill is an attempt, to apply laws which are proper and fitting for civilized life to a class of people who possess but very little civilization and some of whom are barbarous and savage.

The theory upon which the whole bill is constructed is that it is best to assign to the Indians lands in severalty. If this was a proposition to be applied to men possessing civilization, capable of the maintenance of the rights of civilized beings, it would be a proper theory; but whether it is a practical bill as applied to savages is a very grave question. But yet this proposition proposes to apply that principle, that theory, to the Indian tribes of this country, without any reference to the degree of civilization which any of these tribes may have reached. I believe it is generally understood that some of the Indians are much more civilized than others; some are inclined to pursue settled lives, to have homes, while others roam the forest at pleasure, subsisting by hunting and fishing, know nothing of the attachments of locality, which generally influence the lives and acts of civilized men and of the Indian tribes who possess some civilization; and yet this is an attempt to apply the same theory, the theory of assigning lands in severalty, not only to Indians, but to Indians of every degree of civilization. The proposition is that whenever the President of the United States shall ascertain that an Indian reservation is adapted to agriculture, then there shall be a process to divide the lands in severalty to the members of the Indian tribes.

Mr. COKE. "The President be, and he hereby is, authorized"—not "required"—"authorized, whenever in his opinion any reservation of such Indians is advantageous for agricultural purposes, to cause said reservation to be surveyed or resurveyed, if necessary, and to allot the lands in said reservation in severalty to the Indians located thereon."

Mr. SAULSBURY. That is true. Whenever the lands are adapted to agricultural purposes you invest in the President of the United States the power and authority to allot these lands in severalty to the Indian tribes. It is character and condition of the lands that becomes the test for the President. There is nothing here that vests the President with discretion as to the character of the Indians, but it authorizes him, upon being satisfied that the lands are adapted to agricultural purposes, to proceed to divide these lands and assign them in severalty to the Indians. If the theory itself is right, then the President ought to be authorized, when in his judgment a degree of civilization has been reached in any tribe to warrant and justify such an allotment, to proceed to make the allotment; but there is nothing of that kind. If you say the discretion is invested by the bill in that regard, certainly it is implied discretion, for there is no express discretion given in that regard.

But after doing that, after determining first that the Indians shall have land assigned to them, you then come to the further provision of this bill, that the Indians themselves must determine the question. Whenever that is done a man who desires this allotment to take place in order that he may make some money out of it will not have much difficulty in getting the consent of the Indians to a proposition of that character. I fear that unless we pass this bill upon the theory that there must be a certain degree of civilization of the Indian tribes, and a certain amount of intelligence possessed by them in reference to their rights, by this process we are subjecting the Indians to be deprived of their rights by parties who may seek to deprive them or get the advantage of them in some way.

I perhaps shall vote for this bill because it has had the consideration of an intelligent committee of this body, not, however, because I am satisfied it is right; I shall have to yield my judgment to that of the committee; but I now take this occasion to express my doubt as to the practicability and the wisdom of this bill or of the theory upon which it is based. That it would be proper to allow Indians possessing a proper degree of civilization to hold land in severalty, I do not question; I believe that will prove ultimately to be one of the means of the civilization of these people by getting them settled on their own lands, giving them the advantage of locality which all men of civilization possess; but I do doubt, gravely doubt, whether it is practicable or proper to attempt to apply the principles of this bill to every description of Indians in this broad land or to all who are settled on reservations.

I simply rose to say this much, because I am about to vote on this bill, but I want it understood that I vote for it simply because the committee of this body who have been intrusted with the consideration of this measure have given it their deliberate consideration and have come to the conclusion that it is proper, and not because in my judgment it is practicable.

Mr. KIRKWOOD. Mr. President, I do not know that I can throw any light upon this matter. I have not been specially charged with the management of Indian affairs in this body by reason of my connection with any of the standing committees; but my assignment to a special committee, of which I have been a member for the last eighteen months, has compelled me to study the question to some extent, and I confess I am at some loss to know what is the best thing to do with this bill. I would like to call the attention of the chairman of the Committee on Indian Affairs to section 5. The scope of the bill generally is this: when two-thirds of the Indians of any tribe consent to it, the members of the tribe may select certain quantities of land, as provided in the bill, and hold them in severalty, receiving patents for them. If they take those lands, not in a block, but as they probably will, one Indian making a selection here and another there, leaving unselected portions of land between their selections, what then? The remaining portion of the bill provides that the unselected lands may be sold by the Government, and the money applied to the use of the Indians. What will probably be the effect of that? The unselected lands lying between those selected by the Indians will be bought by white men and settled on by them, leaving an Indian farm upon one side and the other side and a white man's farm between, thus dotting the reservation over in that way with farms held by Indians and held by white men.

Now, the question I want to ask of the chairman of the Committee on Indian Affairs is, has that committee carefully considered the probable effect of that condition of affairs? It is well known, and unfortunately so, that all white men are not good men, and it is supposed by some people living in the eastern part of our country that that is especially true of western white men. Whether that be correct or not, I am not disposed here now to question. But suppose that the parcels unselected by the Indians shall be sold and settled upon by white men, and those white men should be occasionally men who drink or sell whisky, to which unfortunately the Indians as well as the whites are addicted, or they should be white men having other bad habits as well, has the Indian Committee carefully considered whether or not in providing, as I understand this bill does, for that condition of affairs, they are in reality not providing for the advancement of the Indians? If the selections to be made by them were to be made in block so that they appropriated all or a portion of their reservation, leaving a portion to be sold outside, it would not have the necessary effect of introducing white farmers among them; and that would relieve me somewhat of my embarrassment.

I propose to submit to the chairman of the committee this amendment and ask him what he would conceive of the propriety of having it made: In section 5, commencing on line 19, strike out all after the word "further" in line 19, down to and including the word "tribe" in line 23, and insert these words:

That at any time after lands have been allotted to all the Indians of any tribe as herein provided, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase of such portion of the reservation that has not been allotted as such tribe from time to time may consent to sell.

That language would leave it optional with the tribes not to sell these parcels of land interposed between the selections made by the Indians. It would not compel them to sell all the unselected land at one time. It would enable them to sell a portion of the reservation in which there were no allotments made to Indians, reserving those portions lying between the allotments made to Indians. That would relieve me to some extent of the embarassment I feel in voting for this bill.

If I have made myself understood, I shall be glad to hear from the chairman of the committee what he thinks about it.

Mr. COKE. I think I understand the Senator from Iowa. So far as I am permitted to speak of what took place in the committee, I can say that this subject has been discussed among the members of the committee, and while I do not remember any specific agreement arrived at between them on the subject, I know that the bill was reported with the understanding that the conditions stated by the Senator from Iowa might exist, to wit, that the Indians might select their lands on different portions of the reservation, leaving unselected intervals which would become public land. Such was my understanding, and I think the record of the debate on the Ute bill shows that that was the understanding with reference to the agreement provided for in that bill. I have had no opportunity of consulting other members of the committee in reference to the amendment proposed by the honorable Senator from Iowa. I do not feel prepared to accept it unless it shall be deemed advisable.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The question now before the Senate is the amendment offered by the Senator from Missouri, [Mr. VEST.] It is not in order to entertain the amendment of the Senator from Iowa [Mr. KIRKWOOD] until the amendment of the Senator from Missouri is disposed of, as it is not an amendment to the amendment. The question is on the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. ALLISON. Now I hope the amendment of my colleague will be read.

Mr. KIRKWOOD. I offer it, and if the Senate will indulge me I will endeavor again to explain very briefly just what I mean. Let my amendment be first read.

The Chief Clerk read the amendment of Mr. KIRKWOOD, which was after the word "further," in section 5, line 9, to strike out all down to and including the word "tribe," in line 23, and to insert:

That at any time after lands have been allotted to all the Indians of any tribe as herein provided, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase of such portions of its reservation as have not been allotted as such tribe shall from time to time consent to sell.

Mr. KIRKWOOD. My idea, Mr. President, and I would be glad if it is not asking too much to have the attention of Senators to it for a moment, is this: if the amendment prevails, the sale of any portion of a reservation will not be had until the Indians have selected for themselves, to be held in severalty by them, the portions that they are entitled to select under this bill. If in making those selections they leave scattered around among them small parcels that might be settled upon by other persons, and a large body outside of their selections, I propose that it shall be legitimate and proper for them to retain these small portions lying interspersed among their farms in their own name and hold them without sale, so as to prevent the settlement in among them, for a good many years to come at least, of white settlers, leaving them at liberty to sell, if they desire to sell, any land outside their selection that might be sold without mingling among them white settlers. That is the purpose of it, and therefore I insert the language that these negotiations may be for sales from time to time of such portions of the unselected land as they may choose to offer for sale.

I can make it perfectly plain, I think; I know it is plain to myself. For instance, suppose a reservation consists of 100,000 acres, and under this bill the Indians taking detached parcels in the south half, or north half, or west half, or east half of their reservation select 40,000 acres, leaving 60,000 on which they have not settled. Of those 60,000 acres 10,000 are interspersed in small lots among the selections they have made and 50,000 lie outside in a block. I think it is wiser for them to retain the 10,000 acres interspersed among the selections made by them, and not to permit those lands to be sold to and settled by white men, at least until they have advanced further than they are already advanced in civilization. While I would authorize them to negotiate for a sale of that lying outside of their selections if they saw fit to do so, I should be disinclined to encourage the sale of these detached portions lying between the selections. It brings to my mind a fable I read when I was a boy. I learned a good deal by reading fables then.

Somewhere I read of the fable that at the time of high water in a stream, a vase of brass and a vase of earthenware were floating down the stream not far from each other, and the brazen vessel, using language, as inanimate objects may in fable, desired a nearer approach to it on the part of the earthenware vessel, desired to be sociable, wanted them to come closer together and get in closer contact with each other. The invitation was renewed repeatedly; but the earthenware vessel, after awhile, very respectfully declining to approach any nearer, said that while it might be very agreeable to the brazen vessel to have a nearer contact, that contact might be fatal to the earthenware vessel. There is something of that, I am afraid, in this bringing the white man and the Indian into close contact with each other. It would make this bill much more palatable to me if the amendment I have offered, which does not stand in the way of the general principle involved in the bill, could be adopted.

I will say another thing while I am up, and relieve the Senate then from any further trespass on my part. In thinking this matter over I have thought that we are not beginning at the right end precisely in this bill. If my advice had been embodied in this bill, I would have provided for something like this condition of things: I can illustrate what I mean by two tribes in Nebraska, the Omahas and the Winnebagoes. They are both quite well advanced for Indians in civilization. The fear they have to-day, the fear that haunts them every day, is that they may be at some future time dispossessed of their reservation, they holding either by executive order or by treaty the land they do hold; and the fear that that may come prevents many of them from going forward and making farms and improvements. In case they should by any means be compelled to leave their land, it would force upon them the alternative either of abandoning their tribe or abandoning the improvements they had made. I think if we gave to certain of the tribes, like the Winnebagoes and the Omahas and the Poncas, a title—by that I mean a title in fee—to their reservation, so that they would know when they made their selections of their farms that they could hold them as against all the world, we should be moving more rapidly in the direction we want to go than we shall under this bill. If they had the same title to their land that the Senator from Massachusetts [Mr. DAWES] and I have to our land, they would not depend upon Congress for the protection of it, but upon the courts of the country.

Mr. DAWES. My colleague upon the Ponca committee knows, I think, that that is the experience of the Poncas, I am sorry to say. When the Government granted to the Poncas their land by metes and bounds, they did have a title to it; but the United States does not treat them as if they had a title to it.

Mr. KIRKWOOD. I do not understand that they have a title to it such as the Senator from Massachusetts has to his and I have to my land. I may be mistaken in that.

Mr. DAWES. The Senator is a good lawyer, and I ask him if he had no other title to his farm than a deed which contained these operative words by metes and bounds "for a consideration I cede and relinquish the following tract of land to the Senator from Iowa," does he not think he would have a title to hold his lands?

Mr. KIRKWOOD. I can very well imagine that the Senator from Massachusetts has been so absorbed in the matter of the Ponca Indians for some time past that it is impossible for him to consider any question connected with Indians without connecting it with the Poncas. The time may come when the question that he suggests to me may be discussed before the Senate, and it may be that when that time shall come I shall have something to say upon it. It is sufficient to say in the mean time that that question has been referred to our law committee, something over a year ago, the Judiciary Committee of this body, composed of as able lawyers as there are in it, whether more able lawyers than the Senator from Massachusetts I will not say, but certainly much more able lawyers than I am, and when they shall have made their report——

Mr. DAWES. What was referred to them?

Mr. KIRKWOOD. The question of the validity of the title of the Poncas. Then either the Senator from Massachusetts or myself will be seen to be in error. Knowing how very right he almost always is, I am inclined to think that the error is on my part and not on his; and yet he may be mistaken and I may be right by possibility.

Mr. DAWES. Having drawn that resolution myself, I ought to know something about it. The inquiry ordered was not whether they had a title to their lands, but whether they had any means of enforcing their title.

Mr. KIRKWOOD. I think the one question is involved in the other.

Mr. DAWES. And the committee have slept on it for now over a year; and that is not very consoling to the Poncas.

Mr. KIRKWOOD. I think it would be difficult to consider one of those questions without considering the other; but that is outside of the matter we are considering now. I was suggesting to the chairman of the Indian Committee whether it would not have been wiser originally to have provided in this bill to give to such tribes as the President of the United States might deem it wise to do, an absolute title to their reservations, or such portions as he and the Indians might agree upon, so that the preservation of the title would not rest in the discretion of Congress, or the whim of Congress, or the justice or injustice of Congress, but would rest with the courts upon which we all depend for the preservation of our property, as well as of our lives and liberties. Having thus assured to them that if they chose to take lands in severalty and make farms upon them, they could not be disturbed, and would not be compelled to choose at any future time between the abandonment of the tribe to which they belonged or the abandonment of the improvements they had made, I think they would be much more surely encouraged to make selections and make improvements upon them.

I have but to say further that the amendment I have offered, while I am not at all tenacious about it, would relieve my own mind to some considerable extent of the difficulty I feel in voting for this bill.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa, [Mr. KIRKWOOD.]

The amendment was agreed to.

Mr. TELLER. I move to amend by inserting in line 5, at the end of section 8, after the word "dollars:"

The Secretary of the Interior is hereby authorized to select, with the consent of the parents or guardians, any number not exceeding fifty Indian boys, between the ages of twelve and twenty years, and to send them to the Agricultural College of Colorado, at Fort Collins, Colorado, there to be instructed in the primary branches of an English education and agriculture, where special instructions shall be given to such pupils in agriculture by irrigation.

In a very large proportion of the western country occupied by these Indians it is impossible to farm, except by irrigation. You may take the Indian children from that region—I will take New Mexico, Arizona, Colorado, Southern Utah, Southern California, and Nevada—and bring them to Hampton and Carlisle, and instruct them in all the branches of agriculture, as practiced in this country, and they will go back ignorant of the very first principle of agriculture.

The question of irrigation is one that has greatly disturbed even the intelligent white men of that country for many years. It was a long time before the white men learned the true theory of putting on the water and irrigating their land. It was not until within a few years that the people learned just how much water to put on, just when to put it on, and in what manner and method it should be put on. Now we have an agricultural college at Fort Collins where there is a two-hundred-acre farm where are raised all sorts of crops that are cultivated in that region of country.

This amendment is not imperative on the Secretary; it only allows him to do this if in his judgment the necessities of the Indians demand it; and there they can send these children, there they can learn that peculiar agriculture which they must some time, if they are ever farmers where they live, understand. If they farm in the regions that I have named they have some day to learn the system of irrigation. I have not made it obligatory; the Secretary may do it or he may not as he sees fit. It seems to me the committee cannot object to the amendment.

Mr. ALLISON. It is what we want.

Mr. TELLER. If the committee say they will not object to it, I shall say nothing further about it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado, [Mr. TELLER.]

The amendment was agreed to.

Mr. MORGAN. I offer the following amendment: In section 1, line 13, after the word "section," insert "and in addition one section of land adapted to grazing, to be set apart by the locating agent hereinafter mentioned."

That provision is to apply to that part of the bill which relates to locations in favor of the heads of families. Those familiar with the western country know very well that to set apart to an Indian one-fourth, or one-eighth, or one-sixth of a section of this land amounts to no contribution to his prosperity at all. Less than a section of land to the head of a family for grazing purposes is really of no value, and the object of the amendment is to authorize the Secretary, in addition to the quarter section of agricultural lands set apart to the head of a family, to set apart a section of grazing land.

Mr. SLATER. I hope that amendment will not be adopted. One of the gravest and most serious objections to the bill is that it gives too much land now to Indians. The great purpose of Indians in securing land at all is to have the opportunity of roaming and grazing ponies on lands that will furnish natural pasturage. If you restricted them to one-half what you now allow them in the bill, it would be much more valuable to the Indians and much better for the country in the end.

Mr. MORGAN. Then the Senator from Oregon ought to oppose the bill, if that be his view of it, because in the first section he will find this provision:

*And provided further*, That where the lands on any reservation are mainly valuable for grazing purposes an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

The bill provides for setting apart grazing land to the Indians. I do not think their condition will be improved by giving the head of the family, to whom you allot a quarter-section of land, a section of grazing land for the benefit of the family. I do not think it is any objection to the roaming feature of this bill, of which the Senator complains, that we undertake to provide a square mile of land that he shall settle. The lands set apart to the Indians under this bill, if any should ever be set apart to an Indian under the bill, which I have no idea will ever take place, will be agricultural lands; and yet in grazing countries where men have to subsist mainly by grazing, we cut them off. An Indian head of a family on a quarter-section of grazing land or an Indian without a family on an eighth of a section and a minor child on the sixteenth of a section of grazing land cannot get along; and what will become of all the rest of the land as soon as the Indians are all located and the allotments are made? Of course the Indians will be brought together and the other lands will be sold, and no reservation of a sufficient quantity of land will ever be made; it cannot be made under this bill and the rest will be sold, and consequently the Indians will have to starve.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) The question is on the amendment of the Senator from Alabama. [Mr. MORGAN.]

The amendment was rejected—ayes 3, noes not counted.

Mr. MORGAN. I move to strike out the ninth section of the bill, and on that motion I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. MORGAN. If members of this committee do not desire to present themselves before the country in a responsible way for the ninth section they can refuse the yeas and nays, that is all.

The PRESIDING OFFICER. The Chair will put the question again.

The yeas and nays were ordered.

Mr. MORGAN. I ask that the ninth section be reported.

The PRESIDING OFFICER. The section will be read.

The Chief Clerk read as follows:

SEC. 9. That the provisions of this act shall not extend to any tribe of Indians until the consent of two-thirds of the male members twenty-one years of age shall be first had and obtained.

Mr. INGALLS. Mr. President, I have no doubt that the Senator from Alabama could add new petitions by way of amendment to the Lord's Prayer which would be of great advantage to the Christian religion.

Mr. MORGAN. I would amend it if by amending it I could have any hope that the honorable Senator would be included in its benefits.

Mr. INGALLS. I have no doubt also that he could add new beatitudes to the Sermon on the Mount, new commandments to the Decalogue, and that in various ways he could contribute to the enlightenment and education of the human race; but why is it necessary to attempt to do everything on this bill?

Mr. MORGAN. I have objected to the bill because it attempted everything, and have been trying to amend it so that it will be capable of doing something.

Mr. INGALLS. The debate on this bill began on the 20th day of January, and has now been continuing for nearly two weeks. This delay has been induced very largely by the efforts of the Senator from

Alabama and the Senator from Colorado, who have assiduously and sedulously assailed the committee as though they were attempting to enforce the exercise of some arbitrary and unconstitutional power in regard to the Indians, attempting to deprive them of their rights, and as if they were entirely without information on the subject the Senate has committed to their charge.

Now, Mr. President, I have no doubt that the Senators from Alabama and Colorado are entirely candid and ingenuous in the opposition they have offered to this bill and the amendments they have proposed; and I may say to them as one member of the committee, that I did not give my full assent to this bill. I agreed to its report with some misgivings, because I feared that it might not, even if adopted, bring about an Indian millennium.

Mr. MORGAN. Now, if the Senator will allow me, I will state to him that if he had obliged the Senate of the United States by making that declaration seven or eight days ago, the bill could have been passed long since.

Mr. INGALLS. I am unable to see what possible connection that can have with the subject under consideration. I was proceeding to say that I could not deny that the Indian problem was surrounded with difficulty, with a web of tangled and illogical absurdities; that from the beginning it had been tentative and experimental; that we had for two hundred years and more groped and stumbled, making experiments that had been abandoned, and that this was merely one more effort that had been honestly attempted by the Committee on Indian Affairs for the purpose of contributing as far as lay in our power to the solution of what everybody admits to be a question of the highest importance and of almost insurmountable difficulty.

I consented to the report of this bill, believing that in the main its measures were beneficent, hoping that it might contribute something toward solving this great problem. Instead of assisting the committee and endeavoring to unite with them in reaching some solution of these difficulties, we have been met at every step of the debate by the presentation of frivolous suggestions and untenable amendments, intended apparently to retard progress and to defeat the final adoption of the bill.

Mr. President, it has been said during the progress of this debate that this bill would result in the establishment of a landed aristocracy. Now, sir, the Indians to-day are the only unadulterated, genuine aristocracy in this country. They are a peculiar and chosen people, like the children of Israel, having hereditary titles and privileges; possessing vast untaxed areas of the public domain, over which they roam at will in savage pastime, and, like the old robber barons of the Rhine, levying tribute and exactions upon the private citizen and the public Treasury with equal success and with impartial rapacity. "They toil not, neither do they spin;" they pay no taxes; they are subject to no laws; they burn, murder, and plunder with impunity; they contribute nothing, and never have contributed anything whatever to the welfare of society. Yet they have for generations been maintained in insolent idleness or audacious hostility by the voluntary contribution of millions of money annually from the public revenues. This has not been because they do not possess the capacity and intelligence to maintain themselves, for they have on many occasions given abundant evidence of the possession of both. In many sanguinary wars their wild cavalry has matched the trained legions of the Republic. In diplomacy within a very short period they have shown a brilliant and shining capacity for lying that has never been surpassed, so far as I know, by any foreign minister or secretary of state.

Upon the untenanted wilderness of the West, exposed to the rigors and vicissitudes of an inhospitable climate, without seed-time or harvest, without trade or manufactures or commerce or agriculture or art, without tools or implements, without fabrics, without vehicles or machinery or permanent habitations, they have for centuries maintained a receding but almost insuperable barrier to the progress and advance of American civilization; so that at the expiration of more than two centuries of efforts to evangelize, to Christianize, to civilize, to exterminate, or to conquer, the American Indian presents the same characteristics and exhibits the same problem to-day as that which confronted the earliest colonists upon the rock-bound shores of Massachusetts Bay.

They are a persistent and enduring type. They are not a fugitive or transitory people. There is nothing about them of the pathos of a perishing race, for there are very nearly as many Indians on this continent now as when Miles Standish landed on that historic bowlder called Plymouth Rock. Notwithstanding the pathetic platitudes about extermination and the danger that the red man would soon vanish from the face of the earth, the stubborn fact remains that, in spite of diseases, wars, exposures, and migrations, there are very nearly as many Indians to-day as there were in 1620.

Now, what are you going to do with them? I ask the Senator from Alabama and the Senator from Colorado, who have been for days and weeks impeding the progress of this bill, what are you going to do with them? It is much easier to be a critic than to be an architect; it is much easier to pull down than to construct. I ask these gentlemen who are attempting to impede this bill, what do you propose to give in place of it?

Mr. MORGAN. If the honorable Senator will pardon me, if I felt toward the Indians as he has just expressed himself, I would commission butchers to go out and kill the last one of them.

Mr. INGALLS. I have expressed no sentiments of hostility or antagonism to the Indian. I have detailed history and narrated facts, and I challenge the Senator from Alabama or any other Senator to successfully dispute what I have alleged. I am not an advocate of butchery; I am in favor of some humane policy that shall relieve the Treasury from the annual imposition of millions of dollars to support these people in unproductive idleness, and I assented to the reporting of this bill in the hope that something might be done in that direction.

We are not traveling in a new path. We are not the pioneers of a new territory, for the British Government in dealing with the Indians of the Canadas has been for the last century engaged in precisely the same experiment that we are now trying. I heard the Senator from Georgia, [Mr. BROWN,] who is not now present, dwell with approbation on the humane methods adopted by the British in their government of the Indians. He forgot to say that the Indians in North America under the control of Great Britain had been by successive wars reduced to less than twenty thousand, that for generations the policy of vindictive and ferocious extermination had been pursued; and that now, after they had been reduced to comparative insignificance, the government was attempting precisely what we are trying to do, to civilize, and evangelize, and Christianize the remaining fragments, and in some way to evade the embarrassing results of this vexatious problem.

In pursuance of the same general line of policy indicated in this bill they have enacted four important statutes, the first in 1857 and the last in 1869, having in view the peaceable solution of the Indian problem. They have tried the allotment of lands in severalty; they have tried the system of giving lands to Indians in severalty on reservations, and these projects have all been definitively abandoned after trial as being incapable of successful accomplishment. They found that giving land to Indians in severalty resulted in the withdrawal from the tribal relations of the best and ablest members of the tribe.

Mr. TELLER, (in his seat.) Who found that out?

Mr. INGALLS. The British in North America found it out.

Mr. TELLER. They never gave their lands out.

Mr. INGALLS. They did give them out, and the Senator is as ignorant of history as he is of good manners in denying my statement in that way. In 1857 a statute to that effect was passed, which was after trial repealed, the result being that under the operations of the law the most industrious and intelligent members of the tribe withdrew themselves, and their withdrawal was followed by the intrusion of characterless whites, so that the condition of the tribe as a mass subsequently became lowered and degraded. They have also tried the allotment of land in severalty upon other conditions, and finally as the result of their experience they have come down to this, that whenever any Indian desires to be enfranchised the authorities examine him, and if satisfied with the result of their inquiry, he enters upon a probationary period of three years. At the expiration of three years, if he has exhibited the requisite capacity to manage his own affairs and possesses intelligence and good moral character he is definitely enfranchised, and a patent is issued giving him a life estate in a described tract of land within the limits of his reservation, which can be devised by will to his heirs. The Indians all remain sequestered, and white people are kept off the reservation. This system of qualified citizenship and enfranchisement, accompanied by life interest in certain prescribed limits of land, is what has been finally adopted by the British Government as the only solution of the Indian question so far as they are concerned.

In reporting this bill I acted in the light of the experience and observations I have had in the past, having been a member of the Indian Committee for nearly eight years. I have had correspondence with the Indian authorities in Canada. They have sent me various printed reports and statistics with regard to the administration of Indian affairs in the Dominion. I advocate the adoption of this measure, not believing that it will be a final determination of the question nor that it will set the matter forever at rest, but that it is a step in the right direction, that we are following the path that has been trodden before, and that it offers in the light of the experience of other nations and of other peoples what seems to be the most feasible method of dealing with this great subject to the ultimate advantage both of the Indians and of the whites.

I appeal to the Senator from Alabama and to the Senator from Colorado, who I see has his magazine still loaded with ammunition for the purpose of firing away at this bill, to let us try the experiment. Of course no enactment can be made absolutely perfect. We must do the best we can. We want to go in a certain direction toward solving this problem. Everybody admits that the bill is right so far as it goes. No one has denied that its principal features are meritorious and that its design is just.

Mr. EATON. Will my friend permit me to ask him a question? I have listened with great interest to what he has now been saying, and I beg to ask him if this bill follows at all the direction which has been pursued by the British Government in Canada? Do you not assume at once to make without any previous education these wild men citizens, to give them lands in severalty before you educate them up to the point that Great Britain has educated the Indians in Canada?

Mr. INGALLS. I think not, because the bill contains a provision that to accept its terms the consent of at least two-thirds of the tribe

must be obtained. Here is a statute, beneficent in its provisions, changing the whole subject of the relation of the Indian to his tribe and to the Government. The very fact of consent implies the intelligence, and education, and a desire to change his condition to some other different from that which then exists. This, I think, is an answer to the objection suggested by the Senator from Connecticut.

But in this connection I am bound to admit, in view of the criticism by some Senator who has spoken, that I believed when the bill was reported that there was a discretion vested in the President as to the time when this power should be exercised. I see that the language of the bill leaves it doubtful whether the discretion of the President is not to be exercised merely upon the fact whether the character of the land is agricultural or not. I do not think the discretion of the Executive to carry this bill into effect goes far enough. I agree with the Senator who made the suggestion that there should be an Executive discretion reaching far beyond the character of the reservation—a discretion extending to the inquiry whether the Indians possess the requisite capacity, moral character, and intelligence to render it advisable to try an experiment whose consequences might possibly be disastrous and would certainly be irrevocable.

I appeal to the Senate, as this bill has been under such protracted debate, whether it is not advisable, in view of the importance of this question and of other measures now demanding our attention at this late period of the session, that we should have a vote upon this measure to-night, and have done with it. I do not assume that it will settle the Indian question. I have no doubt that those who come after us two hundred and sixty years from now, if there shall be so long an Indian surviving and if this Government shall so long endure, will be discussing just as we are now the Indian problem. I have no idea that the question ever will be settled so long as an Indian exists within the jurisdiction of the Government; but we are tendering, as the organ of the Senate, what seems to us the best that can be done to adjust the immediate difficulties that surround us now. Let us try it. If it fails, we can amend or repeal it. If it fails, we can in the future offer some other measure that perhaps may be more fortunate in securing the approbation of the Senator from Alabama and the Senator from Colorado.

Mr. MORGAN. Mr. President, since I have had the honor to be a member of this body I have listened to a great many speeches evincing a spirit of hostility, a cruel spirit of vengeance, in reference to the Indians, but I have not heard anything so savage, so merciless, and so heartless as that which has emanated from the gentleman who sets himself up as the organ of a committee to whom we have confided the destiny of that unfortunate race of people. If the opinions about the Indians, their history, their present condition, their morals, their instincts, their aptitudes, and their principles as expressed by the Senator from Kansas [Mr. INGALLS] are true, then certainly they are the worst people who have ever inhabited any country in the world. But I cannot believe that they could have existed in contact with the civilization of the United States since we have been here, and, as he says, have increased their numbers——

Mr. INGALLS. No, I did not say that.

Mr. MORGAN. Or at least they have maintained their number.

Mr. INGALLS. I said that very nearly they had maintained their number.

Mr. MORGAN. If what the Senator says about them could possibly be true, the people of the United States would necessarily have been compelled to exterminate them, as the Jews exterminated the heathen nations through which they marched after their deliverance from Egyptian bondage, for the mere purpose of removing them as an obstruction to the light of Christianty and civilization.

The Senator, however, in his attempt to berate these people has unconsciously to himself bestowed upon them a great eulogy: that in the midst of the warfare which he says they have waged upon us or that we have waged upon them, and in contact with so many millions of people as we have in this country who are not at all willing to put up with insult or wrong from any set of people, they have been able to maintain themselves in such numbers and amid so many difficulties, so many trials, so many killings, so many warfares, is in my opinion the proudest testimonial that ever was borne to a race in the world. The Senator says in effect (I do not pretend to quote his language) that the Indian is incapable of civilization; and yet right below his own State, in the Indian Territory, there are five tribes who vie with the gentleman in his civilization, whose codes of laws will compare with that of his own State, whose constitution is as good as that of his State, whose institutions are as well applied to Indian civilization as the laws of Kansas are applied to Anglo-Saxon civilization.

Mr. INGALLS. May I interrupt the Senator a moment? I would ask him if he is aware that the condition of what he calls the civilized tribes south of Kansas is largely, if not entirely, due to the infusion of other blood than Indian?

Mr. MORGAN. No, sir——

Mr. INGALLS. The Senator from Alabama certainly would not claim Boudinot, and Adair, and Pleasants, and Porter, and all that class of intelligent men, to whom I certainly extend the tribute of my sincere admiration, as evidences of Indian civilization?

Mr. MORGAN. Indian civilization among the Seminoles, Creeks, Cherokees, Choctaws, and Chickasaws is as much due to pure Indian blood as it has been to the infusion of white blood. Old Sequoiah, the man who invented the Cherokee alphabet, a work which might have overtaxed even the genius of the Senator from Kansas, was a pure-blooded Indian. They have to-day an alphabet which is the foundation of a written and printed language, which is the equal of the Greek alphabet in its perfectness in expressing every sound and every idea connected with that language. This man, without the instruction of a tutor, fell upon the idea of inventing an alphabet under circumstances like these: he and other young men were speaking together in reference to the power of the white people to convey messages to great distances and have them repeated with perfect accuracy and by reading from a piece of paper what had been recorded there, and they were wondering how such an accomplishment had ever been achieved, when Sequoiah said, "I will write in the Indian language signs and characters so that when they are transferred to a piece of paper and carried a thousand miles an Indian can sit down and read them." Whatever the honorable Senator may be able to boast of our race, certainly there is no man in the United States who has evinced a higher genius than that man did in working out that problem.

But, sir, the Indians have proved themselves to be both brave and magnanimous. I grant you that in times of war they follow savage customs in warfare. Throughout all savage countries and among all savage peoples warfare has been the means of extermination or the infliction of slavery. They have not proved exceptions to their savage associates throughout the world in this particular, and we have well known it when in many instances we have unjustly provoked them to go to war, and because they have used savage methods of warfare we have retaliated upon them, making that the excuse for cruelties which have been enacted and repeated against them by the people of the United States that its history blushes to record.

If this honorable committee has found a true mouth-piece in the Senator from Kansas, then a body of Senators who are the enemies of the Indian race are here legislating for them. I think it will shock the people of the United States to know that a committee animated by such views as the honorable Senator has expressed on this floor to-day has been charged with the sacred duty of their guardianship. Does the bill come from the motives and sentiments which the honorable Senator has uttered here to-day? I never believed it. I thought when the chairman of that committee, whom I prize as a man of excellence and benevolence, and the other gentlemen who compose it, also brought forward a measure for the purpose of benefiting and civilizing the Indians, as it was proposed, they did not inaugurate a measure which might in their hope result in their extermination. But if the measure itself is any explanation of the wishes and purposes of the honorable Senator as expressed here to-day, it is designed to be a measure of extermination. After the picture that the Senator has drawn of the incapacity of the Indian to do anything that is right, or just, or honoroble, is it not a solecism that is absolutely inexplicable that they should commit to the Indian the powers conferred in the ninth section of the bill? I will read it:

That the provisions of this act shall not extend to any tribe of Indians until the consent of two-thirds of the male members twenty-one years of age shall be first had and obtained.

Go to such a band of men as the Senator has described to get their consent to an act of Congress for their government before you receive them! Sir, the absurdity of the statement is so gross that it needs no comment. The principle of the ninth section of the bill is wrong from top to bottom. It is wrong when it comes to be considered with reference to the constitutional powers of the Senate, for there is no principle contained in the ninth section except that the Government of the United States is empowered through its executive department, the Secretary of the Interior or the President as the case may be, to go to the Indians and propose a treaty with them.

I will not stop for the purpose of discussing a matter upon which I once expressed my views in the Senate, but if Senators will consult the decisions of the Supreme Court of the United States in reference to the treaty-making power of the Government they will see that the bill takes from the Senate its constitutional jurisdiction of making a treaty with the Indians and transfers it to another part of the Government for the purpose of making what is called a contract, or else transfers it to both Houses of Congress. I shall not animadvert upon that feature of it, however, but it is the impossibility of executing it within any reasonable time, within many years to come, of which I complain. It is the fact which I have twice mentioned, and it has not been answered or attempted to be answered, that when the ninth section is enacted into a law it enables one-third of the Indians of any tribe to prevent any individual in the tribe from taking a location in severalty.

After the law has been ratified it then prevents the sale of the lands held in community by the tribe, except by the consent of two-thirds of the Indians. Senators who profess to be willing to give lands to Indians in severalty are here found leaving not to the Indian himself the opportunity to take the land in severalty and to go upon it, but they are giving a minority of one-third of the tribe the power to prevent any member of the tribe from accepting lands in severalty from the hands of the Government of the United States. As the law stands to-day an Indian can go and homestead upon a tract of land, but when this bill is enacted into a law it will prevent any Indian from going upon a location within his reservation and claiming lands in severalty until he can get the consent of two-thirds of his tribe.

It is much easier to criticise me than it is to answer that proposition in this bill. The honorable Senator from Kansas exhibited his discretion and his shrewdness too, when he undertook to comment upon the fact that I had taken the liberty of expressing my opinions upon the floor of the Senate upon the bill rather than upon the propositions which I urged before the Senate, and which, time after time, I have asked some Senator purposing to enact this bill to insert. No gentleman has attempted it; nobody has debated the proposition.

Mr. COKE. Will the Senator allow me a moment?

Mr. MORGAN. Yes, sir.

Mr. COKE. The Senator made precisely the same argument in the debate upon the Ute bill, and it was answered repeatedly, and the answer was overwhelmingly sustained by the vote of the Senate, as the debates in the CONGRESSIONAL RECORD will show.

Mr. MORGAN. It seems to be impossible for my friend from Texas to get the Ute bill out of his head. Because I made an argument upon the Ute bill, exactly in line with the argument that I am now making upon the ninth section of this bill, the Senator takes it upon himself to say that it was answered there and overwhelmingly voted against me. Ah, Mr. President, it was not answered, and although the vote of the Senate was overwhelmingly against the proposition I then advanced, the honorable Senator and the Secretary of the Interior have not got a foot from where they were when the Ute bill was enacted. There it stands, an ineffectual measure, except to get into the pockets of the Indians some seventy thousand dollars, I believe it is, and after they have got the money in their pockets they quietly sit down upon the land, and they do not want to go.

Yes, the celebrated Ute bill, that remarkable abortion, that remarkable failure, which the Secretary of the Interior has been afraid to bring before the Senate of the United States by his report, so that the progress under it might be considered as a test of the probabilities of ever making any progress under a similar provision in this bill, that which has proved an absolute obstruction, that which has engaged the attention of this Government for months trying to persuade a tribe of Indians into it who have not intelligence to understand its principles or propositions at all, is now held up to us as a bar against further argumentation; and yet the Ute bill is as dead to-day as it was before it was enacted. You propose to extend to every Indian tribe in the United States that very measure which has been signalized as a failure in your efforts to give lands to Indians in severalty under its provisions. Do we not know how our agents have been out in Colorado for months and months past holding conventions with the Indians, cozening with them, bribing them with presents of one sort and another; how a salary has been given to Chief Ouray for the purpose of getting his influence in behalf of it; and yet with all the power of the Administration and with all the wisdom of the Ute bill, the Senators who advocated it and the officers and agents of the Government have not been able to make one inch of progress in its execution.

What was answered in reference to the Ute bill is no answer to this bill, which came from the committee in such a degree and shape of perfection that it seems that certain gentlemen of that committee cannot bear for it to be talked about, and cannot bear to enter into any debate in relation to it. It has been amended and amended upon the suggestion of various gentlemen, and to-day, after the amendments, it is in a very much worse shape than it was when it came from the committee.

The honorable Senator from Kansas, near the conclusion of his satire upon the Indians and upon me, referred to the fact that, after all, he himself was not very much in favor of reporting this bill. He must have supposed that there was something in it beneficial to the Indians, otherwise he would not have been favorable to reporting it, according to the principles which he has announced here to-day; but, after all he has discovered, after the lapse of ten days of examination, that there was a very serious imperfection in it, and that, too, early in the bill. He has discovered that the discretion of the President in reference to locating all the Indians on the lands is to be regulated by the character of the soil they live on, and not by the civilization of the Indians, and he has faintly and feebly and apologetically admitted that it would be, perhaps, better that the bill should be amended in that particular. If I have accomplished nothing else in these ten days of discussion, which is attributed almost exclusively to me and the Senator from Colorado, except to persuade the committee to put in that little common-sense view of the question early in the bill, I think I may have done something both for the committee and for the bill. I do not regret the time I have occupied, since, after such a long and laborious exertion, I have compelled the committee to confess that the bill is founded upon a wrong principle in the outset. Time is not thrown away, even when it is bestowed upon honorable Senators who are wiser than Solon was in his palmiest days, if you can add a little bit of information to them or get them to look outside of the boundaries of their own prejudices or their own self-love and take up a proposition that has got a little common sense in it and put it in a bill that we are about to enact.

We have amended the bill again to-day. We have now got the laws of Kansas imposed upon these Indians. I will read you one of those laws. The laws of descent that regulate property in Kansas are, by the amendment accepted by the committee, made applicable to the Indian Territory as far as is practicable. I do not know how far that is; I do not think anybody will ever find out; but let us see how section 2103 of the laws of Kansas which we have enacted to-day will apply to Indians in the Indian Territory:

SEC. 2103. A homestead to the extent of one hundred and sixty acres of farming land, or of one acre within the limits of an incorporated town or city, occupied by the intestate and his family, at the time of his death, as a residence, and continued to be so occupied by his widow and children, after his death, together with all the improvements on the same, shall be wholly exempt from distribution under any of the laws of this State, and from the payment of the debts of the intestate, but shall be the absolute property of the said widow and children.

Which of the widows will this homestead under the laws of Kansas belong to, when an Indian has got five wives and dies leaving them all surviving? Here you have enacted a homestead in favor of the widow, but you have refused upon my repeated solicitation to declare who the widow should be. Are we to have five widows to inherit to the husband this homestead in this way which becomes an absolute right? That is the condition we have got ourselves into in reference to that subject.

I attempted to make some amendment of the bill in reference to the survey of the lands. They have got a bill here which requires that an Indian shall have a pre-emption upon his actual location. What is the location of an Indian upon a tract of land? You go to an Indian village and you find there little tepes strung about at the most convenient places along the side of a water-course, the little tents in which they live. They have been there perhaps for five years or ten years; but no time is prescribed in the bill, except the time when the surveyor appears to lay it off. This bill in its wondrous wisdom, in its awful mechanism, provides that the surveyor shall meander a provisional line between these various tepes, and that after he shall have ascertained what belongs to the tribal claim of each individual, then that it shall be made up to him out of the adjoining land, to be assigned to him in connection with his reservation or his allotment. You might as well send a surveyor into a village of prairie dogs for the purpose of making a survey of their local habitations as to put him among a set of Indians and their tepes to ascertain how much each individual has got a pre-emption upon these lands.

It is not this infirmity only but various others are found in the bill, infirmities which are acknowledged, and which cannot be explained. The wisdom of the committee never has found itself able to come up to a challenge of an explanation, and when objection after objection has been urged against this bill Senators have got behind the defense that gentlemen are somewhat impertinent for venturing to ask that committee a question about the bill. Sir, I am a friend of the measure so far as it relates to the segregation of the Indians in separate allotments of their lands, and placing them in a position where a man can have something that he may call his own; but I want a measure that can be carried into effect. I do not want to put it in the power of the President or of the Secretary of the Interior, at his will and pleasure, to do this, when he can bribe or otherwise cajole a lot of Indians to come and consent to take a share of their property. Let us have a law which is fair. If you will start out by the assertion of the power of Congress to legislate for these people by written laws, and if after having done so make these laws just, wise, and humane, and then if you will fairly execute these laws, you will make an advance in the matter of civilizing Indians; but when you make it a matter of future negotiation and require that two-thirds of the Indian tribe shall assent to the law before it shall have any effect at all, you have done a thing which is bound to be an utter failure.

I should like to call the attention of the honorable committee, if they will not consider it an intrusion upon them, to the fourth section of the bill. I beg pardon, Mr. President, for assuming to ask that committee any explanation or any question whatever about the bill. If I did not feel that it was an imperious duty to do it, I assure you I should not take upon myself the unpleasant duty of making a suggestion to that honorable committee about the bill at all, but there are some things in it which for the sake of their own comfort in after-life, when they come to view deliberately and dispassionately the work of their own hands, I should like to call their attention to, in order to see if they cannot stop now and correct it. Section 4 provides:

That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or Executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations, and when such settlement is made upon unsurveyed lands the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto, and patents shall be issued to them for such lands in the manner and with the restrictions as hereinafter provided. And the fees to which the officers of such local land office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

That applies to Indians who do not belong to any organized tribe; it applies in every State and Territory of this Union. How much land do you give in this bill to an Indian in California, in Nebraska, in Kansas, in New York, in North Carolina? You give him as much land as you give to an Indian who belongs to an organized tribe. How much is that? One hundred and sixty acres to the head of a family, eighty acres to each individual person over twenty-one years

of age, and forty acres to each person under twenty-one years of age, male or female. What else? Such grazing land, if it is in a grazing country, as may be suitable, under the previous provisions of the act, to which the fifth section applies, as it does to all the rest of the bill. The provision is:

That where the lands on any reservation are mainly valuable for grazing purposes an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

You therefore, under the fourth section of the bill, give to an Indian who does not belong to any tribe the same amount of land which you give to an Indian who belongs to a tribe, and of course your grant is not valuable unless you give him grazing land as well as any other land. Then it amounts to this, that an Indian in the State of Arkansas, if he happens to reside there, or in Alabama—and there are some there now—or in California, or in any other State of the American Union, has a right to have set apart under this bill a quarter-section of land for his family, an eighth of a section for each member of his family over twenty-one years of age, and a sixteenth of a section for each member of his family under twenty-one years of age, and an equal amount of grazing land, provided the country in which the lands are found is suitable for grazing.

Mr. BURNSIDE. Will the Senator from Alabama yield for a motion to adjourn?

Mr. MORGAN. No, I will not. I have been already charged with embarrassing the action of the Senate upon this bill, causing delay; and I am going to vote with the honorable chairman of the committee, if his committee want me to do it, to stay all night if necessary in order to finish the bill.

Mr. BURNSIDE. The chairman of the committee is willing for an adjournment.

Mr. MORGAN. But I am not going to vote to choke down a man who has got something to say, whether foolish or wise, but I would give him an opportunity to express himself in reference to a provision of law as broad, as great, and as comprehensive as this is. That is my attitude upon this subject.

Mr. BURNSIDE. I did not mean to criticise the remarks of the Senator.

Mr. MORGAN. I am not in an attitude of defiance toward the Senator or his committee, but I am in an attitude where I suppose that reason and common sense ought to prevail, and I propose to furnish the modicum I possess, if I possess any at all, in reference to a measure of the importance of that which is under discussion. I hope that the vote will be taken; the yeas and nays have been ordered upon striking out the ninth section. I submit it to the Senate of the United States whether it is going to subordinate itself in such a degree in reference to its legislative power over the Indians as to say that an act of Congress of the importance of this shall not go into effect until two-thirds of the male Indians of each tribe shall assent to the act becoming a law.

Mr. TELLER. Mr. President, I do not propose to unnecessarily detain the Senate; neither do I propose while I am a member of the body to allow the arrogance of any committee or any member of it to deprive me of the right to speak upon a subject as often as the rules of the Senate allow. I think the fairest exemplification of what I said the other day we have had this afternoon. I said that the Senate Committee on Indian Affairs had surrendered their judgment to the Secretary of the Interior. I say here, and it will not be denied by a member of that committee, that this bill came almost exactly as it has come to the Senate from the Secretary of the Interior. When a member of this committee rises in his place and says that he supposed the bill gave the President discretion to put these Indians upon land or not to put them on, and when other members of that committee also say it, I am justified in saying that it did not receive the attention of that committee, I am justified in saying that it is the Secretary of the Interior who comes here to legislate.

Mr. PENDLETON. Will the Senator allow me a moment?

Mr. TELLER. I will.

Mr. PENDLETON. I desire to say, Mr. President, that in my opinion the language of the bill extends the discretion of the President of the United States not only as to the character of the land, whether it be suitable for agricultural purposes, but also to the time when the allotment is to be made; and I think the Senator from Kansas who was upon the committee was unguarded in his statement that this discretion of the President was limited only to the character of the land. He is authorized to proceed with the allotment whenever in his discretion the land is of a suitable character, but he is not required to proceed with the allotment whenever in his judgment the land is of that character.

Mr. TELLER. Mr. President, if I needed any illustration of the statement that I had made that this matter has not been considered, I have got it now. Here is a member of the committee who says he has been a member for eight years, and who assumes, in this discussion, that what is not known by him and the other members of this committee about Indians is not worth knowing. In other words, he arrogates to himself and his committee the sum of all human wisdom on this subject. And yet he rises and says that that discretion is not given to the President, but it is imperative on him. Another distinguished member of the committee rises and says that in that his colleague on the committee was in error. Now, when the committee are divided, when the committee, to whom this matter has been intrusted, and from whom it is said we are to receive all legislation, and to differ with whom is an offense in the Senate, cannot agree, the Senator from Alabama and the Senator from Colorado may, with some propriety, stand up and denounce this bill as not calculated and not intended by the committee to do that which it is professed on this floor it will do.

Mr. BURNSIDE. Now will the Senator from Colorado yield to a motion to adjourn?

Mr. TELLER. No, Mr. President. I do not propose to say very much to-night on this question. I do not care if this Indian question is here for another nine days or nine months. The Indian question is of sufficient importance for the American Senate to be heard on it, and men who have some knowledge of Indian affairs have a right to be heard. I do not know but that the committee have all the knowledge.

The honorable Senator from Kansas says "Why do you not propose something?" Why do we not? Why, Mr. President, under the system of legislation in this body there is a committee of nine men to which every bill of this character goes, and when those nine men sit down in their wisdom, four men besides the Senator from Kansas put a veto upon all kinds of legislation in this body touching that matter and assume for themselves all the virtue and all the intelligence upon the subject. Why, Mr. President, bill after bill has been sent to that committee by members of the Senate embodying their views, and yet they have vetoed them and sat down on them, so to speak, and now they say "Why do you not propose something?" When they propose a bill and any Senator attempts to amend it to make it conform to his ideas, that is an offense; and the Senator from Kansas gets up and reads a lecture to the Senators who have retarded the passage of this bill. Mr. President, I expect to retard it if I can; I expect to vote against it; I hope I may defeat it, but I have very little expectation of that.

The Senator said in substance that the committee in this bill were following the English rule with reference to Canada. I will not say anything about the allusion that he made to my lack of historical knowledge, but the bill has no analogy to any bill that was ever passed by the British Government, and the Senator will not stand here and claim that. That government never attempted to force upon wild Indians land in severalty. The only provision they ever did have in Canada was a provision that these men should be examined, first, as to their qualifications; they should first read and write English and be pronounced sufficiently intelligent to take care of their property, and when they had done that, then, if the proper authorities saw fit, they might give them a grant of land and enfranchise them. There is nothing learned from English history to be applied to this bill. I will not say the honorable Senator is ignorant of Canadian history; I will not say that he intended the Senate should misunderstand what the Canadian history is, but the facts are just as I state.

The bill is pernicious, it is evil, in my judgment, and it ought not to pass, and I should be false to myself if I stood here and allowed it to pass without a vote against it, and I shall never surrender my judgment to the Senator from Kansas, for whom I have a high opinion. I know how well he is versed in Indian affairs, and I shall not surrender my judgment to the committee. He told us that for eight years he had been on this committee. I do not know that he was ever the head of it, but he has been an influential, active member of the committee for eight years having in charge this Indian question so far as the legislation of this body is concerned, being the advisory body in some sense, you may say, of the Secretary of the Interior with reference to legislation of this character. The history of the last eight years is not one that the Committee on Indian Affairs need be proud of; the legislation on this subject is not such that they need come here and boast of it. There are many things on the statutes which will not to-day be approved of. They came here with this bill as crude as it could be, and the chairman of the committee, with all his ability and knowledge, has been actually unable to explain the bill to the Senate and to tell what it meant. The Senator from Alabama is not trifling when he says that he has been unable to draw from this committee any reasonable explanation of the intention and purpose of the bill, save and except when they declare that it is to put a man on a piece of land and give him a patent. The whole theory proceeds simply upon that, and everything else they have no knowledge of whatever.

Now, Mr. President, I propose to offer some more amendments to this bill, and if Senators want to stay here and settle it to-night they can; if they want to adjourn, as far as I am concerned they can adjourn; but no fear of being charged by the committee with obstructing the public service or the public interest will deter me from saying what I see fit to say upon it and offering such amendments as I deem proper. If it ever comes to the time when I am compelled to surrender my convictions to a committee, I will surrender them to a committee that comes to the Senate bearing evidence that they understand the matter and that they have given special attention to it, and I do not believe that this committee have given such attention to it as justifies them in saying that they do understand this question.

Mr. THURMAN. Will the Senator from Colorado yield to a motion for an executive session?

Mr. TELLER. I want to offer an amendment to the bill to be printed.

The PRESIDING OFFICER. The proposed amendment will be received and printed.

Mr. PENDLETON. I ask my colleague to withhold his motion for a moment in order that I may ask the Senate to take up Senate joint resolution No. 142, which is reported from the Committee on Public Buildings and Grounds unanimously, and which is intended to carry out a treaty with the Wyandot Indians of 1842 and merely provides that the Secretary of the Interior may have authority to rebuild a mission church and graveyard in the northern part of Ohio which by the treaty were set apart to be preserved in memory of the tribe. The resolution will not take a moment, I think.

The PRESIDING OFFICER. The Senator from Ohio asks unanimous consent to lay aside temporarily the pending order for the purpose of taking up a joint resolution, which will be reported for information.

The Chief Clerk read the joint resolution (S. R. No. 142) relative to the erection of a monument at the Wyandot mission, Upper Sandusky, Ohio.

Mr. MORRILL. The sum named in the original resolution was reduced to $2,000.

The CHIEF CLERK. The committee propose to amend, in line 5, after the word "graveyard," by inserting "at Sandusky, Ohio," and, in line 7, by striking out "$3,000" and inserting "$2,000."

Mr. COCKRELL. Let the original resolution be read. I want to know how it got changed from a monument to a graveyard and church.

The Chief Clerk read the original preamble and joint resolution.

The PRESIDING OFFICER. Is unanimous consent given to the present consideration of the joint resolution?

Mr. EDMUNDS. Before I consent, I should like to hear the treaty read. I cannot find it.

Mr. PENDLETON. It is the treaty of October 5, 1842.

Mr. EDMUNDS. I cannot find any such treaty in the volume of Indian treaties published in 1846.

Mr. PENDLETON. Page 1020 is the reference I have.

Mr. COKE. I ask that the Senate by unanimous consent agree to take a vote on the pending bill, the Indian severalty bill, on Monday, before adjournment.

Mr. EDMUNDS. I do not agree to that, Mr. President.

The PRESIDING OFFICER. Objection is made. The proposition cannot be entertained without unanimous consent. Is there objection to unanimous consent to consider the resolution of the Senator from Ohio?

Mr. EDMUNDS. I object because I want to see the treaty; it cannot be found.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

The motion being put, there were on a division—ayes 21, noes 16; no quorum voting.

Mr. THURMAN. I move that the Senate adjourn.

The motion was agreed to; there being on a division—ayes 30, noes 11; and (at four o'clock and thirty-four minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### SATURDAY, *January* 29, 1881.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. SPEER. Mr. Speaker, I move to dispense with the morning hour to-day.

Mr. REAGAN. I would like to ask the gentleman from Georgia to allow me to submit a request for unanimous consent to take up a Senate bill and pass it at this time. This is a matter of importance——

Mr. SPEER. I see a number of gentlemen on the floor who have doubtless similar requests to make, and therefore I regret to be compelled to refuse the request of the gentleman from Texas, and must insist upon the motion.

The House divided; and there were—ayes 69, noes 14.

So (two-thirds having voted in favor thereof) the morning hour was dispensed with.

Mr. REAGAN. I ask the gentleman from Georgia now to yield to me for a moment in order that I may ask unanimous consent to take up the bill to which I refer.

Mr. HAYES. I demand the regular order.

Mr. SPEER. I move to take up the contested-election case of Yeates *vs.* Martin.

The SPEAKER. That is a privileged motion. Pending that the Chair desires to present the following requests for leave of absence.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. O'NEILL, for three days;

To Mr. SCOVILLE, until Wednesday next; and

To Mr. SAPP, for two weeks, on account of the dangerous illness of his brother-in-law at Chicago.

WITHDRAWAL OF PAPERS.

On motion of Mr. URNER, by unanimous consent, leave was granted to withdraw from the files of the House the original papers filed with the bill to grant a pension to N. Kauffman, now before the Committee on Invalid Pensions, there being no adverse report.

EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair desires consent to lay before the House at this time certain executive communications for reference.

There was no objection.

M'BRIDE VS. SCHURZ.

The SPEAKER laid before the House a letter from the Attorney-General, relative to the judgment of the Supreme Court in the case of McBride *vs.* Schurz, and recommending an appropriation for the same; which was referred to the Committe on Appropriations.

IMPROVEMENT OF HUMBOLDT BAY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of the improvement of the channel of Humboldt Bay; which was referred to the Committee on Commerce, and ordered to be printed.

ELEVATOR IN WINDER BUILDING.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending an appropriation for an elevator in the Winder Building; which was referred to the Committee on Appropriations.

ADDITIONAL CLERKS IN SIGNAL OFFICE.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to additional clerks in the Signal Office; which was referred to the Committee on Appropriations.

SURVEY OF TRADE WATER RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the report of surveys of the Trade Water River; which was referred to the Committee on Commerce, and ordered to be printed.

GOLDEN AND THOMAS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a petition of Golden and Thomas; which was referred to the Committee on Military Affairs.

AHNAPEE HARBOR, WISCONSIN.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a petition of the mayor and others of Ahnapee, Wisconsin, relative to improvements of the harbor at that point; which was referred to the Committee on Commerce, and ordered to be printed.

GEORGETOWN HARBOR, SOUTH CAROLINA.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of the surveys of Georgetown Harbor, &c., of South Carolina; which was referred to the Committee on Commerce, and ordered to be printed.

ADDITIONAL APPROPRIATIONS, SIGNAL SERVICE.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting estimates of additional appropriations for the Signal Service; which was referred to the Committee on Appropriations.

SURVEY OF CERTAIN RIVERS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the report of surveys of rivers in Missouri, Arkansas, and Tennessee; which was referred to the Committee on Commerce, and ordered to be printed.

ENROLLED JOINT RESOLUTIONS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 224) to print 6,000 copies of the report of the National Board of Health.

Joint resolution (H. R. No. 266) ratifying settlement of taxes made by the District commissioners with the Baltimore and Ohio Railroad Company.

ORDER OF BUSINESS.

Mr. COX. With the permission of the gentleman from Illinois, [Mr. HAYES,] who has called for the regular order, I would like to send to his committee a resolution as to printing the census pamphlets.

Mr. PRESCOTT. I desire to present a bill for reference.

The SPEAKER. There are several gentlemen who desire to refer bills.

Mr. SPEER. I must call for the regular order.

CONTESTED ELECTION—YEATES VS. MARTIN.

The SPEAKER. The regular order being called, the House resumes the consideration of the report of the Committee on Elections on the contested-election case of Yeates *vs.* Martin, from the first congressional district of North Carolina. The gentleman from Texas [Mr. JONES] is entitled to the floor.

Mr. JONES. By reference to the papers in this case, especially the

written arguments filed by the parties respectively, and the evidence taken before the committee, it appears that the contestee, Mr. Martin, received a majority of all the votes cast or canvassed by the duly authorized boards of the State of North Carolina. It is also conceded that all of the votes so cast were *bona fide* and by persons under the laws of North Carolina duly qualified to vote; so that the case presents, in its main and leading issue, the simple proposition whether there shall be a free ballot and a fair count, or whether red-tape and trickery shall predominate and control the elections of the people of the United States. The issue is fairly, clearly, sharply presented by the very issues made by the parties respectively in their briefs before this House. I do not believe that a majority, or even a respectable minority, of either party on this floor would purposely give countenance, encouragement, or sanction either to red-tape or trickery when it in effect stifles or defeats the right of one duly authorized to cast his ballot; and so believing, I am emboldened, notwithstanding the consciousness of the fact that unwilling ears are hard to reach, to address the House on this very important issue.

We all know that after all the opinion of the best of men is controlled more or less by desire. The experience of all teaches that opinion is but a compound of emotion and thought, and that nine times out of ten emotion or desire predominates and determines the conclusion of the mind as to fact and especially as to questions in politics or religion. In making the statement that the issue presented is one clearly and fairly joined of free ballot and fair count on the one side and red-tape and trickery on the other, I mean no reflection whatever on the committee reporting in behalf of the contestant. It is very questionable whether that be the report of the committee or of those who make the report assuming to be the committee.

Now let us turn to the facts in this case. What are they? The sitting member, Mr. Martin, was returned to this House by an official majority of 51 votes. To overcome this majority, and entitle the contestant to the seat now occupied by Mr. Martin, it is insisted that the ballots or the votes cast at three precincts, South Mills, Hamilton, and Vandemere, should be excluded in his interest—these precincts giving Mr. Martin, the sitting member, an aggregate majority of 108 votes—and that to this deduction on the part of the contestant should be added 39 votes improperly rejected by the board of canvassers for that particular county, cast at Providence. Now let us turn to the evidence in reference to it, and see whether these ballots should be rejected. Take, if you please, Hamilton precinct. Should that be rejected? Let us inquire into the grounds upon which the objection is based. We know that gentlemen are very apt to accept as true the report of a majority of a committee and that but few members examined these reports. Here is one precinct, an important precinct, impressing very vitally the result of this election, as to which a majority does not concur, and yet it is to be rejected because the committee has said so.

Now, in reference to Hamilton precinct, it is charged that Mr. Martin, and that is the ground on which the objection to the vote of this precinct is specially based, was present in person manipulating the poll-books. But what does the testimony disclose? It simply discloses that he was there, and the registrar being a democrat and an active, zealous supporter of the contestant, Mr. Yeates, being a little pressed for time, at his instance—that is implied—Mr. Martin simply checked the names on the poll-book when they were called by the registrar. It was done openly; it was done publicly; it was done above-board. Does fraud ever thus appear? How could a man's conduct possibly present higher or more convincing evidence of innocence and artlessness than is here developed in this case?

Am I alone in this opinion? Let us see what the committee itself says in reference to it. How many men on this committee say that this ballot ought to be rejected? Five, all democrats, betraying the force and power of desire on the human mind in coming to any conclusion. How many said this ballot should not be excluded? Seven. Who were they? Five republicans, naturally controlled, as were the five democrats, by desire. But there were two democrats who rose above the influence and impulse of desire, and said this ballot ought not to be excluded. So there are seven to five, and two of the seven coming from the adverse party; thus furnishing a most overwhelming evidence to any impartial mind that this ballot should not be excluded. Let us look at the record by which I am guided in making this statement. Who signed the report? Here are five gentlemen who signed it. I will read the names, in order that the House may be fully in possession of the facts, to the extent of my power to communicate the facts to the House. Those signing the majority report are EMORY SPEER, F. E. BELTZHOOVER, E. C. PHISTER, VAN H. MANNING, WILLIAM SPRINGER—all democrats; while we find the following appended:

> We concur in the result declared in the above report, but do not think that the vote of Hamilton precinct should be excluded.
>
> W. G. COLERICK.
> SAM'L L. SAWYER.

Here are two men belonging to the opposite political party who, after a thorough examination of the facts, anxious to agree with their friends and political associates, anxious to concur with the majority, could not overcome the overwhelming evidence of the innocence and artlessness of the contestee, or, in other words, could not escape the conclusion that the testimony showed beyond any doubt that his conduct, however improper, had not affected the result of the ballot at that precinct.

Mr. MANNING. If the gentleman will permit me, although I do not like at all to disturb him in his argument——

Mr. JONES. It will not disturb me at all.

Mr. MANNING. It is as to a matter of fact. The gentleman says only five members belonging to the Elections Committee have agreed to reject Hamilton precinct.

Mr. JONES. I said no such thing.

Mr. MANNING. I understood you to say so.

Mr. JONES. They may have done so outside of the record, but they do not do so inside of the record.

Mr. MANNING. If you want the fact I will state it.

Mr. JONES. State it, then.

Mr. MANNING. Governor ARMFIELD, on account of having sprained his ankle several weeks ago, was not able to be in the committee-room at the time the report was adopted, and did not sign that report. But he is in hearty accord with it. And Mr. CLARK, who was not present when the report was adopted, is in accord with the proposition of the report. So there are seven members instead of five who agree to that portion of the report.

Mr. JONES. But by way of offset I will say that the gentleman from Iowa [Mr. WEAVER] would have signed the minority report had he been present; making a majority of the committee against that proposition. General WEAVER is present and can speak for himself. Here are, therefore, eight to seven saying that the vote of that precinct ought not to be rejected. Now will this House reject it? That is the question.

It is charged that Mr. Martin acted discreditably. What did he do? He simply checked some names on the poll-book, which any man might have done, which you or I might have done, if we were conscious of no wrong intention. It is only the designing and the artful who are always on the alert and too careful to be caught in any transaction of that sort. All human experience attests that.

Did Mr. Martin design anything wrong? Here was this registrar, a political friend of Mr. Martin's political opponent. Now, if Mr. Martin had declined to act as requested by the registrar it would have looked as if he was a little spiteful toward him because he was supporting the other man. How can he be justly charged with improper conduct when he did only what his political adversary asked? I say that upon the testimony, as well as upon the report, the vote of that precinct should not be rejected.

Here are the names of two democrats of that committee who do not agree to rejecting that vote. You must bear in mind that a majority of the committee are democrats, and thus the contestant has that much advantage to begin with. What lawyer here does not know that it is nine points in the case to have a good jury—a friendly jury.

Now, gentlemen, let us recur to the conclusions reached by the majority again. The report of the majority, as they term it, only seven agreeing to it, elects the contestant by 156 votes. Now, according to the views and opinions of the majority of this democratic committee, you must deduct from that estimate made by these seven members the 64 majority given for Martin at Hamilton precinct. Now, take 64 from 156; 4 from 6 leaves 2, 6 from 15 leaves 9. So you have only 92 majority for the contestant, even according to the showing of this report.

We now will take the laboring oar, and endeavor to overcome the majority reported in behalf of the contestant. You have 92 votes. Can we overcome that number, conceding that the other two precincts were properly excluded, and that the 39 from Providence Township should properly be added? Can we overcome that vote fairly by votes honestly cast? If we can, we need not proceed another step in this inquiry, need we?

We want but 92 votes, and I will show you that there are 108 votes which even this committee, swift though it was to elect the democratic candidate, came to the conclusion reluctantly ought not to be rejected. And I think it was with a great deal of reluctance, and that their consciences must have been terribly exercised when that conclusion was reached.

Where is the vote with which to overcome that 92 majority? Let us turn to Merry Hill precinct and see if we have not 108 votes there which you dare not reject. Now, about those 108 votes at Merry Hill. There is no controversy at all as to the fact; and I need but state the case to win it if you will hear me. What are the facts? The night before the election J. B. Martin, a particular friend of the democratic candidate, earnest and anxious in the service of his friend Yeates, the contestant, procured to be printed a number of tickets headed, "Republican ticket: J. J. Martin for Congress." Those tickets were by him enveloped and addressed through the mail to a prominent republican who usually received and distributed the ballots to his party on such occasions, a colored man, at that place—addressed them to him through the mail so that no suspicion might arise. Those tickets were received and distributed, and so distributed that the voters got hold of them and inconsiderately or inadvertently voted them.

Now, when the poll was over and they came to count the votes, what happened? This very same Martin appeared, as stated in so many words or as inferentially proved, and challenged these very identical votes which he had caused to be voted in this particular

form, and he did all that in the interest of the contestant. He appeared and challenged those votes.

Now what was the ground of his challenge? It rested upon a law of the State of North Carolina regulating elections, which forbids any device upon tickets; and these words "republican ticket" printed upon these tickets were challenged as a device.

Now, gentlemen, many of you are lawyers. There are lawyers, or gentlemen so reputed, upon the committee making this report. I ask you in all sincerity if there is an honest lawyer in this House who might not have read the statute of North Carolina and this particular ticket for years and years, and never suspected that the words "republican ticket" constituted a device in the meaning of the law? It is a thing so sharp, a thing so fine, that the idea could never have suggested itself to any one except to a crafty sharper, seeking by any means whatever to overreach and thwart the honest ballots of honest voters. He appeared and challenged these tickets, and strange to say he found a packed board of canvassers ready to hold that those words did constitute a device.

Now, was it a "device," in all candor? Why deceive ourselves? This question is of too much importance to be trifled with thus. Is there a gentleman on this floor who will say that the words "republican ticket" printed on a ballot under such circumstances constitute a "device?" What is the plain meaning of a "device?" How do we all understand it in general or popular acceptation? We take it simply as meaning an emblematic figure; and that is all there is about it. Words do not constitute a "device," in the proper meaning of the term. What was meant by the word "device" as used in the act of the Legislature? It meant simply some emblematic figure—a coon, or a crow, or a chicken, or something of that sort—on the back of the ticket, and not on its face.

I admit that the ticket itself was a "device." The majority of the committee confound one thing with another. The ticket was a "device" contrived by J. B. Martin in the interest of his friend, Mr. Yeates, and was but too successful in securing the rejection of 108 ballots at that precinct. It was a "device;" but the question is, Will this House give sanction to the device and support it?

Mr. SPEER. Will the gentleman allow me to ask him a question?

Mr. JONES. Certainly.

Mr. SPEER. Does not the gentleman from Texas know that the evidence discloses the fact that the registrar at that election publicly exhibited those tickets and advised the republicans not to vote them before any of them were voted?

Mr. JONES. Yes; the testimony did disclose the fact that partial notice was given; but the testimony wholly fails to show that any one of the men who voted those 108 tickets ever received such information at all. That announcement made by the registrar was a part of the trick; do you not see? It only shows how studied the thing was.

I wish to call attention briefly to the law in reference to this question, although the time allotted to me will not permit me to discuss the great questions involved. The majority of the committee say that they came with great reluctance to the conclusion that these 108 votes ought not to be counted. If you do count them the sitting member is elected by 12 majority; and you cannot help it to save your lives. Now, will you reject those votes, and thus reward with success what you know to be a trick and a fraud?

Let us see what the laws of North Carolina are on this subject. If gentlemen of the majority of the committee had studied the laws of North Carolina a little better they would not have fallen into so great errors as appear in their report, which I will expose by and by. What does the constitution of North Carolina provide on this subject? It says:

> Every male person born in the United States, and every male person who has been naturalized, twenty-one years old or upward, who shall have resided in the State twelve months next preceding the election, and ninety days in the county in which he offers to vote, shall be deemed an elector. But no person who, upon conviction or confession in open court, shall be adjudged guilty of felony or of any other crime infamous by the laws of this State, and hereafter committed, shall be deemed an elector unless such person shall be restored to the rights of citizenship in a manner prescribed by law.

Thus it will be seen who are declared by the laws of North Carolina to be voters. Does the constitution prescribe any action of the Legislature in order to entitle a suffragan or voter to the exercise of the privilege thus secured to him by organic law? There is one such provision; and I will read it:

> SEC. 2. It shall be the duty of the General Assembly to provide from time to time for the registration of all electors; and no person shall be allowed to vote without registration, or to register without first taking an oath or affirmation to support and maintain the Constitution and laws of the United States and the constitution and laws of North Carolina not inconsistent therewith.
>
> SEC. 3. All elections by the people shall be by ballot; and all elections by the General Assembly shall be *viva voce*.

All that is required of the voter is to register. How is he to vote? How is he to exercise the privilege conferred upon him by the constitution of the State? Is he to vote *viva voce*? No. How? By ballot. Now, can the Legislature interpose and say what kind of a ballot he shall cast? Is not the constitutional privilege of voting by ballot conferred upon the voter by the paramount law of the State? What authority has the Legislature to interpose and say that the voter shall not put this or that upon his ballot? If he offers to vote, and presents a ballot, he has complied fully with the requirements of law, provided he be a registered voter. There is an end of the whole question. If the Legislature can interpose and say that he shall vote a ballot of this or that particular shape or that he shall put this or that particular word upon it, how easily may the Legislature, as it has attempted to do, deprive legal voters of the right to vote altogether? Grant such an authority on the part of the Legislature and you throw open a door which invites chicanery, fraud, and trickery in all your elections. The result inevitably is to place elections solely in the power of political engineering tricksters. Surely tickets cannot be thrown out on this or that little pretense. What does the voter naturally do when seeking to ascertain his rights? He takes up the constitution of the State and says, "Here is all I am required to do; I cannot vote *viva voce*, because my vote would not be in accordance with the constitution of the State, but I can offer my ballot and no tribunal of North Carolina can reject it without violating the constitution of the State."

Do you know how this act in regard to a "device" upon tickets originated in the State of North Carolina? I was amazed when I heard this question sprung here in the House; and I sought an explanation. I knew there must be some explanation, because a thing of this kind could never have happened unless there had been some exigency suggesting it. Prior to the passage of that act there was an election contest in that State when some issue was made involving homesteads, &c. The republican party put upon the outside of their tickets a figure representing a house or homestead; and they carried the election by 10,000 majority. This suggested to the democratic party the necessity of passing some law condemning the placing of such "devices" upon ballots. That picture of a house was a "device;" and it was at such things the law was aimed. The democratic party had been beaten by tickets having a figure upon them; and they sought to change the law and prevent such a thing happening again. There is the history of the whole thing. As stated by the gentleman from North Carolina [Mr. RUSSELL] the other day, the democratic party time and again since the enactment of this identical statute have voted ballots having upon them the words "democratic ticket," and nobody thought of challenging them. It was left to J. B. Martin to discover that such words constitute a "device," and to the election board of that particular precinct to sustain that pretense.

Now, then, gentlemen, such being the facts, I ask you in all candor if you had lived in North Carolina and read the constitution and this ballot was offered to you, would not you have naturally voted it without supposing you were in any way violating the laws of your country? Has it not the form of ballot to which they were always accustomed? Do you mean to change the laws from day to day only to entrap and trick the unwary and unsuspecting? Do you mean to hang laws so high nobody can read them until he shall have incurred the penalty and forfeited his life, politically speaking?

I say to you now, as honest men, I say to you as men whom I believe to be incapable of perpetrating an outrage upon the elective franchise of the American people, you cannot give sanction to any such trickery as this.

I do not mean to reflect on this committee; but, gentlemen, if I had the time I could delineate this whole thing, and I would show you the paternity of the committee's report. It comes from the author of this very trick, J. B. Martin. [Laughter.]

Mr. SPEER rose.

Mr. JONES. Let us look at it, let us see. The gentleman from Georgia, if he wrote it, simply copied the ideas of J. B. Martin. My judgment is, it happened about in this way. Have I not the right to conjecture without offending anybody? Democrats as well as republicans are very confiding. One man was selected to prepare the report; he was in a hurry, and had to attend a party, and he employed a clerk, and J. B. Martin, true to the instinct of his craft, got with the clerk and prepared the report. That is my judgment about it. [Laughter.]

Mr. SPEER. I desire to say to the gentleman from Texas his statements are entirely unwarranted by the fact. As a member of that sub-committee to which this matter was committed, I prepared that report myself, and dictated every word of it to the second assistant clerk of the Committee on Elections, and am responsible for every word of it. The gentleman's statement, therefore, is untrue and his conclusion unwarranted.

Mr. KEIFER. Will the gentleman from Texas let me interrupt him?

Mr. JONES. Well.

Mr. KEIFER. I wish to know from the gentleman from Georgia whether he made the statement that he wrote all of that report?

Mr. SPEER. All of that report except that part which was written by Mr. FIELD, of Massachusetts, where he admits that these very ballots were illegal.

Mr. KEIFER. That is all.

Mr. SPEER. Yes; that is all. You asked me the question and I have answered it.

Mr. MANNING. And now the gentleman from Ohio does not want the answer.

Mr. JONES. I wish to call the attention of gentlemen to some points in reference to the argument; I have it here. I do not speak unadvisedly; I do not take positions without counting the responsibilities they imply. I know exactly what I am talking about. I want to call your attention to some grave errors into which they have fallen.

I do not believe there is a single gentleman who signed that report who would misstate a fact or misrepresent the laws of North Carolina to this House. Now, have they done it? That is the question. If they have done it, and if the gentleman from Georgia wrote that report, let him take the responsibility before the country. I wish to call his attention to some singular contradictions, and then we will understand this case a little better. He says——

Mr. WILSON. What page?

Mr. JONES. Report, second page. In speaking of the vote of Salem, the committee state—I mean the report states this:

The evidence of the contestee discloses that the polls were not opened until twelve o'clock, when the law is mandatory that they should be opened at seven; that before they were opened, a large number of the voters of the precinct had left; that not more than half of the vote of the precinct was polled; that there was no registrar appointed, and that officers who held the election were not sworn.

Mark, this is the language of the report of this committee, that the officers who held the election at Salem precinct were not sworn. They state that the evidence of the contestee discloses that fact.

We will now see what it discloses and to what extent these gentlemen are complaining of a little criticism. We turn to Salem precinct here, and what do we see? What is it? They state there was no registrar there—do you not remember? They state the officers who held the election were not sworn—do they not? I will show you the contrary from the depositions of Wilcox. He swears he was the registrar. We get down here especially to his testimony. Let us see what he says in reference to it. He swears that he was registrar of the election at Salem precinct. He states:

Q. Were the judges or inspectors of the election at Salem precinct for said election on said day of the election sworn, and if so, by whom?
A. They were, by me.

A flat contradiction! And still gentlemen say that I do them injustice when I say they did not make this report. Why, sir, it is a matter of kindness on my part to them, a great stretch of charity to come to the conclusion they did not write it. [Laughter.]

Mr. SPEER. Will not the gentleman admit that the person who swears he swore them was the sheriff of the county, who had no authority under the law to administer the oath?

Mr. JONES. That is what I stated; but does it follow they were not sworn? [Laughter on the democratic side.] It is facts we want.

Mr. MANNING. Now it requires charity to be exercised toward the gentleman from Texas.

Mr. JONES. Why do you not state to this House the facts and the circumstances in reference to it?

They were sworn in good faith, and so believing they acted in good faith. They were sworn by a *de facto* officer, recognized as such, and they were in conscience bound by the solemnity and force of that obligation. You cannot make anything else of it.

But gentlemen are a little tender about that. I stated that I suspected that Martin had written that report, and the gentleman seems to be peculiarly tender on that point. But what is there in the nature of this case to suggest this conclusion? Let me see. I will return to the precinct business; I do not want to be diverted from that. I want to show this precinct matter in this connection, to show it clearly, in order that I may trace what they say in reference to Goose Nest precinct. Now, what do they say? There is an important question involved in this case. What, then, do these gentlemen say in reference to Goose Nest precinct?

The committee cannot sustain the claim that is made by the contestee, that 164 votes should be counted for him at the Goose Nest precinct, which were rejected by the managers of the election there.

Why?

It is not denied by the contestee that all who were denied the right of voting at this precinct were registered in Hamilton precinct, which was another precinct in the same county. The law of North Carolina requires that a voter who is registered in one precinct cannot vote in another, without producing a certificate of the erasure of his name from the registration list of the precinct where he is registered. The reason for this rule is obvious. If voters are registered in two or more precincts in the same county, the entire object of the registration law is avoided, for they might vote in every precinct where they are registered.

Now, gentlemen, I want your attention to an allegation here clearly, unequivocally made that the laws of North Carolina require a voter who had been previously registered in another precinct to present a certificate of erasure before he could be allowed to vote elsewhere. That is the statement here plainly and emphatically made in this report.

I tell you emphatically that there is no such law on the statute-books of North Carolina. There is a law which requires that where a voter registered in one precinct removes to another, before he shall be permitted to register in the precinct to which he has removed he shall be required to present a certificate of erasure from the poll-books or registration books of the antecedent precinct. But there is no law requiring or even permitting a certificate to be given in any other case. The certificate contemplated by the statute is one making a condition-precedent to registration in a new precinct, and not a permission or privilege to vote at all. The North Carolina law in reference to that, according to the constitution as well as to the law of the State, can require of the voter only residence proper within the precinct, county, or State, and that he be registered under the laws of the State, and cannot go a step beyond that.

That is the law. Now, I ask the gentlemen who drew this report to show the law that requires what is alleged here. I say the law requires no such thing.

Now, it is apparent that the gentleman representing the other side [Mr. Martin] also makes the same statement, falling into precisely the same error, or perhaps purposely attempting to perpetrate it. I will refer you in this connection to the twelfth section of the act of the Legislature of North Carolina, which relates to this question. What does that provide? It provides no such thing as is contemplated by this report. Why did not gentlemen state the facts in this connection? The law was before them. They had access to the statute. Now, what are the facts in reference to the case? They are, first, that the Goose Nest precinct and Hamilton precinct constituted originally a single precinct. In the August election prior to or preceding this November election, or rather last preceding it, these two precincts voted together as one precinct. Subsequently by the act of the county court the one precinct was divided and two were erected out of it. In other words, Goose Nest precinct, which had formerly existed, was re-established by the act of the county court. What did the county court do? Just precisely what it should have done, and what it ought to have done, and what it did. It directed the transfer of the names of all the registered voters who resided in Goose Nest precinct as fixed territorially by the act of the county court to a registration book for that precinct. The registrar was appointed and the transfer was made, and no condition whatever was imposed upon the voters at all. Section 12 of the laws of North Carolina contemplated nothing different from what they did, and I will call your attention to that section in a few moments, for I will read it.

I again say I do not mean any disrespect whatever to the gentlemen making this report. But somehow they have fallen into a gross error in regard to it. I say again, what are the facts in reference to these precincts? The books were prepared, the registrar was appointed for the new precinct, the names were transferred, not transcribed, remember, but transferred.

Now, what is the effect of transferring one's name from one list to another? I ask any gentleman upon this floor if the transfer of the name from one list to another does not carry with it the erasure of the name from the former list? I ask any lawyer, if your name be upon one list and transferred to another, if the fact of that transfer does not wipe out the name from the prior list, and if the very fact that a transfer is made does not accomplish this; and also if this does not follow as a necessary consequence of the transfer? Now, to say that the name of the voter is upon the registration books of Goose Nest precinct and is yet upon the registration book of Hamilton precinct is to assert that the name has not been transferred and that it is upon both lists.

What is the meaning ordinarily of the word "transferred?" Go to your Departments, take the different classes of clerks, and when a clerk is transferred from one list to the other, I ask, gentlemen, is not his name dropped from the list from which it was transferred? And as here employed, can it mean anything else? So that when the voter appeared at Goose Nest precinct asking to vote there was the registrar armed with the registration book, and it was ascertained whether the party was duly registered, and when that was ascertained he was entitled to vote; and nothing but a tribunal inferior in its character to an Arkansas justice of the peace could have held otherwise. [Laughter.]

Now I want to call your attention to this law. Some friend has turned it up and placed it before me just now. I want to read that twelfth section and ask any man if there ever was a lawyer in the United States that would have applied this law to this particular case? I challenge the attention of lawyers; and I want to say to you, gentlemen, you are voting here to-day for yourselves and for the honor and dignity of the position that you occupy. If seats are to be won and held in this House by trickery and fraud, a gentleman would scorn the place. And I again say, lest gentlemen get tender, that I mean no offense; but when one puts himself in court we have the right to criticise him. When a gentleman comes here and throws down the gauntlet and invites criticism, ought he to complain when he himself is criticised? When the gentleman from Georgia in the conclusion of his speech the other day took occasion to tell the House how impartially and magnanimously he had dealt with the republicans, I heard rather a rude figure made use of touching that gentleman's conduct, I shall not say by whom. It was said: "Oh yes, he is very fair; he is like the little boy who made the apple trade in the back woods; he traded off a dozen rotten apples to get one sound one." Here were a lot of rotten cases with no soundness in them, and he swapped them all for Yeates, of North Carolina.

Now, here is the twelfth section of the North Carolina election laws. The attorneys for the contestant refer to that twelfth section as the law governing this case. So also does this committee adopt the idea and nearly the very same language. I will read it to you, and I ask you as lawyers, and some of you are, if there is a legal mind—although some men do go crazy—that could have applied this law to the case I have just stated. Let us see; and suppose it does apply, what would be the consequences following? Here is the twelfth section:

Every person who shall present himself for registration shall state, under oath, how long he has continuously resided in this State, and in the county in which he offers to vote, whether he is an alien or native born, &c.

I will not read it all. It would detain me too long, and every gen-

tleman can read it who wishes. I will read what relates to a case of removal:

And if an elector has previously been admitted to registration in any ward, township, or precinct in the county in which he resides, he shall not be allowed to register again—

He has got to re-register, but he shall not be allowed to re-register—

in another ward, precinct, or township in the same county, until he produces a certificate of the registrar of the former township, ward, or precinct that said elector has removed from said township, ward, or precinct, and that his name has been erased from the registration books of the ward, township, or precinct from which he has removed, &c.

Now, here are two different cases altogether. They are different in their reason, and the one bears not the slightest analogy on earth to the other; not in the remotest degree. Here is a case where A, residing in Hamilton precinct, removes to another precinct. Before he can vote in that precinct he has to re-register, or register *de novo*. In order to do this he has to produce a certificate from the registrar from the district from which he removes that he has so removed, and, in addition, that his name has been dropped or erased from the registration books of that precinct. Here is a case which contemplates forfeiture, loss of registration in one precinct by the act of the voter; but here it was not done by the act of the voter. He was in his own original precinct. He had not removed at all. It was the same precinct, only it was created a new precinct. There was not, therefore, devolved upon him the duty of re-registering at all. He was a qualified voter duly registered in that precinct. The law which made the change undertook, and very properly undertook, to do and perform everything necessary to secure to him the benefits of his original registration. How was that done? By directing and providing for the transferring of his name to a new set of registration books corresponding to the new precinct into which he was thus by the act of the law itself transferred.

I say, then, when this committee comes in here and asks us to accept as true and swear by their report, after these gross and palpable inconsistencies thus exposed, they ought certainly to indulge some little charity toward wayward human intellect that ventures to inquire a little into the matter and really distrusts a little their proceedings.

Now let the gentleman occupy the time in explaining that. Do you propose to palm off on this House a proposition that the twelfth section of the North Carolina statutes applies to this case? Let gentlemen state the facts, and let us act understandingly.

I will now recur to the Merry Hill precinct. And I ask these gentlemen not to get offended. I want them to meet the case right here. Now, did not J. B. Martin practice a fraud on the 108 men who cast the ballots to which I have referred? Yes, nobody controverts that; he admits it himself. Now, tell me, if you please, the difference between the man who perpetrates a wrong thing and the man who takes and appropriates the benefit resulting from that wrong? Tell me the difference, if you please, between the man who steals my goods and the man who, knowing them to be stolen, appropriates them to his own use and benefit? As lawyers you know that the accessory would be sent to the penitentiary, if the principal was guilty of a crime incurring that penalty. Yet gentlemen say here on both sides that this case is entirely free from fraud. I know it is in latter-day politics, because fraud has lost its original signification. Nowadays smartness in politics is something all right. Act as you please, do anything, so that you do it legally, technically, and you are a smart fellow. Why, sir, we are renewing in some form the old Spartan law that would not punish a boy for stealing if he was smart enough to hide it. It was to stimulate their courage, it was said; and I suppose this House is asked to reject these 108 votes just to stimulate the courage and cunning of these poll-sharps.

And I do not mean any personal offense; I could not do that. I am speaking of the matter in an official point of view. Here is a man who stole the goods, and here is the man who used them. Both are guilty, are they not? And now I want to know what is to become of the men or the tribunal that gives comfort and assistance in the escape of the man who uses the stolen goods? That is this committee, don't you see? I am alluding to them. [Laughter.]

Now, I ask this committee right here, I ask them solemnly as the Representative of an independent constituency, I challenge them upon their oaths to say in the presence of God and man if they are not just as guilty as J. B. Martin in sanctioning the fraud he committed? I do not say it, but I challenge them to say if it be not so?

Mr. FINLEY. Does the gentleman apply the principles he now urges to the Louisiana electoral count?

Mr. JONES. That gentleman is perfectly insane upon everything touching Louisiana. [Laughter.] Now, to come back to the point. I do not wish to be, I do not mean to be, offensive. It is a painful duty to perform. I know there are good men not only upon that side of the House but upon this side. My experience is that in personnel there is no difference between them at all. But what does this thing evidence? It evidences the power that clannishness now possesses and wields in elections.

Mr. SPEER. Will the gentleman yield to me for a moment?

Mr. JONES. I do not wish to lose any of my time. The gentleman has had nearly two years in this case, and now he wants some of my little time.

Shall I say another word in reference to this matter? I will tell you what the country will say. It will say that you are balancing up and making things even. You have turned out Hull and put in Bisbee, and away goes $10,000 from Uncle Sam's Treasury. And now you propose to turn out Martin and put in Yeates, and $10,000 more goes in the same direction. Now if you merely wanted to swap horses and leave things square, why did you not retain Hull and Martin both, and at the same time retain $20,000 in the common Treasury?

Here is an important point I have made in this case, and I challenge you, not defiantly, for I cannot do any such thing, but I ask you as honest men to say if you will not count the 108 votes which Martin got the voters to poll in that precinct? I ask you to say if they were not legally polled? And if not legally polled, because of trick or fraud through the machinations of the opposing party, and it is sought to deprive the sitting member of them, will you give the contestant the benefit of that fraud? Shall Mr. Yeates come here and ask you to purge polls in other cases because of fraud, and yet will you refuse to do justice that he may have the benefit of that refusal? Have you forgotten the old maxim? He that seeks equity, let him do equity; let him come into court with clean hands before he invokes justice or equity.

Mr. SPEAKER *pro tempore*, (Mr. STEVENSON.) The time of the gentleman from Texas [Mr. JONES] has expired.

Mr. WEAVER. I ask that the time of the gentleman be extended.

Mr. SPRINGER. There is another hour for debate on that side.

Mr. SPEER. And that hour is under the control of the gentleman in charge of the case over there.

Mr. JONES. I want only fifteen minutes.

Mr. HUMPHREY. As the gentleman asks for only fifteen minutes, I ask unanimous consent that he have it.

Mr. SPEER. We cannot consent to that; two hours for debate were allowed to the other side to-day.

The SPEAKER *pro tempore*. The Chair recognizes the gentleman from Florida [Mr. BISBEE] as now entitled to the floor.

Mr. BISBEE. I would cheerfully yield a part of my time to the gentleman from Texas [Mr. JONES] if I had not agreed to yield it to another gentleman.

Mr. PAGE. I hope there will be no objection to giving the gentleman from Texas fifteen minutes more time.

Mr. SPEER. We cannot consent to that.

Mr. HUMPHREY. If that is not allowed we will lose at least fifteen minutes time in discussing about it.

The SPEAKER *pro tempore*. Does the Chair understand that the gentleman from Florida [Mr. BISBEE] yields a portion of his time to the gentleman from Texas?

Mr. BISBEE. I have not agreed to do that.

The SPEAKER *pro tempore*. Then the Chair recognizes the gentleman from Florida [Mr. BISBEE] as entitled to the floor.

Mr. VALENTINE. The gentleman from Florida had agreed to yield a portion of his time to me; but if it is understood by the House that there is but one hour left for debate on this side, and if the gentleman from Florida desires to address the House for at least one-half of that time, I do not desire to speak on this question, because I do not feel that I could do it justice in thirty minutes. Therefore, so far as I am concerned, the gentleman may, if he chooses, yield the time desired. I will, however, ask unanimous consent that I may print some remarks on this subject.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Nebraska, [Mr. VALENTINE?] The Chair hears none, and leave is granted. [See Appendix.] The Chair now desires to know whether the gentleman from Florida yields a portion of his time, and if so, what portion, to the gentleman from Texas, [Mr. JONES.]

Mr. BISBEE. I thought the House would give the gentleman from Texas unanimous consent to proceed. [Cries of "No!" "No!"] Then I yield the gentleman fifteen minutes.

Mr. JONES. Now, there is one other point that I want to make. By the report of the majority of the committee Hamilton precinct is allowed, which reduces the majority of the contestant to 96 votes, even if his majority without this precinct be conceded, according to the claim of the contestant himself, to be 156. Now, Vandemere precinct, excluded by the majority of the committee, gave the contestee 40 majority, and South Mills precinct, excluded by the majority of the committee, gave the contestee 64 majority, making 104 majority; so that if these two precincts are erroneously excluded the majority of the contestant is overcome. Now, I make the point that the two precincts, Vandemere and South Mills, were excluded solely upon the ground that the polls were not opened at 7 o'clock a. m. on the day of the election. I have not time to read the report, but that is the ground given by the majority of the committee for rejecting these two precincts. There is no evidence establishing fraud at those precincts; there is no evidence showing that anybody who remained and endeavored to vote was prevented from voting; but the majority of the committee assume that the law in regard to the opening the polls at seven o'clock is mandatory.

Now, gentlemen, tell this House what you mean by "mandatory." Do you mean that at every election the law must be conformed to in every particular, or else the entire election is an absolute nullity? Do you mean to hold that the provision of the law requiring the polls to be opened at seven o'clock is not, as the lawyers say, merely directory, but is mandatory in such a sense that not being complied with the election is an absolute nullity?

If you take that ground I hold you to your own authority as quoted by yourselves. What is the decision of the courts in reference to this very question? The decision of the courts, as quoted in the majority report, is that if the polls be closed before the time prescribed by law, or opened after the time prescribed, and in consequence a sufficient number of voters to change the result are prevented from voting, the result is—what? That the entire election is rendered absolutely null for the good reason that you cannot tell who would have received those votes, and therefore cannot tell who was elected. Now, if the vote of those precincts is decisive, and if those precincts are to be excluded on the ground given, then as a matter of course, instead of Mr. Yeates being elected as you contend, I say that according to the very authority you cite, there is no election at all; the election must be remanded to the people.

If you will get your almanacs and examine them, you will find that the sun did not rise until half-past six o'clock on the second Tuesday of November, 1878, and I will undertake to say that there was not a solitary poll in that congressional district, or any other in that State, that was opened at seven o'clock on that day; so that if the position of the majority of the committee be correct, there is not a solitary member now sitting here properly as a Representative from that State.

Do you insist upon that doctrine as law? If you do, I ask you as lawyers to tell me where you learned such law. Did you learn it from that man J. B. Martin? It is the doctrine propounded in his brief. You certainly found it in no law book in the United States. For years and years we have been holding proper elections; and there is not a single instance where an election was declared absolutely null and void because the polls were not opened at the particular time prescribed by law. We have been holding elections for one hundred years; and if we are now so strained in this case that we must needs make a precedent contradicting and overthrowing the practice and experience of one hundred years in order to seat this contestant, do not those who do this subject themselves at least to criticism whether they deserve it or not? That is for them to determine. I do not speak here in any spiteful spirit; I certainly would not willfully wound any man's feelings; but in discussing these questions we must necessarily be somewhat angular at times as well as incisive; the case demands it.

Now, the proof shows that at South Mills the polls were opened at half past nine, or perhaps fifteen minutes after. The proof shows that every legal voter who remained and sought to vote was allowed to vote. Now, if you exclude these precincts on such a ground, you may be honest in doing so, but I ask whether an honest, unsophisticated mind would not suspect that you did so because you wanted to elect one man and defeat another? I do not put the question myself, but does it not thrust itself into this case? That is a point which is itself decisive and conclusive in this case, and I ask gentlemen on the other side to pause before they follow party blindly in sustaining such a position.

Let me come back to the point. I ask you whether I did not state the question fairly? If the votes were honestly cast, and there is no suspicion placed on them, if they were all honest ballots, if they were all fair ballots, if no one was prevented from voting, if they be cast out and the man who received the majority be unseated and ousted and another take his place, will it not be the triumph of red tape and trickery over a free election and fair count? That is the position we occupy. I do not speak especially for anybody on this floor but myself, but as "greenbackers," weak in number, we must needs rely on the right. We have no other course. We can turn neither to the right hand nor to the left, unless our cause be backed and supported by the right. When we have that, we can challenge the worst, even fate itself.

We, the greenback party, want to be right. Gentlemen come up here and disclaim interest, partiality, bias, and all that. In behalf of my party, I say this, if we vote with the republicans on this or any other occasion, it is because we do not permit them or anybody else to outstrip us in devotion or support of a free ballot and a fair count. It is the cardinal principle of the greenback party. Without it we can never hope to win. The very same elements of place and power which now manipulate the two old parties will control forever if the greenback party cannot get a free ballot and a fair count. It is, then, in the interest of that party, it is in the interest of this idea, we are fighting for a free ballot and a fair count.

What is to be gained, I ask, by unseating one man and seating another? The object of election laws, and indeed of all laws, is—to do what? It is to ascertain the sentiment, the will, the wish of the honest voter, and when it is ascertained, the end of the law having thus been accomplished, it should have force and effect in our republican Government. It is the only object of it. Shall I tell lawyers on that side of the House who have read law and learned it, that when the reason of the law ceases the law itself ceases? Why these technicalities, these ceremonies, these rubrics surrounding our polls, except to prevent them against fraud and intrigue and trickery?

If the ballot be shown to have been fairly and honestly given, it matters not whether it came in the back door or the front door. It is a matter of no concern whether red-tape was properly tied here or crumpled a little there. If it be an honest vote by a man under the law entitled to give it, the end of the law is accomplished, and it devolves upon this House, possessing both legal and equity jurisdiction, as I contend, to say whether the ballot shall be counted or not.

Mr. BISBEE. Mr. Speaker, during the short time I have been in possession of my complete rights on the floor of this House it has been intimated to me, if not openly suggested in public debate on the floor of the House, that gratitude should keep me silent in this case. I hope, sir, that I shall never be so wanting in the nobler impulses of the human heart as ever to be ungrateful for any favor conferred, especially by the other side of this House. But I know of no definition of gratitude that requires its expression for the conferring of a right long, too long, withheld from me and my constituents.

And I am not precisely a volunteer in this case. The sitting member knew that for a decade and a half and over I had lived in and breathed the same political atmosphere he has, and possibly thought I may have a keener insight and a keener appreciation of democratic methods in the South than gentlemen who live in other and, in this respect, more favored portions of our common country.

Now, if I make a summary statement of this case it will be correct to say that the majority of the committee propose to reject all the votes of four polls at each of which the sitting member had a majority and at all of which he had a majority of 303. They also propose to reject the 108 ballots headed "republican ticket," and the 120 at Goose Nest they refuse to count.

I shall confine my remarks to three precincts, Hamilton, Merry Hill, and Goose Nest, because under the decision of the majority of the committee if at any two of these polls the votes in question be counted the sitting member has a majority. But this is not all. In order to seat the contestant, if my calculation is accurate, we have to disfranchise 1,313 of the duly qualified electors of the State of North Carolina. That is the whole proposition with which we are confronted. It has been stated, and I repeat it, we are asked to count out the sitting member. Now I may be naturally rather sensitive on that subject and interpose objections. The pleasure afforded to him who is counted in is not entirely unmixed with pain, while to the counted out it is an unending source of unmitigated torment.

The gentleman from Georgia [Mr. SPEER] says that one precinct takes pride in the euphonious name of Goose Nest. We have all heard of a mare's nest, but the gentleman from Georgia can take to himself the proud distinction of having found a very large mare's egg in a very small goose nest. [Laughter.]

Now, as to the facts of this precinct. The gentleman in his report (he admits it is his report) says:

> Before, however, the committee can set aside the action of the authorities of the State of North Carolina they must have submitted to them better evidence than that which the contestee has offered, that 154 votes were registered.

In another place he says:

> Not one of these 154 voters was called, although they were all residents of that precinct. The witness W. A. Johnson tells a very incredible story, and it is but reasonable that had 154 voters been refused the right of voting at that precinct, the contestee would have offered evidence sufficient to satisfy the committee of the fact. * * * None of these voters are identified by evidence sufficient.

Now, I propose, Mr. Speaker, to show that the contestant himself has admitted over his own signature that these voters whose votes are in question were present and tendered their votes. I send to the Clerk's desk, and ask him to read on this subject that portion of the brief of the contestant in reference to Goose Nest precinct, which covers this point, premising that it is signed "Jesse J. Yeates, contestant."

The Clerk read as follows:

> The contestee has filed a list of names of 160 persons who he says desired to vote for him but were refused and not allowed to do so.
>
> The evidence printed by the contestee, pages 64 and 73, inclusive, printed record, shows very conclusively that they had no right to vote. Goose Nest precinct had been abolished in 1876, after which the voters of said precinct registered and voted at Hamilton precinct, the same township. In August, 1878, Goose Nest precinct was re-established, and the statute of North Carolina, acts of 1876 and 1877, chapter 275, sections 11 and 12, require the voters at Goose Nest precinct to obtain a certificate from the registrar of Hamilton precinct, certifying that they had been registered on the registration books at Hamilton precinct, and their names had been erased, in order to allow them to vote at Goose Nest precinct anterior to the day of the election. This these men had refused or declined to do, but simply came forward, without complying with the law, and offered to vote at Goose Nest precinct, while they were registered at Hamilton precinct on the books. They were properly refused, as the law was ample to prevent men voting at two precincts.

Mr. BISBEE. Now, the point I make is this: that the report says, and it is a very important branch of this case, that the evidence is not sufficient to satisfy the committee that these men came forward and tendered their votes. One witness, Mr Johnson, testifies that when he found the votes of these men were being refused he took upon himself the task to make a complete list of them, and he wrote out the names and looked at the ballot of each voter as he came up to vote and was refused. The gentleman upon the other side, from Georgia, has criticised very severely the testimony of Mr. Johnson. He thinks it very remarkable that he should have written down the names of those rejected voters and that he should have looked at the ballots which they offered to vote. Why, it is the very thing that would be done everywhere under similar circumstances. Nothing is more natural than where in a case of this kind he found that his candidate was losing votes by the erroneous ruling of the election officers that he should take their names and look at the ballot with a view of proving that fact thereafter, in case of a contest. It is set forth in the report that Mr. Martin should have called the voters individually to testify.

That would have been no better evidence than we have here. The

witness Johnson testifies to what he saw. Now, the testimony of A to an act performed by B is just as high testimony as the testimony of B himself would be to the same act. It is not secondary evidence. It is primary evidence; and if he had called each individual voter in this case he would have had but one oath of each voter to the fact that he tendered his vote and was refused; and that we have here now. The testimony of the witness, Mr. Johnson, unimpeached, no effort made to impeach it in any manner whatever, is that each of 120 of these voters actually tendered their votes and were refused.

Mr. SPEER. Will the gentleman allow me?

Mr. BISBEE. With pleasure.

Mr. SPEER. Will he not concede that one method of impeaching a witness is to disprove the fact testified to by him?

Mr. BISBEE. I will come to that presently.

Mr. SPEER. Mr. Lamb, the registrar, testifies that the registration list from which Mr. Johnson says these names were called did not contain the names of all the men he claimed were on the list that he made.

Mr. BISBEE. I will come to that and answer it in a moment.

I repeat, the contestant has admitted the fact that they were there in person and tendered their votes, and the only question here for us to decide is whether or not they were lawful voters. Again, the gentleman from Georgia knows, every lawyer knows that when a fact is assumed in the progress of a trial of a case and after the testimony is adduced, if in the argument before the court or the jury counsel should undertake to deny that a fact so assumed to exist had not been and ought to have been proven, he would be stopped in his argument. Any member of the bar that should attempt that would be rebuked by any upright judge.

But here not only is this fact assumed, but counsel for contestant in cross-examining this witness assumes it and only asks questions pertaining to their qualifications as voters. Here not the lawyer and advocate disputes the fact—he admits it—but the judge to whom the case is referred denies that a fact is proven which the contestant admits.

The gentleman from Georgia [Mr. SPEER] took, I will say, a just pride in his exhibition of independence during the present Congress. I do not wish to take from him any laurels he has won in that direction; but what I complain of here is that he has become too independent; he has become independent of the evidence and the admission of the contestant. The gentleman says the register of deeds of this county contradicts the witness Johnson. I deny it so far as the evidence in this case is concerned. Mr. Johnson made a list of these voters, (marked A,) which is put in evidence; and he says, when interrogated, as follows:

Q. Do you know whether or not a list of the electors so appearing on the books and refused to vote was taken at the time each name was called, and by whom?

A. I do; the list was taken by myself at the time they were presented and I have the list in my possession now, and I took each name down as they were called, presented, and refused, as the registrar called each name from the registration book, and here is a certified copy of the original lists marked A, and is herewith filed as a part of this deposition.

Q. State whether or not you examined the ballots of each person whose name appears on this list at the time they were tendered and refused, and if you know the name of which candidate that appeared on each ballot.

(The counsel for the contestant objects because it is a leading question, because the best proof of what was on the ballots is the ballots themselves.)

A. I did examine them and that they had the name on them, "For Congress, Joseph J. Martin."

Now, all that Mr. Lamb testifies to with this list in his hand, with the registration of Goose Nest and Hamilton in his hand, is this: The following question is asked:

Take the list marked A and compare it with the registration book of Goose Nest precinct, and tell me if you find the names on the said registration book, and how they are marked there.

This was his answer:

I find all, with the exception of thirteen, marked challenged and rejected. Those thirteen I don't find on the registration book, and one I find that voted.

Q. Take the list marked A and compare it with the registration book of Hamilton precinct, and tell me if you find the names on the list on the registration books of Hamilton precinct?

A. All with the exception of twenty-one.

We do not know whether the 21 included the 13 or not; and so they are both deducted, the 13 and the 21, making 34, from the 154, leaving 120 about which there is no dispute that they were registered and offered to vote.

But it is claimed that while speaking in general terms this witness Johnson says he wrote down the names as they were called off, and for the reason there happened to be thirteen which the registrar could not find, we must conclude that Johnson swore falsely and reject his testimony. But even if Johnson's testimony is thrown aside, we have the admission of the contestant here, and that is the end of it.

I will not read the twelfth section of this statute, which has been repeatedly read, but I ask that it become a part of my remarks:

SEC. 12. Every person who shall present himself for registration shall state, under oath, how long he has continuously resided in this State, and in the county in which he offers to vote, whether he is an alien or native born, when he became twenty-one years of age, whether married or single, and where and with whom he resides. Upon the request of an elector, the registrar shall require the applicant to prove his identity or age and residence by the testimony of at least one elector, under oath. And if an elector has previously been admitted to registration in any ward, township, or precinct in the county in which he resides, he shall not be allowed to register again in another ward, precinct, or township in the same county until he produces a certificate of the registrar of the former township, ward, or precinct that said elector has removed from said township, ward, or precinct, and that his name has been erased from the registration books of the ward, township, or precinct from which he has removed; and the identity of any person claiming the right to be registered in any precinct of the same county by virtue of such certificate with the person named therein, shall be proved by the oath of the claimant, and when required by the registrar, by the oath of at least one other elector. Every person found qualified shall take the following oath: "I, ——, do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of the State of North Carolina; that I have been a resident of the State of North Carolina for twelve months, and of the county of —— for ninety days; that I am a duly qualified elector, and that I have not registered for this election in any other precinct, and that I am an actual and *bona fide* resident of —— township, (or precinct;) so help me God." And thereupon said person shall be permitted to register, and the date of his registration shall be noted opposite his name in the registration book.

It is to my mind too plain for argument, too plain for the evasion of the most astute mind, that the twelfth section of this statute has no application to these voters. Those whom the registrar marked opposite their names with the word "certificate" were allowed to vote, those whom the registrar had marked with a cross opposite their names were not allowed to vote. But the twelfth section applies to persons who have removed from one precinct to another and they must get a certificate under that statute that they have removed and that their names are erased and go to the precinct into which they had removed and take a personal oath before the registrar. There is no pretense that in this case the voters whose votes were received did anything of this kind, but the registrar of Goose Nest precinct obtained certificates for the democratic electors that their names had been erased, not that they had removed, but the testimony of the assistant registrar at Goose Nest precinct is that in point of fact such certificates were false; their names had never been erased. He testifies so himself. In answer to a question he says:

I did assist in writing the certificates and marking them "granted," but did not assist in erasing any of the names, as none of them are erased, but marked opposite each name, "certificate granted."

Why, sir, so far as this section of the law is concerned, the very reason assigned why these republican voters should not be allowed to vote, excludes the votes of the democratic electors. They both stand on the same footing.

These 120 electors had been duly registered at Hamilton precinct. As a matter of law, I ask lawyers on the other side of this House if they know of any case where it has ever been decided that an elector, through the manipulation or usurpation of the executive department of the government, can be disfranchised? The point I make is this: these electors once having been registered according to law, and the law having created a new precinct cutting them off from the old, not requiring any personal act on their part, could not be disfranchised by any act of the executive department of the State of North Carolina nor of any of its officers. Some years ago, in the better days of the State of Alabama, at least so far as elections are concerned, the supreme court of the State, according to McCrary, section 6, in the case of the State *vs.* Adams, 2 Stuart, 239, supreme court of Alabama—

Held, that no department of the government, nor all of them combined have the power to divest an individual of his constitutional right of suffrage.

Under the construction of these statutes of North Carolina, passed in 1877, this case is what lawyers term a *casus omissus*. Neither the sixth section nor the twelfth section in exact terms applies. But there is a fair ground to infer when the names of these voters were transferred from Hamilton back to the Goose Nest book, that under section 6 of the statute they were to all intents and purposes duly on the registration book and entitled to vote.

Now, Mr. Speaker, the contest so far on this precinct has been that these votes ought to be counted. I do not understand that any gentleman who has addressed the House in this case has denied that if through fraud, violence, intimidation, or the erroneous ruling of election officers a vote is tendered and refused, that it should be counted. It is admitted, as I understand, as a proposition of law that a vote tendered and illegally refused should, in a contest in this House, or elsewhere, be counted the same as if cast. Mr. McCrary in his work, which is cited approvingly all through the majority report, so lays down the doctrine. Now, if there ever was a case in the history of this House, and there are numerous such, where the votes of voters which have been tendered and have been refused should be counted, we have the case before us now, providing any votes cast at this poll are counted. I wish to present this precinct from another point of view. I contend that it is undeniable that if these votes are not counted, then the whole precinct should be rejected and none of its votes counted. I make that claim under this doctrine, that where from any cause, not the fault of the electors themselves, they have in considerable numbers lost their right to vote from want of registration or otherwise, through the fault of the election officers, the whole precinct must be rejected and none of its votes counted. On that point I read from McCrary on Elections, section 9:

It being conceded that the power to enact registration laws is within the power to regulate the exercise of the elective franchise and preserve the purity of the ballot, it follows that an election held in disregard of the provisions of a registration law must be held void. (44 Missouri, 347.)

Again, quoting the text:

Where, however, a portion of the voters of a given precinct are thus unjustly denied the privilege of registration, and another portion are duly registered and permitted to vote, no doubt is entertained but that the entire poll should be rejected if the votes of the former class cannot be counted, and if they are sufficiently numerous to affect the result.

Now, in this case the authority cited shows that there can be no doubt that the entire poll should be rejected. If counted or rejected the sitting member has a majority, according to the views of a majority of the Committee on Elections. The majority for the contestant at this poll was 132, and the majority of the Committee of Elections count that vote, although under the law if the other 120 who were refused were not properly registered without their fault, the whole precinct should be set aside.

Why is a precinct set aside in any case? Because of the uncertainty as to the result. Now, if you set aside South Mills precinct, Vandemere precinct, and Salem precinct, on the ground that the election officers delayed opening the polls until after the hour prescribed by law, I ask gentlemen of this committee who signed this report, I ask the lawyers on the floor of this House, by what reason can they conclude that Goose Nest precinct should be counted, when at least one hundred and twenty electors were disfranchised by no fault of their own, but by action of the election officers? There can be no good reason whatever given for any distinction. The trouble is that if you count those 120 votes or reject the whole poll, there would be an end to the case of the contestant and of all pretense that he was elected. My own opinion is that the election at this poll was wholly illegal. The election officers themselves under the law should have met on the Saturday preceding the election to hear challenges on the part of those who objected to any of the registered voters. Instead of that they did not meet until Monday in the afternoon preceding the day of election, and then decided that the electors must obtain certificates from the officers of the precinct where they were registered.

And the registrar at Goose Nest precinct, a democrat, and a friend of the contestant, rushed off with an assistant to the registrar of Hamilton precinct and obtained certificates for the democratic voters. Those voters never saw those certificates, and never registered at Goose Nest precinct by taking the oath prescribed by law.

Now, as to Merry Hill precinct and the 108 marked ballots that were cast there, I shall say but little. That matter has been discussed in all its phases, and I can add nothing new. It occurs to me that in view of what was done there, in view of the fact that this democratic judge of Bertie County, this friend of the contestant, himself, had printed and circulated these ballots in order to impose upon and defraud the colored republican voters at that poll—it occurs to me that if we were to change one letter in the name of that precinct, it would then be properly designated.

The law of North Carolina evidently contemplates and implies that the device must be put on the ballot and on the outside of the ballot by the voter himself or with his consent. Now, these electors, these colored men imposed upon by this democratic sharper, never consented to cast a ballot with anything on it that would invalidate it. The case which the statute contemplated is not made out. If you count the 108 votes, admitting all that the contestant claims and that is accorded to him by the majority of the committee at Goose Nest, then Mr. Martin has a majority of the votes in the district according to the opinion of the majority of the Committee on Elections.

Now, as to Hamilton precinct, the only ground—and I wish the members of this House to seize upon that point—the only ground upon which we are asked to exclude that poll is that Mr. Martin, the sitting member, temporarily took the place of the registrar and with his pencil checked off the names of forty or fifty voters as they came up to vote. That is all.

Instead of Mr. Martin being reprimanded for doing that, I contend here that it was an act of merit on his part, that it was done in the interest of a fair election. Had those names not been checked off the voters might have voted a second time, or others might have voted in their names. This checking is a guard against fraud, and it is immaterial who does it. It does not affect the validity of the election one particle.

The testimony upon that point has been read. Two witnesses swore that Mr. Martin acted fairly and honestly; that what he did was done above-board and in the gaze of the people standing around the poll and coming up to vote. It is an idle, flimsy pretense that any fraud was committed there, or that there is any justification for rejecting the vote cast at that poll. On the contrary, this gentleman who circulated these ballots ought to be in the penitentiary. It is the proper place for him. A gentleman who will connive, plot, scheme, combine, confederate, and conspire to steal the franchise from his fellow-man ought not to be at liberty, but he ought to be behind the iron grates and bars. Yet having robbed, as he supposed, these electors, this man, J. B. Martin, (not contestee,) solemnly and gravely asks us to be *particeps criminis;* he sends up the fruit of his iniquity here and asks us to receive it. Instead of giving the stamp of approval to such acts, we should set the seal of condemnation on them, and announce to the world that no man can gain a seat in this House by such methods.

Upon this subject of persons temporarily taking the place of an election officer, I desire the Clerk to read from volume 31 of the California Reports.

The Clerk read as follows:

> The irregularities complained of were the appointment by the judges of the election, and not by the electors there assembled, of a person to serve as inspector, the inspector appointed by the board of supervisors having failed to attend, and the taking of the ballots from the box and reading them to the tellers by one Heath, who was neither judge, inspector, nor clerk of the election. It appears that neither the judges nor the inspector could read and that Heath was invited by them to read the ballots for that reason. There is no pretense that by reason of these irregularities any illegal votes were cast for the respondent, or that the ballots were not read correctly by Heath, or that the contestant was not allowed in the tally all the votes that were cast for him, or that the respondent was allowed more votes than he was entitled to, or that they contributed in any manner to cause the respondent to be declared duly elected. Mere irregularities which do not affect the final result, or in other words, do not produce a different result from that which would have otherwise happened, are not vicious. Electors cannot be denied the benefit of their votes upon such slender grounds.

Mr. BISBEE. That, Mr. Speaker, is the law upon this subject entirely applicable to this case. Why the registrar was absent we do not know. It may have been on the ground of sickness in his family, or it may have been that he had taken too much of that corn-juice which the average "tar-heel" of North Carolina considers largely superior to water. In any possible view of this case the contestee is entitled to retain his seat.

Now, there has been some reluctance to hear discussion on this question. In former periods of our Government it was not thought beyond the duty of the ablest and most talented members of the House to investigate and argue at length contested-election cases. In my judgment this case is of vast importance. The questions here presented are more important than all others pending before this House. Finance, interstate commerce, postal telegraphy, and even the Morgan resolution sink into insignificance when compared with the question of the purity and freedom of the ballot. Upon this rests the corner-stone of our Government. All other questions may be postponed, but the question shall the will of the majority be overthrown through fraud, chicanery, or violence ought not be postponed. This assault made upon the contestee's title reminds us that the fate of republicans in the South has indeed been a hard one. It is a remarkable thing for a republican candidate for Congress to come here from the South with a majority on the face of the returns. This the sitting member has accomplished. What they attempted to do in North Carolina we are asked to complete here—to count him out. I appeal to members on the other side of this House who reside in more favored portions of the Union, where the law is executed, where the will of the majority prevails, where the indignant gaze of an outraged people would destroy as with fire him who attempted to thrust his wicked and criminal hand into the ballot-box—to those gentlemen I appeal by their judgment here to-day to declare to the country and to the world that the privilege of the elective franchise shall be maintained, that law and order and the prosperity that flows from them shall not be overthrown in any portion of our common country.

Perhaps the gentleman from Ohio [Mr. KEIFER] the other day criticised too severely these democratic managers. I wish to remind him and the House that some progress has been made even in the State of North Carolina. The crimes revealed in this record are less enormous than the crimes and scenes depicted in the "Fool's Errand" and "Bricks Without Straw." Leading republicans in North Carolina are no longer executed under the decree of the Ku-Klux Klan. Then it was the man, now it is the ballot that is murdered. But the testimony justifies the conclusion that democratic election officers have connived, plotted, and conspired, to prevent a correct expression of the popular will. The political friends of contestant, Mr. Yeates, have printed and circulated what they believed to be illegal republican tickets, for the purpose of defrauding illiterate colored republican voters. They have delayed opening the polls at republican precincts, to furnish a pretext for rejecting returns. They have attempted to manipulate registration laws so as to receive the ballots of democrats and exclude those of republicans. While not so glaring and flagrant, the majority of the House propose to make them just as effective for a political purpose as other frauds and crimes upon the elective franchise in many of the congressional districts of the South, which democratic public sentiment still sustains and approves of. After the election in the second Florida district in 1878, the friends of a defeated candidate, in order to count him in, destroyed the precinct returns in Brevard County and forged others in their stead, giving him 194 more votes than were cast for him, and this, too, in a county that had never cast a larger total vote than 169. At the same election, in Marion County, democratic officers substituted 93 democratic ballots for a like number of republican ballots at one poll. At another poll, in Madison County, where the republican candidate for Congress received 57 majority, the return was destroyed, and the ballot-box with its contents burnt up; and in the same county, at another poll, 200 republicans were forcibly prevented from voting, and the chief of those who performed this last piece of iniquity was honored in 1880 with a democratic nomination for State senator; and though defeated, he and three members of the State Assembly were counted in, and took part in the late election of United States Senator. In Alachua County, Florida, in 1878, the county canvassing board rejected three precinct returns, which gave the republican candidate for Congress 470 majority, which returns the supreme court of the State unanimously decided to be regular and perfect, and which the Committee on Elections of this House and the House itself have unanimously decided to be good and valid returns, and that the canvassing board did not possess the power to exclude them; and the gentleman who counseled and advised this flagrant wrong, an ex-circuit judge of the State and a learned lawyer, while under indictment for it in the Federal court, was made one of the

democratic presidential electors to represent the sentiment of "a full and free ballot and an honest count."

In the first congressional district in Florida, in 1878, from one poll in Escambia County, where the total number of registered voters was but 53, and 18 of those were republican, the democratic inspectors returned a democratic majority of 102 votes. At the same election, in the county of Jefferson, 1,400 colored republican electors went to the polls to vote, and were denied the right on the pretense that their names had been stricken from the registration book by the arbitrary and criminal action of a democratic board of county commissioners. In this congressional district, in 1878, the names of republican voters were corruptly stricken from the registration books and their votes were refused or destroyed by fraud to the extent of 3,000; and thus two democratic Congressmen were counted in and certified elected from the State of Florida—and one of them still occupies a seat on this floor—neither of whom had any more right to it than the captain of a privateer has to the plunder which his piratical crew have captured and stolen from their innocent and helpless victims. And yet no democratic leader denounces the infamy of their crimes, or even feels a sense of shame at their commission.

The Legislature of Florida, increased in number and apportioned in utter disregard of a plain constitutional provision—an illegal Legislature beyond the shadow of any doubt in the eye of the law—many members of it being elected through shameless and stupendous ballot-box stuffing and other flagrant frauds, recently elected a United States Senator, and this Senator-elect, knowing full well the truth of what I have stated, that the Legislature was apportioned in palpable violation of a clear constitutional provision for purely partisan purposes, that large numbers of that Legislature were returned elected over the dead and prostrate form of hundreds and thousands of republican votes—that the election was a farce, a mockery, and a sham—conscious of all this, he, the Senator-elect, commenced an address before that Legislature, so constituted and elected, in the following words:

> I congratulate you and the people of this Republic that we are still permitted to employ some of the old agencies and methods necessary to a free and fair expression of the public will.

Such is the key-note of a speech to a legislative body by a leader of modern democracy which is to-day the representative of successful fraud and triumphant usurpation. I repeat, democratic public sentiment not only does not condemn, but rewards with elevation to office the perpetrators of high crimes upon the ballot-box and upon the principles of representative government.

The democratic majority here have decreed that the only republican member who was certified elected from thirteen Southern States must be turned out to meet a political exigency.

Hard indeed has been the fate of republicans in the South. But we do not despair. The eradication of error and the growth of truth is slow. To acclimate republican principles in the Southern States has been as difficult a task as the growth of a plant from the north pole under a tropical sun. The provisions of equal rights, equal laws, and equal justice in the Constitution still nourish our hopes of a brighter and better future. Happily, despite fraud in the South and forgery in the North, by the signal victory won by the splendid courage of the constituents of this side of the House, we have been rescued for a time from that fathomless abyss upon the verge of which we stood last November. Tremblingly and with bated breath we waited the sound of that knell that might "summon us to heaven or to hell." But, notwithstanding the national victory achieved, the glorious light that shines out from the northern and western skies still reaches the South with enfeebled and diminished rays, and in the words of the matchless eloquence of our President-elect, we demand that the "sun of liberty fixed in the firmament of the Constitution shall shine with equal rays upon the black man and upon the white man," in the South as well as in the North. Every advance taken by the Chief Magistrate of this nation, every messenger sent out bearing the olive branch of peace and reconciliation, which we all so ardently pray for, has been met with a blow in the face.

We of the South believe the democratic party is one gigantic conspiracy to nullify or defeat the late amendments of the Constitution and the laws passed to execute the same. For ten years it has played the role of hypocrisy, by which the country has been deceived and misled, until it gained control of both branches of Congress. Has not the mask been torn off yet? Does not the most confiding optimist yet see the horrid front which it concealed? Does any one need further evidence?

Within four years the country has been startled by two bold attempts at revolution, one to unseat a President duly declared elected, and the other to starve him into submission to the demands of the democratic party. And we are to-day confronted with the possibilities of a third, for which the pending measure is but the prelude to the scenes that may be subsequently enacted.

If the threatened storm shall pass over, and we reach the ides of March in safety, if sixteen years of residence in the South has taught me anything, I warn the President-elect and the country to beware of unmanly sycophancy, and that "bending of the suppliant hinges of the knee that thrift may follow fawning," which, if again trusted, will develop a type of perfidy compared with which the character of Iago is the portrayal of a saint.

Mr. Speaker, on such slender grounds as this case presents I do not believe a member from a Northern State would be unseated. Public sentiment would not be so insulted. In fidelity to the principles of their party the republicans in the Southern States have not been surpassed by any of their political brethren in other portions of the Union. The hard and unequal contest which they have made was forced upon them by the logic of events, and they could not escape it. They have been falsely accused, traduced, and villified by a partisan press incapable of telling the truth of a political opponent. But when passion and intolerance shall no longer rule the hour, when the sacrifice made, persecutions suffered, odium and ostracism endured, and the heroic courage displayed by southern republicans that the tree of liberty might live and flourish on the soil of the South shall be appreciated, the friends of human rights and of popular government will erect a monument to their memory whose summit shall pierce the skies and which will endure forever.

Mr. SPEER. I now call the previous question.

Mr. CALKINS and Mr. VAN VOORHIS, by unanimous consent, obtained leave to have printed in the RECORD remarks on the pending election case. [See Appendix.]

Mr. FIELD. If the gentleman from Georgia [Mr. SPEER] will withdraw for a moment the demand for the previous question, I will move as a substitute for the pending resolutions the resolutions submitted by the minority of the committee. The gentleman can then demand the previous question on both sets of resolutions.

Mr. SPEER. If we adopt the majority resolutions there will be no need of voting on those of the minority; and if the majority resolutions fail, then we can adopt those of the minority.

Mr. KEIFER. It is customary in all these cases to allow the minority resolutions to be moved.

The SPEAKER *pro tempore*. The Chair understands the gentleman from Georgia to decline to yield for that purpose.

Mr. KEIFER. I think the gentleman from Georgia does not understand, perhaps, that the motion indicated by the gentleman from Massachusetts is always allowed in cases of this kind.

Mr. SPEER. The minority resolutions are in, of course.

Mr. FIELD. If it be understood that the question is pending on both sets of resolutions, that is all we desire.

Mr. SPEER. It is understood that the minority resolutions are in.

The SPEAKER *pro tempore*. The substitute of the gentleman from Massachusetts is in, and the question is on the demand for the previous question.

Mr. MANNING. Is it not on both propositions?

The SPEAKER *pro tempore*. Yes; on the substitute as well as the original resolution.

The previous question was seconded and the main question ordered.

Mr. SPEER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPEER. I now yield such portion of the hour remaining to me to the gentleman from Pennsylvania [Mr. BELTZHOOVER] as he shall desire.

Mr. BELTZHOOVER. Mr. Speaker, this case comes before the House on the majority and minority reports of the Committee on Elections. The majority report was adopted in committee by the votes of nine members, and the omission of two gentlemen to sign it was merely accidental. The minority report is signed by five members of the committee. One gentleman did not vote in the committee, and did not sign either report. On these reports and the able arguments of the distinguished gentlemen who presented them we were willing to rest the determination of the case. The gentlemen on the other side of the House did not concur, however, in our disposition to come to a speedy vote, but have consumed about five hours in their effort to sustain the minority report. In addition, therefore, to the hour taken by my colleague, [Mr. SPEER,] who wrote the majority report and opened the case, I will ask the indulgence of the House during the remaining hour to present, as briefly and as plainly as I can, the propositions of fact and law on which that report is founded, and by which it seems to me to be clearly sustained.

This contest arises out of the election for Congressman which was held on November 5, 1878, in the first congressional district of the State of North Carolina. In 1874 this district elected the democratic candidate for Congress by a majority of 1,000 over both his competitors and a plurality of about fourteen hundred over the one having the next highest vote. In 1876 the democratic candidate was again chosen by a majority of 1,200, and in 1880 the democratic candidate had over five hundred majority. In 1878 we have the anomaly presented of two republican candidates running, and therefore dividing the republican vote, against a concededly popular democratic candidate, who polled his full party vote, and yet one of these republican candidates is certified as receiving a plurality of 51votes. This fact is one which we call attention to on the threshold of this case. It was doubtless one of the controlling circumstances which led to the investigation which resulted in the contest. Mr. Yeates, the contestant, upon inquiry and examination, ascertained that there had been the grossest irregularities and misconduct and fraud on the part of the election boards in four election precincts in the district, namely: At South Mills precinct, in Camden County; at Vandemere precinct, in Pamlico County; at Hamilton precinct, in Martin County; and at Providence precinct, in Pasquotank County. Mr. Martin, the contestee, in response to the notice of contest, alleged that irregularities and informalities had occurred at Salem precinct, in Pasquotank County;

at Merry Hill precinct, in Bertie County; and at Goose Nest precinct, in Martin County. The testimony and arguments on both sides were confined to these seven precincts. Before the contest had proceeded far in the discussion before the committee, however, it was conceded by the contestee and his counsel that a majority of 39 votes, which had been given for contestant in Providence precinct, but which had not been returned and counted for him, should be added to his vote, and thereby reduce the returned plurality of the contestee from 51 to 12. The sitting member, therefore, holds his seat from a strong democratic district, which before and since the election in controversy uniformly elected democrats, by the very slender plurality of 12 votes. This, therefore, is the point from which we start in the investigation of the case. The contestee has 12 plurality, and there are three disputed precincts on each side. We will begin with the examination of the contestant's case, and consider first the precinct of South Mills. At this precinct the contestee had 64 plurality, which the majority report of the Committee on Elections concludes should be rejected from the count for the following reasons:

1. The polls, which should have been opened at seven o'clock, were not opened until ten o'clock, and, in addition to the three hours for voting thus already lost, the board adjourned for an hour or more at noon.

2. The election board, instead of being constituted of four persons, was composed of only two, and these were not sworn.

3. The election board thus illegally constituted and unsworn were guilty of gross irregularities in the conduct of the election, and one of them was drunk.

We will consider these objections in their order. The election law of North Carolina of 1877 provides in section 16 that "the polls shall be opened on the day of election from seven o'clock in the morning until sunset of the same day, and no longer." This language is as clearly mandatory and imperative as it could be, and leaves no discretion to the election boards to open the polls at a later hour than seven o'clock, and particularly inhibits any adjournment of the election or closing of the polls after they are open, before sunset. The authorities on this subject all hold that the provisions of law which fix the time and place of elections are mandatory and not directory, (20 Pennsylvania, 484; 366 *Ibid.*, 333,) and a disregard of these will be fatal unless the party claiming the votes shows that the parties legally entitled to vote actually voted. Mr. McCrary, the most eminent authority on the subject of election law, says that "time and place are of the substance of every election." The same author further says:

> The better opinion seems to be that a considerable deviation from the hours fixed by law for keeping open the polls must render the election void. Thus, in Pennsylvania, it has been determined that where the law required the polls to be kept open until ten o'clock and they were closed at eight, the election must be set aside. (Pennsylvania District Election, 2 Parsons, 526.) *So also if they be opened at a much later hour than the time prescribed by law.*

And in summing up the conclusions, in view of the authorities on this point, he declares:

> From all the somewhat conflicting authorities upon this subject the following may be gathered as the governing rule:
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> If the deviation from the legal hours is great, or even considerable, the presumption will be that it has affected the result and the burden will be upon him who seeks to uphold the election to show affirmatively that it has not.

In the case of Chadwick *vs.* Melvin, (Brightly, E. C. 251,) Chief-Justice Thompson, of the supreme court of Pennsylvania, held that "if the polls be opened at a much later hour than that prescribed by law, the entire poll must be rejected." In view of the facts and these authorities it was clearly incumbent on the contestee, if he desired to retain the majority given him at this precinct, to have shown that the contestant did not suffer by the very considerable deviation from the proper time for opening the polls and by the adjournment of the election board for an hour or more at noon. The contestee has not attempted to repel the presumption of unfairness by any testimony, and he therefore cannot complain of the conclusion of the majority of the committee. But adding the second and third objections, which we will next examine together, to the first, the conclusion justified by that becomes inevitable. The election law of 1877 referred to above, in section 9, provides that—

> The board of justices of the peace for each county, on or before the first Monday of the month next preceding the month in which each election is held, shall appoint four judges or inspectors of elections, two of whom shall be of a different political party, when possible, from the registrars, at each place of holding election in their respective counties. The said judges of election shall attend at the places for which they are severally appointed, on the day of election, and they, together with the registrars for such precincts or townships, who shall attend with the registration books, after being sworn by some justice of the peace, or other person authorized to administer oaths, to conduct the election fairly and impartially according to the constitution and laws of the State, shall open the polls and superintend the same until the close of the election.

This law plainly provides that there shall be four judges of election for each election precinct; that they and the registrar shall be sworn by some justice or person authorized to administer oaths; that they shall attend at the polls on the day of election and open and conduct the election. Let us see what occurred at South Mills precinct and how the requirements of the law were complied with. The testimony plainly shows:

First. That at ten o'clock Sheriff Sawyer, who was a mere intruder and not sworn, opened the polls.

Second. That only two judges, instead of four, were present, and these were sworn by Sawyer, who was not authorized to administer oaths, and whose act was therefore a nullity.

Third. That the republican judge, named Overton, who sat at the window and received and handled the votes, was drunk all day.

Fourth. That notwithstanding the loss of three hours in opening the polls and that seven hundred and sixty-four names were on the registry of voters, all entitled to vote that day, this unsworn, illegal, and drunken board adjourned and closed the election for an hour or more at noon.

Fifth. That when the board adjourned at noon they put the ballot-box in the custody of Overton, the drunken judge, who had complete control of it during the time the polls were closed.

Sixth. That voters were offered bribes of money and place to support the contestee. Barrington, a witness called, testifies:

> Q. Were you told by any one prior to the day of the election that Mr. Kehoe, of the republican executive committee of the State of North Carolina, was going to send down $2,500 for electioneering purposes, and that a portion of that sum would be sent to you?
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> A. I was. I was told by Joseph J. Martin that Mr. Kehoe was going to send down $2,500 to him [Martin] for electioneering purposes, and that he [Martin] would send some of it to me, and wanted me to do all I could with it in his interest.—*Record*, page 33.

In this instance Mr. Martin, the contestee, directly offered a money bribe to the witness, who was a prominent and influential colored voter, to support him.

This same witness, further on, says that one A. P. Cherry (a deputy United States collector of internal revenue) offered the witness the office of census-taker if he would vote for the contestee. He also says (page 32) that the same offer was made to several others on same conditions. On the same page he further says:

> I saw papers addressed to colored voters and signed by C. Gurkin, who was chairman of the republican executive committee of the first congressional district of North Carolina, in which he promises that Joseph J. Martin will pay them money if they will vote for him (Martin) and do all they could to procure his election. I know, also, that Joseph J. Martin made offers to pay money to other voters if they would vote for him and do all they could for him at said election.

Same witness, on same page, states that "it was circulated among the colored voters, about a week or ten days before the election, that if the colored voters would unite and elect Joseph J. Martin to Congress, that he (Martin,) if elected, would cause the lands of the white people to be sold, and that they (the colored people, or voters,) would have a chance to buy them," and the witness said that "many said to me that that was one of the reasons that would induce them to vote for Joseph J. Martin."

In answer to these grave charges Mr. Martin, the contestee, has not put in one word of denial, either himself or by calling witnesses. And here I desire to call attention to the statement of the gentleman from Ohio, [Mr. KEIFER,] who said in his speech on this case the day before yesterday that the registrars and officers of election who acted illegally and fraudulently were democrats, and that the judge of election, Overton, who was drunk, was a democrat. When he said that, he made a statement which the record in this case does not sustain. This election officer, Mr. Overton, was a republican official, and Mr. Wilcox, in the Salem precinct, was a republican registrar; and most of the polls where these frauds were committed, where these irregularities and illegalities and disregard of law took place, were controlled by republican officials.

Mr. KEIFER. Will the gentleman allow me to interrupt him?

Mr. BELTZHOOVER. I hope the gentleman will not interrupt me unless I misstated his remarks.

Mr. KEIFER. I want to set the gentleman right. What precinct is that to which he refers where the registrar was a republican?

Mr. BELTZHOOVER. I refer to Salem precinct.

Mr. KEIFER. And the registrar himself swears he was a democrat.

Mr. BELTZHOOVER. I say that the man who acted there in that capacity was a republican, and this judge of election who was drunk was a republican.

Mr. MANNING. The gentleman from Ohio stated on yesterday that Mr. Overton was a democrat. That is not sustained by the testimony and the record.

Mr. KEIFER. Mr. Overton was not the registrar at that precinct. I was speaking of the registrars.

Mr. BELTZHOOVER. I cannot, Mr. Speaker, in the brief time allotted to this side of the House against the five hours consumed by gentlemen on the other side, allow any interruption, for I will not misstate a single fact as shown by this record. I have made a careful investigation of this testimony, and I assure gentlemen on the other side, as well as on this side of the House, that the statements which I make are correct.

Mr. KEIFER. Now, Mr. Speaker——

Mr. BELTZHOOVER. I cannot submit to interruption, Mr. Speaker. I did not interrupt the gentleman from Ohio.

Mr. KEIFER. I stated, and I desire to repeat it, that every one of the registrars appointed at that election was a democrat.

Mr. MANNING. It is very remarkable that the gentleman from Ohio will insist that Mr. Wilcox was a democrat when the proof shows that he was a republican, and Mr. Overton also.

Mr. KEIFER. I stated very plainly in my speech that Mr. Wilcox was a republican, and I stated further that every registrar at that election was a democrat.

Mr. MANNING. And you stated that Mr. Overton was a democrat when you had the proof before you to show that he was a republican.

Mr. KEIFER. I spoke very plainly of the registrars at that election as being democrats.

The SPEAKER *pro tempore*. The Chair desires to state to the gentleman from Ohio that the gentleman from Pennsylvania declines to be interrupted.

Mr. BELTZHOOVER. I would gladly yield, Mr. Speaker, for a correction or for a question by any gentleman not a member of the Committee on Elections and who is not informed by the record in this case. But I am compelled to reply in an hour to the speeches of gentlemen on the other side which occupied five hours and I must go on to do anything like justice to the case. When the gentleman from Ohio made his misstatements and spoke or claimed to speak from the record, I asserted in correction of these errors that the registrar at Salem was a republican sheriff and the drunken inspector at South Mills was a republican, and I stated the facts as shown by the record in this case and which no gentleman cognizant of them will attempt to controvert.

Again, these two inspectors, or judges, this drunken one and the sober one, and the registrars not only violated the law in not opening the polls until ten o'clock, but with the registry in their hands showing that 764 votes were to be polled which would require all the time allowed that day for the election and notwithstanding that three hours had been lost in the morning, they adjourned the election at South Mills at 12 o'clock and went to dinner and staid away an hour, taking out of the ten hours allowed the electors of that district four hours of the time they were entitled to and ought to have had to enable them to poll all the votes there. Further, it is conclusively shown by the testimony that they thus acted not only in defiance of their duty and of the law, but when they went to dinner they committed the ballot-box containing the votes to the custody of the drunken republican judge of election and he took it in his possession and locked it up and kept the key himself for an hour in defiance of their duty, in defiance of the law.

Another witness, too, testifies that he was tendered the office of census enumerator if he would vote and act for Mr. Martin. The testimony not only shows fraud and bribery and irregularity and negligence, but also intimidation all through that precinct over the colored vote; for the contestee and his party friends, as my colleague suggests, broke up the school of this colored school-teacher, Barrington, because he did not submit to the domination and intimidation of the contestee and his friends in this election. Now, then, taking the plainly prescribed rule of law, that where the deviation from the legal hour of opening the polls is great, and adding to it the fact that they adjourned an hour at dinner, and further, the irregularities, frauds, and misconduct of these election officers, I hold that it becomes infinitely more strongly the duty of this House to throw upon Mr. Martin, the contestee, the burden of showing that at this precinct the contestant suffered no harm.

Instead of Mr. Martin, the contestee, showing this, however, as he was bound to do, the proof of the contestant shows clearly that out of the registry of 764 votes there were only polled in that precinct 390 votes, leaving of the votes unpolled almost one-half of the registered votes, which was the direct result, as the committee concluded, of the shortness of the time and the misconduct of these officers in conducting the election; and for the reason that the majority of the committee believed there was not a free, full vote and a fair election, they concluded unanimously that this poll should not be counted against the conestant in this case.

In addition to the law cited on the first objection above, the authorities pertinent to the second and third objections are full and clear. It was ruled in the well-considered case of Thompson *vs.* Ewing (1 Brewster, 99) that "an election must be conducted by the proper officers, and an election held by mere intenders and without title or color of title may be disregarded." The decisions of this House on the same point in contested-election cases are also numerous. Among others may be cited the contested-election case of Howard *vs.* Cooper, Thirty-sixth Congress, (see Contested Elections, 1864-'65, page 282,) wherein the Committee on Elections say:

> Your committee have rejected the vote of the township of Van Buren. The law requires that the board of inspectors shall be constituted of three persons in number. The proof is clear that there were but two. And as there was no board of inspectors known to the law, your committee see no way by which any legal effect can be given to the returned vote. They have therefore deducted it.

In the case of James Jackson *vs.* General Anthony Wayne, (Clark & Hall, page 47,) a Georgia case, decided in 1791, it was held that "where the law requires three magistrates to preside at an election and a return was made by three persons, two of whom were not magistrates, the return was defective;" and the vote of the county was rejected.

In the case of Rufus Easton *vs.* John Scott, (Clark & Hall, page 272,) a Missouri case, decided in 1816, held, "if an election is required by law to be held by three judges, who are required to be sworn, and it is held by two not sworn, their proceedings are irregular, and the votes taken by them are to be rejected."

We come next to the Vandemere precinct, where the contestant had 40 plurality. At this precinct the polls were not opened until twelve o'clock. Two of the judges or inspectors were absent. The republican electors by a conspiracy in refusing to act under the law delayed the appointment of inspectors or judges of election up till noon of that day. The law requires that where election inspectors are appointed by the registrar he shall appoint an equal number of each party. In this case, after the registrar had appointed the democratic inspector he could not get from the whole number of people there one to admit that he was a republican and serve as an election officer at that precinct, although the very men whom he offered to appoint as inspectors and judges afterward voted and worked for the contestee. Now, this was a democratic precinct and by reason of this failure to open the polls at twelve o'clock twenty-five or thirty electors are shown to have gone home, thereby losing their votes, and to have told their neighbors that there would be no election held at that precinct. Out of the registry of 167 votes 102 only were polled, leaving 65 votes at home, which the testimony of two witnesses, Holton and Gatlin, proves were democratic votes. They both swear that the republican vote was all brought out, but that the democratic vote was not voted, and that many of the democratic voters after coming there went home on account of this delay in the opening of the polls. By this delay the voters of this precinct were allowed only five hours instead of ten hours, which the law fixes as the time within which they can exercise the right of suffrage.

Now, the law as applicable to South Mills is still more apposite to this case. Here the detention was not only to ten o'clock but to twelve o'clock of the day of election; and the burden of proof—although the contestant assumed to show that he suffered—the burden of proof was on the contestee to show that no harm resulted to the contestant by reason of this gross irregularity and great deviation from the time fixed by law for opening the polls.

Mr. WILSON. What did he show?

Mr. BELTZHOOVER. The contestee showed nothing. The contestant showed that the whole vote of the republicans was out and voted and that it was a democratic precinct; but that of the democratic voters a considerable number came there and went home without voting, and many others were kept at home by reason of these reports that there would be no election. Would it be a free, fair, honest election where the polls are opened at twelve o'clock when the law requires that they shall be opened at seven? Is it a fair, free election when the electors are entitled in a precinct to have ten hours to vote to give them but five? Is it a fair, free election where electors come and stay away from their business in order to vote until nearly noon and then go home because their business calls them, thereby losing their own votes, and tell their neighbors there is not going to be an election, thereby preventing their neighbors from coming to the polls?

We next come to the Hamilton precinct. The law of North Carolina provides that "no person who is a candidate for any office shall be a registrar, or judge, or inspector of an election." That is a clear, mandatory, imperative inhibition against any one acting as an inspector, judge, or registrar in an election in which he is running as a candidate. It is one of the immutable principles fixed in the jurisprudence of every civilized country that no man shall be the judge of his own case. And if this House desires to preserve the purity of the ballot-box as the bulwark of civil liberty and free institutions, it is their duty to see that this fundamental principle which governs all civilized nations and all judicial tribunals and all intelligent men in their action shall not be violated in this case. Mr. Martin, the contestee, did not live in this precinct. He came down twelve miles from his own voting place and went to the polls at Hamilton and took charge of the registration of voters, and he remained there until one-seventh of that whole vote was cast, fifty or more votes. I need not read the testimony which was read in your hearing by the gentleman from Georgia [Mr. SPEER] and the gentleman from Massachusetts [Mr. FIELD] who was extremely fair in all that he said in this case.

The committee hold that this precinct should be rejected, first, for the reason that this contestee, who was a candidate for the high office of Congressman, came over there and acted as registrar and had charge of the registration during the polling of fifty or one-seventh of the whole number of votes cast; second, because while he acted as registrar he was not only not sworn, but he was not appointed nor asked to act. He boldly and impudently and in defiance of law and justice and decency forced himself into the election board. In none of the cases on this subject, where candidates acted as election officers in their own election, does it occur that the man so acting was not a sworn officer of election acting at least under the sanction and solemnity of an oath. At this election there was no one running but Yeates and Martin, and it was therefore a worse case than that of Boileau, which occurred in Philadelphia, and is reported in Parsons' Select Equity Cases, volume 2, page 503. In that case, while Coxe was running for the office of assessor of elections he acted for a time as clerk of the board of elections. Boileau was running for alderman on the same ticket. On the ground that Coxe was acting as an officer at that election while running for another little office, it was contended and argued with great force and great ability, although unsuccessfully, that Boileau's election was avoided. The ground on which the court allowed the election of Boileau to stand was, that although Coxe's election would have been avoided, Boileau, not running for the same office, could not come within the same inhibition which would avoid the other. In view of these facts, what was the plain duty of Mr. Martin in this case?

Charged as he was with the violation of a fundamental principle of the law, was it not for him to come forward and show affirmatively that no wrong was done, that no votes were improperly influenced, that all the votes were correctly recorded and counted, and that the poll list corresponded with the votes? He should have shown that the utmost *bona fide* had controlled his conduct in this matter; that no wrong had been done to the contestant by his acting.

Now, the Committee on Elections, finding that he was silent as the grave, neither answering himself nor calling witnesses as to his misconduct, believed that his silence and indifference justified them in excluding the votes at this precinct. Mr. Martin, the sitting member, so far exceeded the decencies and proprieties of a candidate for Congress, and so violated the law, that it is confidently submitted that it would not be becoming in this House or right to count the vote of that precinct in this election.

It is proper to say that two of the members of the majority of the committee expressed a doubt as to whether this poll should be excluded, but on everything else, as I have said, the report was unanimous. If the result of the election depended upon this poll it may have been a question which would have influenced some other members of the committee in passing upon it. But with 64 votes at South Mills precinct, and with 39 votes at Vandemere precinct the contestant is elected by a majority of over 50, without counting the vote at Hamilton precinct.

Now I will turn to the precincts which were attacked by the contestee in this case. First, we have the Salem precinct. The contestee insists that there were 135 votes cast for him at this precinct which were not returned, but which were excluded by the board of canvassers. That precinct, with Providence precinct, is in Pasquotank County, and the board of canvassers for that county make this decree in reference to the Providence and Salem precincts:

> The votes, as returned by the board of canvassers from the precincts of Salem and Providence, were not received and counted by the board on account of informality, and therefore not counted in the above statement.

"The above statement" referred to was the general return of the county. Now it is contended that because Providence precinct has been counted for the contestant, giving him 39 votes, for the same reason Salem precinct should be counted. But, as my colleague on the committee, the gentleman from Georgia, [Mr. SPEER,] very ably said, although Providence precinct was rejected for informality, the same Salem precinct, it was not for the same informality.

Providence precinct was rejected because the registrar of election, instead of one of the election board, carried the returns up to the county board. This was a mere trivial, unessential deviation from what seems to be the strict letter of the law. Beyond that there was no informality at Providence precinct.

But when we come to consider the grounds on which Salem precinct was rejected by the board of canvassers, we find, added to that, five different and distinct reasons, which I will proceed to give. The first is, that at Salem precinct, where the republican sheriff acted as registrar, the polls were not opened until twelve o'clock, and not until after twenty-five or thirty persons plainly proven to have been there to vote had gone away.

Secondly, it is proven that this Sheriff Wilcox, a republican sheriff and a violent partisan friend of Mr. Martin, who boasts that during his life he has held all the offices in the gift of the people of that neighborhood, and therefore should be presumed to understand distinctly the duties of an election officer, went and obtained the appointment of himself as registrar in the absence, on account of sickness, of the registrar who had been previously chosen. To secure this appointment Wilcox went to a justice of the peace, and with the full knowledge that a registrar of election should be under the law sworn to do his duty, he came away from the very presence of that justice of the peace without having taken the oath prescribed.

Now, why would a man who knows the law go and get an appointment as an election officer and act as we have shown this republican registrar in this case has acted, in violation of the law, without being sworn as the law prescribes, if he had not in his heart at the time of his appointment a purpose of committing the irregularities which have been charged? In addition to this, he was appointed by only one justice of the peace, while the law he well knew required the appointment to be made by two justices.

We contend, therefore, that he acted corruptly in not being sworn when he had a chance to be sworn. Now, what else did he do? He came back to the polls and assumed himself to swear in the other officers of election without the slightest authority to administer an oath. Therefore it was that the board of election at Salem precinct, which vote gentlemen want counted, was not only a violent partisan board run by this republican sheriff, but not a single officer of it was sworn according to law. There was no responsibility of an oath resting on those officers.

Now I wish to call the attention of gentlemen to the fact that the object of the oath of election officers required by the law is that they may be convicted of perjury if they fail in their duties, as they did in this case. But when they failed to take the oath they assumed no responsibility beyond that of any other citizen under the criminal law.

In this case there was no sanction of an oath thrown around the ballot-box, but an irresponsible republican officer, the sheriff of the county, without himself being sworn when he had the opportunity to be, took charge of the polls, and, as I will show you, Mr. Yeates lost in this precinct 102 votes, or more than two-thirds of the democratic vote usually polled at that precinct.

It was shown by testimony that Mr. Yeates ran ahead of his ticket in every precinct in that county, and in every county in the district, while Mr. Martin, it is incontestibly shown, ran behind his ticket. Coming then to this precinct, we find that in 1876 Mr. Yeates, who was then a candidate, had 103 votes and his competitor had 201 votes, giving his competitor a majority of 68. Coming down to 1878, and taking this poll as returned, Mr. Yeates has 29 votes and Mr. Martin 164. In that election Mr. Yeates lost, therefore, as we have stated above, 102 votes, while Mr. Martin, engineered by this republican sheriff registrar, lost only 37 votes. Why, this very registrar himself swears that the democratic vote at this precinct was 100 or thereabout, yet under his management of that election-poll there were cast for Mr. Yeates only 29 votes.

Now for the reason, first, that the electors had only five instead of ten hours to vote, for the reason that the officers were not sworn in this case, for the reason that Mr. Yeates suffered out of all proportion when compared with the other precincts in that county and that district, the committee believe, and they are sustained incontrovertibly by the testimony, that there was not a fair, free, full election in that precinct.

We were not asked to count the vote. We were asked to reverse the decision of the canvassing board who declined to count it. The committee believe, with these facts before them justifying the canvassing board in rejecting those votes, that this House sitting as a court to review this case would not be justified in reversing the decision of the canvassing board and counting this vote.

Now Mr. Speaker, we come to this much-discussed and little-understood precinct of Merry Hill. At that precinct it is contended the board of election threw out of the count 108 votes which had been polled for Mr. Martin, the sitting member. I do not believe that any lawyer of this House who has any regard for his reputation will contend that the conclusion of the committee was not correct.

I will quote the language of the committee's argument on this point:

> The committee come to this conclusion with much reluctance. The reasoning, however, which leads to this conclusion is unanswerable, and under the statute leaves the committee no discretion.
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> One hundred and eight votes for Mr. Martin were thrown out and not counted, because they had on them the words "republican ticket," at or near the head of the ticket, on the same side as the name of the candidate and office. They were thrown out on the ground that the words "republican ticket" were a device within the meaning of the laws of North Carolina. Mr. Martin contends that these ballots should be counted for him.
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> Section 18, chapter 275 of the laws of North Carolina, 1877, provides:
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> "The ballots shall be on white paper and may be printed or written, or partly written and partly printed, and shall be without device."
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> "SEC. 20. When the election shall be finished the registrars and judges of election, in the presence of such of the electors as may choose to attend, shall open the boxes and count the ballots, reading aloud the names of the persons who shall appear on each ticket; and if there shall be two or more tickets rolled up together, or any ticket shall contain the names of more persons than such elector has a right to vote for, or shall have a device upon it, in either of these cases such tickets shall not be numbered in taking the ballots, but shall be void, and the said counting of votes shall be continued without adjournment until completed and the result thereof declared."
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> If these words constitute a device within the meaning of the law, the statute is plain that the ballots are void and are not to be counted. The counsel for the contestee, while denying that these words constitute a device, contends also that being on the inside of the ticket the case is within the decision of Drulinger *vs.* The State, (29 Indiana, 308,) and Napier *vs.* Mayhew, (35 Indiana, 275.) See McCrary, § 404; Neff *vs.* Shanks, (Forty-third Congress.)
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> The statutes of Indiana provide:
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> "SEC. 18. When any person offers to vote, the inspector shall pronounce his name in an audible voice, and if there be no objection he shall receive his ballot, and in the presence of the other judges put the same unopened into the ballot-box, when the name of such elector shall be again distinctly repeated by one of the other judges in the presence of the clerks.
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> "SEC. 23. That all ballots which may be cast at any election hereafter held in this State shall be written or printed on plain white paper, without any distinguishing marks or other embellishment thereon, except the name of the candidates and the office for which they are voted for, and inspectors of elections shall refuse all ballots offered of any other description: *Provided*, Nothing herein shall disqualify the voter from writing his own name on the back thereof."
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> The Indiana statute requires the inspector to put the ballot into the ballot-box unopened, and that the ballot shall be without any distinguishing marks or other embellishment thereon, and that the inspectors of election shall refuse all ballots offered of any other description. Under this statute the Indiana court held that the words "city union ticket" on the inside of the ballot, even if it be conceded that these words constitute a distinguishing mark, did not render the ballot void, and that the object of the act was accomplished by requiring all ballots to be uniform in external appearance. The same question was decided in Stanley *vs.* Manley, (33 Indiana, 275,) where the words were "republican ticket" on the inside of the ballot. Under the Indiana statute the court say that the statute "does not authorize the inspector and judges to reject a ballot upon the discovery of such a mark or embellishment at the time of counting out the ballots which could not be seen by the inspectors at the time it was voted." The North Carolina statute is express that the ballots shall be without device, and that if the ticket shall have a device upon it it shall not be numbered in taking the ballots, but shall be void. This difference in the statutes renders the Indiana decisions inapplicable, and the sole question is, are the words "republican ticket" on the inside of a ballot a device within the meaning of the North Carolina statute? With the policy of the statute we have nothing to do; one purpose of the statute may have been to prevent bystanders from knowing from observation how the voters voted. No statute can altogether prevent this; experts can easily distinguish between different kinds of white papers, and the printing of ballots of the opposite parties would ordinarily be done at different printing offices with different type and ink, and the arrangement of the names of the persons and of the office, the punctuation, and the place on the ticket of the printed matter would ordinarily be different and ap-

parent to a well-trained eye. The intention of the statute could be easily evaded if it did not also prescribe the size of the ticket and the size of the type, which the North Carolina statute has not done. Still the statute, such as it, must be enforced, even if some provisions have been omitted that are necessary completely to effectuate its intention.

Another purpose of the statute may have been to compel, as far as is possible, the voter to select the persons he votes for independently of any contrivances on the ticket calculated to inform or misinform him of the opinions of the persons voted for, because devices are often contrived to mislead. Either way, we think that words prominently printed on a ticket and intended to designate or describe it, and which have a distinct meaning in themselves, such as, if untrue, might mislead the voter, and whether true or untrue would render the ticket easily distinguishable, must be held to be a device within the meaning of the law. (McCrary on Elections, § 401.) These votes were rejected by the State authorities, and we think rightfully.

Gentlemen may appeal to passion and prejudice; they may contend that great fundamental principles of law should be disregarded because they seem to be mere technicalities, or perhaps lead to apparent improper payments of salaries. In reply to the last suggestion, I say that the gentleman from Texas, when he casts his reproaches at this side of the House and talks about unseating a member at the end of the term, and thereby paying from the Treasury $20,000 instead of $10,000, ought to remember that the other day, in the face of a unanimous report from the Committee on Elections, he stood up and voted with five or six others to put Mr. Boynton into Mr. LORING'S seat with no case, with no law, with no authority. Yet he challenges the integrity of this side of the House because we follow the most distinguished lawyer of the other side upon the Elections Committee in concurring in the rejection of this alleged vote in Merry Hill.

Mr. JONES. Will the gentleman allow me a moment?

Mr. BELTZHOOVER. I cannot be interrupted now.

Mr. JONES. Will not the gentleman yield for a correction?

Mr. BELTZHOOVER. I decline to be interrupted.

Mr. JONES. I was not in the House when the vote to which the gentleman refers was taken. But if I had been here I would have voted that way.

Mr. MANNING. It is a farce, then, to talk about "correcting" the gentleman.

Mr. BELTZHOOVER. Now, why do the gentlemen of the minority of the committee when they come to make their report submit this point without one word as to the law? They concede that upon the report of the majority of the committee upon the law this rejection was proper; and the gentleman from Ohio [Mr. KEIFER] who attacks the report of the majority of the committee in regard to this precinct signed that very minority report. What does he say above his signature? I read from the report of gentlemen on the other side with regard to Merry Hill:

These votes were rejected by the State authorities and are not included in Mr. Martin's returned plurality. We leave to the consideration of the House whether these votes should now be counted for Mr. Martin or not.

The gentlemen who make the minority report do not cite an authority; they do not make one suggestion why these votes should or should not be counted. So that as to this precinct we have a unanimous report of the Committee on Elections. There is not a gentleman on this floor who has any pretension to know anything about law who will risk his reputation by maintaining that the conclusion arrived at by the majority report was not law, was not equity, was not justice. The foundation of civil institutions as supported by the integrity of the ballot-box cannot be maintained unless the principle upon which this report of the Committee on Elections in this regard is based shall be sustained.

What is the right of suffrage? It is not a natural, inalienable right. It is a right obtained under the law. It is a political right; and it is fixed and ascertained by law. When not exercised under the law it is a nullity. What the constitution and statute law of North Carolina, a sovereign State, declare to be null, and void, and dead, cannot be regarded by this House in deciding this case. These alleged ballots which were not counted, and which gentlemen say should be counted, were no more ballots in the legal sense of the word than the unused tickets which were strewn about the streets and around the polls after the election had closed; and they had no more right to be counted.

But the gentleman from Ohio [Mr. KEIFER] charged in this case that the contestant or his friends were guilty of bad faith in this matter at Merry Hill. Let me say in reply to that, that Judge FIELD, on the other side of this House, concedes and declares that the utmost good faith was practiced by Mr. Yeates, the contestant in this case, and by the election officers, and by the registrar of the election, a democrat. Judge FIELD says in his argument, "the conduct of the people, the conduct of the election officers, has been honest, fair, and in every respect commendable." And he managed the case and prepared the report of the minority of the Committee on Elections. It is in bad taste, therefore, for the gentleman to attack the *bona fides* of Mr. Yeates in this case and of the election officers. Mr. Freeman, the democratic registrar at Merry Hill, when he saw this kind of tickets, went out and showed them to democratic and republican voters and said if that kind of ticket was voted it would not be counted. He was a democratic officer and he did so before a single vote was polled. Instead of *mala fides*, there was the utmost good faith on the part of the election officers as shown by the testimony and as stated by Judge FIELD in this case.

I am informed, Mr. Speaker, that the time allowed to me is nearly exhausted, and therefore I must come hastily to the last precinct in this contest. It is alleged by the contestee that at Goose Nest precinct about 120 votes which were not polled ought to be counted for him. The committee hold, first, that under the law the board of election officers in that precinct properly rejected those votes. They hold, secondly, that even if these voters were conceded to have been legal voters, there is not a scintilla of reliable testimony in this case upon which you could predicate any just judgment as to how these men would have voted. Therefore on these two grounds the Committee on Elections believed they were fully justified in maintaining the decision arrived at by the election board at Goose Nest precinct.

My time will not allow me to do more than make a brief statement of the facts and the provisions of the election law of North Carolina as applicable to this precinct. On the 5th of August, 1878, Goose Nest precinct and Hamilton precinct were all one, called Hamilton precinct. On that day the board of justices of the county under the law divided Hamilton into two precincts, Goose Nest and Hamilton. At the same time they made an order appointing a registrar for Goose Nest precinct, and directed him to transfer all the voters who resided in Goose Nest precinct from the Hamilton registration to the Goose Nest registration.

It is conceded that in pursuance of this direction this transfer was made, and that there was a legal registration of every vote in Goose Nest precinct so far as it could be legal under that order of the board of justices of the county. It is also shown by the evidence that the registrar of Goose Nest precinct in pursuance of law gave thirty days' notice to every voter in that precinct to perfect his registration or to object to improper registration.

The law further provides that on the Saturday before the election the judges of election shall meet and give a chance to every voter to perfect his registration, still further and finally, or object to improper registration. On Monday before the election there was a large public meeting in Goose Nest of democrats as well as republicans. The board of election officers and registrars met on Monday instead of Saturday. On that day, at the suggestion of gentlemen who understood the law, that board—two democrats and two republicans and the registrar—unanimously agreed that in order that these persons whose names were registered there could vote they would have to have a certificate from the registrar at Hamilton showing that their names had been erased at that precinct. That decision was concurred in by the republicans as well as the democrats. And no man in that community except the contestee has been heard to complain of that decision from that hour to this. The notice was given to all alike on that afternoon, and that night a large number obtained certificates of erasure of their name from the registration at Hamilton. On the next day all voters who had been properly erased from the registration list at Hamilton were permitted to vote at Goose Nest, and those whose names were on the registration list at both places were objected to and were not allowed to vote. Why? Because the law of North Carolina provides, (1) clearly and distinctly who are legal voters, (2) how they shall prove their right to vote, and (3) where they shall vote. One of the principal objects aimed at by the law is to prevent any man from voting at any other place than his legal residence and from voting at more than that one place. Therefore, every vote cast at Goose Nest on the 5th of November, 1878, at this election was a legal vote concededly. The one hundred and twenty persons who, it is alleged, would have voted for the contestee at Goose Nest were not legal voters, for the plain and palpable reason that they could have also voted at Hamilton. If, therefore, they could have voted at Goose Nest first and afterward at Hamilton, it would have been a grave infraction of the letter and the spirit of the law in one of its most essential particulars.

Now, then, we contend, first, that these votes were illegal and were properly rejected, but if you concede that there is doubt about that position and say that they ought to have been allowed to vote, then we reply that they did not vote, and to-day this committee and this House is asked to count them without any reliable testimony which would weigh a feather before a court or a jury as to how they would have voted.

It is alleged that 154 men came up and offered to vote, yet not one of that 154 is called to show how he intended to vote or would have voted.

Instead of this plain, legal way of showing how these men would have voted, a witness is called who is a non-resident of the precinct. One William Asa Johnson, who is a relative of Mr. Martin, came down there to stand at the polls, like Martin himself, who went to Hamilton. This Johnson says that during the day he took down the names of 154 men who he swears came up with tickets and who would have voted for Martin, the contestee. The names of these persons, he says, were on the registration list at Goose Nest, and they were not received, but all were rejected for the reason that they were also on the Hamilton registration and had no certificate showing that they had been erased therefrom. He swears he took the names down at the time—154 names of men as they were called out by the registrar—but unfortunately he has not even the original list, and he gives us what he calls a certified copy. But we call the registrars of Goose Nest and Hamilton precincts as witnesses. The registrar of Goose Nest precinct swears that 13 of these names which Johnson swears he took down were not there at all, and could not therefore have been

called out, and that Johnson simply falsified when he says they were names that were called out from that registration list. The registrar of Hamilton precinct swears that 21 of these names given by Johnson were on the registration lists at Hamilton; therefore could not have been at the Goose Nest precinct. What this man Johnson swears to is therefore a palpable fabrication and falsehood, and with that falsehood before you they want your approval of his statement of the fact, which is material to the case, that 154 men would have voted for the contestee but did not do so under the circumstances named, when in point of fact the contestee could have found every man and have obtained their testimony had he so desired.

This witness Johnson is also contradicted by other witnesses, particularly by Lamb, who was the register of deeds at Hamilton, and by Carraway and Leavitt, who were called and testified in the case.

For the reasons, therefore, that these alleged voters were not legal voters, and also because it was not shown how they would have voted, the majority of the committee unhesitatingly refused to reverse the action of the election board at Goose Nest, which was a full board, legally sworn, and containing an equal number of both political parties, and above all else clearly shown to have acted with regularity and in conformity to law and with the utmost good faith.

The SPEAKER *pro tempore*, (Mr. STEVENSON in the chair.) The time allowed for the discussion of this case has expired.

The Clerk will now report the pending resolution and the substitute of the minority of the committee therefor.

The Clerk read as follows:

*Resolved*, That Joseph J. Martin was not elected, and is not entitled to a seat in this House as a member of the Forty-sixth Congress, from the first congressional district of North Carolina.

*Resolved*, That Jesse J. Yeates was elected, and is entitled to a seat in this House as a member of the Forty-sixth Congress, from the first congressional district of North Carolina.

The SPEAKER *pro tempore*. The Clerk will now report the substitute proposed by the minority of the Committee on Elections.

The Clerk read as follows:

*Resolved*, That Joseph J. Martin, the sitting member, is entitled to his seat in this House as a Representative in the Forty-sixth Congress from the first congressional district of North Carolina.

*Resolved*, That Jesse J. Yeates is not entitled to a seat in this House as a Representative in the Forty-sixth Congress from the first congressional district of North Carolina.

The SPEAKER *pro tempore*. The Chair will state that the vote will be taken first upon the minority resolutions offered as a substitute for the report of the majority of the committee.

Mr. FIELD. On that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. TOWNSHEND, of Illinois. Let the resolutions be again reported.

Mr. MANNING. Will the chairman state exactly the question?

Mr. KEIFER. The vote is taken on the first of the resolutions submitted by the minority.

The SPEAKER *pro tempore*. The vote will be first taken upon the substitute offered by the gentleman from Massachusetts for the report of the majority of the committee.

Mr. KEIFER. That is the first resolution of the minority report.

The SPEAKER *pro tempore*. The substitute embraces two resolutions.

Mr. TOWNSHEND, of Illinois. They form but one report after all, and the question will be taken upon both at the same time.

Mr. SPRINGER. There are only two questions presented here, whether the sitting member or the contestant is entitled to the seat. Those who vote for the resolutions submitted by the minority of the committee vote for the sitting member to retain his seat. Those who vote against them vote that the contestant is entitled to his seat.

Mr. KEIFER. That is my understanding of the question as stated by the gentleman from Illinois.

The SPEAKER *pro tempore*. The resolution submitted by the minority of the committee will be again reported.

The resolutions were again read.

The question was taken; and there were—yeas 110, nays 117, not voting 65; as follows:

YEAS—110.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Cowgill, | Hawk, | Miles, |
| Aldrich, William | Daggett, | Hawley, | Mitchell, |
| Anderson, | Davis, George R. | Hayes, | Monroe, |
| Baker, | Davis, Horace | Hazelton, | Murch, |
| Ballou, | De La Matyr, | Heilman, | Neal, |
| Barber, | Deering, | Henderson, | Newberry, |
| Bayne, | Dunnell, | Hiscock, | Osmer, |
| Bingham, | Dwight, | Horr, | Overton, |
| Bisbee, | Errett, | Hubbell, | Pacheco, |
| Bowman, | Felton, | Humphrey, | Page, |
| Boyd, | Ferdon | Jones, | Pound, |
| Brewer, | Field, | Jorgensen, | Prescott, |
| Briggs, | Fisher, | Joyce, | Price, |
| Browne, | Forsythe, | Keifer, | Ray, |
| Burrows, | Fort, | Lapham, | Reed, |
| Butterworth, | Frye, | Lindsey, | Rice, |
| Calkins, | Gillette, | Lowe, | Richardson, D. P. |
| Cannon, | Godshalk, | Mason, | Robinson, |
| Carpenter, | Hall, | McCoid, | Russell, Daniel L. |
| Chittenden, | Hammond, John | McCook, | Russell, W. A. |
| Claflin, | Harris, Benj. W. | McGowan, | Shallenberger, |
| Conger, | Haskell, | McKinley, | Sherwin, |
| Smith, A. Herr | Townsend, Amos | Van Aernam, | Wilber, |
| Stephens, | Tyler, | Van Voorhis, | Willits, |
| Stone, | Updegraff, J. T. | Voorhis, | Yocum, |
| Taylor, Ezra B. | Updegraff, Thomas | Walt, | Young, Thomas L. |
| Thomas, | Urner, | Washburn, | |
| Thompson, W. G. | Valentine, | Weaver, | |

NAYS—117.

| | | | |
|---|---|---|---|
| Acklen, | Cox, | King, | Sawyer, |
| Aiken, | Cravens, | Kitchin, | Scales, |
| Atherton, | Culberson, | Knott, | Shelley, |
| Atkins, | Davidson, | Ladd, | Simonton, |
| Bachman, | Davis, Joseph J. | Le Fevre, | Singleton, J. W. |
| Beale, | Davis, Lowndes H. | Manning, | Slemons, |
| Beltzhoover, | Dibrell, | Martin, Benj. F. | Smith, William E. |
| Berry, | Dunn, | McKenzie, | Speer, |
| Bicknell, | Elam, | McMahon, | Springer, |
| Blackburn, | Ellis, | McMillin, | Steele, |
| Bland, | Finley, | Mills, | Stevenson, |
| Bliss, | Forney, | Money, | Talbott, |
| Blount, | Frost, | Morrison, | Taylor, Robert L. |
| Bouck, | Geddes, | Muldrow, | Thompson, P. B. |
| Bragg, | Goode, | Muller, | Tillman, |
| Bright, | Gunter, | Myers, | Townshend, R. W. |
| Buckner, | Hammond, N. J. | New, | Tucker, |
| Caldwell, | Hatch, | Nicholls, | Turner, Oscar |
| Carlisle, | Henkle, | O'Connor, | Turner, Thomas |
| Chalmers, | Henry, | Persons, | Vance, |
| Clardy, | Herbert, | Phelps, | Waddill, |
| Clark, John B. | Herndon, | Philips, | Wellborn, |
| Clements, | Hill, | Phister, | Wells, |
| Clymer, | Hooker, | Poehler, | Whiteaker, |
| Cobb, | Hostetler, | Reagan, | Willis, |
| Coffroth, | House, | Richardson, J. S. | Wilson, |
| Colerick, | Hunton, | Richmond, | Wise. |
| Converse, | Hurd, | Robertson, | |
| Cook, | Kenna, | Ryon, John W. | |
| Covert, | Kimmel, | Samford, | |

NOT VOTING—65.

| | | | |
|---|---|---|---|
| Armfield, | Ewing, | Martin, Joseph J. | Smith, Hezekiah B. |
| Bailey, | Ford, | McLane, | Sparks, |
| Barlow, | Gibson, | Miller, | Starin, |
| Belford, | Harmer, | Morse, | Upson, |
| Blake, | Harris, John T. | Morton, | Ward, |
| Brigham, | Houk, | Norcross, | Warner, |
| Cabell, | Hutchins, | O'Brien, | White, |
| Camp, | James, | O'Neill, | Whitthorne, |
| Caswell, | Johnston, | O'Reilly, | Williams, C. G. |
| Clark, Alvah A. | Kelley, | Orth, | Williams, Thomas |
| Crapo, | Ketcham, | Robeson, | Wood, Fernando |
| Crowley, | Killinger, | Ross, | Wood, Walter A. |
| Deuster, | Klotz, | Rothwell, | Wright, |
| Dick, | Loring, | Ryan, Thomas | Young, Casey. |
| Dickey, | Lounsbery, | Sapp, | |
| Einstein, | Marsh, | Scoville, | |
| Evins, | Martin, Edward L. | Singleton, O. R. | |

So the substitute was not agreed to.

After the second roll-call,

Mr. RYON, of Pennsylvania, moved to dispense with the reading of the names.

Mr. KEIFER and Mr. VAN VOORHIS objected.

The names were then read.

The following pairs were announced:

Mr. BELFORD with Mr. MORSE.

Mr. MARTIN, of Delaware, with Mr. KILLINGER.

Mr. FERNANDO WOOD with Mr. KELLEY, until Wednesday.

Mr. ORTH with Mr. WRIGHT.

Mr. DEUSTER with Mr. CASWELL, for this day, on all questions except adjournment.

Mr. SPARKS with Mr. MARSH, on this question.

Mr. JOHNSTON with Mr. CAMP, for this day.

Mr. WILLIAMS, of Alabama, with Mr. SAPP, who is absent attending a brother-in-law who is ill. His pair will be effective until his return on all votes involving a division of parties except to constitute a quorum, in which event Mr. WILLIAMS reserves the right to vote.

Mr. O'NEILL with Mr. ROSS, on all questions, including the question of a quorum, until Wednesday, February 2.

Mr. WHITE with Mr. WHITTHORNE, on all political questions.

Mr. JAMES with Mr. O'BRIEN, until further notice.

Mr. YOUNG, of Tennessee, with Mr. HOUK, on the election case of Yeates *vs.* Martin.

Mr. WARNER with Mr. WILLIAMS of Wisconsin.

Mr. EINSTEIN with Mr. O'REILLY, for to-day. Mr. O'REILLY would vote for, and Mr. EINSTEIN against, the majority report.

Mr. HUTCHINS with Mr. WALTER A. WOOD, on all political questions.

Mr. LORING with Mr. DICKEY, on this case and for this day.

Mr. FORD with Mr. ROTHWELL. Both gentlemen being sick are paired for to-day.

Mr. SINGLETON, of Mississippi, with Mr. NORCROSS, until Monday next.

Mr. BLAKE with Mr. CABELL.

Mr. KETCHAM with Mr. LOUNSBERY.

Mr. BRIGHAM with Mr. UPSON, on this question.

Mr. HARRIS, of Virginia, with Mr. RYAN, of Kansas, for to-day.

Mr. KLOTZ with Mr. MILLER, until Monday next, on all political questions, but not to prevent a quorum.

Mr. MORTON with Mr. MCLANE, until Monday next.

Mr. ROBESON with Mr. EWING, for one week, commencing last Thursday.

Mr. SCOVILLE with Mr. CROWLEY, on political questions for the legislative days of the 28th, 29th, and 31st January, and February 1 and 2.

Mr. SMITH, of New Jersey, with Mr. HARMER, until further notice.

Mr. ARMFIELD with Mr. STARIN, until Monday, Mr. ARMFIELD reserving the right to vote to make a quorum.

Mr. DIBRELL. My colleague from Tennessee, Mr. WHITTHORNE, is confined to his room by serious illness.

Mr. HUNTON. My colleagues, Mr. JOHNSTON and Mr. CABELL, are confined to their rooms by sickness.

The result of the vote was then announced as above stated.

Mr. SPEER moved to reconsider the vote by which the substitute was not agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed a bill (S. No. 1935) to confirm to the city of Chicago the title to certain public grounds, in which the concurrence of the House was requested.

CONTESTED ELECTION—YEATES VS. MARTIN.

The SPEAKER *pro tempore*, (Mr. STEVENSON.) The question now recurs on the resolution offered by the majority of the committee.

Mr. SPEER. Let it be reported.

The Clerk read as follows:

*Resolved*, That Joseph J. Martin was not elected, and is not entitled to a seat in this House as a member of the Forty-sixth Congress, from the first congressional district of North Carolina.

*Resolved*, That Jesse J. Yeates was elected, and is entitled to a seat in this House as a member of the Forty-sixth Congress, from the first congressional district of North Carolina.

Mr. CONGER. I ask for a division of the question.

The SPEAKER *pro tempore*. In what respect does the gentleman desire a division?

Mr. CONGER. I propose to divide the subject by having a vote on each resolution.

The SPEAKER *pro tempore*. The Clerk will report the first resolution.

Mr. CONGER. I understand also a division was asked on the resolutions of the minority.

The SPEAKER *pro tempore*. The Chair understands not.

Mr. KEIFER. Unquestionably, I asked that the question be divided, and I voted under that impression.

Mr. TOWNSHEND, of Illinois. Let the resolution be reported which is now to be voted on.

Mr. KEIFER. Let me ask the Chair as a parliamentary question whether in the vote just taken we did not vote simply on the first resolution of the minority?

The SPEAKER *pro tempore*. The vote was taken on the substitute offered by the gentleman from Massachusetts, [Mr. FIELD.]

Mr. KEIFER. Which was the first of the two resolutions.

The SPEAKER *pro tempore*. The substitute was offered as one resolution, as the Chair understood.

Mr. MANNING. I made the inquiry, and it was distinctly stated by the Chair that that was the case.

Mr. KEIFER. The gentleman from Illinois [Mr. SPRINGER] made the statement—which I concurred in, and we then proceeded to vote—that we were voting as usual on a single proposition.

Mr. MANNING. I made the inquiry, and the Chair answered that the vote was on both resolutions.

Mr. KEIFER. I did not hear the gentleman make that inquiry.

The SPEAKER *pro tempore*. The understanding of the Chair was that the vote was taken on the substitute.

Mr. TOWNSHEND, of Illinois. And it was so stated by the Chair.

Mr. KEIFER. Which was the first resolution of the minority as a substitute for the first resolution of the majority.

The SPEAKER *pro tempore*. The Chair did not so understand it.

Mr. SPRINGER. There were two questions before the House: one was whether the sitting member was entitled to a seat, which was embraced in the vote just taken, and the other whether the contestant was entitled to the seat.

Mr. SPEER. I call for the regular order.

Mr. KEIFER. That is what we are trying to find out.

Mr. SPEER. This talk is not the regular order.

The SPEAKER *pro tempore*. The Chair desires to state that it is usual in cases of this sort to vote upon the minority proposition as an entire proposition when it is offered as a substitute for the proposition of the majority of the report.

Mr. KEIFER. My understanding is just the reverse.

The SPEAKER *pro tempore*. Where a demand is made for a division of the question, that is ordered where the question is divisible. But the Chair did not understand that such division was insisted upon in this case by the gentleman from Ohio, [Mr. KEIFER.]

Mr. KEIFER. The notes of the Reporter will show exactly that thing; that after the statement was made by the gentleman from Illinois [Mr. SPRINGER] I said that I understood it as he did; and that we would take the vote upon one of the propositions of the minority report.

Mr. REAGAN. When the question was raised the Chair caused the entire substitute offered by the minority to be read, and the House voted upon the understanding that the whole substitute was before the House to be voted on.

The SPEAKER *pro tempore*. The Chair has no difficulty in recalling what was said at the time. If the gentleman from Ohio [Mr. KEIFER] desires that the minutes of the Reporter be referred to——

Mr. KEIFER. Allow me to make the suggestion that we now take a vote on the first resolution reported by the majority of the committee.

Mr. BLACKBURN. Let the Clerk report the first resolution of the majority.

Mr. KEIFER. That is right; there are two resolutions.

The Clerk read the first resolution, as follows:

*Resolved*, That Joseph J. Martin was not elected, and is not entitled to a seat in this House as a member of the Forty-sixth Congress, from the first congressional district of North Carolina.

Mr. BLACKBURN. Now, I make the point of order, and submit it to the Chair for decision, that that is the very question upon which this House has just voted; or rather the converse of the proposition upon which the yeas and nays have just been called is found in the first resolution of the majority report. That converse proposition was submitted by the minority and voted upon and rejected by the House and is not now before this House to be voted on.

Mr. KEIFER. If gentlemen on the other side will agree to that proposition of the gentleman from Kentucky, [Mr. BLACKBURN,] we will gladly accept it.

Mr. BLACKBURN. We will do it.

Mr. KEIFER. Very well; let it be understood, and we will never vote on this resolution.

Mr. BLACKBURN. We have voted on the converse of this proposition and voted it down.

Mr. KEIFER. Very well; now let your side agree to what you say.

Mr. BLACKBURN. Which voting down was an affirmation of the resolution reported by the majority.

Mr. KEIFER. I want to take the gentleman at his word.

Mr. BLACKBURN. I trust the gentleman will do so and stand by it.

Mr. KEIFER. I do, and I agree that everybody on this side of the House will stand by it forever.

Mr. BLACKBURN. Then it is agreed that we have voted upon the converse of the proposition stated in the first resolution of the majority of the committee, and have voted it down.

Mr. KEIFER. Do not make any argument about it; but let your point of order be sustained.

The SPEAKER *pro tempore*. The Chair thinks that the vote now recurs upon the resolutions reported by the majority of the Committee on Elections; that is what is now properly before the House to be voted upon. The gentleman from Michigan [Mr. CONGER] asks for a division, and therefore the first vote will be upon the first resolution reported by the majority of the committee.

Mr. KEIFER. Then I understand the Speaker to overrule the point of order of the gentleman from Kentucky.

Mr. BLACKBURN. Understand what?

Mr. KEIFER. I understand the Speaker to overrule your point of order.

The SPEAKER *pro tempore*. The Chair has stated what he thought to be the parliamentary usage in such cases.

Mr. CALKINS. Let us have the ruling of the Chair upon the point of order made by the gentleman from Kentucky, [Mr. BLACKBURN.]

The SPEAKER *pro tempore*. The Chair has already ruled upon the question.

Mr. BLACKBURN. What is the ruling of the Chair?

The SPEAKER *pro tempore*. The Chair rules that the resolutions reported by the majority of the Committee on Elections are now before the House to be voted upon, and that the first resolution so reported by the majority of the committee will be first voted on.

Mr. BLACKBURN. Does the Chair rule that the resolution just reported by the Clerk, the first resolution of the majority of the committee, has not been determined by a vote of the House?

The SPEAKER *pro tempore*. The Chair rules that, the substitute offered by the gentleman from Massachusetts [Mr. FIELD] having been voted down, the vote now recurs upon the original proposition reported by the majority of the Committee on Elections.

Mr. BLACKBURN. As a whole or in division?

The SPEAKER *pro tempore*. The substitute was rejected as a whole; and now the vote recurs upon the original proposition reported by the majority of the Committee on Elections.

Mr. BLACKBURN. Are we to vote upon the first resolution by itself?

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Kentucky [Mr. BLACKBURN] that the first vote will be upon the resolution which has just been reported by the Clerk; the first of the two resolutions reported by the majority of the Committee on Elections.

Mr. BLACKBURN. Then upon that we are to have the same vote we had before.

Mr. KEIFER. Let it be distinctly understood that we are now to vote on the first resolution reported by the majority of the Committee on Elections.

The SPEAKER *pro tempore*. That is the vote to be now taken.

Mr. KEIFER. And I call for the yeas and nays on that vote.

The yeas and nays were ordered.

The question was taken; and there were—yeas 117, nays 106, not voting 69; as follows:

YEAS—117.

| | | | |
|---|---|---|---|
| Acklen, | Cox, | King, | Sawyer, |
| Aiken, | Cravens, | Kitchin, | Scales, |
| Atherton, | Culberson, | Knott, | Shelley, |
| Atkins, | Davidson, | Ladd, | Simonton, |
| Bachman, | Davis, Joseph J. | Le Fevre, | Singleton, J. W. |
| Beale, | Davis, Lowndes H. | Manning, | Slemons, |
| Beltzhoover, | Dibrell, | Martin, Benj. F. | Smith, William E. |
| Berry, | Dunn, | McKenzie, | Speer, |
| Bicknell, | Elam, | McMahon, | Springer, |
| Blackburn, | Ellis, | McMillin, | Steele, |
| Bland, | Finley, | Mills, | Stevenson, |
| Bliss, | Forney, | Money, | Talbott, |
| Blount, | Frost, | Morrison, | Taylor, Robert L. |
| Bouck, | Geddes, | Muldrow, | Thompson, P. B. |
| Bragg, | Goode, | Muller, | Tillman, |
| Bright, | Gunter, | Myers, | Townshend, R. W. |
| Buckner, | Hammond, N. J. | New, | Tucker, |
| Caldwell, | Hatch, | Nicholls, | Turner, Oscar |
| Carlisle, | Henkle, | O'Connor, | Turner, Thomas |
| Chalmers, | Henry, | Persons, | Vance, |
| Clardy, | Herbert, | Phelps, | Waddill, |
| Clark, John B. | Herndon, | Philips, | Wellborn, |
| Clements, | Hill, | Phister, | Wells, |
| Clymer, | Hooker, | Poehler, | Whiteaker, |
| Cobb, | Hostetler, | Reagan, | Willis, |
| Coffroth, | House, | Richardson, J. S. | Wilson, |
| Colerick, | Hunton, | Richmond, | Wise. |
| Converse, | Hurd, | Robertson, | |
| Cook, | Kenna, | Ryon, John W. | |
| Covert, | Kimmel, | Samford, | |

NAYS—106.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | De La Matyr, | Jorgensen, | Robinson, |
| Aldrich, William | Dunnell, | Joyce, | Russell, W. A. |
| Anderson, | Dwight, | Keifer, | Shallenberger, |
| Baker, | Errett, | Lapham, | Sherwin, |
| Ballou, | Felton, | Lindsey, | Smith, A. Herr |
| Barber, | Ferdon, | Lowe, | Stone, |
| Bayne, | Field, | Mason, | Taylor, Ezra B. |
| Bingham, | Fisher, | McCoid, | Thomas, |
| Bisbee, | Forsythe, | McCook, | Thompson, W. G. |
| Bowman, | Fort, | McGowan, | Townsend, Amos |
| Boyd, | Frye, | McKinley, | Tyler, |
| Brewer, | Gillette, | Miles, | Updegraff, J. T. |
| Briggs, | Godshalk, | Mitchell, | Updegraff, Thomas |
| Browne, | Hall, | Monroe, | Urner, |
| Burrows, | Hammond, John | Murch, | Valentine, |
| Butterworth, | Harris, Benj. W. | Neal, | Van Aernam, |
| Calkins, | Haskell, | Newberry, | Van Voorhis, |
| Cannon, | Hawk, | Osmer, | Voorhis, |
| Carpenter, | Hawley, | Overton, | Wait, |
| Chittenden, | Hayes, | Pacheco, | Washburn, |
| Claflin, | Hazelton, | Pound, | Weaver, |
| Conger, | Heilman, | Prescott, | Wilber, |
| Cowgill, | Henderson, | Price, | Willits, |
| Daggett, | Hiscock, | Ray, | Yocum, |
| Davis, George R. | Horr, | Reed, | Young, Thomas L. |
| Davis, Horace | Humphrey, | Rice, | |
| Deering, | Jones, | Richardson, D. P. | |

NOT VOTING—69.

| | | | |
|---|---|---|---|
| Armfield, | Ford, | McLane, | Smith, Hezekiah B. |
| Bailey, | Gibson, | Miller, | Sparks, |
| Barlow, | Harmer, | Morse, | Starin, |
| Belford, | Harris, John T. | Morton, | Stephens, |
| Blake, | Houk, | Norcross, | Upson, |
| Brigham, | Hubbell, | O'Brien, | Ward, |
| Cabell, | Hutchins, | O'Neill, | Warner, |
| Camp, | James, | O'Reilly, | White, |
| Caswell, | Johnston, | Orth, | Whitthorne, |
| Clark, Alvah A. | Kelley, | Page, | Williams, C. G. |
| Crapo, | Ketcham, | Robeson, | Williams, Thomas |
| Crowley, | Killinger, | Ross, | Wood, Fernando |
| Deuster, | Klotz, | Rothwell, | Wood, Walter A. |
| Dick, | Loring, | Russell, Daniel L. | Wright, |
| Dickey, | Lounsbery, | Ryan, Thomas | Young, Casey. |
| Einstein, | Marsh, | Sapp, | |
| Ervin, | Martin, Edward L. | Scoville, | |
| Ewing, | Martin, Joseph J. | Singleton, O. R. | |

So the resolution was adopted.

The following pair was announced:

Mr. MONEY with Mr. JOYCE, for the remainder of the day.

Mr. SPEER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. As the decision of the Chair upon the point on which he was called to rule a few moments ago appears to have been called in question by some gentlemen, he desires to incorporate in the proceedings the action of the House and the decision of the Speaker upon a similar case which arose in the Forty-fifth Congress.

MARCH 27, 1878.

Mr. SPRINGER called up, and the House proceeded to the consideration of, the report of the Committee on Elections on the contested-election case of Dean *vs.* Field, from the third congressional district of the State of Massachusetts; the pending question being on the adoption of the following resolutions accompanying the said report, namely:

"*Resolved*, That Walbridge A. Field is not entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts.

"*Resolved*, That Benjamin Dean is entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts."

Pending which,

After debate,

Mr. SPRINGER demanded the previous question; which was seconded and the main question ordered;

When,

Mr. HISCOCK, by unanimous consent on behalf of the minority of the Committee of Elections, submitted the following resolutions as an amendment in the nature of a substitute, namely:

"*Resolved*, That Walbridge A. Field is entitled to a seat in this House as a Representative in the Forty-fifth Congress from the third district of Massachusetts.

"*Resolved* That Benjamin Dean is not entitled to a seat in this House as a Representative in the Forty-fifth Congress from the third congressional district of Massachusetts."

And the question being put, namely:

Will the House agree to the said amendment?

It was decided in the negative—yeas 120, nays 120, not voting 52.

* * * * * * * *

The Speaker thereupon voted in the negative and the division being equal namely, yeas 120, nays 120, the amendment was rejected.

The question then recurring on the resolutions reported from the Committee on Elections;

Pending which,

On motion of Mr. CONGER, (at five o'clock and fifty-five minutes p. m.,) the House adjourned.

MARCH 28, 1878.

The regular order being demanded, the Speaker announced as the regular order of business the report of the Committee of Elections on the contested-election case of Dean *vs.* Field, from the third congressional district of Massachusetts, the pending question being on the adoption of the following resolutions accompanying the said report, namely:

"*Resolved*, That Walbridge A. Field is not entitled to a seat in this House as a Representative from the third congressional district of the State of Massachusetts.

"*Resolved*, That Benjamin Dean is entitled to a seat in this House as the Representative from the third congressional district of the State of Massachusetts."

Pending which,

Mr. SPRINGER (at twelve o'clock and seventeen minutes p. m.) moved that the House adjourn,

And the question being put,

It was decided in the negative—yeas 4, nays 232, not voting 55.

* * * * * * * *

The question then recurring on the adoption of the said resolutions,

And being put, namely:

Will the House agree to the same?

It was decided in the affirmative—yeas 124, nays 123, not voting 45.

* * * * * * * *

So the said resolutions were adopted.

Mr. SPRINGER moved to reconsider the vote last taken, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

The question then recurred on the second resolution reported by the majority of the Committee on Elections; which was read, as follows:

*Resolved*, That Jesse J. Yeates was elected, and is entitled to a seat in this House as a member of the Forty-sixth Congress, from the first congressional district of North Carolina.

Mr. KEIFER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 115, nays 103, not voting 74; as follows:

YEAS—115.

| | | | |
|---|---|---|---|
| Acklen, | Cox, | Kimmel, | Samford, |
| Aiken, | Cravens, | King, | Sawyer, |
| Atherton, | Culberson, | Kitchin, | Scales, |
| Atkins, | Davidson, | Knott, | Shelley, |
| Bachman, | Davis, Joseph J. | Ladd, | Simonton, |
| Beale, | Davis, Lowndes H. | Le Fevre, | Singleton, J. W. |
| Beltzhoover, | Dibrell, | Manning, | Slemons, |
| Berry, | Dunn, | Martin, Benj. F. | Smith, William E. |
| Bicknell, | Elam, | McKenzie, | Speer, |
| Blackburn, | Ellis, | McMahon, | Springer, |
| Bland, | Finley, | McMillin, | Steele, |
| Bliss, | Forney, | Mills, | Stevenson, |
| Blount, | Frost, | Morrison, | Talbott, |
| Bouck, | Geddes, | Muldrow, | Taylor, Robert L. |
| Bragg, | Goode, | Muller, | Thompson, P. B. |
| Bright, | Gunter, | Myers, | Tillman, |
| Buckner, | Hammond, N. J. | New, | Townshend, R. W. |
| Caldwell, | Hatch, | Nicholls, | Tucker, |
| Carlisle, | Henkle, | O'Connor, | Turner, Oscar |
| Clardy, | Henry, | Persons, | Turner, Thomas |
| Clark, John B. | Herbert, | Phelps, | Vance, |
| Clements, | Herndon, | Philips, | Waddill, |
| Clymer, | Hill, | Phister, | Wellborn, |
| Cobb, | Hooker, | Poehler, | Wells, |
| Coffroth, | Hostetler, | Reagan, | Whiteaker, |
| Colerick, | House, | Richardson, J. S. | Willis, |
| Converse, | Hunton, | Richmond, | Wilson, |
| Cook, | Hurd, | Robertson, | Wise. |
| Covert, | Kenna, | Ryon, John W. | |

NAYS—103.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Boyd, | Chittenden, | Dunnell, |
| Aldrich, William | Brewer, | Claflin, | Dwight, |
| Anderson, | Briggs, | Conger, | Errett, |
| Barber, | Browne, | Cowgill, | Ferdon, |
| Ballou, | Burrows, | Daggett, | Field, |
| Bayne, | Butterworth, | Davis, George R. | Fisher, |
| Bingham, | Calkins, | Davis, Horace | Forsythe, |
| Bisbee, | Cannon, | Deering, | Fort, |
| Bowman, | Carpenter, | De La Matyr, | Frye, |

| | | | |
|---|---|---|---|
| Godshalk, | Lapham, | Page, | Thompson, W. G. |
| Hall, | Lindsey, | Pound, | Townsend, Amos |
| Hammond, John | Lowe, | Prescott, | Tyler, |
| Harris, Benj. W. | Mason, | Price, | Updegraff, J. T. |
| Haskell, | McCoid, | Ray, | Urner, |
| Hawk, | McCook, | Reed, | Valentine, |
| Hawley, | McGowan, | Rice, | Van Aernam, |
| Hayes, | McKinley, | Richardson, D. P. | Van Voorhis, |
| Hazelton, | Miles, | Robinson, | Voorhis, |
| Heilman, | Mitchell, | Russell, Daniel L. | Wait, |
| Henderson, | Monroe, | Russell, W. A. | Washburn, |
| Hiscock, | Murch, | Shallenberger, | Weaver, |
| Horr, | Neal, | Sherwin, | Wilber, |
| Humphrey, | Newberry, | Smith, A. Herr | Willits, |
| Jones, | Osmer, | Stone, | Yocum, |
| Jorgensen, | Overton, | Taylor, Ezra B. | Young, Thomas L. |
| Keifer, | Pacheco, | Thomas, | |

NOT VOTING—74.

| | | | |
|---|---|---|---|
| Armfield, | Ewing, | Marsh, | Singleton, O. R. |
| Bailey, | Felton, | Martin, Edward L. | Smith, Hezekiah B. |
| Baker, | Ford, | Martin, Joseph J. | Sparks, |
| Barlow, | Gibson, | McLane, | Starin, |
| Belford, | Gillette, | Miller, | Stephens, |
| Blake, | Harmer, | Money, | Updegraff, Thomas |
| Brigham, | Harris, John T. | Morse, | Upson, |
| Cabell, | Houk, | Morton, | Ward, |
| Camp, | Hubbell, | Norcross, | Warner, |
| Caswell, | Hutchins, | O'Brien, | White, |
| Chalmers, | James, | O'Neill, | Whitthorne, |
| Clark, Alvah A. | Johnston, | O'Reilly, | Williams, C. G. |
| Crapo, | Joyce, | Orth, | Williams, Thomas |
| Crowley, | Kelley, | Robeson, | Wood, Fernando |
| Deuster, | Ketcham, | Ross, | Wood, Walter A. |
| Dick, | Killinger, | Rothwell, | Wright, |
| Dickey, | Klotz, | Ryan, Thomas | Young, Casey. |
| Einstein, | Loring, | Sapp, | |
| Evins, | Lounsbery, | Scoville, | |

So the resolution was agreed to.

On motion of Mr. SPEER, by unanimous consent the reading of the names was dispensed with.

The following pairs were announced from the Clerk's desk:

Mr. HAMMOND, of New York, with Mr. BLISS.

Mr. GILLETTE with Mr. CHALMERS, on this case.

Mr. WARD with Mr. EVINS.

The vote was then announced as above recorded.

Mr. SPEER moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPEER. Mr. Yeates is present, and I move he be sworn in.

Mr. YEATES presented himself in front of the Speaker's desk and was duly qualified by taking the oath prescribed by section 1757 of the Revised Statutes.

### INDEBTEDNESS OF FOREIGN GOVERNMENTS.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, in answer to the resolution of the House of January 17, 1881, asking for statement of the character and amount of the public indebtedness of foreign governments, the rates of interest, present market value, time of payment, and discount or premiums realized upon the original negotiation of the respective bonds and securities of such governments; which was referred to the Committee on Ways and Means, and ordered to be printed.

### IOWA CASES.

Mr. FIELD. I give notice that I shall call up on Monday next one of the Iowa election cases. I do not know they will give rise to debate, but members can send for the reports, as they are in print.

### NAVY APPROPRIATION BILL.

On motion of Mr. ATKINS, by unanimous consent, the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes, returned from the Senate with sundry amendments, was taken from the Speaker's table, ordered to be printed, and the Senate amendments numbered and referred to the Committee on Appropriations.

### OBELISK STEAMER.

Mr. PHILIPS. I move the House adjourn.

Mr. REAGAN. I desire to make a statement. [Cries of "Regular order!"] Only a moment. The Senate has passed a joint resolution giving an American register to the steamship bought abroad and used by Lieutenant Gorringe to bring over the Egyptian obelisk. [Cries of "Regular order!"] He purchased the ship and altered it so as to answer the purpose. The Committee on Commerce have examined the Senate proposition and agree to it. [Cries of "Regular order!"]

The SPEAKER *pro tempore*. Objection is made.

### ENCROACHMENTS OF WHITES ON INDIANS.

Mr. DE LA MATYR. I ask by unanimous consent to present the petition of 32,000 citizens of the United States, praying that such steps shall be taken as will prevent the encroachment of white settlers on Indian reservations, and that the treaties with the Indians be faithfully executed. [Cries of "Regular order!"] I want to print some remarks on it. [Cries of "Regular order!"]

Mr. VALENTINE. By what right does that come before this House? Let it go into the petition-box.

The SPEAKER *pro tempore*. Objection is made to its reception.

Mr. PHILIPS's motion was agreed to; and then (at four o'clock and forty minutes p. m.) the House adjourned.

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### PETITONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ANDERSON: The petition of C. L. Vaughan and other ex-soldiers of Jewell County, Kansas, for pensions to soldiers who were confined in Southern prisons as prisoners of war—to the Committee on Invalid Pensions.

Also, the petition of several hundred ex-soldiers and citizens of Kansas, for the passage of a law giving 160 acres of land to ex-soldiers and sailors of the Union—to the Committee on the Public Lands.

Also, two petitions of citizens of Kansas, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

By Mr. BURROWS: The petition of citizens of Michigan, of similar import—to the same committee.

By Mr. HORACE DAVIS: Resolutions of the Chamber of Commerce of San Francisco, favoring a thorough survey of the Pacific Ocean—to the Committee on Appropriations.

Also, resolutions of the Chamber of Commerce of San Francisco, asking for the construction of a revenue cutter for Alaska—to the same committee.

Also, resolutions of the Chamber of Commerce of San Francisco, asking for the distribution of the Geneva award—to the Committee on the Judiciary.

Also, resolutions of the Chamber of Commerce of San Francisco, asking for the improvement of the navigation of the Columbia River—to the Committee on Commerce.

By Mr. DEERING: The petition of citizens of Floyd County, Iowa, for legislation to regulate transportation charges on railroads—to the same committee.

Also, two petitions of citizens of Iowa, for the enactment of a law to prevent the spread of pleuro-pneumonia—to the Committee on Agriculture.

By Mr. ERRETT: Resolutions of the councils of Pittsburgh, Pennsylvania, in favor of opening streets through the United States arsenal grounds or the surrender thereof by the United States to the city—to the Committee on Military Affairs.

By Mr. HASKELL: The petition of ex-soldiers of Lawrence, Kansas, for the passage of the Geddes pension-court bill—to the Committee on Invalid Pensions.

Also, a paper relating to the establishment of a post-route from Chetopah, Kansas, to Seneca, Missouri—to the Committee on the Post-Office and Post-Roads.

By Mr. JOYCE: The petition of Henry, Johnson & Lord and others, for the repeal of certain revenue taxes on proprietary medicines—to the Committee on Ways and Means.

By Mr. McKINLEY: The petition of citizens of Ohio, for legislation on the subject of interstate commerce—to the Committee on Commerce.

Also, the petition of citizens of Ohio, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

By Mr. MORRISON: The petition of Sehlinger & Schulikegel and others, citizens of Saint Clair County, Illinois, for the removal of the tax on banks—to the Committee on Ways and Means.

By Mr. PRICE: The petition of 106 citizens of Iowa, for increased appropriations for the improvement of the Mississippi River—to the Committee on Commerce.

By Mr. J. W. SINGLETON: The petition of A. S. Meriam and others, citizens of Quincy, Illinois, for an appropriation for the improvement of the Mississippi River—to the same committee.

By Mr. SPEER: The petition of citizens of Lumpkin and Dawson Counties, Georgia, for a post-route from Auraria to Juno, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. STEPHENS: The petition of citizens of Appling, Georgia, that the post-route from Thomson to Appling be changed so as to run from Harlem, on the Georgia Railroad—to the same committee.

By Mr. AMOS TOWNSEND: The petition of the Northern Electric Light Company, to light the Capitol building and grounds with electric lights—to the Committee on Public Buildings and Grounds.

By Mr. TUCKER: The petition of T. E. Chambliss, of Virginia, for pay as a member of Congress—to the Committee on Appropriations.

By Mr. THOMAS UPDEGRAFF: The petition of citizens of Dubuque, Iowa, for a reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. VANCE: The petition of W. C. Ward, J. F. Morgan, and others, for a post-route from Coleman to Cedar Mountain, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIS: Resolutions of the Board of Trade of Louisville, Kentucky, asking an appropriation of $200,000 for the improvement of Kentucky River—to the Committee on Commerce.

By Mr. WISE: The petition of citizens of Pennsylvania, for the improvement of the Youghiogheny River—to the same committee.

## IN SENATE.

### MONDAY, *January* 31, 1881.

JOHN P. JONES, a Senator from the State of Nevada, appeared in his seat to-day.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Saturday last was read and approved.

SENATOR FROM MICHIGAN.

The VICE-PRESIDENT presented the credentials of HENRY P. BALDWIN, elected by the Legislature of Michigan a Senator from that State to fill the vacancy occasioned by the death of ZACHARIAH CHANDLER, for the term ending March 3, 1881.

The credentials were read; and the oaths prescribed by law having been administered to Mr. BALDWIN, he took his seat in the Senate.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of OMAR D. CONGER, elected by the Legislature of Michigan a Senator from that State for the term commencing March 4, 1881; which were read and ordered to be filed.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Commissioner of Patents, transmitting, in compliance with section 494 of the Revised Statutes, a report of the operations of the Patent Office for the year terminating December 31, 1880; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented concurrent resolutions of the Legislature of Kansas in relation to contagious diseases among cattle; which were read, as follows:

House concurrent resolution No. 4.

*Resolved by the house of representatives, (the senate concurring,)* That whereas the contagious pleuro-pneumonia of cattle exists in several States of the Union bordering on the Atlantic seaboard; and

Whereas it is evident that so long as unrestricted traffic in live cattle is permitted between these infected States and those not infected the live-stock interests of all sections of our country are menaced by a terrible danger; and

Whereas the state of things above indicated has resulted in the adoption of regulations by the British Government which seriously interfere with our export trade in cattle with that country, thereby entailing great damage to all cattle raisers and feeders in the United States: Therefore,

*Resolved*, That it is the imperative duty of Congress to enact such a law as shall effectually prevent the spread of this disease into States not already infected, and which shall result in its entire extermination at the earliest practicable date.

*Resolved*, That as an important preliminary step we heartily second the recommendation made by Judge Jones, of Ohio, to the President of the United States for the appointment of one or more veterinary inspectors, who shall definitely ascertain and designate the infected regions.

*Resolved*, That we recognize the bill introduced into the House of Representatives at its last session by General KEIFER, of Ohio, as embodying the essential features necessary to an intelligent and efficient supervision of contagious and infectious diseases of live stock generally on the part of the Federal Government, and that we heartily recommend its passage, with an additional provision which shall clothe the commission with authority to prescribe rules and regulations under which the live stock of any infected State, Territory, or district may be transported or taken therefrom, and under which live stock may be transported through such infected State, district, or Territory, or in their discretion to prohibit absolutely the transportation of live stock from or through such infected district when in their opinion the same shall be essential to the general safety.

*Resolved*, That the secretary of State be, and is hereby, directed to transmit to the President of the Senate and the Speaker of the House of Representatives of the United States, and to the Senators and Members of Congress of the State of Kansas, copies of the foregoing preamble and resolutions, and request that the same be submitted to the Congress of the United States, and our Senators and Members of Congress be requested to secure the legislation suggested.

*State of Kansas, office of secretary of State, ss:*

I, James Smith, secretary of State of the State of Kansas, do hereby certify that the foregoing is a true and correct copy of the original resolution on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal. Done at Topeka this 27th day of January, A. D. 1881.

[SEAL.] JAMES SMITH,
*Secretary of State.*

The resolutions were ordered to lie on the table.

Mr. PLUMB presented the memorial of F. F. Osborn and several others, citizens of Bennington, Ottawa County, Kansas, and the memorial of J. C. Dale and several others, citizens of Bennington, Ottawa County, Kansas, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims and the amendments thereto; which were ordered to lie on the table.

He also presented additional papers to accompany the bill (S. No. 1528) granting an increase of pension to Allen Buckner; which were referred to the Committee on Pensions.

Mr. RANDOLPH presented the petition of the Board of Trade of the city of Paterson, New Jersey, praying for the passage of the Reagan bill to regulate interstate commerce; which was referred to the Committee on Commerce.

Mr. KERNAN presented resolutions of the Legislature of New York, in favor of the enactment by Congress during the present session of such a law as shall effectually prevent the spread of contagious diseases among cattle; which were ordered to lie on the table.

Mr. FARLEY presented the memorial of the mayor and common council of the city of Eureka, Humboldt County, California, praying for an appropriation for the improvement of the harbor of Humboldt Bay in that State; which was referred to the Committee on Commerce.

Mr. BOOTH presented the petition of the First Battalion of Mountaineers (California) Volunteers, praying that the benefits of the bounty act of July 28, 1866, be extended to them; which was referred to the Committee on Military Affairs.

Mr. McDONALD presented the petition of Mrs. O. M. Hechtman and 6 others, praying for an investigation into the disposition of certain lands in the State of Colorado claimed to be mineral lands; which was referred to the Committee on Public Lands.

Mr. LOGAN presented the memorial of J. M. Vanderhoof and several others, citizens of Darien, Wisconsin, the memorial of Abner Van Dyke and several others, citizens of Delavan, Wisconsin, and the memorial of J. C. Russel and several others, citizens of Altamont, Illinois, all surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which were referred to the Committee on Pensions.

Mr. CALL presented the memorial of George Causey and several others, citizens of Florida, protesting against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was referred to the Committee on Pensions.

Mr. WHYTE presented the petition of Ross Campbell & Co. and other firms, of Baltimore, Maryland, praying for the early enactment of a national bankrupt law; which was referred to the Committee on the Judiciary.

Mr. INGALLS. I present two remonstrances of late soldiers of the war of the rebellion, residing in Kansas, against the passage of Senate bill No. 496. These remonstrances emanate from the pension and claim agents of this city, and I am satisfied do not in any sense represent the convictions of the soldiers of that State. I move that they lie on the table.

The motion was agreed to.

Mr. McMILLAN presented the petition of John Jones, of Saint Paul, Minnesota, late ordnance-sergeant United States Army, and captain of the Third Minnesota Battery, asking that the President of the United States may be authorized to place him on the retired list, with rank and pay or otherwise; which was referred to the Committee on Military Affairs.

He also presented the memorial of Emory Dibble and several others, citizens of Dundas, Minnesota, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was referred to the Committee on Pensions.

Mr. VOORHEES. I present the petition of a colored man named Sampson Goliah, a citizen of Indianapolis, and inasmuch as it is accompanied by a cordial recommendation signed by the governor of the State, the lieutenant-governor, the speaker of the house of representatives, the mayor of the city of Indianapolis, and other officials there, I ask the indulgence of the Senate to have it read.

The VICE-PRESIDENT. The Chair hears no objection, and the paper will be read.

The Chief Clerk read as follows:

*To the honorable members of the Senate and*
*House of Representatives of the Congress of the United States:*

Your petitioner, Sampson Goliah, now a citizen of Marion County, in the State of Indiana, and formerly a soldier of Company A, Fifty-fifth Regiment of Massachusetts Volunteers, (colored troops,) war of 1861, would represent that during his term of service a charge of mutiny was preferred against him, and he was hurriedly tried by a court-martial and sentenced to imprisonment in Fort Clinch, State of Florida, at hard labor. That, being ignorant as to the charges or proceedings, he made no defense and had no assistance.

At the muster-out of his regiment he was dishonorably discharged without pay, bounty, or allowances. He made an application in due form to the Adjutant-General of the Army of the United States for a review of the finding and change of the record, and placed all his proofs on file, but was informed that his application came too late, and that he must seek his relief by resolution of Congress. He therefore asks that the proofs he has on file may be examined by the proper committee and that the finding of the court-martial be set aside and that his disabilities be removed, the rolls and records amended, as he believes in justice should be done.

Respectfully submitted for your action. I had faithfully served as a soldier of my company and regiment for eighteen months prior to this charge and trial, and had during that time never received one dollar on my pay or bounty. I respectfully refer to the depositions and other proofs on file in the office of the Adjutant-General United States Army at Washington City, and pray that attention will be given to the application and that justice may be done in your decision.

SAMPSON GOLIAH.

Mr. VOORHEES presented a statement of the traffic on the Wabash River between Covington and Merom, Indiana, together with a letter on that subject from H. Hulman, of Terre Haute, Indiana, to accompany the bill (S. No. 2110) appropriating $75,000 for the improvement of the Wabash River; which were referred to the Committee on Commerce.

Mr. BALDWIN presented the memorial of Charles Root & Co. and several other firms of Detroit, Michigan, remonstrating against the passage of the proposed bankrupt law; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. BLAIR, from the Committee on Pensions, to whom was referred the bill (S. No. 1763) granting a pension to Frank Kitzmiller, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. ROLLINS, from the Committee on the District of Columbia,

to whom was referred the memorial of the Catholic clergy of the District of Columbia asking that certain taxes assessed upon parsonages in the District be remitted, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 2078) to remit certain taxes, assessments, and penalties upon parsonage property in the District of Columbia, and for other purposes, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

MILITARY ACADEMY.

Mr. WHYTE, from the Committee on Printing, to whom was referred the resolution of the Senate of the 25th instant, instructing that committee to inquire into the expediency of reprinting for the use of the Senate the report of the joint commission appointed under the eighth section of the act of Congress of June 21, 1860, to examine into the organization, system of discipline, and course of instruction of the United States Military Academy at West Point, submitted December 13, 1860, reported the following concurrent resolution; which was considered by unanimous consent, and agreed to:

*Resolved by the Senate, (the House of Representatives concurring,)* That there be printed 1,000 copies of the report of the joint commission appointed under the eighth section of the act of Congress of June 21, 1860, to examine into the organization, system of discipline, and course of instruction of the United States Military Academy at West Point, submitted December 13, 1860.

HAYDEN'S ATLAS OF COLORADO.

Mr. ANTHONY. The Committee on Printing, to which was referred a concurrent resolution from the House of Representatives to print 3,000 copies of the Atlas of Colorado by F. V. Hayden, have instructed me to report it back with amendments and recommend its passage.

By unanimous consent, the Senate proceeded to consider the resolution.

The first amendment of the Committee on Printing was, to insert after the word "by," in line 1, the words "the Senate and."

The amendment was agreed to.

The next amendment was, in line 1, after the word "Representatives," to insert "of the United States of America in Congress assembled."

The amendment was agreed to.

The next amendment was, in line 7, after the word "copy," to add:

*And provided also,* That the necessary corrections be made in the same up to date; and the sum of $10,500 is he eby appropriated therefor.

The amendment was agreed to.

Mr. THURMAN. I should be glad to have that resolution read again, with the amendments.

The VICE-PRESIDENT. It will be read.

The Chief Clerk read as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Public Printer be directed to furnish 3,000 copies of the Atlas of Colorado, by F. V. Hayden: *Provided,* The same can be supplied in sheets in every way equal in style and quality to the edition published by order of the Department of the Interior, for a sum not exceeding $3.50 per copy: *And provided also,* That the necessary corrections be made in the same up to date. And the sum of $10,500 is hereby appropriated therefor; 800 copies of which shall be for the use of the Senate, 1,515 for the use of the House of Representatives, and 685 for the use of the Department of the Interior.

Mr. THURMAN. Is that resolution reported from the Committee on Printing?

The VICE-PRESIDENT. It is reported back with amendments putting it in the form just read.

Mr. THURMAN. If we print 500,000 copies of Hayden's Survey, there will be a demand for them, and then there will be a demand for 500,000 copies more. If I send a copy into a township in Ohio, about two-thirds of the townships write to me within ten days or two weeks to send them copies.

Mr. ANTHONY. That objection applies to the printing of any document whatever that is good for anything.

Mr. KERNAN. Allow me to make a suggestion by way of inquiry. Could there not be an amendment of the law so that where a work of this kind is printed, the ordinary number, there should be a provision by which the Interior Department should be authorized to print and sell at cost such numbers as should be asked for? The people want documents of this kind, and say they will be very happy to have them. I think the law might be amended so as to allow the Secretary of the Interior to print such works and sell them at cost.

Mr. ANTHONY. That is already provided for by general law. Any person can procure any document from the Public Printer by sending the estimated cost of it in advance of publication.

Mr. KERNAN. That is not generally so understood. I should be very glad to have it go out that the people can do so.

Mr. HOAR. Mr. President, there is in my judgment but one solution to this business, and that is to distribute these documents to public libraries when they attain a certain number of volumes, sufficiently large to insure their perpetuity and their proper care. Then sets of books of the same class would go to the same place. The little distribution which is put in the power of Senators and Representatives does no good to the public. The Senators or Representatives who like to pay a compliment to a person by sending him a handsome book avail themselves so far as the number at their disposal goes of the books that are authorized to be printed, and they are so distributed that in nine cases out of ten the books do not go to persons who care anything about them as readers and investigators of the particular subject to which they relate.

In the district which I represented in the other House when I left it four years ago, there were twenty-five large and valuable public libraries which are as certain as any institution of the country is certain to be preserved forever and to remain; and in those public libraries the books sent will stay, and persons will know where to go. I wish the Committee on Printing would bring in a law providing that whenever anywhere in the country a library which is open to the free use of the public has attained a certain number, say four or five thousand volumes, a copy of every document printed by public authority shall be sent gratis. It would encourage the formation of those libraries, it would be a very important promoter of the education of the people, and it would plant in every neighborhood where there is any considerable population a library which would be an educating influence to the people. I think the distribution as it is made now is an utter waste or nearly an utter waste of the expenditure which it requires.

Mr. TELLER. The distribution of these maps will not be a waste by any means. Not all those that are allowed to Senators but many of them probably will find their way into public libraries. Some of them will find their way into the hands of the people. The Senator from Ohio has expressed the general opinion of the country upon this publication. It is one of the most valuable that has ever been published. It is a mere trifle that is demanded. It seems to me the Government has published very few of these maps, and I think this resolution ought to pass. We have not as many libraries in Colorado as they have in the district represented formerly by the Senator from Massachusetts, but we have endeavored to procure a set of these maps for every library, and a large number of the school districts have been furnished with them wherever we could fix them up either by buying them or by applications to Senators and Members who do not care for them, and they have gone into that country. The demand for them comes from nearly every institution of learning in the United States. The number proposed is small; it ought to be much larger.

I hope there will be nothing tacked on to this resolution which will make it general, and thereby defeat it; but let this pass, and if there is any error in the system let us remedy it afterward.

Mr. THURMAN. I think, Mr. President, great consideration is due to the remarks made by the Senator from Massachusetts. The right places to send these things to are libraries. I have always sent mine to libraries as far as I could, but I could not always resist the importunities of some personal friend to whom I was under obligation, or some scientist or other. We had a notable instance of this in the Medical and Surgical History of the War, the most prominent publication I think the Government ever made. I sent the few copies I got to medical colleges, and I had a multitude of applications all around from medical gentlemen asking for the book, and presently Congress had a new edition of it published. Now here is a new edition of these surveys or atlases as they are called. There will be no end to this book-making by Congress unless we shall say firmly at once there shall be a stop put to it. If I am not mistaken—and if I am the chairman of the Committee on Printing will correct me—almost every valuable publication by Congress can be obtained by purchase from the Printing Office at the cost of printing and some small percentage added to that. If that is the case, what is the necessity for our making ourselves a great distributing reservoir for all manner of publications?

Mr. ANTHONY. Mr. President, this is an old question that has been discussed in the Senate every session. The Committee on Printing have constantly endeavored to institute a system of publishing documents for sale instead of for gratuitous distribution, and have been constantly voted down by the Senate, notably in the instance of the agricultural report, where the Senate, against the report of the committee, have ordered nearly a thousand copies for every Senator. Now, this survey has been made at great expense, but a small edition of the atlas has been printed; to withhold from the public this information which has been obtained at so great expense, on account of the small cost of publication, is to build a house and then not shingle it. If we collect this information we should distribute it.

Mr. COCKRELL. I noticed the remark of the Senator from New York in regard to the right to purchase documents and the reply of the Senator from Rhode Island. As I understand the law, any person can purchase at the Government Printing Office any publications of the Government at cost and 10 per cent. added, provided he files the application there before the publication of the document. That is simply equivalent to no purchase at all, because the people are not advised of these publications and of their merit until after they are issued and are seen. I would suggest to the committee that they make some arrangement by which parties can purchase at cost these publications after they are ascertained to be valuable. In a case of this kind, let one hundred or two hundred or five hundred copies be in possession of the Department for sale alone; but simply to authorize persons to buy publications provided they file their application before they are produced and before the people know what they are worth or what they are is merely no privilege at all.

Mr. ANTHONY. The point of the Senator from Missouri is very

well taken. The committee have repeatedly reported resolutions for publishing documents for sale, and have sometimes succeeded in persuading the Senate to allow five hundred or a thousand copies—never more than that, I think—and the last time it was the report of the Commissioner of Fisheries, we got through an allowance of five hundred copies for sale; that is all we could get through. I think the suggestion of the Senator from Missouri is perfectly correct. He agrees entirely with the committee, and as the committee have repeatedly reported here and been voted down by the Senate——

Mr. COCKRELL. I trust the committee will try it again, and I hope they will not be voted down.

Mr. TELLER. The Government of the United States directly has never published any of these maps. After going to this great expense no appropriation was made, and Hayden's Geological Survey, having a little money that was in hand for contingent expenses, proceeded to publish a few of these maps, so that really the Government has never directly published them; and they ought to be published.

The VICE-PRESIDENT. The question is on the resolution as amended.

The resolution, as amended, was agreed to.

BILLS INTRODUCED.

Mr. BURNSIDE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2127) to aid in the protection of the public records and property against loss and damage by fire; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. KERNAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2128) to amend section 699 of the Revised Statutes, relating to writs of error and appeals; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. ALLISON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2129) for the relief of certain homestead and pre-emption settlers; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WALLACE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2130) for the extension of the area of the Mint at Philadelphia, Pennsylvania, and for greater security to the same; which was read twice by its title, and referred to the Committee on Finance.

Mr. McPHERSON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2131) appropriating money to be used under the direction of the Navy Department to prosecute a search for the steamer Jeannette of the Arctic exploring expedition; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. VOORHEES asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2132) providing pensions for the survivors of the battle of Tippecanoe and for the widows of soldiers therein engaged who are dead; which was read twice by its title.

Mr. VOORHEES. If the Senate will permit me, I desire to call the attention of the Committee on Pensions to the fact that by the construction of the Pension Office the survivors of the battle of Tippecanoe are not included under the act of March 3, 1879, granting pensions to the survivors of the war of 1812. I should be glad if the committee would give attention to the bill which I have introduced. I move its reference to the committee.

The motion was agreed to.

Mr. VOORHEES asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2133) appropriating $75,000 for the improvement of the Kankakee River from the town of Momence, in the State of Illinois, to a point near English Lake, in La Porte County, in the State of Indiana; which was read twice by its title, and referred to the Committee on Commerce.

Mr. VOORHEES. I present a letter to accompany that bill from Hon. Thomas J. Wood, a senator from the counties of Lake and Porter, in the Indiana Legislature, in relation to the improvement of the Kankakee River. I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. INGALLS (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2134) to amend an act entitled "An act to incorporate The Masonic Mutual Relief Association of the District of Columbia as amended March 3, 1875;" which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PENDLETON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2135) for the relief of the heirs of Edward M. Shield; which was read twice by its title, and referred to the Committee on Claims.

THE COLLAMER STATUE.

Mr. MORRILL submitted the following concurrent resolution; which was read:

*Resolved by the Senate, (the House of Representatives concurring.)* That the thanks of this Congress be presented to the governor, and through him to the people of the State of Vermont, for the statue by Preston Powers of Jacob Collamer as an eminent American statesman; that this work of art is accepted and assigned a place in the National Statuary Hall set apart by Congress for the statues of distinguished citizens from the several States; and that a copy of this resolution, signed by the President of the Senate and the Speaker of the House of Representatives, be transmitted to the governor of the State of Vermont.

Mr. MORRILL. Mr. President, the number of statues, of men distinguished in the past history of our country, already placed in the National Statuary Hall by their respective States, indicates something of the priceless value which will belong to the assemblage there when all the States shall be fully represented. I am glad to be informed by several Senators of States which have not taken final action upon this subject, that they have been embarrassed most by their riches, or, by the number of names regarded as worthy of the rare distinction of being handed down to future times as the picked men of their day and generation, and that considerable additions to the hall may ere long be expected.

In making her selection of names of persons whose memory was to be perpetuated in marble, Vermont selected one from the period of the American Revolution, the historic hero, Ethan Allen, and the other from so late a date that many here may remember the person of Senator Collamer, and will hardly need details as to his services or character. The people of Vermont had confidence in his eminent ability, in the untarnished purity of his life, and they trusted him from his youth to long past "three score and ten" in the most important public posts within their gift, in all of which he acquitted himself with such distinction as to steadily exalt his reputation. At the period of his death he stood forth as the foremost citizen of the State, in ability, moral excellence, and national distinction.

Men in official life here come and go rapidly, and few are so fortunate as to earn titles to enduring fame. Present duties are too engrossing to allow much careful study of those who figured on the stage as our predecessors. Although the country may often profit by their works, only in rare instances are the names on the tombstones of the authors retouched by any devotion akin to that of Old Mortality. While this is generally true, it is gratifying to meet with men from all parts of our country whose memories do not wait to be refreshed, and whose knowledge and judgment awards to Collamer a high place among American statesmen.

His earthly career ended November 9, 1865, in his seventy-fifth year. The respect and esteem in which he was held by his brother Senators appears to have been accurately measured in their heartfelt obituary tributes. If a few words then recorded shall now be reproduced, I know they will be pardoned because of their truth and brevity.

Senator Fessenden, unequaled as a debater in the Senate, and ever careful in the use of language, said:

> Among the distinguished men who, during the past ten years, have occupied these seats, I regarded Senator Collamer as having no superior.

Senator Dixon did not hesitate to call him "The Nestor of the American Senate."

Senator Sumner was more elaborate but equally unstinted. He said:

> Since Henry Clay left this Chamber by the gate of death, no Senator has passed that way, crowned with the same honorable years, as Mr. Collamer; nor has any Senator passed that way whose departure created such a blank in the public councils, unless we except Mr. Douglas.

And, finally, he added:

> Call him then, if you please, the Green Mountain Socrates.

Senator Harris declared that it might be said of him as it was of John Quincy Adams:

> No excesses of a profligate youth, no vices of middle life, have shattered and hurried to a premature dissolution the body in which his incorruptible spirit resided.

Such was the character, drawn by those who knew him best, of Jacob Collamer. The voices then heard of these four distinguished Senators are now silent, all having soon joined the company of the friend they so tenderly portrayed; but we still seem to hear the lingering echo of words from those who once commanded so much respect of the country, and so much the esteem of their associates.

Authority was first given by the Vermont Legislature to employ Hiram Powers to furnish the Collamer statue; but this highly gifted artist having died soon after, the same authority was then granted to employ his son, Preston Powers, who in portrait statuary has achieved an excellent reputation, and by many is held to be not inferior in that line even to his father. The statue presented has been wrought out of a remarkably fine specimen of Carrara marble, and I do not doubt that the statue itself will be accepted, not only as a spirited and accurate likeness, but as a creditable work of art. Modern costume is the terror of sculptors; but, in this case, it appears to have been handled with as much skill as is ever obtainable, and the statue as a whole may be said to be both dignified and pleasing. No one who ever saw Mr. Collamer at the bar, on the bench, or in the Senate, can fail to recognize its life-like truthfulness.

This statue is presented by the State of Vermont, of a citizen she has honored and by whom she has been honored in return, whose character for solidity and purity of texture is happily typified in the marble representation, and it is presented with faith that it may be received as a worthy contribution to stand among the eminent representatives of the great sisterhood of States which are to ultimately grace Statuary Hall.

Mr. ANTHONY. Mr. President, I rise with pleasure to second this resolution. I believe that my honored friend, the senior Senator from Maine, and myself are the only present members of this body who served with Mr. Collamer; but his character and his services are among the cherished traditions of the Senate. He brought to it a sound

judgment, high ability, ripe experience in various departments of public life, and a well-earned reputation for stainless integrity. He at once assumed a commanding postion, and took a leading part in its deliberations; and when I entered this Chamber, he was, as the late Senator from Connecticut well said, the Nestor of the Senate. There was no one here whose counsels carried greater weight, whose advice was received with greater respect. Mr. Collamer was cast in the antique mould of truth and manliness. He was a type of the region from which he sprung, and of the constituency which he represented; wise, thoughtful, conscientious, he reached his conclusions, after full deliberation and he adhered to them with the tenacity of honest conviction. A quaint humor enlivened the gravity of his discourse; and a fund of apposite anecdote illustrated and enforced the positions that he took. But his character has been so well portrayed by one of those who have succeeded to his honors, that I will not mar the picture by any touches of my own.

I have often thought that Vermont, the eldest of the later sisterhood of the States, to the independence of which she contributed her full share, and to whose wars she sent the renowned hero whose statue already adorns the old Hall of the Representatives, was one of the most fortunate of free commonwealths. Independent and self-sustaining, in her resources as in her character, she is capable of raising her own food, of manufacturing her own clothing, of supplying, from her own soil and her own industrial arts, the essentials and many of the superfluities of civilized life. Education is universal, throughout the State. Nowhere is labor held in higher esteem. Wealth is distributed with remarkable equality, and honest toil has banished poverty from her pleasant borders. She has uniformly been represented in this and in the other branch of Congress by men, the natural outgrowth of such conditions and of such institutions. She has contributed to the public councils wise statesmanship, sound law, practical good sense, and elevated patriotism. I could not enumerate those of her sons who have distinguished themselves in these Halls, without violating good taste, by naming some who still survive. She has sent more brilliant men, men of more fervid eloquence, of more impassioned utterance to represent her, than Collamer; but none wiser, none purer, none who has rendered better service to herself and to the country. She does well to send his statue to the Capitol, an enduring memorial of his worth and of her generous and grateful appreciation.

Mr. THURMAN. Mr. President, I feel moved to say a very few words on this occasion, by the fact that many years ago, for a brief period, I knew Mr. Collamer and enjoyed the pleasure of an intimate friendship with him. When I entered the House of Representatives in the Twenty-ninth Congress he was already a member of that body. I learned soon to admire him for his remarkable penetration of intellect, his extraordinary good common sense, and his uniform courtesy to all his fellow-members, and I feel it somewhat a duty as a member of that Congress to pay a few words of tribute to his memory.

Of all who were members of that Congress in both Houses, there are but two of us who remain, the senior Senator from Maine [Mr. HAMLIN] and myself. A vast majority of those who served in that Congress have passed away from earth. I say I feel it a duty to bear my testimony to the worth of the members of that Congress whom I knew and whom I highly esteemed, as I did Mr. Collamer.

Mr. President, it has been said here that he was not a very brilliant man; but judgment is the highest faculty of the human intellect, and he would be a bold man who should assert that either House of Congress has ever held a member whose judgment was better than that of Jacob Collamer. Courtesy and politeness are also great qualities, which do much to remove the asperities of debate and the controversies of party; and although Mr. Collamer was a man who could give hard blows as well as take them, it was his uniform practice, while I knew him, never to be aggressive, certainly never personally aggressive upon any one, and I never knew any one to be so toward him.

Mr. President, these remarks of mine are wholly unprepared. I did not know until a few minutes ago that this resolution would be presented to-day, but I could not forego the occasion to say this much in respect to a friend whom I dearly esteemed, and whom I more than esteemed, whom I greatly admired.

Vermont, sir, though a small State, has produced many great men, and it may be doubtful whether when her history shall come to be written a century hence there will be one name on her long roll of statesmen more deserving of admiration than that of Jacob Collamer.

Mr. EDMUNDS. What my friend and colleague and other Senators have said leaves little for me to add respecting the individual character of the distinguished citizen of Vermont whose statue she this day unveils in the Capitol and delivers to Congress in perpetual trust, not only as a memorial of her own career, but as a contribution to that history which has, among all nations, been preserved by temples and monuments as well as by writings and books. But I may, perhaps, say, without wearisome repetition, that the selection of Mr. Collamer for the subject of a statue to be placed in one of the old legislative Halls of the Capitol was, in my judgment, eminently a wise one, for he was a fair type of that social condition and civilized progress which, on this continent, began on the dark December day when the Mayflower landed her band of weary but stout-hearted pilgrims who could "not dwell by Haarlem Mere, nor build along the Zuyder Zee" on the dreary coast of Massachusetts Bay, and which have spread over New England like the cool and refreshing winds from its seas—and have followed the morning sunshine westward over wilderness, and lake, and mountain chain, building up prosperous and well-ordered States, till they have reached the utmost boundary of the Republic, and have built temples dedicated to liberty, justice, and education on the shores of the tranquil ocean. His origin was humble; he fought the battle of life with no factitious advantage either of family, or wealth, or extraordinary gifts of rhetoric, or even those accidents of opportunity which have made so many men great. His character was self-reverent, self-reliant, self-controlling, persistent. These were the qualities that made his twenty-one years at the bar a period of steadily increasing success, his eight years in the supreme court of his State a valuable contribution to jurisprudence, and his ten years and upward in this body—more than one-half of which was during the most momentous and dangerous experiences in our history,—a daily, and generally victorious struggle for comprehensive and conservative legislation, and for bold yet prudent administration.

His statue will, I think, stand, *pars inter pares*, with those of the illustrious personages whom other States have selected as worthy to form part of that great group which is, in this chief seat of republican government and the rights of man, to recall to future generations something of the form and individuality of the founders and supporters of free institutions among us. There may they stand, in their silent yet speaking majesty, for a hundred centuries.

The idea of creating and preserving such monuments is a noble and almost instinctive one. The earliest records of that dim and far-off Egyptian history when Memnon sang to the morning, have come down to us by these means in obelisk and propylon, though, alas! many of her sacred monuments no longer watch the endless flow of the fruitful Nile, "where o'er the sand of morning land the camel bears the spice," but wrested from their long repose, now deck, in distant countries and in smoky cities, the triumphs of the age of steam.

The earliest legend of the Romans tells us how when Romulus had been carried up to heaven in the chariot of Mars, the people built a temple to him and worshiped him by the name of the god Quirinus; and who can forget that for the patriotic and heroic service of Horatius Cocles the Romans set his statue in the *Comitium*, and gave him as much land as he could run the plow round in a whole day?

The statue of Hofer, at once rebel and patriot, still stands in the ancient city of Innspruck; that of William Tell looks out over the transparent waters of the Lake of the Four Cantons, upon the crags and peaks of Switzerland, and holds to them "the hands they first beheld, to show they still are free," while Westminster Abbey contains a long array of statues, monuments, and other memorials of the worthies who have made the name of Great Britain great among the nations of the earth.

So may the Capitol of our land continue to receive and preserve from year to year, and from age to age, the pictures and statues of its citizens most illustrious for their fidelity and service to that Government which is "of the people and for the people," not only as memorials and landmarks of history, but as incentives and inspirations to worthy aims and the toil of patient courage, for all beholders.

The VICE-PRESIDENT. The question is on the resolution.

The resolution was adopted unanimously.

### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 6025) to establish an assay office in the city of Saint Louis, Missouri; and

A bill (H. R. No. 7029) to provide for a deficiency in the appropriation for interest on the 3-65 loan of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

### PRINTING OF A DOCUMENT.

On motion of Mr. DAWES, it was

*Ordered*, That the letter of the Secretary of War, transmitting a communication from the Chief of Engineers, and accompanying copies of reports from Lieutenant-Colonel George Thom, Corps of Engineers, upon survey of Malden River, Massachusetts, referred to the Committee on Commerce December 20, 1880, be printed.

### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President of the United States had, on the 28th instant, approved and signed the following acts and joint resolutions:

An act (S. No. 1618) to amend section 553 of the Revised Statutes, relating to the District of Columbia;

An act (S. No. 1922) for the relief of Brigadier-General and Brevet Major-General Edward O. C. Ord, United States Army; and

A joint resolution (S. R. No. 144) authorizing the loan of certain flags and bunting to the committee on inaugural ceremonies.

### KILLING OF BIG SNAKE.

Mr. DAWES. A few days since I gave notice that I would at this time ask the Senate to take up for reference a letter, addressed to the Senate by the Secretary of the Interior, in reference to the killing of Big Snake, now on the table.

Mr. COCKRELL. The Senator, I understand, desires to submit some remarks on that question.

Mr. DAWES. Yes, sir.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) Does the Senator from Massachusetts desire that the letter be read in full?

Mr. DAWES. I ask that the letter be read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
*Washington, January* 5, 1881.

SIR: On the 12th of March last, Senate resolution calling for "all the information in the Department concerning the alleged killing by soldiers, in the office of the agent of the Poncas, in the Indian Territory, of Big Snake, a chief man of the Poncas, and what has been the action of the Department, if any, in reference to the matter," passed on the preceding day, was received by this Department, and on the same day (12th) it was referred to the Commissioner of Indian Affairs with special directions for report.

A reference to the inclosed letter from the Indian Office, dated the 23d ultimo, will show that the report requested was made by that office in due time, but failed to reach this Department. This is explained by Mr. Brooks, late chief clerk of the Indian Office, who says that either he or Commissioner Trowbridge delivered the report in person to the Senate "Committee for the investigation of the condition, &c., of the Poncas."

Recently my attention was drawn to the circumstances that the report had not reached me, and I at once directed that a copy of the same be made, which I beg leave herewith to present, together with the above explanation of the accidental delay, which I very much regret.

I am, sir, very respectfully,

C. SCHURZ, *Secretary.*

The PRESIDENT OF THE SENATE.

Mr. DAWES. Mr. President, on the 11th day of March, 1880, the Senate addressed to the Secretary of the Interior a note of inquiry suggested by some papers which came into the hands of one of its committees in the course of its investigations. The resolution of inquiry was in the following words:

*Resolved*, That the Secretary of the Interior be directed to communicate all information in the Department concerning the alleged killing by soldiers, in the office of the agent of the Poncas, in the Indian Territory, of Big Snake, a chief man of the Poncas, and what has been the action of the Department, if any, in respect to the same.

The answer to this inquiry was laid on our table on the 5th day of January, 1881, ten months thereafter. The Senate is informed in the letter communicating this answer that the delay was caused by inadvertence. Such inadvertence may happen in a press of business and could, of itself alone, hardly be made the subject of criticism; but the Secretary states that the answer had been already placed in the hands of the committee who instituted this inquiry, and his Commissioner of Indian Affairs not only fixes the date some nine months since, but more than intimates that the papers had been purposely lost by that committee, though they were ostensibly still seeking the information. Neither of these statements has any foundation in fact. No answer to this inquiry was ever made to the Ponca committee, but on the contrary the Indian Bureau was repeatedly reminded by members of the committee that it had not been received, and it was only after the Secretary was himself reminded of it, scarcely a month ago, that the answer reached the Senate at all. There are other minor inadvertencies in the letter of the Secretary, but they are worthy of no other mention than that felicity of phrase often sacrifices truth.

But I do not trouble the Senate with these remarks for the purpose of finding fault with the delay or with the answer offered in excuse. It is to the subject-matter itself that I desire to call the serious attention of the Senate. It relates to the violent death at the hands of Government officials of a high-spirited and brave man, who had committed no other offense than harboring a love of his own country and home, which time could not extinguish and power could not suppress. As those in whose service these officials caused this tragic death have taken no action in reference to it, nor even expressed an opinion of its character when inquired of by the Senate, but had even forgotten that the inquiry had been made, I have deemed it due to all concerned that the true character of this occurrence should be entered upon the permanent records of the country that whoever may read the history of our dealings with the weak and defenseless may have the material from which to judge those who dip their hands in innocent blood. A transaction so grave as the violent death of a fellow-man at the hands of the Government itself should not be permitted to escape its just place in history, and when those who caused it do not choose, even on request, to put it there, some volunteer must undertake it, and therefore I beg the attention of the Senate for a few moments.

When Government officials set about extorting from the Ponca Indians, at the point of the bayonet, their consent to leave the home of their fathers deeded to them by that same Government, those officials encountered the strong and uncompromising opposition of two men of the tribe. They were brothers, born leaders of men, intelligent, bold, brave, chivalric, and patriotic. They could neither be persuaded out of their homes by soft words, deceived by false ones, corrupted by promises, or moved by threats. Their influence with their fellows was, accordingly, very great, and proved a serious obstacle to the forcible deportation of the tribe in which those officials were engaged. That obstacle could not be overcome, and it was necessary, therefore, to crush it. The heavy hand of the Government was laid upon these two men, and has never been taken off. One of them has fallen in the conflict; the other is an exile; and the Government is at this moment engaged in the laudable attempt to starve into submission as brave a spirit as lives, since it has not as yet been convenient to otherwise dispose of him. The biography of the latter days of these two men is full of interest and pathos, if not of credit to the Government under which they lived. When the work of driving the Poncas out of their homes began, these two Indians told their associates that they had a country, and had bought and paid for it as other people had bought and paid for theirs, and that in a land of law and justice they could not be dispossessed of it; and their countrymen listened to them. Thereupon these two men were seized by soldiers and cast into prison, many miles away from their people, and there kept in confinement till the work of driving out the tribe at the point of the bayonet had been completed. They were then permitted to join the exiles on their forced march to the Indian Territory.

But neither banishment nor inhospitable clime, nor sickness and death on all sides and in their own households, could break or humble the proud spirits of these two heroes, or save them from the persecution their obstinacy had brought upon them. They were singled out for that watchful care which suspicion always begets in the minds of petty tyrants, and subjected to a surveillance and espionage which have no parallel in dealings with civilized men, in this country at least, and which became at last intolerable even to a savage. One of these brothers, Standing Bear, with thirty followers, enfeebled by sickness and want, discouraged and homesick, turned their faces homeward with no other guide but instinct and their feeble knowledge of the courses of the stars. They were taken in for rest by their friends, the Omahas, worn out and exhausted by long wandering over the pathless prairie and almost ready to give up in sight of "the old burial places of their fathers." But rest was not yet for them, the pursuer was on their track. Soldiers marched into the Omaha reservation with the Stars and Stripes of a free country at their head, and dragged these helpless fugitives from the tents of savage hospitality and charity, and turned them back toward the forced banishment to which civilization had doomed them. A writ of *habeas corpus* set them free, and now stands between them and all other benevolent efforts of the Indian Bureau to subdue them, except starvation. This they still cheerfully brave for the sake of living where their fathers lived and where their children were born.

Our business at this time, however, is with the other brother, Big Snake. With him the work was quicker and more effective, and it brought sooner the rest he longed for. There was no power within him or without him which could make him content with his exile or teach him to brook the indignities which the indiscretions of his haughty spirit brought daily upon his devoted head. He sought for contentment in a visit to a friendly tribe without the permit which the Indian agent set over him as a master had refused, only to be incarcerated in a prison-house on his arrival in place of the feast of welcome prepared for him by his red brethren.

On his release from this imprisonment, this big-hearted and proud chief returned to his companions in exile not a whit humbled, but with as haughty a spirit as ever. But conscience made a coward of the Indian agent. Not capable of comprehending that his miserable life was safe in the very contempt which his pettiness had begotten, he feared bodily harm at the hands of the man he had maltreated, and appealed to the Interior Department for soldiers to arrest this noble among his race, and—I now use his words—"convey him to Fort Reno, and there confine him for the remainder of his natural life." Even this trivial pretext was subsequently shown to be groundless; but if it had been founded upon some actual danger, this was a proceeding that neither law nor decency could justify, and the occasion required only that just and mild treatment which is sure to win the confidence of even a savage. Yet because of the fears of a coward, and upon a charge which was only a pretext, and a pretext so inadequate as to be ridiculous, it was proposed to confine this child of the hills and the prairies for the rest of his natural life. Without investigation or inquiry, this atrocious request was complied with by the Interior Department, and soldiers appeared at the agency to execute the order. The cowardly agent beguiled Big Snake into his office under a promise of the payment of money due, and then ordered the soldiers, already there, to take him away. When the soldiers laid their unlawful hands upon this unsuspecting victim of another man's treachery, the Indian demanded in astonishment the cause of this attempt to arrest him. It was only after repeated demands, defying their power until he was answered, that the agent disclosed to him the dastardly purpose of this atrocity. The Indian, after a moment's silence, rose with a dignity which should have put to shame his civilized assailants, and said:

I have done no wrong. I have been injured and indignant at the wrongs inflicted upon me. But I have injured no man, and have threatened injury to no man in return.

And then, lifting both his hands above his head, he continued:

See, I am not armed. I am one and you are many; my muscle alone is all I have for defense against you and your weapons, but I will not be thus taken to prison without cause.

Then ensued a struggle to chain him, but the mighty man cast off the soldiers as if they had been so many infants. One of them was ordered to knock him down with the butt of his musket, and he received unmoved a blow which the cowardly agent said "would have brought an ox to the ground." The struggle continued with doubtful odds until a soldier, from a position prearranged for the purpose, put an end to it by a ball which pierced the brain of the victim and passed through the building into the affrighted crowd of men and women which had gathered around.

Thus ended the career of one who, had he fallen in defense of the

white man's right to his home and his fireside as he fell for the red man, would have passed into history enrolled among the heroes and martyrs sacrificing their lives in a most holy cause. But this hero has not even been permitted to rest in the humble grave to which he was thus consigned. It was necessary to blacken his name in order to find justification for his assassination. Hence the charge that he was a dangerous man, and had threatened the life of the agent who had maltreated him, a charge unsupported by any reliable evidence then and now, and originating in the imagination of the agent, conscious that what he had done was calculated to provoke the revenge of an Indian. Equally groundless, too, was the insinuation thrown out afterward that Big Snake was killed because he had a knife. He had demonstrated by throwing up his hands in the outset that he was unarmed, and no weapon of any kind was found upon his lifeless body, though no one of the perpetrators of the murder had justice enough in his breast to give their victim the benefit of that fact.

These baseless insinuations were met by the positive testimony of the Indians themselves, who with one accord testified to the peaceable character of their chief. And if this is not enough, certainly no one will doubt the word of an Indian inspector testifying in their favor. Indian Inspector Pollock, who afterward visited the spot for another purpose, made a thorough investigation of this whole transaction, and declared under oath that he was not able to trace the charge of threats to any reliable source, and then characterized this violent death of a man at the hands of officials of this Government in these words: "It looked to me," he said, "to put it in plain English, like a cowardly, willful murder."

For its share in this transaction the War Department contented itself with a report upon its character directed by those who participated in the very matter they reported upon. But the Interior Department, at whose request the work was undertaken which resulted in this "willful, cowardly murder," has not even taken any notice of it. The Indian agent, to allay whose cowardly fears it was done, was not even censured for his part in it. It is true that afterward it was found that he had been inaccurate in the addition of his accounts, and for that offense he was discharged, leaving his participation in this grave crime not even reproved. Indeed the whole thing has been so in accordance with the ordinary mode of transacting Indian affairs, or the life of an Indian is counted of so little consequence, that when inquired of about it by the Senate of the United States, the Interior Department forgot for nearly a year to answer the inquiry at all, and then did not deem it worth while to express an opinion upon its character.

It may be, Mr. President, that I have magnified this event beyond any legitimate importance which may justly belong to it. I know that the victim was only an Indian, and that he is now a "dead Indian." But I confess that this has seemed to me a good deal like other murders, and I am as yet unable to disabuse my mind of a feeling that our dealings with the weak who come under our power should be characterized by a scrupulous regard to justice and humanity, more carefully meted, perhaps, to him who has no power to compel the exaction of the justice which is his due and not written in the blood of innocent men.

It has been a relief to me, however, in examining our treatment of these weak and defenseless people, to find that these methods are not American in their origin, but bear too striking a resemblance to the modes of an imperial government carried on by espionage and arbitrary power. They are methods which I believe to be unique, and which I trust will never be naturalized.

Mr. President, I hold in my hand a petition which it is perhaps not inappropriate that I should at this time present to the Senate. I have spoken of two brothers, one of them an exile in his own land, one of them assassinated by the Government itself.

You will recollect, sir, that not long since there was presented to the Senate in print, by the Interior Department, the petition of that portion of the Ponca Indians now in the Indian Territory for permission to sell out their possessions in Dakota to the Government.

The unconquered survivor of these brothers, Standing Bear, and that portion of the tribe with him in their old homes, now protest against being thus disinherited. I ask that their prayer may be read, with the certificate of its authenticity, that these exiles may know that they have been heard, and may be assured that justice will be done them by the Senate of the United States. This manly protest is in these words:

*To the honorable Senate and House of Representatives in Congress assembled:*

Whereas we hear that a portion of the Ponca Tribe, in the Indian Territory, have signed an agreement, in which they declare their willingness to sell our old reservation in Nebraska and Dakota Territory—

We, the undersigned, do most earnestly protest against the ratification of any such sale; for the land spoken of is ours as well as theirs, and they cannot dispose of it without our consent.

We hereby declare to you our purpose and desire to live upon this same land, having suffered many sorrows and privations in returning to it.

We pray you to order that we may share equally, according to our numbers, in all assistance which the Government may give the tribe, and in all payments of damages for losses by removal or by depredations of hostile tribes.

And, moreover, we request that we may be reimbursed out of the tribal funds, for our portion of the annual annuities, which have not been given us since we left the Indian Territory.

We respectfully and earnestly ask that in all actions taken by the Government affecting the Ponca tribe of Indians, or any part thereof, that our rights under all treaties between the United States and the tribe, and under the laws of the land, shall be fully respected and protected, to the end that we may enjoy our own possessions and prosper in the ways of civilization.

We ask also for a teacher, and that whatever the Government may have to give us be distributed through the agent for the Santees as is now done for the citizen Indians at Flandreau, Dakota Territory.

We, the undersigned, express in this petition the unanimous wish of that portion of the Ponca tribe at present residing on the old reservation, and numbering about one-fifth of the whole tribe.

*Signatures.*

his
MANTCU × NAJIN, or Standing Bear.
mark
his
SHUDE × GAXE, or Smoke-maker.
mark
his
WAJINGA × PA, or Bird Head.
mark
his
TEJEBA × TE, or Buffalo Chips.
mark
his
HE × BACAGE, or Crumbled Horn.
mark
his
NUDAN × AXA, or Cries for war.
mark
his
NUXE × JINGA, or Little Ice.
mark
his
HEKHAGA × SABE, or Black Elk.
mark
his
SHANGE × HINZI, or Yellow Horse.
mark
his
SHINUDAU × SKA, or White Dog.
mark
his
WAGIAN × MANZE, or Iron Thunder.
mark
his
UHAN × BI, or Cook.
mark
his
NICUDE × JAU, or Missouri Timber.
mark
his
WABI × SANDE, or Grabber.
mark
his
MINXA × JINGA, or Duck.
mark
his
HE × WANJICA, or One Horn.
mark
his
ANPAN × SKA, or White Elk.
mark
his
UNAJIN × SKA, or White Shirt.
mark
his
WACIXE × KACI, or Long Runner.
mark
his
MANE × GAHI, or Bank Chief.
mark
his
PAHE × UCICAN, or Goes Around the Hill.
mark
his
NAXE × SABE, or Black Spirit.
mark
his
HEBADI × JAN, or Sleeps on the Way.
mark
his
WASABE × JINGA, or Little Black Bear.
mark
his
GDHEHEDAN × SKA, or White Hawk.
mark

The following, who could not attend because of sickness and age, sent their names:

SHE-KI, or Copperhead Snake.
his his
(Witnessed by Standing × Bear and Yellow × Horse.)
mark mark
WACUCE, or Brave.
his his
(Witnessed by He × Batcage and Wagian × Manze.)
mark mark
GACTAGABI, or Striker.
his his
(Witnessed by Black × Elk and Grab × ber.)
mark mark

NIOBRARA, NEBRASKA, *January* 12, 1881.

—

We hereby certify that this memorial is the correct expression of the views of the signers, and has in turn been carefully translated to them both in Ponca and Dakota.

ALFRED L. RIGGS,
DAVID LE CLAIR,
*Interpreters.*

NIOBRARA, NEBRASKA, *January* 12, 1881.

—

The undersigned hereby certify that we were present and witnessed the signing of the above memorial by all whose signatures are attached to it by their mark.

GEO. WILLIAMS,
J. OWEN DORSEY,
*Witnesses.*

NIOBRARA, NEBRASKA, *January* 12, 1881.

I now move that the letter of the Secretary of the Interior and the accompanying papers, with this petition, be referred to the select committee on that subject.

The PRESIDING OFFICER. That will be the order, if there be no objection.

Mr. KIRKWOOD. I do not wish to detain the Senate now after the time when the regular order should come before the Senate. I may, perhaps to-morrow morning, ask the indulgence of the Senate for a very brief period, to make some reply.

The PRESIDING OFFICER. The unfinished business is the Indian severalty bill.

Mr. LOGAN. I desire one moment. I do not wish to enter into the discussion which has been suggested to the Senate this morning by the Senator from Massachusetts, nor do I wish to make any defense to the charges he has made; but I do wish to say something in response to one suggestion of his. I do not know what he means when he refers to the conduct of the Interior Department. I wish to say for myself—and I speak only for myself—that I have had a little to do with the Committee on Indian Affairs and I have had something with the Department of the Interior. I have always been in favor of the civilization of the Indians; I have always advanced that theory, and I fought in this Chamber against the transfer of the Indians from the care of the Interior Department to another under which I thought they would be more severely treated. If the Senator refers to the conduct of the Interior Department in reference to Indians, I must say for those who have no right to speak on this floor that my judgment is that the course of the Interior Department, especially of the head of that Department, in reference to Indian affairs for the last few years, has been eminently proper; and I believe that if the theory which has been advocated by the Secretary of the Interior in reference to the Indians was agreed to and consented to by the Congress of the United States it would be beneficial to all parties.

I say this of a man with whom I have disagreed formerly on many questions, and not because of any personal relations between him and me now; and I believe further that his Department has been administered as honestly, capably, fairly, and justly as any Department of this Government; and when any attempt is made, directly or indirectly, to cast reflection upon the Secretary of the Interior for the manner in which he has attempted, at least as far as he has been able to do it, to manage justly and honestly the affairs of the Indian Department, I think the criticism is entirely unjust and without merit.

This much I desired to say in defense of a man who I believe has attempted honestly to administer the affairs of this Government so far as they pertain to the Indian Department.

Mr. DAWES. The Senator from Illinois does well in what he has said. If he had gone further and undertaken to defend the transaction to which I have called the attention of the Senate, I should have been amazed. That the Senator should have said what he has said does not surprise me, for it agrees with my own judgment——

Mr. LOGAN. The Senator will allow me to suggest that I merely said it for the reason that I thought from his remarks it might be inferred by the country at least that this was an accusation of unfaithfulness in the administration of the Interior Department. That was the reason why I said what I did say.

Mr. DAWES. Neither here nor elsewhere, neither on this occasion nor upon the discussion of the allotment bill or any other bill looking to the management of the Indians, has a single word ever fallen from my lips in disparagement of the general policy of the Indian Department, or its head, toward the Indians. On frequent occasions here, and before the public at home, I have taken occasion to commend it, with the exception of this particular transaction with regard to the Poncas; and I think it is a mystery past finding out as yet that, with so much to commend in the work of the Interior Department toward the Indians, it should be willing to go into history without a single effort on its part to remove a stain upon the record of this Government toward one of the most peaceable and honorable bands of men that ever lived under its flag. No one has charged, I have not charged, the head of this Department with the commission of these wrongs. I have complained of them to him, and before the public, and entreated him to take hold of this work himself and leave upon the records of the country, not only that he had no part or lot in this great crime, but that he disapproved of it. This very action of the Senate itself; this resolution that he forgot to answer for ten months, I implored myself the Indian Bureau to so answer that it would leave upon the records of the country the disapproval of it—that disapproval which they were free enough to give me in private. That is what I complain of; and when the answer comes, ten months after, we are coolly told that it is not deemed worth while to express an opinion upon the character of the transaction. Now, sir, so long as I can cherish a sense of justice in my breast, I will draw a line between all that which the Senator from Illinois has so justly laid before the Senate as worthy of commendation on the part of the head of the Department and this act—not his act, but his failure to hold those he sent on this errand accountable to the laws of justice and humanity for the manner in which they discharged that duty.

Mr. PLUMB. Mr. President, I do not care to enter into this discussion either now or at any other time so far as relates to the Ponca Indians. I only desire now to say, in reference to one portion of the remarks of the Senator from Massachusetts, that he fitly characterized the man who was agent at the Ponca agency at the time Big Snake was killed. If I heard him aright, he spoke of him as "the cowardly agent." I know the person who was the agent at that agency at that time. He was a man whose physical service for his country was about four years of time in the Army, and so far as personal courage was concerned, a man entirely above reproach; and while I am not going to say, because I do not know that the killing was justifiable—in fact, I am willing to assume that it was not justifiable—I think the most that can be said about it, so far as the agent is concerned, is that he, misjudging the necessity or not judging at all about the necessity of any killing, undertook a scheme or plan which, without any intention on his part, resulted in the death of the Indian.

I say this in justice to him because of the fact that circumstances that came before the Interior Department, as the Senator from Massachusetts says, in regard to his accounts, led to his retirement, and I am not willing that he shall rest under the further imputation of having acted in a cowardly manner. He did what I think he believed to be his duty, then and on all occasions; did it with personal courage, did it with fidelity, and did it with honesty.

So far as the action of his superior is concerned, either in not censuring him, or in regard to the action which preceded that event, I have nothing whatever to say. It illustrates, I think, on the whole, the necessity of doing something which shall relieve the Senate of the United States and the country from controversies of this kind hereafter; and I hope that out of this discussion will grow something that will be permanent in the way of legislation, and in the way of practice at the Department, and which shall relieve the Government from the unfortunate necessity of dealing with the Indians in the way in which these Indians were dealt with.

Mr. KIRKWOOD. I merely wish to repeat what I said before, that to-morrow morning during the morning hour I shall ask the indulgence of the Senate to make some remarks which my sense of justice and of right to men who have not the chance of speaking for themselves on this floor requires should be made. I will not interfere with the regular business now.

Mr. LOGAN. I wish to be allowed a single moment further. I desire merely to say that I did not intend to be drawn into any discussion in reference to the killing of this Indian, nor do I so intend now. All the efforts that have been made heretofore to move on a line for the purpose of advancing the Indian tribes of this country on the road to civilization have been obstructed usually by matters of this character, some things that would arouse the feelings of the people in reference to the treatment of some individual Indian or some particular tribe so as to thwart the attempt that was made in the direction I have mentioned. I do not attribute any intention to the Senator from Massachusetts to do anything of this kind, but we all know that it is much more easy to tear down a structure before it is permanently erected than it is to erect one, and that which has been attempted on behalf of the Indians and for the peace and good order of society has nearly always been destroyed to a certain extent by something of this character.

I made the remarks I did not for the purpose of discussing the question of the killing of this Indian, but for the purpose of at least putting my statement on record that I believed the Department had been administered as faithfully, as honestly, and as justly as could be done, and that if these things were not interposed the time had arrived in my judgment when the Senate and when the Congress of the United States might take such action as would be of great advantage and of great interest to all concerned in the advancement of these people in the line upon which we are now attempting to travel.

That was all my object, and I repeat what I said, that I do not think any remarks of this kind are justified in reference to the course of conduct of the Department of the Interior as to any design or desire on the part of the Interior Department to do any wrong to the Indians or the white men. Whether a man comes to us among the drippings from some imperial foreign power or not is immaterial; it is an American citizen who administers that Department. No matter where born or where he breathed the free air of Heaven first, he has the same rights that you and I have under the law, and I do not believe that the criticisms and insinuations are just in reference to that man, so far as the administration of this Department is concerned.

Mr. COKE. I call for the regular order.

The PRESIDING OFFICER. The Senator from Texas calls for the unfinished business, which is the Indian severalty bill.

Mr. EATON. I hope my friend will allow me for a moment.

Mr. COKE I yield for a moment.

### ORDER OF BUSINESS.

Mr. EATON. I am requested and urged by the Committee on Foreign Relations to ask the Senate to take up a certain bill of very great importance to this and another government. I move temporarily to lay the Indian severalty bill aside for the purpose of calling that bill up.

Mr. COKE. I cannot yield.

Mr. EATON. Will the gentleman hear me? I move to lay it aside for the purpose of calling the bill up, so that it may follow this bill; that is all; not to take one moment of the time of the Senate. I want it before the Senate.

Mr. COKE. If it gives rise to no discussion I shall consent to the suggestion.

Mr. EATON. It will give rise to not the slightest in the world. If it does I will withdraw my motion.

The PRESIDING OFFICER. The Chair will announce to the Senator from Connecticut that there is an understanding already of the Senate, that what is known as the General Armstrong bill comes up after the present order is disposed of.

Mr. EATON. I was about to observe that I desire this bill to follow the Armstrong bill. I do not propose to ask the Senate that it shall take precedence of that bill. I desire, if my friend from Texas will allow me, that the Indian severalty bill may be laid aside temporarily, and that the Senate proceed to the consideration of the bill (S. No. 2022) in relation to the Japanese indemnity fund; and I shall then ask——

The PRESIDING OFFICER. It is unnecessary for the Senator to make a motion. If the Senate will agree to it by unanimous consent that will be the understanding.

Mr. EATON. That is all I desire.

The PRESIDING OFFICER. The Secretary will report the pending order, which is the unfinished business of the Senate.

The CHIEF CLERK. A bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

Mr. HARRIS. What is the pending question?

The PRESIDING OFFICER. The understanding was reached the other day that the bill for the relief of the officers and crew of the brig General Armstrong should come up after the present order of business was disposed of, and the understanding now reached is that the bill indicated by the Senator from Connecticut shall come after that bill.

Mr. HOAR. The Chair has asked for no unanimous consent.

Mr. HARRIS. Is it supposed to be an understanding, by unanimous consent, that these two bills named are to follow the Indian severalty bill in regular order and that the Senate is bound to consider those bills in that order, not having the right to take up any other bill?

The PRESIDING OFFICER. That is not the understanding of the Chair. The matter will still be within the disposition of the Senate, and the question will come up if any Senator objects and makes a motion to proceed to the consideration of other business.

Mr. BOOTH. I feel it my duty to state that to-morrow morning, at the expiration of the morning hour, I shall ask the Senate to consider the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States, for the fiscal year ending June 30, 1882.

Mr. EATON. An appropriation bill is always in order.

Mr. HOAR. The Senator from Connecticut can make his application to the Senate when the pending bill is disposed of just as well as now, and if it is a case so strong as to require unanimous consent now, it will be equally strong then.

Mr. COKE. I call for the regular order.

Mr. McPHERSON. Will the Senator from Texas yield to me for a moment?

Mr. COKE. Certainly.

Mr. McPHERSON. I notice that in farming out the time of the Senate in respect to bills that are to follow this particular bill, we appear to have lost sight entirely of the fact that I gave notice last week that I should call up to-day the bill (S. No. 1933) to establish and equalize the grades and regulate appointments and promotions in the Marine Corps. I wish to say that with respect to all other bills which follow the unfinished business, I shall take the liberty of antagonizing every one of them for this important measure, and shall call it up immediately after the conclusion of the discussion on the Indian severalty bill.

## LANDS IN SEVERALTY TO INDIANS.

The Senate, as in Committe of the Whole, resumed the consideration of the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes; the pending question being on the amendment of Mr. MORGAN, to strike out the ninth section of the bill, in the following words:

> That the provisions of this act shall not extend to any tribe of Indians until the consent of two-thirds of the male members twenty-one years of age shall be first had and obtained.

Mr. MORGAN. Mr. President, before the vote is taken on the motion to strike out the ninth section of the bill, I desire to bring to the attention of the Senate some facts collated from the statutes, and some other valuable information, which I think bears essentially upon the proposition to strike out this section of the bill.

Since the year 1830, the 15th day of July, the Congress of the United States has passed sixty-seven laws giving to the Indian tribes in some instances the option to take lands in severalty, and in some instances making grants to them conditional upon their taking lands in severalty. I have a schedule of those acts of Congress, all of which have been based upon the line of policy which is intended now to be made applicable to every Indian in the United States—of giving to the Indians the option to take their lands in severalty in their respective reservations, instead of legislating so as to require them to take lands in severalty; and my purpose in moving to strike out the ninth section of the bill is to leave this law in full force and effect without getting the consent of the Indian tribes to its becoming so. To impose upon the tribes the duty and the necessity of taking lands in severalty wherever they occupy lands under a title of occupancy merely, and not under a title in fee-simple, as in the case of the five civilized tribes.

During the colonial period and during the earlier period of the history of this Government down to 1830, acts of State Legislatures, acts of Colonial Legislatures have been put on the statute-books, and treaties have been resorted to for the purpose of persuading the Indians to take land in severalty. As I have observed we have passed these sixty-seven laws upon this subject, all precisely in line with the enactment now proposed to be adopted, with the exception that, until the Ute bill, we never before gave to the Indians the right to determine whether or not an act of Congress should become a law.

The following is a list of the acts of Congress to which I refer:

*Schedule of treaties and acts of Congress authorizing allotments of land in severalty to Indians.*

| Tribe. | Date of treaty or law. | U. S. statutes. | | Remarks. |
|---|---|---|---|---|
| | | Vol. | Page. | |
| Sac, Fox, Sioux, *et al.*. | July 15, 1830, arts. 9 & 10. | 7 | 330 | |
| | July 31, 1854, section 5... | 10 | 332 | Act of Congress. |
| Choctaw | Sept. 27, 1830, art. 19 .... | 7 | 337 | |
| Chickasaw | Oct. 20, 1832, art. 4 ..... | 7 | 382 | |
| | Oct. 22, 1832, art. 1 ..... | 7 | 388 | |
| | May 24, 1834, art. 6 ..... | 7 | 452 | |
| New York Indians | Jan. 15, 1838, art. 2 ..... | 7 | 551 | Optional. |
| Stockbridge | Mar. 3, 1843 ..... | ..... | ..... | Act of Congress. |
| | Aug. 6, 1846 ..... | ..... | ..... | Act of Congress. |
| | Nov. 24, 1848 ..... | 9 | 955 | |
| Otoe and Missouria | Mar. 15, 1854, art. 6 ..... | 10 | 1039 | |
| Omaha | Mar. 16, 1854, art. 6 ..... | 10 | 1044 | |
| Delaware | May 6, 1854, art. 11 .... | 10 | 1050 | Conditional. (See treaty 1860.) |
| Shawnee | May 10, 1854, art. 2 ..... | 10 | 1054 | |
| Iowa | May 17, 1854, art. 6 ..... | 10 | 1070 | Conditional. |
| Kickapoo | May 18, 1854, art. 3 ..... | 10 | 1079 | Conditional. |
| Kaskaskia, Peoria, *et al.*. | May 30, 1854, art. 2 ..... | 10 | 1082 | |
| Miami | June 5, 1854, art. 2 ..... | 10 | 1093 | |
| Chippewa of Lake Superior. | Sept. 30, 1854, art. 3 ..... | 10 | 1110 | Optional. |
| Chastas *et al* | Nov. 18, 1854, art. 6 ..... | 10 | 1123 | Optional. |
| Umpqua *et al* | Nov. 29, 1854, art. 5 ..... | 10 | 1126 | Optional. |
| Nisqually *et al* | Dec. 26, 1854, art. 6 ..... | 10 | 1133 | Optional. |
| Willamette | Jan. 22, 1855, art. 4 ..... | 10 | 1145 | Optional. |
| Wyandot | Jan. 31, 1855, arts. 2 & 3 . | 10 | 1160 | |
| Chippewa of Mississippi, &c. | Feb. 22, 1855, art. 2 ..... | 10 | 1166 | Optional. |
| Winnebago | Feb. 27, 1855, art. 4 ..... | 10 | 1173 | |
| Ottawa and Chippewa.. | July 31, 1855, art. 1 ..... | 11 | 621 | |
| Chippewa of Saginaw, &c. | Aug. 2, 1855, art. 1 ..... | 11 | 633 | |
| Stockbridge and Munsee. | Feb. 5, 1856, art. 3 ..... | 11 | 664 | |
| Dwamish *et al* | Jan. 22, 1855, art. 7 ..... | 12 | 929 | Optional. |
| Sklallams *et al* | Jan. 26, 1855, art. 7 ..... | 12 | 934 | Optional. |
| Makah | Jan. 31, 1855, art. 7 .... | 12 | 940 | Optional. |
| Walla Walla *et al* | June 9, 1855, art. 6 ..... | 12 | 947 | Optional. |
| Yakama | June 9, 1855, art. 6 ..... | 12 | 954 | Optional. |
| Nez Percé | June 11, 1855, art. 6 ..... | 12 | 959 | Optional. |
| Middle Oregon | June 25, 1855, art. 5 ..... | 12 | 966 | Optional. |
| Qui-nai-elt *et al* | July 1, 1855, art. 6 ..... | 12 | 972 | Optional. |
| Flathead | July 16, 1855, art. 6 ..... | 12 | 977 | Optional. |
| Sioux—Medawakanton and Wahpakoota bands. | June 19, 1858, art. 1 ..... | 12 | 1031 | |
| Sioux—Sisseton and Wahpeton bands. | June 19, 1858, art. 1 ..... | 12 | 1037 | |
| Winnebago | April 15, 1859, art. 1 ..... | 12 | 1101 | |
| Chippewa—Swan Creek and Black River bands. | July 16, 1859, art. 1 ..... | 12 | 1106 | |
| Kansas | Oct. 5, 1859, art. 1 ..... | 12 | 1111 | |
| Delaware | May 30, 1860, arts. 1 & 2 . | 12 | 1129 | |
| Pottawatomie | Nov. 15, 1861, art. 2 ..... | 12 | 1192 | |
| Ottawa | June 24, 1862, art. 3 ..... | 12 | 1238 | |
| Kickapoo | June 28, 1862, art. 2. .... | 13 | 623 | |
| Nez Percé | June 9, 1863, art. 3 ..... | 14 | 648 | |
| Chippewa—Saginaw, Swan Creek, and Black River bands. | Oct. 18, 1864, art. 3 ..... | 14 | 657 | |
| Omaha | Mar. 6, 1865, art. 4 ..... | 14 | 668 | |
| Middle Oregon | Nov. 15, 1865, art. 6 .... | 14 | 752 | |
| Choctaw and Chickasaw. | Apr. 28, 1866, arts. 11-16 . | 14 | 774 | |
| Delaware | July 4, 1866, art. 4 ..... | 14 | 794 | Optional. |
| Cherokee | July 19, 1866, art. 20 .... | 14 | 805 | Optional. |
| Sac and Fox | Oct. 1, 1859, art. 2 ..... | 15 | 468 | |
| Sioux—Sisseton and Wahpeton bands. | Feb. 19, 1867, art. 5 ..... | 15 | 506 | |
| Kiowa and Comanche... | Oct. 21, 1867, art. 6 ..... | 15 | 583 | Optional. |
| Cheyenne | Oct. 28, 1867, art. 6 ..... | 15 | 595 | Optional. |
| Ute | Mar. 2, 1868, art. 7 ..... | 15 | 620 | Optional. |
| Sioux | Apr. 29, 1868, art. 6 ..... | 15 | 637 | Optional. |
| Crow | May 7, 1868, art. 6 ..... | 15 | 650 | Optional. |
| Cheyenne | May 10, 1868, art. 3 ..... | 15 | 656 | Optional. |
| Navajoe | June 1, 1868, art. 5 ..... | 15 | 668 | Optional. |
| Shoshonee and Bannock. | July 3, 1868, art. 6 ..... | 15 | 675 | |
| Nez Percé | Aug. 13, 1868, art. 1 ..... | 15 | 693 | |
| Klamath | Oct. 14, 1864, art. 6 .... | 15 | 709 | |
| Chippewa of Mississippi. | Mar. 19, 1867, art. 7 ..... | 15 | 721 | |

What has been the effect of this system, that we might call an inductive system, upon the Indian mind, and what has been the reason of its non-success? The effect has been that not 5 per cent. of the

Indians now living in the United States or who have ever lived in the United States under these various laws and treaties have received lands in severalty. They have refused as far as they were able to refuse so to receive their lands. We will not find the Indians ready to accept a system of this kind either specially or universally when it is left to their option to accept it or not to accept it.

With this statement of our legislation I desire to call the attention of the Senate for a moment to a very high authority in reference to the state of Indian law on the subject of tribal organizations, and from this authority will be gathered the reason why the Indians have thus uniformly refused to accept all the provisions which we have tendered them with respect to receiving their lands in severalty. I read from a study of this question by Major Powell, which he has been kind enough to furnish me by request. He treats of the Wyandot government, and perhaps more than two-thirds of the tribes of the Indians of North America were organized in their tribal governments upon the basis of the Wyandot government.

I now present and will read the paper of Major Powell:

## WYANDOT GOVERNMENT.

### *A Short Study of Tribal Society.*

In the social organization of the Wyandots four groups are recognized—the family, the gens, the phratry, and the tribe.

### THE FAMILY.

The family, as the term is here used, is nearly synonymous with household. It is composed of the persons who occupy one lodge, or, in their permanent wigwams, one section of a communal dwelling. These permanent dwellings are constructed in an oblong form of poles interwoven with bark. The fire was placed in line along the center, and was usually built for two families, one occupying the place on each side of the fire. The head of the family is a woman.

### GENS.

The gens is an organized body of consanguineal kindred in the female line. "The woman carries the gens," is the formulated statement by which a Wyandot expresses the idea that descent is in the female line. Each gens has the name of some animal—the ancient of such animal being its tutelar god. Up to the time when the tribe left Ohio eleven gentes were recognized, as follows: Deer, Bear, Highland Turtle, (striped,) Highland Turtle, (black,) Mud Turtle, Smooth Large Turtle, Hawk, Beaver, Wolf, Sea Snake, Porcupine.

In speaking of an individual he is said to be a Wolf, a Bear, or Deer, as the case may be, meaning thereby that he belongs to that gens; but in speaking of the body of people comprising a gens they are said to be relatives of the Wolf, the Bear, or the Deer, as the case may be.

There is a body of names belonging to each gens, so that each person's name indicates the gens to which he belongs. These names are derived from the characteristics, habits, attitudes, or mythologic stories connected with the tutelar god.

The following schedule presents the name of a man and woman in each gens as illustrating this statement:

| | *Indian.* | *English.* |
|---|---|---|
| Man of Deer gens | De-wa-ti-re | Lean deer. |
| Woman of Deer gens | A-ya-jin-ta | Spotted fawn. |
| Man of Bear gens | A-ta-e-tés | Long claws. |
| Woman of Bear gens | Tsa-man'-da-ka-é' | Grunting for her young. |
| Man of Striped Turtle gens | Ta-hà-so$^{s}$-ta-ra-ta-se | Going around the lake. |
| Woman of Striped Turtle gens | Tso-we-yûñ-kyn | Gone from the water. |
| Man of Mud Turtle gens | Sha-yan-tsu-wat' | Hard skull. |
| Woman of Mud Turtle gens | Ya$^{s}$-dûsh-shu-rûs | Finding sand beach. |
| Man of smooth large Turtle gens | Hu$^{s}$'-du-cu-ta | Throwing sand. |
| Woman of smooth large Turtle gens | Tau-ca-e$^{s}$' | Slow walker. |
| Man of Wolf gens | Ha-ro'-u$^{s}$-yñ | One who goes about in the dark; a prowler. |
| Woman of Wolf gens | Ya$^{s}$-di-no | Always hungry. |
| Man of Snake gens | Hu-ta-hu'-sa | Sitting in curled position. |
| Women of Snakes gens | Di-je-rons | One who ripples the water. |
| Man of Porcupine gens | Ha$^{s}$-du'-tu$^{s}$ | The one who puts up quills. |
| Woman of Porcupine gens | Ke'-ya-runs-kwa | Good-sighted. |

### THE PHRATRY.

There are four phratries in the tribe—the three gentes, bear, deer, and striped turtle, constituting the first; the highland turtle, black turtle, and smooth large turtle, the second; the hawk, beaver and wolf, the third; and the sea-snake and porcupine, the fourth.

This unit in their organization has a mythologic basis and is chiefly used for religious purposes, in the preparation of medicines, and in festivals and games.

The eleven gentes as four phratries constitute the tribe.

Such is the social organization of the Wyandots.

Each gens is a body of consanguineal kindred in the female line, and each gens is allied to other gentes by consanguineal kinship through the male line, and by affinity through marriage.

To be a member of the tribe it is necessary to be a member of a gens; to be a member of a gens it is necessary to belong to some family; and to belong to a family a person must have been born in the family, so that his kinship is recognized or he must be adopted into a family and become a son, brother, or some definite relative; and this artificial relationship gives him the same standing as actual relationship in the family, in the gens, in the phratry, and in the tribe.

Thus the tribe is a body of kindred.

Of the four groups thus described, the gens, the phratry, and the tribe constitute the series of organic units; the family or household as here described is not a unit of the gens or phratry as two gentes are represented in each—the father must belong to one gens, and the mother and her children to another.

### GOVERNMENT.

Society is maintained by the establishment of government, for rights must be recognized and duties performed.

In this tribe there is found a complete differentiation of the military from the civil government.

*Civil government.*—The civil government inheres in a system of councils and chiefs.

In each gens there is a council composed of four women, called Yu-wai-yu-wá-na. These four women councilors select a chief of the gens from its male members; that is, from their brothers and sons. This gentile chief is the head of the gentile council.

The council of the tribe is composed of the aggregated gentile councils. The tribal council, therefore, is composed one-fifth of men and four-fifths of women.

The sachem of the tribe, or tribal chief, is chosen by the chiefs of the gentes.

There is sometimes a grand council of the gens, composed of the councilors of the gens proper, and all the heads of households, and leading men—brothers and sons.

There is, also, sometimes a grand council of the tribe, composed of the council of the tribe proper and the heads of households of the tribe, and all the leading men of the tribe.

These grand councils are convened for special purposes.

*Methods of choosing and installing councilors and chiefs.*—The four women councilors of the gens are chosen by the heads of the households, themselves being women. There is no formal election, but frequent discussion is had over the matter from time to time, in which a sentiment grows up within the gens and throughout the tribe that in the event of the death of any councilor a certain person will take her place.

In this manner there is usually one, two, or more potential councilors in each gens who are expected to attend all the meetings of the council, though they take no part in the deliberations and have no vote.

When a woman is installed as councilor, a feast is prepared by the gens to which she belongs, and to this feast all the members of the tribe are invited. The woman is painted and dressed in her best attire, and the sachem of the tribe places upon her head the gentile chaplet of feathers, and announces in a formal manner to the assembled guests that the woman has been chosen a councilor. The ceremony is followed by feasting and dancing, often continued late into the night.

The gentile chief is chosen by the council women, after consultation with the other women and men of the gens. Often the gentile chief is a potential chief through a period of probation. During this time he attends the meetings of the council, but takes no part in their deliberations and has no vote.

At his installation the council women invest him with an elaborately ornamented tunic, place upon his head a chaplet of feathers, and paint the gentile totem on his face. The sachem of the tribe then announces to the people that the man has been made chief of the gens and admitted to the council. This is also followed by a festival.

The sachem of the tribe is selected by the men belonging to the council of the tribe. Formerly the sachemship inhered in the bear gens, but at present he is chosen from the deer gens, from the fact, as the Wyandots say, that death has carried away all the wise men of the bear gens.

The chief of the wolf gens is the herald and sheriff of the tribe. He superintends the erection of the council-house and has the care of it. He calls the council together in a formal manner when directed by the sachem. He announces to the tribe all the decisions of the council, and executes the directions of the council and of the sachem.

Gentile councils are held frequently from day to day and from week to week, and are called by the chief whenever deemed necessary. When matters before the council are considered of great importance, a grand council of the gens may be called.

The tribal council is held regularly on the night of the full moon of each lunation and at such other times as the sachem may determine; but extra councils are usually called by the sachem at the request of a number of councillors.

Meetings of the gentile councils are very informal; but the meetings of the tribal councils are conducted with due ceremony. When all the persons are assembled the chief of the wolf gens calls them to order, fills and lights a pipe, sends one puff of smoke to the heavens and another to the earth. The pipe is then handed to the sachem, who fills his mouth with smoke, and, turning from left to right with the sun, slowly puffs it out over the heads of the councilors, who are sitting in a circle. He then hands the pipe to the man on his left, and it is smoked in turn by each person until it has been passed around the circle. The sachem then explains the object for which the council is called. Each person in the way and manner he chooses tells what he thinks should be done in the case. If a majority of the council is agreed as to action, the sachem does not speak, but may simply announce the decision. But in some cases there may be protracted debate, which is carried on with great deliberation. In case of a tie, the sachem is expected to speak.

It is considered dishonorable for any man to reverse his decision after having spoken.

Such are the organic elements of the Wyandot government.

*Functions of civil government.*—It is the function of government to preserve rights and enforce the performance of duties. Rights and duties are correlative. Rights imply duties and duties imply rights. The right inhering in the party of the first part imposes a duty on the party of the second part. The right and its correlative duty are inseparable parts of a relation that must be maintained by government; and the relations which governments are established to maintain may be treated under the general head of rights.

In Wyandot government these rights may be classed as follows: First, rights of marriage; second, rights to names; third, rights to personal adornments; fourth, rights of order in encampments and migrations; fifth, rights of property; sixth, rights of person; seventh, rights of community; eighth, rights of religion.

To maintain rights rules of conduct are established, not by formal enactment, but by regulated usage. Such custom-made laws may be called regulations.

*Marriage regulation.*—Marriage between members of the same gens is forbidden, but consanguineal marriages between persons of different gentes are permitted. For example, a man may not marry his mother's sister's daughter, as she belongs to the same gens with himself, but he can marry his father's sister's daughter, because she belongs to a different gens.

Husbands retain all their rights and privileges in their own gentes, though they live with the gentes of their wives. Children, irrespective of sex, belong to the gens of the mother. Men and women must marry within the tribe. A woman taken to wife from without the tribe must first be adopted into some family of a gens other than that to which the man belongs. That a woman may take for a husband a man without the tribe, he must also be adopted into the family of some gens other than that of the woman. What has been called by some ethnologists endogamy and exogamy, are correlative parts of one regulation, and the Wyandots, like all other tribes of which we have any knowledge in North America, are both endogamous and exogamous.

Polygamy is permitted, but the wives must belong to different gentes. The first wife remains the head of the household. Polyandry is prohibited. A man seeking a wife consults her mother, sometimes direct and sometimes through his own mother. The mother of the girl advises with the women councilors to obtain their consent, and the young people usually submit quietly to their decision. Sometimes the women councilors consult with the men.

When a girl is betrothed, the man makes such presents to the mother as he can. It is customary to consummate the marriage before the end of the moon in which the betrothal is made. Bridegroom and bride make promises of faithfulness to the parents and women councilors of both parties. It is customary to give a marriage feast, in which the gentes of both parties take part. For a short time at least, bride and groom live with the bride's mother, or rather in the original household of the bride.

The time when they will set up housekeeping for themselves is usually arranged before marriage.

In the event of the death of the mother the children belong to her sister or to her nearest female kin, the matter being settled by the council women of the gens. As the children belong to the mother, on the death of the father the mother and children are cared for by her nearest male relative until subsequent marriage.

*Name regulations.*—It has been previously explained that there is a body of names the exclusive property of each gens. Once a year, at the green-corn festival, the council women of the gens select the names for the children born during the previous year, and the chief of the gens proclaims these names at the festival. No person may change his name, but every person, man or woman, by honorable or dishonorable conduct, or by remarkable circumstance, may win a second name, commemorative of deed or circumstance, which is a kind of title.

*Regulations of personal adornment.*—Each clan has a distinctive method of painting the face, a distinctive chaplet to be worn by the gentile chief and council women when they are inaugurated, and, subsequently, at festival occasions, and distinctive ornaments for all its members, to be used at festivals and religious ceremonies.

*Regulations of order in encampment and migrations.*—The camp of the tribe is in an open circle, or horseshoe, and the gentes camp in the following order, beginning on the left, and going around to the right: Deer, Bear, Highland Turtle, (striped,) Highland Turtle, (black,) Mud Turtle, Smooth Large Turtle, Hawk, Beaver, Wolf, Sea Snake, Porcupine.

The order in which the households camp in the gentile group is regulated by the gentile councilors, and adjusted from time to time in such a manner that the oldest family is placed on the left and the youngest on the right. In migrations and expeditions the order of travel follows the analogy of encampment.

*Property rights.*—Within the area claimed by the tribe each gens occupies a smaller tract for the purpose of cultivation. The right of the gens to cultivate a particular tract is a matter settled in the council of the tribe, and the gens may abandon one tract for another only with the consent of the tribe. The women councilors partition the gentile land among the householders, and the household tracts are distinctly marked by them. The ground is repartitioned once in two years. The heads of households are responsible for the cultivation of the tract, and should this duty be neglected the council of the gens calls the responsible parties to account.

Cultivation is communal; that is, all of the able-bodied women of the gens take part in the cultivation of each household tract in the following manner: the head of the household sends her brother or son into the forest or to the stream to bring in game or fish for a feast; then the able-bodied women of the gens are invited to assist in the cultivation of the land, and when this work is done a feast is given.

The wigwam or lodge and all articles of the household belong to the woman—the head of the household—and at her death are inherited by her eldest daughter, or nearest of female kin. The matter is settled by the council women. If the husband die his property is inherited by his brother or his sister's son, except such portion as may be buried with him. His property consists of his clothing, hunting and fishing implements, and such articles as are used personally by himself.

Usually a small canoe is the individual property of the man. Large canoes are made by the male members of the gentes and are the property of the gentes.

*Rights of person.*—Each individual has a right to freedom of person and security from personal and bodily injury, unless adjudged guilty of crime by proper authority.

*Community rights.*—Each gens has the right to the services of all its women in the cultivation of the soil. Each gens has the right to the service of all of its male members in avenging wrongs, and the tribe has the right to the service of all its male members in time of war.

*Rights of religion.*—Each phratry has the right to certain religious ceremonies and the preparation of certain medicines. Each gens has the exclusive right to worship its tutelar god, and each individual has the exclusive right to the possession and use of a particular amulet.

*Crimes.*—The violations of rights are crimes. Some of the crimes recognized by the Wyandots are as follows: 1, adultery; 2, theft; 3, maiming; 4, murder; 5, treason; 6, witchcraft.

A maiden guilty of fornication may be punished by her mother or female guardian, but if the crime is flagrant and repeated so as to become a matter of general gossip, and the mother fails to correct it, the matter may be taken up by the council-women of the gens.

A woman guilty of adultery for the first offense is punished by having her hair cropped; for repeated offenses her left ear is cut off.

*Theft.*—The punishment for theft is twofold restitution. When the prosecutor and prosecuted belong to the same gens, the trial is before the council of the gens, and from it there is no appeal. If the parties involved are of different gentes, the prosecutor, through the head of his household, lays the matter before the council of his own gens; by it the matter is laid before the gentile council of the accused in a formal manner. Thereupon it becomes the duty of the council of the accused to investigate the facts for themselves, and to settle the matter with the council of the plaintiff. Failure thus to do is followed by retaliation in the seizing of any property of the gens which may be found.

*Maiming.*—Maiming is compounded, and the method of procedure in prosecution is essentially the same as for theft.

*Murder.*—In the case of murder, if both parties are members of the same gens, the matter is tried by the gentile council on complaint of the head of the household, but there may be an appeal to the council of the tribe. Where the parties belong to different gentes, complaint is formally made by the injured party, through the chief of his gens, in the following manner:

A wooden tablet is prepared, upon which is inscribed the totem or heraldic emblem of the injured man's gens, and a picture-writing setting forth the offense follows. The gentile chief appears before the chief of the council of the gens of the offender, and formally states the offense, explaining the picture-writing, which is then delivered. A council of the offender's gens is thereupon called and a trial is held. It is the duty of this council to examine the evidence for themselves and to come to a conclusion without further presentation of the matter on the part of the person aggrieved. Having decided the matter among themselves, they appear before the chief of the council of the aggrieved party to offer compensation. If the gens of the offender fails to settle the matter with the gens of the aggrieved party, it is the duty of his nearest relative to avenge the wrong. Either party may appeal to the council of the tribe. The appeal must be made in due form by the presentation of a tablet of accusation.

Inquiry into the effect of a failure to observe prescribed formalities developed an interesting fact. In procedure against crime, failure in formality is not considered a violation of the rights of the accused, but proof of his innocence. It is considered supernatural evidence that the charges are false. In trials for all offenses forms of procedure are, therefore, likely to be earnestly questioned.

*Treason.*—Treason consists in revealing the secrets of the medicine preparations or giving other information or assistance to enemies of the tribe, and is punished by death. The trial is before the council of the tribe.

*Witchcraft.*—Witchcraft is punished by death—stabbing, tomahawking, or burning. Charges of witchcraft are investigated by the grand council of the tribe. When the accused is adjudged guilty he may appeal to supernatural judgment. The test is by fire. A circular fire is built on the ground, through which the accused must run from east to west, and then from north to south. If no injury is received he is adjudged innocent; if he falls into the fire he is adjuged guilty. Should a person accused or having the general reputation of practicing witchcraft become deaf, blind, or have sore eyes, earache, headache, or other diseases considered loathsome, he is supposed to have failed in practicing his arts upon others and to have fallen a victim to them himself. Such cases are most likely to be punished.

*Outlawry.*—The institution of outlawry exists among the Wyandots in a peculiar form. An outlaw is one who by his crimes has placed himself without the protection of his clan. A man can be declared an outlaw by his own clan, who thus publish to the tribe that they will not defend him in case he is injured by another. But usually outlawry is declared only after trial before the tribal council.

The method of procedure is analogous to that in case of murder. When the person has been adjudged guilty and sentence of outlawry declared, it is the duty of the chief of the Wolf Clan to make known the decision of the council. This he does by appearing before each clan in the order of its encampment and declaring in terms the crimes of the outlaw and the sentence of outlawry, which may be either of two grades.

In the lowest grade it is declared that if the man shall thereafter continue in the commission of similar crimes, it will be lawful for any person to kill him, and if killed, rightfully or wrongfully, his clan will not avenge his death.

Outlawry of the highest degree makes it the duty of any member of the tribe who may meet with the offender to kill him.

*Military government.*—The management of military affairs inheres in the military council and chief; the military council is composed of all the able-bodied men of the tribe; the military chief is chosen by the council from the Porcupine gens. Each gentile chief is responsible for the military training of the youth under his authority. There is usually one or more potential military chiefs who are the close companions and assistants of the chief in time of war, and in case of the death of the chief take his place in the order of seniority.

Prisoners of war are adopted into the tribe or killed. To be adopted into the tribe it is necessary that the prisoner should be adopted into some family. The warrior taking the prisoner has the first right to adopt him, and his male or female relations have the right in the order of their kinship. If no one claims the prisoner for this purpose, he is caused to run the gauntlet as a test of his courage. If at his trial he behaves manfully, claimants are not wanting, but if he behaves disgracefully he is put to death.

*Fellowhood.*—There is an interesting institution found among the Wyandots as among some other of our North American tribes, namely, that of fellowhood. Two young men agree to be perpetual friends to each other, or more than brothers. Each reveals to the other the secrets of his life, and counsels with him on matters of importance, and defends him from wrong and violence, and at his death is chief mourner.

The government of the Wyandots, with the social organization upon which it is based, affords a typical example of tribal government throughout North America. Within that area there are several hundred distinct governments. In so great a number there is great variety, and in this variety we find different degrees of organization; the degree of organization being determined by the differentiation of the functions of government and the correlative specialization of organic elements.

Much has yet to be done in the study of these governments before safe generalizations may be made. But enough is known to warrant the following statement:

Tribal government in North America is based on kinship in that the fundamental units of social organization are bodies of consanguineal kindred either in the male or female line; these units being what has been well denominated "gentes." These "gentes" are organized into tribes by ties of relationship and affinity, and this organization is of such a character that the man's position in the tribe is fixed by his kinship. There is no place in a tribe for any person whose kinship is not fixed, and only those persons can be adopted into the tribe who are adopted into some family with artificial kinship specified. The fabric of Indian society is a complex tissue of kinship—the warp is made of streams of kinship blood, and the woof of marriage ties.

With most tribes military and civil affairs are differentiated. The functions of civil government are in general differentiated only to this extent: that executive functions are performed by chiefs and sachems; but these chiefs and sachems are also members of the council. The council is legislature and court. Perhaps it were better to say that the council is the court whose decisions are law, and that the legislative body properly has not been developed.

In general crimes are well defined. Procedure is formal, and forms are held as of such importance that error therein is *prima facie* evidence that the subject-matter formulated was false.

When one gens charges crime against a member of another, it can of its own motion proceed only to retaliation. To prevent retaliation the gens of the offender must take the necessary steps to disprove the crime or to compound or punish it. The charge once made is held as just and true until it has been disproved, and in trial the cause of the defendant is first stated. The anger of the prosecuting gens must be placated.

In the tribal governments there are many institutions, customs, and traditions which give evidence of a former condition in which society was based not upon kinship, but upon marriage.

From a survey of the facts, it seems highly probable that kinship society as it exists among the tribes of North America has developed from connubial society, which is discovered elsewhere on the globe. In fact, there are few tribes that seem scarcely to have passed that indefinite boundary between the two social states. Philologic research leads to the same conclusion.

Nowhere in North America have a people been discovered who have passed beyond tribal society to national society based on property, *i. e.*, that form of society which is characteristic of civilization. Some peoples may not have reached kinship society; none have passed it.

Nations with civilized institutions, art with palaces, monotheism as the worship of the Great Spirit, all vanish from the pristine condition of North America in the light of anthropologic research.

Tribes with the social institutions of kinship, art with its highest architectural development exhibited in the structure of communal dwellings, and polytheism in the worship of mythic animals and nature-gods remain.

This report is very instructive, coming from so high an authority, and covering as it does completely, I think, the whole ground of philosophical inquiry into this very hidden and involved subject. It will not prove unacceptable to the faithful student of the subject of Indian government, though it may be wearying to the Senate.

Mr. President, we find here that the dissolution of the Indian family relationship is the dissolution of all tribal relationship; it is the abrogation of the tribal institution. As long as that tribal institution continues it will hold to what it is based upon, and that is the commune in all that relates to lands. The North American Indians are not the only people who hold to this. All Syria, all Central Asia and Russia are filled with instances of lands held in common. There has not been one instance in the history of the Indians of North America, commencing with the Aztecs, with their comparatively splendid civilization, down to the present time where they have ever enacted laws to hold lands in severalty. An Indian title in severalty to a tract of land derived from an Indian tribe is a matter that is unknown in the history of the Indians on this continent. It is not known even among the civilized tribes. As I remarked before when addressing the Senate, it is a matter of religion with them that their communal interest in lands should not be interfered with.

I know we have got to get rid of the subject; we have to strike at the root: and in order to do it effectually we need not expect to get the consent of the Indians. They will not aid us thus to strike at their institutions. We must now commence to govern them. The proper way to commence to govern them is to have written laws that will bear directly upon them. Let the laws be just and wise, but do not hesitate to lay your hand upon the plow, and then never look back when you march in the direction of the civilization of the Indians.

I have before remarked that it is an opportune time to commence this work. One of my purposes in moving to strike out the ninth section of this bill is to enable us to commence a system of positive government in reference to the Indians, and not undertake to repeat in one broad and comprehensive law that which has failed in sixty-seven different acts of Congress that we have passed. Why are we passing this universal law when sixty-seven statutes are upon the book, each of which intends to accomplish the same purpose in regard to about ninety tribes of Indians? What reason is there for it? I must be permitted to say that looking at the features of this bill I cannot conceal it from my own mind and conscience that there is a reason much deeper than the advantage which it is expected will be derived by the Indians. You will have a provision here that the law shall not take effect until two-thirds of the male members of each tribe consent to it, and yet when you come to dispose of the communal lands now held by them in common, after you have made the location of the Indians upon separate tracts of land, you dispense with your two-thirds requirement, and a bare majority of the Indians can then dispose of the land of all the rest. That is the bill.

What must a ring of land pirates do in order to accomplish a confiscation of the lands of the Indians? When you have passed this bill you will find fifty rings in the United States that will spring up in fifty days for the purpose of grabbing the Indian lands. What will the rings do? They will go to a tribe of Indians and say to the men who are in poverty, in distress, perhaps, "Come, now, take a drink; take a little red paint, a few beads, some powder and ball, some guns, some trinkets, some toys, and go into council with us, and we will make an arrangement by which the Government of the United States can get the consent of two-thirds of your people to accept the provisions of that law." All right; the Indian goes in. In that manner two-thirds of the tribe have given their consent, and then the law shall operate upon them. Then you proceed, after the law has become effectual, to the location of the Indians upon the lands, and after you have done that a body of land remains in common to be sold. Then the ring men strike the Indians home. Then it is that having got the tribe in their power really, they proceed to buy out the balance of their great territory, and get Congress to confirm the bargain.

In the remarks which I have made before the Senate I have shown that as many as three thousand Indians in this country have the control of twelve million acres of land under the existing regulations, and by the effect of this bill you change the nature of the title by which the Indians hold it. The very moment that they accept the provisions of this bill their title, which now rests simply upon the ground of the right of occupancy under treaty stipulations, is converted into a fee, and after that you have to get the title out of them by a conveyance of the fee-simple. By this means you enable three thousand Indians to dispose absolutely of twelve million acres of land. After you have passed this law, and, as I have remarked before, after you have sanctioned their title both by contract and by grant, you find yourself unable ever more to get it back again.

Some members of the committee have congratulated themselves and the country that if this law did not operate beneficially it could be repealed. Mr. President, once you put this law upon the statute-book you will never repeal it. You have got laws upon the statute-book now in reference to mining rights which we have copied from the Spanish Government, in the western country, and all the powers of the Congress of the United States could not get rid of them to-day. Pass this bill and put these rings into motion for the purpose of gathering and absorbing these lands, this immense domain thus granted and confirmed to the Indians both by contract and by law, and you will not in twenty-five years repeal it. When the rings get possession of it they will never let you repeal it; they will hold on to it, and their influence will be felt in both branches of the Congress of the United States to that extent that we will be powerless ever to shake them off.

This bill will consign these lands and these Indians to that condition, and it is only because I have felt that we are getting ourselves into a condition where extrication would hereafter be impossible that I have ventured to have so much to say about the measure. No man regrets more than I do the necessity which I have felt was incumbent upon me, believing and feeling as I do in regard to this matter, at least to lay before the Senate of the United States facts that are undeniable, which I think should challenge their attention when they vote upon this matter, and admonish Senators to look carefully into this important measure.

Mr. SAUNDERS. Mr. President, I hope that the amendment that is proposed by the Senator from Alabama will not prevail. I think that section 9 of the bill ought not to be stricken out. While I think we have the power and probably the right to manage this affair in our own way, still I believe that these Indians do have some rights under the treaty regulations that should be respected. We have for more than three-quarters of a century, at any rate, respected these treaties as being binding upon us, and it is only within the last decade that they have been set aside by decisions of the courts. Now, of course we can be governed by these decisions and can no doubt legislate in just such way as we feel we ought to do or that we are disposed to do. But if you strike out the ninth section of the bill you force every tribe to come in whether willing or not and accept the terms of this bill. I do not believe that we ought to attempt it in that way. If you leave it as it is now, it requires the consent of two-thirds of the tribe before the bill can be enforced upon them, or before they can be required to accept the terms of the bill.

I should say here that Indians are very much like white men in one particular at any rate, that is you may lead them, you may coax them, but you cannot drive them very well into that which is not acceptable to them. On that account I think it would work against the effects of the bill rather than in its favor. I believe, then, that we ought to have the consent of the Indians in some way, and I believe if we get the consent of two-thirds we will very soon get the consent of the rest, because two-thirds will very soon draw the rest with them, and we will thus have their general consent, and in that way we may carry out the provisions of this bill and at the same time give better satisfaction than if we try to force the Indians to accept the proposed terms.

I am aware that this is a very difficult question to be settled. I am aware, as was said by one of the Senators yesterday, that this question probably will be kept before the country for years and years together, even though we should pass this bill or any other measure like it; but this is an entering wedge, as I think, to this question. It is a step in the right direction, and that direction leads us to make citizens of them and to require the same of the Indian that we require of the white man. I think that no harm can come of this measure. We have treated the Indian in all the various ways that could be thought of—first, as aliens; treating with them next as wards, not able to take care of themselves, but as persons who must be taken care of by the nation. And now under this bill it is proposed to make them citizens and to deal with them as we do with other human beings and other citizens of the United States.

I believe that if we will take this step it will be the first great step toward settling this great Indian question, and it is the greatest question, in my opinion, that is to-day before the Congress of the United States. I know of no question to-day that is equal to this in importance. Here we have the Indians scattered over twelve of the States and nine of the Territories of this Government. We have nearly one hundred and fifty tribes of Indians. We have now some sixty-seven agencies scattered in these different States and Territories. The whites have completely surrounded them, and are driving them as fast from the West as they were a few years ago driven from the East. And now the question is what will you do with them. Shall they not now be made useful members of society in some way? The bow and arrow have got to give way to the plow and the hoe; they have got to make their living by the sweat of their face as white men make it. We must meet the question in some way, must deal with them if not as white men yet as human beings, and not compel them, as the amendment would if adopted, to accept the provisions of the bill whether they are willing or not. By this section as it stands we invite them by a two-thirds majority to take hold of this matter, and to come in and take part with us. Let us not deal too harshly with them, but rather let us show them that they are to be consulted and are not to be forced to accept whether they may deem it for the best or not.

As I said the other day, I have some personal knowledge of the Indians. In my own State they have made such advancement in civilization that I believe there is no question with them as to what they can do and what they would do if they were given an opportunity to own lands in severalty and to have homes secured to them the same as white men have. Some others, the semi-civilized tribes, are begging us now to give them title to their homes. There are men around this Capitol to-day who are begging Congress to pass a bill that is now upon the Senate table proposing to divide up the lands in severalty to the Peoria and Miami tribes of Indians. They say that every Indian of their tribes is ready for it; that all are ready to accept their lands, and will promise to take care of themselves, and would ask nothing from the Government hereafter but what the Government owes him. Then why not give it to them? I do not expect all the Indians to accept the provisions of this bill at once, nor will it be done very soon; but a very fair proportion of them will, in my opinion, do so, and thus an example will be set which will by and by be followed by others and it may be by all.

When our committee visited the Omaha Indians two years ago, seeking information on the subject of Indian affairs and inquiring whether it would not be better to turn their management over to the War Department, they said "we want no warriors, no military officers to take care of us, but we want a title to our land the same as a white man has it; you give a white man a title which cannot be taken from him, but you give us one that you can by an act of Congress take from us. Why don't you treat us like you treat white men?"

In my opinion, Mr. President, we owe it to these people, who are seeking the opportunity to become citizens, to give them an equal chance with other human beings. With my knowledge of the Indian character it would not be best to adopt this amendment, and there-

fore I shall oppose the amendment as proposed by the Senator from Alabama, and hope it may be defeated.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama, [Mr. MORGAN,] to strike out the ninth section of the bill, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 10, nays 40; as follows:

YEAS—10.

| | | | |
|---|---|---|---|
| Bayard, | Eaton, | Pugh, | Vest. |
| Call, | Morgan, | Saulsbury, | |
| Cockrell, | Plumb, | Vance, | |

NAYS—40.

| | | | |
|---|---|---|---|
| Allison, | Davis of W. Va., | Johnston, | Randolph, |
| Anthony, | Dawes, | Jonas, | Rollins, |
| Baldwin, | Edmunds, | Jones of Florida, | Saunders, |
| Beck, | Garland, | Jones of Nevada, | Slater, |
| Blair, | Groome, | Kernan, | Teller, |
| Booth, | Hampton, | Kirkwood, | Walker, |
| Burnside, | Harris, | Logan, | Wallace, |
| Butler, | Hereford, | McMillan, | Whyte, |
| Cameron of Wis., | Hill of Colorado, | Morrill, | Williams, |
| Coke, | Ingalls, | Pendleton, | Windom. |

ABSENT—26.

| | | | |
|---|---|---|---|
| Bailey, | Davis of Illinois, | Kellogg, | Ransom, |
| Blaine, | Farley, | Lamar, | Sharon, |
| Brown, | Ferry, | McDonald, | Thurman, |
| Bruce, | Grover, | McPherson, | Voorhees, |
| Cameron of Pa., | Hamlin, | Maxey, | Withers. |
| Carpenter, | Hill of Georgia, | Paddock, | |
| Conkling, | Hoar, | Platt, | |

So the amendment was rejected.

Mr. PLUMB. I offer an amendment to section 9, on which the vote has just been taken, which I send to the Clerk's desk to be read.

The CHIEF CLERK. It is proposed to add at the end of section 9:

*Provided*, That the President may, in his discretion, make allotment of land in severalty, as hereinbefore provided, to any one or more Indian members of a tribe or band, upon the request of such Indian or Indians, irrespective of the action of such tribe or band; and when allotment of land shall be made to any Indian the head of a family, allotment shall be made to the members of such family, as hereinbefore provided, in case where division is made among the members of an entire tribe or band. Such allotment of lands shall dissolve the tribal relation of such Indian or Indians, but shall not impair their proper proportionate right to the lands, funds, or other property of such tribe remaining undisturbed; which said proportion shall be paid them on the final distribution of the funds and property of said tribe, except as to annuities in money or in kind, which shall be paid as though the tribal relation had not been dissolved.

Mr. PLUMB. Mr. President, I should be glad to have the attention of the members of the committee who have charge of the bill to this amendment. We have voted now, in substance, that the only cases in which lands shall be taken in severalty shall be those where the tribe as a tribe acts upon the question, and that only in cases where two-thirds of the members of the tribe consent the President shall proceed to allot lands in severalty to the members of such tribe. I think that will prove ineffective and will not accomplish fully the intention which the committee have in pressing the passage of this bill, and for several reasons.

In the first place, I think there may be tribes in which two-thirds of the members are competent to take care of themselves and who might desire, or at least who might be induced, to vote that they do desire to dissolve the tribal relation and take their lands in severalty, while the other third of the tribe would be totally unfitted for separate and individual action, persons to whom the tribal relation is a protection. The bill provides that where it becomes operative on a tribe the members shall take the benefit of the act within five years after the allotments have been made upon a particular reservation. I have no doubt that if that should be applied to members of tribes who have not consented to the change many of them would not claim these allotments at all; they would neglect to take advantage of the provisions of the bill, and would therefore cut themselves off from its benefit entirely and would become vagabonds and paupers, whom the Government would be under obligation to support. And in fact as to most of this class the result would be the same even if they should claim the allotment of land to which they were entitled. Giving up the tribal relation under compulsion, and being wholly unfitted for the independent individual relation they had been compelled to assume, the result could not be otherwise than disastrous.

Another class of cases would be that of tribes where two-thirds of the members acting under the control of the chiefs, or for purposes of their own, connected with the tribal organization, would refuse to accept of the provisions of the bill. It is worth while to be a chief of a tribe. The position carries with it many benefits and advantages. The influence of the chiefs over the other members is frequently very potential, and there would be many cases in which the two-thirds influenced by the chiefs would decline to avail themselves of the provisions of the bill and would retain their tribal relation and all their land. That would operate to deny the benefits of the bill to such individual Indians—members of the tribe, but less than two-thirds of the whole—as might desire to take advantage of it, and would prevent the breaking up of the tribal relation, which is not only desirable, but which this bill is specially designed to effect, and would operate to retain in the hands of the tribe the large bodies of land now held by them.

It is useless to talk about reversing now the policy which this Government has heretofore observed in regard to Indian reservations. From the time when the white people landed upon the North American Continent down to the present time, whenever an Indian reservation has stood in the way of white settlement or progress of any kind, or in the way even of the greed of the white man, the Indian and his title to the land have been obliged to give way; and we are not going to change that now. On the contrary, the case is aggravated. The area of Government land is gradually but rapidly diminishing. The time is coming, and within a very few years, when the Government will have no land to give to the people who desire to leave the overcrowded East. These people will not be satisfied to remain landless while the Indians are holding large areas which they do not cultivate and which they do not need. They will conspire, as they always have done, to deprive the Indian of his possessions, and they will not conspire in vain. The cry for lands on the part of the landless will be potent as always heretofore, and by the agency of treaties extorted from the Indian, or by forcible occupancy, ultimately to be sanctioned by Congress, the coveted land will be acquired.

The right of the tribes in the Indian Territory to their reservations has been sanctioned by legislation covering a long period of years, and yet we have had the spectacle during the last year of a combination of white people gathering along the northern border of that territory, and only prevented from going in and taking possession of the land by the presence of United States troops. Settlers cannot be kept out of the Indian Territory long by processes of that kind. They never have been kept out for any considerable length of time, and they will not be kept out now. Whenever we set up a barrier to the exercise of the right, of the privilege, of the individual Indian or any considerable number of the Indians, to land in severalty and endeavor to keep these reservations intact, we only make a barrier which when it comes to be broken down will be broken down wholly and entirely by reason of the accumulation of men and of interests which demand it, and which become stronger than even Congress and the Executive.

This is going to be more so hereafter than it has been heretofore, for the reason, as I said, that the area of public lands has been very much diminished. Within twenty years there will not be an acre of corn land on the American continent that will not be worth $50. The people who come from the States of the East, from the places where population is beginning to crowd production, will more and more need the surplus lands, and will be less liable to be controlled than heretofore, and the Government can only meet the inevitable by taking steps in advance which shall gradually, and in accordance with law and in accordance with justice and the rights of the Indians, release their hold upon these large bodies of land which they cannot use.

The action proposed by the amendment which I have submitted is in accordance with precedents that have been established, under which the Government has operated with reference to many tribes of Indians. I find in the act of Congress concerning the Miami Indians of March 3, 1873, in section 3, that the Government in that case provided that certain Indians who should so desire might become citizens of the United States, and on presenting a certificate of the court before whom they had been naturalized, the Secretary of the Interior should proceed to allot to them lands in severalty, which they should hold in fee.

Mr. EDMUNDS. What is the page?

Mr. PLUMB. It is volume 17, page 631, of the statutes.

Mr. ALLISON. I do not want to disturb the Senator from Kansas, but I should be glad to have him tell the Senate what the effect of that law has been in the State of Kansas. I believe the Miamies, a portion of them at least, are inhabitants of the State of Kansas.

Mr. PLUMB. I will proceed to state before I get through what the effect of that has been. The concluding portion of the section is as follows:

On the presentation of said certificate—

That is, the certificate of naturalization—

to the Secretary of the Interior, with satisfactory proof of identity, he may, at the request of such person or persons, cause the lands severally held by them and their minor children to be conveyed to them by patent in fee-simple, without the power of alienation, and may, at his discretion, cause to be paid to them, from time to time, their proportion of all the moneys and effects of said tribe held for them by the United States, or which may be received as the net proceeds of the sale of lands under the provisions of this act; after which said Indians and their minor children shall cease to be members of any tribe; but the lands so patented to them shall not be subject to levy, taxation, or sale during the natural lives of said Indians or of their minor children.

Under the provisions of that act between fifty and sixty members of the Miami tribe of Indians took land in severalty. I have recently made inquiry from several sources in regard to the fate which overtook those Indians. They are living in the State of Kansas to-day in independence, that is to say, independent of the Government, receiving no annuity at all, not living upon charity, but taking care of themselves, earning a livelihood which is satisfactory to them at least, and which is no imposition to their neighbors. I may say further that as to some of them they have prospered; they are doing well. None of them are conspicuous for their poverty or for their incapacity or for their lack of thrift. The remaining portion of the tribe went to the Indian Territory and took land in common. They themselves, largely moved by the conduct and example of their brethren who remained in Kansas, have now come here and are petitioning

Congress that they too may have their lands alloted in severalty. The experiment in that case worked well.

In 1871 Congress, in dealing with the Osage tribe of Indians and providing for the sale of their reservation in the State of Kansas, enacted:

That each half-breed or mixed-blood of the Osages, being twenty-one years of age, or the head of a family, shall, under such rules and regulations and on such proofs as shall be prescribed by the Secretary of the Interior, be entitled to enter, without cost, within the diminished reservation of the Osage Indians in Kansas, a tract of land, in compact form and by legal subdivisions, not exceeding one hundred and sixty acres, upon which such half-breed or mixed-blood has heretofore actually settled and made improvements: *Provided, however*, That such half-breed or mixed-blood so entering such land shall thereby forfeit all claim to lands within the Indian Territory which have been or shall be purchased out of the proceeds of the sale of the land of the Osages, in the State of Kansas.

Congress, also, by a treaty with the Delaware Indians, made the 6th day of May, 1854, in the eleventh article of that treaty, stipulated that—

At any time hereafter, when the Delawares desire it, and at their request and expense, the President may cause the country reserved for their permanent home to be surveyed in the same manner as the ceded country is surveyed, and may assign such portion to each person or family as shall be designated by the principal men of the tribe.

By the treaty of 1860 the Delawares represented to the Government their desire that the eleventh article of the treaty of 1854 might be carried out. It was carried out, and there was assigned to such of the Delaware Indians as desired it lands in severalty in the State of Kansas, which they continue to occupy and own to-day. The remaining portion of the tribe ultimately went to the Indian Territory, some two or three hundred in number, and are now living there as other tribes of Indians in that Territory, holding their lands in common.

There are to-day, as I am told, some fifty or seventy-five or perhaps more members of the Osage tribe of Indians who desire to have land set apart to them in severalty, and who desire that the Government may in addition to that give them their share, or a portion at least of their share, of the funds due to the tribe now held in the Treasury of the United States. They believe they are competent to take care of themselves. It is not a tribal ambition but it is an individual ambition. It is that individuality which, I take it, it is the purpose of this bill to encourage, and it is that ambition which alone can ever take those Indians out of their dependent condition. There can never be such a thing as a tribal ambition to take land in severalty; it must be the ambition of the individual Indian, the same as it is the ambition of any white man to have his own estate to himself. If we set up, then, fifty or sixty or any other considerable number of a tribe of Indians for themselves, if our theory about this is correct, and we must try in order to find out, then we have got so many lumps of leaven to leaven the remaining portion of the tribe; we have got so many examples, not on the part of white men whom they might regard as hostile, not on the part of white men to whom different conditions attach, but on the part of members of the tribe, persons related to the remaining members of the tribe, bound to them by ties of blood, by common interest to a large degree. We have got the example of these men, I say, to bear upon the remaining members of the tribe and enable them not only to see how the thing works, but to inspire in them an ambition to be themselves set apart in due time upon their own land, and to have a chance to work out their salvation in their own way.

I think myself that if the bill is to be passed as it came from the committee, without some amendment such as I have proposed, it will result in destroying some tribe entirely without any corresponding benefit to the members of the tribe. I think there are many tribes that under the operation of this bill never will take land in severalty, and we shall have, year by year, to witness the crowding of the tide of emigration upon the boundaries of their reservations, and we shall be constantly appealed to to interpose by the strong arm of the military power of the Government to prevent the trespasses which we know are inevitable, and which we know in the long run we have not the power to prevent.

If these Indians then are to be provided for: if they are to accommodate themselves to the new condition of things; if they are to become self-supporting; if they are to cease to be an impediment in the march of emigration and of progress, it must be because the instinct of individuality, of self-interest, shall have full sway upon the members of the tribes, and they shall thereby be encouraged and determined to cut loose from the tribal organization each one for himself, and, on account of the interests that appeal to him personally, to take a position independent of the tribe. Unless we do have some such provision as this we shall not be able to enforce this law either with justice to the Indian, or with justice to the people or to the Government.

We cannot dodge this question. This bill has been spoken of as experimental, as all other legislation concerning the Indians has been experimental, but we have got to the point that the experiment is going to either kill or cure. We cannot deal with the Indians any longer as we have dealt with them heretofore, with a wide and practically unlimited public domain, into which they can constantly be crowded. We have driven them to the shore, we have driven them against the base of the mountain, we have surrounded them and penetrated their reservations with our railroads and with our currents of immigration, and the problem is not as it was forty years ago or even as it was ten years ago. We have either got to deal with them now through legislation specially adapted to the present condition of things and adapted to the speedy accomplishment of practical results, and which will give them some chance and some opportunity under the new order of things, or else we have got to submit the whole question to the bloody arbitrament of a frontier war which will result inevitably in the extermination of the Indian race. There is no middle ground, and we cannot experiment much longer.

It was said in the debate yesterday that there are as many Indians to-day on this continent as there were in 1620. While I respectfully beg leave to differ from that statement, at the same time for the sake of what I have to say I am perfectly willing to admit it. Yet there are but a few hundred left of the tribes that once inhabited the New England States. There is not more than that number left of all that once inhabited New York, and Pennsylvania, and Ohio, and Indiana. Everywhere where the white race and the Indian race have come in close contact the Indian has not only given way but he has disappeared from off the face of the earth. As Dr. Holmes said, the race is "provisional" merely. The Delawares, the Shawnees, the Miamis, once powerful tribes in the center of the continent, do not now number one thousand all told; and a similar fate has everywhere overtaken the Indian where he has been pressed by the white man.

Mr. EDMUNDS. He has disappeared by destruction, instead of by absorption, too.

Mr. PLUMB. As the Senator from Vermont well says, he has disappeared by destruction and not by absorption. Absorption is practically impossible. An Indian will maintain his essential characteristics as such as long as he lives; he will never be absorbed into the white race to any considerable extent. It is impossible that he should ever be a factor in any civilization, in any progress, or in any future of this country; but still the obligation of humanity remains, the obligation of law remains, and I would be the last one to advocate the violation of either obligation here or elsewhere. I want to keep all obligations. I know they cannot be kept by building up a Chinese wall around a reservation and seeking to stay that tide which has swollen year by year, and which is a hundred-fold more resistless than the tide which swept the Indians out of the States east of the Mississippi.

It is not a question any longer as to what we would like to do, but it is a question as to what we can do. I may say that while I am willing for the time being that the five civilized tribes shall remain in the Indian Territory under the sanction of the treaties which they ostentatiously bring to our attention every session of Congress—I will say for their benefit that they are simply postponing the time, and that that postponement will not be very long, when they too will have to submit to the fate which has overtaken all other tribes of Indians. They had better take warning from the history of the Indian upon this continent. They had better take warning from the inevitable, and set their houses in order and say, "We will look forward to the time in a not far distant future when we too will be willing to take land in severalty; when we will be willing to sell the remainder of our lands, the lands we cannot use ourselves, to white men who will occupy them, taking the profit to ourselves, and accommodating ourselves to the customs and the laws of the white people and taking up our burden in the race of life along with them and of them."

There is nothing harsh about this at all. The Indians generally upon this continent to-day, if they get the full benefit of the lands they have, will be amply supplied with all that is necessary for life; they will not lack for food; they will not lack for clothing. They have large estates, and while I do not believe that they will make wise use of the lands to any considerable extent that we shall leave to them, still some will be advantaged, all will be given a chance, and the question as to whether any considerable number of them will ever become self-supporting will be finally settled. If we force this bill upon them—if we crowd them out of the tribal relation one result will be crime and pauperism which the adjacent communities will have to bear the burden of. But if we give them a chance as individuals to set up for themselves, what with their own exertions and the proceeds of their lands, which will be sold, they will have means enough, properly applied, to take care of them, so that the Government will not be under the reproach of having crowded them into a condition of pauperism.

I wanted to have the bill amended so that the lands that we are giving so generously to these people might be made use of; if the Indian would not do it that somebody else might, but the Senate thought otherwise. If the bill should pass in the shape in which it now is, I fear that in the effort to carry it out some zealous President or Secretary of the Interior will perhaps lend himself to practices such as heretofore have been applied to obtain treaties with the Indians and thus compel them to adopt the provisions of this law long before they are prepared for it. But if my amendment should be adopted, and if there can be set up in every tribe one or two or fifty or one hundred Indians who will exhibit their capacity to take care of themselves to the remainder of the tribe, and the benefit to be derived from taking land in severalty and having all their affairs separated from those of their fellows, I think the problem will at least have taken a start toward a settlement and a fair settlement both to the Indian and to the Government. I think we shall have begun that which can be said to be the beginning of the end, and that in a few years we shall realize that gradually under the opera-

tions of natural causes, by the operation of the ambition of the individual Indian, we shall have inaugurated a policy and a system which will soon take the Indian question out of administration and from legislation, and that system is what I desire. Above all people on this continent, the people now in the West, for themselves and for those who are to come after them, desire a practical settlement of this question. They have got to bear the burden of this contest. They have got to live in the midst of communities of which the Indians form a considerable part. They have got to have the disadvantage of the pauperism and crime, and the association with a degraded and inferior race. They want it settled in a humane way, but also in a practical way. They bear the burdens and their interests should be consulted. Give the Indian his title in fee to the land he can use, evidenced by a patent, and there will be no further agitation about Indian lands. He will be as safe in possession and in title as his white neighbor. There will be an end to all this talk about the covetousness of the frontiersmen for the land of the Indians. Let each Indian choose for himself whether he will throw off the tribal relation, and the tribes will begin to disintegrate, and the example of those who first break off will gradually and beneficially affect the remainder of the tribe.

Mr. KERNAN. Mr. President, I shall occupy but a very few minutes. I have made up my mind that it is wise to vote for this bill to divide the land of the Indian reservations in severalty among the Indians, and extend over them the protection of the laws of the States and Territories in which they reside. I understand that the Secretary of the Interior, who has had the Indians in charge in his Department for nearly four years, favors this bill; our Committee on Indian Affairs have matured it and are in favor of passing it. It seems to me that we can wisely pass it and make this experiment.

Surely the condition of the Indians at present is not such as any good man would desire. Their condition could hardly be worse than it is, and if we can do anything to induce even one of these tribes to take their lands in severalty as an experiment, and if, by fairly protecting them by the laws, we shall enable them and they shall be disposed, as I believe some of them certainly would be, to make homes for themselves and engage in cultivating the land and in raising stock, we shall have done that which I hope will have its effect upon other tribes, and we shall have them in a better condition as the experiment shall proceed, and we can amend the law as we find it can be done wisely. I see no good reason why we should not try this experiment.

I am told that for more than forty years there has been no contest, no outrage, no war between the Indian tribes in Canada and the government of that country; and its policy has been to give the Indians lands to cultivate, to encourage them to make homes upon them, to extend the law to them and protect them from that which produces great evils to them and which brings war and great expense upon the Government of the United States.

Mr. TELLER. I desire to ask the Senator from New York a question.

Mr. KERNAN. I do not think I shall be able to answer questions on this Indian matter. I only rose to say that I have listened to the discussion for more than ten days, and I can see no reason why we should not comply with the recommendation of our Secretary of the Interior, who has charge of the Indians generally, and of our committee, who have looked into it, and simply say that we will give them lands in severalty, which they cannot alienate, which cannot be taken from them by judgment, and that we will protect them in their possession as long as they stay there, in the hope and faith that they will begin to build up a different society from that which exists where they roam over the plains and attack the whites at one time and are attacked by the whites at another.

I merely rose to say that with this hope, and in the faith that this bill is in the right direction, we may be able by it to inaugurate a new era; that these Indians whom every man feels are in a wretched condition for them and for us may be improved. I am in favor of the bill and shall vote for it, believing that it is an experiment which we ought to try.

Mr. TELLER. As the Senator from New York declined to yield to me while he was on the floor, I want to say to him now that he is very much mistaken when he says that the Indians in Canada have lands in severalty.

Mr. KERNAN. I said they had progressed there and cultivated the land, as I understand.

Mr. TELLER. The honorable Senator certainly intended the Senate so to understand. The same statement was substantially made here on Saturday. There never was a greater mistake than that. Of course the Indians in Canada have got along much better than they have in the United States; but there are many reasons why they have. The tide of emigration has not swept in that direction; they have not been crowded; there is a great abundance of land in Canada, and cheap land, to be had; but above all things the reason why they have succeeded in Canada is that the government has put them upon a piece of ground and then has recognized it as theirs—not in their individual capacity, but in their tribal relation, and it has not been dealing with them every sixty days as we have been doing with reference to their lands. It has said to them, "that is your home, cultivate your fields there;" and they have cultivated them just as they have in the State of New York on the Indian reservations, where some of them have been cultivating land for the last one hundred years.

Mr. President, it was stated here that the Miamies and the Peorias were exceedingly anxious for land in severalty. In 1854, when this craze—for it was a craze then and it is now—had taken possession of the people, when it was supposed that this was all that was needed to settle the Indian question, the Miamies made a treaty with the Government by which they were to take land in severalty, two hundred acres each, reserving to the tribe 70,000 acres to be held in common. They took their land in severalty; they disposed of it to white people, and would have been paupers to-day but for the fact that they had reserved 70,000 acres in common. In 1873 we made a treaty with them again, and we, then profiting by our experience of 1854, provided that forever the land should be inalienable, and the Miamies to-day cannot part with their title with the consent of anybody or with the approval of anybody. In 1854 their treaty provided that with the consent of the President they might sell their lands. As I say, they took their lands, they then parted with the title, under rules made by the President of the United States, to the white people of that neighborhood, and those who did not accept land in severalty in Kansas, in 1873, or subsequently, went to the Indian Territory and took land in common. It may be that these men who were made paupers by that act are crying for land in severalty now, but I doubt it very much, and it will take a good deal more than the evidence of some agent to make me believe it.

In Canada—and I allude to that because it has been referred to once or twice—the government made a special effort to get the Indians take land in severalty, and it is admitted by those who have given attention to it that the Indians in Canada, with few exceptions, are the most civilized Indians in the world. The highest state of Indian civilization anywhere on this continent is in Canada. The Indians there can hardly be distinguished from white men; in fact they are superior in many ways to the people who first settled that country and to many of the people who claim to be white people and who live in that country; and yet they studiously and sturdily resist all efforts to make them take land in severalty, and that, too, when it is given them on condition that when they become citizens under the law they shall be entitled to all the rights and privileges of citizenship. The land-in-severalty business can find no earthly defense by a reference to Canadian history, and anybody who claims it has not read that history or does not propose that the Senate shall understand the facts. It is so with some other cases which have been cited like the Miamies, and it is said they are here pleading for land in severalty, when in 1873 they abandoned the opportunity to take land in severalty in Kansas, and went to the Indian Territory and took land in common.

The honorable Senator from New York says he wants to give them a chance to make homes. Why, the best homes the Indians have on this continent are where they own the land in common, and, as was said by the gentleman from Alabama this morning, it is not only a question as to Indians holding land in common, but it is a great economic question to-day whether the true principle is not land in common instead of land in severalty. It is a very doubtful question whether the Anglo-Saxon idea of a partition of the face of the earth has been of value to the world; whether the true principle is not that a man who wants to work a piece of land shall work it and he shall own just so much of his mother earth as he can make useful to himself. I believe myself that that is the true theory of land and land ownership, and I believe it would be better to-day if we could adopt some such principle as that, both for white men and for Indians. I do not believe that with land in severalty come all the blessings of home. Homes equally as valuable and as interesting can be made upon land where the title is in common, provided you secure to the possessor while he sees fit to occupy it all the rights he would have if he had a fee-simple title; and when he is done with it, it will go to his children, if they see fit to occupy it, and if he does not have any, it will go to some other person in the community who may desire to make a home upon it. I presume it is fair to say that a good portion of the face of the earth to-day is held in that way, and there are a great many people in this country and in Europe who are crying for land for the landless, because a few men have been enabled by a system of legislation in accordance with this to appropriate vast regions of the land and to keep other people from it except as they pay tribute to them. And that will be the case with these Indians in time; they will be without an acre of land. As it has been in the history of these allotments, so it will be in the future. For twenty-five years, by this bill, they cannot sell the lands allotted to them. What is twenty-five years? You are legislating not for to-day alone, but for the future. In 1854 it was thought that these Indians would be civilized in twenty-five years. Twenty-five years have passed, and they are not civilized yet, and they are not the owners of the land that we gave them in 1854 and the years following. I say now when you have given these Indians the land under this bill and with this present notion, five years will see every Indian in the country with his land and with his patent, and thirty years from that time will see every Indian in the country, with rare exceptions, a vagabond on the face of the earth.

The PRESIDING OFFICER, (Mr. ALLISON in the chair.) The question is on the amendment of the Senator from Kansas, [Mr. PLUMB.]

Mr. EDMUNDS. I move to strike out from the amendment the last clause or sentence, beginning with the word "such."

The PRESIDING OFFICER. The words proposed to be stricken out by the Senator from Vermont will be read.

The Chief Clerk read as follows:

Such allotment of lands shall dissolve the tribal relation of such Indian or Indians, but shall not impair their proper proportionate right to the lands, funds, or other property of such tribe remaining undistributed, which said proportion shall be paid them on the final distribution of the funds and property of said tribe, except as to annuities in money or in kind, which shall be paid as though the tribal relation had not been dissolved.

Mr. EDMUNDS. The thing that I wish to get at in the motion that I make is to get rid of the part of the amendment which makes the allotment to a single Indian against the consent of the tribe provided for in the section by its two-thirds vote for it a dissolution of the tribe. I am inclined to think that it might be wise to invest the President with the power, in a tribe that would not as a tribe consent to break up and take up allotments, to assign land to individual Indians that had got so far advanced in the ideas of civilization that they wished to take one hundred and sixty acres of land and own it themselves although their fellow-Indians were in common all around them. So I should be glad, I think, to vote for a proposition which would authorize the President in his discretion, to allow individual Indians of a tribe that would not consent to break up and dissolve, and take allotments all together, the chance of taking their one hundred and sixty acres and settling down upon it and ceasing to be members of the tribe. Therefore it is that I move to strike out this last clause which declares that in the case of this allotment to separate and to individual Indians the tribal relation shall be broken up. I wish that out in order to leave it a provision that the President, in his discretion, may allot, on the application of individual Indians in a tribe that is not yet willing to break up as a whole, lands in severalty.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) The question is on the amendment of the Senator from Vermont [Mr. EDMUNDS] to the amendment of the Senator from Kansas, [Mr. PLUMB.]

Mr. PLUMB. I am not tenacious about that part in regard to the relation of the Indian to his tribe after he shall have taken land in severalty. Of course, if the tribal relation is not dissolved by that or by any other act, there is no necessity for that portion of the amendment which provides that the Indian shall have his proportion of annuities, and so forth, because he would have those any way. At the suggestion of a member of the committee I will modify my amendment to correspond with the suggestion of the Senator from Vermont.

The PRESIDING OFFICER. The amendment of the Senator from Kansas is modified.

Mr. COKE. I am authorized by several members of the committee who are around me to say that the amendment proposed by the Senator from Kansas, modified as suggested by the Senator from Vermont, is acceptable to the committee.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Kansas as modified.

Mr. EDMUNDS. Let it be read as it now stands.

The CHIEF CLERK. At the end of section 9 it is proposed to add:

*Provided*, That the President may, in his discretion, make allotments of land in severalty as hereinbefore provided to any one or more Indian members of a tribe or band upon the request of such Indian or Indians, irrespective of the action of such tribe or band; and when allotment of land shall be made to any Indian, the head of a family, allotment shall be made to the members of such family, as hereinbefore provided, in cases where division is made among the members of an entire tribe or band.

Mr. EDMUNDS. As it strikes me, I think that is perfectly right and it would be of benefit to the Indians and to the public interest of the whites, as it might provide for a gradual approach to civilization one by one. At the same time the amendment as it now stands may possibly require some further provision in respect of this new allotment under this proviso being subject to the other provisions of the act about alienation and so on. Very likely it might have that effect now; I am not sure about it; I only call the attention of the committee to it. Further in relation to the individual share that an Indian who had thus separated himself from his tribe in respect of possession, might have and ought to have in regard to annuities and other things that are due to the tribe, may require provision, so that he shall not lose whatever share he might still be entitled to in the property of the tribe beyond the value of the land that had thus been separately assigned to him. I refer to that in order that the committee may consider whether provision ought not to be made in these respects if this amendment is adopted.

Mr. WILLIAMS. I merely want to suggest the difficulty in the way of the whole matter. It is that, though the general policy is to give land in severalty to the Indians who are disposed to change from their tribal character to an agricultural people, it will yet never do to give these Indians the right to dissolve their tribal relation and then set them up on farms of their own within the Indian reservation without the tribe consenting to it. No Indian will dare do it. Whatever he might raise, the hunters of that tribe would steal from him, and they would murder him probably. I would not object on general principles if you allowed him to select his land outside of the reservation of his tribe; but no Indian will dare to set up a farm within the reservation of his tribe without the consent of the tribe.

Mr. EDMUNDS. Well, Mr. President, if that be true, then this section will never be acted upon. I think that where Indians are upon a reservation as a tribe, if some one of those Indians wishes to take whatever risk there is and the President thinks the circumstances are such that he ought to be allowed to do it, the laws of the United States are sufficiently powerful, executed by the whole power of the United States in its executive department, to vindicate his possession to his little one hundred and sixty acres where he raises his corn and other things and his cattle. And I should go for a provision with pleasure, I think—I reserve the right to change my mind if on discussion some insuperable objection should be made to it—which should make any Indian who violated that man's personal rights in respect of his separate farm the subject of the civil laws of the United States or of the State, as the case might be. I am not now on the question which authority ought to vindicate it; and therefore if any Indian or Indians made a raid upon his farm and carried off his cattle, instead of Indian fashion taking a tomahawk and getting revenge he should invite the marshal of the United States or the sheriff of the State of Kansas, if it were in Kansas, to resort to due process of law, by taking the Indians who committed that wrong against him before a civil tribunal and punishing them.

I think that that would be a good coercion of Indians toward civilization. It would make them feel that they must respect personal and private rights. If any Indian is willing to take his one hundred and sixty acres in severalty and be a pioneer in that stage of progress that they must come to, I am willing to give him leave to do so.

Mr. MORGAN. Let me remind the Senator that by this bill these Indians, as soon as they get patents to their lands, are made subject to all the laws, civil and criminal, of the State or Territory in which they are found.

Mr. EDMUNDS. I did not know how that was; and in what I said I did not mean to go into the question as to which jurisdiction—assuming that we have the power to settle the jurisdiction—the Indian should be referred to; but my point was that if the Indian took his land in severalty although the tribe did not wish to break up, some law, either State or national, should vindicate his private rights.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas [Mr. PLUMB] as modified.

The amendment was agreed to.

Mr. HOAR. Mr. President, I move to reconsider the vote by which on Saturday the Senate adopted the proviso offered by the Senator from Colorado [Mr. TELLER] inserting in the sixth section, sixth line, after the word "residue," the words:

*Provided*, That no Indian shall be punished for polygamy who, at the time of such allotment, was practicing the same in accordance with the usage or custom of the tribe to which he belonged.

Mr. President, I think every lawyer in the Senate will agree on reflection that that amendment, with the after vote which the Senate has just taken retaining the clause permitting two-thirds of the tribe to decide whether this law shall apply to them, ought not to be kept in the bill. It is unworthy of the United States to hold out such a promise to Indians in this bill. The remainder of the bill reads, first, that two-thirds of any tribe may determine whether the tribe shall come under the operation of this bill as to several allotments, with the exception that has been made by the vote just taken. Then it provides that the Indians who avail themselves of these privileges and receive allotments shall be subject to the laws of the State or Territory where they dwell. Now, the provision that no Indian shall be punished for polygamy who at the time of such allotment was practicing the same in accordance with the usage and custom of his tribe, every lawyer must agree, is clearly void. Either the whole bill must be held to be void on the ground that that is illegal, or that provision must be held void as repugnant to the bill. It is not possible that we can pass a statute under which A may be indicted for polygamy, and B may practice polygamy next door and plead the statute of the United States in defense. I do not suppose any lawyer in the Senate would for a moment question the utter illegality of that provision.

If that be true, what follows? It follows that you say to these Indian tribes when you ask for their two-thirds vote, or say to the individual Indian when he considers whether he will avail himself of the provision just adopted on motion of the Senator from Kansas, "You are to be entitled to retain your existing family ties unbroken to which you are religiously attached, to which you are bound in honor and bound by the ties of family affection to adhere; the rights of these women as your wives, accrued under the polygamous system in which you and they were originally numbered, are to be secured;" and the moment the Indian with that promise in the bill accepts it or the Indian tribe with that promise in the bill accepts it, the State law comes down upon him with an indictment, or his white neighbor who is scandalized by the neighborhood of such a family comes down on him with a complaint before a magistrate, and the promise of the United States is utterly nugatory and illegal and unconstitutional, and the courts say, "this clause, being repugnant to the provision that you shall be subject to the laws of the State or Territory, is void."

I am quite sure that the honorable Senator from Texas, when he accepted this amendment, had no idea that it was to place in the bill a promise, and a promise on a matter of this importance to these Indians which would be a delusion and a snare. Of course I know that——

Mr. COKE. The Senator will excuse me for a moment. The amendment was read, and I asked the Senator from Colorado if it was intended——

Mr. HOAR. The Senator will pardon me. I had in my mind in the next sentence I was about to utter that very point. The Senator

from Texas, when this amendment was proposed, put this question:

I understand that for polygamous practices in accordance with the laws and customs of the tribes occurring anterior to the date of the allotments there is no punishment under this amendment.

Mr. TELLER. That is it.

Mr. COKE. With that understanding, I see no objection.

The Senator from Texas understood that this was to guard the Indian against any possible retroactive punishment for a previous or existing polygamous practice.

Mr. COKE. Exactly.

Mr. HOAR. It was with that understanding that the Senate inserted this clause in the bill. But now turn to the amendment:

*Provided*, That no Indian shall be punished for polygamy—

That is, ever punished, as long as he lives, for polygamy—

who, at the time of allotment, was practicing the same in accordance with the usage or custom of the tribe to which he belonged.

That is a very different thing from what the Senator from Texas manifestly supposed when he put the question and heard the answer to it. Now, however opposed in principle every Senator may be to tolerating polygamy as an institution, no Senator would deny that it would be an injustice and an outrage to punish the head of an Indian family for polygamy or to compel him in middle life or in old age to put away women who had lived with him to middle life and old age under the laws of the tribe to which he belonged; and if they did, no Senator certainly would think it fit to make a promise to the Indian of impunity for such continuance in polygamy which promise was illegal and delusive.

Mr. BLAIR. I should like to call the Senator's attention to the language of the amendment extending the laws of Kansas to portions of the Indian Territory. He will find it on page 1028 of the RECORD; and the language only extends "the laws of the State of Kansas regulating the descent, alienation, partition, and distribution of real estate."

Mr. HOAR. I understand that; but there is another clause in the bill, in section 5, which the Senator will find is still retained in the original bill, that when this allotment is accepted by any Indian or tribe then such Indian or tribe shall be subject to all the laws, civil and criminal, of the State or Territory where he dwells.

Mr. TELLER. I introduced this amendment, but perhaps it is not as well worded as it might be. I introduced it for the purpose of protecting the Indians, and I think myself, on looking at it, it needs a little amendment. But there is a necessity for some such provision in this bill, unless you propose to get the Indians into trouble. I think that is the effect of the bill, although I will not say that is the intention; but it will be bad enough with even that saving clause. A great number of these Indians have more than one wife, and the more enterprising they are the more wives they have.

They regard the having of several wives as an evidence of their prowess and their power. So whenever an Indian is particularly successful, either in stealing ponies from the whites or the red men, or in hunting, he takes a wife, and then if he has a little better luck he takes another, and so you may say that the headmen in most of the tribes have more than one wife. This bill provides that the moment they accept this land in severalty they become amenable to the laws of the State or Territory wherein they reside. There is not a wild Indian living who understands that he is committing a crime by having more than one wife. They do not think even when they say "now we will be subject to the laws of the white man" that they are going to make themselves amenable for that. And yet if they continue to practice polygamy they will be guilty under some section of the statute of every State, either of having more than one wife or of living in improper intercourse with a woman. It was in the interest of the Indian that I offered the amendment. If we have not the power to do this at all, that is a very substantial objection against the bill in my judgment.

Mr. HOAR. The Senator will pardon me. If he leaves out this clause the Indian knows or has the means of knowing when he accepts the bill whether his wives can be saved or not.

Mr. TELLER. Theoretically he will know it; practically he will not know anything about it. Suppose that in the State of Colorado the Ute Indians are put upon their lands—they have acted very badly; the people are very much prejudiced against them—suppose that one of the leading Indians has three or four wives; there is the greatest temptation in the world for the people out there who do not want them there to have him indicted and compel those Indians to remove, because putting them in jail, sending them to the penitentiary, and harassing them by suits would compel them probably to abandon that section and hunt up another somewhere in the wilds of the mountains.

I believe we have the power to keep this shield about the Indians; and if we see fit to withdraw it, it seems to me we may withdraw just as much of it as we choose, but if there can be any doubt about it—I think there cannot be—if I should add after the word "Indian" the words "not being a citizen of the State," I think there could be no question but that the Government could do it. I do not offer the amendment to get the Indians into trouble. I offer it in perfect good faith to protect them in their rights, protect them in a system that to them is not a crime.

Mr. HOAR. Suppose the Indian be a citizen of Colorado, can the United States legally make this exception from the State law?

Mr. TELLER. Of course they can, but if he is a citizen of Colorado, what is the use of that provision that he shall be amenable to the Colorado law? That is already the law; he is already liable to be punished if he is a citizen of Colorado. If there is no objection I ask leave to amend my amendment by inserting after the word "Indian" the words "not being a citizen of the State." I think that will cover it.

Mr. HOAR. My difficulty, if the Senator from Colorado will pardon me, goes to the substance of the provision, and whether the rejection of the Senator's amendment ought not to reject the other provision of the bill is a separate question. I am inclined to think it should, but the Senate thinks otherwise very clearly, as the discussion has shown. But how a statute of the United States can make any human being, whether citizen, or alien, or permanent resident, or sojourner, amenable to a State law and then say there shall be, however, a certain defense to particular criminal law of that State in certain facts which we prescribe, is the insuperable difficulty, it seems to me.

Mr. TELLER. It seems to me perfectly clear that if we have the right to say whether they shall be amenable to the law or not, we may say to what law they shall be amenable, and when we say to all the State laws with a certain exception, that is clear enough. Now I think that the Indians who afterward marry more than one wife ought to be within the provisions of the State law, but I do not think those who have more than one wife now should be subject to those provisions. I have some doubt whether I ought not to amend it, and if there is no objection I will amend it, and then if the Senator thinks it should be stricken out, be it so.

Mr. HOAR. Let it be reconsidered first.

Mr. EDMUNDS. It can be done by unanimous consent.

The PRESIDING OFFICER. The Senator from Massachusetts moves a reconsideration of the vote by which the amendment of the Senator from Colorado was agreed to on Saturday. The question is on the motion to reconsider.

The motion was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment as originally offered.

Mr. TELLER. Now I ask leave to add after the word "Indian" the words "not being a citizen of a State." I suppose nobody will object to my offering that.

Mr. COKE. I suggest to the Senator from Colorado that the Senate has voted down an amendment declaring the Indians citizens.

Mr. TELLER. But they may be citizens by some other law. Now, I should like to have the amendment read as it will stand if amended.

The PRESIDING OFFICER. The amendment will be reported.

The Chief Clerk read as follows:

*Provided*, That no Indian not being a citizen of a State shall be punished for polygamy who at the time of such allotment was practicing the same in accordance with the usage or custom of the Indians in the tribe to which he belonged.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. MORGAN. I desire to inquire of the Senator from Colorado whether he regards the act as reported by the committee as conferring citizenship in the States on Indians on the allotment of the land.

Mr. TELLER. Will the Senator put the question again? I did not catch it.

Mr. MORGAN. I wish to know whether he considers the act as reported by the committee and acted upon by the Senate as conferring upon an Indian citizenship in a State whenever he accepts a patent for his land.

Mr. TELLER. I did not so construe it. I thought that the condition of the Indian was a very peculiar one; that he would neither be a citizen of the State nor a member of the tribe.

Mr. MORGAN. The amendment of the Senator refers to the fact of an Indian becoming a citizen of a State.

Mr. TELLER. I did not know but that under some other statute he might be a citizen. There are some Indians in some sections that are citizens of the State by special statute, but I do not understand that this bill makes them so. So I say that any Indian not being a citizen of the State, that is, a citizen by some other act and not by this, shall not be punished, &c.

Mr. HOAR. Let me add a word in further response to the inquiry of the Senator from Alabama. When the amendment which I moved the other day to declare these Indians to have become citizens was under discussion, the amendment being advocated on the ground that it was unjust to subject these persons to all the laws civil and criminal of the State without giving them in their turn the right to avail themselves of all the rights of citizens of the State, that the present bill made them defendants and not plaintiffs, the answer was made by the Senator from Texas and the Senator from Missouri, I think, that of course these Indians had all the rights that persons had; that nobody would deny that they were persons, and as such could avail themselves of a recourse to the Federal tribunals. Since that debate my attention has been called to the fact that the counsel for the Department of the Interior in the case of Standing Bear and Big Snake, the application for *habeas corpus* before Judge Dundy, made an argument five hours long to establish the proposition that the

Indians were not persons within the meaning of the United States Constitution and laws, and were not entitled to make application for the writ of *habeas corpus* in the Federal courts. It is true that Judge Dundy overruled that argument and declared that they were entitled to the writ. Then the Indian agent in the document which was commented on this morning makes this recommendation, to which I call the attention of the honorable Senator from Missouri:

> I would respectfully recommend that they be detained as prisoners at Fort Reno until the tribe has recovered from the demoralizing effects of the decision recently made by the United States district court in Nebraska in the case of Standing Bear.

In other words, the agent of the Department recommends to his superior that a lot of Indians be held in perpetual custody until their tribe has recovered from the demoralizing effects of—what? Of a statement by a judge of the United States district court that an Indian was a person! Then General Sherman goes on to say:

> The release under writ of *habeas corpus* of the Poncas in Nebraska does not apply to any other than that specific case.

Mr. ALLISON. Will not the Senator from Massachusetts state further that those Indians were released at Fort Reno?

Mr. HOAR. They were.

Mr. ALLISON. And there I want to call his attention to the fact that the Interior Department disclaimed wholly the argument made by counsel.

Mr. HOAR. Where and when?

Mr. ALLISON. They have disclaimed the argument made by the counsel and refused to entertain the idea of an appeal from Judge Dundy's decision. I only want the whole fact to be stated.

Mr. HOAR. Perhaps that is the whole fact, and perhaps it is not. Undoubtedly what the Senator from Iowa states is the fact as he believes; but my point is this: the Senate declined to add to a provision that the Indian might be punished for crime after he had got his land in severalty; you are endeavoring to stimulate him to practice the virtues and the economies of civilized life; and the Senate declined to add to an enactment that he might be sued civilly and criminally; that he might be indicted; that he might be rendered subject to complaint by his white neighbor with or without cause; a provision that he might have the right on his part to defend himself in the same way by suing his white neighbor, by making complaint, by invoking the criminal and civil protection of the law for the property which you confer on him, on the ground that nobody could deny that an Indian was a person, and as such, had such rights already as to the laws of the United States.

Now, it appears that the counsel of the Interior Department argued for five hours that he was not a person. It appears also that without any reproof whatever the agent of that Department recommends the imprisoning of other persons until the tribe shall recover from what he calls the demoralizing effect of such a decision of the district judge, and that the General of the Army distinctly informs all his subordinates by his letter addressed to General Sheridan, the officer commanding that military district, that this decision of the district judge must be understood to have no effect beyond liberating the individual Indian to whom it applied. The inference, therefore, is unmistakable and irresistible that General Sherman instructs General Sheridan to proceed on the theory that in regard to every other Indian that law is denied.

I am not quite sure that the Senator from Iowa is right in his understanding that the Secretary of the Interior has disclaimed the action of the counsel whom he employed. I do not find such disclaimer in any public document or in any authentic form anywhere. What I do know is that the friends of the Indian or persons at whose instigation that writ of *habeas corpus* was sued out, and who desired to have the right established which the Senator from Missouri believed no man would be hardy enough to question, urged upon the Department that an appeal should be taken and that case carried to the Supreme Court of the United States, in order that the highest legal tribunal in the country might settle this right once for all when the matter was so near the doors of that tribunal, and the Department of the Interior refused.

Mr. ALLISON. I do not wish to interfere with this debate, nor can I lay my hand at this moment upon the document or paper or statement of the Secretary of the Interior, but I think if the Senator from Massachusetts will look at a recent book called "A Century of Dishonor," he will find in that book a published letter of the Secretary of the Interior, in which he states in distinct terms that he did not consent to the appeal of the case decided by Judge Dundy, because upon an examination of the argument of the counsel who argued the case before Judge Dundy he could not assent to the statement and argument made by the counsel who appeared for the United States.

Mr. HOAR. I hope that the honorable Senator from Iowa will derive as much light from the remainder of that book as he has from the passage to which he refers; but whether he be or be not correct in the statement which he now makes or in the original statement, he will agree with me is entirely immaterial. Certainly, if an able counsel, a counsel learned enough in the law, of character and standing enough in his profession to be employed by the Government of the United States in so grave a case, maintained such a thesis as that; and if the General of the Army denies to an Indian the character of a person even to the extent of denying that an Indian is so far a person as to have the right which applies to every person, the right to have the cause of his illegal imprisonment inquired into by a court; and if a subordinate of the Interior Department, without reproof, recommends to his superior officer to keep his prisoners in custody until the demoralizing effect of such an assertion by a single judge has passed by, my friend from Iowa will not claim that the right is sufficiently protected by the mere disclaimer of a Secretary of the Interior, whose term of office is now within five weeks of its termination, in a private letter or a public letter, or wherever else that disclaimer may be found.

My point is, not to make an attack, not to make a criticism of the official conduct of anybody; but if my friend from Iowa will recall my original statement in which he interposed he will see that that is the case. My opinion is that it is an outrage on these Indians to pass this bill in this shape. I do not care how much value there may be in the general policy; I do not care how much thought may have been given to the details of its provisions by the members of the Indian Committee; I do not care how much they may be, as undoubtedly they are, my superiors, not only in general ability, but in special knowledge of this particular subject. I know enough of human right to be sure that it is not just to any class of men, and that no attempt to civilize any class of men can succeed which places them among their white neighbors the subjects of all the punishments and all the harassments for which law can be invoked by the rich against the poor and by the strong against the weak, and which denies them on their part the protection of the law when they seek to invoke it. Does my friend from Iowa question this proposition? Has anybody questioned it? No man questions it. The only answer to it is that the Indian is protected in these rights by the fact that no man in this country will be hardy enough at least, whether he be a citizen or no citizen, to deny that he is a person. That is the answer; that is the only answer which has been made in this debate, and the only reason which has been assigned by the committee or any member of the Senate for refusing to adopt the amendment which I offered the other day, and now when I point out that the General of your armies, the head of the Department to which many men desire to give the custody of all these Indians, instructs his most illustrious living subordinate, General Sheriden, that this doctrine is not true, when the agent of the Indian Office dealing with one of these tribes demands their imprisonment until the demoralizing effect of this doctrine, which the Senator from Missouri says no man is hardy enough to deny, has passed by, I submit respectfully but confidently that this bill does not hold out to these Indians and that the general provisions of the law do not without question extend to these Indians the protection they must have and which they specially need if this experiment is to be successful in any degree.

Mr. WALLACE. Mr. President, I move that the Senate do now adjourn.

Several SENATORS. Let us have a vote.

Mr. EDMUNDS. May I appeal to the Senator from Pennsylvania to allow an order to be entered, that this bill, with the amendments already adopted, be printed, so that we can see it to-morrow?

Mr. WALLACE. I yield for that purpose.

Mr. EDMUNDS. And with the amendments printed in italics, so that we can see where they come in.

The PRESIDING OFFICER. The Senator from Vermont asks that the bill and amendments be printed for the use of the Senate. Is there objection? The Chair hears none, and the order is made.

The Senator from Colorado asks unanimous consent to modify the original amendment submitted by him. Is there objection?

Mr. HOAR. That leaves it pending?

The PRESIDING OFFICER. That leaves it pending. The Chair hears no objection, and the amendment is thus modified. The question now recurs upon the amendment as modified.

Mr. WALLACE. I move that the Senate adjourn.

Mr. ALLISON. I ask the Senator from Pennsylvania to yield to me a moment; I will renew his motion if he wishes me to do so.

Mr. WALLACE. I yield the floor to the Senator from Iowa to reply to the Senator from Massachusetts, and will then claim it to press my motion to adjourn.

Mr. TELLER. I ask leave to introduce an amendment to be printed.

The PRESIDING OFFICER. The amendment will be received and printed.

Mr. ALLISON. Mr. President, I do not seek the floor to reply to the Senator from Massachusetts. I have not mingled in this debate, and if I understand the amendment alluded to by the Senator from Massachusetts as offered by him, I was in favor of it; and if this bill as it stands to-day has the legal effect stated by the Senator from Massachusetts, I will stand with him and vote against it. It would be a manifest injustice to subject these Indians to the laws, criminal and civil, of the several States without allowing them to go into the courts and protect their rights of life, liberty, and property. I trust the Committee on Indian Affairs is not, and that no member of it is willing to impose upon the Senate such a bill as that.

I interrupted the Senator from Massachusetts simply to call his attention to two statements which he had then made in connection with the particular fact to which he was alluding. I did not controvert his general propositions, and do not now do so; but in the statement he made he stated that the Indian agent had requested that the

Indians within the jurisdiction of the military authorities at Fort Reno should be held at Fort Reno until the demoralization of the tribe caused by Judge Dundy's decision had ceased. I call his attention to the fact that although the Indian agent did do that thing, the War Department and the Interior Department in concurrence immediately released those Indians with two exceptions.

I called his attention further to the fact that it was within my knowledge that the Secretary of the Interior disclaimed the argument made by the counsel for the United States at Omaha in Judge Dundy's court, whereby it was argued that Indians were not persons within the meaning of the Constitution and laws of the United States.

I thought these two statements ought to go hand in hand with the statement that the subordinates of the Indian Department had been guilty of this——

Mr. HOAR. Will the Senator from Iowa allow me to ask him a question, as he is more familiar with the history of this particular transaction than I am? I do it not for the sake of imputing anything to anybody. I desire to have this Ponca business repaired if I can with reference to the honor of the United States, and not to bring dishonor or discredit on any individual or officer. But I desire to ask the Senator, as he seems to be so familiar with the facts, whether it is not true that after this decision of Judge Dundy the persons who had contributed to obtain this legal opinion from the district court, and who were specially friendly to the Indians as they conceived, (though perhaps not really more so than other people,) were eager and endeavored to induce the Secretary of the Interior to have an appeal taken in order that the Supreme Court of the United States might settle that question?

Mr. ALLISON. I believe that is a true statement of the case. The Interior Department did not prosecute an appeal because, as I understand, the decision of Judge Dundy was in accord with the views and sentiments of these very people.

Mr. DAWES. But the Interior Department knew very well that that decision had no force except in the district where it was rendered, unless it was sanctioned by a judgment of the Supreme Court; and if the Interior Department did not approve of the argument against that decision in the district court, it was not concluded from presenting any other reasons there might exist in the Supreme Court either way.

Mr. ALLISON. But my friend from Massachusetts will remember now that I am not criticising this matter one way or the other.

Mr. DAWES. What are you doing?

Mr. ALLISON. I am simply calling the attention of the Senator's colleague to one statement which I thought ought to go with another statement he was making. So far as the Ponca question is concerned, I have some knowledge of it, and I have some opinions with reference to it, but I shall wait until the proper time to express my opinions on that subject. I will only say now in a general way, that the Ponca question has been a difficult question since 1874, in my judgment, and I believe the Interior Department has to the best of its ability, and with a desire to promote the true interests of the Ponca, dealt with that question. I may be mistaken, but that is my belief, and I will endeavor at some time to state more at length the reasons why I believe it. In the mean time I only wish to put on record the statement I have made in reference to the particular matters of which the Senator from Massachusetts [Mr. HOAR] was speaking.

Mr. WALLACE. Now, I renew my motion to adjourn.

The motion was agreed to; and (at four o'clock and twenty-five minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

MONDAY, *January* 31, 1881.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. COX. I rise to ask unanimous consent——

The SPEAKER. The Chair has never allowed the call of States on Monday to be interrupted. He will recognize gentlemen for unanimous consent after the call of States.

Mr. COX. That will do.

The SPEAKER. The Chair, as required by the rules, will now call the States and Territories in alphabetical order for the presentation of bills and joint resolutions for printing and reference. Under this call joint and concurrent resolutions and memorials of State and territorial Legislatures can be presented and appropriately referred; and resolutions of inquiry directed to heads of the Executive Departments are in order for reference to the appropriate committees, which latter resolutions are to be reported to the House within one week.

DAUPHIN ISLAND AND CEDAR POINT SHOAL.

Mr. HERNDON introduced a bill (H. R. No. 7037) to appropriate money for the survey of the shoal between Dauphin Island and Cedar Point; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MOBILE HARBOR.

Mr. HERNDON also introduced a bill (H. R. No. 7038) to reimburse the county of Mobile, of the State of Alabama, for moneys expended by it in excavating the channel of the bay and harbor of Mobile according to the surveys of the United States engineer; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN MANTLE.

Mr. PHELPS introduced a bill (H. R. No. 7039) for the relief of John Mantle, of New Haven, Connecticut; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ADULTERATION OF FOOD AND DRUGS.

Mr. HAWLEY introduced a bill (H. R. No. 7040) for the prevention of the adulteration of food and drugs; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HOMESTEAD AND PRE-EMPTION SETTLERS.

Mr. UPDEGRAFF, of Iowa, introduced a bill (H. R. No. 7041) for the relief of certain homestead and pre-emption settlers upon Indian reservations in the States of Kansas and Nebraska; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

DEFICIENCIES IN SALARIES OF POSTMASTERS.

Mr. HASKELL introduced a bill (H. R. No. 7042) to ascertain the deficiencies in the salaries of certain postmasters; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

SAMUEL C. SPROUSE.

Mr. HASKELL also introduced a bill (H. R. No. 7043) granting an increase of pension to Samuel C. Sprouse, late private Company A, Ninety-seventh Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CONTAGIOUS DISEASES OF DOMESTIC ANIMALS.

Mr. RYAN, of Kansas, presented a memorial of the Kansas Legislature, in relation to contagious diseases of domestic animals; which was referred to the Committee on Agriculture.

GEORGE E. DODGE.

Mr. LADD introduced a bill (H. R. No. 7044) for the relief of George E. Dodge; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

JAMES A. PARKER.

Mr. LADD also introduced a bill (H. R. No. 7045) granting a pension to James A. Parker; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALEXANDER W. ROWELL.

Mr. LADD also introduced a bill (H. R. No. 7046) granting a pension to Alexander W. Rowell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SALOME SMITH.

Mr. LADD also introduced a bill (H. R. No. 7047) granting a pension to Salome Smith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHRISTINA TEMPLE.

Mr. LADD also introduced a bill (H. R. No. 7048) granting a pension to Christina Temple; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

UNITED STATES FIDELITY GUARANTEE COMPANY OF THE DISTRICT.

Mr. HENKLE introduced a bill (H. R. No. 7049) to incorporate the United States Fidelity Guarantee Company of the District of Columbia; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

CAPTAIN WILLIAM D. WHITING.

Mr. MORSE introduced a bill (H. R. No. 7050) for the relief of Captain William D. Whiting, United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

MARY E. RYAN.

Mr. MORSE also introduced a bill (H. R. No. 7051) granting an increase of pension to Mary E. Ryan, widow of George Parker Ryan, deceased, late commander of the United States ship Huron; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHANGE OF NAME OF VESSEL.

Mr. STONE introduced a bill (H. R. No. 7052) to change the name of the schooner Saint Paul to A. J. Covell; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ISAAC CARTWRIGHT.

Mr. SAWYER (by request of Mr. FORD) introduced a bill (H. R. No. 7053) providing for the increase of pension of Isaac Cartwright, of Union Star, Missouri; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PRIZE-MONEY—FARRAGUT FLEET.

Mr. BLAKE introduced a bill (H. R. No. 7054) authorizing the payment of prize-money to the officers, seamen, and marines of the Farragut fleet, &c; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PLEURO-PNEUMONIA IN CATTLE.

Mr. COVERT presented a joint resolution of the Legislature of the State of New York, asking for congressional legislation relative to the prevention of pleuro-pneumonia; which was referred to the Committee on Agriculture.

AGRICULTURAL REPORT FOR 1880.

Mr. COVERT also introduced a joint resolution (H. R. No. 373) relative to printing the Agricultural Report for the year 1880; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

SECTION 4706, REVISED STATUTES.

Mr. PRESCOTT introduced a bill (H. R. No. 7055) to amend section 4706 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WRITS OF ERROR AND APPEALS.

Mr. COX introduced a bill (H. R. No. 7056) to amend section 699 of the Revised Statutes, relating to writs of error and appeals; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

COMPENSATION OF RAILWAY MAIL AGENTS.

Mr. DWIGHT introduced a bill (H. R. No. 7057) to compensate persons engaged in the railway mail service for injuries received while in the discharge of their duties, and to pay their legal representatives in cases where death results from such injuries; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

RAILWAY BRIDGE ACROSS NIAGARA RIVER.

Mr. CROWLEY introduced a bill (H. R. No. 7058) to authorize the construction and maintenance of a railway bridge across Niagara River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DUTY ON CAUSTIC SODA.

Mr. BLISS (by request) introduced a bill (H. R. No. 7059) to amend section 2504, title 33 of the Revised Statutes, in relation to the duty on caustic soda; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

GEORGE FUNK.

Mr. BLISS also introduced a bill (H. R. No. 7060) for the relief of George Funk, late private Company M, First Regiment Artillery, United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES E. KELSEY AND OTHERS.

Mr. BLISS also introduced a joint resolution (H. R. No. 374) referring to the Court of Claims the claim of James E. Kelsey, John Loughlin, Theron Kelsey, and others against the United States for damages done to the schooner C. & C. Brooks; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

TRANSMISSION OF INTELLIGENCE BY TELEGRAPH.

Mr. O'REILLY introduced a bill (H. R. No. 7061) to amend section 5265, title 65 of the Revised Statutes, and to protect the transmission of intelligence by telegraph from the exactions of monopoly; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WESTERN CHEROKEES.

Mr. VANCE introduced a bill (H. R. No. 7062) to refer the claim of the "Western Cherokees" or "old settlers" to the United States Court of Claims for adjudication; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

REPORT OF DIRECTOR OF MINT.

Mr. TOWNSEND, of Ohio, introduced a joint resolution (H. R. No. 375) to print 10,000 copies of the annual report of the Director of the Mint for the year ended June 30, 1880; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

M. M. HERR.

Mr. FINLEY introduced a joint resolution (H. R. No. 376) to pay M. M. Herr for services during the third session of the Forty-sixth Congress; which was read a first and second time, referred to the Committee on Accounts, and ordered to be printed.

LAND WARRANTS TO SOLDIERS, ETC.

Mr. YOUNG, of Ohio, introduced a bill (H. R. No. 7063) granting land warrants to soldiers and sailors and their widows and orphans; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ROBERT M. ROGERS.

Mr. YOUNG, of Ohio, also introduced a bill (H. R. No. 7064) for the relief of Robert M. Rogers, first lieutenant Second United States Artillery; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

RICHARD C. RIDGWAY AND OTHERS.

Mr. HARMER introduced a bill (H. R. No. 7065) for the relief of Richard C. Ridgway and others; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

JUDD & DETWEILER.

Mr. HARMER (by request) also introduced a bill (H. R. No. 7066) for the relief of Judd & Detweiler; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

PAY OF LETTER-CARRIERS.

Mr. BINGHAM introduced a bill (H. R. No. 7067) to amend section 4, act of February 21, 1879, to fix the pay of letter-carriers; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

WILLIAM H. HOTHAM.

Mr. RYON, of Pennsylvania, introduced a bill (H. R. No. 7068) for the relief of William H. Hotham; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANK DONOHUGH.

Mr. COFFROTH introduced a bill (H. R. No. 7069) granting an increase of pension to Frank Donohugh, Company A, Sixty-fifth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOPHIA GUMP.

Mr. COFFROTH also introduced a bill (H. R. No. 7070) granting a pension to Sophia Gump, mother of John A. Gump; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RECORD FOR REPRESENTATIVES OF FOREIGN GOVERNMENTS.

Mr. BALLOU introduced a joint resolution (H. R. No. 377) in relation to furnishing the daily CONGRESSIONAL RECORD to representatives of foreign governments in Washington, District of Columbia; which was read a first and second time.

Mr. BALLOU. I move that the resolution be referred to the Committee on Printing.

Mr. WILSON. It is a matter of courtesy to representatives of foreign governments in this city, and I think it should go to the Committee on Foreign Affairs.

The SPEAKER. It relates to the printing and distribution of the CONGRESSIONAL RECORD.

Mr. WILSON. The printing of the RECORD is already provided for, and this is a proposition to extend a courtesy to representatives of foreign governments.

The SPEAKER. It is a matter of indifference to the Chair where it should go.

Mr. BALLOU. I have no choice in the matter; but I thought it proper that it should be referred to the Committee on Printing.

The SPEAKER. If no other motion be made, it will be referred to the Committee on Printing.

The resolution was accordingly referred to the Committee on Printing, and ordered to be printed.

COST AND EXPENSES IN JUDICAL PROCEEDINGS.

Mr. CULBERSON introduced a bill (H. R. No. 7071) to provide for the adjustment of costs and expenses in certain judicial proceedings; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

OUTSTANDING CLAIMS AGAINST THE DISTRICT OF COLUMBIA.

Mr. TUCKER (by request) introduced a bill (H. R. No. 7072) to declare the true intent and meaning of the act entitled "An act to provide for the settlement of all outstanding claims against the District of Columbia," &c., approved June 16, 1880; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

TRANSFER OF UNITED STATES BONDS.

Mr. TUCKER also introduced a bill (H. R. No. 7073) to authorize a United States commissioner to take acknowledgments of the transfer of the bonds of the United States; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

REPORT OF COMMISSIONER OF EDUCATION.

Mr. GOODE introduced a joint resolution (H. R. No. 378) providing

for the printing and distribution of the report of the Commissioner of Education for the year 1880; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

PUBLIC PRINTING FOR MEMBERS OF CONGRESS.

Mr. WILSON also introduced a joint resolution (H. R. No. 379) providing for a compilation of laws governing the public printing for the use of members of the House of Representatives and Senators; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

CAPTAIN HENRY ERBEN.

Mr. BRAGG introduced a bill (H. R. No. 7074) for the relief of Captain Henry Erben, of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

RELIEF OF CERTAIN OFFICERS OF THE NAVY.

Mr. BRAGG also introduced a bill (H. R. No. 7075) for the relief of certain officers of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

TERRITORIAL JUDICIARY.

Mr. AINSLIE introduced a bill (H. R. No. 7076) to amend section 1864, chapter 1, title 23, Revised Statutes of the United States, relating to the territorial judiciary; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of the States and Territories having now been concluded, the Chair will recognize gentlemen who were not in their seats when their States were called to introduce bills, &c., for reference.

FLORA OF COLORADO.

Mr. ALDRICH, of Illinois, introduced a joint resolution (H. R. No. 380) to provide for the printing of 5,000 copies of the Flora of Colorado; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

ZOOLOGY OF THE TERRITORIES.

Mr. ALDRICH, of Illinois, also introduced a joint resolution (H. R. No. 381) to provide for the printing of 5,000 copies of the reports on zoology; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

AGRICULTURAL RESOURCES OF WESTERN TERRITORIES.

Mr. ALDRICH, of Illinois, also introduced a joint resolution (H. R. No. 382) to provide for the printing of 5,000 copies of the reports on the agricultural resources of the Western Territories; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

FENNIMORE G. BENNETT.

Mr. WILBER introduced a bill (H. R. No. 7077) for the relief of Fennimore G. Bennett; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

EASTMAN'S DIGEST.

Mr. LINDSEY introduced a bill (H. R. No. 7078) authorizing the purchase of Eastman's Digest of the decisions of the Treasury Department and of the Supreme and circuit courts relating to the tariff, navigation, &c.; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

ELI H. HALE.

Mr. McGOWAN introduced a bill (H. R. No. 7079) for the relief of Eli H. Hale; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RAILROAD BRIDGE OVER SAINT MARY'S RIVER, MICHIGAN.

Mr. NEWBERRY introduced a joint resolution (H. R. No. 383) authorizing the Secretary of War to convene a board of officers to report in reference to a railroad bridge over the Saint Mary's River in Michigan; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FOG-BELL, GRAHAM SHOALS, MICHIGAN.

Mr. NEWBERRY also introduced a bill (H. R. No. 7080) to establish a fog-bell or fog-bell buoy on Graham Shoals, in the straits of Mackinaw and State of Michigan; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

OZRO MORTON.

Mr. HUBBELL introduced a bill (H. R. No. 7081) for the relief of Ozro Morton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

OSRO MORTON.

Mr. HUBBELL also introduced a bill (H. R. No. 7082) for the relief of Osro Morton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MISS ELIZA A. WHITE.

Mr. WAIT introduced a joint resolution (H. R. No. 384) for the relief of Miss Eliza A. White; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ELECTION OF SENATORS.

Mr. WEAVER introduced a joint resolution (H. R. No. 385) proposing an amendment to the Constitution of the United States providing for the election of Senators by vote of the people; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WILLIAM NICHOLS.

Mr. HAWLEY introduced a bill (H. R. No. 7083) granting a pension to William Nichols; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES COOPER.

Mr. HAWLEY also introduced a bill (H. R. No. 7084) granting a pension to James Cooper; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILEY E. CARMAN.

Mr. HOSTETLER introduced a bill (H. R. No. 7085) for the relief of Wiley E. Carman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LEWIS L. CANNADAY.

Mr. NEW introduced a bill (H. R. No. 7086) granting a pension to Lewis L. Cannaday; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

PUBLIC LANDS.

Mr. FROST (by request) introduced a bill (H. R. No. 7087) to reserve the public lands from sale and to distribute them among the people; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

KINSEY C. CECIL.

Mr. BUCKNER (by request) introduced a bill (H. R. No. 7088) to confirm the title to certain lands in Platte County, Missouri, and to authorize patents to be issued therefor to Kinsey C. Cecil; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

DIRECTORS OF NATIONAL BANKS.

Mr. BUCKNER (by request) also introduced a bill (H. R. No. 7089) to amend section 5146 of the Revised Statutes in relation to directors of national banks; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

PENSIONS.

Mr. TOWNSHEND, of Illinois, introduced a bill (H. R. No. 7090) to increase the rate of pension of those who have lost one limb and are permanently and totally disabled from manual labor in the other, to $50 per month; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. ROBERTSON introduced a bill (H. R. No. 7091) providing for the condemnation of land and materials for purposes of Mississippi River improvement; which was read a first and second time, referred to the Committee on Levees and Improvements of the Mississippi River, and ordered to be printed.

JOHN KAPPEL.

Mr. CONGER (by request) introduced a bill (H. R. No. 7092) for the relief of John Kappel; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced the passage of a resolution accepting from the State of Vermont a statue of the late Jacob Collamer, in which concurrence was requested.

REBECCA H. LYON.

Mr. KNOTT introduced a bill (H. R. No. 7093) for the relief of Rebecca H. Lyon; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CAROLINE E. FRENCH.

Mr. MYERS introduced a bill (H. R. No. 7094) granting a pension to Caroline E. French; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

UNITED STATES LIFE-SAVING SERVICE.

Mr. CRAPO introduced a joint resolution (H. R. No. 386) for printing the report of the Life-Saving Service; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

WAR DEPARTMENT BUILDING.

Mr. DEUSTER submitted the following resolution; which was referred to the Committee on Expenditures on Public Buildings:

*Resolved*, That the Secretary of War be requested to submit to Congress a statement of the amounts of money appropriated for the construction of that portion of

the building known as the State, War, and Navy Departments which is contemplated to be used by the War Department, and which is in process of construction. And likewise the amount of money paid to draughtsmen, copyists, clerks, engineers, modellers, and all kinds of employés on the work of construction, other than mechanics and laborers.

INTERNATIONAL RESTORATION OF SILVER.

Mr. STEPHENS, from the Committee on Coinage, Weights, and Measures, submitted the following report:

The Committee on Coinage, Weights, and Measures, to whom was referred on the 24th instant, a resolution in the words following, to wit:

"*Resolved*, That the Secretary of State be requested to report to the House, if in his opinion it may be done consistently with the public interest, any information in his possession touching the disposition of foreign governments or any of them toward international action for the restoration of silver to full use as money,"

have authorized me to report the same back to the House with the recommendation that it do pass. They deem the information asked for of great importance looking to the interest of our own country in the adoption of a right policy upon the question of the remonetization of silver and its restoration to its full debt-paying power.

The resolution was adopted.

The SPEAKER. If there be any other committee having a resolution of inquiry to report the Chair will be glad to recognize it at this time.

ENCROACHMENTS OF WHITES ON INDIANS.

Mr. DE LA MATYER. I ask, by unanimous consent, to present the petition of 32,000 citizens of the United States, praying that such steps shall be taken as will prevent the encroachment of white settlers on Indian reservations, and that the treaties with the Indians be faithfully executed. I ask that the memorial letter accompanying that petition be printed in the RECORD.

There was no objection, and the petition and memorial letter were received, referred to the Committee on Indian Affairs, and ordered to be printed.

The memorial letter is as follows:

MEMORIAL LETTER ACCOMPANYING THE INDIAN PETITION OF 1881.

*To the Senate and House of Representatives in Congress assembled:*

The men and women of this nation herewith present their second petition to your honorable body for the faithful fulfillment of treaties and other guarantees given by our Government to the different tribes of Indians within our borders. Your petitioners do not suggest any political policy to be pursued, leaving such matters to wise statesmanship. They come with but one thought, conviction, prayer. The thought recognizes the moral obligation of nations, as of individuals, to keep compacts. The conviction is that recognized moral obligation should result in the fulfillment of such obligation. The prayer is for such fulfillment as being ever, we believe, the highest political wisdom, the truest national safety.

An objection has been made by some to treaty-keeping with Indians, on the ground that the Indian tribes among us were never "nations," and that therefore so-called "treaties" with them were never real treaties. Your petitioners with deep feeling recall the fact that our Government has for a hundred years recognized these tribes as "nations," in its hundreds of compacts with them calling the latter "treaties," and has, by acts of Congress, bound itself faithfully to observe all such made in the past, though deciding to make no new treaties with Indians. Your petitioners therefore pray, for the sake of national honor, which demands honest dealing with all men, that the terms "nation" and "treaty" may be kept to the heart as they have hitherto been made and explained to the ear.

Again, it has been urged that the law of eminent domain nullifies these treaties, and requires our Government to take legal jurisdiction of Indian lands; to divide the same in severalty, and to open the remainder for white settlement. Your petitioners are deeply impressed that for any government to apply the law of eminent domain to the property of others than its own citizens, is to necessitate, if there be resistance, a war of conquest, a measure wholly opposed to the fundamental principles of this Government, and that Indians, with few exceptions, are not citizens of the United States, but are under their own legislative and executive authority, as in the Indian Territory, and this by the terms of our sales of territory to them, and of their titles to the same.

Your petitioners therefore present their memorial to your honorable body, feeling that the plea for treaty-keeping is a protest against any enactment of Congress which would extend legal jurisdiction over territory not under the control of this Government, and which would do this, as for example the Oklahoma bill proposes, contrary to explicit treaty stipulations.

Finally, your petitioners would express the earnest conviction that the nation which has spent $500,000,000 on Indian wars growing out of the violation of treaties can best afford to make it to the interest of the Indian tribes among us voluntarily to become citizens of the United States, and not by the coercion of acts of our Congress.

Our petition of last year was from fifteen States; that of the present year represents every State of the Union and several of the Territories, and has many more than double the number of last year's signatures. The work of circulating the petition and accompanying pamphlets has been done by few persons, and chiefly by Christian women, already busy in benevolent work; yet the roll contains the names of people of all occupations and in all ranks of society; of great business firms and manufacturers; of distinguished men and officials; of judges, governors, and embassadors to foreign courts; of authors and editors; of the faculties and students of not a few of our most noted collegiate and theological institutions, and of literary and art associations. Besides all these, the roll includes the signatures of women's mission boards, Christian associations, and other benevolent societies; the names of pastors and bishops of the churches; also the records of the indorsement of a rising vote from various church meetings of different denominations; of meetings held specially to consider the Indian question; of ministers' unions in different towns and cities, and of various other bodies. All these and many other evidences reveal the fact that the moral sentiment of those classes who largely make and control public opinion already requires governmental faithfulness to our Indian treaties. For this your petitioners most earnestly and respectfully pray.

MRS. A. S. QUINTON,
*Secretary of Indian-Treaty-Keeping Committee.*
MRS. MARINÉ J. CHASE,
MISS MARY L. BONNEY,
MRS. GEORGE DANA BOARDMAN,
MRS. A. S. QUINTON,
MISS FRANCES LEA,
MRS. M. S. SHEPPARD,
MRS. J. R. JONES,
MRS. EDWARD D. COPE,
Philadelphia,
*Committee.*

PHILADELPHIA, *January*, 1881.

Mr. DE LA MATYR. I have a few remarks which I will not detain the House with at this time, but merely ask they be printed in the RECORD.

There was no objection.

Mr. DE LA MATYR. Mr. Speaker, if I were permitted to blot from our history a single dark chapter, I would not select that one which contains the record of African slavery, the responsibility of which rests not on the South alone but upon the whole nation, although no man deprecates that great crime against humanity more than I do. Neither would I choose that of the civil war, which was God's just judgment for that crime, and which drenched our land in fraternal blood and left a heritage of hate that divides and weakens and endangers the nation that, judging from the heated debate on this floor but yesterday, will not be permitted to subside for a generation yet. But, sir, I would blot out the shameful record of the contact of our civilization with the aborigines of the country; I would extinguish the line of border warfare, black with nameless atrocities, which from the first settlement of the country has slowly moved westward until entangled amid the mazes of the mountains separating the great plains from the Pacific, where it lingers like the storm-clouds of heaven in detached masses of blackness, ever and anon bursting forth in scenes of horror which startle and shock public sentiment, but which has been repeated until that sentiment has become hardened and severe. And, sir, if I could annihilate but one paragraph of that darkest chapter of our national life I would choose the recent treatment of the Ponca tribe, the aggravated atrocities of which have awakened sensibility in the seared conscience of the nation.

Sir, had the wise, humane, Christian policy inaugurated by the founder of the Commonwealth which you in part represent, and which made the name of William Penn "as precious ointment poured forth," been adopted and sustained by the National Government, this chapter which makes humanity blush had not been written.

It is time, sir, to call a halt, and make our dealings with the remnants of once powerful tribes conform to our boasted ideas of right by granting the request of these petitions.

STEAMSHIP DESSOUG.

Mr. REAGAN. I move, Mr. Speaker, by unanimous consent to take from the Speaker's table the joint resolution (S. R. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug, and I will send to the Clerk's desk to be read a letter which will fully explain the necessity for its immediate passage.

Mr. COFFROTH. Where is that joint resolution?

The SPEAKER. On the Speaker's table.

Mr. COFFROTH. Then I must object to it.

Mr. REAGAN. Allow me to say this is the steamship which brought over, under Lieutenant Gorringe, the Egyptian obelisk, and there is a petition from merchants and ship-owners two yards long asking for its passage.

The SPEAKER. The subject is not before the House, objection having been made.

ORDER OF BUSINESS.

Mr. BAILEY. I ask, Mr. Speaker, by unanimous consent that the Committee on Pacific Railroads be discharged from the further consideration of the bill (H. R. No. 4874) in relation to the Utah and Northern Railway Company, and it be taken up for action at this time.

Mr. REAGAN. Did anybody object to my joint resolution being taken up?

The SPEAKER. The gentleman from Pennsylvania [Mr. COFFROTH] made objection to it.

Mr. COFFROTH. And I objected because I wish to go to the Speaker's table to dispose of the business there in its order.

Mr. FINLEY. I demand the regular order of business.

Mr. FIELD. I rise to claim the floor on a question of the highest privilege effecting the rights of certain members to their seats on this floor.

The SPEAKER. The Chair will recognize this as interrupting the morning hour for the call of committees.

Mr. BAILEY. I understand the gentleman withdraws his objection to my proposition.

The SPEAKER. The Chair will try to recognize the gentleman later in the day.

Mr. COBB. I move to dispense with the morning hour.

The SPEAKER. The only thing which can interrupt a contested-election case is the question of consideration.

Mr. COBB. My desire is to proceed to the consideration of the District of Columbia appropriation bill.

Mr. FIELD. This will only take a few minutes and there will be no discussion upon it.

The SPEAKER. The Chair is advised by the gentleman from Massachusetts that the consideration of these Iowa cases will not require any time beyond a statement to the House in the form of resolutions from the committee and that there will be no debate thereon.

Mr. COBB. I do not insist on my motion.

Mr. COX. I rise to a parliamentary inquiry. Did I understand the Chair to decide the other day on a question of privilege like this,

concerning the right of a member to his seat, that the question of consideration could not be raised as to the apportionment bill?

The SPEAKER. The Chair never decided that question. The Chair did decide that he was bound to recognize a member from the Committee on Elections who rose to call up a case touching the right of a member to his seat on this floor, but never denied the right of the House to test its sense whether it would proceed to the consideration of the case by raising the question of consideration. That was a matter, the Chair held, to be decided by the House itself. The Chair now recognizes the gentleman in his right to make the motion to proceed to the consideration of these cases.

Mr. COX. Then I ask the Chair if the question of consideration between the motion of the gentleman from Massachusetts in reference to these election cases and the gentleman from Indiana is pending?

The SPEAKER. The Chair has recognized the gentleman from Massachusetts because he rose to a question of the highest privilege. The question of consideration being raised, if the House determines not to consider the election cases then the Chair will recognize the gentleman from Indiana who moves to dispense with the morning hour for the call of committees, to dispense with which requires a two-thirds vote.

Mr. COX. I desire to say, then, that I will not antagonize the motion of the gentleman from Massachusetts or the bill which is proposed to be considered by my friend from Indiana; but I give notice that to-morrow morning, with the consent of the House, I hope to bring up the apportionment bill as against all measures, and will ask its consideration at that time.

Mr. FRYE. Before proceeding to the consideration of these election cases, I desire to introduce a privileged report from the Committee on Rules.

Mr. SPRINGER. And I wish to introduce some bills for reference, as I happened to be absent when my State was called.

The SPEAKER. The Chair will recognize the gentleman after the disposal of the present cases.

Does the Chair understand the gentleman from Indiana to raise the question of consideration?

Mr. COBB. I will withdraw the question of consideration, with the express understanding that I be heard on this District appropriation bill immediately after the disposition of the contested-election cases.

### IOWA CONTESTED-ELECTION CASES.

Mr. FIELD. I now call up the Iowa contested-election case of Holmes *vs.* Sapp.

The SPEAKER. The resolutions reported from the Committee on Elections will be read.

The Clerk read as follows:

*Resolved*, That the petitioner, J. C. Holmes, in the matter of his petition asking to be admitted to a seat in the Forty-sixth Congress as a Representative from the eighth congressional district of the State of Iowa, have leave to withdraw his petition.

Mr. FIELD. I am advised, Mr. Speaker, that no member of the Committee on Elections desires to speak on this matter. If any other gentleman wishes to ask any questions in reference to it, or desires to be heard for a limited time, I will yield for that purpose. The gentleman from Indiana, a member of the Committee on Elections, desires, I am informed, to print some remarks in connection with it.

Mr. COLERICK. It was my intention to have asked to be heard on the questions involved in this case. One of the questions presented by the report of the Committee on Elections is of vital importance and its determination may establish a precedent vicious and dangerous in its character. But being impressed with the belief that at this late stage of the session the question cannot receive that consideration which its great importance demands, and that the time of the House can be more profitably spent in the consideration of matters of perhaps greater importance, I will merely ask leave to print in the RECORD the remarks that I intended to make.

There was no objection, and it was ordered accordingly. [See Appendix.]

Mr. FIELD. The resolution which has been read is, in substance, agreed to by all the members of the Committee on Elections, with the exception of one, and without going through the formality of calling the previous question, as I think there can be no discussion upon it, I will simply ask that there be a vote taken upon the resolution.

The SPEAKER. The question will be taken upon the resolution which has just been read.

The resolution was agreed to.

Mr. FIELD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. FIELD. I now call up the contested-election case of Wilson against Carpenter.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved*, That the petitioner, John J. Wilson, in the matter of his petition asking to be admitted to a seat in the Forty-sixth Congress as a Representative from the ninth congressional district of the State of Iowa, have leave to withdraw his petition.

Mr. FIELD. This case is in all essential particulars exactly like the other, and I ask a vote upon it.

The resolution was agreed to.

Mr. FIELD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### DAILY HOUR OF MEETING.

Mr. FRYE. I desire now, Mr. Speaker, to make a report from the Committee on Rules, in reference to the daily hour of assembling of the House. I report, by direction of the committee, a substitute for the resolution which was referred to the committee.

The SPEAKER. The substitute will be read.

The Clerk read as follows:

*Resolved by the House of Representatives*, That its daily sessions hereafter for the Forty-sixth Congress shall open at eleven o'clock a. m.

The resolution was agreed to.

Mr. FRYE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### GENERAL INDEX OF JOURNALS OF CONGRESS.

Mr. STEPHENS. Mr. Speaker, I desire to make a report from the Committee on Rules in reference to the general index of the Journals of Congress, and merely ask that it be printed in the usual form and laid upon the tables of members, and also that it be printed in the RECORD.

There was no objection, and it was ordered accordingly. It is as follows:

The Committee on Rules, who were instructed by resolutions passed June 18, 1878, to provide for the preparation of a general index of the Journals of Congress, submit the following report of the progress that has been made in the work:

The last report made by the committee (H. R. Report No. 1776, second session, Forty-sixth Congress) submitted the complete index of the Journals of the first ten Congresses.

Since that report was made the indexer has completed the index of the Journals of three more Congresses, which brings the work down to the year 1815. The committee are gratified to report this rapid progress, for the reason that the character of the work and its importance are now so fully developed that its completion in the best possible manner and in the shortest possible time have become objects that deserve earnest attention.

Although the publication of the index of the Journals of the first ten Congresses was only preliminary, and made chiefly for the purpose of subjecting the plan of the work to the test of practical use, the committee have been much encouraged by the favorable comments on it that have been received from various sources. As an indication of the estimation in which the work is held, we quote the following, in addition to communications referred to by us in previous reports:

"It will be of great use to the Library."—*Boston Public Library.*

"It promises to be of very great value in tracing out the history of the operations of the Government."—*Smithsonian Institution.*

"It evidences an exact and comprehensive method, intelligence, and common sense."—*Brooklyn Library.*

"It will have great value to all concerned in the study of public affairs."—*Benjamin Vaughan Abbott.*

"It is a great work for the country."—*Philadelphia Press.*

"It well deserves the attentive consideration of all who are interested in indexing, or in the prospect of having a key to unlock the official stores of American legislative history."—*New York Tribune.*

Such commendations as these confirm the wisdom of the House in authorizing the work and all that the committee have in previous reports urged as to its value.

We have no special recommendations to make at this time. We would, however, urge upon members of Congress that they make a careful examination of the index contained in the last report of the committee (H. R. Report No. 1776, second session, Forty-sixth Congress) and of the plans for it as detailed in our previous reports, (H. R. Report No. 52, third session, Forty-fifth Congress and H. R. Report No. 23, second session, Forty-sixth Congress,) in order that the work may have the benefit of their criticisms and suggestions in its further prosecution.

### ARSENAL AT BENICIA, CALIFORNIA.

Mr. BERRY, by unanimous consent, introduced a bill (H. R. No. 7095) to create a manufacturing arsenal at Benicia, California; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

### UNITED STATES POSTAL TELEGRAPH COMPANY.

Mr. SPRINGER. By request, I introduce a bill for reference, the same as was introduced in the Senate on Friday last by the Senator from Iowa, [Mr. KIRKWOOD.]

The bill (H. R. No. 7096) to aid the United States Postal Telegraph Company in the construction and operation of postal telegraph lines was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

### POSTAL TELEGRAPHS, ETC.

Mr. SPRINGER also, by unanimous consent, introduced a bill (H. R. No. 7097) to provide for the appraisement of the telegraph lines, property, and effects of companies acting under the provisions of the act of July 24, 1866, entitled "An act to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes," and to secure information concerning postal telegraphs in other countries; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

### REPORT OF UNITED STATES ENTOMOLOGICAL COMMISSION.

Mr. VALENTINE introduced a joint resolution (H. R. No. 387) authorizing the printing of 30,000 copies of the third report of the United States entomological commission; which was read a first and

second time, referred to the Committee on Printing, and ordered to be printed.

EGYPTIAN STEAMER DESSOUG.

Mr. REAGAN. The objection to the consideration of the Senate joint resolution relative to the Egyptian steamer Dessoug has now been withdrawn. It is the joint resolution (S. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug. I ask that it be taken from the Speaker's table and put upon its passage.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

A MEMBER. Let it be read.

The joint resolution was read. It authorizes the Secretary of the Treasury to issue an American register to the steamship Dessoug, of Egyptian nationality, but of American ownership, and restricts the inspection of her machinery and hull by the inspectors of steam-vessels simply to the inquiry as to their safety for the conveyance of passengers, without reference to the mode or place of their construction, and provides for the issue of a special certificate of inspection for said steamship.

Mr. CHALMERS objected, but subsequently withdrew his objection.

Mr. REAGAN. I send to the desk a letter from the Secretary of State. To save time, if gentlemen do not desire to have it read, I will have it printed in the RECORD as part of my remarks. I will only say further that the Committee on Commerce of the House have had before them a copy of the Senate resolution and have unanimously approved it and recommend its passage.

The letter of the Secretary of State is as follows:

DEPARTMENT OF STATE,
*Washington, January 5, 1881.*

SIR: I have the honor to bring to your attention, and through your committee to that of the House of Representatives, the eminent propriety of procuring the passage of an act granting an American register to the steamer Dessoug, purchased by Lieutenant-Commander Henry H. Gorringe, of the United States Navy, and employed by him in the successful transportation of the obelisk, known as Cleopatra's needle, from Alexandria, Egypt, to New York.

The circumstances under which the obelisk was presented by the Government of Egypt to the city of New York are doubtless so familiar that I need merely advert to the brilliant service rendered by Lieutenant-Commander Gorringe, involving the assumption of considerable personal risk on his part, and notably so in the purchase and alteration of a sea-going steamer for the transportation of the monolith. The sentiment of national pride naturally felt in this successful achievement, coupled with the international character of Mr. Gorringe's service, makes it fitting that some appreciative action should be taken by Congress in the premises, and in no way could this be more appropriately done than by permanently identifying the vessel in question with the country and flag to which she has rendered so signal a service.

I am informed that the prominent merchants and ship-owners of New York are in favor of some such recognition of what Lieutenant-Commander Gorringe has done in behalf of their city, and that the course suggested would not be opposed by any conflicting ship-building interests.

The accompanying draught of a bill has been prepared as suitable to the desired end, subject to the consideration and approval of your committee, to which I earnestly commend it.

I have the honor to be, sir, your obedient servant,

WM. M. EVARTS.

HON. JOHN H. REAGAN,
*Chairman Committee on Commerce, House of Representatives.*

The joint resolution was taken from the Speaker's table, read three times, and passed.

Mr. REAGAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UTAH AND NORTHERN RAILWAY COMPANY.

Mr. BAILEY. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 4874) in relation to the Utah and Northern Railway Company, and that it be put upon its passage.

The bill was read, as follows:

*Be it enacted, &c.*, That section 1 of the act entitled "An act granting the right of way through the public lands to the Utah Northern Railroad Company," approved March 3, 1873, be, and the same is hereby, amended by striking out of the said section, after the words, "and through Montana Territory," the following words: "to a connection with the Northern Pacific Railroad."

SEC. 2. That the act entitled "An act creating the Utah and Northern Railway Company a corporation in the Territories of Utah, Idaho, and Montana, and granting the right of way to said company through the public lands," approved June 20, 1878, be, and the same is hereby, amended by adding thereto the following section:

"SEC. 4. And the said company is hereby authorized and empowered to construct such branch or branches of its said road in said Territories of Utah, Idaho, and Montana, or either of them, as it may deem advisable, with the same grants, powers, rights, and privileges, and upon the same terms and conditions as are provided for its main line; and Congress may at any time add to, alter, or repeal this act."

Mr. BLAND. Is there any grant of land in that bill?

The SPEAKER. The Chair is advised there is not.

Mr. BAILEY. It does not involve a dollar of money or an acre of land.

Mr. McLANE. With the permission of the House I will state the only effect of the bill is to relieve the company from the reorganization which would otherwise be necessary. It is by the existing law required to make a connection with the Northern Pacific Railroad. The Northern Pacific has changed its route, and this company can no longer connect with it. It now asks to be permitted to go on in its own right.

Mr. McGINNIS. That is all there is of it.

There being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, and it was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BAILEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUSINESS OF DISTRICT COMMITTEE.

Mr. BLACKBURN. I am directed by the Committee on Rules to offer the resolution which I send to the desk, and to ask its adoption.

The Clerk read as follows:

*Resolved*, That upon the expiration of the morning hour on Monday, the 14th of February, the Committee on the District of Columbia shall be entitled to the floor for the consideration, during the remainder of that day, of business affecting the District of Columbia as it may be called up by said committee.

Mr. BOUCK. I object.

The SPEAKER. This resolution has reference to the organization and order of business of the House.

Mr. BLACKBURN. When the gentleman from Wisconsin objected I rose to ask the Chair whether the resolution reported from the Committee on Rules is not entitled to consideration in spite of objection. If I may be permitted to make a suggestion I will say it occurs to me this is certainly a privileged report, because if adopted it can have but one effect, and that is to regulate the proceedings of this House in the transaction of its business.

The SPEAKER. It changes in effect the order of business as provided for in the rules.

Mr. STEPHENS. It may be considered an amendment to the rules to that extent.

The SPEAKER. The resolution provides only in regard to one day's session.

Mr. STEPHENS. The resolution is to a certain extent a modification of the rules, and the Committee on Rules have the right to report at any time for consideration.

The SPEAKER. The Committee on Rules have always had the right to report at any time as to matters touching the order of procedure of business.

Mr. BLAND. I have no objection to that; but I submit that the Committee on Rules have no right to report a resolution changing the order of business where the matter has not by special order of the House been referred to the committee.

Mr. BLACKBURN. I suggest whether if the resolution be now objected to it will not be the right of the Committee on Rules to call it up after the resolution has lain over for one day.

The SPEAKER. The Chair will recognize the right of the gentleman from Wisconsin [Mr. BOUCK] to object, and under another rule the resolution being objected to has to lie over for one day.

ORDER OF BUSINESS.

Mr. COBB. Under instructions from the Committee on Appropriations I desire to report——

A MEMBER. "Regular order!"

The SPEAKER. The regular order is the morning hour.

Mr. COX. I move to dispense with the morning hour.

The motion was agreed to, two-thirds voting in favor thereof.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. COBB. I now report back with amendments from the Committee on Appropriations the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes, and move that the same be referred to the Committee of the Whole on the state of the Union.

Mr. McMILLIN. I reserve all points of order on the bill.

The SPEAKER. All points of order will be reserved.

The bill was accordingly referred to the Committee of the Whole on the state of the Union.

APPORTIONMENT UNDER THE TENTH CENSUS.

Mr. COX. I ask consent to have referred to the Committee on Printing, for the convenience of members, the resolution which I send to the Clerk's desk.

The Clerk read as follows:

*Resolved*, That there be printed, for the use of members of this House, 5,000 additional copies of the pamphlet containing the tables, &c., for the apportionment of the tenth census.

The SPEAKER. As that is merely a duplication of former printing, the Chair does not think it comes under the law requiring a reference to the Committee on Printing, as it will not cost $500.

Mr. COX. Then I ask unanimous consent that it be adopted now.

There was no objection, and the resolution was adopted.

FLOORING OF THE NATIONAL MUSEUM.

Mr. BLACKBURN. With the consent of the gentleman from Indiana, [Mr. COBB,] I will report from the Committee on Appropriations a bill which should be passed now.

Mr. COBB. I will yield for that purpose.

Mr. BLACKBURN, from the Committee on Appropriations, reported a bill (H. R. No. 7098) making an appropriation for the flooring of the National Museum; which was read a first and second time, re-

ferred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. TOWNSEND, of Ohio. I ask the gentleman from Kentucky [Mr. BLACKBURN] to yield to me for a moment.

Mr. BLACKBURN. I am a trespasser upon the floor myself, with the courtesy of the gentleman from Indiana, [Mr. COBB.] I move that the House now resolve itself into Committee of the Whole on the state of the Union to consider the bill just reported by me from the Committee on Appropriations.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. SIMONTON in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the bill (H. R. No. 7098) making an appropriation for the flooring of the National Museum. The bill will now be read.

The bill was read, and appropriates the sum of $26,000, or so much thereof as may be necessary, to place a flooring of marble or encaustic tiles in the large halls of the National Museum building, to be expended according to the plan and under the direction of the building commission of the Board of Regents of the Smithsonian Institution, under whose supervision the museum has been constructed.

Mr. BLACKBURN. I will state that this National Museum building is now about completed, and it is simply a question whether the matter of flooring shall be according to the original plan, of asphalt or concrete, or whether a change should be made in the plan so far as to substitute a marble or tile flooring. The concrete pavement would cost about $9,000. The cost of the encaustic tile or marble pavement will be not to exceed $25,000. I hold in my hand a letter from Professor Baird, which is indorsed unanimously by the Board of Regents, recommending that an appropriation of $26,000 be made for the purpose of flooring the main halls of the National Museum building with marble or tiling. It is indorsed I believe by every member on the Committee on Appropriations. Unless some member desires it, I will not ask to have the letter read.

Mr. HAWLEY. Let it be printed in the RECORD as a part of your remarks.

Mr. BLACKBURN. I will make that request.

There was no objection, and it was so ordered.

The letter is as follows:

SMITHSONIAN INSTITUTION,
*Washington, December 9, 1880.*

SIR: I have the honor to inform you that the new National Museum building, for the erection of which Congress appropriated $250,000, has been substantially and satisfactorily completed, with the exception of the floors of the main halls. The original estimate provided for floors of concrete and cement. So many remonstrances, however, have been made against the use of this material instead of marble or tile for the flooring, as not being in accordance with the architectural beauty and design of the building, that at a called meeting of the Board of Regents of the Smithsonian Institution, on the 8th instant, the subject was considered and the following resolution adopted:

"*Resolved*, That for the purpose of substituting a marble or tile flooring instead of concrete, as originally designed, for the large halls in the National Museum, an appropriation of $25,000 be requested of Congress, to be expended according to the plans and under the direction of the building commission of the Board of Regents of the Smithsonian Institution, under whose supervision the museum has been constructed."

I have the honor to be, your obedient servant,

SPENCER F. BAIRD,
*Secretary Smithsonian Institution.*

Hon. S. J. RANDALL,
*Speaker of the House of Representatives.*

Mr. BLACKBURN. If no one desires to move an amendment to the bill I will move that the committee now rise and report it favorably to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SIMONTON reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 7098) making an appropriation for the flooring of the National Museum, and had directed him to report the same back to the House without amendment and to recommend that it be passed.

The bill was then ordered to be engrossed and read a third time; and it accordingly was read the third time, and passed.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### REPRINT OF BANKRUPT BILL.

Mr. TOWNSEND, of Ohio. I ask consent that the bill (H. R. No. 6988) to establish a uniform system of bankruptcy be reprinted, as the former print has been exhausted.

There was no objection, and it was so ordered.

### ORDER OF BUSINESS.

Mr. COBB. I move that the House now resolve itself into Committee of the Whole for the purpose of considering the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government for the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes.

Mr. HUNTON. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HUNTON. If the House shall now resolve itself into Committee of the Whole to consider the bill indicated by the gentleman from Indiana, [Mr. COBB,] will there be any limit to general debate thereon?

The SPEAKER. No motion has been submitted in regard to limiting debate.

### ENROLLED BILLS SIGNED.

Pending the motion to go into Committee of the Whole,

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the House of the following titles; when the Speaker signed the same:

A bill (H. R. No. 6025) to establish an assay office in the city of St. Louis, Missouri; and

A bill (H. R. No. 7029) to provide for a deficiency in the appropriation for interest on the 3-65 loan of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

### WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted for withdrawal of papers in the following cases:

To Mr. LINDSEY, in the case of Jefferson Savage, there being no adverse report; and

To Mr. POEHLER, in the case of C. F. Heers.

### COAST SURVEY, ETC.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a report of the expenditures of the Coast and Geodetic Survey for the fiscal year ending June 30, 1880; which was referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

### OPERATIONS OF PATENT OFFICE.

The SPEAKER also laid before the House a letter from the Commissioner of Patents, transmitting a report of the operations of the Patent Office during the year ending December 31, 1880; which was referred to the Committee on Patents, and ordered to be printed.

### FINES AND DEDUCTIONS FROM PAY OF MAIL CONTRACTORS.

The SPEAKER also laid before the House a letter from the Postmaster-General, transmitting a report of fines and deductions from the pay of mail contractors for 1880; which was referred to the Committee on Appropriations, and ordered to be printed.

### DISTRICT OF COLUMBIA APPROPRIATION BILL.

The question then recurring on the motion of Mr. COBB, that the House resolve itself into Committee of the Whole for the consideration of the District of Columbia appropriation bill, it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. CONVERSE in the chair) and proceeded to the consideration of the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes.

Mr. COBB. Mr. Chairman, from some intimations that I have heard this morning, I understand there is to be some discussion upon this bill, and I think it would be best perhaps to fix the time such discussion is to occupy before the debate proceeds. If gentlemen who wish to oppose the bill will indicate the time they desire, perhaps we can agree upon the time when we get into the House. I do not care to commence the discussion until the time for general debate has been fixed.

The CHAIRMAN. The Chair will state that it is not usual to limit the time for general debate until the debate has begun. The Committee of the Whole can rise at any time for the purpose of having the House limit debate.

Mr. HUNTON. I suppose it is not within the power of the Committee of the Whole to limit debate. The House resolved itself into the Committee of the Whole on this bill without any limitation as to general debate. I desire to occupy myself a little time in the general debate on this bill. I do not know how long, probably not over thirty minutes. Whether any other gentleman wishes to speak in opposition to the bill I know not, but if the gentleman from Indiana [Mr. COBB] will proceed now with his remarks, it will take but very little time, I think, for us to get through with the general debate.

Mr. COBB. The gentleman's statement is satisfactory to me. Mr. Chairman, I have no disposition to enter into a discussion in detail of the provisions of this bill. I want to say, however, to the committee that this is a very important bill, and I think that perhaps members of the House do not give it as careful consideration as they ought. It is a bill providing appropriations to run what is a government in itself, with all the elements, I may say, of a government of much greater proportions, and as members are aware the Government of the United States pays one-half of the amount appropriated in each item of the bill.

The bill is substantially the same as the corresponding bill passed a year ago, except that as to streets and sewers the amount is cut down very considerably below the appropriations then made. The remainder of the bill is mainly the same as the bill of last year. I do not care now to go into any statement of the reasons why the amount for streets is now cut down. I shall do that at some other time if necessary.

We provide in this bill for the construction of four school-houses, one more than we provided for a year ago. We propose to appropriate in a certain way $70,000 more than we appropriated a year ago for school purposes. This additional appropriation grows out of a necessity for a high-school building in this District. There are

already intermediate schools: but the demand, as I understand—and I have given the question the best consideration I could—is very great for what may be termed a high school. This bill provides how this building shall be constructed.

There are certain school bonds growing out of an old lottery system which was provided for by law. The money arising from that scheme was converted into bonds, which this bill now proposes to pay off, and devote the proceeds to the erection of a high-school building, the location of which is fixed upon square 446, what is known as "Corcoran Square."

This bill appropriates, as the corresponding bill a year ago did, $100,000 for the construction of two intermediate school-houses in school division No. 2. It then provides for the construction out of this same $100,000, of another building in the county or country. This provision, I may state, meets, as I understand, the entire concurrence of the school board, with whom I have consulted, and I think it is in harmony with the views of the commissioners. I think this provision of the bill, Mr. Chairman, so far as the location of this high school is concerned, meets with the concurrence of the local authorities, and so far as the location of the other two school-houses in school division No. 2 is concerned I believe that also meets with the approval of all the officials of the District of Columbia connected with public school affairs, the District commissioners as well as the school board.

The reason why I now discuss this provision of the bill is from the fact there may be some objection to it, but I shall be brief in what I have to say. It may perhaps seem to some that $170,000 appropriated for the location of school-houses in the District of Columbia is a large sum of money to be appropriated for that purpose. I have, however, already explained how the $70,000 comes. That is a fund which has been fostered as I am informed by the public-school trustees for the very purpose of providing for the erection of this proposed high-school building. The disposal of the bonds and the use of the fund arising therefrom in the erection of this high-school building will save the District of Columbia from the payment of rent for the use of any such building.

As to the two buildings in district No. 2, I wish to say that looking over the District of Columbia carefully and hearing from those who are familiar with this subject, I was clearly of the opinion and I believe the Committee on Appropriations concurred entirely with me in the necessity for making this appropriation. I was clearly of the opinion, and in that the committee agreed with me, that these two school buildings should be located in school division No. 2. The reason for it is this: In that division we have a large number of school-rooms rented, many of which, and I can speak from personal knowledge, as I visited them, are totally unfit, as I conceive, as school-rooms for children.

We are paying high rents for these rooms in many cases; I am informed by those who are competent judges that we are paying rent to the extent of 10 per cent. upon the total value of the property rented. By building these two school-houses we will save nearly $8,000 of rent as soon as they are completed and fit for use. In looking over the whole field, therefore, I found great economy would be secured by the construction of these buildings in that locality.

There is another reason why it should be so, and that is this: that the property in that division is increasing in value. The bill does not require the commissioners to purchase these sites, but permits them to do so in case of necessity. The value of property in that division is increasing, and it is important as a matter of economy to the District that these sites for public schools should be secured at as low a price as possible. To do so the commissioners should have this discretionary power. These are the reasons which actuated the committee in locating these two school buildings in that division.

I think of nothing now I need say further in reference to this bill: but at the proper time and when the question comes up, I will present such facts to the committee as will enable it to judge correctly of the provisions of the bill. If, however, any member of the committee desires at this time to propound any question, I shall be glad to answer.

Mr. HUNTON. Mr. Chairman, I agree with the gentleman from Indiana who reported this bill from the Committee on Appropriations. This is an important question, and should receive the careful consideration of every gentleman composing this Committee of the Whole House on the state of the Union. It seems to me matters concerning this District are often passed over without that consideration which members ought to give to so important a subject. And, sir, there is nothing more important concerning this District than the appropriation of the taxes raised from the people of the District and contributed by the Federal Government and the manner in which the money thus raised shall be expended. I, sir, as chairman of the Committee on the District of Columbia, have taken some pains to inform myself upon these subjects, and the information I have obtained leads me to so different results from those embodied in the bill now under consideration that I feel compelled to trespass for a few moments on the time of the committee to explain my views.

I take it for granted that the gentleman from Indiana and the Committee on Appropriations mean to expend the revenues that would be raised by the District of Columbia and that portion which will be drawn from the Federal Treasury for the purposes of the District of Columbia, &c., for the next fiscal year. These revenues, Mr. Chairman, according to the best information which can be obtained, the commissioners of the District estimate at $1,697,000 for the next current fiscal year, and a like amount being drawn from the Federal Treasury under the organic act providing for the government of this District makes the total amount $3,394,000.

Mr. COBB. I should like to inquire of the gentleman from Virginia what estimates he refers to?

Mr. HUNTON. I refer to the estimate furnished me by Major Twining. That estimate to which I have just referred includes $21,000 which will be surplus on hand of the revenues in the present fiscal year. So that for the next current year there will be in the Treasury to be expended the sum of $3,394,000; and the question for this committee to determine is, how shall that sum best be expended for the benefit of the Federal Government and for the government of the District of Columbia?

Now, Mr. Chairman, we are met in the outset of the consideration of this question by what appears to me to be a most remarkable and, if the gentleman from Indiana will excuse me, I will say a most vicious change in the appropriation for this purpose over that made for the present fiscal year. Under the head of "Improvements and repairs and for care and repair of bridges," on page 2 of the bill, the amount appropriated for the replacement of the wooden pavements of this District is reduced from $300,000 for the present fiscal year to $100,000 for the next fiscal year. There are, Mr. Chairman, seventeen miles of rotten wooden pavements in this city. These pavements are rapidly becoming impassable for the vehicles. They are rapidly decaying, and unless they are replaced as speedily as possible not only will it depreciate the value of property along these avenues, but may, and possibly will, spread disease throughout the whole District. So that the first great duty on the part of the Congress of the United States is to enable the District commissioners to replace these worthless, decayed wooden pavements now in existence in this city with some substantial and serviceable substitute. I need not remind the committee that under the management of the old board of public works, once in charge of the improvements in this city, a vast number of the streets were paved with wood. Of this work there still remain seventeen miles of wooden pavements, or the remains of that amount of wooden pavement, which, as I have said, is in a dilapidated and dangerous condition. This pavement has become in some places impassable, is rapidly decaying in all of its parts, and is in such a condition that there is absolutely great danger of its spreading disease throughout the city.

As I have said, sir, the first great duty of the Congress of the United States is to see that these streets are taken up and good, permanent pavements put down in their stead. If the appropriation in this bill for the replacement of these streets is all that Congress will allow for that purpose during the next fiscal year, then Major Twining, the engineer of the District in charge of this work, informs me that it will take six long years to take up the wooden pavements and replace them with rock or concrete. I take it, sir, that this committee will not agree that a work of so important a character, so absolutely necessary to be accomplished as this in a short time, shall be carried on through a long series of years and in so slow a manner as this. The reason why this sum of $300,000 for the present fiscal year is dwarfed to $100,000 is because the Appropriations Committee, at the instance of the gentleman from Indiana, has devoted $170,000 for the purpose of building school-houses.

Now, Mr. Chairman, I will not yield to any other gentleman on this floor in my zeal for education and for the erection of a sufficient number of school-houses for the children of this city; but I do think that it is improper to take the money which should be expended upon the renewal of these streets and appropriate $170,000 of it for the building of school-houses. I need not remind the committee of the fact that last year, I believe, we appropriated money to build three or four school-houses, and the year preceding to build two, and now we not only propose by this bill to devote $170,000 to build three school-houses, but one of these is to be erected at a cost of $100,000.

Mr. COBB. No, $70,000.

Mr. HUNTON. Very well, $70,000.

I fully agree with the gentleman from Indiana that this $70,000 in 3.65 bonds shall be devoted to the purposes of building school-houses in this District; but I am unwilling that any more than the sum of $70,000, embraced in these 3.65 bonds, shall be allowed for that purpose, or be devoted in the present condition of District affairs to the building of school-houses. As I have stated, I believe we built two or three last year and two the year before, and I think that few gentlemen of the committee will not concur with me when I say that we are now building them as rapidly as the people of this District can afford. I agree, as I have stated, that it is important, as rapidly as we may, to build school-houses for the education of the children of this District. But it must be remembered, Mr. Chairman, that there are other important matters to be attended to as well as that, and I, for one, am not willing that $170,000 shall be taken from the renewal of these rotten pavements and applied now to such a purpose. Why can we not go on gradually in the construction of these houses and build one this year, or two now and two next year, and so on until we obtain full accommodation for all the children of the District who go to the public free schools? I trust, sir, that when the time comes the committee will limit the expenditure for the next fiscal year to $70,000 for the purpose of furnishing school buildings for the District of Columbia, which sum I think is ample under the circumstances.

I do not agree with the gentleman from Indiana——

Mr. BUCKNER. Will the gentleman allow me to ask him a question?

Mr. HUNTON. Certainly.

Mr. BUCKNER. This $70,000 that the bill appropriates is for a high-school building?

Mr. HUNTON. I am coming to that.

Mr. BUCKNER. That is to be the cost of it.

Mr. HUNTON. Seventy thousand dollars is the amount proposed.

Mr. BUCKNER. What is taught in a high school?

Mr. HUNTON. That is the very point I was coming to. The higher branches of education are taught in it, those which are next to a collegiate education. I was going on to say that I did not concur with the gentleman from Indiana in the policy of erecting or inaugurating a high-school system in this District. I believe it is proper for every government to furnish school facilities for all the children within its borders. I believe that these facilities ought to be equal and offered equally to all classes of its children. But I do not believe that any special privileges should be offered to any.

If this high school is inaugurated, as proposed by the bill, then some hundred or it may be a greater or less number of the children of this District will have afforded to them high-school privileges, while the balance of the children of this District must be content with common-school privileges; and it will make a distinction between the children of this District, which will breed discontent between the poor, who enjoy only the common-school facilities, and those who enjoy the higher school facilities. I believe it is the policy of this Government and of the District of Columbia to afford the best common-school facilities to all, and when a student in one of these common schools desires to pursue the higher branches of education, he ought to do it at his own expense. Therefore, Mr. Chairman, I think it is eminently judicious and wise that this high-school feature of the appropriation bill shall be stricken out, and that the $70,000 in the Washington school-fund bonds shall be appropriated to building school-houses for common-school purposes, and that sum of $70,000 will build two most excellent school-houses of the ordinary style having twelve rooms each, furnishing twenty-four additional school-rooms for the accommodation of the children of the District. And I trust that this committee will not take from the amount necessary to carry on rapidly the replacement of the rotten pavements of the District, by appropriating that amount to high-school purposes or any other.

The next provision of this bill to which I call the attention of the committee is on page 4. It is:

For support of the indigent insane in the District of Columbia in the Government Hospital for the insane in said District as provided in sections 4843, 4844, and 4850 of the Revised Statutes, $80,000.

Now, Mr. Chairman, until last year—I am not certain I am right in that—there was no appropriation in the District appropriation bill for the support of the indigent insane in the Government hospital; but it was a Government institution supported by Government contributions alone. Last year the Committee on Appropriations introduced this item into this bill, and after a long conference between the committees of conference of the two Houses, after hearing evidence and having all the parties before them, they fixed upon the sum of $37,000 as the proper sum to be paid by the District of Columbia in this appropriation bill; and that amount was inserted in the last appropriation bill for the District of Columbia. This bill departs from that agreement thus entered into between the two Houses and puts the amount up to the sum of $80,000, which is greatly beyond the share which the District of Columbia ought to pay.

In regard to these asylums and charitable objects, I desire to call the attention of the House to the provision of the organic act, which will be found on page 104 of the Statutes at Large, second session Forty-fifth Congress, volume 20. I need not remind the committee that this act, called the organic act, providing a government for the District of Columbia, provided what should be paid for by the District, and what should be paid for by the Federal Government, and what should be paid for jointly by the District government and the Federal Government. It was provided in this bill that all the appropriations made for the support of the District government should be paid one-half by the Federal Government and the other half by the District government. The commissioners were to estimate what would be necessary for the expenses of the District for each fiscal year at the beginning of each session of Congress, and were to send their estimates to the Secretary of the Treasury. The Secretary of the Treasury was to pass upon those estimates and send them back to the District commissioners and the District commissioners were then to send them to the House. Now, what were they to estimate for under the organic act?

The said commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June 30, 1879, and annually thereafter, for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing, and the estimated cost thereof; also the cost of constructing, repairing, and maintaining all bridges authorized by law across the Potomac River within the District of Columbia, and also all other streams in said District.

Now follows the clause to which I desire to call the attention of the committee specially:

The cost of maintaining all public institutions of charity, reformatories, and prisons belonging to or controlled wholly or in part by the District of Columbia, and which are now by law supported wholly or in part by the United States or District of Columbia.

So that the only institutions of charity, reformatories, or prisons which the commissioners for the District had a power to estimate for by law were those "belonging to or controlled wholly or in part by the District of Columbia, and which are now by law supported wholly or in part by the United States or District of Columbia."

So that to bring within this appropriation bill any charitable object or the support of any prison or reform school, or anything of the sort, two things must concur: it must at the date of the act have belonged to or been controlled, wholly or in part, by the District of Columbia, and must have been provided for prior to that time, either wholly or in part, by the United States or the District of Columbia.

Now, I think gentlemen will find upon consulting the statutes that this Government hospital for the insane in the District of Columbia is a Federal institution, not belonging to or controlled wholly or in part by the District of Columbia; and if that be the case, then the commissioners of the District and the Secretary of the Treasury have no right to include it in the estimates of appropriations for the District of Columbia. And I take it neither the gentleman from Indiana nor any other gentleman on the floor of this House can show anywhere in any of the statutes that this was an establishment owned by or controlled either wholly or in part by the District of Columbia at the date of the passage of the act, a clause of which I have just read. If that be the case, Mr. Chairman, it is not within the power of this House, according to the law as it stands, to appropriate anything for the indigent insane in this Government hospital. But if the committee should think otherwise, then, I say, do not raise the appropriation from $37,000, the amount agreed upon in a conference between the two Houses at the last session of Congress, to $80,000, which is greatly beyond what ought to be paid by the District for this purpose under any circumstances.

Then, Mr. Chairman, there is an appropriation in this bill for maintaining the jail, which is not embraced within the organic act at all, and which I believe I can say with some degree of certainty has never been introduced into an appropriation bill of the District of Columbia. Well, now, what is this jail? Does it come within this organic act? Unquestionably not. The jail is a Federal institution regulated entirely by Federal laws, and with its government the District of Columbia has nothing whatever to do.

If gentlemen of the Committee of the Whole will turn to page 121 of the Revised Statutes of the District of Columbia they will find that the jail is entirely under the control of the Federal Government. The District government has no part or lot in controlling or owning the jail in this District. Unless it is embraced in the terms of the organic act, the appropriation for its support cannot properly be embraced in the bill making appropriations for the support of the government for the District of Columbia.

I call attention to these things to show that the Committee on Appropriations depart from the law when they undertake to make the District of Columbia pay its part for the support of the indigent insane in the Government hospital and for the support and maintenance of the prisoners in the Government jail.

I beg leave to state to the Committee of the Whole that the committee of which I have the honor to be the chairman has considered all these questions with some care, and I believe I am speaking the sentiments of the members of that committee.

The next thing that attracted my attention in looking over this bill is the total abolition of the special assessment division in the District government. I beg leave to say that in the opinion of the commissioners for this District that division is absolutely necessary and should be retained. I call attention to the following communication from the chief of that division:

OFFICE OF THE COMMISSIONERS DISTRICT OF COLUMBIA,
SPECIAL ASSESSMENT DIVISION,
*Washington, January 28, 1881.*

GENTLEMEN: In compliance with your instructions, I have the honor to make the following report:

The revision of the assessments on streets and avenues has been completed, but a large amount of work remains to be done before the office can be closed.

There are one hundred and sixty-six alley assessments in a state of partial revision.

The claims for revision filed in 1878, 1879, and 1880 are not yet all examined and reported upon.

Lien certificates have yet to be prepared and issued upon one hundred and sixty-six streets, and also the one hundred and sixty-six alley assessments.

The accounts of Mr. George W. Beall, late clerk in charge of the collections on account of special assessments, since 1871 to July last, should be reconciled with the books of the treasurer of the board of public works and the commissioner of the sinking fund.

The old records in this office are valuable, and should be properly cared for and filed; and the current work is by no means insignificant, and covers every conceivable form of complaint.

The appropriation for the current year is:

| | |
|---|---|
| One clerk | $1,800 |
| One clerk | 1,400 |
| One clerk | 1,000 |
| Contingent expenses | 100 |
| Total | 4,300 |

And I request that at least the same appropriation may be made for the year ending June 30, 1882.

Very respectfully,

WM. OSCAR ROOME,
*Chief of Special Assessment Division.*

To the honorable COMMISSIONERS DISTRICT OF COLUMBIA.

It will be seen that according to the report of the chief of that division, there is now work enough, and more than enough, to maintain the force in that office for the next fiscal year, and not until after the next fiscal year, at the earliest, can any reduction be made in that office. There is work constantly going on there, and it is necessary that the office be continued for the good government of this District.

The Committee on Appropriations propose to abolish in the attorney's office, for the District, one assistant attorney. I have here a memorandum from the district attorney showing that that officer is absolutely necessary. He states that—

> The last annual report, covering nine pages, ending with June, 1880, shows that thirty-six civil cases were disposed of in the higher courts; forty-two were tried in the criminal court, on appeal by the defendants from the police courts. For the same time over three thousand cases were tried by the special assistant in the police court.
>
> There were then left pending two hundred and thirty-six civil cases in the court of record, and one hundred and forty-five appealed cases in the criminal court. This does not cover cases tried before justices of the peace.
>
> Written opinions in eighty-two cases, covering two hundred and thirty-three pages, were delivered, and nearly as many cases were disposed of by opinions indorsed on the papers. No reference is made to consultations with the commissioners, letters written, &c.
>
> During this period I was quite constantly before the House District Committee for over four weeks.

This assistant district attorney which the Committee on Appropriations proposes to abolish is the assistant district attorney who appears before the police court; and this report from the District commissioners says that over three thousand cases were disposed of in that police court during the time covered by this report. Unless there be a district attorney to appear before the police court of the District of Columbia it is impossible that the other two, the district attorney and his assistant, can appear before that court. Therefore, in the opinion of the commissioners, in the opinion of the district attorney, and in my opinion, it is necessary to preserve what has existed for several years past, the district attorney and two assistants.

The Committee on Appropriations propose to abolish the messenger in that office, a proposition that is proper enough, perhaps. But they also propose to put in here an appropriation for inspector of gas and gas meters, $3,000. I do not see why that should be charged to the District of Columbia. It is for the inspection of gas manufactured by the gas companies in the city of Washington, and it seems to me that, if there be any expense about it, it should be borne by the gas companies themselves. I believe it has never before been put upon the District.

Mr. ALDRICH, of Rhode Island. Do I understand the gentleman to say that, in regard to these various items, he is speaking for the Committee for the District of Columbia, or is he giving merely his own opinions?

Mr. HUNTON. I state what I believe to be the sentiments of the committee.

Mr. ALDRICH, of Rhode Island. I do not think the gentleman does that, at least in some respects.

Mr. HUNTON. Very likely. I do not say that I speak the views and sentiments of all the members of the committee.

Mr. ALDRICH, of Illinois. The committee has never taken any action upon these subjects.

Mr. HUNTON. I believe I speak the views of the majority of the committee.

Mr. ALDRICH, of Rhode Island. That belief has not been shown by any action of the committee.

Mr. HUNTON. This bill has been carefully considered by the subcommittee of the District of Columbia, and I certainly speak their sentiments.

Mr. ALDRICH, of Illinois. It has never been before the full committee.

Mr. HUNTON. That is true. I come now to the appropriation for streets. This bill has reduced the appropriation for work and repairs on streets, avenues, and alleys from $70,000 to $20,000; on account of repairing lateral sewers from $30,000 to $20,000; and for cleaning alleys from $8,000 to $6,000; and they propose to reduce the appropriation for repairs on county roads—I believe I am right in that—from $20,000 to $10,000.

Now, I am informed by the engineer commissioner for the District, who has the work specially in charge by the organic law to which I have referred, that if these reductions are made the sewers in this city will go to decay; the streets will run to waste and become to some extent impassable, and the county roads cannot be kept in repair for the sum here proposed, $10,000.

I believe I am correct when I say that there are nearly one hundred miles of county roads in the District of Columbia. Some of these roads around the city are used as public drives. They must be kept in good order for the convenience of those visiting the parks around the city. In order to keep them in repair, to prevent them from washing into gullies and becoming impassable, there must be more than $10,000 appropriated by the Congress of the United States.

In the health department one inspector is abolished, although, as I am informed by the health officer of the District, it is impossible to do the duty of that office with less than the present force. There have been for some years two food inspectors in the District. This bill proposes to reduce the number to one. It is impossible, as I am informed by the health officer, that the necessary duties in connection with the inspection of food in the large extent of territory under the supervision of the health officer can be performed by one food inspector. We all know how important it is that the food which goes into consumption of the people should be pure and wholesome. I am informed that this object cannot be secured if we undertake to dispense with one of these food inspectors.

This bill also reduces the salary of the pound-master from $1,200 to $1,000. During the last session, by the action of the committee, sustained by the two Houses of Congress, the salary of this officer was raised from $1,000 to $1,200; and this increase was made because the pound-master in the performance of his duties is obliged to keep a horse and buggy in order to go about the District. I submit the salary should be continued at the present figure. The contingent fund of the health department is also cut down nearly one thousand dollars. It is important that this fund should remain as it was last year.

Now, Mr. Chairman, there is what is called the Linthicum loan; that is, $40,000 loaned by the Linthicum estate to the District of Columbia. That loan is bearing 6 per cent. interest. The persons having charge of the estate are not asking repayment; they prefer that the loan should not be repaid at present. This bill provides for the repayment of that $40,000. It strikes me that at present we had better not pay back the $40,000, but continue to pay its interest for a year or so longer until the streets of this city have been put into passable and healthy condition.

These are some (and only some) of the objections that I make to the bill reported by the gentleman from Indiana. I beg that the Committee of the Whole, as we pass upon the bill, item by item, will pay particular attention to it; and I hope that the gentleman from Indiana will agree that the appropriation for replacing wooden pavements may be passed over when we first reach it, so that we may determine when we have gone through the bill how much may be appropriated to the improvement of streets. I take it that the gentleman from Indiana, like the rest of us, is willing to appropriate to the streets whatever may be left of the revenue of the next fiscal year after providing for other needs of the District. In order to do this I shall ask him when we reach that item of appropriation to consent that it be passed over, to be returned to after we shall have gone through the bill. I have nothing further to say now.

Mr. COBB. Mr. Chairman, if no other member of the Committee of the Whole desires to say anything, I shall occupy a moment in replying to one or two remarks made by the gentleman from Virginia, [Mr. HUNTON.]

With regard to the improvement of streets and sewers, I desire to say that I am in favor of doing all that may be reasonably necessary for that purpose; and I think I can show the committee that in this bill we have provided ample funds for the purpose of supplying such demands. Does the gentleman from Virginia know the fact that there is in the Treasury to-day $419,000 unexpended of the amount we appropriated last year?

Mr. HUNTON. For streets?

Mr. COBB. For streets and sewers.

Mr. HUNTON. We only appropriated $300,000 for that purpose.

Mr. COBB. I have here a letter from Mr. Lawrence, the First Comptroller of the Treasury, stating the amount of District appropriations remaining unexpended. We appropriated about five hundred thousand dollars for this purpose last year, of which $419,000 is to-day on hand, with not exceeding two months and a half in which to spend it. Now, I say (and I think the Committee of the Whole will bear me out in the position) that it is not right to be appropriating money that is unexpended in this way.

Mr. HUNTON. The gentleman has appealed to me and asked me whether I know what he states to be the fact. I know very well that of the $300,000 appropriated last year to replace the wooden pavements there is a considerable balance in the Treasury to-day; but I also know, if Major Twining is to be believed (and I have yet to hear any man question his veracity) that at the end of the present fiscal year there will be not a dollar of that appropriation in the public Treasury. The gentleman forgets that the commissioners have until the 1st of July to expend the appropriations for the present fiscal year——

Mr. COBB. I stated that a moment ago.

Mr. HUNTON. And not a dollar will remain in the Treasury at the end of the fiscal year.

Mr. COBB. I appeal to members of this committee as practical men when I say that considering the time the commissioners will have in which to expend this money, it will be impossible for them under ordinary circumstances, without doing extraordinary work and employing an extraordinary number of men, to spend this $419,000. To spend $130,000 it took them from the 1st of last July to the setting in of cold weather. Now, after the weather gets so that the work upon streets can be resumed, the commissioners I say will have only about two months and a half in which to spend this $419,000.

I maintain, therefore, that in this bill we have given all that is necessary for this purpose. On New York avenue, for instance, we give every dollar that Major Twining asks—$7,000. Last year we gave $100,000 for the New York avenue sewer; and we now propose to make only a small appropriation, because more than $200,000 already appropriated to that purpose is now in the Treasury. In regard to that question, I do not wish to discuss it further. I think it is bad

policy for the Government to appropriate money unused in the Treasury. I say we ought to begin to square our accounts in this District, and begin to understand how the money is used. I do say there is no man under the sun to-day who can tell exactly how matters in this District stand. We make appropriation and the money is used and I can say to gentlemen that money was put on the streets a year ago not in the schedule and not provided by law—thousands of dollars of it. We ought to be careful when we appropriate money not to appropriate too much. We ought to appropriate enough, and then see that it is expended as it was intended when the appropriation was made.

We give $153,000 in this bill for streets, as the gentleman from Virginia himself admits. We give for common roads more than $20,000. I know they want $70,000 for the roads in this District. From the examination I have made, I know the roads here are good ones. I have never traveled over a bad road in this District, and I have traveled here over one or two of the best macadamized roads in the country.

Again, the gentleman says I have dropped the assistant attorney. That is true. It was done after a careful examination of the question. It has been done with the full concurrence of the Treasury Department. Gentlemen will find it in the letter of the Secretary of the Treasury inclosing the estimates.

The gentleman from Virginia further says we ought not to expend this large sum of money for public schools. I will say to the gentleman there is a public-school system adopted in this District. I found it here when I came upon the Appropriations Committee. The Committee on Appropriations found it as a system already in existence and operation. If we were to adopt a system, we might differ in some respects from the system which now prevails in this District, but it is a system upon which hundreds of thousands of dollars have been expended in school buildings.

Some say the schools are too large. I do not controvert that; but I do not propose to break through the existing system, and the system does require a high-school building, and a high school such as we have in the Western States, such as my people feel prouder of than anything beneath the sun, where, under our public-school system, every town has a high school where the children can be educated. Under this school system the people cease to be paupers. There are in this District 21,000 paupers, more than 10 per cent. of the entire population. They need schools here, therefore, to educate and elevate the people so as to get rid of these paupers. It needs this education for the purpose of teaching them industry. Educate them and send them out into the world, so they will not become paupers.

I did not understand, however, the gentleman from Virginia would oppose the provision in the bill for the building of public schools, but he does object to paying a debt of $70,000 in bonds. Now, sir, these bonds are payable; they are due, so to speak; and I say at a time like this, when we can pay these bonds, it is our duty to do it, especially when the debt is increasing in this District as it is.

According to the gentleman's own calculation, if we appropriate the sum of money this bill provides for, we will not, next year, have a dollar left. It will take every dollar of the revenues of the District to pay the debt. Does the gentleman know we passed a bill the other day for the payment of $162,000 of interest which has just fallen due?

Mr. HUNTON. I will answer the gentleman. I do know it, and I know after paying that $162,000 there will be $21,000 of surplus in the Treasury at the end of the present fiscal year after all the appropriations for this year have been expended.

Mr. COBB. That may be. But I ask whether that is not a very small margin to act on when we take into consideration an expenditure of $3,500,000? Is it not too small for us to take any risk?

I trust the gentleman from Virginia does not want this District to increase its public debt, when to-day it hangs like a mill-stone around the necks of the tax-paying people, the plain and poor people of this District. Their property has almost been confiscated. We pay to-day out of the revenues of this District $750,000 in interest. That the people pay, and in addition the Government of the United States pays $750,000. It makes $1,500,000 in all, and that interest is gradually increasing. Next year it will be greater than $1,500,000, and yet the gentleman admits we will come within $20,000 under this bill of expending the entire revenues of the District.

I understand Congress has settled the policy in regard to this District. I think it is an equitable one, equitable so far as the people of the District are concerned surely, and they cannot complain. It is that the Government of the United States pays fifty cents of each dollar that is expended in the way of appropriation for the running of this District. That, I say, I believe to be equitable so far as the people of the District are concerned. I did not vote for the bill, I am frank to say, when it was before Congress. Many other members did not do it because they believed the burden on the whole country was too great and that it would produce extravagance in the management of District affairs. But, sir, that has been settled.

Now, in regard to the question of the jail. The gentleman says we have no right to appropriate out of the District funds for the maintenance of the jail. Does the gentleman and every one here know that the inmates of that jail are persons who have committed violations of the law and jurisdiction of the District? They are as much District criminals as any confined in jails in any of the States are criminals against the jurisdiction of those States.

Mr. HUNTON. Will not the gentleman allow me to state that he is not meeting my point at all? My point is——

Mr. COBB. I do not desire to be interrupted. If the gentleman has a question to ask, I will answer him.

Mr. HUNTON. Will the gentleman allow me to state my position?

Mr. COBB. Very well.

Mr. HUNTON. The point that I made was that under the organic act, which I quoted, the District jail, or the jail of the District, is not one of the objects provided for in that organic act to be estimated and appropriated for by Congress. Now, if the gentleman from Indiana will address himself to the organic act and show me that the jail is included in any language of that act which will authorize it to be placed in an appropriation or brings it within that provision, then I am answered, and not otherwise.

Mr. COBB. I have examined the act, and in my judgment it does.

Mr. HUNTON. How?

Mr. COBB. That is the judgment of the Comptroller of the Treasury, and it is the judgment of the Secretary of the Treasury.

Mr. HUNTON. I ask the gentleman how?

Mr. COBB. Because it is a District institution and nothing else.

Mr. HUNTON. Now, I beg leave to call the attention of the gentleman from Indiana to the language of the organic act.

Mr. COBB. There is not a prisoner in that jail to-day who is not a prisoner placed there for a violation of the laws within the jurisdiction of the District of Columbia, and the gentleman from Virginia will not deny that.

Mr. HUNTON. I will answer that, sir. I will ask the gentleman if there is a prisoner in jail anywhere in the United States, from any district or from any judicial district in the United States presided over by a United States district judge, a prisoner who has been put in there from the district, the expense of which is paid by that district? They are paid out of the general fund of the United States; and the court of this district is just such a court as I have referred to.

But I desire to call the attention of the gentleman from Indiana to the language of the organic act:

> The cost of maintaining all public institutions or charities, reformatories, and prisons belonging to and controlled wholly or in part by the District of Columbia, and which are now by law supported wholly or in part by the United States or the District of Columbia.

Now, this jail does not belong to and is not controlled wholly or in part by the District of Columbia, and the District of Columbia never, until now, has appropriated for its maintenance as I am informed.

Mr. COBB. Well, I can say this to the gentleman from Virginia: the committee has passed upon that section and put its construction upon it already in a District appropriation bill a year ago. He insisted then, for the very same reason that he insists now, that the jail ought not to be appropriated for in this bill, that the persons sent from the District of Columbia and confined in the insane asylum should not be paid for out of the District money. Why? Because he says the District officials, strictly speaking, have no right to control that institution. And yet we have been paying for this purpose and it is the law that we should pay it. We paid last year the sum of $37,000 for that purpose, a larger sum being appropriated originally in the bill, which I believe was reduced by the gentleman's motion here, and I understand him to be in favor of throwing everything upon the United States Government that he can, so as to relieve the District of Columbia of all possible expense.

Mr. HUNTON. The gentleman has forgotten the fact that this item was reduced by a conference committee between the two Houses.

Mr. COBB. Very well.

Mr. HUNTON. It was reduced from $80,000 to $37,000 after a full consideration of the subject and examination of witnesses.

Mr. COBB. I will say to the gentleman from Virginia, in justice to him, that I do not speak except from my own recollection, not having examined the record. But my belief was that the gentleman himself moved to reduce it. Whether his motion carried or not I will not be certain.

Mr. HUNTON. I think that is very likely.

Mr. COBB. Very well. Now, as to this provision for the jail. This jail is within the jurisdiction of the District of Columbia and is provided for the admission of prisoners from the District of Columbia alone. I understand under the general law to which the gentleman refers in relation to the District prisoners who are guilty of criminal offenses against the United States are sent to this jail just as they are in the districts to which he refers. They are sent to Albany or elsewhere, and it does not cost the Government of the United States anything except for their transportation. When they are placed in that institution or any of these institutions provided for that purpose, the Government pays nothing whatever for their support while staying there. The Nashville prison in Tennessee, is preparing, I understand, to take prisoners from the United States in the same way. That is free of charge. All the Government of the United States has to do for a district is simply to send the prisoners to one of these free institutions, where they are kept without any cost to the Government. These institutions take the prisoners and hire them out and make money out of them in that way. But, at all events, the Government is at no expense for their support.

Now, this jail is provided for in this bill. It is put in because it is to all intents and purposes and in spirit and effect a District institution as much as any institution that the gentleman can mention,

whether it be a church or a school-house or any other building in the District. I examined that question. I looked into it minutely. I found that institution, in my judgment, extravagantly run. I found that there were twenty watchmen receiving annual salaries of about twelve hundred dollars each. I found the officers getting good pay. I found that it cost just $60,000 in round numbers to run it, and I had to call the superintendent of that jail before me before I could ascertain the amount that was paid to any one of these persons, for there was nothing on the record to show it. I was unable to find any document that indicated to me what was paid to these men, and had to take testimony to get at the facts. I called him before me to give an account as to officers and watchmen and assistants and the amount that they were getting.

I found this state of things, and I acted according to the best judgment I could bring to bear on the subject. I cut them down about ten thousand dollars, and I think this committee will believe when they have heard the facts upon that question, which I do not propose to go into now, that I have done full justice to that institution. It gets nearly fifty thousand dollars. It admits on the average about four hundred. It has been getting $60,000 heretofore. So long as it was on the hands of the Government of the United States and supported by the Government of the United States alone, there was no complaint; but when it comes to the District, where it ought to come, then we look into the matter as we ought to do and as we have done.

The gentleman has referred to the District-attorney question, and I will speak of that a moment. The Secretary of the Treasury agrees with me about that. If I am wrong about it, after my investigation, then it will be for the committee and the House to make the correction. The second assistant District attorney, we believe, is not necessary. He is an unnecessary appendage to the attorney's office. I know the attorney for the District has printed a brief at public expense, at your expense and mine, and sent it to every member in an envelope, arguing that it is necessary for him to have this second assistant attorney to assist him. I do not think such an officer is required. In this matter I proceed on the information furnished me by the Treasury Department, which scrutinizes these things very carefully. It is there I go to get my facts, and that is the only place where I can get them; and, in my judgment, I get the facts there correctly. They appear to be frank and open and anxious to give information and advice, and they do it. And I have found in every particular, from the examination I have made, that they know what they are doing.

Now, with regard to the insane asylum, I have a word to say about that. This bill contains—and I speak of this item because the gentleman from Virginia [Mr. HUNTON] thinks it ought not to be included in the bill—this bill contains $80,000 of an appropriation to pay for the support of indigent insane of the District in the Government Hospital for the Insane. These indigent insane are sent there directly under the law. The reference to the law defining the classes of persons that should be sent from the District and elsewhere to that institution is repeated in this bill in order to call the attention of the officers of the asylum to the law, and thereby give them notice that they ought to follow it. It was put in the last appropriation bill, and is here repeated. That law provides that the District shall pay for its patients sent there; and now they have got over three hundred in that institution. Dr. Godding, the superintendent of the asylum, in his report, which is before me, puts the actual cost of the patients sent by the District authorities to that asylum at $89,000. Some gentlemen thought that was too much. I feared that perhaps Dr. Godding might be a little extravagant, and as he was under the control mainly of the Government of the United States, I did not feel disposed, if there be any extravagance in that institution, to impose it on the District of Columbia. I brought the amount down $9,000 for that reason, leaving it $80,000 instead of $89,000 as recommended by Dr. Godding in his report. We appropriated $37,000 in that last bill, which was less than one-half what was recommended then.

Mr. HUNTON. I wish the gentleman from Indiana to state to this House as a lawyer whether under the terms of the organic act either the Government Asylum for the Insane or the jail is included in the estimates to be made by the commissioners.

Mr. COBB. I think it is. After the examination I have made, I do think so.

Mr. HUNTON. Does the gentleman think either is embraced within the language of the organic act?

Mr. COBB. Yes, sir; it is embraced within the language and the spirit of the law.

Mr. HUNTON. Let me read the law again.

Mr. COBB. The gentleman need not read it again. He has read it twice, and I have read it.

Mr. HUNTON. I ask the gentleman whether the jail was ever "belonging to or controlled wholly or in part by the District of Columbia?"

Mr. COBB. It never was.

Mr. HUNTON. Then it is not embraced within the law.

Mr. COBB. That is one construction.

Mr. HUNTON. It is the very language of the law; it is not a construction.

Mr. COBB. I know the gentleman from Virginia and the law officers differ as to that. I would not have put this in the bill, I will say very frankly to the committee, if it had not been recommended by the Secretary of the Treasury, and also personally to me by the Comptroller and others. But for that, I perhaps would not have put it in. But I see the equity and justice of it. It is as much the duty of Congress to put the jail in this bill and provide for it as to provide for the payment of the commissioners or any other officers in the District, because it is solely a District affair. District criminals go there, and they alone. And why should not the District pay half the expense, instead of the Government of the United States paying the whole? I think there can be no question about that.

I do not care at this time to take up the time of the committee any further. I may have something to say about the different sections of the bill as they are reached in the reading. If any gentleman has any question to ask, I shall be happy to hear it. I may say I have given the matters contained in this bill as careful a consideration as I could, and other members of the committee have done the same.

Mr. HUNTON. May I ask the gentleman a question?

Mr. COBB. Yes, sir.

Mr. HUNTON. I understand the gentleman from Indiana to have put these two appropriations into the bill against his own judgment and on account of the recommendation of the Secretary of the Treasury.

Mr. COBB. If the gentleman had listened to what I said he could not have so misunderstood me. I say there is no appropriation in this bill, and I repeat it, that is more just to the District of Columbia and its people than is the appropriation to maintain this jail and these persons at the insane asylum.

Mr. HUNTON. I understood the gentleman to say that if left to himself he would not have put that in.

Mr. COBB. I would have overlooked it perhaps, and in that way not put it in.

Mr. HUNTON. But that he put it in upon the recommendation of the Secretary of the Treasury and of the Comptroller.

Mr. COBB. No, sir, not upon their recommendation, but upon my judgment; and I think my judgment is pretty good on this bill.

Mr. HUNTON. That is a question to be determined.

Mr. COBB. I know the gentleman questions it. I understand that the gentleman is opposed to the bill, and for that reason I gave him time to discuss it, because I wanted to hear him upon all the points against the bill. I now propose to try to meet him in my own way as best I can, and I think I can do it. I think this bill is just. I may have made some mistakes, but they are not in these large matters.

I think it might be well for the committee to now rise for the purpose of limiting debate, and I will make that motion.

Mr. HUNTON. I do not think there is any need of that.

Mr. COBB. Then I will withdraw the motion.

The CHAIRMAN. If no other gentleman desires to take part in the general debate, the bill will now be read by paragraphs for amendment and debate under the five-minute rule.

Mr. COBB. I move to dispense with the first and formal reading of the bill.

There was no objection.

The CHAIRMAN. The bill will now be read by paragraphs under the five-minute rule.

The Clerk read as follows:

That the half of the following sums named respectively is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia, for the purposes following, being the estimated expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, namely:

FOR IMPROVEMENTS AND REPAIRS, AND FOR CARE AND REPAIR OF BRIDGES.

For repairs to concrete pavements, $50,000; for completion of New York avenue intercepting-sewer, $7,000; for repairs to macadam roadways, $5,000; for materials for permit work, $20,000; for continuation of surveys of the District of Columbia with reference to the extension of various avenues to the District line, $5,000; for Boundary street auxiliary sewer, $50,000; for lateral sewers, $15,000; for dredging James Creek Canal, $5,000; for work on sundry avenues and streets, and replacement of pavements on streets named in appendixes A and B annexed to the estimates of the commissioners of the District for 1882, (being schedules of streets requiring immediate attention,) $150,000; in all, $307,000.

Mr. HUNTON. I ask the gentleman from Indiana [Mr. COBB] in charge of this bill to permit this paragraph to be passed over for the present until we have completed the consideration of the remainder of the bill.

Mr. COBB. I desire to have this bill considered and acted on as we go along.

Mr. HUNTON. I am sure the gentleman, like myself, will say to the committee that if we reduce appropriations in other parts of this bill this particular appropriation ought to be increased.

Mr. COBB. I can say to the gentleman that I do not think there is any danger of reducing the appropriations in this bill.

Mr. HUNTON. That is a mere matter of opinion. It can do no harm to pass over this paragraph for the present.

Mr. COBB. I prefer to have the bill considered and acted upon as we go along.

Mr. HUNTON. Then I have an amendment to offer. I move to amend lines 26 and 27, being the portion relating to the replacement of pavements on streets named in appendixes A and B, by striking out "$150,000" and inserting "$300,000," and I make that motion for reasons which I attempted to state to the Committee of the Whole awhile ago, that it is imposing upon the people of the District of Columbia to say that they shall not, for the space of six years, rid themselves of the rotten wooden pavements in this District, which

are now becoming almost impassable, causing depreciation of property on those streets and avenues, and probably entailing disease and death upon the people. I am informed by Major Twining that if this appropriation is to be the rule on the subject, it will take six years to replace the wooden pavements of this District.

Mr. BUCKNER. I desire to inquire of the gentleman whether, if his motion is carried, he proposes to strike out the appropriation of $70,000 for the high school in another part of the bill?

Mr. HUNTON. So far as I am concerned I am going to keep in the appropriation of $70,000, but to have it devoted to the building of common-school houses. That is the reason why I proposed to the gentleman from Indiana [Mr. COBB] to pass over this portion of the bill now, so that we can see what in the end can be appropriated for the replacing of these rotten wooden pavements.

There is no gentleman here who desires to put additional burdens on the District of Columbia beyond what the people are now bearing. I want to appropriate all we can for the replacing of these rotten pavements. I think it should be greatly more than the $150,000 provided in this bill.

Mr. COBB. In reply to the gentleman I desire to say that if he will look over the schedule——

Mr. DUNNELL. What is the pending amendment?

The CHAIRMAN. It is to increase the appropriation for replacing the pavements on certain streets indicated from $150,000 to $300,000.

Mr. COBB. The object of the amendment is to increase the appropriation. The gentleman from Virginia [Mr. HUNTON] says it is necessary in order to replace the rotten wooden pavements.

He suggested awhile ago that pestilence and infectious diseases might spring from these pavements. I will say to him that I have taken the advice and opinions of those whom I conceive to be the best physicians in the District of Columbia as to whether or not these wooden pavements are injurious to health. They concur with me that they are not now injurious; that the only time when health is injuriously affected by them is when they are taken up and exposed to the sun when improvements are going on.

One other thing I want to suggest to the gentleman. The commissioners for the District of Columbia do not confine themselves by any means to the streets for which we have made appropriations, but they go to the outer limits of the city and improve the streets there. They have improved H street where it never was improved before. Much of the money which we have appropriated they have expended upon streets that have never before been improved, and there is a great deal of complaint about it. I make no complaint myself, but I have heard such complaints, and I speak of it here because it seems to be a fact current among the people here. The commissioners do not expend the money we appropriate upon the streets the gentleman talks about.

Mr. HUNTON. How much has been expended on the other streets?

Mr. COBB. The gentleman cannot tell, neither can I.

Mr. HUNTON. No, sir. But I say that this appropriation is absolutely necessary to make these streets passable.

Mr. ROBESON. Will the gentleman from Indiana [Mr. COBB] permit me to ask him a question?

Mr. COBB. Certainly.

Mr. ROBESON. I see that this appropriation is for "replacement of pavements on streets named in Appendixes A and B annexed to the estimates of the commissioners of the District for 1882, (being schedules of streets requiring immediate attention.)"

Now, I would like to know what are the estimates for the improvement of these streets named in Appendixes A and B, which the commissioners, to whom we have intrusted this duty, say require immediate attention?

Mr. COBB. I will tell the gentleman. The estimate is $320,000. The commissioners have now $419,000.

Mr. ROBESON. For those streets?

Mr. COBB. Yes; in part for those streets. If the gentleman will allow me I will explain to him. The schedule of streets is very large. As soon as the engineers have surveyed the streets and estimated the cost of improvements, the estimate is put into the schedule. Now, under a strict construction of the general law the commissioners would be required, in making this schedule, to include only such streets as can be improved, keeping within the estimated amount of the appropriation. This they have not done, though we make no complaint on that score. But as a matter of fact these Schedules A and B include streets which, if improved, would cost about a million and a half of dollars.

[Here the hammer fell.]

Mr. ROBESON. I move to amend the amendment by striking out the last word. I do this for the purpose of asking the gentleman a question. I would like to know whether, if this bill passes with the proposed appropriation of $150,000, the commissioners would be authorized to expend in "replacement of pavements on streets named in Appendixes A and B annexed to the estimates of commissioners of the District of Columbia" more than the $150,000 here appropriated.

Mr. COBB. No, sir.

Mr. ROBESON. Then the question recurs, without being confused by any other estimates or any suggestion that there is any other money available for this purpose, whether $150,000 is sufficient. These commissioners, who are experts upon this subject, and to whom we intrust the preparation of these estimates, say that $320,000 will be required. Now, I would like to know upon what principle of good economy, upon what principle of good government, upon what principle of examination, scientific or otherwise, it can be said that they can do for $150,000 work which they estimate will require $320,000?

We are here to make appropriations for this District, which is committed to our care. If the appropriation were for the district of any individual member of Congress, he would not dare to make such a proposition; for he would be defeated upon it by his constituents at the polls. But though the people of this District are powerless to hold us responsible, this question has been committed by the Constitution to our good faith and our broad statesmanship. Now, there are, as the gentleman from Virginia [Mr. HUNTON] states, fifteen miles of rotten wooden pavements——

Mr. HUNTON. Seventeen.

Mr. ROBESON. Over which no man can travel with comfort and in front of which no man can live with safety to his health. Now, I ask gentlemen of this House whether, for the sake of $150,000, we propose to go back upon the regular estimate of these commissioners, (who are non-partisan, who have neither personal nor political interest in this question,) and leave the citizens of Washington for the next year without remedy in this matter, simply because they have no vote on this question?

Mr. COBB. Does the gentleman desire me to answer the question he has propounded?

Mr. ROBESON. The gentleman has the opportunity, having charge of the bill.

Mr. COBB. I will answer the gentleman. As I said a while ago—I do not know whether it was in his hearing or not—I hold in my hand a letter from the chief of the warrant division of the Treasury Department, who, after a careful examination of the books, informs me that there is now on hand of the fund appropriated in last year's appropriation bill $419,000; and the gentleman from New Jersey wants to increase this to $700,000 or more.

Mr. ROBESON. But the gentleman has said, in response to my question, that if this bill passed in the form proposed only $150,000 can be spent for replacing pavements on these streets.

Mr. COBB. In addition to what has already been appropriated.

Mr. ROBESON. It makes no difference what appropriations there are on the books of the Treasury Department if they are not applicable for this purpose.

Mr. COBB. I answered the gentleman's question briefly, and I had reference to this bill only. This bill provides for an appropriation of $150,000. I said that in pursuance of this bill only $150,000 could be used for this purpose; but I will answer further that the commissioners have in their hands to-day $419,000 for this purpose.

Mr. ROBESON. Will the gentleman then insert in this bill a provision that the commissioners may, if required, use for this purpose any part of that $419,000?

Mr. COBB. No, sir; I am not willing to do that, (I answer the gentleman very frankly,) because I want some kind of account with regard to this great fund that is being appropriated for these purposes.

Mr. ROBESON. Then, if the gentleman is not willing to put such a provision in this bill, he is not willing to authorize them to expend that money.

Mr. COBB. No, sir; because they do not need it.

Mr. ROBESON. Are they not already authorized to spend it?

Mr. COBB. They are authorized until the 30th of June next to use that $419,000, and after that they will be authorized by this bill, if it passes in its present shape, to use $150,000.

Mr. ROBESON. I understand this bill will take effect from the 30th of June next.

Mr. COBB. That is just what I say.

Mr. ROBESON. Now the gentleman says there is an unexpended balance of appropriations applicable to the purposes for which this estimate is made, and he says that we should not appropriate in this bill more than $150,000, because of this other appropriation on the books of the Treasury, which, under the rulings of the Treasury Department construing the laws of Congress, cannot be applied to these improvements during the coming fiscal year.

Mr. HUNTON. The question of the gentleman from New Jersey [Mr. ROBESON] and the answer of the gentleman from Indiana [Mr. COBB] have, I think, conveyed to the Committee of the Whole an erroneous idea. I understood the gentleman from New Jersey to ask the gentleman from Indiana the amount estimated as necessary to repair the streets in Schedules A and B. Was that the gentleman's question?

Mr. ROBESON. Yes, sir.

Mr. HUNTON. And the gentleman from Indiana answered $320,000, as I understood.

Mr. COBB. Oh, no; I did not answer any such thing.

Mr. ROBESON. I so understood the gentleman.

Mr. COBB. One hundred and twenty thousand dollars.

Mr. HUNTON. If the gentleman from New Jersey and the gentleman from Indiana will look at the estimates as seen in Schedules A and B, they will find a different result from that stated by the latter gentleman. Schedule A contains all streets paved with wood and requiring new pavements.

Mr. ROBESON. What is the estimate?

Mr. HUNTON. Three hundred and ninety-five thousand six hun-

dred and twenty-six dollars in Schedule A. In Schedule B are contained those which do not require immediate action as much as those in Schedule A, amounting to $604,320. Schedules A and B embrace all streets now paved with wood necessary to be replaced with handsome and beautiful pavement aggregating $999,320.

Mr. ROBESON. I understand for those which require immediate action and the continuance of which in their present condition not only interfere with the comfort but threaten the health of this District, $320,000 is required.

Mr. HUNTON. I say every street mentioned in either Schedule A or B is in the condition indicated by the gentleman.

Mr. ROBESON. What is it the gentleman proposes?

Mr. HUNTON. Three hundred thousand dollars.

Mr. ROBESON. Why not $320,000?

Mr. HUNTON. Because I am afraid we cannot get that much from the revenues of the District.

And I desire to say further, while I am up, that the engineer commissioner of the District who has this work solely in charge has estimated as necessary to replace these wooden pavements on streets of seventeen miles in length—necessary to be done now—it will take $995,000.

Mr. ROBESON. Which can be done cheaper now than at any other time.

Mr. HUNTON. It can be done as cheaply now as at any other time. The only question is what revenues of the District can be spared from other purposes to go on with that work now, attending first to Schedule A and next to those embraced by Schedule B. While there is absolute necessity for replacement, those in Schedule B are not so necessary as those in Schedule A.

Mr. ROBESON. Only half of this comes out of the Treasury.

Mr. HUNTON. That is all.

Mr. ROBESON. The other half out of the property-holders of the District?

Mr. HUNTON. Yes, sir.

Mr. COBB. I desire to answer one point made by the gentleman from Virginia. The gentleman says it is absolutely necessary to make these improvements in these streets embraced in the schedules referred to. Now, I say to the committee that many of these streets never were improved and never will be improved until the commissioners shall determine to do so. As I said a while ago—and if the gentleman will only listen to me I will give him the fact—many of the streets embraced in these schedules have been included whether they have been improved or not. They contain all the streets surveyed and estimated for, and yet not one-half of them have any wooden pavements upon them.

Mr. ROBESON. I am willing the gentleman should limit it to replacing wooden pavements. I withdraw my formal amendment.

The CHAIRMAN. The question recurs on the amendment of the gentleman from Virginia, [Mr. HUNTON.]

The committee divided; and there were—ayes 47, noes 45.

Mr. COBB demanded tellers.

Tellers were ordered; and Mr. COBB and Mr. HUNTON were appointed.

The Committee again divided; and the tellers reported—ayes 70, noes 47.

Mr. COBB. I give notice that I shall demand the yeas and nays on this amendment in the House.

The CHAIRMAN. The gentleman has that right.

Mr. WRIGHT. I wish to call the yeas and nays in the House.

The CHAIRMAN. The amendment is agreed to.

Mr. HAWLEY. I offer this amendment. This sum of $150,000 has been raised to $300,000 by this amendment just carried. Now, I move to add the words "of which $225,000 shall be paid from the Treasury of the United States."

Mr. FINLEY. I rise to a question of order. Was there a quorum on the last vote?

The CHAIRMAN. The gentleman's point comes too late.

Mr. FINLEY. The gentleman from Pennsylvania raised the question.

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania simply to give notice that he would demand a vote by yeas and nays in the House.

Mr. FINLEY. The gentleman said also there was no quorum voting.

Mr. ATHERTON. He immediately followed the announcement with the other suggestion.

Mr. WRIGHT. Yes; I raised the question of quorum at the same time.

The CHAIRMAN. As the gentleman from Pennsylvania states he made the point in time, the Chair will direct the tellers to resume their places.

Mr. HUNTON. The question was taken and was decided, and the Chairman announced the result that the amendment was adopted, after which another amendment was proposed by the gentleman from Connecticut. The question of a quorum, therefore, comes too late.

The CHAIRMAN. The gentleman from Pennsylvania says he did make at the time the point that there was no quorum voting, and the Chair is bound to take his statement. The tellers will resume their places, and those who have not voted will be kind enough to pass between the tellers.

After some time the tellers reported—ayes 89, noes 59.

So the amendment was agreed to.

Mr. COBB. I give notice I shall demand the yeas and nays on the amendment in the House.

Mr. HAWLEY. Now, Mr. Chairman, I renew the amendment I proposed. Line 26 as amended reads "$300,000." I move to amend by adding:

Of which sum $225,000 shall be paid out of the Treasury of the United States

I do that for this reason——

Mr. COBB. I reserve the point of order upon that amendment, Mr. Chairman.

Mr. RANDALL, (the Speaker.) It changes existing law.

Mr. HAWLEY. I do not regard the amendment as changing existing law, for we are now making provision for——

Mr. RANDALL, (the Speaker.) The law now provides that one-half of the expenses shall be paid by the city and one-half by the General Government. The amendment of the gentleman contemplates a larger proportion being paid out of the Treasury of the United States.

Mr. HAWLEY. This may be out of order technically, under the language of the law, but——

Mr. RANDALL, (the Speaker.) It is under the general law.

Mr. HAWLEY. Very well, I am perfectly willing to be very liberal with the District of Columbia, provided we do not exercise our liberality at the expense of the tax-payers and property-holders of the District. The law as it now exists provides that one-half of the expenses, as the gentleman has stated, are to be paid out of the District revenues and one-half by the General Government. But an examination of this bill shows that one-half of the amount contemplated to be appropriated here for District expenses reaches the sum of $1,637,000, which is to be paid by the tax-payers of this District. Now, I agree with gentlemen in general, that one-half of the revenues being paid by the Government is liberal. In a certain view it is liberal. But we are doing an immensity of work in this District, or authorizing it to be done—work that no community of 170,000 people throughout the whole country would undertake to provide for in any one year; and yet we contemplate that this vast sum of money shall be paid by the people of this District. Our improvements extend in every direction. Gentlemen will see and readily comprehend that we are improving beyond what would be required or expected in any other city of this size in the country. We have our broad avenues, our beautiful parks, our handsome squares and triangles, our aqueduct, miles upon miles of splendid pavement, and many fine streets running out even beyond the actual settlements. I do not regard the payment of one-half as too liberal an allowance under the circumstances. It is simply an act of justice. I do not believe that gentlemen can point to any other city in the United States containing a population of 170,000 that would undertake to expend $1,637,000 in any one year. But you require it to be done. The tax-payers have no volition. Gentlemen desire to see this city beautified and adorned, they desire to see these old, decayed wooden pavements removed. So do I. There is in the bill as reported $150,000 provided for that purpose. There is money unexpended in the Treasury for the current fiscal year for that purpose. But gentlemen now say that is not enough. They want to increase that amount to $300,000.

Now, Mr. Chairman, I am willing that this increase shall be made if of this extraordinary sum appropriated for this purpose $225,000 be taken out of the Treasury of the United States, leaving the District to pay $75,000 as contemplated in the original bill. I am willing to be liberal here, but I do not wish to encourage such liberality at the expense of the poor tax-payers of this District. I desire to see the city grow. I desire to see it prosper. I am as anxious as any other gentleman here to see it what it ought to be. We all have, in that respect, a common pride, but gentlemen must remember at the same time that it is not wise to impose too heavy burdens upon the tax-paying power of this people; burdens that they cannot sustain and which, instead of promoting the growth of the city, will force them to remove and live in less expensive localities. Such a policy as is proposed here, instead of promoting the growth of the city would tend rather to repress it.

Mr. NEAL. I will state to the gentleman from Connecticut that the rate of taxation is fixed by law at 1½ per cent. upon the assessed valuation of property in the city, and outside of the city it is only 1 per cent. I venture to say there is no town in the United States, containing a population of 10,000 people, where the rate of taxation is not heavier than it is here, and therefore the burden of taxation of which the gentleman speaks is not felt at all as it is in other cities.

Mr. HAWLEY. Very well; let that be so. Admitting that the rate of taxation is fixed at only 1½ per cent., this is a proposition which looks eventually to the increase of that rate. At all events, this expenditure will come out of the 1½ per cent. tax; and there would be no great harm in having a surplus on hand. If we do not increase this to $300,000 there will be a surplus, which I imagine will not be an objectionable feature.

Mr. NEAL. The result would be to raise taxation that ought to be reduced.

Mr. HAWLEY. Then let it be reduced.

Mr. NEAL. The fact of the matter is that this city enjoys exceptional privileges over any other city in the country. This rate of taxa-

tion was fixed after a thorough debate in the Forty-fifth Congress, and I am not willing to see that law changed at this time.

Mr. HAWLEY. I call the gentleman's attention to the fact that, with reference to a general provision of this kind, it is difficult, as the gentleman will readily perceive, to draw a comparison between rates of taxation in different localities. He will see that it must depend to a considerable extent upon how closely the assessment law is followed and other facts entering into it. Before forming a judgment of that kind I would like to know how thorough the assessment has been, or how nearly the appraisement of the value of property approximates its true value. It is a fact, as the gentleman will doubtless admit, that a taxation of 1½ per cent. under certain circumstances might be higher than a 3 per cent. rate in another place and under different conditions.

Mr. NEAL. I have only to say that the assessment is made here by sworn officers, whose duty it is to assess personal property and real estate at its true value in money. It is the law of Ohio, and I presume it is so also in Connecticut. It is certainly the case in all Western States, and as a matter of course it depends upon the judgment and conscience of the assessor. It may be higher here or lower. We cannot make a comparison unless we are familiar with the property and the assessment rates of other cities.

Mr. BARBER. I would like to ask the gentleman from Ohio if these expenses for street improvements are taken out of the general fund, or levied as a special assessment?

Mr. NEAL. Out of the general fund.

Mr. COBB. I insist on the point of order.

The CHAIRMAN. The gentleman from Indiana makes the point of order that the amendment changes existing law and does not retrench expenditures. The Chair is of opinion the point of order is well taken.

The Clerk read the following:

For Washington Asylum: For one commissioner and intendant, $1,200; one matron, $600; one visiting physician, $1,200; one resident physician, $480; one engineer, $600; one assistant engineer, $300; one overseer, $800; one clerk, $480; one baker, $420; five overseers, at $600 each; one watchman, $300; three watchmen, at $180 each; one driver, $120; one hostler, $60; one cook, $120; two cooks, at $60 each; five nurses, at $60 each; and for contingent expenses, including improvements, repairs, provisions, fuel, forage, lumber, shoes, clothing, hardware, dry goods, medicines, and miscellaneous items, $30,000; in all, $40,760.

Mr. HUNTON. I offer the following amendment:

In line 45, strike out "one" and insert "four;" and in line 46, strike out "three watchmen, at $180;" so that it will read: "Four watchmen, $300 each."

Mr. COBB. I make the point of order on that amendment.

The CHAIRMAN. What is the point of order?

Mr. COBB. It increases expenditures, and there is no provision of law authorizing it.

Mr. HUNTON. The amendment does not change existing law.

Mr. COBB. It is in the direction of increasing expenditures.

Mr. HUNTON. But an amendment must change existing law and not be in the interest of economy before it can be ruled out of order.

I will explain the amendment so that it may be better understood whether the point of order applies. The bill as it now stands provides for four watchmen. One of them is to be paid $300 and the other three $180 each. I propose to put them all on the same pay but not to increase the number of watchmen, so that my amendment does not change existing law. It keeps the bill where it was last year, as I understand it—four watchmen at $300 each. I see no reason why one watchman should receive $300 and another, doing exactly the same duty, should receive $180.

Mr. COBB. I will state that this amendment does change existing law. The present law gives to one of these watchmen $300, and to the other three $180 each. That is the law now. This amendment increases the pay of three watchmen from $180 to $300, and therefore I think it comes within the inhibition of Rule XXI.

Mr. HUNTON. Rule XXI, as I understand it, provides that an amendment must involve a change of law in order to be ruled out. Now, the present law provides for four watchmen, and the question is what they shall be paid. It is not a change of law, but a question of compensation of officers already provided for.

Mr. COBB. It is a change of law as to their salaries. A change of their pay is a change of law, and a very important change.

The CHAIRMAN. The Chair is of opinion if the amendment changes the compensation it changes existing law. The Chair is not advised, however, what is the compensation provided by existing law.

Mr. HUNTON. I desire to understand what is the ruling of the Chair. The law now provides for four watchmen, and I do not understand it to be any violation of Rule XXI to move an increase of compensation for any officer provided by law. My amendment does not increase the number.

The CHAIRMAN. If the compensation is fixed by law the amendment would change existing law.

Mr. HUNTON. It is only fixed in an appropriation bill.

The CHAIRMAN. The Chair understood the gentleman from Indiana to say that it was fixed by law.

Mr. COBB. There is no law fixing the compensation of these officers except the appropriation bills. These are the only law on the subject. That was what I meant when I said the amendment changes existing law, because, as the law now exists, one of these men gets $300 and the others but $180.

Mr. CANNON, of Illinois. This question was decided the other day in Committee of the Whole upon a point of order raised by the gentleman from Ohio, [Mr. KEIFER,] the gentleman from Kentucky [Mr. CARLISLE] being in the chair. The chairman of the Committee of the Whole held that an appropriation bill was the existing law; in other words, the law now in existence under which these parties are paid.

Mr. HUNTON. I never heard it ruled in Committeee of the Whole that where an appropriation bill provides for certain officers at a certain compensation it was not in order in Committee of the Whole to move an increase of compensation. If you move an increase of the number of the officers you change the law. But if you merely move an increase of the compensation, you do not. There is no law fixing the compensation except the appropriation bills.

The CHAIRMAN. As the Chair now understands the gentleman from Indiana, he states that the appropriation act of last year fixed the compensation of these officers. That is, then, the existing law. Now, if this amendment changes that existing law, the Chair is of the opinion that it is subject to a point of order.

Mr. HAWLEY. I would like to be heard on that for a moment.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. HAWLEY. The existing law to which I understood the Chair to refer is only a law for this current year, and is dead on the 30th June; having performed its office it is ended completely. The law we are making now, the bill in our hands, is the law for a period when without it there is no law. This is to be the law for the year beginning the 1st of next July. It does not change any existing law, for there is no law appropriating for next year until we shall have passed this. These appropriation bills in general make appropriations for but one year; and in some years a greater and in some a less number of officers will be required; in one year four watchmen may be wanted, in another seven, in another nine. And we are not, by providing a different number of watchmen for next year, or a different compensation, changing any existing law, because for that period there is absolutely no law.

The CHAIRMAN. The Chair will submit the question to the committee without deciding the point himself. It will occupy shorter time to take the vote than to discuss and decide the point of order.

The question being taken on the amendment, there were—ayes 17, noes 40.

So (further count not being called for) the amendment was not agreed to.

The Clerk read the following:

For the support of the indigent insane of the District of Columbia in the Government Hospital for the Insane in said District, as provided in sections 4843, 4844, and 4850 of the Revised Statutes, $80,000.

Mr. HUNTON. I offer the following amendment:

Strike out "$80,000" and insert "$37,000."

Mr. Chairman, as I stated a while ago, the Government Hospital for the Insane in the District of Columbia is an institution wholly belonging to the Federal Government, and does not, therefore, come within the provisions of the organic act. The organic act says where the District is called upon to support in part any of these institutions such institution must at the date of the passage of the organic act have belonged to or been controlled wholly or in part by the District of Columbia. Now there is not a pretense at all that this institution was owned wholly or in part or controlled wholly or in part by the District of Columbia, and therefore it does not come within the provisions of the organic act.

I made this same point last year. It was overruled, and the appropriation that was demanded in the last bill was reduced to $37,000. I believe the amount asked for was the same as here.

Mr. COBB. The amount in the bill originally was $45,000.

Mr. HUNTON. Last year, in the bill as reported from the Committee on Appropriations, this item was $45,000. When the bill went to the Senate the item was either stricken out entirely or the amount greatly reduced. In the conference between the two Houses, after hearing all the testimony of the parties connected with this institution and the parties opposed to this appropriation, the committee of conference put in an appropriation of $37,000 for this purpose.

Now, while I do not think this expenditure should be a burden on the people of the District at all, under the terms of the organic act, yet as this amount was agreed upon in the conference between the two Houses at the last session of Congress, I do not propose to disturb the agreement then reached, but ask that the appropriation be now put at the amount which was agreed upon last year. I therefore have moved to reduce the amount in this item from $80,000 to $37,000.

Mr. COBB. I desire to state that the gentleman from Virginia [Mr. HUNTON] is mistaken, I think, when he says this institution is not controlled "in whole or in part by the District of Columbia." I quote the language of the organic act on that subject. By law it is made the duty of certain officers to act in behalf of the District of Columbia in determining the question as to who shall be sent from the District to this insane asylum. If that is not controlling the asylum to that extent, I do not know what provision of law could be enacted "to control in part" that institution.

The inmates from the District of Columbia who have been sent there have been sent by virtue of law, under the direction of the District authorities, as prescribed by law. No man or woman can be sent there

and charged against this District except it is done by the District authorities. Therefore, under the strictest rule of construction which the learned gentleman can apply, this provision in language and in spirit comes clearly within the organic law.

The proposed amendment is simply an attempt to force upon the United States Government the full cost of maintaining the inmates that are sent to this institution by the officials of the District of Columbia. I say that ought not to be done, unless we believe that the Government of the United States ought in equity to pay for the keeping of the indigent insane of this district.

Mr. CLAFLIN. Will the gentleman inform us how many inmates there are in this institution from the District?

Mr. COBB. I think there are three hundred and sixteen. I ought to have the data before me, and if I had expected that this bill would have come up to-day I would have had it here. Perhaps I have it here now. I will see, because I wish to be accurate and do not desire to mislead.

Mr. CLAFLIN. What is the whole number in that institution?

Mr. COBB. The whole number I think is eight hundred and ninety-four.

Mr. CLAFLIN. Something over one-third are from the District.

Mr. COBB. Yes, sir. I think I can now refer the gentleman to the exact statistics. I have here a letter written by Dr. Godding, the superintendent of the Insane Hospital, addressed to the acting First Comptroller of the Treasury. It is as follows:

GOVERNMENT HOSPITAL FOR THE INSANE,
*Washington, D. C., November* 11, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 10th instant requesting an estimate of the expense of supporting the indigent insane of the District of Columbia at this hospital during the fiscal year ending June 30, 1882.

The number of indigent insane, residents of the District of Columbia, under treatment in the hospital June 30, 1879, was 322; on the 30th of June, 1880, it was 345, showing an increase of a little more than 7 per cent. during the year

It seems that I was mistaken, it was 345 instead of 316. I wanted to be within the correct number.

Assuming that this rate of increase, which is rather less than that of the previous year, will continue, the number on the 30th of June, 1881, will be 369, and on the 30th of June, 1882, 395, or an average residence of 382 for the year ending with that date. In addition to the above, on the 30th of June, 1880, there were under treatment in the hospital and a charge to the District of Columbia 16 non-resident insane, admitted under section 4850, title 59, chapter 4, Revised Statutes of the United States. There was the same number under treatment at the close of the previous year, and probably the average number of this class under treatment will continue at about the same figure. Adding these to the number of resident indigent insane of the District of Columbia, since they are all a charge to the District, the probable average number to be supported during the fiscal year ending June 30, 1882, will be 398. It is estimated that the cost of support, independent of the cost of new buildings and special repairs for each patient in the Government Hospital for the Insane, is $225 per annum, which would make the probable cost of supporting the indigent insane of the District of Columbia for the year ending June 30, 1882, $89,550.

I am, sir, very respectfully, your obedient servant,

W. W. GODDING,
*Superintendent.*

Hon. J. TARBELL,
*Acting First Comptroller, United States Treasury Department.*

Mr. HUNTON. I desire to say——

The CHAIRMAN. Debate is exhausted upon the pending amendment.

Mr. COBB. I desire to say a word or two further, and for that purpose I will move to strike out the last word.

The committee will observe that this estimate is not based on the value of the buildings which the Government affords, but is the mere naked expense of keeping these inmates. We have perhaps a million and a half or two millions of dollars invested in that asylum; I do not know how much. There are about four hundred acres of land, and several large, fine buildings. As the superintendent says, this estimate does not include any portion of the estimates for improvements during the year 1882.

Now if it be just that the District of Columbia should pay one-half of the expenses of caring and providing for its indigent insane, then instead of $80,000 which this bill provides for, the amount ought to be $89,550, as estimated by the superintendent. Now, if that is wrong and if the Government of the United States ought to maintain the indigent insane from the District of Columbia, then let us do so, and appropriate the people's money in order to save the tax-payers of the District of Columbia from bearing any portion of this expense. Let us do justice.

Mr. NEAL. Mr. Chairman, the gentleman from Indiana [Mr. COBB] states that there are in this asylum more than three hundred insane persons who are chargeable to the District of Columbia. Now every one who has examined the statistics of insanity must know that more than three hundred insane persons in a population of 175,000 are largely beyond the average. The fact is that every person employed here for the Government, no matter how temporarily, if he becomes insane while here, is charged to the District of Columbia. There is no justice or equity in such a thing.

Mr. DUNNELL. Does the gentleman mean to say that every such person is charged wholly to the District?

Mr. NEAL. The money appropriated comes half from the Government and the other half from the people of the District, for the reason that one-half the property in this District belongs to the Government. It is not a matter of charity upon the part of the Government to pay one-half the taxes; it is simply paying what would be assessed upon the property of the United States if that property were assessed as is the property of individuals. Last year this matter was thoroughly discussed in the committee, and it was agreed that a fair proportion of the expenses of this asylum properly chargeable to the District would be $37,000. It seems to me we shall do gross injustice to the people of the District if we impose upon them any greater burden than that.

Moreover, this institution is not under the care of the District or its officials; it is under the care of officers of the Government; and every one knows that an institution which is managed in this way is much more expensively managed than if under the control of individuals. That is another reason why the full proportion of these expenses should not be charged to the people of this District. I trust that the amendment of the gentleman from Virginia will be adopted.

Mr. HUNTON. I desire to say one word in reply to the gentleman from Indiana, [Mr. COBB.]

The CHAIRMAN. Debate is exhausted.

Mr. COBB. I withdraw my formal amendment.

Mr. HUNTON. I renew it. The gentleman from Indiana says that this asylum is one of the charitable institutions of the District, and comes specifically within the language of the organic act. I take issue with the gentleman on that point. To bring it within the organic act, it must belong to the District or be controlled wholly or in part by the District. It neither wholly or in part belongs to the District; nor is it wholly or in part controlled by the District. I have before me the law on the subject of this Government hospital for the insane. I read from the Revised Statutes:

SEC. 4838. There shall be in the District of Columbia a Government hospital for the insane, and its objects shall be the most humane care and enlightened curative treatment of the insane of the Army and Navy of the United States and of the District of Columbia.

Then, it is provided that the chief executive officer of the institution shall be appointed by the Secretary of the Interior. All the officers are appointed by the Federal Government. Let me call the attention of the gentleman from Indiana also to the following provision:

SEC. 4858. All appropriations of money by Congress for the support of the hospital for the insane shall be drawn from the Treasury on the requisition of the Secretary of the Interior, and shall be disbursed and accounted for in all respects according to the laws regulating ordinary disbursements of public money.

So that according to the law in force at the time that the organic act of June 11, 1878, was enacted, this hospital for the insane was a Government institution, wholly owned and wholly controlled by the Federal Government, and was supported by appropriations out of the Federal Treasury expended under the direction of the Secretary of the Interior. Therefore I am right when I say this institution is not one of those embraced in the organic act.

But as the last Congress, after mature consideration by a committee of conference which heard evidence on both sides, agreed to impose upon the District of Columbia the payment of $37,000 for the support of insane persons from this District, I do not oppose an appropriation of that amount; but I do oppose any appropriation beyond that sum. The gentleman from Indiana argues that there are more insane persons from this District in this asylum than would be supported by $37,000. Agreed; grant that he is right in that statement; but is every man temporarily in this District, (and we know that thousands come here every year, who vote in the States from which they come and are in no sense residents of the District,) is every man thus temporarily here on business of the Federal Government, and for whom that Government has provided a hospital, to be charged to the people of the District of Columbia when he becomes insane? I say that such a system does gross injustice to the people of this District, and I trust that no such injustice will be perpetrated.

Mr. CANNON, of Illinois. Mr. Chairman, I find on examination of the act under which this asylum was built, that it was erected by the Government and paid for out of the Treasury. I find also that it is controlled by the Government. The class of patients admitted primarily into the establisment are from the Army and Navy. Then under one section of the Revised Statutes it is provided that the indigent insane of the District of Columbia may be admitted. Gentlemen argue that this institution is controlled by the United States Government, not by the District. Why, sir, the District itself is controlled by the United States.

Now I apprehend that the right thing for the United States to do is to provide for the support of the insane of the Army and Navy, and then as to the insane of the District who are admitted into this asylum, although the District did not bear the burden of building it, the people of the District ought by taxation to pay one-half of the expense of supporting such indigent insane. If I knew how many indigent insane of this District are in the asylum, or will be there during the next fiscal year, I could determine how much the District ought to pay. I listened to the report read by the gentleman from Indiana; and in that report it is estimated that the support of the indigent insane of this District—not of the Army or the Navy—will cost $89,000. In my opinion the people at large ought to pay one-half of this expense under the law, and the people of the District the other half. I shall not vote for this amendment; I would sooner vote to increase the amount of the appropriation by making it $89,000 instead of $80,000.

Mr. HUNTON. I withdraw the *pro forma* amendment.

The question being taken on the amendment of Mr. HUNTON to

strike out, in line 72, "$80,000" and insert "$37,000," it was not agreed to, there being—ayes 23, noes 49.

The Clerk read as follows, under the heading "For Reform School:"

For subsistence: For groceries, $5,000; for flour, $3,000; for meat, $2,000; for dry goods, $2,600; for leather, $600; for gas, $600; for coal, $2,160; for hardware, table, and wooden ware, $554; for furniture, $600; for farm implements and seed, $600; for harness and repairs to same, $300; for fertilizers, $500; for stationery and books, $300; for plumbing, painting, and glazing, $600; for medicine and medical attention, $600; for miscellaneous expenditures, $1,000; in all, $21,014.

Mr. HUNTON. I move to amend by inserting at the end of the paragraph just read the following:

And the board of trustees of said Reform School are hereby authorized to use the balance of the fund due from the trustees of Jay Cooke & Co. for the erection of workshops for said schools.

Perhaps I ought to explain that this Reform School had funds on deposit with the banking-house of Jay Cooke & Co. at the time of its suspension. A portion of the amount received from the trustees of Jay Cooke & Co. as a dividend to the creditors of that concern has been appropriated for the purchase of a piece of land to be added to the farm of the Reform School. The trustees of that school now desire authority from Congress to use the balance of that fund in the erection of workshops. I presume there will be no objection to it.

Mr. COBB. I understand the drift of the gentleman's amendment. I have not looked into the question in regard to the debt he proposes to turn into this institution, but I am inclined to believe it is not necessary. This Reform School has only one hundred and fifty regular inmates. It has a farm of about three hundred acres belonging to it. I do not understand, unless it is necessary, why we should extend this institution largely for the purpose of inducing others to go there and be accommodated, which seems to be the desire, speaking generally in reference to all these institutions, of all those who are at the head of them.

If this Committee of the Whole, Mr. Chairman, will look over the extent of the charitable institutions in this District and the amount of charities here bestowed, it will be something astonishing to their minds. I have gone over the field, and although I do not profess to be absolutely accurate in my figures, nevertheless I believe I am entirely within the limits. There are 21,935 persons who received treatment at the hands of the public in this city last year. How much the cold winter we are passing through will increase that number I am unable to say. Thirty-five thousand four hundred and seventy-four prescriptions were made up for others. This is something alarming, and shows the inducement held out here, or something else to produce this result, which I think ought not to be increased. If we have 21,000 persons in this city or District who require alms at the hands of the Government there must be something wrong. There must be some cause for it. When, beside, we give 35,474 prescriptions, something must be wrong in addition. Then there are treated regularly 3,131 people in this city, to say nothing of Providence Hospital, Saint Ann's Hospital, and other eleemosynary institutions in this District. These figures should be looked to.

Now, should we extend all these charities and charitable institutions as asked for by the heads of these various institutions and thereby invite people to come from all the States of the Union to prey upon the public here? There is a dispensary here dispensing medicines to every one who may apply for them. There are other institutions likewise dispensing medicines in this city. Take the Columbia Hospital for Women and Lying-in-Asylum. Over five hundred women were treated there and I have not included them in the estimate I have already given. Some gentleman here says they ought to be charged to Congress. [Laughter.] Well, I do not know anything about that, but I know they ought not to be charged to me, and if the gentleman wishes to assume part of the expense, it ought to be paid by him and not by the Treasury.

Mr. HUMPHREY. Will you take a note? [Laughter.]

Mr. COBB. This institution so far as the inmates are concerned is well managed. It has been my duty to look into it. I have done so. It is as economically managed as any in the city. But this increase of appropriation for these purposes serves only as an inducement to people to come here from other places and feed at the public expense. They certainly do come. I will not suggest a remedy but I will say before we appropriate money to increase the capacity of these reformatory and charitable institutions we ought first to look and see whether it is at all necessary.

[Here the hammer fell.]

Mr. HUNTON. I do not understand the speech of my friend from Indiana.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. HUNTON. I move to strike out the last word. He has spoken of almost everything except the amendment. He has given us a very fine dissertation on the paupers in this District. It may be all true, but it has nothing to do with this amendment. The amendment merely authorizes the trustees of the Reform School to expend their own money, and does not appropriate one dollar out of the Treasury. It authorizes them to expend their own money for a most proper object. My friend from Ohio [Mr. NEAL] and myself have been out to visit this Reform School, and I think we know something about it; and a better managed institution I do not know in connection with charities in the District. When these boys are out there they need workshops to teach them skilled labor.

Mr. COBB. Put them on a farm.

Mr. HUNTON. Yes, put them on a farm. They need work-shops, too. You would not put them on a farm in such weather as this. The work-shop is to employ them when the weather will not permit them to work on the farm. This Reform School had money deposited with Jay Cooke & Co., belonging to the school, and not to the Government. A portion is still in the hands of Jay Cooke & Co., in dividends declared. This institution only asks power to spend its own money in building work-shops. Surely there can be no objection to that. I withdraw my formal amendment.

Mr. HUNTON'S amendment was agreed to.

The Clerk read as follows:

For maintaining the jail: For one warden, $1,800; one physician, $1,000; deputy warden, $1,100; three guards, at $1,000 each; fifteen guards, at $900 each; one engineer, at $1,000; one assistant engineer, at $900; four firemen, at $800 each; one messenger, $700; two cooks, at $420 each; in all, $27,040.

Mr. HUNTON. I rise to a point of order on that portion of the bill.

The CHAIRMAN. The gentleman will state it.

Mr. HUNTON. My point of order is that it changes existing law and is not in the interest of economy. This point of order is raised for the following reasons: the twenty-first rule declares in substance that it is not in order to change existing law unless it be in the interest of economy. Now, Mr. Chairman, this provision is not in accordance with the existing law. Under the existing law the support of this jail should not be put on the District of Columbia. I beg leave to state, sir, to my friend from Indiana, and I think he will admit it, that never until now, I believe, has the attempt even been made, certainly no appropriation bill was ever passed in this House to impose upon the District of Columbia the support of the jail. But this appropriation bill, in violation of the existing law, has incorporated in it a paragraph imposing upon the District of Columbia the support of the jail of the District.

Now, Mr. Chairman, I desire to call your attention to the law governing this case, and to show you that it is not recognized by existing law. The organic law providing for the government of the District of Columbia, approved on the 11th of June, 1878, which governs the appropriation bills for the District of Columbia, says:

That the cost of maintaining all public institutions of charity, reformatories, and prisons belonging to or controlled wholly or in part by the District of Columbia, and which are now by law supported wholly or in part by the District of Columbia or the United States.

I read an extract from the third section of the act approved June 11, 1878. It will be seen from that organic act, to which I desire to call the special attention of the Chair, that no prison or charitable institution can be estimated for or put into this appropriation bill unless at the date of the law—the 11th of June, 1878—it was owned or controlled wholly or in part by the District of Columbia. That is the law, sir. It must have been under the control wholly or in part, or it must have belonged wholly or in part to the District of Columbia. Now, the gentleman from Indiana will hardly deny that up to this moment the jail of this District is owned entirely by the Federal Government, and controlled wholly by the Federal Government, and if that be the case, sir, this clause of the appropriation bill is in contravention of the law of 1878, which specifies which of these prisons shall be appropriated for by the District of Columbia. And if this appropriation is beyond the provisions of the law of 1878, then it is a change of existing law, and is out of order.

Mr. COBB. Mr. Chairman, I think there can be no question but that this jail is within the provision of the organic law which has been cited by the gentleman from Virginia. That act provides that institutions controlled or owned wholly or in part by the District of Columbia or which are now supported wholly or in part—that is about the language, I believe. Now, the question is what control is meant by this act.

This jail is perfectly under the control of the District of Columbia or the District authorities, except in so far as the mere management of it is concerned—its officers and those who superintend the prisoners after they are sent there; otherwise it is under the control of the District. But the District authorities control every prisoner that goes to that jail; and I submit that is a control in part, and it is a control that is perhaps more important than any other control you can have over that institution. Now, if that is what is meant by the act, and I understand it is, the judges of the District court here send the prisoners to that jail or take them out by their order for trial. They are tried or recommitted there or they are sent away, and it is as much a District institution, although appropriated for heretofore by the Government of the United States, as the public school buildings in the District are. I have no desire to consume the time of the committee in discussing the point of order. I made the point with regard to the insane asylum, and I think it is good in this case.

Mr. REAGAN. Mr. Chairman, we are referred by the gentleman from Virginia on this point of order to the third section of the act providing for a permanent government for this city, in which provision is made for the expenses of the government of the District, it being directed that certain estimates shall be submitted for the cost of maintaining all public institutions, charities, reformatories, and prisons belonging wholly or in part or controlled by the District of Columbia. This is a jail or public prison for the District of Columbia. It is an institution for the District into which the District prisoners

are put. That being the case it is certainly a District institution. How will we determine that it is not? For what use is it? If it is not a jail for the District, then what is it? I would ask if the criminals arrested by authority of the District of Columbia, and not permitted to go on bail, are not consigned to that prison? Every convict who is sentenced to servitude or confinement in jail, made a convict in the courts of this District under the enforcement of the laws here for the punishment of crime in the District, or for the preservation of good order in the District, is sent to that District jail. If the jail of the District is not one of the institutions of the District, and specially named as one by the act, and is not one of the institutions authorized to be embraced in the provisions of the appropriation bill, then I must confess that I am at a loss to know what items could be inserted in this bill. Under the language of law no clearer than that, you might appropriate out of the general Treasury for everything belonging to the District and relieve the people entirely of all burdens of taxation.

Mr. Chairman, no one more earnestly than myself opposed this law for the permanent organization of the government of the District of Columbia because of my belief in its injustice. But Congress was prepared to enact it and did enact it, and now I hope, sir, as it has been enacted, that we shall not go beyond its plain intent and determine that provision outside of the law shall be made for the support of institutions of the District of Columbia.

When a proposition comes before this House in relation to this city it seems, as a general thing, that its extravagance insures its success. I have felt very often that if our constituents could be the witnesses of our actions, if our constituents could see the light manner in which we impose burdens upon them which should be borne by others, and bring us to an account for it, we should see less of this kind of legislation than we do.

Upon the point of order: if language means anything, interpreted with a view to the facts to which it is applied, the jail of the District of Columbia is embraced in the institutions of the city for which estimates and appropriations shall be made under the law for the permanent government of the District of Columbia.

Mr. HUNTON. I desire to say a word or two. I submit because my friend from Texas is opposed to the original organic act which became law June 11, 1878, that does not at all affect the question of order under consideration. I know that whenever that organic act of 1878 has been mentioned, it is to my friend from Texas like a sight of water to a person affected with hydrophobia. My friend always gets mad, I always expect him to get mad when that law is mentioned, but it is a law notwithstanding, and a law the justice of which cannot be successfully assailed, in my opinion. The question is whether the appropriation under consideration changes that law or no.

My friend from Indiana [Mr. COBB] admits that unless the District of Columbia had some interest in this jail or some control over it, it does not come within the organic act; and the organic act prohibits any appropriation for any object not embraced in its provisions.

Mr. COBB. Will the gentleman allow me to propound a question to him?

Mr. HUNTON. Yes, sir.

Mr. COBB. I want to ask the gentleman from Virginia, if the District of Columbia and its authorities have the control to send every person who goes to that jail at any time, whether or not that is a control within the spirit and letter of the organic law?

Mr. HUNTON. I was coming to that which was the gist of the gentleman's argument. I was going to answer that and would have done it just as carefully and thoroughly without the question as with it. The gentleman from Indiana contends that unless the District of Columbia owned in whole or in part or controlled in whole or in part, then this appropriation is a change of existing law and amenable to my point of order. Now, I say, Mr. Chairman, with great respect for my friend from Indiana, that not one word he has uttered here has shown the slightest control of this institution by the District of Columbia. He does not pretend it is owned in whole or in part, but he does maintain it is controlled in whole or in part by the District. Well, what sort of argument does he make to show it is controlled by the District? The District courts, he says, send the prisoners there. The District does not send them. The District commissioners have no power to send a man to the jail, and they are the authorities of the District. You cannot send a man to the jail of the city of Washington unless the courts of the District send him there, and the courts of the District are in no sense of the word subordinate to or controlled by the commissioners. They are Federal officers appointed by the President and paid out of the Federal Treasury exclusively; and the prisoners sent there are sent without the consent or approbation of the commissioners of the District; and therefore there is no control, even by sending persons to the jail by the District of Columbia in whole or in part.

I submit, further, Mr. Chairman, that if the commissioners had the power to send prisoners there, the very moment they entered within the walls of that jail their authority would cease. That jail is controlled by Federal authority, and sending a man there does not amount to any control of the institution whatever. But even if the gentleman from Indiana was right, that sending prisoners there amounted to a control of the institution, the fact is they are sent there by the courts, Federal officers appointed by the President of the United States and paid out of the Federal Treasury. And it is singular if this be embraced in the organic act that no attempt was ever made to put the jail on the District of Columbia before. This is the very first time that attempt has been made. But year by year certain gentlemen in this House have been trenching on the provisions of that organic act and putting into the appropriation bills objects to be supported by the District of Columbia which were not in the organic act when passed, and were not contemplated by those who enacted it.

Mr. BLOUNT. I do not think that this paragraph is liable to the point of order made by my friend from Virginia. He states with great earnestness and reiterates it that under the organic law we cannot compel the District of Columbia to pay any part of the expense of this jail. That is absolutely true. Nobody will question that. It needs no argument. My friend from Indiana [Mr. COBB] who has charge of the bill, accepts that as existing law, and his proposition is to change it, and it is to change it in the interest of economy. And how? Here is a prison in this District in which are kept prisoners sent by the courts of the District, and at this moment this Federal Government is paying every dollar of the expense of a jail for this District. The people of this country, in other words, come here with contributions to pay the expense of every prisoner who enters that jail, sent there by the courts of this District.

Mr. HUNTON. Will the gentleman permit me to ask him a question?

Mr. BLOUNT. In a moment I will.

Now, Mr. Chairman, the proposition of the gentleman from Indiana in this bill is that instead of appropriating from the Federal Treasury the whole amount of those expenditures, it shall be one-half. Therefore, to my mind, it is clear and indisputable that the proposition is in conformity with this rule, which was intended to meet just such propositions. Now I will hear my friend from Virginia.

Mr. HUNTON. My friend from Georgia says the prisoners from the District of Columbia are sent there and therefore the people of the District ought to support the jail. Now, I wish to ask my friend from Georgia if the prisoners from his district, presided over by a United States district judge, are not sent to prison, and whether the people of that district pay for those prisoners or the people of the United States. And I ask, in addition, if the people in your district do not provide for the support of their prisoners in their jails, why should the people in this District provide for the support of the prisoners in its jails?

Mr. BLOUNT. The people of my district as a local community take charge of crime and punish it and pay the expenses of prisoners, and in local matters in this District the same thing should adhere, as also in regard to every other community.

Mr. ROBESON. We have various Territories in this country that are governed by Federal law, and the expenses of which are paid out of the Federal Treasury.

Mr. BOUCK. No, sir; the expense of enforcing territorial laws is paid by territorial appropriations.

Mr. ROBESON. I have not said anything about that.

Mr. BOUCK. No, but you were going to. [Laughter.]

Mr. ROBESON. The District of Columbia is a Territory of the United States. In all the Territories the Federal Government pays for the support and maintenance of Federal prisoners. Now, it is admitted that this provision in this appropriation bill is a change of existing law. Nobody disputes that. If it be a change of existing law, then it is not in order unless it is in the interest of economy. That also is an indisputable proposition.

My friend from Georgia [Mr. BLOUNT] meets that question, and says that when we reduce the appropriation from the public Treasury one-half it is in the interest of economy. Let us see whether it is or not. This bill undertakes to appropriate out of two funds over which the Congress of the United States has control. What it fails to appropriate out of one fund is taken from the other; and when it economizes in regard to the public Treasury fund it loads to that extent the other fund which it also controls. Now, is it economy to rob Peter to pay Paul? If it be not so, then this provision is liable to the point of order.

Mr. SPRINGER. I would like to ask the gentleman from Virginia [Mr. HUNTON] whether under existing law Federal prisoners confined in the jail of the District of Columbia are not now paid for by the Government of the United States?

Mr. HUNTON. Yes, sir.

Mr. SPRINGER. And we also pay for all the officers and the expenses of running the prison here.

Mr. HUNTON. Now we do.

Mr. SPRINGER. In the States, in regard to prisons outside of the District of Columbia, the Government pays in a like manner for the expense of keeping prisoners sentenced by Federal courts. But the expense of running the jail or the prison is paid by the State. In the case of the District of Columbia a distinction is made against the Government by requiring the Government not only to furnish the prison but to pay for all the officers and the expense of running it, and in addition to that to pay for the keeping of its own prisoners in its own jail.

Mr. HUNTON. I think the gentleman from Illinois is mistaken in one of his statements. When a State agrees to receive Federal prisoners in its prison, they make certain terms, and the Government has

to pay an amount equal to the expense of keeping the prisoners, including the cost of the institution. The State of Illinois can refuse to receive any Federal prisoners, but when it does receive them it does so upon terms satisfactory to itself.

Mr. SPRINGER. I find the same provision in relation to Federal prisoners in State jails and prisons that applies to Federal prisoners in the jail of the District of Columbia. The law is the same in regard to both. Section 5545 of the Revised Statutes provides:

Hereafter there shall be allowed and paid by the Attorney-General, for the subsistence of prisoners in the custody of any marshal of the United States and the warden of the jail in the District of Columbia, such sum only as it reasonably and actually costs to subsist them.

Mr. HUNTON. Each State must consent to the arrangement before it receives Federal prisoners in its prisons.

Mr. SPRINGER. I know that, but I cannot see the justice of a provision requiring the Government to keep up a prison in this District and to pay all the expenses of it, and then to pay for the expense of keeping its own prisoners in its own prison.

Mr. ANDERSON. Will the gentleman from Indiana [Mr. COBB] consent now to a motion that the committee rise?

The CHAIRMAN. The Chair is ready to rule upon the point of order. The clerk will read from the act providing a permanent form of government for the District of Columbia.

The Clerk read as follows:

The said commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June 30, 1879, and annually thereafter, for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing, and the estimated cost thereof; also the cost of constructing, repairing, and maintaining all bridges authorized by law across the Potomac River within the District of Columbia, and also all other streams in said District; the cost of maintaining all public institutions of charity, reformatories, and prisons belonging to or controlled wholly or in part by the District of Columbia, and which are now by law supported wholly or in part by the United States or District of Columbia; and also the expenses of the Washington Aqueduct and its appurtenances; and also an itemized statement and estimate of the amount necessary to defray the expenses of the government of the District of Columbia for the next fiscal year.

The CHAIRMAN. The Chair is clearly of the opinion that jails are embraced in the phrase "reformatories and prisons;" and that it was the meaning and intention of that fundamental law that such institutions should be provided for at the joint expense of the Government of the United States and of the District of Columbia. For that reason and in that sense the paragraph of the pending bill now in question is not a change of the law.

The Chair is further of the opinion that if it were a change of law still it would not be subject to a point of order, for the reason that clause 3 of Rule XXI provides—

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject-matter of such amendment, which amendment, being germane to the subject-matter of the bill, shall retrench expenditures.

The Chair is of opinion that the word "expenditures" there used refers to expenditures of the General Government. If heretofore the General Government has paid the entire expense of this institution, and it is now proposed that it shall pay but one-half of such expense, that would be a retrenchment of expenditures from the funds of the General Government. The Chair therefore is of the opinion that the point of order is not well taken, and overrules it.

Mr. HUNTON. I move to strike out the pending paragraph. This provision is an innovation in the appropriation bills for the District of Columbia; and although the Chair has ruled against me on the point of order, I ask the Committee of the Whole to strike out the paragraph, because it is an innovation in respect to the division of expenditures between the District and the General Government. Never until now has any attempt been made (or if made, it has always been unsuccessful) to make the people of the District of Columbia pay for the support of this jail. I repeat the illustration I used a while ago. Take a judicial district of the United States in any of the States in this Union. The judge of that district sends the persons convicted of crime in the district to the Federal prison; every dollar of the expense connected with the punishment of crimes committed in that district, and coming within the jurisdiction of that court, is paid by the Federal Government. Now, I cannot for my life see any distinction between the support of prisoners under such circumstances and the support of prisoners as provided for in this paragraph. The adoption of the paragraph tends to impose upon the people of the District additional burdens. Year by year the effort is made by some persons to increase the burdens of the District—I think improperly. I trust it will be the pleasure of the Committee of the Whole to strike out this paragraph and let this jail be supported as it always has been supported, by appropriations from the Treasury of the United States.

The question being taken upon the motion of Mr. HUNTON to strike out the paragraph, there were—ayes 42, noes 72.

Mr. HUNTON. I call for tellers.

No quorum having voted, tellers were ordered, and Mr. COBB and Mr. HUNTON were appointed.

The committee divided; and the tellers reported—ayes 34, noes 94.

Mr. HUNTON. I make the point that no quorum has voted.

Mr. UPDEGRAFF, of Ohio. I move the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CONVERSE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes, and had come to no resolution thereon.

### FEES, ETC., OF CUSTOMS OFFICERS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting an abstract of the official fees and emoluments received by customs officers during the fiscal year ending June 30, 1880; which was referred to the Committee on Ways and Means.

### CONTAGIOUS DISEASES OF DOMESTIC ANIMALS.

The SPEAKER also laid before the House a concurrent resolution of the Legislature of Kansas relative to contagious diseases of domestic animals; which was referred to the Committee on Agriculture.

### LEAVE OF ABSENCE.

By unanimous consent, indefinite leave of absence was granted to Mr. TAYLOR, of Tennessee, on account of the serious illness of his wife.

### AGRICULTURAL APPROPRIATION BILL.

Mr. COVERT, from the Committee on Agriculture, reported a bill (H. R. No. 7099) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1882, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

Mr. WHITE. I reserve all points of order on that bill.

### JUDICIAL DISTRICTS IN LOUISIANA.

Mr. ROBINSON. I ask unanimous consent that the bill (H. R. No. 4050) to divide the State of Louisiana into two judicial districts, which has been returned from the Senate with an amendment, be taken from the Speaker's table and referred to the Committee on the Judiciary.

The SPEAKER. If there be no objection that order will be made.

There was no objection.

### MRS. ELMIRA FARNSWORTH.

Mr. CALKINS. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 2635) for the relief of Mrs. Almira Farnsworth, and that the same be taken up for consideration.

The bill was read.

Mr. COFFROTH. I object.

### HOUR OF DAILY MEETING.

Mr. SPRINGER. I move that the House adjourn.

The SPEAKER. The Chair desires to give notice that in pursuance of an order adopted to-day the House will meet to-morrow, and thereafter for the remainder of the session, at eleven o'clock a. m.

The motion of Mr. SPRINGER was then agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

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### PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BAYNE: The petition of soldiers of Allegheny County, Pennsylvania, against the passage of Senate bill No. 496, relating to the adjudication of pension claims—to the Committee on Invalid Pensions.

By Mr. BERRY: Memorial of citizens of Benicia, California, in relation to making the present arsenal at that place a manufacturing and construction arsenal—to the Committee on Appropriations.

By Mr. BICKNELL: A bill for the improvement of the Ohio River between Cincinnati and Louisville without expense to the United States—to the Committee on Commerce.

By Mr. BLAND: The petition of citizens of Missouri for a post-route from Rolla to Vitchy Springs, in that State—to the Committee on the Post-Office and Post-Roads.

By Mr. BRAGG: The petition of citizens of Wisconsin, for an amendment of the patent laws—to the Committee on Patents.

By Mr. BREWER: The petitions of James Sowle and 50 others, and of E. A. Price and 41 others, citizens of Clinton County, Michigan, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petitions of the same parties for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petitions of the same parties for the passage of a law that will protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of the same parties for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. CALKINS: The petition of Joseph Schuewind and others, tobacconists, of Laporte, Indiana, for a reduction of the tax on cigars—to the same committee.

Also, the petition of John Casey and others, for the establishment

GENERAL LIBRARY University of MICHIGAN

of a post-route from Rensselaer to East Chicago, Indiana—to the Committee on the Post-Office and Post-Roads.

By Mr. CARLISLE: The petition of the Board of Trade of Louisville, Kentucky, for increased appropriations for the improvement of Kentucky River—to the Committee on Commerce.

By Mr. COFFROTH: The petition of L. L. Cunningham and 41 others, for a post-route from Three Springs to Hopewell, Pennsylvania—to the Committee on the Post-Office and Post-Roads.

By Mr. COWGILL: The petition of 145 citizens of Jay and Blackford Counties, Indiana, for a post-route from Montpelier to Bryant, Indiana—to the same committee.

By Mr. HORACE DAVIS: Memorial of citizens of Benicia, California, in relation to making the present arsenal at that place a manufacturing and construction arsenal—to the Committee on Military Affairs.

Also, memorial of the mayor and common council of Eureka, California, asking an appropriation for the improvement of Humboldt Bay—to the Committee on Commerce.

By Mr. DUNNELL: The petition of Darwin Hewens and 200 others, citizens of Minnesota, for the repeal of the tax on bank capital and deposits—to the Committee on Ways and Means,

By Mr. FORT: The petition of John E. Stephenson and others, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

Also, the petition of citizens of Illinois, for legislation to prevent the spread of pleuro-pneumonia among cattle—to the Committee on Agriculture.

By Mr. BENJAMIN W. HARRIS: The petition of W. R. Vining and others, members of D. A. Russell Post 78, Grand Army Republic, of South Abington, Massachusetts, for the passage of amended Senate bill No. 496, establishing a court of pensions—to the Committee on Invalid Pensions.

Also, the petition of G. H. Hatten, of North Attleborough, Massachusetts, and 56 other soldiers of the war of the rebellion, against the passage of Senate bill No. 496, and for the passage of the Geddes bill establishing a court of pensions—to the same committee.

By Mr. HAWLEY: The petition of Joseph W. Briggs and 37 others, citizens of Sterling, Connecticut, for bounties and land warrants—to the Committee on Military Affairs.

By Mr. HILL: The petition of J. Snelbaker and others, of Swanton, Ohio, of similar import—to the same committee.

Also, the petition of Alexander Mentzer and 150 others, citizens of Van Wert County, Ohio, for legislation to regulate charges on railroads and by express lines—to the Committee on Commerce.

By Mr. HUBBELL: The petition of August Dallmeyer, of Houghton, Michigan, for a reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. HUMPHREY: The petition of citizens of Wisconsin, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. LADD: The petition of Christiana Temple, for a pension—to the same committee.

By Mr. LAPHAM: Joint resolution of the Legislature of New York, asking for the passage of a law to suppress the disease of pleuro-pneumonia or lung plague of cattle—to the Committee on Agriculture.

By Mr. McCOID: Two petitions of citizens of Iowa, of similar import—to the same committee.

By Mr. McCOOK: The petition of 120 citizens of New York City, for reform in the civil service of the Government—to the Committee on Reform in the Civil Service.

By Mr. McGOWAN: The petition of William Poynter and 10 others, citizens of Calhoun County, Michigan, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

By Mr. McMAHON: The petition of John A. Bausman, George Leonard, and others, of Germantown, Ohio, for the reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. MITCHELL: The petition of Hugh Denworth and other Union soldiers, of Lycoming County, Pennsylvania, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

By Mr. MONROE: A communication from Wickam & Co., of Huron, Ohio, in favor of a duty on fresh fish caught in Canadian waters and sold in the United States—to the Committee on Ways and Means.

By Mr. MYERS: The petition of citizens of Indiana, that a pension be granted to Captain Samuel H. Cole—to the Committee on Invalid Pensions.

By Mr. O'NEILL: A communication from the Board of Trade of Philadelphia, approving the views of the National Board of Trade set forth in their memorial asking for legislation for the prevention of the adulteration of food and drugs—to the Committee on Agriculture.

By Mr. OVERTON: The petition of Dr. H. B. Kilborn and 30 others, soldiers of Bradford County, Pennsylvania, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. PHILIPS: The petition of John Inman, for a pension—to the same committee.

By Mr. PRESCOTT: Resolutions of the Legislature of New York, for legislation to suppress pleuro-pneumonia or lung plague of cattle—to the Committee on Agriculture.

Also, the petition of soldiers of New York, that soldiers discharged on account of disease receive the same bounty as those discharged on account of wounds—to the Committee on Military Affairs.

By Mr. WILLIAM E. SMITH: The petition of citizens of Calhoun County, Georgia, for a post-route from Morgan to Ward's Station, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. STEVENSON: Memorial of Dr. D. Sabin and others, citizens of Illinois, in relation to the payment of the public debt—to the Committee on Ways and Means.

By Mr. STONE: The petition of A. B. Hayes and others, citizens of Michigan, for legislation on the subject of interstate commerce—to the Committee on Commerce.

Also, the petition of the same parties, for legislation that will protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of the same parties and 5 others, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of George W. Germain and 28 others, citizens of Michigan, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

By Mr. EZRA B. TAYLOR: Two petitions of citizens of Ohio, for the amendment of the pension laws—to the Committee on Invalid Pensions.

By Mr. THOMAS UPDEGRAFF: The petition of Edward H. Mumby and 14 others, citizens of Fayette, Iowa, that soldiers discharged for disease receive the same bounty as those discharged on account of wounds—to the Committee on Military Affairs.

By Mr. VOORHIS: Memorial of the Board of Trade of Paterson, New Jersey, favoring the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. WARD: The petition of citizens of Philadelphia and Delaware County, Pennsylvania, for legislation to prevent the spread of pleuro-pneumonia among cattle—to the Committee on Agriculture.

Also, resolutions of the board of directors of the First National Bank of Chester, Pennsylvania, opposing the provisions of the funding bill reducing the rate of interest on the new United States bonds to be issued to 3 per cent.—to the Committee on Ways and Means.

By Mr. WHITEAKER: The petition of citizens of Oregon City, Oregon, and letter of the post-office inspector, asking that relief be granted to John M. Bacon for loss of United States money and other property stolen by burglars—to the Committee on Claims.

By Mr. YOCUM: The petition of citizens of Centre County, Pennsylvania, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

Also, four petitions of soldiers and sailors of Clinton and Centre Counties, Pennsylvania, asking to be placed on the same footing as bondholders in the matter of the pay received while in the service of the United States—to the Committee on Military Affairs.

Also, three petitions of citizens of Bradford County, Pennsylvania, against the funding of United States bonds falling due in 1880 and 1881—to the Committee on Ways and Means.

By Mr. THOMAS L. YOUNG: The petition of J. H. Remley and 525 soldiers and sailors of Ohio and 2,010 soldiers and sailors of the State of New York, for the passage of a bill granting land warrants to soldiers and sailors of the war of the rebellion without condition of actual settlement—to the Committee on the Public Lands.

Also, the petition of O. W. Geoffrey and 325 others, citizens of Ohio, of similar import—to the same committee.

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## IN SENATE.

TUESDAY, *February* 1, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 4874) in relation to the Utah and Northern Railway Company; and

A bill (H. R. No. 7098) making an appropriation for the flooring of the National Museum.

The message also announced that the House had passed the joint resolution (S. R. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug.

### PETITIONS AND MEMORIALS.

Mr. THURMAN presented the memorial of Adam Fishel and others, citizens of Minerva, Stark County, Ohio, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

He also presented additional papers to accompany the bill (S. No. 2046) granting a pension to Thomas Worthington; which were referred to the Committee on Pensions.

Mr. EATON presented the petition of Miss Eliza A. White, of New York City, praying that money forfeited on her brother's bond be

refunded to her; which was referred to the Committee on the Judiciary.

Mr. SLATER presented additional papers to accompany the petition of Jacob Fritz and certain citizens of The Dalles, Oregon, praying Congress to grant him two acres of land off the northeast corner of The Dalles military reservation; which were referred to the Committee on Public Lands.

Mr. KIRKWOOD. I present the memorial of some twenty soldiers during the late war, who reside in Iowa, protesting against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims. I desire to say that upon reading the letter that accompanies the memorial from the person who sends it to me, I am satisfied the memorialists wholly misunderstand the scope, purpose, and effect of the bill against the passage of which they protest. I move that the memorial lie on the table.

The motion was agreed to.

Mr. BECK presented the memorial of William Reed and others, citizens of Hedges, Kentucky, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. HOAR presented the memorial of Darius A. Bolles and several others, citizens of Cochituate, Massachusetts, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. DAVIS, of Illinois, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 398) to restore to William G. Langford the possession of a tract of land in Idaho Territory, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. VOORHEES, from the Committee on Finance, to whom was referred the bill (H. R. No. 1542) for the relief of Charles Clinton, of New Orleans, late assistant treasurer at New Orleans, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BAYARD, from the Committee on Finance, to whom was referred the bill (H. R. No. 4663) to admit free of duty one of the bells of Saint Michael's chimes, Charleston, South Carolina, which has been sent to England to be recast, reported it without amendment.

Mr. LOGAN, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1607) for the relief of S. W. Fountain, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1355) for the relief of First Lieutenant William H. Miller, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 838) for the relief of George P. Webster, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Royal W. Riddell, late Company C, One hundred and fifty-fourth Pennsylvania Volunteers, praying payment of the difference between the compensation of a first sergeant and a first lieutenant from January 13, 1864, to April 20, 1865, submitted a report thereon, accompanied by a bill (S. No. 2136) for the relief of Royal W. Riddell. The bill was read twice by its title, and the report was ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the petition of W. M. Beebe, jr., late captain Thirty-eighth Infantry, praying to be restored to his former rank and grade in the Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1294) to enable the President to promote J. S. Payne, a captain in the United States Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1065) for the relief of the heirs or legal representatives of Robert J. Baugness, deceased, late private of Company I, Thirty-seventh Illinois Volunteers, submitted an adverse report thereon; which was ordered to be printed.

Mr. PLUMB. I ask that that bill be placed upon the Calendar, notwithstanding the adverse report.

The VICE-PRESIDENT. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1694) to repeal section 1131 of the Revised Statutes, and to reduce and fix the rank and number of officers in the Inspector-General's Department of the Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1967) for the relief of certain officers in the Medical Department of the United States Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the memorial of Georgie E. Stratton, widow of Franklin A. Stratton, praying for such legislation as will fix the naval rank of her late husband at the time of his decease and result in giving her a pension, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. HILL, of Colorado, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 6527) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake known as Carr Lake, situated near said city, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 5629) to graduate the price and dispose of the residue of the Osage Indian trust and diminished-reserve lands lying east of the sixth principal meridian in Kansas, reported it with amendments.

Mr. WHYTE, from the Committee on Printing, to whom was referred the joint resolution (H. R. No. 364) providing for the printing of reports of the Smithsonian Institution, and for other purposes, reported adversely thereon; and the joint resolution was postponed indefinitely.

MEDICAL AND SURGICAL HISTORY OF THE WAR.

Mr. ANTHONY. I am instructed by the Committee on Printing, to which was referred the joint resolution (S. R. No. 149) for the printing of 20,000 copies of the Medical and Surgical History of the War of the Rebellion, to report it adversely. I call the attention of my economical friend from Missouri [Mr. COCKRELL] to these two adverse reports from the Committee on Printing, this and the one made by my friend, the chairman, [Mr. WHYTE.] The printing proposed by this joint resolution would cost $120,000.

Mr. WITHERS. I ask that the joint resolution be placed on the Calendar. I do not think that the question of economy ought to govern us in reference to that particular publication. It is almost the only publication that has ever been made by Congress for the benefit of the medical profession, and it is one which is of a very high order of merit and one which is very much sought after. It is calculated to do a great deal of good, and although we may spend over a hundred thousand dollars for its republication, in my judgment it will be money judiciously expended.

Mr. ANTHONY. Books are always very much sought after that are given away. If this book was printed and sold at the cost of publication, a very few thousand copies I think would answer the public demand, and as this is not a report from the Commissioner of Agriculture I hope we shall have the support of my friend from West Virginia, [Mr. DAVIS.]

Mr. WITHERS. I will say that I have had hundreds of applications from persons who desire to purchase the book, but it cannot be had by purchase.

The VICE-PRESIDENT. The joint resolution will be placed on the Calendar, with the adverse report of the committee.

COUNT OF ELECTORAL VOTES.

Mr. MORGAN. I am instructed by the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the result of the elections of President and Vice-President of the United States to report back the resolution referred to that committee submitted by the Senator from Kansas, [Mr. INGALLS,] with an amendment. I ask that the resolution and the amendment be read.

The Chief Clerk read the resolution submitted by Mr. INGALLS on the 26th of January, as follows:

*Resolved*, That the Senate will be ready to receive the House of Representatives in the Senate Chamber on Wednesday February 9, at twelve o'clock meridian, for the purpose of being present at the opening and counting of the votes for President and Vice-President of the United States. That two persons be appointed tellers on the part of the Senate to make a list of the votes for President and Vice-President of the United States as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the Journals, and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the Journals shall be deemed a sufficient declaration thereof.

The VICE-PRESIDENT. The amendment proposed by the committee will be read.

The CHIEF CLERK. It is proposed to strike out all after the word "resolved," and in lieu thereof to insert:

1. That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881, at 12 o'clock m., and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate and two on the part of the House of Representatives to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected, to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States; and, together with a list of votes, be entered on the Journals of the two Houses.

2. That if it shall appear that any votes of electors for President or Vice-President of the United States have been given on a day other than that fixed for casting such votes by act of Congress in pursuance of the Constitution of the United States; if the counting or omitting to count such votes shall not essentially change the result of the election, they shall be reported by the President of the Senate in the following manner:

Were the votes of electors cast on the —— day of ——, 1880, to be counted, the result would be for A B for President of the United States —— votes, and for C D for President of the United States —— votes; if not counted the result would be for A B for President of the United States —— votes, and for C D for President of the United States —— votes, but in either event —— is elected President of the United States. And in the same manner for Vice-President.

Mr. MORGAN. I ask for the present consideration of the resolution.

Mr. EDMUNDS. My honorable friend from Alabama asks for the present consideration of that resolution. Inasmuch as my friend from Colorado [Mr. TELLER] and myself, two members of the committee from whom the resolution has come, either were not invited or failed to get our invitations to a meeting last night, where I understand the amendment was agreed upon, we think we should like to see it in print before we commit ourselves either for or against it. I therefore ask that it go over and be printed.

The VICE-PRESIDENT. The resolution goes over under the rule.

Mr. THURMAN. Before the Senator from Vermont leaves the subject, I want to inquire what he means by speaking of a meeting last night? There was no meeting of this committee last night. He has been certainly invited to every meeting of the committee which has been held, and I think has been present at every meeting of the committee which has been held.

Mr. EDMUNDS. I did not say there was a meeting of the committee, but I said that my colleague from Colorado on the committee and myself either were not invited or failed to get our invitations to a meeting of some body; I will add now, if there is any misunderstanding of my remark, that I understood had been held last night, where this amendment, as I understood, had been agreed upon. That is what I said.

Mr. THURMAN. There was not only no formal meeting of this committee last night, but no meeting of the members of the committee.

BILLS INTRODUCED.

Mr. SAUNDERS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2137) making appropriations for the improvement of the navigation of the Missouri River opposite the State of Nebraska and the State of Iowa; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BECK asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2138) for the relief of Harriet Ann Walker; which was read twice by its title, and referred to the Committee on Claims.

Mr. WITHERS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2139) to amend "An act to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes," approved June 16, 1880; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. EATON asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 150) for the relief of Miss Eliza A. White; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENTS TO BILLS.

Mr. BUTLER submitted an amendment intended to be proposed by him to the post-route bill; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. JONAS submitted an amendment intended to be proposed by him to the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

CALENDAR OF HOUSE BILLS.

Mr. HARRIS. I call for the consideration at this time of the resolution submitted by me on the 25th of January. Let it be reported.

The VICE-PRESIDENT. The resolution will be read.

The Chief Clerk read the following resolution, submitted by Mr. HARRIS on the 25th of January:

*Resolved*, That at the conclusion of the morning business for each day, unless upon motion the Senate shall otherwise order, the Senate will proceed to the consideration of House bills which have been favorably reported, and continue such consideration until half past one o'clock; bills to be taken up in their order upon the Calendar; and this order shall commence immediately after the call for "concurrent and other resolutions."

The VICE-PRESIDENT. The question is on agreeing to the resolution.

Mr. EDMUNDS. I do not wish to have this resolution prevent the operation of the rule of the Senate that authorizes the consideration of a resolution offered the day before, or some day before, and which under the present rules the Senator offering it or any other Senator has the right to have come before the Senate. I do not know of any resolution on the Calendar of resolutions that I wish to have come before the Senate at this time, or any other time; but I only speak of it as a precaution that we ought to take, because it may happen every day that some resolution of extreme public or technical importance in respect of the procedure of the Senate may be offered one day, objected to, and go over to the next. Under this order, which is peremptory, no Senator would have a right to do anything about it, and the Senate, until it rescinded this rule, would not have a right to do anything about it.

I think it is a wise thing, it strikes me so, that we should try as far as possible to expedite business by disposing of House bills as those most likely to become laws. Still, as there is a month yet, I do not know that we ought to exclude Senate bills entirely. Take Senate pension bills, take other Senate private bills, about which if they were taken up under the Anthony rule there would be no question whatever, and which still for a week or two might be sent to the House in time for its favorable action also. This proposed rule cuts out those.

Mr. HARRIS. I think not. The Senator will allow me to suggest that in the case of a resolution introduced to-day, even if this order shall be adopted, upon the call for "concurrent and other resolutions" to-morrow, if I understand the rules of the Senate, it would be perfectly competent for any Senator to call up a resolution introduced the day before, pending that call for "concurrent and other resolutions," and demand its consideration notwithstanding the adoption of the rule that is established by the resolution that I now ask the Senate to pass.

As to the consideration of Senate bills we ought to give preference to the consideration of bills that have passed the House and passed the ordeal of the consideration of a committee of this body and stand upon the Calendar. If we would legislate practically we certainly should give preference to the consideration of bills thus far advanced over the consideration of Senate bills remaining upon our Calendar at this late day, having after passing the Senate to go to the House and take their chances for consideration there. It is for these reasons that I insist upon the passage of the resolution.

Mr. EDMUNDS. Mr. President——

Mr. HARRIS. I propose to modify my resolution by adding "subject to the rules governing the business of the morning hour," so that it will put the case of resolutions such as suggested by the Senator from Vermont beyond all question, so that a resolution can be considered under the call for "concurrent and other resolutions."

Mr. EDMUNDS. Was the resolution reported from a committee, or is it a resolution of the Senator?

The VICE-PRESIDENT. It is a resolution introduced some days since by the Senator from Tennessee.

Mr. EDMUNDS. He is entitled, then, to modify it, I suppose?

The VICE-PRESIDENT. Certainly.

Mr. EDMUNDS. And the modification is made accordingly?

The VICE-PRESIDENT. It is.

Mr. EDMUNDS. That of course answers the difficulty that I suggested; but I would suggest, with great deference, that it may create another difficulty in the opposite direction in the broad language that it has. If it is subject to all the rules that govern business in the morning hour then the rules governing business in the morning hour authorize the Senator from Tennessee or any other Senator to move (after the call for resolutions and after any Senator has had his right to have a previous resolution laid before the Senate) to proceed to the consideration of any bill on the Calendar without regard to the question whether it is a Senate bill or a House bill. One rule of the Senate as it now stands is what is called the Anthony rule. That rule provides for a different order of procedure. If this resolution as now modified is subject to all the rules and orders of the Senate it might be claimed by somebody that that would apply. Although I should not vote that way myself, because I should take the evident intent of it rather than the mere legal construction to guide me in voting about it, still it might lead to debate and dispute.

But now to come to the main real point that my friend from Tennessee has, and I think wisely, in view, if this is the right point of time to have it go into effect, the case is this: We have twenty-seven or twenty-eight or thirty days, something like that, yet left of this session. It is desirable in justice to all parties, saying nothing now about general public interests, that any claims of justice and fairness that exist in favor of private suitors (if I may use such a phrase, and I believe it is a correct one) should be heard and considered by this great court of the nation. My friend from Tennessee thinks we ought to begin to consider a particular class of those, that is to say, those that have come from the House. At a certain stage in the session which the joint rules, when they were in force, provided for, that was fixed practically or by consequence as the last three days of the session, because those joint rules prohibited the sending of new bills from either House to the other during that time; and therefore it would be entirely useless to take up and consider here a Senate bill during that time, because it could not be sent to the House of Representatives; but this proposes to do this thing in effect thirty days before the end of Congress, or twenty-six or twenty-seven working days before.

I only call attention to it, because I do not belong to the responsible majority in controlling the business of the Senate, but I do think, with great deference, that it would be wiser, (and I propose it for the consideration of my friend from Tennessee, with whose object I entirely sympathize,) to go on vigorously and fairly under the Anthony rule, take up unobjected cases on the Calendar, and have it understood as far as we can, without any binding obligation except that of good sense, that if any Senator thinks a bill needs considerable consideration before it shall be disposed of either way, let him object early, in the beginning, so as to save time and run off from our Calendar those cases that command the assent of nine-tenths, if not the unanimous assent of this body. If I were to fix it myself I would go on for four or five days exclusively with Senate bills, of the character referred to in the Anthony rule, which is intended to cover the small cases of poor and defenseless people who have not any strong influences to back them, yet whose claims committees report are those that are entitled to the justice, and of course the speedy justice, of the

Government. Having run through those we could send them over to the House in the hope that on the strength of the opinion of the Senate committee as to facts the House of Representatives might be able to take the largest part of them from the Speaker's table—if I do not violate any rule in merely speaking of processes, and I doubt if I do, I do not mean to, certainly—and dispose of them. Then inasmuch as most of the House bills would not require to be sent back at all, even for amendment probably, take up the House bills in the way my friend from Tennessee proposes. I do not make any motion; I only suggest it with deference to the consideration of gentlemen on the other side.

Mr. HARRIS. Being satisfied as I am that at this late day of the session there is not a remote probability that one bill in five hundred that we may send to the House at this day would find consideration there and be finally acted upon, my resolution simply proposes to appropriate that amount of time between finishing the legitimate morning business of every morning up to one and half o'clock to the consideration of House bills on the Calendar, and even though we may have twenty-five, twenty-six, or twenty-seven working days yet remaining, I doubt very much whether, if every moment of the time that my resolution proposes to appropriate should be devoted to the consideration of House bills on the Calendar favorably reported, we should be able to more than consider, if indeed we should be able to consider within that time, those bills that have reached that advanced stage of consideration and action.

I therefore think that the better policy is to adopt the resolution and devote the time that it appropriates to the consideration of House bills. I shall therefore ask the judgment of the Senate upon it. Of course I shall yield with perfect satisfaction to whatever may be the judgment of the Senate in that respect.

Mr. WHYTE. I propose to offer an amendment, which is to strike out the words "which have been favorably reported." There are some six or seven House bills on the Calendar which have not been favorably reported, and yet have been passed almost unanimously by the House. I think it would be very hard if those bills cannot have a hearing, when perchance they may not have been favorably reported through the action of one single person in a committee. I think that those bills ought to have the same chance of a favorable action in the body of the Senate as those that have been favorably reported. If the Anthony rule, so far as the limitation of five minutes to each member in the discussion of the various bills, is also adopted with this resolution, there can be no trouble in disposing of those bills which were adversely reported when considering those favorably reported.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Maryland, which will be reported.

The CHIEF CLERK. It is proposed to strike out the words "which have been favorably reported;" so that the resolution will read:

> That at the conclusion of the morning business for each day, unless upon motion the Senate shall otherwise order, the Senate will proceed to the consideration of House bills, and continue such considerations until half past one o'clock, &c.

Mr. VOORHEES. I only want to add my hearty concurrence to this resolution, whether amended or unamended, as proposed by the Senator from Tennessee. We hear great complaint, as the session is drawing to a close, of leaving Calendar business undisposed of. The Calendar contains the labor of the committees of both branches of Congress; and looking over the CONGRESSIONAL RECORD this morning—for I was absent a little while yesterday evening—I observed the struggle which is already being made for precedence in business here before the Senate. I think the best way to settle that question is to take up the Calendar and do the business that it contains as it is there presented, and stick to it.

The proposition made by the Senator from Tennessee, as I understand it, is to utilize a portion of the morning hour in this praiseworthy enterprise, after transacting the morning business to proceed directly to the Calendar and stick to it until the morning hour expires, subject, of course, to the order of the Senate. I am very much impressed with the necessity of some rule of this kind, and I am very glad that the Senator from Tennessee has brought it forward, because I thought something of doing so myself. There are some bills on the Calendar that are calling for action very loudly. I had intended, for instance, to-day at the close of the morning hour to ask the Senate to proceed to consider the bill reported by the Joint Select Committee on additional accommodations for the Library of Congress; but I cannot antagonize the pension appropriation bill, which I understand will be called up by the Senator from California, [Mr. BOOTH.] But there is no measure outside of the supply of money to carry on the machinery of the Government more important than this library question, and I shall ask at a very early day that it be considered. It is on the Calendar; it ought to have a chance.

I hope the Senate will adopt the resolution offered by the Senator from Tennessee, perhaps with the modification suggested by the Senator from Maryland. I think the best way would be to take up the bills sent here by the House that are on the Calendar. There is here and there a bill on the Calendar with an adverse report, and let it have its chance and be considered. I am willing for my part to favor an occasional night session for the consideration, for instance, of business relating to pensions, or something of that kind.

Mr. JONES, of Florida. I am disposed to concur in a good deal that has been said by the Senator from Vermont, and I think it is a little premature to take up this resolution now. Justice has not been done to the Calendar at all, and I do not think we ought to discriminate between cases at this day. I think that a week at least ought to be given to consider the Senate bills that are there, so that the House may have an opportunity of meeting us in a reciprocal spirit and passing some of our bills. Now, to take up the House bills at this time and devote the remaining portion of the session exclusively to them, I think would be eminently unjust.

Mr. HARRIS. In the morning hour only.

Mr. JONES, of Florida. In the morning hour. That is the only hour we have. There are a great many Senate bills on the Calendar just as meritorious as any that came from the House, and if we were to devote a week to the consideration of our own bills, and after that take up the House bills, it would be very well, and then let the House meet us in an equal spirit of justice and pass on some of our bills.

Mr. HOAR. I think if the Senate will glance at the Calendar and see what the House bills are which are upon it—there are some sixteen or twenty in all in number—they will be satisfied that there is no reason whatever for giving these bills from their character and importance the preference in the last days of the session.

Mr. BURNSIDE. There are fifty-two House bills on the Calendar now.

Mr. HOAR. The number which I named applies to those reported favorably, which are all that the resolution of the Senator from Tennessee applies to.

Mr. BURNSIDE. There are fifty reported favorably and only two unfavorably.

Mr. HOAR. The Senator must be mistaken. I think there are not more than sixteen or twenty.

Mr. HARRIS. There are only twenty-odd bills from the House on the Calendar reported favorably. The Senator from Massachusetts is right.

Mr. HOAR. In a hasty running over the Calendar I found only sixteen, not counting House resolutions but only House bills. Those bills are not bills as a general rule it seems to me, if Senators will look at the Calendar, which they will consider of public importance enough to give to them the precious hours which remain of the session in preference to a great many other matters which stand on the Calendar and which have been matured and perfected in the Senate.

Mr. LOGAN. I desire, after the amendment offered by the Senator from Maryland is acted on, to move an amendment to the resolution by inserting "and Senate bills" after "House," so as to read "House and Senate bills."

It strikes me, although the time is very short, that if we expect to get through with legislation at all, the important bills which have been reported in the Senate ought to be acted on. We ought to devote some little time to the business of our own body. I desire to know what is the use of committees of the Senate meeting every morning and reporting bills to go to the Calendar, and then resolve that we will take up nothing but House bills in the morning hour, thus depriving ourselves of the opportunity of acting on bills of very great importance to our constituents and some of them of general character and importance to the whole country that stand here upon the Calendar. It strikes me that to change this rule now so as to act exclusively on bills from one House only, is rather changing the character of legislation in such a way as has not been done heretofore; and certainly it will be of no advantage and it will not advance the interests of the country to any considerable extent. If the bills that pass the Senate are to go to the House merely to lie on their table and not be acted on at all, and bills that come from the House are here to have priority over all other bills, we had just as well let one house do the legislation for the country, and let us sit here and act only on the bills sent to us. That will be the result of it, I think.

I cannot see for the life of me any reason for this thing. I think we ought to go on as we usually have done, occupying the morning hour with such matters as are proper and as the Senate may agree to take up and act on, and then proceed with the regular order of the day; but if we take up the Calendar at all let us not make an exception. Let us take the whole Calendar if we are to take it at all. I shall propose that amendment if this resolution is to be adopted that we shall go on with the Calendar as we come to the cases by their numbers, Senate and House bills both.

Mr. COCKRELL. Mr. President, I do not think this resolution ought to be adopted at this time. It may be opportune at a later day in the session. It will be distinctly remembered that at the close of the last session, at the instance of the Senator from Tennessee, we laid aside the Senate Calendar and gave preference to the House bills, and went through with the Calendar of House bills which had been reported from our committees, to the exclusion of the Senate bills. I hold in my hand the House Calendar for Friday, January 21, 1881; I supposed it was the last Calendar. I called for the last, and I supposed there was no later Calendar. This shows that business passed by the Senate May 27, 1880, is upon the Speaker's table. In other words, the bills considered at the last session by the Senate and sent to the House have not even been taken from the Speaker's table.

If we adopt this resolution now, we simply exclude from our consideration all our own business and devote ourselves exclusively to the consideration of House bills. We were calling the Calendar in its regular order at the last session when the Senator from Tennessee made this motion. I joined him then in sustaining the motion

because I thought it was right and proper, and would facilitate the business of the Senate. Now, if the Senate will confine itself to the consideration of the Calendar business for a week or ten days, and we have not reached the House cases on the Calendar, I will then cordially join the Senator from Tennessee in taking up and considering the House cases. I think it is right and fair and just, but I do think that it is premature now and too early to insist on the motion.

The VICE-PRESIDENT. The morning hour has expired. The resolution goes over. The Chair will lay before the Senate some House bills for reference.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4874) in relation to the Utah and Northern Railway Company was read twice by its title, and referred to the Committee on Railroads.

The bill (H. R. No. 7098) making an appropriation for the flooring of the National Museum was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

ORDER OF BUSINESS.

Mr. FARLEY. Mr. President——

Mr. COCKRELL. I call for the Calendar.

The VICE-PRESIDENT. The regular order is demanded, being the consideration of the Calendar of General Orders under the Anthony rule. For what purpose does the Senator from California rise?

Mr. FARLEY. I rose for the purpose of making a motion to take from the Calendar, postponing the pending order temporarily, the bill (S. No. 1210) for the relief of certain officers of the Navy. I will state the reasons that prompt me to make this motion now.

Mr. KIRKWOOD. Will the Senator allow me a moment?

Mr. FARLEY. Certainly.

Mr. KIRKWOOD. Yesterday I gave notice that to-day, during the morning hour, I should desire to submit to the Senate a few remarks in reply to something that was said yesterday by the Senator from Massachusetts, [Mr. DAWES.] I supposed until just now that the morning hour ran until half past one o'clock, and therefore I did not interpose. I think I shall not consume more than fifteen minutes.

Mr. FARLEY. I will state to the Senator from Iowa that this bill is of considerable importance. It has already passed the Senate, was reconsidered and referred to the committee, and reported back again.

Mr. KIRKWOOD. There will be time enough left to get it up.

Mr. FARLEY. My own opinion is that it will take but a few minutes to dispose of it.

Mr. KIRKWOOD. I should be glad to say what I have to say, and then I will join the Senator in getting up the bill if possible.

Mr. FARLEY. If I thought the bill would not be antagonized, as a matter of course I would yield to the Senator from Iowa.

Mr. KIRKWOOD. I believe it is customary when a notice has been given of the intention of a Senator to say something to allow him that privilege.

Mr. FARLEY. I withdraw my motion.

Mr. HOAR. Will the Senator from Iowa allow me to call up a motion to reconsider, which I suppose will be disposed of in a minute. If it is not I shall yield at once. The other day I moved a reconsideration of the vote whereby the Senate refused to pass the bill (S. No. 2054) to remove the political disabilities of Richard Fatherly, of Arkansas, the objection being made to the form of the petition, an objection which I originally made.

Mr. KIRKWOOD. Is it proposed to pass the bill now, or merely to enter the motion to reconsider?

Mr. HOAR. I have entered the motion already.

Mr. KIRKWOOD. I would rather go on.

Mr. HOAR. I am informed that the Senator from Arkansas [Mr. GARLAND] now has a petition in three lines which seems to me to be in proper form, and I desire to ask that the vote rejecting the bill be reconsidered and the bill passed.

Mr. KIRKWOOD. I would prefer to go on. If it is my privilege to go on, I insist on it.

The VICE-PRESIDENT. The Senator from Iowa will proceed.

KILLING OF BIG SNAKE.

Mr. KIRKWOOD. What I intend to say to-day might well have been said yesterday in a very few minutes, but I did not desire to interfere with the regular order of business of the Senate, and therefore deferred my remarks until to-day.

The Senator from Massachusetts who spoke yesterday [Mr. DAWES] evidenced a very laudable desire to protect the honor and good name of our Government, claiming, as I understood him, that the preservation of its honor and good name required an acknowledgment by it of wrong whenever wrong had been done and reparation for it when it could be made. I concur in that view very heartily. I do not think there is any better test of true honor, either among nations or men, than the acknowledgment of wrong when wrong has been done, and a reparation of that wrong so far as it is in the power of the wrong-doer to make reparation. I believe that; but I do not think it is necessary for an individual or any of the Departments of the Government to be anxious to find blots upon its good name and fame and to exercise ingenuity and argument to prove that it has been doing wrong.

It was claimed yesterday, as I understood the Senator from Massachusetts, that there were two things especially reprehensible in regard to the conduct of the Government toward the Ponca tribe of Indians. It was alleged that one of the high officers of our Government, the Secretary of the Interior, had forgotten to answer a resolution passed by this body asking information in regard to that matter, and I think it was inferred that the forgetfulness was not real forgetfulness, but an intentional withholding of the information desired by the Senate. After having had read the resolution of inquiry and stated the failure of the Secretary to answer it, the Senator said:

> But the Secretary states that the answer had been already placed in the hands of the committee who instituted this inquiry, and his Commissioner of Indian Affairs not only fixes the date some nine months since, but more than intimates that the papers had been purposely lost by that committee, though they were ostensibly still seeking the information.

Now, I do not understand that either the Secretary or his Commissioner so stated. The letter of the Secretary dated the 5th of last month states briefly, without any explanation other than by reference to the letter of his Commissioner, why the answer did not reach the Senate; and the Commissioner states this:

> I have the honor to state that by reference to the records of this office it appears that copies of all the papers referred to were made and furnished on the 18th of March last.

Not furnished to the Senate, but furnished to the proper officers in the Interior Department.

> And as Mr. Brooks, who was then chief clerk of the office, was frequently called as a witness before the committee of the Senate charged with investigating the affairs of the Poncas during that month, it is supposed that he informally took the papers to the committee-room pending the investigation.

And then it goes on and states that, as they cannot be found, he sends copies of them again. There is no intimation in that, I think, that the papers had been sent by the Commissioner to the committee and by the committee intentionally lost. It states the mere naked fact as it appeared to the Commissioner and to the Secretary at the time.

Further with reference to that, I find in the testimony before our committee last March of the chief clerk of the Indian Bureau, at that time acting Commissioner of Indian Affairs, this question and answer:

> Q. Were you requested to furnish the committee with copies of any papers that might be in the Indian Office bearing upon the killing of Big Snake?
>
> A. I was; and I have them here.
>
> Q. Do they contain anything additional to what has already been testified to before the committee?
>
> A. Really, my time has been so fully occupied that I have not had time to examine them, and cannot say whether they contain anything additional or not.

It is evident that all that is material of these papers was in the possession of the committee, because in the report of the committee itself are contained the letter of the agent in the Indian Territory asking the arrest of this Indian, and the report of himself and the report of the officer by whom the arrest was attempted, in which attempt the Indian was killed. Those were left with the committee, and are printed in and with the report of the committee made at the last session of Congress.

By examination it will be found that the resolution passed the Senate on the 11th day of March, and this testimony was given by Mr. Brooks before the committee on the 20th day of March, when he brought with him to the committee-room the papers that contained all the information of any value touching this transaction. Besides they had before that committee the testimony of two or three Indians who were present when the occurrence took place, and who gave, in addition to the official information we had there, oral testimony upon the same subject. I do not believe that the Secretary of the Interior designed to withhold from this committee or from the Senate any information whatever upon this subject, but that the matter was wholly inadvertent on his part.

When a resolution goes to the head of one of our Departments, as I understand, the order of proceeding is something like this: it is sent by the Secretary to the chief of the bureau in which the information may be expected to be had, and it is referred by him to one of his subordinates to furnish it. The papers are made out by the subordinate and laid before the chief of the bureau, forwarded to the Secretary, and by the Secretary to the Senate; and each one of these preserves a record of what has been done. The record of the Interior Department shows that this resolution was received, referred to the Commissioner of Indian Affairs, and by him to the proper officer to prepare the information. By that officer the information was given to the Commissioner of Indian Affairs, and there the record stops. It never went into the hands of the Secretary of the Interior, and I have no doubt that the suggestion of the Secretary, made in his reply to the resolution at this session, is the literal truth, that by inadvertence the papers which were intended to be sent to the Senate were carried by the Commissioner as a witness to the special committee and left with that committee.

Another thing, Mr. President. The killing of Big Snake has been characterized in very severe terms as a cowardly murder, and I am not sure but that persons reading the remarks of the Senator from Massachusetts would understand from them that it was a premeditated, planned, pre-arranged murder. What are the facts in regard to it? Big Snake may have been or may not have been the hero that the Senator from Massachusetts has portrayed him to be. I shall not go into that. He was undoubtedly in the Indian Territory, at the agency there, what may be properly called insubordinate. It has been for a long time—how long I do not know—a rule based upon

law, perhaps, (I am not sure whether it is so or not,) that Indians cannot leave their reservation without permission of the agent there. Indians cannot go into a reservation not their own without permission of the agent, and white men cannot do the same thing. It has been believed for a long time that these rules and regulations were necessary for the proper management and control of Indians on reservations.

Big Snake had applied to the agent for leave to go with his family, and perhaps some other Indians, to the Cheyenne and Arapaho reservation near Fort Reno, and for reasons that were good, I presume, that permission had been refused. Then in violation of the rule, in contempt of the authority of the agent, he went; and that was not the only time he had done the same thing in other directions. He placed himself there on that reservation in defiance of the authority of the agent, and again and again, in violation of the rules of the agency, of the rules of the Department, he left the reservation at his pleasure. Upon one occasion, when going to the Cheyenne and Arapaho reservation, the agent sent an express messenger with information that a band of Indians were coming, and asked that they be arrested when they reached that reservation, and they were arrested, some fifty or sixty of them. In two or three days all but Big Snake and two others were released and allowed to go home, but they were kept some two or three months, when they were also released. Big Snake came back to the Ponca reservation and remained there, as the agent says, sullen and disposed to make the other Indians insubordinate, and, as the agent says, so acting toward him as to make him believe that his (the agent's) life was in danger. The Senator from Massachusetts says that is a mere pretense, and the pretense of a coward at that. That may be true; I do not know; but I am not willing to make against a man without knowledge the charge that he is either a coward or pretender.

It has been known for a long time to Congress, I apprehend, that our Indian agents and our Indian department have the rules and regulations of which I speak, and which this Indian had again and again violated, and defiantly violated. Congress knew of the existence of these rules and regulations, I apprehend. If they were wrong, why did not Congress repeal them or by law provide that such rules and regulations should not be enforced? They did not do so, and the rules and regulations continued for year after year, for many years, as the rules by which reservations were to be governed, and Congress acquiesced in their continuance.

I wish to read very briefly from the testimony of Standing Buffalo, one of these same Ponca Indians examined before our committee at that time. It is at page 233. He applied for permission to go, and was refused:

Q. Did you get the permission of the agent to go, or did you ask it?
A. We asked permission of the agent, but he would not give it; we asked him for a pass, too.
Q. What did you say to the agent when he refused to give you permission to go?
A. The agent told us that he would send word and ask the Government; but the Poncas did not wait for an answer, and one of the chiefs started; then the rest of them followed him.

This agent was doing his duty as an agent; when application was made for permission to go he thought it ought not to be given and refused to give it, but said to the Indians, "I will send word and ask the Government"—meaning thereby the Commissioner of Indian Affairs, I apprehend—"whether I should give this permission or not;" but the Indians, under the lead of the man who was killed, were determined to go, and went, defying the authority of the agent, defying the rules and regulations pertaining in the Indian agencies, as I understand, and which have received at least tacitly the approval of Congress by not having been repealed.

The agent, after the return of Big Snake, after he appeared among the tribe again for some time, believing his presence there to be injurious to the peace and quietness of the tribe, asked to have him arrested, and orders were sent to that end, and a lieutenant with a squad of men was sent from Fort Reno to the Ponca agency to arrest him. It was said by the Senator from Massachusetts that "the cowardly agent beguiled Big Snake into his office under a promise of the payment of money due, and then ordered the soldiers already there to take him away."

The Senator has allowed his feelings to run away with his judgment in this matter. The evidence shows, I think incontestably, that when the officer arrived there with the soldiers he went, as his duty was, to the agent to report his presence and was informed that Big Snake was expected at the agency at a certain time on that day to receive some money that was due to him, and he (the agent) thought it would be better for the officer to wait until he came and then make the arrest. That is the "beguilement," as I understand the testimony, and the only beguilement there was in regard to it. When the Indian came, the officer came and had him told that he was there for the purpose of arresting him. He refused to be arrested, declaring, according to the testimony of an Indian who gave testimony in that regard—Esan—that he would rather die than be arrested and taken back again to Fort Reno. He was a powerful man, extraordinarily so, and when in obedience to the orders of the lieutenant the soldiers went to him to arrest him, he resisted. They took hold of him. He shook them off. They tried to put handcuffs upon him and were unable to do so. There was a general melee and scramble; the soldiers tried to overpower him and he resisted. He was struck twice with a gun and eventually was shot. It is claimed by the soldiers who shot him that they were afraid of the use of a weapon by him; it is claimed on the other hand that he was unarmed, that he had no knife, and I believe that claim is correct; but the soldiers did not know that. One of them, the corporal of the squad, knew the Indian well and considered him a dangerous man, and in the strife, fearing that some of them might be injured, the man was unfortunately shot. Of that occurrence and the final unfortunate ending of it the Senator said:

The struggle continued with doubtful odds until a soldier from a position prearranged for the purpose put an end to it by a ball which pierced the brain of the victim.

Now, whether the Senator desired to be understood as wishing to convey the impression that this had been a pre-arranged plan beforehand to kill the man, that this soldier had been stationed there for the purpose, and that the struggle was a pretense to give him the opportunity of doing it, I do not know. If that were the intention of the Senator from Massachusetts, I can say that he was mistaken; he was mistaken in the facts; and that again he has allowed his feelings in this matter to becloud his judgment.

I have said all, Mr. President, that I desire to say in regard to these two matters. There is another matter to which I will refer very briefly. I am not at all in the habit of noticing what may appear in the newspapers with regard to myself individually, but in the National Republican of yesterday morning there is what purports to be an interview between a reporter of that paper and the Senator from Massachusetts, in which certain language is used that may perhaps refer to myself, not individually, but somewhat in a representative character. After speaking of what occurred at the last meeting of the special committee on Ponca affairs, this language is used, apparently by the Senator from Massachusetts:

All I desire to add is that the whole proceeding was something entirely outside of all my previous experience of the conduct of congressional committee investigations or of tolerated treatment of witnesses.

Senators may know that I have the honor of being chairman of that committee, and I can scarcely believe that the Senator from Massachusetts designed to reflect upon my conduct as such; and yet the language, it appears to me, is susceptible of precisely that construction. Let me say a word about that examination.

Two theories have obtained in regard to the signing of a certain paper by the chiefs of the Ponca tribe of Indians during the month of December in this city. One theory was and is that the Indians were brought here by the Secretary of the Interior for the purpose of procuring from them some such paper; that when they got here, either by intimidation or bribery the chiefs were induced to sign that paper. That is one theory. The other theory is that the Ponca tribe of Indians held consultations together in the Territory as long ago as October last, and concluded, after reviewing all the circumstances attending their surroundings there, that it would be better for them to remain in that Territory, and they instructed their chiefs to write to the Secretary of the Interior asking permission to come for the purpose of carrying that intention into effect.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) If the Senator will suspend, the Chair will lay before the Senate——

Mr. ALLISON. I hope my colleague will be allowed to proceed and conclude.

The PRESIDING OFFICER. The unfinished business had, perhaps, better be laid before the Senate, and then it can be informally laid aside. The hour of half past one having arrived, the Chair will lay before the Senate its unfinished business, which is Senate bill No. 1773. There being no objection, the bill will be temporarily laid aside to allow the Senator from Iowa to conclude his remarks.

Mr. KIRKWOOD. In accordance, then, with the written request of the Ponca tribe in October last the chiefs came here, and when here, according to the second theory that I have mentioned, without solicitation, without intimidation, without bribery, of their own free will, as the representatives of their tribe, they carried into effect the purpose for which they were sent here; they did the thing they were sent here to do.

Now, there is a wide difference between these two statements of how that thing was done. If one statement be the true one, then the Secretary of the Interior has done a very base and dishonorable thing. If the other statement be the true one, he has not so done. When he read what purported to be extracts from the report made by the commission recently sent there to inquire, I suppose, in regard to that particular matter, he understood the report to carry with it at least an inference that the theory which, if true, imparts to him dishonor and baseness was the true theory, and naturally he would feel, if he were innocent of it, that that should have some explanation, and he therefore requested that these commissioners should be called before the special committee and that matter inquired into. My own judgment was that they should come before the committee, not wholly in regard to that particular transaction, but for the purpose of learning from them, outside of anything they might have communicated in their formal report, all the information that could be had from them touching the very truth of the matter as to the condition of these Indians in the Territory, and therefore I notified the Senator from Massachusetts and the Senator from Alabama that there would be a meeting of the committee held for this purpose, and we met and had an examination. What the result of that examination was I shall not now take time to remark upon.

I have but this to say further, Mr. President, and then I shall relieve the Senate: I may not know how to conduct an investigation by a Senate committee. I have labored under the impression that the purpose of an investigation was to arrive at the exact truth in regard to the matter investigated, and not to give color or strength to any particular side of it; that the purpose of a committee was to do what a witness is sworn to do, to get the truth, the whole truth, and nothing but the truth. I think I have the right to claim for myself that during this investigation I have tried to be not an advocate but a judge; that I have tried to produce no particular result, but to prepare for the use of the Senate every possible information that could be had, so that when the time comes for them to judge they may judge dispassionately and fairly what is the right thing to do.

Mr. DAWES. Mr. President, I shall detain the Senate but a moment. The Senator from Iowa, in the conclusion of his remarks, referred to a matter that he deemed personal to himself, for which I am very much obliged to him, because it gives me the opportunity to say in public what I assured him in private the moment he showed me the article from which he read, that my regard and esteem for the Senator is profound and sincere, and that I neither entertained nor desired to convey the idea that I had ever known anything in his official life that I could take exception to. This I assured him in private, and I am glad he has given me an opportunity to repeat it in public.

What I meant to say in the paragraph which he has read, as I told him in private, was this: when I came into the committee-room, upon invitation of its chairman, I found a Cabinet officer, with a stenographer, cross-examining a commission appointed by the President who had made the report of their doings to the President himself, and which report had not been made public except as extracts of it had appeared in the papers. The manner in which that cross-examination was conducted was what I referred to; the fact that it was continued until the members of the committee were compelled to hurry up into the Chamber here to cast their votes, and before the examination of the witness had been concluded, and that afterward without any knowledge of the committee what had been thus far testified by the witness under these extraordinary circumstances was furnished by that officer in culled extracts to the Associated Press and sent abroad over the land without the knowledge or permission of the committee, and had been so presented as according to my recollection very much failed to fairly represent the testimony that had been given up to that time. That transaction I characterized—not anything that my distinguished chairman had done, but that transaction I characterized in these words:

> All I desire to add is that the whole proceeding was something entirely outside of all my previous experience of the conduct of congressional committee investigations or of tolerated treatment of witnesses.

I regret that it was said in any such way that the Senator should apply it to himself. I do not regret that I expressed this sentiment. I believe it to be true. I know that I never observed any such thing before, and that was all I stated. Whether it is the ordinary way of transacting investigations in other committees, of which I have no knowledge, other committees will testify.

I stand here and everywhere to say that in this long examination the Senator from Iowa has done, according to my opinion, just what he stated here he thought was his duty, and sought faithfully for the truth and for nothing else.

The Senator complains of the spirit in which I addressed the Senate yesterday, and says that my zeal has run away with my judgment. That may be. I do not assume to say that I am better able to master and control my emotions than any other Senator; but if I go down into history with no other charge laid to my door than that sometimes, when I had seen what I thought was an outrage committed on a fellow being, I struggled more than was thought wise by cooler temperaments to get an expression of opinion from officials under whose authority that outrage had been committed that would serve in history as a condemnation of it, I shall not trouble myself to answer any such accusation as that.

The Senator says that I conveyed the idea that I charged the Secretary with intentionally withholding papers and with accusing the committee of intentionally losing them, and at the same time inquiring for them. Why, Mr. President, the Secretary forgets and my distinguished colleague on the committee overlooks the fact that the committee on the Ponca investigation was one thing, this inquiry was another thing addressed to the Secretary by the Senate, not even originating with the committee. It was a resolution introduced into the Senate, it is true, by a Senator who happened to be upon that committee, and he stated honestly yesterday in his speech that it was suggested by documents which came into the possession of the committee, and those were the documents that my friend the Senator from Iowa has alluded to. It was in the course of the investigations of that committee that the documents now alluded to by the Senator from Iowa and published in the report of the committee by myself who made that report, suggested to a Senator in his seat here discharging his duty as a Senator, the offering of a resolution, and the Senate adopted it, calling upon the Secretary to sumbit to the Senate——

Mr. KIRKWOOD. Do not forget that was the 11th of March, and the testimony from which I have read was taken on the 20th.

Mr. DAWES. No, I do not forget it. The resolution was addressed to the Secretary of the Interior, requiring him to communicate to the Senate several things; one was all documents, all communications, all correspondence, all in his Department touching this matter. We had before us certain documents. We could not believe that they were all. We could not find among them, and you do not find to-day among them, the document by which the Secretary of the Interior requested the Army to fulfill the order emanating from his Indian agent to arrest and confine for his natural life this Indian. That communication is not here to-day. How the Army in the laudable and proper discharge of its duty was set in motion by the Interior Department to do this is lacking in these papers to-day. I wanted, and I offered the resolution calling for, all the papers. I wanted to see whether the Secretary of the Interior did respond without question to a request of his Indian agent to send soldiers there to commit this man to a dungeon for his natural life, and I have not got it yet. That was one thing.

Another thing that we called for which has not come was what action the Interior Department took over the result, which was the dead chief left dead and unburied where they shot him, until his relatives came in at night and carried his body off. That was another thing; and the third and most important thing was whether the Interior Department approved or condemned this work. That did not come.

Sir, I never thought for a moment, I do not think now, that the Interior Department intentionally withheld these papers; I have never said it did. I did say yesterday that such inadvertences in the press of business might well occur, and of themselves they ought not to be the subject of criticism; but after all this delay, instead of the usual course of a resolution here calling upon the Secretary for his reasons for failing to answer, there was a private note that called his attention to it. After all that, I did think that he might omit to intimate that it was the committee, and not he, at whose door, if there was fault, it should be laid. That is all about that.

Mr. KIRKWOOD. Will the Senator allow me to make a remark?

Mr. INGALLS. If the Senator from Massachusetts is through, will it be in order to call for the regular order?

The PRESIDING OFFICER. It certainly would be.

Mr. DAWES. I am not through.

Mr. INGALLS. I beg pardon.

Mr. KIRKWOOD. I wish to have appear what does not appear, as it has some bearing upon the action of this agent, a question to Esau the Indian and the answer to it on page 249:

> Q. Did you hear any one order the soldier to fire?
> A. No, sir; but as they were trying to put the handcuffs on Big Snake the agent told the soldiers not to fire. I heard that.

I think the remarks of the Senator yesterday would not lead any one to expect that that testimony had been given.

Mr. DAWES. I do not think they would have led the Senate to believe that it was testified to or not testified to. I was coming to the matter of the character of Big Snake first. It has been intimated that there was some ground for fear of him and that he was an ugly and bad Indian. The testimony in this book that the Senator and I have enjoyed the privilege of carrying about for a year is ample and full to the genuine and true and noble character of that Indian, and although he be an Indian he is entitled to defense. In this book is the testimony of the great chief of that tribe, White Eagle, who tells his story about this whole transaction; how he came in the morning and saw these soldiers and apprehended that there was trouble brewing somewhere; not mistrusting that any one more than another of his devoted tribe was to be visited with the vengeance that comes in the form of authority sometimes, but believing there was some trouble, he made an excuse that he had lost a pony and got leave of the agent to go off and hunt him up. He came back at night and was told by his children that in his absence his associate chief had been shot in the office of the Indian agent and lay there weltering in his blood. At that time he went to the Indian agent, and I beg to read what was the conversation between them.

Mr. COKE. I do not like to interfere with the Senator from Massachusetts, but——

The PRESIDING OFFICER. The Senator from Texas addresses the Senator from Massachusetts.

Mr. COKE. I ask the Senator from Massachusetts how much longer this discussion is likely to continue?

Mr. DAWES. Well, Mr. President, if that is an intimation on the part of the Senator from Texas that he does not think it worth while for me to occupy any more attention, I will say to him that while I do not intend to consume time unnecessarily, and regret very much that this matter is forced upon the Senate, I desire to call attention to the fact that I have not taxed the time of the Senate on the Indian question till yesterday. Perhaps other Senators may have consumed more time. I do not know how that is.

Mr. COKE. I do not know what the Senator says.

Mr. DAWES. This is what I wish to read to the Senate from White Eagle's testimony:

> Q. Did the agent tell you why the soldiers had come there to take off Big Snake? Did he tell you what Big Snake had done, that the soldiers were going to take him off?
> A. He told me that since Big Snake had come back he would not go to his house.
> Q. To whose house—the agent's house?
> A. Yes, sir; and he thought that Big Snake ought to go there and see him; he thought that Big Snake hated him.

Q. Was the agent afraid of Big Snake?
A. I told the agent that I was with Big Snake all the time. I said, "I never heard him say that he hated you." I told the agent that Big Snake did not go to see him because they had had a few words before Big Snake went to visit that other tribe and was arrested. I told him that Indians when they have a few words between each other do not talk to each other for a good while.
Q. Did the agent say that he was afraid that Big Snake was going to hurt him?
A. I said to the agent that if I knew that Big Snake hated [illegible] told him so.
Q. What did he say to that?
A. He told me that Big Snake did not come to see him, and and so he thought that Big Snake hated him, and that he wo some time.
Q. Did he tell you that the Government had authorized there to take off Big Snake?
A. He told me that he wrote to one of the head men, one o of the Ponca Indians hated him, and he was afraid of hin sent soldiers to inquire into the matter.
Q. Did he say that those soldiers had come there to inquir
A. I do not know whether they inquired or not. I told th asked me I would have told him how Big Snake felt. Big S go and see the agent, because he had arrested Big Snake an for nothing. Big Snake asked me to go and ask the agent he was ashamed to go and ask favors of the agent himself af him in jail.
Q. Was Big Snake a peaceable Indian or an ugly one?
A. Big Snake was a very good man, and the Indians all lil
Q. Did he try to persuade the Poncas against staying dow tory?
A. I do not know anything about that, whether he did or wanted to go back to the reservation himself.
Q. Did the soldiers bury the body of Big Snake after they
A. I do not know. I heard that they did not do anything
Q. What did the Ponca people—

Now, I ask the Senate to indulge me long enoug

Q. What did the Ponca people say about it when they hear killed?
A. After he was killed I asked the agent to give me som call the tribe together—to feast on; and he gave me somet together—all the young men—and I told them that it would in a very peaceful way. I told them that although we felt v was killed, yet if we do not do anything bad some good p wrong when they hear about it.
Q. Did the young men want to make trouble because Big S
A. I did not know; but I was afraid so, and so I said that
Q. Did the young men feel very bad because Big Snake w
A. Big Snake was a very good man, and the tribe all thoug and the tribe all cried.

Now, sir, a single word about the character of not from myself but from another. The Senator PLUMB] complained of me yesterday that I chara as a coward. I did not characterize him as a c words of another. He was characterized as a co took the words of the officials who are being de not my own, and I will now read them. Mr. In whom I alluded yesterday, was sent down into t to look up this man's accounts, as I stated yesterd there he made a thorough investigation of the kil because it was in the way of everything else, an he says:

Q. Did the killing of Big Snake have anything to do with agent?
A. No, sir; that was not a point in question.
Q. Were you instructed by the Department to inquire i attending the killing of Big Snake?
A. No, sir; that matter was not specifically mentioned.
Q. You say that you have no doubt the agent was afraid inquire among the Indians to ascertain whether he had any this fear?
A. I talked the matter over generally with both Indians a of the opinion that the killing of Big Snake, like the remov Dakota, was an unfortunate mistake.
Q. You think it grew out of the fact that the agent was afraid [illegible]
A. Yes, sir; after his return from Fort Reno, he had very little dealings with the agent; he imagined that he had been wronged by the agent, and he felt it very keenly. Indians, as a general rule, prefer death to confinement—what they call "going to the guard-house." And after Big Snake returned from his confinement, when he saw the agent, from time to time, he would point at him and remark, "Pe-azh."
Q. Is that a term of reproach?
A. Yes, sir; it means "mean" or "bad." That was about all that passed between the two after Big Snake's return from Fort Reno.

This Indian agent, in order to restore order among these Indians, after a writ of *habeas corpus* had delivered this chief's brother, had caused him to be incarcerated from the 18th day of May until the 4th day of August, which the Senator from Iowa, in front of me [Mr. ALLISON] thought meant an immediate release of all but three.

Mr. ALLISON. Does the Senator from Massachusetts——

Mr. DAWES. Now, do not interrupt me.

Mr. ALLISON. I do not want to interrupt the Senator, but——

Mr. DAWES. And the Senator said that the Interior Department ordered all those Indians released immediately with the exception of three. This was one of the three who was kept there from the 18th day of May until the 4th of August without cause, and he had the hardihood to say that the man who did it was mean, and that was all, and for that he lost his life.

Q. Did you investigate the question whether Big Snake had really threatened the life of the agent or not?
A. That is a disputed point; I did not trace any such threat as that to any reliable source.
Q. What effect did the killing of Big Snake have upon the Poncas themselves—upon their feelings toward the agency and the Government?
A. It had a very bad effect; about the same effect it would have upon you or me if some person was to kill a brother of ours. I think the killing of Big Snake by the soldiers was an unwarrantable act; an act indicative of great cowardice on the part of all parties immediately connected with it. At the time of the killing there were ten or twelve soldiers present in the office; Big Snake was alone and unarmed. I cannot see the necessity of killing an unarmed man, confined in a room, and surrounded by eighteen or twenty men, a dozen or more of whom were armed soldiers. It looked to me, to put it in plain English, like a cowardly, willful murder.

I did not intend to characterize that transaction beyond what the

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PRINTING OF EDUCATIONAL BILL.

Mr. BURNSIDE submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That 1,000 copies of Senate bill No. 133, it being the so-called educational bill, be printed.

GENERAL U. S. GRANT.

Mr. LOGAN. I intended this morning, if I could do so without interfering with the business of the Senate, to call up Senate bill No. 1992; but the hour having passed, I desire to say a word to Senators on the opposite side of the Chamber who remarked the other day that they had not had time to consider this bill. If the Senate will agree that we may take it up on Thursday or on Friday, at any hour that may be suggested, I shall be very glad, and then let it be disposed of in some way. I do not wish to interfere with the appropriation bills; but it seems to me we might take up this bill and dispose of it in an hour at any time. If the Senate will consent to make it the special order of the day for Thursday or for Friday, I shall be glad to have it done. I move that it be made the special order of the day for Thursday at two o'clock.

Mr. INGALLS. What is the bill about?

Mr. LOGAN. In regard to placing General Grant on the retired list.

The PRESIDING OFFICER. The Senator from Illinois moves that the bill (S. No. 1992) to place Ulysses S. Grant, late General and ex-President of the United States, upon the retired list of the Army be made the special order for Thursday at two o'clock. Is there objection?

Mr. HARRIS and others. There is.

Mr. EATON. I object; and for this reason: there are several matters of very great public importance that have already been brought before the Senate. I think that this bill which was introduced by my friend from Illinois can wait a week without endangering either the bill or the public, and therefore it strikes me it ought not to be made a special order.

sician in my town, of long experience and long practice, in regard to the matter. He said he had been examiner for a good many years there, and that the compensation was wholly inadequate for the duty required and the records he was required to make and transmit. The compensation allowed, $1, was so inconsiderable that he thought it was not worth while to continue in the service. He held the place ccommodation to the pensioners, and not for any profit at it gave him a great deal of trouble for which he was pensated. I do not know whether that is the general examining surgeons or not. Perhaps the Senator can planation showing whether the committee considers it

. This proviso was attached to the pension appropria- st year, and we had information from the bureau that ons were just as satisfactory at $1 as they had been at doubt that there are instances where the compensa- all, but on the whole we thought it was better to limit average service was just as good. The Commissioner so informed us that unless this limitation be put upon l be compelled to ask for an increase of the present ap- om $250,000 to $375,000. It was upon that information so was inserted.

DING OFFICER. The amendment has been agreed to. iendment reported from the Committee on Appropria- isert as an additional section the following:

isions payable, or to be paid under this act, to pensioners who are ational Home for Disabled Volunteer Soldiers shall be paid to the surers of said home, to be disbursed for the benefit of the pension- tions to be established by the managers of the home; said pay- by the pension agent upon a certificate of the proper officer of the nsioner is an inmate thereof and is still living. Any balance of h may remain at the date of the pensioner's discharge shall be ; and in case of his death at the home, the same shall be paid to ner children under sixteen years of age, if any there be: *Provided*, rein contained shall be construed to prevent an absolute assign- ion by a pensioner having neither wife, child, nor parent depend- now provided by law.

nent was agreed to.

DING OFFICER. The amendment offered by the Sen- ans [Mr. INGALLS] will now be reported.

LS. The Senator from California states that the com- to offer one other amendment before mine is acted on.

. I do not know that I can characterize it as a com- nent, although most of the members of the committee agreed to it, but without any formal meeting. I will desk that it may be read.

DING OFFICER. The amendment proposed by the California will be reported.

'ARY. It is proposed to add after line 33, at the end of

wing sums be, and the same are hereby, appropriated out of any easury not otherwise appropriated, to supply deficiencies in the for the payment of invalid and other pensions for the fiscal year 1881, namely:

for Army invalids, widows, minors, and dependent relatives, in- survivors of the war of 1812 and widows of the war of 1812, $17,- *ded*, That the amount expended for each of the above items shall separately.

sions of invalids, widows, minors, and dependent relatives, $560,- . That the appropriations aforesaid for Navy pensions shall be ome of the Navy pension fund so far as the same may be sufficient *And provided further*, That the amount expended for each of the l be accounted for separately.

xamining surgeons as provided by the several acts of Congress,

proceeded to consider the bill (H. R. No. 6552) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882.

The bill was read.

The first amendment reported by the Committee on Appropriations was, after the word "dollar," in line 28, to insert:

*Provided*, That a fee of $1, and no more, shall be paid to the examining surgeon for each examination of a pensioner as provided by law, except when the examination is made by a board of surgeons, in which case the fees now allowed by law shall be paid.

Mr. INGALLS. I move to strike out in lines 24, 25, and 26 of the bill the following words:

And accrued pension due the Indian pensioners shall, in the discretion of the Commissioner of Pensions, be paid in installments.

The PRESIDING OFFICER. It has been usual to act upon the amendments proposed by the committee presenting the bill first.

Mr. INGALLS. That does not prevent my making the motion to amend, however.

The PRESIDING OFFICER. Not at all.

Mr. INGALLS. I do not ask action on the amendment until after the committee's amendments have been disposed of.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Appropriations, commencing on page 2, line 29.

The amendment was agreed to.

Mr. SAULSBURY. Before that amendment is finally adopted, I should like to inquire of the Senator having charge of the bill if he has any information that that compensation, $1, is considered a proper compensation for the examination. I have heard myself from a phy-

Mr. BOOTH. I send to the desk two communications to be read, showing the necessity for the appropriations. Let the printed communication, which is Executive Document No. 13, be first read.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,
*Washington, December 20, 1880.*

SIR: I have the honor to transmit herewith copy of letter of the Commissioner of Pensions, setting forth the necessity for additional appropriation, for the current fiscal year, for the Army and Navy pension fund, which I commend to your early and favorable consideration.

Very respectfully, your obedient servant,

C. SCHURZ,
*Secretary of the Interior.*

Hon. W. A. WHEELER,
*President of the Senate.*

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DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Washington, D. C., December 20, 1880.*

SIR: I have the honor to invite your attention to the condition of the appropriations for Army and Navy pensions, and for fees of examining surgeons, for the current year.

The act of January 13, 1880, appropriated for these purposes as follows:

| | |
|---|---|
| Army invalids, widows, minors, and dependent relatives, survivors and widows of the war of 1812 | $31,475,000 |
| Navy invalids, widows, minors, and dependent relatives | 575,000 |
| Fees of examining surgeons | 101,000 |

To December 1, there had been drawn from the Army appropriation, $25,667,331.69; from the Navy appropriation, $570,274.99; from fees of examining surgeons, $81,268.

It will require not less than $5,000,000 additional to pay the Army pensions to March 1, and $125,000 to pay the Navy pensions to the same date, leaving the March and June quarterly payments and the first payments upon new cases which will be settled during the last four months of the year to be provided for.

The quarterly payments of Army pensions will require $6,500,000 each, or $13,000,000 for both, and probably not less than $5,500,000 for the first payments to new pensions.

Q. Was the agent afraid of Big Snake?

A. I told the agent that I was with Big Snake all the time. I said, "I never heard him say that he hated you." I told the agent that Big Snake did not go to see him because they had had a few words before Big Snake went to visit that other tribe and was arrested. I told him that Indians when they have a few words between each other do not talk to each other for a good while.

Q. Did the agent say that he was afraid that Big Snake was going to hurt him?

A. I said to the agent that if I knew that Big Snake hated him, I would have told him so.

Q. What did he say to that?

A. He told me that Big Snake did not come to see him, and did not talk to him, and so he thought that Big Snake hated him, and that he would get killed by him some time.

Q. Did he tell you that the Government had authorized him to send soldiers there to take off Big Snake?

A. He told me that he wrote to one of the head men, one of the officers, that one of the Ponca Indians hated him, and he was afraid of him; and that the officer sent soldiers to inquire into the matter.

Q. Did he say that those soldiers had come there to inquire into the matter?

A. I do not know whether they inquired or not. I told the agent that if he had asked me I would have told him how Big Snake felt. Big Snake was ashamed to go and see the agent, because he had arrested Big Snake and put him in jail just for nothing. Big Snake asked me to go and ask the agent to give him a wagon; he was ashamed to go and ask favors of the agent himself after the agent had put him in jail.

Q. Was Big Snake a peaceable Indian or an ugly one?

A. Big Snake was a very good man, and the Indians all liked him.

Q. Did he try to persuade the Poncas against staying down in the Indian Territory?

A. I do not know anything about that, whether he did or not. I know that he wanted to go back to the reservation himself.

Q. Did the soldiers bury the body of Big Snake after they killed him?

A. I do not know. I heard that they did not do anything with the body.

Q. What did the Ponca people—

Now, I ask the Senate to indulge me long enough to read this—

Q. What did the Ponca people say about it when they heard that Big Snake was killed?

A. After he was killed I asked the agent to give me something—I wanted to call the tribe together—to feast on; and he gave me something. I got them all together—all the young men—and I told them that it would be best for us to live in a very peaceful way. I told them that although we felt very bad that Big Snake was killed, yet if we do not do anything bad some good people will right that wrong when they hear about it.

Q. Did the young men want to make trouble because Big Snake was killed?

A. I did not know; but I was afraid so, and so I said that to them.

Q. Did the young men feel very bad because Big Snake was killed?

A. Big Snake was a very good man, and the tribe all thought a great deal of him, and the tribe all cried.

Now, sir, a single word about the character of this transaction, not from myself but from another. The Senator from Kansas [Mr. PLUMB] complained of me yesterday that I characterized this agent as a coward. I did not characterize him as a coward; I used the words of another. He was characterized as a coward, not by me; I took the words of the officials who are being defended to-day and not my own, and I will now read them. Mr. Inspector Pollock, to whom I alluded yesterday, was sent down into the Indian Territory to look up this man's accounts, as I stated yesterday. When he went there he made a thorough investigation of the killing of Big Snake, because it was in the way of everything else, and I will read what he says:

Q. Did the killing of Big Snake have anything to do with your suspension of the agent?

A. No, sir; that was not a point in question.

Q. Were you instructed by the Department to inquire into the circumstances attending the killing of Big Snake?

A. No, sir; that matter was not specifically mentioned.

Q. You say that you have no doubt the agent was afraid of Big Snake; did you inquire among the Indians to ascertain whether he had any reasonable grounds for this fear?

A. I talked the matter over generally with both Indians and white people. I am of the opinion that the killing of Big Snake, like the removal of the Poncas from Dakota, was an unfortunate mistake.

Q. You think it grew out of the fact that the agent was afraid of Big Snake?

A. Yes, sir; after his return from Fort Reno, he had very little dealings with the agent; he imagined that he had been wronged by the agent, and he felt it very keenly. Indians, as a general rule, prefer death to confinement—what they call "going to the guard-house." And after Big Snake returned from his confinement, when he saw the agent, from time to time, he would point at him and remark, "Pe-azh."

Q. Is that a term of reproach?

A. Yes, sir; it means "mean" or "bad." That was about all that passed between the two after Big Snake's return from Fort Reno.

This Indian agent, in order to restore order among these Indians, after a writ of *habeas corpus* had delivered this chief's brother, had caused him to be incarcerated from the 18th day of May until the 4th day of August, which the Senator from Iowa, in front of me [Mr. ALLISON] thought meant an immediate release of all but three.

Mr. ALLISON. Does the Senator from Massachusetts——

Mr. DAWES. Now, do not interrupt me.

Mr. ALLISON. I do not want to interrupt the Senator, but——

Mr. DAWES. And the Senator said that the Interior Department ordered all those Indians released immediately with the exception of three. This was one of the three who was kept there from the 18th day of May until the 4th of August without cause, and he had the hardihood to say that the man who did it was mean, and that was all, and for that he lost his life.

Q. Did you investigate the question whether Big Snake had really threatened the life of the agent or not?

A. That is a disputed point; I did not trace any such threat as that to any reliable source.

Q. What effect did the killing of Big Snake have upon the Poncas themselves—upon their feelings toward the agency and the Government?

A. It had a very bad effect; about the same effect it would have upon you or me if some person was to kill a brother of ours. I think the killing of Big Snake by the soldiers was an unwarrantable act; an act indicative of great cowardice on the part of all parties immediately connected with it. At the time of the killing there were ten or twelve soldiers present in the office; Big Snake was alone and unarmed. I cannot see the necessity of killing an unarmed man, confined in a room, and surrounded by eighteen or twenty men, a dozen or more of whom were armed soldiers. It looked to me, to put it in plain English, like a cowardly, willful murder.

I did not intend to characterize that transaction beyond what the record in possession of the Senate justified me in doing.

Now, sir, one word upon the evidence just repeated by the Senator from Iowa, [Mr. KIRKWOOD,] that Esau heard some one tell a soldier not to fire. The agent testified in another place that he told the soldier not to fire unless he thought there was danger, and he testified also that the soldier stood there with his gun aimed at the head of this man ready to fire when, according to his judgment, there might be reason for it.

Sir, this whole discussion has arisen from an utter mistake on the part of the Interior Department of the purpose of the resolution itself and of the criticism of the officer. It was not an attempt to involve the Interior Department in this transaction. It was an honest effort from the beginning to give the Interior Department an opportunity, which it was honestly believed it desired, to put upon the records of this country its disapproval of that act. The act was justifiable, excusable, or deserving condemnation. If justifiable, the men participating in it were entitled to thus much in answer to this resolution; if excusable, they were entitled to that excuse upon the records here from their superior; and if it was neither justifiable nor excusable, the Interior Department should not have been slow to wash its hands of it; and that it did not was the amazement and the complaint of those who called upon its head for this information solely to give him the opportunity to do so. I regret it sincerely as one attached to this Administration politically and personally; I regret as much as any Senator here can that there should ever be an occasion to animadvert on any of its acts or its omissions. I have not been swift to do it. I have held back in my seat, indirectly endeavoring to get upon the records of the Senate something that I could hold up against this dark background, something that I could hold up against all this record of the Poncas, none of which have I presented to the Senate until yesterday. That I have not succeeded is not my fault.

### LAND IN SEVERALTY TO INDIANS.

Mr. BOOTH. I ask the Senate to lay aside the pending order temporarily in order to proceed to the consideration of House bill No. 6532, being the pension appropriation bill.

The PRESIDING OFFICER. The Senator from California asks that the regular order, being the Indian severalty bill, be temporarily laid aside in order that he may call up an appropriation bill. Is there objection?

Mr. COKE. I yield for that.

The PRESIDING OFFICER. The Chair hears no objection to the request of the Senator from California, and the pending order is laid aside temporarily and informally.

Mr. CALL submitted an amendment intended to be proposed by him to the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes; which was ordered to be printed.

### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had yesterday approved and signed the act (S. No. 1396) authorizing the persons therein named to accept of certain decorations and presents therein named, from foreign governments, and for other purposes.

### PRINTING OF EDUCATIONAL BILL.

Mr. BURNSIDE submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That 1,000 copies of Senate bill No. 133, it being the so-called educational bill, be printed.

### GENERAL U. S. GRANT.

Mr. LOGAN. I intended this morning, if I could do so without interfering with the business of the Senate, to call up Senate bill No. 1992; but the hour having passed, I desire to say a word to Senators on the opposite side of the Chamber who remarked the other day that they had not had time to consider this bill. If the Senate will agree that we may take it up on Thursday or on Friday, at any hour that may be suggested, I shall be very glad, and then let it be disposed of in some way. I do not wish to interfere with the appropriation bills; but it seems to me we might take up this bill and dispose of it in an hour at any time. If the Senate will consent to make it the special order of the day for Thursday or for Friday, I shall be glad to have it done. I move that it be made the special order of the day for Thursday at two o'clock.

Mr. INGALLS. What is the bill about?

Mr. LOGAN. In regard to placing General Grant on the retired list.

The PRESIDING OFFICER. The Senator from Illinois moves that the bill (S. No. 1992) to place Ulysses S. Grant, late General and ex-President of the United States, upon the retired list of the Army be made the special order for Thursday at two o'clock. Is there objection?

Mr. HARRIS and others. There is.

Mr. EATON. I object; and for this reason: there are several matters of very great public importance that have already been brought before the Senate. I think that this bill which was introduced by my friend from Illinois can wait a week without endangering either the bill or the public, and therefore it strikes me it ought not to be made a special order.

Mr. LOGAN. I have no doubt about its being proper for it to wait if the Senate desire that. I certainly shall defer to the will of the Senate. I always do. There are important bills, I know, and this is one of small importance; but it does seem to me that some consideration ought to be given to it by the Senate of the United States. When the Senate can listen to an hour's talk—I will not say an argument—for the purpose of convicting somebody of something that has transpired that few persons know anything about, and a thing outside of the jurisdiction of the Senate, when there is no ability in the Senate to raise the dead or to discover the dead or to do anything for the dead, especially for the dead Indians, and when the Senate can take up time in discussing a matter that is not before the Senate at all except merely to give an opportunity to talk about it, it does seem to me the Senate might give a few minutes' consideration to a bill of this importance. That was the reason I made the suggestion. I desired to accommodate myself to the views of the Senate; but if the Senate is determined that this bill is not to be considered at all, I give notice now that I will call it up to-morrow morning and ask for a vote.

The PRESIDING OFFICER. Does the Senator withdraw his motion to make it the special order for Thursday?

Mr. LOGAN. No, sir; I do not. I ask that the vote be taken on that motion.

Mr. INGALLS. The Senator from Illinois knows that I am a friend of this measure, and would be glad to do all that I could to advance it; but he is aware undoubtedly that the motion cannot be entertained unless the pending order is disposed of in some way. The Chair, as I understand, cannot entertain a motion to proceed to the consideration of a bill while another one is pending. The pending order must be either postponed or laid on the table.

Mr. LOGAN. I do not ask to proceed to the consideration of the bill now.

Mr. INGALLS. But the Senator asks that some order be made about the disposition of the bill that he has called up.

Mr. LOGAN. I ask that it be made the special order for the day fixed at two o'clock.

Mr. INGALLS. That motion cannot be made while this other bill is pending. This bill must be laid aside before the motion can be made.

Mr. DAVIS, of West Virginia. I call for the regular order. This discussion is a loss of time.

The PRESIDING OFFICER. If a question of order is raised upon it, the Chair will be compelled to hold that the motion of the Senator from Illinois is not in order.

Mr. LOGAN. I am very much obliged to the Senator from Kansas.

## PENSION APPROPRIATION BILL.

Mr. BOOTH. I believe the pension appropriation bill is before the Senate.

The PRESIDING OFFICER. The Indian severalty bill having been temporarily laid aside for the purpose of taking up the appropriation bill, the Senator from California has the floor.

Mr. BOOTH. I move to proceed to the consideration of House bill No. 6532.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882.

The bill was read.

The first amendment reported by the Committee on Appropriations was, after the word "dollar," in line 28, to insert:

*Provided*, That a fee of $1, and no more, shall be paid to the examining surgeon for each examination of a pensioner as provided by law, except when the examination is made by a board of surgeons, in which case the fees now allowed by law shall be paid.

Mr. INGALLS. I move to strike out in lines 24, 25, and 26 of the bill the following words:

And accrued pension due the Indian pensioners shall, in the discretion of the Commissioner of Pensions, be paid in installments.

The PRESIDING OFFICER. It has been usual to act upon the amendments proposed by the committee presenting the bill first.

Mr. INGALLS. That does not prevent my making the motion to amend, however.

The PRESIDING OFFICER. Not at all.

Mr. INGALLS. I do not ask action on the amendment until after the committee's amendments have been disposed of.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Appropriations, commencing on page 2, line 29.

The amendment was agreed to.

Mr. SAULSBURY. Before that amendment is finally adopted, I should like to inquire of the Senator having charge of the bill if he has any information that that compensation, $1, is considered a proper compensation for the examination. I have heard myself from a physician in my town, of long experience and long practice, in regard to the matter. He said he had been examiner for a good many years there, and that the compensation was wholly inadequate for the duty required and the records he was required to make and transmit. The compensation allowed, $1, was so inconsiderable that he thought it was not worth while to continue in the service. He held the place simply as an accommodation to the pensioners, and not for any profit to himself; that it gave him a great deal of trouble for which he was not at all compensated. I do not know whether that is the general experience of examining surgeons or not. Perhaps the Senator can give some explanation showing whether the committee considers it proper.

Mr. BOOTH. This proviso was attached to the pension appropriation bill of last year, and we had information from the bureau that the examinations were just as satisfactory at $1 as they had been at $2. I have no doubt that there are instances where the compensation is very small, but on the whole we thought it was better to limit it to $1, as the average service was just as good. The Commissioner of Pensions also informed us that unless this limitation be put upon this fee he will be compelled to ask for an increase of the present appropriation from $250,000 to $375,000. It was upon that information that the proviso was inserted.

The PRESIDING OFFICER. The amendment has been agreed to.

The next amendment reported from the Committee on Appropriations was to insert as an additional section the following:

SEC. 2. All pensions payable, or to be paid under this act, to pensioners who are inmates of the National Home for Disabled Volunteer Soldiers shall be paid to the treasurer or treasurers of said home, to be disbursed for the benefit of the pensioners under regulations to be established by the managers of the home; said payment to be made by the pension agent upon a certificate of the proper officer of the home that the pensioner is an inmate thereof and is still living. Any balance of the pension which may remain at the date of the pensioner's discharge shall be paid over to him; and in case of his death at the home, the same shall be paid to the widow or minor children under sixteen years of age, if any there be: *Provided*, That nothing herein contained shall be construed to prevent an absolute assignment of his pension by a pensioner having neither wife, child, nor parent dependent upon him, as now provided by law.

The amendment was agreed to.

The PRESIDING OFFICER. The amendment offered by the Senator from Kansas [Mr. INGALLS] will now be reported.

Mr. INGALLS. The Senator from California states that the committee desire to offer one other amendment before mine is acted on.

Mr. BOOTH. I do not know that I can characterize it as a committee amendment, although most of the members of the committee this morning agreed to it, but without any formal meeting. I will send it to the desk that it may be read.

The PRESIDING OFFICER. The amendment proposed by the Senator from California will be reported.

The SECRETARY. It is proposed to add after line 33, at the end of section 1:

That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the appropriations for the payment of invalid and other pensions for the fiscal year ending June 30, 1881, namely:

For pensions for Army invalids, widows, minors, and dependent relatives, including arrears, survivors of the war of 1812 and widows of the war of 1812, $17,692,031.69: *Provided*, That the amount expended for each of the above items shall be accounted for separately.

For Navy pensions of invalids, widows, minors, and dependent relatives, $560,274.99: *Provided*, That the appropriations aforesaid for Navy pensions shall be paid from the income of the Navy pension fund so far as the same may be sufficient for that purpose: *And provided further*, That the amount expended for each of the above items shall be accounted for separately.

For fees of examining surgeons as provided by the several acts of Congress, $30,000.

Mr. BOOTH. I send to the desk two communications to be read, showing the necessity for the appropriations. Let the printed communication, which is Executive Document No. 13, be first read.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,
*Washington, December 20, 1880.*

SIR: I have the honor to transmit herewith copy of letter of the Commissioner of Pensions, setting forth the necessity for additional appropriation, for the current fiscal year, for the Army and Navy pension fund, which I commend to your early and favorable consideration.

Very respectfully, your obedient servant,

C. SCHURZ,
*Secretary of the Interior.*

Hon. W. A. WHEELER,
*President of the Senate.*

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DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Washington, D. C., December 20, 1880.*

SIR: I have the honor to invite your attention to the condition of the appropriations for Army and Navy pensions, and for fees of examining surgeons, for the current year.

The act of January 13, 1880, appropriated for these purposes as follows:

| | |
|---|---|
| Army invalids, widows, minors, and dependent relatives, survivors and widows of the war of 1812 | $31,475,000 |
| Navy invalids, widows, minors, and dependent relatives | 575,000 |
| Fees of examining surgeons | 101,000 |

To December 1, there had been drawn from the Army appropriation, $25,667,331.69; from the Navy appropriation, $570,274.99; from fees of examining surgeons, $81,268.

It will require not less than $5,000,000 additional to pay the Army pensions to March 1, and $125,000 to pay the Navy pensions to the same date, leaving the March and June quarterly payments and the first payments upon new cases which will be settled during the last four months of the year to be provided for.

The quarterly payments of Army pensions will require $6,500,000 each, or $13,000,000 for both, and probably not less than $5,500,000 for the first payments to new pensions.

The Navy quarterly payments will require $160,000 each, or $320,000 for both quarters, and for first payments on new Navy pensions, probably $120,000 additional. There will be required besides for the payment of Navy pensions to cover those unpaid for the December quarter, and the first payments upon new cases to March 1, as nearly as can be estimated, $125,000. Making for the current year—

| | |
|---|---|
| Army pensions | $49,167,031 69 |
| Navy pensions | 1,135,274 99 |

It will be seen, then, that additional appropriations for the pensions for the current year will be required as follows:

| | |
|---|---|
| Army invalids, &c | $17,692,031 69 |
| Navy invalids, &c | 560,274 99 |

A further appropriation of $30,000 for the fees of examining surgeons will also be required.

The Navy appropriation is already exhausted, and the additional appropriation for the Navy pensions should be made without delay.

Very respectfully,

J. A. BENTLEY,
*Commissioner of Pensions.*

Hon. C. SCHURZ,
*Secretary of the Interior.*

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DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Washington, February 1, 1881.*

SIR: The quarterly pensions due March 4th next cannot be paid until the additional appropriation for pensions for the current year shall have been made.

Upon inquiry I find that if that appropriation is placed upon the general deficiency bill the funds will not be available in time to enable the agents to make the payments promptly.

I beg leave, therefore, to suggest the propriety of adding a clause to the pension bill now pending in the Senate providing for the necessary appropriation.

Very respectfully,

J. A. BENTLEY,
*Commissioner of Pensions.*

Hon. NEWTON BOOTH,
*United States Senate.*

Mr. BOOTH. I suppose those communications sufficiently disclose the character of this amendment and the necessity for it. It is really a deficiency. Unless this appropriation is made in time, the March payments to pensioners cannot be made, as it is probable that the deficiency bill will not pass both Houses of Congress and become a law in time to make the distribution to the pension agents before the 4th of March. Most of the members of the Appropriation Committee, all I believe that I have had an opportunity to consult, thought it was wise to put this deficiency really upon this bill in order that it may be made available in time.

Mr. DAVIS, of West Virginia. As the Senator from California has said, the Committee on Appropriations has not acted upon this amendment appropriating $18,000,000 and upward. It is a deficiency for the present year. In other words, the appropriation for the current year has been about exhausted, and there are a little over eighteen million dollars additional wanted. This amendment is to cover that. It is a large sum, but we must remember that we passed the arrears-of-pensions act a short time ago, and that takes a great deal of money, more than any one probably had ever estimated for. I had intended to make and probably shall make some remarks on the arrears-of-pensions act when an amendment looking to some more effective way of stopping frauds shall be presented to the Senate by the chairman of the Committee on Pensions shall be offered as an amendment to this bill.

It appears to me to be necessary to appropriate this $18,000,000 and upward to pay the pension-roll as it now exists, and it calls the attention of the country and the Senate to the fact that, although the full estimate was voted for the current year, we have a deficiency here of over eighteen million dollars. I agree with the Senator who offered the amendment, though the committee did not act upon it, that it is necessary that early action should take place, and that the money should be appropriated now, so as to pay the pensioners regularly. If this amendment is not adopted, I understand from the Commissioner of Pensions he will not be able to pay the regular pensioners even on the 1st day of March, if that is the day. My colleague on the committee [Mr. BECK] says it is the 4th day of March, but I understand that for a part of them it is the 1st day of February. I think I am right in my statement, though my colleagues from Kentucky and Virginia differ with me a little. I think that so far as the Navy pensions are concerned to-day, they are in arrears, and the Pension Office have not the money to pay them; but so far as the regular-roll is concerned, my colleague on my left [Mr. BECK] is right in saying that the payment comes on the 1st or the 4th of March. I think that the amendment ought to be added to the bill.

Mr. BECK. I only desire to add that the Secretary of the Treasury appeared before the Finance Committee, in a discussion before that committee which I believe was public, and stated to that committee that unless this money was paid now the men who were justly entitled to it would be done gross injustice. Therefore I, for one, agreed to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California, [Mr. BOOTH.]

The amendment was agreed to.

Mr. INGALLS. I now ask for action on my amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from Kansas will be reported.

The SECRETARY. After the word "separately," in line 24 of section 1, it is proposed to strike out down to and including the word "installments," in line 26, as follows:

And accrued pension due the Indian pensioners shall, in the discretion of the Commissioner of Pensions, be paid in installments.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. DAVIS, of West Virginia. Although the Senator from California has charge of the bill, I should be glad to hear from the Senator who moves the amendment the reason why he wishes this clause stricken out.

Mr. INGALLS. I should be very glad to have some person say why it should be retained in the bill. Here is a certain number of Indian pensioners who served in the Union Army and were wounded or disabled and have earned pensions, to which they are just as much entitled as any white soldier or any negro soldier, and without any statement as to the amount, or any statement as to the reason, this bill contains a provision invidious and unnecessary that "accrued pensions due Indian pensioners shall, in the discretion of the Commissioner of Pensions, be paid in installments." That is to say, he is authorized to withhold from men who were in the Union Army as Indian soldiers the amount of pensions they have earned, to which the law says they are entitled. It makes him the guardian of these men, and permits him to dole out in driblets from time to time such amount of money as he may think they are entitled to receive. Until there be some reason given and some statistics furnished showing the amount that these men have earned and the argument on which this provision is based, I shall certainly hope that there is justice enough in the Senate to say that if an Indian was good enough to be in the Army and brave enough to earn a pension, he is honest and intelligent enough to receive it.

Mr. BOOTH. This provision was in the bill as it came from the House and is the result, I suppose, of a suggestion from the Commissioner of Pensions. I will read an extract from his report on page 11. Referring to this class of pensioners, the Commissioner says:

The great distance of these pensioners from the nearest agency for the payment of pensions renders it impracticable to require them to appear personally at the agency and receive their pensions as provided in section 4765, Revised Statutes, referred to. It is, moreover, questionable whether such considerable sums of money as are now due them ought to be placed all at once in the pensioners' hands. I am clearly of the opinion that it should not be done, and that not more than $200 of the accrued pension should be paid to any Indian pensioner at one time. I respectfully recommend, therefore, that a law be enacted authorizing the Department to pay the accrued pensions to Indian pensioners in installments.

If the accrued pensions shall be paid in moderate installments it is probable that the pensioners will be able to obtain the money for their pension-checks of the merchants in the Territory at reasonable rates of exchange and not be subjected to exorbitant and ruinous rates as they otherwise would be.

Mr. INGALLS. If that is all the foundation on which this provision is retained in the bill, I must say it is very flimsy and unsubstantial. There was a brigade of soldiers recruited from what are known as the civilized Indians in the Indian Territory, who served gallantly and efficiently during the civil war in behalf of the Union. They were officered by men of their own nationality, and were under the command of Brigadier-General William A. Phillips, of Kansas. At the close of the war they were mustered out. They received their pay and bounty like other soldiers; and those who were disabled either by disease or wounds, applied to the Pension Bureau in due form, stating the fact of their service and the fact of their disability, and in due process of law their claims were adjudicated and they were held to be entitled to so much money as pensioners. Now, without any reason whatever except the fact that they reside at some distance from the agency, the Commissioner of Pensions recommends that he shall have the right to withhold the money from these men and deal it out to them in installments as he sees fit. I hope the Senate will not be imposed upon by such a presentation as that.

Mr. BECK. As one member of the committee I agreed to retaining the clause, because while the Indians are entitled to their pensions, many of them are known to be ignorant and improvident. The same reason that would induce us to give the men who have charge of the soldiers' homes some jurisdiction over the expenditure of the money of white soldiers there, applies more emphatically to the expenditure of pensions due to Indians. If the Indian gets the money all at once, the chances are that in some improvident way he will spend it all, or some man a good deal smarter than he is will get it away from him. Then he will be left a pensioner on the country, poor and destitute, without means and without anybody to see that he is cared for, and appeals will be made to us from time to time that this man is suffering in distress, all of which will be true; that he fought in the Army and ought to be cared for; that he ought not to be allowed to suffer; and perhaps we shall have to see that he does not; whereas if this money is put in the care of some officer of the Government (and we have to trust Government officials) to see that the Indian is cared for, there will be enough of it perhaps to make him comfortable as long as he lives.

That seemed to be the prevailing idea both of the House and of the committee; and why should it not be so? Is it contended that because a man was a soldier and fought well and was wounded in the service, therefore necessarily he is an intelligent and competent man to manage his own affairs? Why do we now provide for the Indians, that they shall be protected and their lands shall not be subject to taxation or alienation for twenty-five years? Because they are not fit to be placed in sharp competition with the men surrounding them; because we seek to protect them from the influences which tend to make men vicious who are comparatively ignorant? We admit the right of the Indians to this money, but at the same time it should be given to them in such form as will do them the most good and guard them most carefully against imposition from men who are vicious or

smarter than themselves. That is the whole of the proposition. We know that if a large sum of money should be paid to these Indians at once, the chances are that it would not do them any good. It is like giving a blanket to an Indian on the Fourth of July—he would swap it for a quart of whisky; but give it to him when the thermometer is below zero and you cannot buy it from him at all. We have to take care of the Indian. He is a ward of the nation, and we want to give the money to him to the best advantage, and we do not want to give it to him so that men can take advantage of his ignorance and leave him an object of charity on our hands as a destitute soldier, when he might be well cared for if there was somebody to watch over him.

Mr. INGALLS. The Senator from Kentucky states as the reason why he desires to apply this rule to the Indians, that they are ignorant and improvident, and liable to be imposed upon. Why not apply the same rule to the colored soldiers in this country who are in the same condition?

Mr. BECK. They were never in the same condition; they have had many advantages that the poor Indian has never had.

Mr. INGALLS. If the pension that a soldier has earned by reason of disability through disease or wound, he is to be deprived of because he is ignorant, and we are to establish a general system of care and guardianship over the soldiers of this country, it is something that ought to be applied uniformly to all classes alike. If we are to begin to say that when a soldier has earned a pension he shall not be paid the pension unless he has shown that he possesses high qualifications of intelligence and capacity to manage his own affairs, we have introduced a new principle into the administration of this Government.

The fact is that these Indians do not belong to the class that the Senator from Kentucky has described. This brigade was exclusively recruited from the civilized nations of the Indian Territory. The companies were officered by Indians. They fought gallantly and with distinction throughout the war on the Union side. They were under the command of eminent Union generals; and we have not been shown by any testimony whatever that they are incapable of managing their own affairs, or that there is any such sum of money, even if they were incapable of managing their own affairs, that it is necessary to divide it to them in installments for the purpose of dribbling it out at the discretion of the Commissioner of Pensions in such sums as he in his judgment may think they are qualified to take care of.

The Commissioner of Pensions cannot know anything whatever about the condition of these Indians unless he makes specific personal inquiry, and it is an invidious, unjust, and, in my judgment, unconstitutional provision to insert in this bill. If these men were good enough to be received as soldiers in the Army, and brave enough to incur disability in the service of the country, we ought to be just enough to pay them the pensions we owe them, and not allow some subordinate inferior officer here to withhold what we have admitted to be their due, and to say, without any evidence before us, how much they shall be entitled to receive from day to day, or from month to month, or from year to year, of what is just as much their money as the Senator's salary is his money.

Mr. LOGAN. Mr. President, I do not care to take any part in this discussion, but I must say that the proposition in the bill is a very remarkable one. I can very readily see how it got in there, for I think if there has been any attempt made in this country in ages past by any officer of the Government to take everything into his own hands and to recognize everybody on the pension roll as either a thief or a drunkard, the exhibition in some of the reports with reference to pensioners has shown that fact to the country.

I agree with the Senator from Kansas that after a man has been awarded a pension from the Government, it is not right that we should undertake to say that he is not qualified to receive the money himself, and follow him up and see what disposition he makes of it; how he disposes of it, and pursue him, and give power to a man to say it shall be dribbled out to him a dollar at a time, or two dollars at a time, so as to encourage him to spend it, if he gets it in small amounts, for that which will be entirely worthless to him. I think it is something that is going far beyond anything I have ever known before.

So far as the proposition in reference to the soldiers' homes is concerned, I do not even believe in that, although that amendment is in the bill and I made no objection to it; but I am not going to give my reason now for not believing in it. I believe the pensioners of this country who were the soldiers of this country are just as well qualified to take care of themselves as other people are, and, whether white, black, or Indian, they do not thank the Congress of the United States for all the time insinuating that they are mere paupers and not competent to control and govern themselves, and, according to the theory that some men have who are in position, we should dole out pensions, on account of a little brief authority that they have conferred upon them by acts of Congress, intimating to the country that every man perpetrates a fraud on the Government who applies for a pension. Such things are heard every day; not here, but elsewhere; and I for one am tired of hearing them. I am opposed to any distinction being made in the law in reference to men who have served their country when they are pensioners on the pension-rolls of the country.

Mr. BOOTH. Before the question is taken on the amendment of the Senator from Kansas, I desire to offer an amendment to the text, which I believe takes precedence. I move to strike out the words "Commissioner of Pensions" and insert "Secretary of the Interior," so that there will be given a discretion to the Secretary of the Interior. I have not the bill before me, so that I cannot refer to the line.

The PRESIDING OFFICER. The Senator from California moves to amend that portion of the bill which the Senator from Kansas moves to strike out, by striking out therefrom the words "Commissioner of Pensions" and inserting in lieu thereof "Secretary of the Interior." Is there objection to that amendment? The Chair hears none, and it is agreed to.

Mr. INGALLS. That is not an amendment to my amendment. That is an amendment to the text of the bill, the part to be stricken out, of course, on which the question must be first taken. I have no objection to that amendment being made without any division of the Senate.

The PRESIDING OFFICER. It is perfecting the text and takes precedence of the motion to strike out.

Mr. PLUMB. Mr. President, I think this clause of the bill proceeds upon an entirely erroneous theory. The Commissioner states the question in his report as read by the Senator from California. His idea is that on account of the great distance of the pensioners from the Indian agencies the pensions should be paid in this way. If it is a burden to the Indian to go once a quarter or once a year to the Indian agency for the purpose of receiving his money, how much would that burden be added to by requiring him to go four or five or six times as often in order that he may get the money in so many installments in place of getting it all at once? There is no lack of proper agencies for converting pension drafts into money. Whether the pensioner gets $100, or $200, or $500, he will find abundant purchasers at the agencies and at the different towns along the route of railroads running through the Indian Territory where he can get his drafts cashed. There will be no trouble whatever upon that point.

In the next place, I think it is a gratuitous insult to assume that the men who, as my colleague stated, served their country as well as they knew how, more or less, and at the call of their country, and received the bounty, amounting to three hundred dollars each, which the Government provided for soldiers who received it in gross and received their pay at the intervals at which other soldiers were paid, sometimes two months, sometimes four months, and received that in gross and could be relied upon, as they were relied upon, to spend that properly, cannot be relied upon in the same way with this pension at this late day, fifteen years after they were discharged from the service; and after they have had the benefit in the mean time of large contact with the white race. These men have not only during the last fifteen years, but during the previous twenty-five or thirty years, been doing business for themselves. They receive annuities from the General Government every year. They are accustomed to handling money. They have got as far along as you may reasonably expect the Indians to get on this continent, and if they are not now capable of handling the small sum of money which shall be paid to them under the provisions of this bill, then no Indian on this continent ever will be fit to take care of himself.

These are the flower of the North American Indians. They are the result of the best efforts which the Indian has been able to make, accompanied by corresponding efforts on the part of the white men and of the Government, toward civilization, toward self-dependence and self-support, and they are as competent now as they ever will be to take this money and properly spend it. I think, as I said, that it would be an invidious distinction, it would be substantially an insult to these men whose services the Government was glad to get, whose ability to serve it was amply recognized as people able to receive and properly expend their pay and bounty, now at this late day to say to them, "You are not competent to spend the pension which you earned by disease or wounds incurred in the line of duty."

Mr. BOOTH. I do not regard this provision as of sufficient importance to excite feeling or to lead to any very extended argument. I believe the amount that each of these Indian pensioners would be entitled to as arrears would be about eleven hundred dollars. The committee thought, whether wisely or unwisely, justly or unjustly, that it would do more good to pay it to each individual in installments than to pay it to him in gross at one time.

Mr. INGALLS. How much, if the Senator will permit an interruption, did the committee think it would be advisable and safe to pay them at one time?

Mr. BOOTH. The committee did not take that matter into consideration.

Mr. INGALLS. The committee ought to have done that. They ought to have advised us just exactly how much the Indian would be authorized to receive.

Mr. BOOTH. The simple question as it presented itself to the committee was as to which method should be most profitable to the Indian himself; that was all. In dealing with the tribes the Government of the United States is in the habit of paying annuities. It does not capitalize those annuities and pay the whole capital over to the Indians to be divided among the members of the tribes. But as I have said, it is a matter of comparatively little importance, and I do not think it ought to lead to any exhibition of feeling or to any protracted argument.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. TELLER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WITHERS. The whole theory of the bill in respect to this provision which has been so much criticised is that the amount of pension paid to the Indians shall be so paid as to benefit them to the greatest possible extent. The Commissioner of Pensions in his recommendation suggests that the arrears, which would amount to a considerable sum, instead of being paid to the Indians in bulk should be paid by installments, if in the discretion of the Commissioner of Pensions or the Secretary of the Interior, as the bill now stands, it should be best to do so. The sole motive is the benefit of the pensioner. Nobody proposes to deprive him of one cent of the pension to which he is clearly entitled. It is simply a question, just as it was presented with reference to the inmates of the soldiers' homes, as to whether the amount to be paid to them should be paid them in bulk or paid to them in installments; and the question for the Senate to decide is whether in their judgment the one or the other would be most beneficial to the Indians. It is possible that the Senator from Kansas may be correct, and that it would benefit the Indians more to pay it to them in bulk, but the Committee on Appropriations of the Senate were of a different opinion. That is the whole of it.

Mr. INGALLS. The Senator from Virginia has not correctly stated the purpose of this provision of the bill if the Commissioner of Pensions understands its design. I asked him a short time ago, since the Senate assembled this afternoon, if he would be kind enough to advise me what the object was in placing that provision in the bill, and he said that it was placed there because the Department had an idea that in consequence of some frauds which had heretofore been committed in relation to Indian affairs perhaps there was danger that some disreputable persons might get hold of the checks, and by that means the funds would be diverted from the persons who are entitled to them to those who are unauthorized. That is the explanation the Commissioner of Pensions gave me, and I violate no confidence in saying that, because I made a request upon him as a public officer for information upon a subject of public importance. The object is not to do good to the Indian by giving out to him such a portion as he is competent to manage from time to time, but to exercise guardianship over him for fear that there may be some person who will in some mysterious way or other get possession of the evidence of indebtedness and deprive the Indian of the pension to which he is entitled.

Mr. WITHERS. With all due respect to my friend from Kansas, I will state that in my judgment I have correctly stated the reasons, or one of the reasons, which influenced the Commissioner of Pensions in his recommendation, and the Senator certainly violates no courtesy or privilege in the disclosure he has made, inasmuch as it is repeated almost verbatim in the report of the Commissioner of Pensions, on page 11, which was read by the Senator who has charge of the bill. Both causes united in inducing him to make the recommendation which is incorporated in this bill. The Senator is not unaware of the fact that it is because of the large arrears of pensions which will be due in some cases that in the judgment of the Commissioner this is unnecessary.

I repeat that the sole object of the provision is to protect the Indian from wrong and to pay the money out to him in such manner as may secure to him the greatest benefit possibly to be derived from the payment. I do not understand that because it is designed, as the Commissioner says, to protect him from fraudulent acts on the part of designing men therefore it is not designed to benefit him. It strikes me that that is an argument directly in the line of securing benefit to the Indian, in protecting him from fraud. But it is a matter that is not of very great moment. However, I wanted, in defense of the Appropriations Committee, who reported the bill with this language in it, to show that the idea was not so preposterous and absurd as the Senator from Kansas and the Senator from Illinois would have the Senate believe.

Mr. LOGAN. I should like to make an inquiry of the Senator. Nobody questions the motive that actuated the committee; they desire to benefit the Indians; but I should like to know upon what basis they form their judgment that the Indians would be benefited by depriving them of the right to obtain the money themselves. Under what theory is it?

Mr. WITHERS. I have just stated what is the theory.

Mr. LOGAN. The Senator says that it is thought the Indian will be benefited, but then we do not get at the reason why it is that he will be benefited. Somebody may deprive him of it. How will somebody deprive him of it? It does not make any difference whether you give it to him in quarterly installments, or in semi-annual installments, or in annual installments, the same opportunity is afforded to men who would act dishonestly with him in a small amount as in a large amount. If it is a mere matter of the fraudulent obtainment of checks it will be a matter of indifference to the Indians whether they are to be paid one way or the other. It certainly cannot be that. Is there any basis, has the Commissioner any basis for making this recommendation, on the ground that improper vouchers, fraudulent or forged checks, or anything of that kind, the Indian has been improperly induced to sign? Under the pension law now, the voucher has to go to the pensioner himself and not to the agent. You are distrusting the man himself. It is not that you distrust some agent, because under the law the agent cannot interfere with the check. So I cannot understand the basis or theory upon which the committee act.

Mr. WITHERS. It is very plainly stated, I will reply to the Senator from Illinois, in the report of the Commissioner, so far as regards the check. It is because this money is paid not in currency but in a check, and as no banks are convenient to the locality where these Indians reside, they will sell their checks to some speculator who will get them at less than half the value probably. So far as the check is concerned, that is the theory of the bill.

Mr. LOGAN. Now, I will ask the Senator, because we want the right of this thing, if it is because the Indians are far away from some bank and they might be deprived of the money in some mysterious way? I will ask the Senator if there is any greater protection where the check is for a small amount than where it is for a large amount?

Mr. WITHERS. In reply I will say that in my judgment there is, because there is less inducement for a party to defraud them; and in addition to that, having been once defrauded, if it is paid by installments, when the next installment is due the Indian would have learned wisdom from experience, and would refuse a proposition to which he had formerly agreed.

Mr. LOGAN. Will the Senator say, in the presence of the Senate, that if an Indian is defrauded of his check the Government has thereby paid him, and he has no right to recover?

Mr. WITHERS. I have said nothing of the sort; but I do say that if an Indian sells the check which is given to him for a pension to Tom, Dick, or Harry, for one-third of its face value, he has no right to recover.

Mr. LOGAN. That is very true, if the Indian should sell his check; but if the Indian is a citizen or a soldier, if he is a person, if he has a right to govern and control himself, how are you going to prevent him from selling the check, either a small one or a large one, if he wants to do so? You cannot make any law to protect him from assigning his check. You cannot deprive him of that right. Then what protection do you give him? You give him none. You merely deprive him of a right that belongs to him as a citizen and as a soldier. You deprive him of a right that belongs to him as an individual, as a soldier, as a pensioner; but you do not protect him, because you cannot by any law deprive him of the right of assignment of his check. That the Congress has no power to do.

Mr. EDMUNDS. If I understand this amendment, from the discussion and the statements, the history of these particular Indians, or these Indians in general for whom with other soldiers this appropriation is intended, is that they were members of what are called the independent civilized tribes or five nations, if I am not mistaken.

Mr. INGALLS. The Senator is correct.

Mr. EDMUNDS. And that they raised a regiment.

Mr. INGALLS. A brigade, three regiments.

Mr. EDMUNDS. A brigade of three regiments of Union soldiers, who fought to preserve the unity of the country that they served, and met with the accidents and misfortunes that belonged to a state of war, and they are entitled to pensions under the general laws exactly by the same right and in the same way that other soldiers of the Union armies have become entitled to pensions by acts of Congress. If that is the correct statement of the case, I for one am unable to vote to retain this clause in the bill. It appears to me that they have a legal and untrammeled right, the law having passed and they drawing their pension, to take their pensions like their fellow-soldiers of whatever race, nationality, or citizenship they might happen to be.

Undoubtedly it may be a misfortune, if we assume that a considerable number of this particular class of soldiers are less capable of taking care of themselves than other classes of soldiers. I do not know that to be true. I cannot presume it to be true. It is too true in all cases that a considerable number of those brave men who fought the battles of their country and on the side that they believed to be right, are of such simple and unsuspicious minds (like a great many other people I know, some of them in the Senate, from my particular part of the country) that they are easily imposed upon. Their instinctive faith in human nature and in the rectitude of their fellowmen is so great that they are very apt to be taken in. But we cannot help it. We must give to every man his right under the law and in the way the law has promised he should enjoy it. If it be a misfortune as to some of these Indians that they are likely to be defrauded of their money after it is paid to them, it is a misfortune that it appears to me we cannot attempt to remedy without doing a greater wrong and violating a greater principle, by saying that they shall take their money under a kind of guardianship of the United States.

While I entirely sympathize with the object that the committee have in desiring to retain this proposition, it appears to me that, measuring the considerations on both sides, it is better that they shall bear whatever of misfortune there may be in paying them the money that is justly their due in the risk of losing afterward than it will be to assume this kind of guardianship, and put them on a different footing from all the other soldiers of the United States.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas, [Mr. INGALLS,] on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 25, nays 25; as follows:

YEAS—25.

| | | | |
|---|---|---|---|
| Blaine, | Edmunds, | Logan, | Teller, |
| Blair, | Garland, | Morgan, | Vance, |
| Bruce, | Hampton, | Plumb, | Vest, |
| Butler, | Ingalls, | Pugh, | Williams. |
| Cockrell, | Jones of Nevada, | Rollins, | |
| Coke, | Kellogg, | Saunders, | |
| Dawes, | Kirkwood, | Slater, | |

NAYS—25.

| | | | |
|---|---|---|---|
| Baldwin, | Eaton, | Kernan, | Ransom, |
| Beck, | Groome, | McDonald, | Saulsbury, |
| Booth, | Harris, | McMillan, | Whyte, |
| Burnside, | Hereford, | McPherson, | Withers. |
| Call, | Johnston, | Morrill, | |
| Cameron of Wis., | Jonas, | Pendleton, | |
| Davis of W. Va., | Jones of Florida, | Platt, | |

ABSENT—26.

| | | | |
|---|---|---|---|
| Allison, | Conkling, | Hill of Georgia, | Thurman, |
| Anthony, | Davis of Illinois, | Hoar, | Voorhees, |
| Bailey, | Farley, | Lamar, | Walker, |
| Bayard, | Ferry, | Maxey, | Wallace, |
| Brown, | Grover, | Paddock, | Windom. |
| Cameron of Pa., | Hamlin, | Randolph, | |
| Carpenter, | Hill of Colorado, | Sharon, | |

So the amendment was rejected.

Mr. WITHERS. I offer an amendment, which I send to the desk, to come in after the second section of the bill.

The PRESIDING OFFICER. The amendment offered by the Senator from Virginia will be reported by the Secretary.

The Secretary proceeded to read the amendment.

Mr. TELLER. It seems to me that that amendment is clearly out of order.

Mr. LOGAN. I rise to a point of order.

Mr. TELLER. I raise the question whether the amendment is in order?

Mr. EDMUNDS. We cannot tell whether it is or not until we hear it read.

Mr. TELLER. I think we have heard enough.

Mr. EDMUNDS. Perhaps the last part of it is in order.

Mr. WITHERS. I ask that the amendment be reported.

The PRESIDING OFFICER. The Secretary will proceed with the reading.

The Secretary resumed and concluded the reading of the amendment, which was to insert as additional sections of the bill the following:

SEC. 3. That there shall be appointed by the Secretary of the Interior, in each of the congressional districts, a pension examiner, who shall be a person learned in the law, and of not less than five years' experience in the practice of his profession. He shall also appoint, in each of said districts, a pension surgeon, who shall have had not less than ten years' experience in the practice of his profession: *Provided*, That the examiner and surgeon in each district shall be adherents of different political parties: *And provided further*, That when two or more contiguous districts are situated in a city or other densely populated locality, or when the number of pensioners and pension claimants in contiguous districts is comparatively small, and the Commissioner of Pensions shall be of opinion that a less number of examiners and surgeons than one of each for each congressional district is required, the number of such examiners and surgeons may be reduced by appointing one of each to perform the duties hereinafter prescribed for two or more districts. The examiners and surgeons provided for by this act, before performing any duties thereunder, shall take and subscribe the oath prescribed by section 1756 or by section 1757 of the Revised Statutes, as the circumstances of each person so to be appointed shall render proper for his case. Said examiners and surgeons shall hold their offices at the pleasure of the Secretary of the Interior.

SEC. 4. That the pension examiners and pension surgeons to be appointed under this act shall be authorized to administer oaths to pension claimants and witnesses in any matters pertaining to the prosecution and settlement of claims for pension and bounty-land warrants, or in any inquiry in relation thereto, and, under instructions and regulations to be prescribed by the Commissioner of Pensions, shall take the declarations and testimony of pensioners and claimants and of witnesses in such claims. The pension surgeon shall make a medical and surgical examination of such pensioners and pension claimants as he may be required by the Commissioner of Pensions to examine, and make report thereon. The testimony taken by the examiners and surgeons shall be reduced to writing, as nearly as may be in the language employed by the deponents, and shall be subscribed and sworn to by the witnesses. The examiners and surgeons shall together visit each county seat in their respective districts, as often as three times in each year, unless otherwise directed by the Commissioner of Pensions, for the purpose of performing the duties prescribed by this act, and shall also, for the same purpose, visit such other places in their respective districts, from time to time, as they shall be directed by the Commissioner of Pensions to visit; and whenever any pensioner, claimant, or witness, whose presence before the examiner or surgeon is necessary to the proper determination of a matter pending before the Commissioner of Pensions, shall, because of illness or disability, be unable to travel to an appointed place to appear before the examiner and surgeon, the Commissioner of Pensions may direct one or both, as the necessities of the case may seem to require, to visit such pensioner, claimant, or witness, as the case may be, and take such disabled person's testimony, or make the required medical examination, and the Commissioner of Pensions is authorized to detail from time to time clerks in his office to aid the examiner and surgeon in any district in the performance of their duties under this act when, in his judgment, the exigencies of the service require such aid, and the person so detailed shall have power to administer oaths and examine witnesses.

SEC. 5. That in case medical examinations of pensioners and pension claimants, or the testimony of any witnesses, are required, which cannot well be made or obtained, or which it appears to the Commissioner of Pensions are unnecessary to be made or obtained in the manner provided in section 2 of this act, the same may be made or obtained in such other manner as the Commissioner of Pensions shall direct; and he is hereby required to make convenient rules and regulations for the making of such medical examinations and for the obtaining of such testimony, and to that end may designate any surgeon convenient to the pensioner or claimant to make the medical examination, and any officer authorized to administer oaths, convenient to the proposed witnesses, to take such testimony, notice of time and place of taking such testimony having previously been given to claimant.

SEC. 6. That the Commissioner of Pensions is hereby authorized and required to provide by suitable regulations for organizing and convening boards of three pension surgeons in each pension district, to which appeals may be taken by any pensioner or pension claimant who may feel himself aggrieved by the examination of a single surgeon.

SEC. 7. That declarations in pension and bounty-land claims may be made before any pension examiner or pension surgeon, and also before any magistrate, notary, or other person authorized to administer oaths for general purposes.

SEC. 8. That if any invalid pensioner shall think his pension is not commensurate with the degree of his disability, either because it has been improperly rated by the Commissioner of Pensions, or because the disability for which he was pensioned has increased, or because he has another disability incurred in the service for which he is not pensioned, he may apply to the Commissioner of Pensions for an increase of his pension, and said application shall be considered and determined in the same manner as his original application, so far as such proceedings may be applicable to his case. And the Commissioner of Pensions shall cause an invalid pensioner to be examined by a surgeon as often as he shall deem it for the interests of the Government or of the pensioner; and if upon such examination it shall appear that the pension enjoyed by the pensioner is not according to the degree of his disability, the same shall be readjusted and rerated according to right and justice: *Provided*, That in cases where the increase is granted for the reason that the disability has increased since the pension was last rated by the Commissioner of Pensions, such increase shall commence at the date of filing application therefor: *And provided further*, That all applications for increase, on the ground that the pension has been improperly rated, made more than one year after such alleged improper rate was fixed by the Commissioner of Pensions, shall be treated and settled as in the case of increase claims on the ground of an increase of disability.

SEC. 9. That if, after a pension has been allowed, the Commissioner of Pensions shall have good cause to believe that the same has been procured through fraud or misrepresentation, or for any other reason is of opinion that it ought not to continue, he shall cause the case to be investigated by the examiner or surgeon, or by both, acting together, of the district where the claimant or witnesses reside, after first giving reasonable notice to the pensioner of time and place of such intended investigation; and the claimant or pensioner whose case is being investigated may be present at the examination of the witnesses upon such investigation, and may produce witnesses in his own behalf.

SEC. 10. That section 4776 of the Revised Statutes is hereby amended so as to read as follows: "The Secretary of the Interior is authorized to appoint a duly qualified surgeon as medical referee, who shall have been in the active practice of medicine and surgery for at least ten years, who shall perform such duties in the adjustment of pension claims as shall be prescribed by the Commissioner of Pensions. His salary shall be $2,500 per annum."

SEC. 11. That the following fees shall be paid to pension examiners, pension surgeons, and other surgeons, and magistrates for services rendered under the provisions of this act in pursuance of the directions of the Commissioner of Pensions: Taking a declaration in a pension or bounty-land claim, including preparation of the same when required, fifty cents; for examining any witness, and reducing the testimony to writing, fifty cents; making a medical examination of a pensioner or pension claimant, including the taking of such statement from the person examined as shall be required by the Commissioner of Pensions, $2.50; actual traveling expenses, and an amount in addition, to be fixed by the Commissioner of Pensions, not exceeding $3, for visiting disabled pension claimants or witnesses as provided in section 2; to members of boards organized under the provisions of section 4 their actual traveling expenses and $3 per day each for the time actually in attendance upon such boards. Such of the above fees as the Commissioner of Pensions may allow shall be paid by the Secretary of the Interior: *Provided*, That the Commissioner of Pensions shall approve no bills for fees except upon the receipt by him at his office of the testimony and reports showing the performance of the services, accompanied by triplicate bills showing in detail each service for which charge is made.

The Secretary of the Interior shall embody in his annual report a detailed statement of the expenditures under this act during the fiscal year, which shall contain:

First. The names and residences of all persons to whom any money has been paid for services rendered within the year, and for what services.

Second. The names and residences of examiners and surgeons appointed, or who resigned or were dismissed within the year.

Third. The number of meetings and the places thereof of boards of surgeons and the number of examinations made by them.

Fourth. The whole number of pensioners and claimants, respectively, examined by the pension surgeons and by other surgeons.

Fifth. The whole number of pension claims settled by admission and rejection, respectively.

Sixth. Such other matter as he may deem necessary for a full understanding of the operations of the Pension Office under this act.

SEC. 12. Sections 4744, 4771, 4772, 4773, 4774, 4775, and 4777 of the Revised Statutes are hereby repealed, to take effect June 30, 1880.

Mr. TELLER. I raise the question of order now upon the amendment. It is legislation on an appropriation bill.

The PRESIDING OFFICER. The Senator from Colorado raises the question of order that the amendment is not in order, under Rule 29, the Chair presumes.

Mr. TELLER. Under Rule 29.

Mr. KIRKWOOD. Is that question debatable?

Mr. EDMUNDS. Not until decided by the Chair.

Mr. WITHERS. I ask for the reading of the rule to which the Senator refers as making the amendment out of order.

The PRESIDING OFFICER. The Chair is of opinion that the amendment is not in order; but he will submit the question to the Senate. The question is whether the amendment offered by the Senator from Virginia, which has just been reported by the Secretary, is in order under Rule 29 of the standing rules of the Senate. The rule will be read.

The Secretary read as follows:

29. No amendment which proposes general legislation shall be received to any general appropriation bill; nor shall any amendment not germane or relevant to the subject-matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate; and any amendment to a general appropriation bill may be laid on the table without prejudice to the bill.

Mr. INGALLS. Under which clause of that rule is the point of order raised?

Mr. LOGAN. Under the first clause.

Mr. WITHERS. Whatever may be the decision of the Senate upon

the point of order, I can only say that if this amendment be not in order, then we have violated this rule of order in a very large number of instances in the passage of almost every appropriation bill which we have enacted. I concur very nearly with an opinion which I heard expressed by a distinguished presiding officer of large experience, that the question of order is one which is generally determined by the views of the body, and that an amendment on a bill is regarded as being in order if it meets the approval of a majority of the body; while if they do not favor it, it is generally ruled out of order.

I wish to say a very few words in reference to this bill itself, and the reasons which prompted me to offer it as an amendment to the pending appropriation bill. These reasons grow out of the admitted necessity of some improvement in the present method of adjudicating pension cases. We all know that under the existing system the accumulation of cases which are now awaiting decision by the Pension Bureau is so great as practically to amount to a denial of justice to honest claimants of pensions.

That is an admitted fact, and if it need a demonstration it is found in the fact that there are to-day nearly three hundred thousand cases non-adjudicated lying in the Pension Bureau awaiting the decision of that bureau, some of which have been there for years. We have the official assurance of the Commissioner of Pensions that with all the increase of force which can be contributed it will be impracticable for him to determine more than 25,000 cases per annum under the most favorable circumstances, and that this number cannot after a year or two be possibly reached.

Assuming 25,000 as the largest number which can be adjudicated, without allowing for any new claims that may be presented, it would take twelve years to pass upon those which are now before that bureau.

If we take into consideration the additional fact that where the records of the Adjutant-General's Office do not show the service of the soldier, as they do not in a large number of instances, parol evidence is required to be furnished not only of service but of the time of disability, and when the Surgeon-General is incompetent to furnish evidence of the character and nature of the disability the delays are increased probably 50 per cent., we may safely assume that with the whole amount of clerical labor which can be applied to the solution of these questions and the securing of evidence, it must be more than twenty years before an adjudication of these cases can be had.

With this brief statement of the condition of business in the Pension Bureau, I assume the necessity for some radical change in the present method of ascertaining and adjudicating the rights of pensioners. We have the assurances of the Secretary of the Interior and the Commissioner of Pensions for several years, certainly for four years or more, that the present system is burdensome to those who are engaged in administering it, unjust to pensioners and unjust to the Government, inasmuch as no adequate protection exists against fraudulent claims, the testimony being wholly *ex parte* in every one of these cases. To-day we have a pension bill which appropriates $50,000,000 to the payment of this class of claims. I undertake to assert here to-day that the Government is not protected in the slightest degree against frauds for the payment of the whole of this vast amount of money. A collusion between two or three parties only can present a claim to the Commissioner of Pensions for a pension which is so perfect in all its parts that it will not challenge investigation and it will be passed upon favorably, and *ex necessitate rei*. Surely, then, it is the part of wisdom for Congress to devise some method by which this great danger can be averted, and by which the claims of pensioners themselves can receive that fair, impartial, and prompt consideration which their services to the country so richly entitle them to expect.

The provisions of the bill which I have just introduced as an amendment to the pending pension bill are the result of laborious action by the Committee on Pensions. They have labored earnestly and zealously for years to present to the Senate some system by which the admitted evils of the existing system can be to some extent corrected. We do not presume to hope that the provisions of the amendment are such as will commend themselves to the favorable consideration of every Senator, nor do we claim that it approximates perfection, but we do believe that it is a step in the proper direction, and that if the system for which it provides is put into operation the Government itself will be protected to an amount which I will not undertake now to specify against fraudulent claims, and that the claims of *bona fide* and honest pensioners will be facilitated immeasurably by the adoption of the system. It is therefore in the interest of the honest pensioner and of the Government alike, and the only classes of persons who are injured by it will be the dishonest pensioners and the dishonest claimants, whose facilities for fraudulent claims will be very much curtailed if this amendment should become a law, and the pension-claim agents who throng around this city and have been lobbying so actively for so many months to defeat the passage of this bill.

It will be readily understood by Senators who have paid any attention to the character of the memorials and petitions which are daily presented that there are, perhaps I might say, two machines in operation intended to influence the decision of this body upon the bill which has just been moved as an amendment. The pension claim agents of this city appeared before the Committee on Pensions when this bill was under consideration. They were granted a full and free hearing, and for days occupied the attention of that committee in arguments against the provisions of this bill. Every facility was afforded them of representing their side of the question, but when it is seen that if this bill were to go into effect they become at once insignificant in the prosecution of a claim; when gentlemen who came before us and claimed to represent 40,000 pension claims recognized the fact that if this bill should be passed Othello's occupation would be gone, and that the opportunity of erecting palatial residences in our cities on the profits derived from such business would no longer exist, it is not remarkable that they should oppose—they would be more or less than human if they did not oppose—with might and main the enactment of a provision which would interfere so seriously with their business and with their profits.

What has been the consequence of this activity? Blank forms of petitions have been circulated all over the country far and wide to every correspondent that they had, and they come up here every morning from the East and from the West, from the North and from the South, and no matter how widely separated may be the localities from which they hail, every one of them has precisely the same phraseology. Every one of these petitions, therefore, has emanated from the pension agents of this city or others interested with them in perpetuating the existing condition of things.

Now, I would call attention to the fact that there have also been presented many counter petitions from parties and organizations of soldiers who declare that they had previously signed a petition remonstrating against the passage of this bill because they had not examined it, but subsequently having an opportunity of examining the provisions of the bill, they are satisfied that it is beneficent in its purposes and that its effects will be most beneficial to the pensioners themselves, and therefore they ask that the bill shall pass. I could, if it were necessary, read by the hour from such correspondence, which is furnished me, but I do not think it necessary, because every one must readily perceive that the interest of these gentlemen is against this bill, and that the whole of these petitions, which would appear to be the spontaneous action of the soldiers of the last war, are not really their spontaneous action, but are manufactured for the occasion.

The provisions of the amendment which I have suggested are, in fact, with one slight modification, identical with those of Senate bill No. 496, reported from the Pensions Committee to the Senate some time ago and which has been placed on the desks of all the members. An elaborate report, embodying the argument in favor of its adoption, has been furnished to the Senate, and is within the reach of every Senator.

I merely call attention, therefore, to these facts as indicating, in my judgment, the necessity for some action in this direction being taken at this time, because there is little probability of our being able to secure the passage of Senate bill No. 496 as an independent proposition at this late hour of the session. Now, when we all recall the fact that some of the most important political legislation which this country has ever known has been ingrafted on appropriation bills by the party on the opposite side of the Chamber, when we recollect the fact that the rule has never been allowed to stand as an insuperable obstacle in the face of the then majority of the Senate whenever any political legislation was desired to be ingrafted into our code, it seems to me the objections come with less force than they would if the gentlemen had been uniform and consistent in their opposition to legislation on general appropriation bills. I know that both sides of the Chamber have committed themselves against it time and again; I know that both sides of the Chamber have declared that the practice was pernicious, and that it should not be any longer countenanced or encouraged; but when I recall to your recollection the additional fact that this is no political legislation, that no partisan legislation is embodied in it, that no party is to receive any benefit from it, that the object is to promote the general good of the whole community, of the country, of the Government, and of the pensioners, and that at the same time it will be a protection to the Government which requires protection, a protection to the Government employés, a protection to the Treasury, I say if we are not mistaken in our ideas as to the scope and effect of the passage of this bill, these great benefits will be secured to the Government and to pensioners alike, and I respectfully submit that the Senate would err much less by permitting this amendment to be ingrafted upon the pension bill, and thus secure action upon it in the Senate, than they would to refuse to consider it and suffer the existing condition of things to go on for an indefinite period without any possibility of rectifying it.

If any plan had been suggested, or can be suggested, which is preferable to this, I am ready, for one, to say that I shall sustain it. I have no special desire to see the provisions of this bill pass excepting to the degree that they will afford relief from the present evils under which we suffer, and it is admitted, so far as I know, by all parties that the existing system is one which cannot furnish relief to the pensioners or protection to the Government.

I have thought it my duty as the mouth-piece of the Committee on Pensions of the Senate, to say this much upon the merits of the proposition which I have submitted to the Senate, being well aware of the fact that my remarks are perhaps not germane to the question

of order, but I desired certain facts to go before the Senate and before the country in this connection.

Mr. DAVIS, of West Virginia. Mr. President, I have listened with some pleasure to the chairman of the Pensions Committee, and agree with him to a very considerable extent in his remarks. There are some figures and facts that I think the Senate ought to know in connection with this bill. I believe fraud ought to be hunted down and punished, let it come from where it may, and I feel very confident from the examination I have given this question from time to time, and from that which other Senators more competent than myself have given it, that there are frauds to a great amount in the matter of pensions. I have some figures, taken principally from the official reports of the Commissioner of Pensions, to which I will call the attention of the Senate.

The number of pensioners on the roll June 30, 1880, was 250,802; number added to the pension-roll during the fiscal year 1880, 19,545; net increase of the pension-roll during 1880, 8,002. The amount paid for regular pension-roll, 1880, was $37,046,185.89; amount paid for arrears of pensions, 1880, $23,914,194.86; average amount paid each pensioner on regular roll, $103.34; average amount paid each person under the arrears-of-pensions act of March 3, 1879, $560.15. The Secretary of the Interior informs us that there is a deficiency for the current year amounting to $18,282,306.68, and we have just added that amount to the pension bill for the present year. The Commissioner of Pensions estimates that for the next year and for years to come it will take to pay pensioners on the regular roll per annum at least $50,000,000. On June 30, 1880, there were on file 282,597 unsettled pension cases; deduct for duplicate and rejected claims 30 per cent., (being claims now pending,) which will leave 187,318. The estimated amount to pay each pensioner or of each claim for pension under the arrears act as estimated by the Department is $1,025, making a total of $192,000,847.

It will be seen from the above estimates that it requires to pay the pension cases now pending $192,000,847, and annually for years to come fully $50,000,000, and no man can tell but that it will require double that sum; in fact some estimate that it will require more to pay arrears of pension than to pay our national debt. It will be recollected by the Senate that when the arrears-of-pension bill was under discussion the estimates were very much less than it appears now to take; so that the estimate that is now being made by the Department may yet be far under the real figures.

Claims for pensions have until recently come in at the rate of three or four hundred per day. There were 141,466 applications for pension filed in the Pension Office during the fiscal year 1880.

I call the attention of the Senate to the following table:

| Year. | Total number of applications filed. | Total number of claims allowed. | Number of pensioners on the roll and the amount paid for pensions, with the cost of disbursements. | | | |
|---|---|---|---|---|---|---|
| | | | Invalids. | Widows, &c. | Total. | Disbursements. |
| 1861 | ..... | ..... | 4,337 | 4,299 | 8,636 | $1,072,461 55 |
| 1862 | 2,487 | 462 | 4,341 | 3,818 | 8,169 | 790,384 76 |
| 1863 | 49,332 | 7,884 | 7,821 | 6,970 | 14,791 | 1,025,139 91 |
| 1864 | 53,599 | 39,487 | 23,479 | 27,656 | 41,135 | 4,504,616 92 |
| 1865 | 72,684 | 40,171 | 35,880 | 50,106 | 85,986 | 8,525,153 11 |
| 1866 | 65,256 | 50,177 | 55,652 | 71,070 | 126,722 | 13,459,996 43 |
| 1867 | 36,753 | 36,482 | 69,565 | 83,618 | 153,184 | 18,619,956 46 |
| 1868 | 20,768 | 28,921 | 75,957 | 93,686 | 169,643 | 24,010,981 99 |
| 1869 | 26,066 | 23,196 | 82,859 | 105,104 | 187,963 | 28,422,884 08 |
| 1870 | 24,851 | 18,221 | 87,521 | 111,165 | 198,686 | 27,780,811 81 |
| 1871 | 43,969 | 16,562 | 93,394 | 114,101 | 207,495 | 33,077,383 63 |
| 1872 | 26,391 | 34,333 | 113,954 | 118,275 | 232,229 | 30,169,341 00 |
| 1873 | 18,303 | 16,052 | 119,500 | 118,911 | 238,411 | 29,185,289 62 |
| 1874 | 16,734 | 10,462 | 121,628 | 114,613 | 236,241 | 30,593,749 56 |
| 1875 | 18,704 | 11,152 | 122,989 | 111,832 | 234,821 | 29,683,116 63 |
| 1876 | 23,523 | 9,977 | 124,239 | 107,898 | 232,137 | 28,351,599 69 |
| 1877 | 22,715 | 11,326 | 128,723 | 103,381 | 232,104 | 28,580,157 04 |
| 1878 | 44,587 | 11,962 | 131,649 | 92,349 | 223,998 | 26,844,415 18 |
| 1879 | 57,118 | 31,346 | 138,615 | 104,140 | 242,755 | 33,780,526 19 |
| 1880 | 141,466 | 19,545 | 145,410 | 105,392 | 250,802 | 57,240,540 14 |
| Total | 765,306 | 417,718 | ..... | ..... | ..... | 455,718,505 70 |

It will be seen by reference to this table that in 1874 the number of applications for pensions was 16,734. In 1879 the arrears-of-pensions act passed, and in 1880 the number of applications for pensions was 141,466. Very suddenly the number of applicants was increased from 16,734 up to 141,466, in the short space of six years.

The number of claims examined and allowed in 1874 was 10,462; in 1880, 19,545. In 1860 there was paid for pensions but $1,100,802; in 1870, $27,780,811; in 1878, $26,844,415, showing that the pension-roll had commenced to decrease from 1870 to 1878, but in 1880, after the arrears-of-pensions act was passed, the amount paid was $57,240,540, showing a very sudden increase again.

We pay as much for pensions in one year as in the first fifty years of our history. These figures are taken from official reports, and show that the pensions now cost us more per annum than the entire expenses during the first decade of our Government, and more than the net expenses of the United States in any one year (including all wars) previous to 1856.

*Number of men furnished by each State during the late war.*

| States. | Aggregate number of men furnished under all calls. | Aggregate number of men furnished under all calls reduced to a three years' standard. |
|---|---|---|
| Maine | 71,745 | 56,595 |
| New Hampshire | 34,605 | 30,827 |
| Vermont | 35,246 | 29,052 |
| Massachusetts | 151,785 | 123,844 |
| Rhode Island | 23,711 | 17,878 |
| Connecticut | 57,270 | 50,514 |
| New York | 455,568 | 380,980 |
| New Jersey | 79,511 | 55,785 |
| Pennsylvania | 366,326 | 267,558 |
| Delaware | 13,651 | 10,303 |
| Maryland | 49,731 | 40,692 |
| West Virginia | 32,003 | 27,653 |
| District of Columbia | 16,872 | 11,506 |
| Ohio | 317,133 | 237,976 |
| Indiana | 195,147 | 152,283 |
| Illinois | 258,217 | 212,694 |
| Michigan | 90,119 | 80,865 |
| Wisconsin | 96,118 | 78,985 |
| Minnesota | 25,034 | 19,675 |
| Iowa | 75,860 | 68,182 |
| Missouri | 108,773 | 86,192 |
| Kentucky | 78,660 | 70,348 |
| Kansas | 20,097 | 18,654 |
| Total | 2,653,062 | 2,129,041 |

It will be seen by the above table that the total number of men furnished by all States was 2,653,062; total men, reduced to three years' service, furnished was 2,129,041.

It has been between sixty and seventy years since the war of 1812, and there are now on the pension-roll nearly thirty-five thousand pensioners of that war, about ten thousand of which are survivors. The rest are widows and dependants, and it costs between $3,000,000 and $4,000,000 per annum. There were perhaps ten times as many persons engaged in the late war as there were in that of 1812. If this estimate is correct, and I think it is, we shall for the next sixty years be paying an average per annum for pensions of about forty million dollars, making a grand total of about two billion four hundred million dollars, which is more than our national debt now is, and about as much as it was at any time during the late war.

I hear some Senators laugh, Mr. President, but these are the figures.

Mr. LOGAN. I will say to the Senator that I was not laughing at what he was saying; but, if he will allow me, I will ask him a question.

Mr. DAVIS, of West Virginia. With pleasure.

Mr. LOGAN. He is multiplying now and finding out how much we shall pay sixty years from now.

Mr. DAVIS, of West Virginia. No, that was not my statement.

Mr. LOGAN. Well, during the coming sixty years.

Mr. DAVIS, of West Virginia. I gave the average based on the pension-roll now for the war of 1812.

Mr. LOGAN. I should think that was a very fair estimate, if all these people would live sixty years. There is no question about that. They are generally at least thirty-five or forty now, and some of them older. That kind of computation is so perfectly absurd to me—I do not know how it is to the gentleman—that it is enough to make almost anybody laugh.

Mr. DAVIS, of West Virginia. Absurd as it may be to the Senator's mind, the fact is that there are 10,000 people now on the pension-roll who were in the war of 1812, and it is nearly seventy years since that war. That is the fact as taken from the pension-rolls. I put the average at $40,000,000, and it is well known that we are paying now perhaps twice that much. The Senator and other Senators laughed when persons in the Senate told them, when they were about to pass the arrears-of-pensions act, that it was going to cost fifty or sixty million dollars. There was a laugh then, and there were persons who said that it was absurd; but to-day the laugh is on the other side, and they find there is not so much absurdity about it, though nobody raised the figures as high as the actual facts are, notwithstanding my friend's laugh. These figures may not be pleasant to the Senator, but they are facts, and the tax-payers have to pay the money.

Mr. LOGAN. The Senator need not talk about this being pleasant or not pleasant to me. I have said nothing about his figures except as to the sixty years these men are to live after they are forty years old. I did not make it necessary that they should live that long; it was the Senator himself.

Mr. BLAINE. I think I was a little responsible for what seemed to be laughing at the remarks of the Senator from West Virginia. While I do not disagree in the main with the figures of my friend, I do not think we need disturb ourselves about what the 150,000,000 people in the United States will have to pay sixty years hence. I was telling the Senator from Illinois of a gentleman who told me

that he never counted anything as liabilities that did not fall due in a week. [Laughter.] So this Government need not count anything as a very pressing liability in the way of pension that is to be paid sixty years hence, when the population of to-day in this country will be trebled, and probably the wealth will be tenfold as great as it is now. At the same time I beg to say that I do not disagree with my friend from West Virginia in the estimate he makes as to what may fall due at that time. I think he is quite correct.

Mr. DAVIS, of West Virginia. I am glad the Senator agrees with me as to the tables; but ought we to entail such heavy responsibilities on the 150,000,000 people that my friend from Maine talks of? Let us provide for the obligations of the present; but do not let us be providing for saddling upon the future payments to such an extent. We ought to take care of the tax-payers to-day, and they will take care of themselves hereafter.

I base my estimate upon the results of the act pensioning soldiers of the war of 1812. If the facts were not just as the Commissioner reports them or if the figures were not so, I could hardly believe there were 10,000 people living to-day who were in the war of 1812; and yet there are that many survivors of that war upon the pension-roll. I could hardly believe that there were 25,000 living widows of soldiers of the war of 1812, and yet the facts show it, though it is nearly seventy years since the war ended.

Mr. BLAIR. Will the Senator allow me to remind him of one thing in regard to these computations which seem to be accepted in their mathematical proportions; and that is that the existing pension laws in reference to the war of the rebellion grant pensions only by reason of disability, while the pension laws in reference to the wars of earlier times apply almost entirely in consequence of the mere fact of service, and pensions have been extended to those who were the relatives and connections of those soldiers, and to those soldiers who contracted no disability and consequently have survived until the present time. Unless we change the pension laws of the country it will be utterly impossible that there shall be such enormous aggregations of payment in the future as the Senator indicates.

Mr. DAVIS, of West Virginia. I think my friend is mistaken in saying that we put upon the pension-roll persons who are relatives. That is not my understanding.

Mr. BLAIR. We put on the widows.

Mr. DAVIS, of West Virginia. The Commissioner of Pensions tells us in his report that there are of actual survivors of the war of 1812 ten thousand.

Mr. BLAIR. The Senator must know that any actual survivor who was in the service fourteen days in the war of 1812 is entitled to a pension and that of those who contracted disabilities in the war of 1812 probably there are not to-day three hundred men surviving.

Mr. DAVIS, of West Virginia. That is one of the questions whether they contracted disabilities or not. I believe to-day there are more men improperly upon the pension-roll, who are as able as you or I to earn a living, than there are survivors of the war of 1812. I believe to-day there are a great many pensioners upon the roll who contracted no disease whatever, but who have improperly and fraudulently in many cases gotten there. We are told by the Commissioner, and I think at one time we were told by the former chairman of the Committee on Pensions, the Senator from Kansas, [Mr. INGALLS,] who is always careful in his statements, that he believed five or six million dollars was annually paid out to fraudulent pension claimants, and the Commissioner of Pensions now estimates that there is in the neighborhood of five or six millions or 10 per cent. of the entire amount fraudulently and improperly paid. Hence the necessity of some such bill as the one now pending. Although I have not examined this carefully, and I cannot say that I approve of all of its features, I am sure that if some such bill can be passed and go into effect, this Government will save five or six millions a year from fraudulent pensions and punish frauds in many cases.

Mr. LOGAN. Now I should like to ask the Senator a question right there. If he thinks or if the Commissioner of Pensions states to the country that he is paying five or six million dollars of fraudulent pension money, will the Senator please explain to the Senate why the Commissioner paid it if he knows it is fraudulent pension money?

Mr. DAVIS, of West Virginia. That is just what this bill wants to find out; and that is just what the Committee on Pensions now are trying to pass the bill for, to find out.

Mr. LOGAN. The Senator cannot get out of it in that way. I say that if the Commissioner of Pensions reports that he pays five or six million dollars of pension money that is fraudulent, he cannot make that report if it is truthful unless he knows of the fraud, and if he does he is a dishonest man.

Mr. DAVIS, of West Virginia. Neither the Pension Commissioner nor myself knew of the fraud. I said it was so estimated.

Mr. LOGAN. Upon what does he estimate if he does not know the frauds? Here under the statute he has a right to cut off any pensioner any moment.

Mr. DAVIS, of West Virginia. We understand that; but whenever a bill or an amendment is offered to cut them off in wholesale if they are there, there is some opposition to it from some quarter. I am not referring to the Senator from Illinois for I do not know that he opposes it.

Mr. LOGAN. I am opposed to it.

Mr. DAVIS, of West Virginia. I did not know it.

Mr. LOGAN. You know it now.

Mr. DAVIS, of West Virginia. I am sorry to know it, for I believe that it is his duty and mine to hunt down pension frauds and punish them, and not allow the tax-payers to suffer from them.

Mr. LOGAN. I will not allow the Senator to put me in such a position, for I am as ready to hunt down frauds as anybody; but I say that a man who makes a report that he pays five or six million dollars annually fraudulently is a dishonest man unless he knows some fact to base it on. He has no right to state it unless he knows the fact. He has no right to pay the money fraudulently, and if he does he should not state the fact unless he can show it to be so. I say that no such argument as that is a fair argument in favor of a bill.

Mr. DAVIS, of West Virginia. I remind the Senator that neither the Commissioner of Pensions nor myself stated that we knew the fact to be so.

Mr. LOGAN. If you do not know the fact, you should not state it.

Mr. DAVIS, of West Virginia. That is the Senator's opinion; but I have an opinion, and I have the right to state what I believe.

Mr. LOGAN. I say if there is a pensioner on the roll who is receiving his money fraudulently, it is the duty of the Commissioner of Pensions, under the law, to cut him off from the list.

Mr. DAVIS, of West Virginia. That is just what we are trying to do by this bill.

Mr. LOGAN. No, sir; I beg the Senator's pardon. We shall see whether you are trying it or not. When you stand in the Senate Chamber and say that money is paid to men fraudulently, before accusing the soldier who receives it dishonestly, you should know what you state to be a fact.

Mr. DAVIS, of West Virginia. Now I must take the floor.

Mr. LOGAN. Very well. You should give us some evidence. Let us have some evidence.

Mr. DAVIS, of West Virginia. We have heard thunder before to-day, Mr. President, but generally there was more in it than there is to-day.

Mr. LOGAN. I will only say to the Senator that he has heard thunder and so have others, but the thunder never came from his quarter.

Mr. DAVIS, of West Virginia. I am willing to take what the Senator says, but I do not want the Commissioner to be judged improperly. The Commissioner has made the estimate, and so far as I know he is sustained by the Secretary of the Interior, for the report comes to Congress saying what his estimate is. I know nothing of frauds myself. The Pension Commissioner does not say that he knows of them; but that is his estimate of their amount, and it is not only his estimate, but as I say the Senator from Kansas stated that he believed after examination that it was not far from correct, not that particular statement, but that there was a large amount in his judgment. I understand also that the Pensions Committee generally believe there are a great many frauds that this bill would remedy and cure. This is the reason why I am for passing this or some measure to prevent frauds and hunt them down and punish them. I would rather spend a million dollars to hunt out fraud and punish it, than to pay one-tenth of it to fraudulent claimants, and I think it would be cheaper for the Government to do it.

From the beginning of our Government to 1865 the entire or total amount paid for all pensions did not exceed $90,000,000, or an average of a little more than a million a year. We appropriated all that was estimated or asked by the Secretary of the Interior and the Commissioner of Pensions for the current year, but the payments have so far exceeded their estimate that they send us a special message asking for a deficiency of eighteen or nineteen million dollars for this year. We are now paying about double as much per annum for pensions as all the rest of the world.

When the arrears-of-pensions bill was under discussion in the Senate some Senator said it would cost but a few millions; others twenty or thirty millions; I believe none estimated above thirty or forty millions. We now find that it will require several hundred millions.

I find by referring to the record of the vote on the arrears-of-pensions bill, March, 1879, that but four Senators voted against its passage, viz: HEREFORD, McCreery, SAULSBURY, and DAVIS of West Virginia.

Mr. President, we have upon our table a communication from the Commissioner of Pensions dated the 20th instant, in which he reviews the pension-arrears act of 1879, and gives in detail the reasons, facts, and figures upon which he bases his estimate, and concludes as follows:

| | |
|---|---|
| Amount of arrears to old pensioners | $25,293,963 66 |
| First payment of pensioners to July 1, 1880 | 8,821,826 09 |
| Arrears in pending claims | 192,000,847 50 |
| Annual pensions to 125,000 new pensioners | 284,185,000 00 |
| Total | 510,301,637 25 |

This amount is directly chargeable to the arrears-of-pensions act, and does not include the regular pension-roll as it existed before the act of March 3, 1879.

The Commissioner of Pensions estimates $50,000,000 to pay the regular roll for the current year, and thinks it will increase until it requires $60,000,000 annually to pay the regular roll. The Commissioner also estimates that under the present system of paying and examining pension claims, 10 per cent. of the amount paid is upon fraudulent claims—this would be $5,000,000 or $6,000,000 per annum—

and upon the total estimate of the cost of the arrears-of-pensions act, more than $50,000,000. These figures are startling, yet the present system is continued from year to year and but little effort is made to find and punish the guilty.

Mr. President, I am in favor of paying all who are justly entitled to pensions. I think fraud should be hunted down and severely punished whenever found. We should use every safeguard possible to protect the Treasury and tax-payer. I think every man who was wounded or disabled in the United States service ought to have a pension; but I object to a wholesale expenditure of the people's money to persons who are not entitled to it. Many are to-day receiving large pensions who are as well and as able to earn a living as a majority of this Senate or the people of this country.

The Commissioner of Pensions tells us there is in his opinion 10 per cent., or about five million dollars, annually paid to persons who are not entitled to it, and he asks us to give him such legislation as will protect the honest pensioner and punish the dishonest. I am for it. We ought to protect alike all persons justly entitled to a pension and the tax-payer.

I believe it to be the duty of the Senate in some manner to put a stop to the large amount of money paid annually to pensioners who are not entitled to it. It is believed by a great many people that a fair and proper examination would develop these immense frauds. I know that some persons think they are very much less than they really are. We hear much about soldiers and the danger of talking against soldiers. No man has heard me say one word against soldiers; no one has heard me say a word against a pensioner that is justly entitled to be on the pension-roll; but I do intend to say a great deal against those who are fraudulently and improperly receiving pensions, if there be such, and it is believed by many that there are, and if there are we ought to pass some bill that will cut them off and prevent a repetition of the abuse. The law should be such that no man can get on the pension-roll till there is proper proof that he is entitled to be there.

Mr. LOGAN. Mr. President, I am unfortunate sometimes, especially when I get into a colloquy with my very genial and kind and generous friend from West Virginia. He talks about thunder. I have heard him make that speech before. It is not new to me. He made the same speech to me once before, and I did not then understand it because it was, in common and vulgar parlance, "very thin" to come from a Senator who is a great mathematician, who is certainly entitled to much credit for the mathematical accuracy with which he has demonstrated many propositions before this country. I have been very much surprised at the argument made by the Senator from Virginia and the Senator from West Virginia. If you put the two together, although the latter was trying to enforce the former, I can demonstrate I think that the arguments will not hang together. The Senator from Virginia says that he wants this bill passed to facilitate the pensioners' business. I do not misstate him when I say that. He says that claim agents are opposed to it. Now, if this bill is for facilitating of the pensioners' business and the obtaining of pensions, why should pension agents oppose it?

Mr. WITHERS. It deprives them of their profits.

Mr. LOGAN. I do not understand that and cannot see it. The trouble is they get no profits unless the pensions are allowed; and if pensions are not being allowed the profits are not derived.

The Senator from West Virginia says that if the pensions are allowed it will cost the Government an excessive amount of money. Now, the Senator from Virginia says he wants to facilitate the obtaining of pensions, and yet the Senator from West Virginia says it will cost an enormous amount of money to the tax-payers of this country. I should like to ask the Senator from West Virginia if he is for this bill and it will advance the interests of the pensioners, why does he undertake to demonstrate this enormous amount that it will cost the people?

Mr. DAVIS, of West Virginia. Will the Senator give way?

Mr. LOGAN. I will certainly give way to the Senator to explain.

Mr. DAVIS, of West Virginia. I am for this bill or any other bill that will punish the fraudulent pensioners and give those justly entitled to pensions their money.

Mr. LOGAN. That is the reason, is it?

Mr. DAVIS, of West Virginia. That is the reason. My desire is to reach those who are receiving pensions dishonestly, if there be such, and I believe there are. I want to reach the dishonest ones; the honest ones I want to pay.

Mr. LOGAN. Now, the Senator says he is in favor of this bill because it will reach fraudulent pensioners. If that is the merit of this bill, why all this array of figures showing the amount of pension money the people have got to pay? Has that anything to do with the argument for detecting fraudulent pensioners?

Mr. DAVIS, of West Virginia. I think it is a good bill; and the necessity of passing this bill or some other to prevent the payment of a part of this money itself to fraudulent persons is shown by the figures representing our present expenditure.

Mr. LOGAN. Then how will it prevent frauds? The Senator does not know that there are fraudulent pensioners; he cannot demonstrate how this will prevent fraud, how it is going to do it; and let me call his attention and that of the chairman of the Pensions Committee to one thing. Under the law as it exists to-day the Commissioner of Pensions has the right to have any pensioner in the United States examined by a surgeon at any time he sees proper. Is not that true? The Commissioner has the right to send a special agent, a special deputy of his, to examine any pensioner in the United States, no matter where he lives, at any time. That is the law. The Commissioner may appoint additional surgeons for examinations. That is the law now. He may appoint additional inspectors, if you may call them by that name, to examine pensioners. That is the law now. The Commissioner of Pensions may suspend any pensioner on the roll. That is the law. He may stop any pensioner receiving his money. That is the law now. Then, tell me how it is that you want a law with more power to stop frauds than exists now? If the Commissioner has power to suspend any pensioner, has power to re-examine him, has power to take new evidence, has power to send a special agent to examine him, to bring him before a surgeon for examination, tell me what more power you desire should be committed to his hands for the purpose of detecting frauds?

With all the power that can be given to a man under the laws of the United States that Commissioner is to-day empowered to detect fraud, to dismiss pensioners, to have them re-examined anywhere, at any place, by surgeons appointed, and to appoint additional surgeons, to appoint additional inspectors; and with all this power you say he cannot detect fraud. Why, sir, give me that power and I will ask no Congress to pass a bill to enable me to detect fraud.

The trouble is not in the dishonest pensioners; it is not because of their intention of obtaining money fraudulently. The trouble is that the head that administers the law is not competent for it. There is the trouble, sir. Make a man Commissioner of Pensions who has ability to administer the law as it is written in the statutes, and you will have no necessity for any amendment to your pension law.

The Senator from Virginia thought he had made a great point when he said that pension agents were hovering around this Capitol. No pension agent has ever spoken to me, nor would I allow one in any way to influence me in my action in reference to this question. I was sorry that he brought that into this argument; that does not look like high and elevated argumentation when a man wishes to lug in some little thing outside to affect a bill, and talks of pension agents and claim agents! I have heard that before; it has no terrors for me, sir.

But Senators talk about petitions being sent out by claim agents. Ah, sir, petitions have been sent out on both sides. I will not say by whom on the side that the Senator advocates, but equally as dishonorable a performance as the one on the other side if what he states is true. I will not dabble in the dirty waters of claim agents or any of the mud stirred up by the Commissioner of Pensions in order to either advocate and advance this bill or to defeat it.

What is the effect of this bill? Not to benefit the soldier, not to protect the Government. What do you do? You appoint in this bill a board of surgeons in each district. You have surgeons there now. If they are not competent, turn them out and put in others. You have a surgeon in almost every county. In nearly every county in my State the Pension Commissioner has appointed examining surgeons, and in the city of Chicago there is a board of examining surgeons, and all gentlemen who stand as high in the medical profession as any men in this nation. So it is all over the country. The surgeons are multiplied where necessary under the law as it now exists, even down to counties, to examine pensioners; and yet frauds cannot be detected. Whose fault is it, I ask? Is it the fault of the law? It is not the fault of the law but the fault of the administration of the law.

Mr. CAMERON, of Wisconsin. What would the Senator have the head of the Pension Bureau do? Would he have him send a special agent to examine every one of the 240,000 pensioners now on the roll? Is that what he proposes to do?

Mr. LOGAN. No, sir, because I would not suspect the 240,000 of being dishonest men.

Mr. CAMERON, of Wisconsin. Neither does the Commissioner of Pensions suspect that the 240,000 are dishonest men, but he does suspect that some of them are dishonest men. It is not possible for him to know who is dishonest and who is not dishonest. He can send a special agent to examine a pensioner, but he does not usually send that special agent until he has some information that there is occasion for it.

Mr. PLATT. Will the Senator from Wisconsin permit me to read a few words from the report of this committee?

And when it is remembered that under the system now in force the Commissioner is not authorized to send out agents to search for fraudulent cases, but must wait until reasonable suspicion has attached to a case before he can order an investigation, it will be seen that the discovery of these frauds must be left mainly to accident, and therefore that the frauds discovered are probably very few in comparison to the whole number which exist.

Mr. CAMERON, of Wisconsin. If I may be allowed to say one word further I will add that I have been personally acquainted with the Commissioner of Pensions for twenty years and upward. The Senator is of the opinion that he is not competent to administer the powers of the bureau. I think he is competent not only to administer the powers of that bureau, but to administer the powers of the Department of the Interior or even to be President of the United States.

Mr. LOGAN. Well, I have no reply to make to that.

Mr. CAMERON, of Wisconsin. The reply is that in your opinion he was not competent to discharge the duties of his position.

Mr. LOGAN. I repeat it.

Mr. CAMERON, of Wisconsin. Very well; I have made my statement.

Mr. LOGAN. I say that the Commissioner of Pensions who, under the law as it now exists, will have a suspicion of fraud without knowing that there is fraud, is not competent to administer the law.

Mr. CAMERON, of Wisconsin. If he knew fraud he would not have any suspicion of it; he would know it as a fact.

Mr. LOGAN. Now I will answer the Senator from Wisconsin, and the paragraph the Senator from Connecticut read, and I will be obliged to him if he will read it again.

Mr. PLATT. I will read a little more than before.

Mr. LOGAN. Very well; read what you choose.

Mr. PLATT. I want to read what I read before in this connection:

Table 4—

Referring to fraudulent claims—

shows that under the present system enormous sums of money are being drawn from the Treasury through fraud by persons who are not entitled to pensions, and that many perjuries and forgeries are committed in pension claims; and when it is remembered that under the system now in force the Commissioner is not authorized to send out agents to search for fraudulent cases, but must wait until reasonable suspicion has attached to the case before he can order an investigation, it will be seen that the discovery of these frauds must be left mainly to accident, and therefore that the frauds discovered are probably very few in comparison to the whole number which exist.

Mr. LOGAN. You are advocating what this bill proposes because this Commissioner has asked it to be passed. Are all the pensioners to be examined by the board that he is to appoint under this law? Is that what you propose? You ask me if I would examine the two hundred and forty thousand. Do you propose to do it under this law? It affords no more facility for the examination than does the old law. Then if you do not propose the one, why ask me if I propose the other?

In reference to the proposition made as to suspicion of fraud, how do you propose to detect it? Do you propose to call every pensioner before this board and re-examine his case? Is that the object? It does not purport to be its object, and if it is not, what then? How are you to detect the fraud any more easily than under the laws that exist? The Senator from Wisconsin asked me if I would send examiners all over the country. Why, your present Commissioner has done that. In my own State he has sent his clerks as special agents, and they have gone all through the country examining pensioners to see whether they were guilty of swearing falsely or not.

Mr. CAMERON, of Wisconsin. It seems, as he construes the law, he had the right to send special agents.

Mr. LOGAN. Of course he has the right. That is what I am saying.

Mr. CAMERON, of Wisconsin. You are saying more. He construes the law in this way: he has the right to send a special commissioner when there is a reasonable suspicion that fraud is being perpetrated upon the Government in a particular case.

Mr. LOGAN. I beg the Senator's pardon. He has a right to send them to examine any pensioner in the United States that he chooses.

Mr. CAMERON, of Wisconsin. Will you refer to the statute giving that right?

Mr. LOGAN. I will refer to the statute. I assert it to be the law, and I can refer to it, too.

Mr. CAMERON, of Wisconsin. He construes the law differently.

Mr. LOGAN. Section 4774 of the Revised Statutes reads:

The Commissioner of Pensions is authorized to organize, at his discretion, boards of examining surgeons, not to exceed three members, and each member of a board thus organized who is actually present and makes, in connection with other members or member, an ordered or periodical examination, shall be entitled to the fee of $1, on the receipt of a proper certificate of such examination by the Commissioner of Pensions.

SEC. 4775. Examining surgeons duly appointed by the Commissioner of Pensions, and such other qualified surgeons as may be employed in the Pension Office, may be required by him, from time to time, as he deems for the interests of the Government, to make special examinations of pensioners, or applicants for pension, and such examinations shall have precedence over previous examinations, whether special or biennial; but when injustice is alleged to have been done by an examination so ordered, the Commissioner of Pensions may, at his discretion, select a board of three duly appointed examining surgeons, who shall meet at a place to be designated by him, and shall review such cases as may be ordered before them on appeal from any special examination, and the decision of such board shall be final on the question so submitted thereto, provided the Commissioner approve the same. The compensation of each of such surgeons shall be $3, and shall be paid out of any appropriations made for the payment of pensions, in the same manner as the ordinary fees of appointed surgeons are or may be authorized to be paid.

SEC. 4776. The Secretary of the Interior is authorized to appoint a duly qualified surgeon as medical referee, who, under the control and direction of the Commissioner of Pensions, shall have charge of the examination and revision of the reports of examining surgeons, and such other duties touching medical and surgical questions in the Pension Office as the interests of the service may demand; and his salary shall be $2,500 per annum. And the Secretary of the Interior is further authorized to appoint such qualified surgeons (not exceeding four) as the exigencies of the service may require, who may perform the duties of examining surgeons when so required, and who shall be borne upon the rolls as clerks of the fourth class; but such appointments shall not increase the clerical force of said bureau.

Then, in reference to the agents, he has the same power to appoint agents for the purpose of going over the country and examining pensioners, and does it, and they go into counties and send for pensioners, bring them up and examine them.

Mr. CAMERON, of Wisconsin. They only bring up and examine those whom they suspect.

Mr. LOGAN. And whom would you examine? That is exactly what I am talking about. If he has the power to examine those who are suspected now, what more power do you give this board that you want to appoint? He has the power now, and you do not want the board to go calling for every pensioner in the United States to examine him. I presume you only want a board to examine those who are suspected. He has that power now, and he exercises it; hence I say that is the power he has now. If he does not exercise it and stop frauds, it is because he is not qualified to execute the law.

Mr. THURMAN. Will the Senator from Illinois yield to me? He is discussing a question that profoundly interests a very large number of people in at least two-thirds of the States of the Union. I think that his remarks ought to be listened to by a full Senate, and a fresh and not a tired Senate. If he will give me leave to do so, I will move that the Senate adjourn.

Mr. LOGAN. I yield.

Mr. THURMAN. I move that the Senate adjourn.

Mr. CAMERON, of Wisconsin. Will the Senator allow me one moment to refer to the statute under which the Commissioner of Pensions is authorized to appoint special agents?

Mr. THURMAN. I greatly prefer that the Senator should postpone it until we all come in fresh to-morrow.

Mr. CAMERON, of Wisconsin. It will only take a moment, and I wish to use it in connection with what the Senator from Illinois has been saying.

Mr. LOGAN. I will put it in in the morning.

Mr. CAMERON, of Wisconsin. I will put it now if I am permitted to do so.

Mr. THURMAN. I will change my motion at the suggestion of Senators and move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) Before putting the motion the Chair will lay before the Senate a message from the President in reference to the removal of the Ponca Indians, inclosing several documents.

Mr. CAMERON, of Wisconsin. I desire to read section 474, by unanimous consent.

Mr. EDMUNDS. Let the message be read.

Mr. DAWES. Let it be referred to the select committee on the Ponca investigation.

Mr. EDMUNDS. We always read messages of the President.

The PRESIDING OFFICER. The message will be read.

Mr. CAMERON, of Wisconsin. Before the message is read I desire to read section 474 of the Revised Statutes. I think no one will object to that:

The Commissioner of Pensions is authorized to detail, from time to time, any of the clerks in his office to investigate any suspected attempts to defraud the United States, in or affecting the administration of any law relative to pensions, and to aid in prosecuting any person implicated, with such additional compensation as is customary in cases of special service. Any person so detailed shall have the power to administer oaths in the course of any such investigation.

Mr. LOGAN. That is just what I said the law was.

Mr. CAMERON, of Wisconsin. As I understood the Senator, it is just exactly what he did not say; if it is otherwise, I misunderstood him.

The PRESIDING OFFICER. The message will be read.

Mr. EDMUNDS. It is not necessary to read it to-day. I move that the Senate do now proceed, before the message begins, to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-nine minutes spent in executive session the doors were reopened, and (at five o'clock and twelve minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### TUESDAY, *February* 1, 1881.

The House met at eleven o'clock a. m.

The SPEAKER. There will be no prayer this morning in consequence of the absence of the Chaplain. He was not notified of the change to an earlier hour of the meeting of the House, and therefore no blame is to be attached to him.

Mr. McKENZIE. I understand the reading of the Journal will take three-quarters of an hour, and therefore I move it be dispensed with.

Objection was made.

The Journal of yesterday was read and approved.

#### COMMITTEE ON COMMERCE.

The SPEAKER. The gentleman from Texas [Mr. REAGAN] has notified the Chair the Committee on Commerce desire, by unanimous consent, to have the privilege of sitting during the sessions of the House until after the completion by that Committee of the river and harbor appropriation bill. Is there objection? The Chair hears none, and it is ordered accordingly.

#### ORDER OF BUSINESS.

Mr. JOYCE. I ask, by unanimous consent, to take from the Speaker's table a bill (S. No. 1805) for the purpose of putting it on its passage. The bill has already passed the Senate providing——

Mr. COBB. I call for the regular order of business.

Mr. O'NEILL. Oh, withhold the demand for the regular order for a little while.

Mr. JOYCE. The special Committee on the Yorktown Celebration has considered this Senate bill and unanimously agreed to its passage.

Mr. COBB. I demand the regular order of business.

Mr. O'NEILL. The gentleman from Indiana might give way for an hour this morning. It would do no harm, and might enable the House to clear the Calendar of some bills which ought to be passed.

Mr. JOYCE. Let the gentleman from Indiana wait a moment until we can pass the bill to which I have referred.

Mr. DUNNELL. There is no quorum present.

Mr. TALBOTT. There are many bills upon the Speaker's table which ought to be disposed of at once.

Mr. COFFROTH. I move to go to the business on the Speaker's table.

The SPEAKER. That motion is not in order at this time, but will be hereafter.

Mr. COFFROTH. Then I move by unanimous consent to submit the motion.

The SPEAKER. The first business in order is the morning hour for the call of committees for reports.

Mr. COX. I move to dispense with the morning hour.

Mr. O'NEILL. I move to amend that by providing we shall proceed to call up bills for the purpose of giving relief to some individual people of the country.

The SPEAKER. It cannot be amended. The question is on the motion to dispense with the morning hour, which requires a two-thirds vote. The Chair is of the opinion that two-thirds have not voted in the affirmative.

Mr. COX. I demand a division.

The House divided; and there were—ayes 89, noes 20.

Mr. FERDON. No quorum has voted.

The SPEAKER ordered tellers, and Mr. COX and Mr. FERDON were appointed.

The House again divided, and the tellers reported—ayes 126, noes 19.

Mr. FERDON. I do not demand any further count.

So the motion was agreed to, two-thirds having voted in favor thereof.

Mr. COFFROTH. I move now to go to business upon the Speaker's table.

The SPEAKER. That motion is not in order pending the motion to go into Committee of the Whole House on the state of the Union. The Clerk will read the rule.

The Clerk read as follows:

RULE XVI, clause 9. At any time after the expiration of the morning hour it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue or general appropriation bills.

The SPEAKER. The motion to go into committee takes precedence of the motion to go to business upon the Speaker's table. The gentleman from Pennsylvania [Mr. COFFROTH] asks that by unanimous consent the House proceed to the consideration of business on the Speaker's table.

## DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. COBB. I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of proceeding with the consideration of the District of Columbia appropriation bill.

The SPEAKER. That is equivalent to an objection.

Mr. COBB's motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the state of the Union, (Mr. CONVERSE in the chair,) and proceeded with the consideration of the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes.

The CHAIRMAN. When the committee rose last evening the pending question was on the motion of the gentleman from Virginia [Mr. HUNTON] to strike out the paragraph which the Clerk will read.

The Clerk read as follows:

For maintaining the jail: For one warden, $1,800; one physician, $1,000; deputy warden, $1,100; three guards, at $1,000 each; fifteen guards, at $900 each; one engineer, at $1,000; one assistant engineer, at $900; four firemen, at $800 each; one messenger, $700; two cooks, at $420 each; in all, $27,040.

The House divided; and there were—ayes 12, noes 60.

So the amendment was rejected.

The Clerk read as follows:

For subsistence, $13,800; fuel and lights, $3,000; beds, bedding, and clothing, $2,500; medicines, medical stores, delicacies for the sick, and disinfectants, $500; stationery, blank books, and blanks, $150; forage for horse and cows, and repairs to wagon and harness, $500; furniture, hardware and tinware, cooking-utensils, dishes, night-tubs, and cell-buckets, $1,000; preparing for execution, $200; ice, soap, and sal soda, $200; miscellaneous articles, $300; in all $22,150: *Provided*, That hereafter the officers of the Reform School, jail, and insane asylum shall at the end of each fiscal year make report to the commissioners of the District of Columbia: *And provided further*, That hereafter the officers of each of the institutions appropriated for in part out of the revenues of the District shall embrace in their respective reports a full and complete inventory of all the personal property in detail, the number of employés, and number of days each is employed during the year and price paid each, and the amount of garden and field products produced at each of said institutions, together with the disposition made of said personal property, products, &c.

Mr. COBB. The Committee on Appropriations recommend an amendment on line 130, after the word "make," to insert the word "a."

The amendment was agreed to.

The Clerk read as follows:

For the following charities, namely:
For relief of the poor, $10,000.

Mr. BARBER. I move in line 141 to strike out "ten thousand dollars" and in lieu thereof to insert the words "twelve thousand six hundred dollars, and out of the same amount the sum of six thousand six hundred dollars is hereby set apart as a fund for the payment of physicians employed to treat the poor."

Mr. COBB. I make a point of order on that amendment.

The CHAIRMAN. The gentleman will state it.

Mr. COBB. It is antagonistic to Rule XXI—section 3 of that rule. It increases expenditures.

Mr. BARBER. It makes no change in the existing law.

Mr. COBB. There is no law for the provision which the gentleman seeks to incorporate into this bill.

Mr. BARBER. This appropriation makes no change, however, in the existing law. It merely increases the amount of the appropriation for the relief of the poor of the District.

Mr. COBB. But the amendment specifies how it shall be expended.

Mr. BARBER. But there is no law regulating the expenditure of money for the relief of the poor in the District.

Mr. COBB. You propose here to make a law providing how $6,600 of it shall be expended.

Mr. BARBER. But we certainly have a right to direct how the appropriation shall be applied, and that is to secure a certain sum of money to pay the medical force which is employed for the relief of the poor of this District, and to give them suitable compensation. As the gentleman from Indiana said yesterday, there are over twenty thousand paupers in this District, and probably he spoke within bounds in fixing them at that number. As I understand it, there are some eleven physicians employed by the District board who treat this number of paupers, and they receive the pitiful sum of $30 per month each for services of much greater value. My amendment simply increases the appropriation to the extent of $2,600, and sets apart a sufficient sum to enable the board, if they think proper, to employ physicians at a monthly salary not exceeding $50 a month. I think the point of order is not well taken, and the amendment ought to commend itself to the judgment of the committee.

Mr. BLOUNT. It seems to me, Mr. Chairman, that the point of order is well taken. We have existing at this time a statute providing that no contract shall be made except where an appropriation has been fully authorized by existing law. Now, there is no legislation of that kind to authorize this change. It is impossible that such a contract can be made at this time, because it is unlawful. The proposition of my friend is therefore one that looks to a change of that legislation which prohibits a contract to be made where there is no law.

The CHAIRMAN. The Chair is of opinion that the point of order is well taken as the amendment stands. If the gentleman from Illinois shall strike out from this amendment that part which refers to the manner in which this $6,600 shall be expended by the board, the sense of the committee can be taken upon the question of increasing the amount of the appropriation.

Mr. BARBER. Very well, then, I will do that; I will modify the amendment, trusting to the good sense of the commissioners as to the mode of expending the fund.

The CHAIRMAN. The Clerk will now report the amendment as modified by the gentleman from Illinois.

The Clerk read as follows:

In line 141 strike out "$10,000" and insert "$12,600," so that if adopted it will read, "for the relief of the poor, $12,600."

The committee divided; and there were—ayes 25, noes 31.

Mr. BARBER demanded tellers.

Tellers were ordered; and Mr. COBB and Mr. BARBER were appointed.

The House again divided; and the tellers reported ayes 43, noes not counted.

So (no further count being demanded) the amendment was not agreed to.

The Clerk read as follows:

For the Industrial Home School, $10,000, $5,000 of which shall be used for building a house on the premises, under the direction of the commissioners of the District of Columbia. And hereafter the commissioners of the District of Columbia are authorized to visit and investigate the management of and have a report of the receipts and expenditures of all the institutions herein appropriated for.

Mr. HUNTON. I offer an amendment, to come in at the end of that paragraph.

The Clerk read as follows:

Insert, after line 159, the following:
"One of said commissioners, to be selected by the board of commissioners, shall be a member of the board of managers of the Industrial Home School, with all the powers, duties, and privileges of the other managers of said school."

The committee divided; and there were—ayes 15, noes 47.

So the amendment was not agreed to.

The Clerk read as follows:

## GENERAL EXPENSES.

For salaries and contingent expenses:
For executive office: For two commissioners, at $5,000 each; one secretary,

$2,100; one clerk, $1,500; one clerk, $1,400; one messenger clerk, $900; one messenger, $600; one driver, $480; for contingent expenses, including printing, books, stationery, and miscellaneous items, $3,000; in all, $20,040: *Provided*, That the engineer commissioner of the District of Columbia shall hereafter be entitled to the rank, pay, and allowances of a colonel of engineers.

Mr. ALDRICH, of Rhode Island. I make the point of order upon the proviso appended to that paragraph. It changes existing law and increases expenditures.

Mr. COBB. I trust the gentleman will not insist upon the point of order. I wish to say in regard to this matter that this proviso is simply in the opinion of the committee an act of justice to this commissioner. Two of these commissioners are paid now $5,000 a year. This gentleman for whom provision is made here is a detailed Army officer; detailed expressly for this duty. I can say from my own knowledge of the duties that he performs more actual service than either of the other two commissioners.

Mr. ALDRICH, of Rhode Island. The gentleman is discussing the merits of the proposition, and not the point of order.

Mr. COBB. I know very well if the gentleman insists upon the point of order that it is well taken, but I hope he will not insist upon it.

The CHAIRMAN. The Chair is of opinion that the point of order is well taken and sustains it.

The Clerk read as follows:

For old-records division: For one clerk $1,200; one clerk, $900; in all, $2,100.

Mr. HUNTON. I desire to offer an amendment.

The Clerk read as follows:

After the word "dollars," in line 196, insert "for special assessment division: One clerk, $1,800; one clerk, $1,400; one clerk, $1,200; contingent expenses, including books, stationery, and miscellaneous items, $100; in all, $4,500."

Mr. COBB. I make the point of order upon that amendment upon the ground that there is no general law establishing the offices which this amendment provides for.

Mr. HUNTON. Mr. Chairman, I would like for the gentleman from Indiana to blow either hot or cold, and he might take his choice. Yesterday he maintained that the law was in the appropriation bill for the current year. Now he says this is subject to the point of order because there is no general law. The appropriation for the current year provides for the assessment division; and more than that, the Secretary of the Treasury has estimated for it.

I have before me the estimates of the Secretary of the Treasury, which I will read for the benefit of my friend from Indiana. Yesterday he was making the fight for the Secretary. To-day he is making it against the Secretary. Yesterday he rested his point of order on the ground that the present appropriation made the law. To-day he says this amendment is subject to a point of order because it is in the appropriation bill for the current year. The gentleman must be wrong upon one point or the other; I leave him to decide on which.

The appropriation bill for the current year provides for the assessment division just as my amendment provides for it. The Secretary of the Treasury makes the estimate for it as necessary for the carrying on of the duties of the District government. Here is what the Secretary says:

Special assessment division, $4,200.

Mr. ALDRICH, of Rhode Island. I hope the gentleman from Virginia does not mean to advise the committee that the Secretary of the Treasury has made any recommendation other than by allowing this amount to remain in the bill.

Mr. HUNTON. I am stating exactly what the Secretary says, and the gentleman from Rhode Island can draw his own conclusions. I will read what the Secretary says on the subject. Addressing the District commissioners, he says:

GENTLEMEN: By section 3 of "an act providing a permanent form of government for the District of Columbia," approved June 11, 1878, it is made the duty of the Secretary of the Treasury to carefully consider all estimates submitted to him for the expenses of the District of Columbia, and to approve, disapprove, or suggest such changes in the same, or any item thereof, as he may think the public interest demands; and, after such consideration, to cause to be made a statement of the amount approved by him, and the fund or purpose to which each item belongs, which shall be certified by him and delivered, together with the estimates as originally submitted, to the commissioners of the District of Columbia, who shall transmit the same to Congress.

Pursuant to this duty, the Secretary returns herewith the estimates submitted by you for the expenses of the District of Columbia for the fiscal year ending June 30, 1882, with his approval, as follows.

And then follows what I read a moment ago—

For special assessment division, $4,200.

So that it is not only provided for in the existing law but is recommended by the Secretary of the Treasury as necessary. I desire now to call the attention of the committee to what I had read from the Clerk's desk yesterday.

Mr. COBB. If the gentleman will allow me a moment—he has admitted I was right half the time, which is a strong admission in my favor—I withdraw the point of order.

Mr. HUNTON. It is a good thing for the gentleman that he is right half the time.

Mr. COBB. I could not admit that much for the gentleman from Virginia in his treatment of this bill. [Laughter.]

Mr. HUNTON. Now on the merits of the case, the point of order having been withdrawn, I proceed to state that the special assessment division in the District government has been in existence ever since I have known anything of that government. It was estimated for by the commissioners whose estimate was approved by the Secretary of the Treasury; and it is, as I am informed by the District commissioners, essentially important to continue this division of the Government. From the chief of the division we have a letter, a portion of which only I will read, the whole of it being in the RECORD of this morning:

The revision of the assessments on streets and avenues has been completed, but a large amount of work remains to be done before the office can be closed.

There are one hundred and sixty-six alley assessments in a state of partial revision.

The claims for revision filed in 1878, 1879, and 1880 are not yet all examined and reported upon.

Lien certificates have yet to be prepared and issued upon one hundred and sixty-six streets, and also the one hundred and sixty-six alley assessments.

The accounts of Mr. George W. Beall, late clerk in charge of the collections on account of special assessments, since 1871 to July last, should be reconciled with the books of the treasurer of the board of public works and the commissioner of the sinking fund.

The old records in this office are valuable, and should be properly cared for and filed; and the current work is by no means insignificant, and covers every conceivable form of complaint.

So that in the view of the commissioners, in the view of the Secretary of the Treasury, and in the view of the chief of that division, it is necessary to continue this portion of the appropriation bill.

The CHAIRMAN. The point of order having been withdrawn, the question is on the amendment of the gentleman from Virginia.

Mr. ALDRICH, of Rhode Island. In view of all the facts and circumstances which surround this case, facts which are as familiar to the gentleman from Virginia as to myself, I am greatly surprised he should ask that this appropriation be inserted in this bill.

When the District appropriation bill was before the District Committee last year they called the attention of the commissioners to the fact that we were called upon to appropriate a very large sum for salaries of executive officers, a sum larger, I believe, than that appropriated in any city in the country of the same size, and a larger sum than is appropriated in several of the States for salaries of similar officers. In the District appropriation bill last year we appropriated over one hundred and sixty thousand dollars for salaries of executive officers, not including fire, police, and the school departments. This bill appropriates $160,000 for similar purposes. The only city whose reports I have had a chance to examine since last night is the city of Buffalo, of about the same size as this; and I find that they appropriate $80,000 for the same offices. In my own city of Providence, with a population of 105,000, we expend but $53,000 for these officers.

When we called the attention of the commissioners to this condition of things they alleged as the principal reason for these large expenditures the revision of special assessments which had been ordered by Congress. They stated to the committee that this revision would be completed in a few months, and after it was completed they proposed of their own volition to recommend to Congress to reduce the appropriation for these executive offices. In June, 1879, when the last act was passed for making revisions the commissioners stated to the committee that the revision could probably be completed within three months, that is, by the 1st October, 1879. They have been before Congress or the committee three or four times since for the purpose of having the time extended and making promises that the revision should be completed within a few months. They fixed the time in April last. Again, they fixed it in July. By a communication which I have before me and which I will not take up the time of the committee to read, they fixed it in October. They finally fixed it in January of this year. In their report sent to this House in December last they say:

The revision of special assessments required by the acts of 19th June, 1878, and 27th June, 1879, will be completed by January 1, 1881, and will be made the subject of special report.

Now, what do we find this morning? The revision of special assessments having been completed, we find the gentleman from Virginia, the chairman of the Committee on the District of Columbia, urging this appropriation and giving as a reason for it a letter which he produces from the very man whom we propose to legislate out of office, giving his reasons why he should be retained, and why his salary should be continued.

I believe this course is an unusual if not extraordinary one. This officer says, in a letter which the gentleman from Virginia has read, that the revision is complete to-day, but he desires to be retained in his office for another eighteen months for the purpose of performing other duties. In my opinion, after careful examination, many of the duties suggested cannot properly be performed by this gentleman.

He proposes to revise his own acts, apparently to go over this work indefinitely. The appropriation bill for the current fiscal year provides for the continuance of these officers for six months. I believe, and I think every member of this committee will agree with me, that this revision could have been completed in six months' time, instead of being extended over three years.

What has been the result of this revision? It has reduced the amount of taxes due to the District for special improvements one and three-fourth million of dollars, and a large portion of this reduction has been in violation of law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUNTON. I desire to say a few words in answer to the gentleman from Rhode Island, [Mr. ALDRICH.] I am as much an advocate of economy in the affairs of the District of Columbia as he is. I would be very glad to reduce the expenditures of the government

of this District, but I do not think that the government is liable to all the criticisms which the gentleman has made upon it. That gentleman knows as well as I do that since the new form of government for this District went into operation under the law of June 11, 1878, the expenditures of this government have been greatly reduced. One thing, twenty-eight inspectors of water have gone out of office. I might enumerate other reforms. Now, I cannot understand why the gentleman from Rhode Island should sit in his seat and see all the other officers of the District government provided for without making any effort at reform in any division of the government until we come to the special assessment division. He seems to want to make the whole reform in that one division, to wipe out that division entirely. The commissioners of the District of Columbia themselves say that it is important to retain that division, and as evidence of its importance they give a letter which they called upon the chief of that division to write.

The gentleman from Rhode Island [Mr. ALDRICH] criticises me because I ask to retain this division in the District government upon a letter written by the chief of that division. I ask it at the instance of the Secretary of the Treasury and at the instance of the District commissioners. And the District commissioners, as evidence that it is necessary, produce from the records of the division, as furnished by the chief of the division, a statement of what is to be done in that division. There is nothing unusual in that.

If reform be necessary, if further economy should be introduced into the affairs of the government of this District, it should be extended all through the divisions of the government, and not aimed at one single division alone, which, in the opinion of the officers of the District government, is important for the proper discharge of the duties and functions of government imposed upon the commissioners.

I say to this Committee of the Whole that the District commissioners with one voice claim that this division is important for the proper prosecution of the functions of the government of this District. As evidence of that they furnish a letter which I have read to the committee. The Secretary of the Treasury supervised the assessment for this division, which was sent in by the District commissioners, as I have read from a letter of the Secretary himself. In face of all this, it seems to me there is no reason why this division of the District government should be stricken down.

Mr. ALDRICH, of Rhode Island. I move to strike out the last word for the purpose of replying to the statements of the gentleman from Virginia, [Mr. HUNTON.] I agree perfectly with him that this reform ought to be extended through all the departments of the District government. The excuse given by the District commissioners heretofore for this large expenditure has been that the revision of the special assessments was going on, and until that was completed there could be no reduction of any magnitude One reason why I favor the striking out of the appropriation for this special assessment division is that its functions have ceased and there is no reason why it should be continued.

Mr. HUNTON. My friend from Rhode Island will certainly bear me out in the declaration that there are special assessments constantly going on in this District.

Mr. ALDRICH, of Rhode Island. Not by any means.

Mr. HUNTON. I beg your pardon.

Mr. ALDRICH, of Rhode Island. There is no authority of law and there has been none since June, 1878, for the levying of any special assessments in this District, and I defy the gentleman from Virginia or any other gentleman on this floor to point me to an act of Congress authorizing any such assessment.

Mr. HUNTON. I can do it.

Mr. ALDRICH, of Rhode Island. It cannot be found. The act of June 11, 1878, I think, specially forbids the levying of any special assessment after that date for any improvements. If any have been made it has been in violation of law. The provision in relation to complaints being filed before the commissioners expired a year and a half ago; and if any complaints are made now they are made without authority of law, and certainly there should be no department for the reception of unauthorized complaints.

The gentleman undertakes by implication to assert that the Secretary of the Treasury has approved the retention of this appropriation. I admit that formally he has done so; but I know of my own knowledge, and I state it without hesitation, that the Treasury Department is in favor of striking out this appropriation; and that it has only been retained by an inadvertence.

Mr. HUNTON. Why did the Secretary of the Treasury recommend it?

Mr. ALDRICH, of Rhode Island. It must have been overlooked by the Treasury Department, as I know that the officers of that Department are in favor of striking it out. They know as well as I do that the only effect of retaining it must be to give places to some four or five officials. In the letter which has been read no reason is given for the retention of the appropriation.

Mr. HUNTON. Did the Secretary of the Treasury tell the gentleman that he wanted this appropriation stricken out?

Mr. ALDRICH, of Rhode Island. I did not say that; I said the Treasury Department wanted it stricken out.

Mr. HUNTON. We do not look to the Treasury Department; under the law of 1878 we look to the Secretary of the Treasury.

Mr. ALDRICH, of Rhode Island. For the information of the gentleman, I will say that the Treasurer of the United States made precisely the statement I have given.

Mr. HUNTON. But he is not the man who makes recommendations to us; it is the Secretary of the Treasury.

Mr. ALDRICH, of Rhode Island. The gentleman from Virginia knows as well as I know that the Treasurer is the man at the Department most familiar with the workings of this portion of the District government.

Mr. HUNTON. We can only look to the recommendations of the Secretary himself—nobody else.

Mr. ALDRICH, of Rhode Island. I will admit that the Secretary of the Treasury has made a formal recommendation to this House; the gentleman is entitled to the benefit of all that the fact may imply.

Mr. BLOUNT. Is it not true that these estimates for the salaries of particular officers are made simply because those officers are in existence, and the recommendations do not imply any opinion as to the importance of the duties that those officers perform?

Mr. ALDRICH, of Rhode Island. Certainly.

Mr. HENKLE. Mr. Chairman, every one desires to see the expenses of this District retrenched, and there are no members of this House who are more anxious for that consummation than members of the District Committee. But it is known to every intelligent member of the House and to every citizen of the District that the condition of affairs existing here for the last ten or fifteen years has been unlike that of any other city of the whole country. In the wild, reckless career of a District government that was organized many years ago, the whole town was upturned from center to circumference. Streets were graded and regraded; grades were changed; property was depreciated in value, and in some cases its value was utterly annihilated. In hundreds of instances citizens were bankrupted. Special assessments were laid upon property when the value of the property was actually destroyed by what was claimed to be an improvement. These assessments were grievous and oppressive, and in many cases amounted to a confiscation of the property. Redress was sought at the doors of Congress year after year without any relief. Finally, in 1878, a bill was passed extending relief to those who had not yet paid their special assessments, but no relief was given to those who had, in dread of legal proceedings, paid their assessments, enormous though they were. Afterward another bill was passed extending relief by drawbacks to those who had paid their assessments.

Now, this work extended over the whole city. It involved in its adjustment an examination and revision of the special assessments of the entire city—all the improvements that had been made here during that reckless reign of ring rule in the District of Columbia. Such a confused, chaotic condition of public affairs has never been known in the country as existed right here in the District of Columbia. The work of revision was a herculean task. It was impossible for the clerical force in any office to do it within a limited time. The officers of the District have worked diligently at this business; they have worked with ability, and the gentleman at the head of this department is the peer, and I believe the superior, of any man in that sphere of business within the limits of this District. He is in reference to matters of this sort a perfect encyclopedia—a man thoroughly familiar with all the details of every department under his charge. These officers have labored all the time faithfully and efficiently, but the work is not completed. In the nature of things it could not be completed within the time thus far allowed. The commissioners in sending their estimates to the Treasury Department have regarded it as necessary that this work should be continued for a while in order that it may be finished. The Treasurer has examined the question carefully and seriously, and he has sent in his report to Congress saying that it is necessary to continue it.

Mr. ALDRICH, of Rhode Island. Has the gentleman read the letter which the chief of the special assessment division sent to the chairman of our committee, the letter in which he says that the work of revision of assessments of streets and avenues has been completed?

Mr. HENKLE. I have not.

Mr. ALDRICH, of Rhode Island. It might be well enough for the gentleman to read that letter.

Mr. HENKLE. But the gentleman, as a member of the Committee on the District of Columbia, knows that complaints are coming to us every day with regard to the grievous nature of these special assessments, and he knows that they have not been fully adjusted.

Mr. ALDRICH, of Rhode Island. The gentleman from Maryland knows as well as myself that any special assessments now being made are unauthorized.

Mr. HENKLE. The special assessments are all the time going on.

Mr. ALDRICH, of Rhode Island. I beg the gentleman's pardon.

Mr. HENKLE. I know as much about it as the gentleman.

[Here the hammer fell.]

Mr. ALDRICH, of Rhode Island. I withdraw the formal amendment.

Mr. NEAL. I renew the formal amendment. Mr. Chairman, I have been disposed to be as liberal with this District government as any member of the District Committee; but it has seemed to me that the offices of this District government needed a thorough and complete revision. I believe there are more employés than are required to do the necessary work of the government; and when we considered the District appropriation bill last session I was assured by one of the commissioners that they would reduce the expense of that govern-

ment at least 25 per cent. There is no reduction in this bill whatever. If I wanted to provide a government for this District, with my knowledge how municipal affairs should be governed, I would do away with other officials besides those whom it is now proposed to do away with.

Now, what are the facts? There were assessments made upon the property of individuals known as special assessments for particular improvements. These assessments were made years and years ago. Complaints were made from time to time of those assessments. Finally, in order to allow persons who had any right to complain, to have their special assessments revised, we passed a law for the revision of those special assessments under the District government.

One of two things is true: either we must pass a law wiping out all these special assessments or there must be some end to this revision. As has been well stated by the gentleman from Rhode Island, [Mr. ALDRICH,] the law which authorized these revisions has expired by the terms of its own limitation, and therefore there is now no authority for it whatever.

It is true we have complaints made before our committee daily, by persons who do not wish to pay these special assessments, that they are exorbitant and unreasonable in their character, but the fact that these assessments have not been revised before has been because the parties themselves have not presented their cases to the board of revision.

I believe this system of taxation is the most iniquitous ever invented by man to extort money from the people. The pretense under which it is made is that it is an improvement to the property commensurate with the amount of expenditure. That, however, is untrue in almost every particular. We have a law of that kind, as you are well aware, Mr. Chairman, in Ohio. It is limited to 25 per cent. of the value of the property. Formerly it was unlimited. I remember one instance in which a distinguished citizen of Ohio, William M. Corry, had his property assessed by the city council of Cincinnati. The improvements were made and the property was sold, but sufficient was not realized from the property itself to pay the assessment after the improvements had been made, and the city council brought suit against Mr. Corry to compel him to pay out of his other property this assessment which had not been liquidated by the sale of the improved property itself. This bears me out in the statement that the system itself is iniquitous.

Besides, sir, it has been most unjust in its character in this District, as any one who is familiar with the District itself knows. Persons of means and influence have had special assessments for improvements upon their property revised, and they have received payment for damages, while those who had no one in court to look after their interest have had their claims unattended to.

The CHAIRMAN. The gentleman's time has expired.

Mr. NEAL. I will withdraw the amendment and renew it for the purpose of continuing what I have to say.

The CHAIRMAN. Objection being made, the Chair must hold that that cannot be done.

Mr. HUNTON. The gentleman from Ohio and the gentleman from Rhode Island have spoken to the committee about the economy in the District government. I agree there ought to be any amount of economy exercised, but it strikes me as peculiar the two gentlemen should direct their economy exclusively to one division of that District government, and that division which has been in existence for the last eight or ten years, certainly ever since I have been in Congress, and ever since these special assessments began, which was a long time ago, and which has the same powers provided for in this amendment that it had I believe from the beginning.

Both of the gentlemen talked about the completion of the revision of the special assessments as the reason for abolishing the division itself. That division existed before. Special assessments are authorized by law, and therefore the completion of the revision of special assessments does not affect the necessity for them at all. When this revision of special assessments was going on, as gentlemen of the District Committee will all bear me witness, there was an immense deal of work to do in that division, more than four times the labor engaged in that division could accomplish, and it was supplied, according to my information, from other divisions of the District government. That special work in revising special assessments is completed, and therefore they will in that division need now only the ordinary force provided for by the amendment.

As I understand the duties of this division of the District government, it is always in operation. Special assessments are always going on. Whenever a new street is opened or a street is improved, a special assessment is made on the property-holders for the purpose of paying for it, and that special assessment goes to this division of special assessments under the District government. Therefore, it seems to me, Mr. Chairman, it is essentially necessary to keep up the special-assessment division in the District government. Although the revision of special assessments has been completed, it is nevertheless a part of the District government which must be provided for.

The Secretary of the Treasury had all these things under consideration, and he revised the estimate of the District commissioners. The fact mentioned by the gentleman from Rhode Island that some man in the Treasury Department, it may be some subordinate who has this matter especially in charge, has told him verbally this might be dispensed with, does not affect the question at all. The law authorizes the Secretary of the Treasury to revise the estimates. He has revised the estimates and has recommended the continuation of the special-assessment division at about the rate provided for in my amendment.

I withdraw the formal amendment.

Mr. COBB. I renew the amendment. I will say, Mr. Chairman, that I have not given this question as careful consideration in regard to its details as perhaps I ought to have done. How the gentleman from Virginia can come here in face of the statement of the commissioners of the District and insist this special assessment shall be continued beyond what is required is something I cannot understand. There are a great many persons employed in these different Departments. I have no doubt they are the friends of gentlemen. I have no question about that. When, however, the commissioners themselves say in their report submitted to this Congress on the 26th of November, or rather published at that date, but submitted on the first day of this session, that this special-assessment division would complete its work by the 1st of January, for the gentleman to insist in contradiction to the commissioners upon keeping up and appropriating for this special-assessment division is something I cannot understand, unless, perhaps, it is to force upon this District the obligation of paying men for performing duties that ought not to be performed.

Mr. HUNTON. The gentleman has no right to make such an insinuation.

Mr. COBB. I do not insinuate anything further than the language I have read conveys.

Mr. HUNTON. The gentleman makes an insinuation that is not warranted by the facts.

Mr. COBB. I repel the intention of making any insinuation other than the language conveys. I will read what the commissioners say themselves.

Mr. HUNTON. Well, read it and see if it bears out the insinuation.

Mr. COBB. I will read it and I wish the gentleman to understand that I will read it without his command.

Mr. HUNTON. I do not ask the gentleman to read it. I simply want him to do justice to my statement.

Mr. COBB. The commissioners say:

> The revision of special assessments, required by the acts of June 9, 1878, and June 27, 1879, but which was interrupted and delayed—

They give the reason why it was delayed. Why was it delayed?—

> which was interrupted and delayed by the investigation ordered by the House of Representatives during the last session of Congress is still in progress and will be completed by January 1, 1881, and will be made the subject of a special report.

Now, the gentleman from Virginia proposes to appropriate for one year from the 1st day of July, 1881, and running up to the 1st day of July, 1882, for this service, when the commissioners tell him in plain and emphatic language here that the work of this special assessment division will be completed before that time. If the gentleman can meet that statement now I wish he would do it.

Mr. HUNTON. Will the gentleman allow me? I am sure he does not want to misstate the position of the commissioners. I will show, if he will grant me one moment, that he does misstate it. He says, Mr. Chairman, that the commissioners report that the work of this division is completed, or will be——

Mr. ALDRICH, of Rhode Island. The only authorized work.

Mr. HUNTON. I am replying to the gentleman from Indiana, now. If the gentleman from Rhode Island will wait a moment I will reply to that. With all respect to the gentleman from Indiana in reference to his construction of the language of the commissioners I beg leave to remark that they say no such thing. But they do say exactly what I have stated heretofore that the work of the revision of special assessments is done. That is all they say; that is what I stated; that is what we all know to be a fact, that the revision of special assessments provided for by law by this Congress or the preceding Congress has been completed. That is the revision of special assessments But further——

Mr. COBB. I cannot yield my whole time to the gentleman from Virginia.

Mr. HUNTON. Simply let me finish the sentence.

Mr. COBB. I prefer to continue in my own time.

The CHAIRMAN. The gentleman from Indiana declines to yield.

Mr. COBB. I have now read what the commissioners say, and the gentleman from Virginia has a peculiar way of getting around language. I cannot do it as nicely and adroitly as he does, I must confess. But I have quoted language which seems to me to be very plain. When the commissioners themselves assent that this work will be completed or that this division will have completed its work by the 1st day of January, as I read, I must confess I take it that their language means exactly what it seems to convey. I will read it again:

> It will be completed by January 1, 1881.

That is, these special assessments or the work of this special-assessment division. That is what they say, and I cannot understand language if that does not mean that the work will be completed at the date fixed. And I can state further, Mr. Chairman, that the gentleman from Virginia who is a member——

The CHAIRMAN. Debate on the pending amendment is exhausted. The *pro forma* amendment was withdrawn.

Mr. NEAL. I wish to say in response to the gentleman from Virginia

that he is mistaken when he says that the business of making these special assessments for the improvement of property is still going on. There is no provision of law authorizing these special assessments upon property to be continued any longer. All the streets and avenues upon which improvements are being made are made at the expense of the District treasury, and not at the expense of the property adjacent thereto. So that in that respect at any rate there is no necessity for any further special assessments. Moreover, Mr. Chairman, the principle upon which these special assessments has been made is radically wrong. It permits a clerk or chief of division, together with his clerks, to go to work arbitrarily and estimate how much the assessment already made by a competent officer shall be reduced. I am informed at the Treasury by a well-posted gentleman—a person entirely competent to pass judgment upon this matter—that there have been not less than three revisions of special assessments which have been made upon property in this District; and I was shown yesterday two separate assessments for sewerage upon adjacent lots on which the original certificates were $54, while under the late revision one of the lots paid only $18, and the man who paid his $54 comes before our committee and wants us to pass a law refunding to him the money paid in excess of the revision made upon the adjacent lot. As I stated before, one of two things is true: either we should wipe out all special assessments and pay back the money which they have been compelled to pay, or we must stop the revision somewhere. If there is to be any further revision, it should be done, not by a clerk in one of the bureaus, but should be a competent revision by persons fully acquainted with the facts and the value of the property; a jury, if you please, who have the necessary knowledge and judgment to make a revision in such a way that it will be just and equitable, not only to the property-holder, but to the holders of adjacent property in the District.

I think, therefore, that in view of the numerous offices already connected with the District government we can well dispense at least for one year with this board of revision; and I trust the committee will vote to keep the appropriation out of the bill.

Mr. HUNTON. I desire to say to the committee that if the District commissioners desire the abolition of this special-assessment division, as the gentleman from Indiana construes their language to mean, I would be the last man upon the floor of this House to advocate its retention; but it is singular, if they have made a report in which they say that the work of this division is ended, that they should then come to me to ask me to offer an amendment restoring this assessment commission to the appropriation bill left out by the gentleman from Indiana. If the committee will attend to the language made use of by the commissioners in their report, I believe they will find the gentleman from Indiana is mistaken in his construction of that language. It is to this effect:

> The revision of special assessments required by the acts of June 19, 1878, and June 27, 1879, which was interrupted and delayed by the investigation ordered by the House of Representatives during last session of Congress, is still in progress. It will be completed by January 1, 1881, and will be made the subject of a special report.

Now what will be finished by January 1, 1881? The work of this revision? No; the revision of the special assessments authorized by two special acts of Congress will be finished by that time; but they do not say, and did not mean to say, that the work of the division would be ended by that time; because the work of that division, as I understand, is a continuing work, was in operation before this revision of special assessments was authorized by law, and is still necessary in the opinion of the commissioners of the District of Columbia, and is still necessary in the opinion of the Secretary of the Treasury, as reported to this House in the letter which I have read.

The gentleman from Indiana, then, it seems to me, is mistaken in the construction which he placed on the language of the commissioners. If he will examine it more carefully he will see that what they say is that the revision of the special assessments will be completed by the 1st of January; not the work of the revision but that particular work assigned to it by two special acts; and when that is finished then the regular work of the division comes along, which the commissioners say it is necessary to keep up for the purposes of the government.

Mr. ALDRICH, of Rhode Island. I will admit that the District commissioners are entitled to be represented as the gentleman claims, but it is only in this way that they have given their approbation to this appropriation for the special-assessment division. But I call the attention of the gentleman from Virginia to this singular fact: that although they send here a communication from a clerk whose office is abolished by this appropriation bill, giving some reasons why he should be retained in his position, they do not by word or by implication approve the communication. In fact they express no opinion whatever whether the reasons given by the clerk are good or bad reasons. They have never recommended, since I have been on the District Committee, the cutting down of the salary of a single officer, the abolition of a single office; and I believe so long as they retain their positions they never will.

Now, what are the reasons this chief of the special-assessment division gives why he should be retained in his position for another eighteen months? I submit to the House, and I believe any one familiar with this revision of special assessments will agree with me, there is no valid reason assigned in the communication why he should be retained. He says the tax-lien certificates have yet to be prepared and issued. The assessments have all been made and revised, and to issue the lien certificates is a function of the commissioners themselves, and could not occupy exceeding two or three weeks at the outside.

He says further, the claims for revision filed in 1878, 1879, and 1880 are not yet all examined and reported upon. By the acts of June, 1878 and 1879, thirty and sixty days were given to parties who complained of their assessments to file complaints; and any complaints filed after that were of no effect. The commissioners had no right to take into consideration any complaints except those that were filed within thirty and sixty days respectively. But what have they done? This division which it is proposed to retain has received complaints and revised all assessments to completion without regard to any such limitation; and now they propose to go back and examine the complaints on which the revision should have been based.

He says the accounts of Mr. George W. Beall need examination. I think any gentleman who listened to the testimony taken last winter will agree with me this chief of the special-assessment division is not the person to examine these accounts. They were too closely connected in their relations for this gentleman to be called upon to audit or approve the accounts of Mr. Beall. These accounts should be examined by some one outside of the special-assessment division. Those and the further reason that complaints are still coming in are the only reasons given by the chief of the division for this appropriation.

The *pro forma* amendment having been withdrawn the question was taken on Mr. HUNTON'S amendment and it was not agreed to—ayes 5, noes 54.

Mr. NEAL. I ask the consent of the gentleman who has charge of this bill to go back to the foot of page 7 for the purpose of adding a proviso which I shall read. If there be any objection to it I will withdraw it.

At the foot of page 7, after the appropriation for the Industrial Home School, is this proviso:

> And hereafter the commissioners of the District of Columbia are authorized to visit and investigate the management of, and have a report of the receipts and expenditures of, all the institutions herein appropriated for.

I propose to add the following proviso:

> *Provided*, That the supervision heretofore exercised by the Secretary of the Interior over the Government Hospital for the Insane shall be continued, and the officers of said hospital shall report to him as heretofore, anything in this act to the contrary notwithstanding.

The supervision of the Secretary of the Interior ought to be continued.

The CHAIRMAN. Is there objection to going back for the purpose indicated by the gentleman from Ohio, [Mr. NEAL?]

Mr. COBB. I have no objection. I think it is the law now, but as the gentleman seems to think there is some doubt about it, and for the purpose of settling the question, I am willing that his amendment should be put in. It is important that there should be no doubt upon the subject.

Mr. NEAL. Then I offer the amendment I have indicated.

The amendment of Mr. NEAL was then adopted.

The Clerk read the following:

> For treasurer and assessor's office: For one treasurer and assessor, $3,000; one assistant assessor, $1,800; one clerk, $1,600; two clerks, at $1,400 each; six clerks, at $1,200 each; one clerk, $900; one inspector of licenses, $1,200; one assistant, $900; one messenger, $600, contingent expenses, including printing, books, stationery, car-fare, detection of frauds on the revenue, and miscellaneous items, $2,000; in all, $22,000.

Mr. FORT. I move to strike out the last line of the paragraph just read for the purpose of asking a question of the gentleman in charge of this bill. I notice that the paragraph just read provides for a treasurer, and quite a number of clerks under him, for the District of Columbia. I had supposed that all the money belonging to the District of Columbia was deposited with the Treasurer of the United States, and that there was no treasurer of this District and no need of any. If, however, I am assured there is a necessity for the office, I will withdraw my amendment.

Mr. COBB. I did not exactly understand what the gentleman from Illinois [Mr. FORT] was saying; I could not hear it all.

Mr. FORT. I said that I have understood that the Treasurer of the United States acted for, and was in fact the treasurer for the District of Columbia, and that all moneys belonging to the District were deposited with him. This paragraph provides for a treasurer and a clerk, or two clerks, or may be more, under him. If that office is necessary, then all right; if not, it certainly should not be continued. It has come to us no doubt from the old District government, as many other of these unnecessary offices have come, and has been continued from time to time. If this treasurer, with perhaps one, or two, or three, or more clerks can be dispensed with, it is now a good time to do it.

Mr. COBB. I will state that I fully sympathize with the suggestion made by the gentleman from Illinois, [Mr. FORT.] But he will remember that the law of 1878, organizing a new government for this District, put into the hands of the commissioners of the District the power to regulate these officers, and it made it their duty to remove them, to change them, and so regulate the business affairs of the District as to make the system run smoothly.

That, however, has not been done. I have no doubt at all that these two officers, the treasurer and the collector, have many more

clerks than should be provided. But I have talked with the commissioners about it, and they always seem to be opposed to any proposition to reduce expenditures, as stated by the distinguished gentleman from Rhode Island [Mr. ALDRICH] awhile ago.

I want to state for the benefit of this committee and for the gentleman from Illinois the manner in which these two offices are conducted. There is one officer known as treasurer and assessor and there is another known as collector. Now, it is the duty of the collector under the law, as I claim, and I have examined it pretty carefully, to collect all the taxes and to deposit daily in the Treasury of the United States the revenues which he collects. Instead of that, however, it is done in this way: The officer known as treasurer and asssessor goes on and assesses the property of this District. He retains the books after they have been made up, instead of turning them over to the collector, as I claim it is his duty under the law, taking his receipt therefor and charging him with the amount on the assessment books.

The treasurer and assessor retains the books, and if you wish to pay taxes you must go through a double process. First, you go to the treasurer and assessor's office, and there the assessment books are examined and your tax account made out. Then you must go somewhere else to pay your taxes and take your chance when there is a rush of being able to do it in a reasonable time. The collector takes the account, receipts it, and takes your money, and then sends the money to the treasurer. I say that one of these offices should be abolished, or the rule which they have laid down for transacting business ought to be abolished. It is a cumbrous and extravagant system, and I think I know it as well as any one, for I have examined it carefully. They have got into the way of repeating some of these accounts a half dozen times, at the expense of the Government employing attorneys, &c., when it should be the duty of the individual to employ an attorney if he cannot do it himself. In my judgment it results in great expense to the General Government and without any benefit.

I have an amendment which I had intended to present, but I knew that the gentleman from Virginia, [Mr. HUNTON,] and I say it in all kindness, would oppose all these propositions, and therefore I have left it out, or the committee did, believing, however, that there is an error in the manner of collecting taxes in this District, and that it is impossible to correct it except by law. I trust that, now attention has been called to the subject by the distinguished gentleman from Illinois, [Mr. FORT,] members will look into this matter in the future and take measures to systematize the affairs of this District, and thereby reduce the burdens now borne by the people of the District and by the public Treasury.

Mr. FORT. I think this would be a very opportune time to do what is suggested by the gentleman from Indiana, [Mr. COBB,] but as there is not time, perhaps, to fully mature the necessary provisions, I will withdraw my amendment.

Mr. SAMFORD. It seems to be conceded by the remarks of the gentleman from Illinois [Mr. FORT] and the gentleman from Indiana [Mr. COBB] that there is no necessity for this treasurer and assessor; and, if not, I see no reason why this provision should not be stricken out of this bill. No reason has been given why it should be retained; and the gentleman from Indiana has just informed the committee that his investigation shows it is superfluous—that there is no necessity for it. Now, as the sum of $22,000 is involved, I think, unless there is some defense for it, the provision ought to be struck out. If no one else will make the motion, I make it myself.

The CHAIRMAN. The gentleman from Alabama, [Mr. SAMFORD,] as the Chair understands, moves to strike out the paragraph extending from line 197 to line 208 inclusive.

Mr. ALDRICH, of Rhode Island. I suggest to my colleague on the District Committee, the gentleman from Alabama, [Mr. SAMFORD,] that it will be necessary to have some machinery for the assessment of taxes. If this paragraph be struck out, the office of assessor is abolished as well as that of treasurer. The office of treasurer should undoubtedly be abolished; but it is necessary to have some officer who shall make the necessary assessment for taxes.

Mr. FORT. We could readily insert in the bill a provision of that kind.

Mr. HUNTON. In regard to the motion of the gentleman from Alabama, my colleague on the Committee on the District of Columbia, I agree that it would be better to abolish the office of treasurer of the District of Columbia altogether and let the collector make his collections and settle with the Treasury Department. But the gentleman from Alabama includes in his motion the striking out of the office of assessor, one of the most important offices of the District government, one without which the government of the District could not be conducted. As one man fills the positions of treasurer and assessor, the employment of additional force in that department is obviated. But I agree that if the office of treasurer were abolished and the collector required to pay the funds collected by him directly into the Treasury, it might and probably would work better than the present system. But the making of such a change would require additional legislation which it would not be proper to put upon an appropriation bill. Hence I suggest to my friend that while these two offices are held by one man and no additional expense is entailed upon the District, we might let the matter remain as at present until a law shall be passed imposing upon the assessor all necessary duties and turning over to the Treasurer of the United States, the sinking-fund commissioner, the duty of treasurer of the District as well as of the United States.

Mr. COBB. As this question has been raised here, I will send up and have read a provision which I think will cover this question. I do not offer it as an amendment, but simply desire to have it read for information. Any other gentleman who desires to move it as an amendment may do so. If adopted as a part of this bill it would be original legislation put upon an appropriation bill, which I object to, except where it is absolutely necessary.

The Clerk read as follows:

The office of treasurer of the District of Columbia is hereby abolished from and after the 30th day of June, 1881, and the collector of taxes for said District shall, from and after that date, collect all revenues of the District and deposit the amounts collected daily with the Treasurer of the United States. The duplicate of assessment for the fiscal year 1882, and annually thereafter, shall be prepared by the assessor before the 1st day of November of each year; and upon the completion thereof shall be delivered to the collector, who shall receipt in duplicate for the total amount of taxes shown by said assessment. The original receipt shall be forwarded to the First Comptroller of the Treasury, and the duplicate to the auditor and comptroller of the District of Columbia. All tax bills shall be made up by the collector of taxes; and he shall be held responsible under his bond for all taxes, except such as he may not be able to collect after fully complying with the requirements of law.

Mr. SAMFORD. The motion which I submitted was made in accordance with the remarks that fell from the gentleman from Indiana. I was not myself apprised as to whether there was any necessity for this officer known as treasurer and assessor. It would seem now that the only objection raised to my motion is that it is a change in the existing system. But it can make no difference whether this officer is called a treasurer and assessor or simply an assessor. If the officer is necessary the provision for the office should not be stricken out. I am now informed by the gentleman from Indiana that the amendment he has had read for the information of the committee would reduce expenses by getting rid of a number of clerks. In view of that statement, I withdraw my former motion and move as a substitute for the paragraph extending from lines 197 to 208 inclusive the provision sent to the desk by the gentleman from Indiana.

The CHAIRMAN. The gentleman from Alabama moves to strike out the paragraph and insert what has just been read by the Clerk.

Mr. HUNTON. I raise a point of order on that amendment.

Mr. SAMFORD. Is it liable to a point of order when it does not increase expenditures?

Mr. HUNTON. To be in order it must diminish expenditures.

Mr. SAMFORD. It does diminish expenditures according to my information, obtained from the gentleman having charge of this bill.

Mr. HUNTON. There is nothing upon the face of the amendment, as read by the Clerk, which reduces expenditures, according to my understanding; and certainly the provision is a change of existing law. Will the Chair direct that the amendment be reported again?

Mr. SAMFORD. If I may be allowed to modify my amendment, I can put it in such a form as to escape every point of order that may be raised. I will now move to strike out the whole of the paragraph down to and including the words "in all" in line 207, and then to strike out in lines 207 and 208 the words "twenty-two thousand dollars" and insert "eighteen thousand dollars." This amendment will embrace a reduction of expenditures, and the point of order made by the gentleman from Virginia will be obviated.

Mr. HUNTON. I would like to hear read the amendment as modified.

The Clerk again read the provision sent to the desk by Mr. COBB.

Mr. SAMFORD. And my amendment is also to add "and there is hereby appropriated for the purpose of defraying the expenses of said assessor's office the sum of $18,000," leaving it with the commissioners themselves to employ what clerical force may be necessary. It reduces this appropriation to the extent of $4,000. I really think myself it might be made less, but I leave it at $18,000, because I have not examined this matter minutely.

Mr. FORT. The Chair must look to the effect of the amendment and not to the face of it. If it appears the effect is to reduce expenditures, then it comes within the rule.

Mr. COBB. We cannot hear what the gentleman from Illinois is saying, and I hope he will speak louder.

Mr. FORT. I am speaking to the point of order, and I have said the Chair must look to the effect and not to the face of the amendment. If it appears in his judgment the amendment will have the effect to reduce the expenditures, it is clearly in order.

Mr. HUNTON. I desire to say one word on the point of order. If the amendment of the gentleman from Alabama prevails, if it is ruled in order and adopted, then, according to my understanding of its effect, it will leave all these officers in the appropriation bill at the salaries provided for them. The only provision which the gentleman says looks to the reduction of expenditures in that office is the reduction from $22,000 to $18,000.

Mr. SAMFORD. I call the gentleman's attention to the fact that I move to strike out the whole paragraph, from line 197 to line 208.

Mr. HUNTON. Then what do you propose to insert?

Mr. SAMFORD. I propose to insert what the Clerk has read.

Mr. HUNTON. I ask, then, that the Clerk again report the amendment, so we may know what it is.

The Clerk read as follows:

Strike out all from line 197 down to and including line 208, and in lieu thereof insert the following:

"The office of treasurer of the District of Columbia is hereby abolished from and

after the 30th day of June, 1881, and the collector of taxes for said District shall, from and after that date, collect all revenues of the District and deposit the amount collected daily with the Treasurer of the United States. The duplicate of assessment for the fiscal year 1882, and annually thereafter, shall be prepared by the assessor before the first day of November in each year, and on the completion thereof it shall be delivered to the collector, who shall receipt in duplicate for the total amount of taxes shown by said assessment. The original receipt shall be forwarded to the First Comptroller of the Treasury, and the duplicate to the auditor and comptroller of the District of Columbia. All tax bills shall be made up by the collector of taxes, and he shall be held responsible under his bond for all taxes, except such as he may not be able to collect, after fully complying with the requirements of law. And there is hereby appropriated the sum of $18,000 for defraying the expenses of said assessor's office."

Mr. HUNTON. Now, Mr. Chairman, that amendment abolishes the treasurer and appropriates for an assessor's office a sum in gross. It abolishes all these offices herein enumerated from lines 197 to 208. I suppose it changes existing law, as it certainly does the mode of appropriation.

The CHAIRMAN. The Chair is of opinion the amendment does change existing law, but it is in the direction of lessening the expenditures of the Government, and therefore it is in order.

Mr. NEAL rose.

Mr. COBB. Allow me to make a single statement. I desire to say that the amendment which has been proposed by the gentleman from Alabama, and which I sent up to be read for information, was submitted to the Treasury Department, and that Department, after careful consideration, concurred in its propriety. I hold in my hand here the law to which they referred me. After careful examination of that law, I have come to the conclusion that the amendment as applied to this section of the bill will work harmoniously and properly. The next section will have to be amended to conform to it; but that is easily provided for. That is all I desire to say at present.

Mr. NEAL. The Committee on the District of Columbia have given careful consideration not only to the tax laws of the District but all the other laws which have for their effect the management and regulation of its municipal affairs. I am here to confess, when we had this question under consideration of what should constitute the official force of the District, I was unable to see the necessity for a continuance of both the offices of treasurer and collector. I believe the duties of the two offices could be assigned to and discharged by one bureau. I believe wherever we can simplify matters it is our duty to do so.

The committee will recollect that at the last session of Congress we passed a municipal code providing not only for the payment of taxes but for the description of property which should be assessed for taxes and the mode of collecting the taxes. That code is now waiting in the Senate, and I have great hopes it will become a law before the final adjournment of this Congress. If it does, then it will make changes more in accordance with modern systems of taxation. It therefore seems to me this amendment ought not to prevail. If it does not pass at this session, I feel confident the next session will adopt the code, because of the fact that it passed this House with unanimity, and because it has received the indorsement of almost the entire Committee on the District of Columbia in the Senate. I trust, therefore, that this committee will allow the section to remain as it is in the bill until we see what disposition is made of the code next year, after which we will have abundant time to effect that revision of the official force of the District which it seems to me ought to be done sooner or later, but when done should be done in accordance with a system that will not work objectionably under the new code. I trust, therefore, the amendment will not be adopted.

Mr. HUMPHREY. I simply desire to say, Mr. Chairman, that it seems to me this city, like other large cities, can make, and ought to make, the treasurer *ex-officio* collector of taxes. If this is done, it greatly simplifies matters as well as saves expenses in the collection of taxes. All large cities in the Western States, I believe, without exception, as far as my information goes, combine the office of treasurer with that of collector of taxes. It saves the expense of additional officers. It saves a large expense in the collection of the taxes, taking one year with another. These two offices are naturally intimately connected, and there is no reason why they should not be consolidated into one, the treasurer receiving the funds and being *ex officio* collector of taxes. He receives all of the funds, and the collection of the taxes being in effect one act, would save the expense of an additional officer to the city. Under such circumstances, where it can be made without detriment to the public interests, where, as in the case of a treasurer who shall be a collector of taxes, (and under the law of every Western State he is the collector of taxes in cities as well as towns,) it would save at least the expense of receiving the public money into the treasury, which is a considerable item, if it does not save the expense of paying it out. And that expense in a city like this is a large item. In Chicago and in Milwaukee and other western cities the treasurer collects the taxes. He receives so much for the collection of the taxes and so much for the disbursement of the public moneys which come into his hands in that way.

Mr. NEAL. That mode would make the expense here four or five times as high as it is.

Mr. HUMPHREY. I beg to differ with the gentleman from Ohio. The expenses of collection and disbursement of the taxes is limited; a certain percentage being paid for the collection. One or 2 per cent., as the case may be, for moneys paid in December which are due on the 1st of January, is allowed in some of the smaller towns and a limited amount for paying it out. This mode of allowing a percentage upon the collection and disbursement has been found economical in most of places, and I beg leave to state that I differ with the gentleman in his understanding that if adopted here it would add largely to the expense of this city. It is a saving of money; an economical measure, and not an extravagant mode of collecting.

The CHAIRMAN. Debate on the pending amendment is exhausted.

The *pro forma* amendment was withdrawn.

Mr. NEAL. I merely wish to call attention to one statement made by the gentleman from Wisconsin, that 2 per cent. is paid for collection. If that system was adopted here it would cost $34,000 to collect the taxes of the District of Columbia.

Mr. HUMPHREY. I confined or intended to confine my statement in that respect to small municipalities. I think I stated that in small towns the expense was limited to 2 per cent. or even less. In larger ones the collectors receive perhaps one-half or a quarter of 1 per cent.

Mr. NEAL. I want to say this, that there is not a city in the United States in which the taxes are collected as economically as they are in this city.

Mr. HUNTON. I move to strike out the last word. I have two objections, Mr. Chairman, to the amendment submitted by the gentleman from Alabama. I do not object to the abolition of the office of treasurer as connected with the District government——

Mr. HUMPHREY. I wish the gentleman from Virginia would allow me to make a simple correction. I stated that if the office of collector and treasurer were consolidated it would be a saving of expense in the collection of taxes. In the larger cities, to avoid giving too large a percentage to the treasurer for the amounts collected, a salary is fixed, or an amount beyond which his commission should not extend.

Mr. HUNTON. If the office of treasurer is abolished as suggested by the amendment of the gentleman from Alabama, it does not save one dollar of expense, because the same officer is assessor, and the same officer is treasurer, and the two are united in one man who receives but one salary. While I would not object to transferring the duties of treasurer of the District of Columbia wholly to the Treasurer of the United States, yet it must be done so as to make a corresponding change in the law which cannot be done, in my opinion, without a special act upon the subject.

Now, my two objections to the amendment of the gentleman from Alabama are, first, that it puts it in the power of the assessor who has $18,000 at his command to direct what distribution shall be made of that fund and do what he pleases with it in running his office.

Mr. SAMFORD. His discretion in that direction is limited by the law.

Mr. HUNTON. It puts it in his power to carry on his office of assessor by placing in his hand the gross amount of $18,000, and in carrying on his office to employ one clerk at $2,000, another one at $2,000, another at $3,000 if he please, and so on until the funds are exhausted. Now, that is one of the objections that I have to this amendment. That is a plain deduction from the premises.

Mr. COBB. The general law upon the subject gives the commissioners supervision. This amendment provides a system which they shall follow, and appropriates money in gross to enable the commissioners to carry it on.

Mr. HUNTON. Of course the organic act authorized the commissioners to abolish or consolidate offices. But here there is for running the treasurer's office a gross sum of $18,000; and in that respect it will not matter who runs it.

[Here the hammer fell.]

The *pro forma* amendment was withdrawn.

The question being taken on Mr. SAMFORD'S amendment, there were ayes 36, noes 14.

Mr. HUNTON. A quorum has not voted, and I demand tellers.

The chairman ordered tellers, and appointed Mr. HUNTON and Mr. SAMFORD.

The committee again divided; and the tellers reported ayes 67, noes 45.

So (further count not being called for) the amendment was agreed to.

The Clerk read the following paragraph:

For collector's office: For one collector, $4,000; one clerk, $1,800; one clerk, $1,400; one clerk, $1,200; one messenger, $600; for contingent expenses, including printing, books, stationery, car-fare, and miscellaneous items, $2,000; in all, $11,000.

Mr. COBB. I desire to make this section harmonious with the other which has just been amended. I therefore offer the amendment which I send to the desk.

The Clerk read as follows:

After "$4,000" strike out the rest of the paragraph, namely, "one clerk, $1,800; one clerk, $1,400; one clerk, $1,200; one messenger, $600; for contingent expenses, including printing, books, stationery, car-fare, and miscellaneous items, $2,000; in all, $11,000," and insert in lieu thereof the following: "For necessary expenses of said office, $6,000; in all, $10,000."

Mr. HENKLE. I would like to inquire of the gentleman from Indiana why he proposes to reduce the aggregate amount by $1,000, making it $1,000 less than he has already reported in the bill?

Mr. COBB. The reason that the system provided for by the amendment of the gentleman from Alabama, [Mr. SAMFORD,] which the committee has just adopted, will lessen the expenses of this office,

and therefore they will not, in my judgment, need the amount of money they have now. I placed the amount in gross for the reason that under the organic act this matter is controlled by the commissioners of the District. They have the right now to abolish any of these offices, if they have a mind to, and they have a right to change them from one department to another. Now, I give them a sum in gross in order to meet the demand which the system provided for in the amendment to which I have alluded requires, and I think it is ample for that purpose.

Mr. HENKLE. I received a letter this morning, which I will send to the Clerk's desk to be read, from the collector of the District, in regard to the necessities of his office.

The Clerk read as follows:

COLLECTOR'S OFFICE, DISTRICT OF COLUMBIA,
*Washington, D. C., February 1, 1881.*

I most respectfully yet urgently call your attention to the necessity for providing an adequate number of clerks for the proper discharge of the duties of this office. Any number less than that which has been asked for in the estimates for this office will render it utterly impossible to a proper discharge of the great responsibilities imposed upon the department. With the present limited force I am constrained to require the services of the clerks long after the daily office hours and late into the night, including holidays and the Sabbath. This fact is well known to the public.

Senators and Members of the House of Representatives who have occasion to transact business with this office for themselves or their constituents have observed the necessity for more clerical force. Within the last two or three years commissioners have imposed increased duties on the office. Besides the collection of water rents, the collection of special improvement taxes and other equally responsible trusts have been transferred, and no provision made whatever to properly supply the necessary clerical force with the large increase of work.

The work of the office has increased threefold, and notwithstanding this fact the clerical force has been reduced fully 30 per cent. of what was required to perform the same work, and there must necessarily be a lapse in many of the duties required if the force is lessened, and as a consequence complaints must inevitably follow.

I ask only for what is manifestly requisite, and any gentleman who will put himself to a momentary examination of the working of the office will fully substantiate the assertion.

Formerly this office had simply the annual taxes to collect, with a collector whose salary was $5,000, three deputies, whose salary aggregated $10,000, with a corps of seven additional clerks. Subsequently the deputies and two clerks were cut off, since when, however, the duties of the register has been consolidated with this office, thereby making a reduction of $10,000 without any increase of force assigned to this office in the discharge of this important trust.

I most urgently and earnestly request that you will lay the matter before your honorable committee, and that the representations set forth herein may be fully taken into consideration and the great necessity of restoring to this department of the District government sufficient employés to render the public ample and full justice.

Very respectfully, your obedient servant,

JOHN F. COOK,
*Collector of Taxes, District of Columbia.*

Hon. E. J. HENKLE,
*House of Representatives.*

Mr. COBB. Now, Mr. Chairman, it will be observed by the committee that the letter which has just been read even goes beyond the recommendations of the commissioners. It demands more service in that department than was estimated for by the commissioners. Now, the system that has been adopted by the amendment the committee has just put on this bill lessens the burdens of this office in this way, that it takes away other duties now imposed by the commissioners on this officer and leaves him merely the collection of the taxes.

Mr. HENKLE. That is what he has to do now.

Mr. COBB. He says in his letter he has the water taxes to collect and the collection of special improvement taxes and everything of that kind. I think these employés that are getting good salaries had better keep their mouths a little to themselves. I say that very frankly, as I would say it to this gentleman himself. He is getting his $4,000 a year, and he ought to be a little quiet and allow the commissioners to speak to Congress instead of his doing so, as he is not the mouth-piece of the commissioners.

I say, therefore, the system which has been adopted by the committee will lessen the expenses of this office by requiring the commissioners to bring it down to its legitimate duties. And when the amendment I now offer is adopted the office will run smoothly and in harmony with the system adopted in the amendment just agreed to.

Mr. HENKLE. I move to strike out the last word.

Mr. Chairman, I think just here it is proper for me, or for some one, to say something in vindication of this particular department of the District government and its management. I think you will all admit that the tax-collection department is an essential department of the city government, and no one has pretended to say that the gentleman who is at the head of that department is not a capable, efficient, and most truthful officer. Colored man though he is, he is one of the most capable and efficient officers that I have ever seen in any department of the Government. I am not here to eulogize him but simply to do him justice. Invested with this responsible duty, and having held this position with credit to himself for years, he feels naturally an interest that his office should be properly provided for. He is held responsible for the performance of its duties, for keeping up the business of that office, and discharging it properly. He has assured me, and I am sure he is a truthful man, that he and his clerks work over-hours, that they work at night, and that they work even on Sundays in order to keep up the business of the office. This should not be necessary in a city like this.

Just think of it! Here is a large city with a very large amount of tax to be collected, consisting of taxes of various kinds, and this bill provides for the office of the collector three clerks—only three clerks. Formerly the tax-collector's office had merely to collect the taxes for the municipal government of the city of Washington. Now its work includes not only the municipal government of Washington, but Georgetown, and the whole of the District of Columbia.

And not only that, but the duties of other offices which were formerly distinct offices or of the District government have been transferred to this department. The water taxes have been collected there; the special improvement taxes are collected there. The duties of this office are responsible, onerous, and numerous. It was provided in the estimates sent in by the Treasury Department that there should be one more permanent clerk than is provided for in the bill reported by the gentleman from Indiana, and also that there should be two temporary clerks. These are stricken out. And now it is sought to reduce the appropriation still further.

I make an appeal in all candor to the gentlemen of this committee. It is an easy matter to excite a hostile feeling toward particular offices or particular divisions of the Government; but I ask gentlemen to be calm and considerate. Here is an office, perhaps the most important and responsible of the municipal government. The Secretary of the Treasury has estimated that the appropriations necessary for the maintenance of this office should be $11,400. That is the recommendation from the Treasury. The gentleman from Indiana [Mr. COBB] in reporting his bill made it $11,000, which is less than it really ought to be. I trust the committee will not hastily strike out the provision of this section, but insert in lieu such an appropriation as will facilitate the operations of this most important department of the municipal government.

I want to state further that recently there has been directed an index to be made in the collector's office of all the tax sales and transfers made in this District since 1812, a very laborious duty. There is no one assigned to this duty, and no one can be unless some provision is made to pay for it. The work is to prepare a numerical list of all the lots and sections in this city and of all the transfers made since 1812, a work necessary for the convenience of property-holders and all persons searching titles, and of great value to the District. [Here the hammer fell.] I withdraw my formal amendment.

The question was taken upon the amendment of Mr. COBB; and upon a division there were—ayes 51, noes 16.

No further count being called for, the amendment was agreed to.

Mr. HENKLE. I move to amend the paragraph as now amended by adding thereto that which I send to the Clerk's desk.

The Clerk read as follows:

*Provided*, That any unexpended balance of the contingent fund appropriated for this office for the year ending June 30, 1881, not exceeding $1,500, may be expended for temporary clerk-hire.

Mr. COBB. I reserve all points of order upon that amendment.

Mr. HENKLE. I would like to have the gentleman state his point of order. I desire to say this much in support of the amendment: we have cut down the appropriation for this office to $10,000, when the bill as reported by the gentleman himself allowed $11,000. By so doing you will cripple and embarrass the business of this office to such an extent that it will, I am sure, be a very serious inconvenience to the people of the District.

The collector in charge of this office has been economical in the expenditure of this contingent fund, and he asks as a last resort (if Congress will not allow him a sufficient amount of money to employ the clerical force necessary to discharge the duties of his office) that he may be permitted to use the unexpended balance of the contingent fund to employ the necessary clerical force. This money is already appropriated, and has been frugally saved, and is now there standing to his credit.

The CHAIRMAN. Does the gentleman from Indiana [Mr. COBB] insist upon his point of order?

Mr. COBB. I do.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read the following:

For attorney's office: For one attorney, $4,000; one assistant attorney, $1,900; one clerk, $960; one messenger, $192; for rent of office, $300; for contingent expenses, including books, stationery, printing, and miscellaneous items, $500; in all, $7,852.

Mr. HUNTON. I move to amend the paragraph just read by inserting after the words "one assistant attorney, $1,900," the words "one special attorney, $960." If that shall be adopted, and it be deemed necessary, I will follow it up by an amendment to abolish the office of messenger.

Now, in regard to the amendment I have offered, I desire to say that, from all the information I have been able to obtain, it is impossible to get along without this special assistant attorney. He is the attorney to attend before the police court of the District, where a great deal of the business of the attorney's office is transacted.

In order to place the matter properly before the Committee of the Whole, I desire to have read a letter from the attorney of the District addressed to the Committee on Appropriations of this House.

The Clerk read as follows:

ATTORNEY'S OFFICE OF THE DISTRICT OF COLUMBIA,
*January 28, 1881.*

GENTLEMEN: I beg to call your attention to the pending District appropriation bill, beginning with line 230, making appropriations for this office. It will be seen that this contemplates but one assistant. The office has always, since the creation of the police court, been organized with two, the second called the special assistant, and, in my judgment, its labors cannot be performed without him.

I ask your attention to a brief statement of the services performed. The last annual report, covering nine months, ending with June, 1880, shows that thirty-six civil cases were disposed of in the higher courts. Forty-two were tried in the criminal court on appeal by defendants from the police court.

For the same time over three thousand cases were tried by the special assistant in the police court. There was then left pending two hundred and thirty-six civil cases in the courts of record, and one hundred and forty-five appeal cases in the criminal court. This does not cover cases tried before justices of the peace.

Written opinions in eighty-two cases, covering two hundred and thirty-three pages, were delivered, and nearly as many cases disposed of by opinions indorsed on the papers. No reference is made to consultations with the commissioners, letters written, &c.

During this period I was quite constantly before the House District Committee for over four weeks.

There has been no diminution of business since June.

The cases of the District are of the greatest importance, both in amount and the questions involved. Counsel for the other side are sometimes paid more in single cases than the whole cost of this office.

These cases are distributed in the two branches of the circuit court, the equity, criminal court, general term, and Supreme Court of the United States; all frequently in session at the same time. It is obvious that these, with the demand for opinions and other services, require the constant attention of myself and one assistant. We usually are obliged to try our cases, each without the other's aid, and against the ablest lawyers practicing here. Neither of us can do the duties required in the police court. That has jurisdiction of all cases where the District is the prosecutor, and they now number over five thousand per year. The special assistant appears in that court early each morning for every working day of the year, and is usually occupied in and about his duties connected with that court fully two-thirds of his time. When free from them, he finds ample employment in the general duties of this office. While that court exists the District must have a prosecutor specially assigned to it.

The duties of the law clerk are laborious, and consume all his time in copying opinions, preparing pleadings, bills of exceptions, various special duties, and the care of the books. He is a good lawyer and an accomplished short-hand writer, and reports the evidence in our more important cases, when other duties permit.

It is thus apparent that the service of this office absolutely requires a second assistant, and I trust that on this showing no hesitation will be felt in providing for his compensation.

In justice to all these meritorious officers, I cannot conclude without a word as to their present greatly inadequate compensation. The whole time of myself and assistants is required for this service. We can attend to no valuable private practice. The first, an able lawyer, is paid less than $2,000, and each of the others less than a first-class clerk under the General Government.

In quantity and importance the services of this office equal that of the United States attorney for this District. The whole expense of that office is near fifteen thousand dollars per annum, and the compensation of its officers is not in excess for the work performed.

Respectfully submitted.

A. G. RIDDLE,
*Attorney District of Columbia.*

Hon. J. D. C. ATKINS,
*And the gentlemen of the Committee on Appropriations of the House of Representatives.*

The question was taken upon the amendment moved by Mr. HUNTON; and upon a division there were—ayes 34, noes 25.

No further count being called for, the amendment was agreed to.

The Clerk read the following:

For streets:

For sweeping, cleaning, and sprinkling streets and avenues, $30,000; cleaning alleys, $6,500; for current work of repairs of streets, avenues, and alleys, $20,000; current repairs to county roads, $10,000; cleaning and repairing lateral sewers and basins, $20,000; in all, $86,500: *Provided*, That so much of the act of Congress approved April 6, 1870, as prohibits the commissioners of the District of Columbia from narrowing the carriage-ways of Louisiana and Indiana avenues and a portion of Four-and-a-half street be, and the same is hereby, repealed.

Mr. HUNTON. I move to amend the portion of the paragraph relating to the "currrent work of repairs of streets, avenues, and alleys," by striking out "$20,000" and inserting "$25,000." I am assured by the engineer commissioner of the District, Major Twining, that $25,000 is the least he can get along with.

The question was taken upon the amendment; and upon a division there were—ayes 12, noes 25.

No further count being called for, the amendment was not agreed to.

Mr. HUNTON. I move to amend that portion of the paragraph relating to "current repairs of county roads" by striking out, "$10,000" and inserting "$20,000."

Mr. COBB. I reserve all points of order upon that amendment.

Mr. HUNTON. I desire to say in support of the amendment I have offered that this item of the appropriation is for keeping in repair the roads in the country part of the District. I am informed by Commissioner Twining that there are about a hundred miles of roads in the country part of the District, and that $10,000 will not be sufficient to keep them in repair. As we are all aware, these roads must be kept in good repair as they lead to the avenues and parks about the city.

Mr. COBB. I desire to say that this is not the only appropriation made for repairs of roads. There is an appropriation of $5,000 in another portion of the bill, making with this appropriation $25,000 in all, which I think is enough for the country roads.

Mr. HUNTON. Whereabout is that?

Mr. COBB. In a former part of the bill.

Mr. NEAL. This branch of the business of the District of Columbia is in charge of Major Twining, an Army officer and a very competent man. He tells the Committee on Appropriations that the amount recommended in this bill is not sufficient, that he cannot keep in good repair the roads of the District with any such small sum of money as that.

Now I appeal to the members of this committee that this economy on our part, this failure to make appropriations which are necessary, will result in the roads falling into decay; and the consequence will be that at its next session Congress will have to appropriate perhaps double the money now asked for to put these roads in as good repair as they are in now. We cannot save money by cutting off a dollar this year and paying two dollars next year. I trust, therefore, this amendment will be adopted.

Mr. COBB. I desire to say with regard to the county roads—we may call them county roads, for they are outside the city limits but within the District—that I have traveled over the District a great deal and I have found no bad roads, but some of the best in the country.

Now, I am very sure that a hundred dollars a mile—and more than that amount is appropriated by this bill—is enough to repair these roads and keep them in good condition.

When the gentleman from Ohio [Mr. NEAL] says that Major Twining is an able and efficient officer, I am perfectly willing to concede that fact. I have so found him in every particular when he has been before me. I know that he differs with me about this subject, because as an engineer commissioner of the District, in charge of the streets and roads, he takes pride in making these highways not only convenient but he wants to make them pleasant and agreeable to the public. I do not object, except that in view of the expense I think we cannot afford to beautify these roads, which I believe is what Major Twining would desire to do. There is a mere difference of opinion between him and myself. I think that utility is what we should look to in this respect rather than beauty.

Mr. NEAL. I wish to ask the gentleman whether in his opinion Major Twining is not more competent to determine what should be appropriated for these roads than any man on this floor?

Mr. COBB. I would not pretend to say that he is not; but I know it is a habit with gentlemen who have control of these things to ask sometimes more than they expect to get; and although the Committee on Appropriations has cut down these appropriations a little below what Major Twining would be disposed to ask, I believe the public service will not be injured.

Mr. NEAL. Allow me to ask the gentleman one further question: In all the intercourse he has had with Major Twining has he seen any disposition on the part of that officer toward unnecessary expenditures or extravagance?

Mr. COBB. I must concede that I have not. He has perhaps urged some appropriations a little further than I thought proper; but that was a mere difference of opinion. It is due to him I should say that he is a high-minded and efficient officer. From him more than from any other man in this District I have obtained the information upon which I have acted in the preparation of this bill.

Mr. NEAL. In view of the statements which the gentleman from Indiana himself has made, I trust the Committee of the Whole will adopt Major Twining's judgment, instead of the gentleman's.

Mr. HUNTON. I want to say one word in behalf of this amendment. It is not only Major Twining who asks for this appropriation of $20,000 instead of $10,000. The Secretary of the Treasury has recommended the appropriation as provided in the amendment. The clause of the bill now under consideration appropriates $86,500:

For sweeping, cleaning, and sprinkling streets and avenues, $30,000; cleaning alleys, $6,500; for current work of repairs of streets, avenues, and alleys, $20,000; current repairs to county roads, $10,000; cleaning and repairing lateral sewers and basins, $20,000; in all, $86,500.

The Secretary of the Treasury estimates for this same work, $126,000. This is the estimate of the Secretary of the Treasury and of the engineer commissioner of the District, Major Twining; but the Committee on Appropriations propose to give for these purposes only $86,000, being a reduction of $40,000 upon the estimates of the District commissioners as well as the Secretary of the Treasury. Now, my amendments propose to restore these appropriations to the amount estimated by the Secretary of the Treasury—$126,000. But the first amendment I offered, increasing the appropriation for repairs of streets, avenues, and alleys, from $20,000 to $25,000, has been decided in the negative. I now propose that the appropriation for current repairs to county roads be increased from $10,000 to $20,000. The county part of this District gets but small appropriations at the hands of Congress, although it pays its legitimate share of the expenses of the Government. The commissioner of the District, as well as the Secretary of the Treasury, ask that $20,000 may be appropriated for repairs of county roads.

Mr. COBB. I wish to say in reply to the gentleman from Virginia, [Mr. HUNTON,] that the Secretary of the Treasury has not specially recommended an appropriation of the amount the gentleman proposes. It will be remembered that under the law it is the duty of the commissioners to send their estimates to the Secretary of the Treasury for revision. After he has revised them so far as he thinks proper, he sends them back to the commissioners.

Mr. HUNTON (addressing Mr. COBB) made an inaudible remark.

Mr. COBB. Yes; that is just what I said yesterday; but when I then presented suggestions coming directly from the Treasury Department the gentleman was not disposed to regard them. He talks about my blowing hot and cold. Now, yesterday it was himself who blew cold. When the Secretary of the Treasury had pointedly said that the commissioners were wrong, and when he made changes in their estimates, the gentleman from Virginia did not think there was much weight in the recommendation of the Secretary of the Treasury. But now the gentleman's point is that the Secretary of the Treasury has

recommended a certain appropriation simply because he has not made any change or revision in that portion of the estimates.

Now, I wish to make a statement which I think will not be denied. I talked freely with Major Twining about this matter. I like to talk with him about the business of this District; and although he said he did not think the amount the committee proposed to appropriate in this case was enough, he said that he would get along with it; that he could get along with it if Congress did not choose to give more. I do not regard him as urging the absolute necessity of this great appropriation for these county roads.

Mr. HUNTON. I beg leave to state to the gentleman from Indiana that the amendment I have offered is in the handwriting of Major Twining.

Mr. COBB. That may be.

Mr. HUNTON. He handed it to me and asked to have it adopted.

Mr. COBB. But it was only last week when I went over this matter with Major Twining; and I then understood him as not seriously objecting to anything in the bill.

The CHAIRMAN. The question is on the amendment of the gentleman from Virginia, [Mr. HUNTON.]

The question being taken the amendment was not agreed to; there being—ayes 21, noes 36.

The Clerk read as follows:

For the parking commission: For one superintendent, $1,200; one assistant superintendent, $700; contingent expenses, including laborers, cart hire, trees, tree-boxes, tree-stakes, tree-straps, planting and care of trees, whitewashing, care of parks, and miscellaneous items, $13,000; in all, $14,900.

Mr. ALDRICH, of Rhode Island. I move in line 317 to strike out "thirteen" and insert "eighteen," so it will read "$18,000;" and, further, to make the total amount conform thereto.

Mr. COBB. I think that is subject to a point of order.

Mr. ALDRICH, of Rhode Island. I am assured by the parking commission, which serves the District without compensation, that this amount is absolutely necessary for the proper care of the seventy thousand trees under its control.

Mr. COBB. I will say this, Mr. Chairman, that I examined that question very carefully. Last year, I learn, this parking commission set out five thousand trees, enough to supply eight miles of streets. We give them in this bill $13,000, which is about the same amount we gave last year when they did all this work.

Mr. HUNTON. No, sir; I beg the gentleman's pardon.

Mr. COBB. I think I am right that the appropriation was $13,000 last year.

Mr. HUNTON. Was it not $18,000 last year?

Mr. COBB. I insist, if no other gentleman desires to address the House on this question, upon the point of order.

The CHAIRMAN. The gentleman will state it.

Mr. COBB. It increases expenses.

Mr. ALDRICH, of Rhode Island. But it does not change existing law.

Mr. COBB. It may not be a change of existing law, but it is not in the line of economy. [Laughter.] There is no existing law on the subject, and therefore there is no law to change.

The CHAIRMAN. The Chair is of the opinion the point of order is not well taken. The question therefore recurs on the amendment.

The committee divided; and there were—ayes 57, noes 47.

So the amendment was agreed to.

The Clerk read as follows:

For street lamps: For illuminating material and lighting and extinguishing, $103,325; erection of street lamps, $500; one superintendent, $900; repairs to pumps, $3,000; cleaning tidal sewer, $3,000; in all, $110,825: *Provided*, That no more than $25 per annum for each street lamp shall be paid for gas, lighting, extinguishing, repairing, and cleaning, under any expenditure provided for in this act; and in case a contract cannot be made at that rate, the commissioners of the District of Columbia are hereby authorized to substitute other illuminating material, and to use so much of the sum hereby appropriated as may be necessary for that purpose.

Mr. WARD. In line 326 I move to insert "$28" instead of "$25," so it will read "provided that not more than $28 per annum shall be paid for gas, lighting, extinguishing, repairing, and cleaning," &c. I offer that amendment, Mr. Chairman, because I consider it is only a fair rate to pay for each street lamp for the gas consumed. As I understand the question, the commissioners of the District of Columbia estimated that rate per lamp. The cost of cleaning, repairing, and extinguishing the lamps amounts to $5.60 per annum for each lamp, which leaves about twenty-two dollars and forty cents for the gas consumed. The estimate is 13,200 feet per lamp, and that would leave about one dollar and sixty cents per thousand for the gas. That is nothing more than a fair and honest price, but in comparison it is far below the price paid in any other cities for coal gas.

I offer the amendment for the purpose of gaining information in this regard, and also because, as I have already stated, I believe it is only a fair price for the gas consumed. I do not think either the Appropriations Committee or the commissioners want anything but a fair rate of compensation.

Mr. HUNTON. I desire to say I had been under the impression the price charged for the District government was too high, but the gentleman from Ohio [Mr. NEAL] and myself went into a calculation some time ago which demonstrated to us the fact that the rate of $25 per lamp, including cleaning, lighting, and extinguishing, would put the price of gas in this city at about one dollar and sixty cents, or less than the company is required by law to furnish gas to individuals. The provision of the law is it shall charge $2 to inhabitants per thousand feet and $1.75 to the Federal Government. This, therefore, is putting it below the price limited by the general law on the subject.

Mr. BROWNE. Will the gentleman inform me how many lamps there are in this city?

Mr. HUNTON. I have just now forgotten the number.

Mr. BROWNE. Will any gentleman give me the information?

Mr. HUNTON. I think I can tell in a moment. The number is 4,223, and each lamp burns during the year 2,200 hours. I think the amendment of the gentleman ought to prevail.

Mr. WARD. The rate is $1.60 as proposed by my amendment.

Mr. COBB. I desire, Mr. Chairman, to call the attention of the committee and the gentleman from Virginia to the report of the Treasurer upon this question. He says this on page 6 of his letter to this House in suggesting a provision to meet this question, and after a careful consideration of it, and also after a personal interview with Major Twining, I put this provision in. Now, the Secretary says to insert this provision:

*Provided*, That no more than $25 per annum for each street lamp shall be paid for gas, lighting, extinguishing, repairing, and cleaning under any expenditure provided for in this act; and in case a contract cannot be made at that rate, the commissioners of the District of Columbia are hereby authorized to substitute other illuminating material, and to use so much of the sum hereby appropriated as may be necessary for that purpose.

That is the provision incorporated in the bill. A reason was given for incorporating that provision in the bill by reference to the act governing the lighting the Executive Mansion for the fiscal year 1880 and 1881, volume 20, page 388, &c. The item of $1,000 estimated by the commissioners for repair of street lamps will not be necessary if the provision is adopted, and it is therefore inserted in the bill with a view to meeting all these points.

Now, I want to say to the gentleman from Pennsylvania, taking his own basis——

The CHAIRMAN. Will the gentleman give way for a moment to receive a message from the Senate?

Mr. COBB. Certainly.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. SPARKS having taken the chair as Speaker *pro tempore*, a message from the Senate, by Mr. BURCH, its Secretary, was received, announcing that the Senate had passed a resolution to publish 1,000 copies of the report of the joint commission appointed to examine into the organization, system of discipline, and course of instruction, &c., of the Military Academy at West Point; also that the Senate had passed, with amendments, a resolution of the House to print 1,000 copies of the atlas of Colorado, by Professor Hayden; in which resolution and amendments concurrence of the House of Representatives was requested.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

Mr. COBB. Now, with regard to the cost of gas. I understand that it is admitted by this provision that the gentleman desires to incorporate here that it will cost $1.65 per thousand.

Mr. WARD. One dollar and sixty cents.

Mr. COBB. Very well; $1.60. That is what we are to pay if your provision is adopted?

Mr. WARD. Yes, sir.

Mr. COBB. Now, does the gentleman know that gas can be manufactured here at a cost of less than $1 per thousand feet? Does he know that it is manufactured at a cost of sixty cents a thousand in Pittsburgh? Of course I admit that it can be manufactured at a less cost there than it can be here. I had occasion a few years ago to examine closely into this gas question. I had occasion to examine and see the sworn testimony of gentlemen from New York, Philadelphia, Baltimore, Boston, Chicago, and Saint Louis, taken by a special committee appointed by the city council of Cincinnati to look into this gas question, and I found what other gentlemen found who examined their report, that there is no substance in this country that costs so much to the people in proportion to the cost of manufacture as this commodity, illuminating gas; and I believe in this city there is no other business which affords such a source of revenue or profit from the amount of capital engaged in it as this gas business. I also remember very well in my own State we had a small gas company in the little city where I lived, and I took occasion to break down the monopoly there, and sent for all these reports, which gave me all the information I wanted.

I examined into the question carefully, and with the information that I have been able to derive from all of these sources, I do say to-day in the presence of this committee that gas can be manufactured here at a cost not exceeding $1 per thousand feet. I would be perfectly willing, in the event that it should become necessary, to say to the commissioners of this District, if they could not get it done for what we provide in this bill that I will bring $1,000,000 to bear upon the establishment of works for its manufacture in this District.

In reference to the price proposed to be paid by this bill, I will say that I did not do this without consulting with the commissioners. I had an interview with Major Twining and consulted him carefully as to the facts. From the information derived from him, I believe

that we could make a contract with the gas company here to furnish in this city gas-lamps at an expenditure of not exceeding $23 per annum for each post. Major Twining said he believed it could be done, but he suggested the propriety of not limiting him to that amount, but would prefer that I would make it $25, and that was done in accordance with his views upon the subject. After a careful examination of the question, I think, without doubt, that a liberal estimate has been made for this purpose, taking into consideration the cost of the material furnished; and, as I have said before, I am convinced that there is more profit upon the product of the gas-works than there is in the manufacture of any other single commodity in this city.

Mr. HAZELTON. Will the gentleman allow me to ask him a question?

Mr. COBB. Certainly.

Mr. HAZELTON. The gentleman has stated that it costs less to manufacture gas in Pittsburgh than it does in Washington. Now, why is it that gas is cheaper in Pittsburgh than it is here?

Mr. COBB. For one reason the Pittsburgh coal makes more gas than the coal used here.

Mr. HAZELTON. Is not the coal a little nearer Pittsburgh than it is here?

Mr. COBB. Undoubtedly that also enters into the cost.

Mr. HAZELTON. They get their coal cheaper in Pittsburgh, and their transportation is not so great.

Mr. COBB. Very well; does the gentleman know how much coal it takes to make 1,000 feet of gas? If he does not I can inform him. Two bushels is all that is required.

Mr. HAZELTON. It would depend upon the price of coal somewhat as regulating the profit derived from the manufacture, would it not?

Mr. COBB. But I have given here a margin of sixty cents, or in fact of seventy cents of profit. Putting the price of gas here at $1.60, there is a margin of profit of from sixty to seventy cents per thousand upon it.

Mr. HAZELTON. Do I understand the gentleman to say that gas is cheaper in Baltimore and in Ohio and in New York than it is here?

Mr. COBB. I did not say that, but I referred to the evidence of a number of gas men, sworn evidence, showing that the gas in the city of Cincinnati could be made at a certain price, and giving the estimates and the figures in various cities running from sixty cents per thousand to $1.25 per thousand feet. The gentleman from Cincinnati doubtless will well remember the able committee sent out by the city council of that city to examine into this question some nine years ago?

Mr. WARD. I move to strike out the last word.

I wish to call the attention of the gentleman from Indiana to the letter of the Secretary of the Treasury making the estimates, and to the provision in the sundry civil bill of last year to which that letter alludes, and upon which I understand the recommendation of the Appropriations Committee was based. The letter of the Secretary of the Treasury recommends this proviso as to the $25 per lamp, and bases that recommendation upon the clause in the sundry civil bill of last year which provided for the lighting of the Executive Mansion and public grounds, and which contains the proviso that not more than $25 shall be paid per lamp for gas. I should like to have the attention of the gentleman from Indiana [Mr. COBB] at this point. The provision in the sundry civil bill has been quoted, I think in error, by the Secretary of the Treasury in his letter of estimates as if it included not only the gas used in the lamp but also the lighting, extinguishing, and repairs of the lamp, which according to the estimates made for those purposes would be $5.60 more; so that in order to have the estimate consistent with the reference to the clause in the sundry civil bill the total appropriation would be $30.60, $2.60 more than is proposed by my amendment.

Mr. COBB. If the gentleman from Pennsylvania will allow me, I will answer his statement with regard to the Treasury Department overlooking the provision in the sundry civil bill. I will state that I conferred with the Treasury Department carefully on this subject and they advise this provision as we have it; they did so not only in the letter of the Secretary of the Treasury, but personally, believing it would be a saving to the people and not an injury to the gas company.

Mr. WARD. The letter of the Secretary shows clearly on its face that there has been an error, because it alludes to a provision in the sundry civil bill which provided only for the gas at $25 per lamp, while this is for the lighting, extinguishing, and repair in addition to the cost of the gas.

Mr. COBB. The gentleman from Pennsylvania thinks that the Secretary in his allusion to the section in the sundry civil bill has fallen into a mistake. Let me say to the gentleman that that section was specially called to the attention of the Department and they said it was evaded, and this section was asked to be put in the present bill so framed as to prevent the evasion which had occurred in the case of the section in the sundry civil bill. I say to the gentleman that the Treasury Department is perfectly in harmony with the amendment in this bill. It is their amendment and not mine; and I am simply here to advocate it because I think it is right and proper.

Mr. HUNTON. We have had this question of the cost of gas before the Committee on the District of Columbia, and it has been considered with great care there. It came before that committee on a bill to organize another and new gas company in the city of Washington. It was claimed that by the new process gas could be manufactured at a much less cost than the gas company of Washington now expends in the manufacture of gas. The matter was fought very hard before the committee, and some of the committee were for incorporating this new gas company with a view of furnishing cheap gas, under this process, to the people. But that bill did not pass the committee, and has not passed either House of Congress. And the question now is, what can the present gas company afford to make the gas for that is manufactured by the old process, by the company now in existence in Washington? And according to the best information I have, they cannot manufacture it so that it shall cost but $25 per lamp, including the lighting and the extinguishing of the lamps.

The gentleman from Indiana [Mr. COBB] has stated that Major Twining said he believed this could be done for $23 per lamp, but preferred to have $25 put in. I believe it is within the memory of many members of the committee of which I have the honor to be the chairman that the report reached us that the commissioners were about signing a contract for a period of three years for illuminating the streets at $28 per lamp, and the committee requested the commissioners by telephone to suspend signing that contract until this appropriation bill was passed, that it might not be embarrassed by a contract already made by the District commissioners. In compliance with that request, the commissioners appeared before the committee, if I am not mistaken, with the written contract which I understand would have been signed but for the telephone from the committee. Am I right?

Mr. NEAL. Yes; that is right.

Mr. COBB. Was Major Twining there?

Mr. HUNTON. I believe Mr. Twining was the very man who brought the contract to the committee-room. Will the gentleman from Ohio state whether that was not the case?

Mr. NEAL. I am not sure.

Mr. HUNTON. I am not myself sure which of the commissioners brought the contract to the committee-room; I believe it was Major Twining, but I am not sure. The contract, however, was brought there ready for signature, and the provision in the contract was $28 a lamp for the period of three years; and at our request the commissioners did not enter into that contract, but awaited the action of the two Houses on this appropriation bill.

Mr. NEAL. Last year the proposition was made to the District Committee to charter another gas company, and I, together with three other of the members, favored that proposition. The majority of the committee were very decided in the opinion that another gas company would be of no practical benefit to the people of this District. I thought at that time that the price charged for gas to the city was too much, and I thought so until a few days ago, when I made an investigation upon that point. I am not prepared now to say whether it is too much or not. But I wish to state, in order that the committee may vote intelligently, just what has been paid for gas and what will be paid if this bill becomes a law.

The burners used are six-foot burners; and I take it for granted we have an honest burning of the gas, because we have a gas inspector whose duty it is to see that the Government is not swindled in this matter of burning.

The street-lamp burners here in this city are six-foot burners. In New York they are only three-foot burners and in other cities they are either three or four feet. I doubt whether any city in the United States has as large burners for its street lamps as the city of Washington.

Mr. COBB. Let me ask the gentleman whether from his experience in the use of gas by private consumers in this city he is willing to say that the gas supplied here is good? If any man here is a good judge of gas, I would like to ask him whether the gas supplied in this city is good gas or not? I say it is not. I say that many times it is very hard for persons for three or four seconds even to read properly by it. It is so at my house, and I am now living at the corner of Fourteenth street and New York avenue. Before that I was down here on Third street, and during the time I was there I can certify that I had oftentimes to use a coal-oil lamp, and could not get along with the gas at all.

Mr. NEAL. I will say to the gentleman that last year at the house where I boarded I found that the gas was very poor. This year I occupy other rooms, and I think the gas is very good. It is different in different localities.

Mr. COBB. It should not be.

Mr. NEAL. The illuminating power of this gas is fixed by law, and the inspector certifies monthly to the proper officers of this Government that the gas is fully equal to what the law requires. Now, under the law we burn gas in this city for street lighting 2,200 hours every year. Six feet per hour would make 13,200 feet for every street-lamp. At $25 a light that would make the gas cost $1.47 per thousand feet.

Mr. COBB. Will my friend——

Mr. NEAL. I cannot be interrupted now; I have only five minutes. At $25 a light that would be $1.47 per thousand feet; at $26 a lamp-post it would be $1.54 per thousand; at $27 a post it would be $1.62 per thousand; and at $28 a post it would be $1.69 per thousand.

Now, the city of Baltimore pays for its street lamps $1.85 per thou-

sand for its gas, and in addition to that it pays the cost of lighting, which in this city is $5.60 a lamp. The city of Boston pays $1.75 per thousand, but that includes the expense of lighting. In the city of Philadelphia, where the works are owned by the city, the cost of the gas is $2 per thousand. In the city of Richmond, where the works are owned by the city, the cost is $2 per thousand. I have a statement in reference to some twenty cities, and in no one of them is the cost of the gas below $1.75 a thousand.

Now, as I said at the outset, I am not prepared to say that the amount recommended here is not sufficient. I made war on this gas company last year, not because I was not willing to do it justice, but because it seemed to me at that time that the interest of the people of the District required the chartering of another company, called the Municipal Gas Company, which proposed to furnish gas of a different kind and character and of different illuminating qualities. The Committee for the District of Columbia overruled me and therefore I gave way. I am willing to see justice done to this company notwithstanding the effort I made to have another company chartered.

The CHAIRMAN. Debate on the pending amendment has been exhausted.

Mr. WARD. I withdraw the amendment I offered.

Mr. PAGE. I renew the amendment, as I wish to occupy the attention of this Committee of the Whole for a moment. I am surprised that the gentleman from Ohio, [Mr. NEAL,] or any gentleman who has lived in this city for a number of years, should be willing to be an advocate of this gas monopoly in the city of Washington. I have lived in a great many different cities, and I have never known as great extortion perpetrated upon the people of any city as this gas company perpetrates upon the people of the city of Washington.

I think that $25 a light for street lamps is sufficient, and I hope this Committee of the Whole will not increase the amount one dollar. I think it is time Congress took this matter in hand and incorporated another gas company, and not continue this monstrous monopoly and this gross charge upon the people of this city any longer. I hope that not another dollar than the amount here reported by the Committee on Appropriations will be given to this gas company.

Mr. O'NEILL. I desire to make a statement in reply to what has just fallen from the lips of the gentleman from California, [Mr. PAGE;] just one statement.

During the last eighteen years I have never known any session of Congress in which there has not been a raid upon the gas company of this District. My opinion always has been that it was not for the good of the citizens of Washington or for the financial advantage of the Government of the United States that pays a great deal to this gas company. It has been merely to enable men to get possession of charters, to hold them over the heads of this company for no good purpose whatever. Companies have been constantly formed here, and have tried to be incorporated by Congress, and in my opinion it has been for pecuniary gain only, with no intention or idea of going into operation.

I believe that the members of the Committee for the District of Columbia, who have had so much experience in listening to complaints against this gas company and in hearing those who desired to have charters granted for their own benefit alone, or for the purpose of trying to punish this gas company—I think they will bear me out in saying that they have failed to convince them of the propriety of granting new charters. To-day the gentleman from Ohio [Mr. NEAL] states that that committee has not been ready and is not now ready to report a bill to charter a new gas company.

Now about the gas furnished us in our rooms in the city of Washington. The gentleman from Indiana [Mr. COBB] may perhaps not understand the fact that there is a difference in the meters used by families in this city. I have sometimes had the idea that those from whom we rent our rooms are to blame for the poor flow of the gas which we have.

Mr. PAGE. Will the gentleman let me ask him one question?

Mr. O'NEILL. Certainly.

Mr. PAGE. You have been here a long time. Have you ever bought any gas here, paid for it yourself?

Mr. O'NEILL. I never did.

Mr. PAGE. Well, I have kept house here, and I am one of the victims of the extortion of this gas company.

Mr. O'NEILL. Well, Mr. Chairman, I do not know about that. I do know very well that there have been times when the gas was very poor in the rooms where we are obliged to sit and attend to our business or meet our friends; but my idea has been, in spite of what the gentleman says, that there is some defect in the pipes, that the difficulty is not owing to the gas company but to defects in the meter or the pipes for which the company is not responsible.

Now I would like the gentleman from Indiana [Mr. COBB] to explain if he can how it is possible even in the city of Pittsburgh, where the coal is dug from the hills all around the city, to manufacture gas for sixty cents a thousand feet. I would like him to explain the process. I think the information might be useful to other localities. It seems to me that the gentleman must be under a wrong impression.

Mr. HEILMAN. Mr. Chairman, although I own a controlling interest in a gas company myself, I am not here to defend this gas company of the District of Columbia; but when I hear gentlemen charge that it does not make good gas, I cannot allow the statement to pass. We have an inspector appointed under a law of Congress, and under our control, who certainly ought to do his duty; and his report shows that this gas company furnishes as good gas as is sold anywhere in America. How is it possible for this company to make two kinds of gas? Those who keep their burners and other fixtures in order have good gas. If others do not have the same quality of gas it is because their pipes or burners are defective, or for some other reason of that kind. Certainly no swindling can go on if the gas consumer attends properly to the meter, and the company is responsible for the inspection.

This business of manufacturing gas is not so profitable as many gentlemen suppose. I know that at times opposition companies come in and propose to manufacture cheap gas or to give us the electric light, but I hold that for illuminating purposes gas is about as cheap a light as you can get.

[Here the hammer fell.]

Mr. HAZELTON. I move to amend by striking out the last word.

The CHAIRMAN. That is the pending amendment, moved by the gentleman from California, [Mr. PAGE.]

Mr. PAGE. I withdraw it.

Mr. HAZELTON. I renew it.

Mr. HEILMAN. Before the gentleman from Wisconsin [Mr. HAZELTON] proceeds, I hope he will allow me a single word. I do not wish to be understood as having said that I own any stock in the gas company in this District. I do not own one dollar.

Mr. COBB. How much does my colleague own in the Evansville company?

Mr. HEILMAN. I own a controlling interest in that company.

Mr. COBB. I thought you did.

Mr. HAZELTON. That is the best interest, of course, to own. Now, Mr. Chairman, one would suppose from the range this discussion has taken that a great many members on this floor are peculiarly qualified to judge of the character of gas; and if the gas manufactured on this floor was as good as that in the burners overhead, this Government would not need to employ any gas companies, but might run a self-sustaining machine here at the center. [Laughter.]

My friend from California [Mr. PAGE] cries out against monopolies. We are not trying here to-day a question of monopolies. We are not legislating upon the comparative merits of two rival companies, nor are we discussing any bill for the charter of a new company. There is no bill before this committee asking the charter of a new company. The only question is whether $25 a year for each street lamp in this city is enough, or whether we should allow $28 as a matter of fair, square, honest dealing between us and the one gas company that we have here in this city. If there were two or three companies, the question would come up which we should employ or from which we should get our gas; but we have only one company; and the question for us to deal with honestly and without prejudice is not whether we may conceive that this gas company has charged us a little too much when we sat up a little later some nights than we thought we did, but whether in any city of the Union gas is furnished more cheaply. Is it the fact that in San Francisco, in Sacramento, in New York, Philadelphia, or Baltimore—in any city except where coal is found almost at their door—gas is furnished more cheaply than in this city? No; those cities are paying more than we propose to pay when we pay $28 for each street lamp. Then, where is the great monopoly?

Mr. NEAL. My distinguished friend, the gentleman from California, [Mr. PAGE,] expresses his astonishment that I should appear on this floor as the advocate of a monopoly. Now, with all respect to the gentleman, I wish to say that I do not advocate any monopoly, nor am I the attorney on this floor for any company or any individual. All I desire is to arrive at the facts of the case, for it is upon facts that we must decide this matter. I care nothing for this gas company. If the committee think that $1.47 a thousand is enough for gas, I have not a word to say. I do not know what the price ought to be, for I know nothing about gas-works.

Now, the gentleman from Indiana has quoted the engineer commissioner on this question. Yesterday we telephoned to the engineer commissioner to come to our committee-room, and I interrogated him upon this subject. He said that in his opinion $28 for each street lamp was little enough; that $1.47 a thousand was not a sufficient price. He went on to say they charged a certain sum, I believe $25 a lamp in the city of New York, and he supposed that would be sufficient, but he has learned since his conversation with the gentleman from Indiana that that company had passed two dividends, or, in other words, was selling gas for less than it cost them to make it.

I care nothing about this thing. As I said in the beginning, I believed another gas company should be chartered, but on that point I was defeated. I stood with my colors flying and never gave up until the committee voted me down. While, perhaps, I should advocate that bill again, nevertheless I am not here to do injustice to this company or ask them to furnish gas at less compensation than that for which they can afford to manufacture it. I believe every man engaged in any enterprise of any kind or character which is beneficial should receive a fair compensation upon his investment in order to encourage him to continue it. As I would do with myself so would I do with this company.

Mr. COBB. I wish to say only a word in response to the suggestion of the gentleman about the hours during which gas is consumed

in these lamps throughout the year. Now the law does not fix the number of hours, but that is fixed by the commissioners. I say they burn gas too many hours, or pretend to, in this District.

Mr. NEAL. The engineer commissioner told me yesterday that it was fixed by law, six feet an hour and twenty-two hundred hours.

Mr. COBB. Fixed by law because the commissioners pass ordinances or rules to that effect. They need not do that.

The amendment was rejected.

Mr. ALDRICH, of Rhode Island. I move, after line 333, to insert the following:

*Provided further*, That the commissioners of the District of Columbia shall not be authorized to make any contract for gas or other illuminating material in accordance with the provisions of this act for any longer period than one year.

The amendment was agreed to.

Mr. HUNTON. I offer the following amendment:

In line 327, insert the following: "In the city of Washington, and $27.50 in the city of Georgetown;" so it will read: "*Provided*, That no more than $25 in the city of Washington, and $27.50 in the city of Georgetown shall be paid for gas," &c.

I have offered that amendment after consultation with the gentleman from Indiana in charge of the bill. It discriminates between the price paid in the city of Washington and that paid in the city of Georgetown. We thought it was right that a larger price should be paid in the city of Georgetown, which has but a small consumption of gas, while in Washington there is a large consumption of gas.

The amendment was disagreed to.

The Clerk read as follows:

For one major and superintendent, $2,610; one captain, $1,800; one property clerk, $1,800; one clerk, $1,500; three surgeons, at $450 each; six detectives, at $1,320 each; ten lieutenants, at $1,200 each; twenty sergeants, at $1,140 each; seven acting sergeants, at $1,080 each; seventy-three privates, class one, at $900 each; one hundred and twenty privates, class two, at $1,080 each; sixteen station-keepers, at $516 each; eight laborers, at $420 each; two telegraph operators and one telephone operator, at $780 each; one messenger, $900; one messenger, $360; one major and superintendent, mounted, $360; one captain, mounted, $240; fifty lieutenants, sergeants, and privates, mounted, at $240 each; two drivers, at $300 each; one ambulance driver, $600; rent of police-station houses and police headquarters, $5,960; for fuel, $1,500; repairs to station-houses, $1,500; miscellaneous and contingent expenses, including stationery, books, telegraphing, printing, gas, ice, washing, meals for prisoners, repairs to van, and detection of crime, $6,469; in all, $290,085.

The CHAIRMAN. The Clerk will report the amendments recommended by the Committee on Appropriations.

The Clerk read as follows:

In line 351, strike out "9" and insert "7;" and in line 352, strike out "3" and insert "5," and in the same line strike out "and $60;" and then, in line 365, strike out "$0" and insert "20."

Mr. COBB. This provides for a messenger at $700 instead of $900 and one at $500 instead of $360. This was done at the suggestion of the commissioners.

The amendments were agreed to.

MESSAGE FROM THE PRESIDENT.

The committee informally rose, and a message in writing was received from the President of the United States, by Mr. PRUDEN, his Secretary.

The message announced that he had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 5047) relating to the appointment of professors of mathematics in the Navy;

Joint resolution (H. R. No. 358) appropriating $2,500 to meet the expenses of the international sanitary conference invited to meet in Washington on the 1st January, 1881;

An act (H. R. No. 2658) to regulate the award of and compensation for public advertising in the District of Columbia;

An act (H. R. No. 2968) for the relief of James D. Grant;

An act (H. R. No. 1894) authorizing the employment of an inspector of plumbing in and for the District of Columbia, and for other purposes;

An act (H. R. No. 6614) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1882, and for other purposes;

Joint resolution (H. R. No. 340) in reference to the distribution of the CONGRESSIONAL RECORD;

Joint resolution (H. R. No. 369) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes;

An act (H. R. No. 7029) to provide for a deficiency in the appropriation for interest on the 3.65 loan of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes;

An act (H. R. No. 6025) to establish an assay office in the city of Saint Louis, Missouri;

Joint resolution (H. R. No. 266) ratifying settlement of taxes made by the District commissioners with the Baltimore and Ohio Railroad Company; and

Joint resolution (H. R. No. 224) to print 6,000 copies of the report of the National Board of Health.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For buildings for schools: For the purchase, when necessary, and the erection and completion of three buildings for primary and intermediate schools, two to be erected in the second school division and one in the sixth school division, (county,) $100,000, provided that they shall be contracted for before the 1st day of September next, and finished before the 1st day of August, 1882, to be appropriated as follows, namely: for the second school division, $96,000; for the sixth school division, (county,) $4,000.

Mr. HUNTON. I have an amendment to propose which goes not only to the paragraph just read but to the succeeding one, which I ask to be read at this time.

The Clerk read as follows:

For the payment of the Washington school-fund bonds now held by the commissioners of the District of Columbia, $70,630.47; and said commissioners are hereby authorized and directed to cancel and destroy said bonds, and to use said appropriation in the erection and completion of a high-school building. Said building shall be located on that part of square numbered 446 commencing at the rear end of that part of said square heretofore dedicated to school purposes, two hundred feet in width, thence south same width to O street, in Washington City; and said building shall be contracted for and completed within the time fixed for the buildings provided for in the next preceding paragraph: *And provided*, That the plans and specifications for each of said school buildings shall be furnished by the Architect of the Capitol and approved by the board of school trustees, and the work shall be superintended by the District inspector of buildings.

Mr. SAMFORD. Before the gentleman from Virginia moves his amendment I desire to make the point of order that the second paragraph which has just been read is not in order. My point is that the paragraph changes existing law and is not in the line of retrenchment.

The CHAIRMAN. Will the gentleman from Alabama state wherein the present law is changed?

Mr. SAMFORD. There is no law authorizing the building of a high-school house in the city of Washington. The building of school-houses here is carried on under authority of Congress under the general school system, putting it in the power of the commissioners to build common-school houses where necessary, but not high schools. There is no provision in the law for that, and this bill therefore contemplates legislation upon a subject for which there is no law existing. If there is I have not been able to find out after close examination.

In addition, it is taking possession of real estate which belongs to the District government provided for another purpose, and diverting it to another purpose not contemplated in the law authorizing its purchase, and therefore changes the law in that regard. There is no law now authorizing the building of the high school in the first place, and especially upon the lots where it is attempted to place it by this section of the bill. It certainly, as you can readily see at once, does not retrench expenditures. It is not in the line of economy, and there being no law for it, it necessarily changes existing law. It provides new legislation, and really is an additional expense.

The CHAIRMAN. The Chair would like to hear from the gentleman in charge of the bill upon this point of order.

Mr. COBB. I will yield to the gentleman from Ohio.

Mr. NEAL. The gentleman from Alabama is clearly mistaken. There is a law authorizing the establishment of a high-school system in the District of Columbia, for a high school is just as much a part of the common-school system as the primary schools are. In addition to that, if the gentleman from Alabama will examine the law he will find that the grades of schools provided for are not only a common-school and high-school system, but a higher grade provision being made for a normal school also in the District. It does not, then, in that respect change existing law as claimed.

Now, in regard to the property, what are the facts? That property was bought years ago, the city purchasing it at a cost of $100,000 from Mr. Corcoran. It was worth at that time probably $25,000 to the city, but the city wanted to make a donation to the Corcoran Art Gallery and bought this property, which now belongs to the city as much as any piece of property can belong to any municipality on the face of the earth, and they have a right to make such disposition of it as they see fit.

Now, we propose to authorize—what? Simply to apply it to school purposes.

We have legislative power if we desire to make provision for these school buildings, and having possession of this property we propose to use it for such purpose as seems to be most appropriate. We propose, Mr. Chairman, to devote it to the high purposes of education. I believe that there is no man in this House who will not agree with me that that is one of the most important subjects upon which we can legislate. For myself, I am a great believer in the education of the youth of this country.

I will say further, Mr. Chairman, that there is already upon that property a primary-school building, and therefore it is very appropriate that the remainder of the square should be devoted to purposes of education of the youth of this city. It seems to me that the point of order raised by the gentleman from Alabama cannot be well taken.

Mr. SAMFORD. I might content myself, Mr. Chairman, in response to the remarks of the gentleman from Ohio by simply asking him to turn to the law which authorizes the construction of this building attempted to be provided for in this bill. My information is that the legislative act passed some time in 1872, authorizing the purchase of this property, contemplated its use for market purposes. That being so, I contend that to apply it to school purposes would be a change of existing law to that extent, for it is an attempt to divert it from the original purpose for which its purchase was authorized by law.

I have never heard before that there was any more promised or paid for this square than its real value. The sum of $100,000 authorized by the legislative act to be paid in bonds for this square was as

I understand considered to be the value of the property, Mr. Corcoran agreeing to give the interest on the bonds to the Corcoran Art Gallery for a certain number of years, and at the end of a certain period perhaps the principal was to be devoted in that way. I have never heard before, sir, that it was a donation on the part of the District.

Mr. NEAL. The gentleman from Alabama is not perhaps familiar with the facts of the case.

Mr. SAMFORD. I have just stated that it was the first time I have ever heard of it. But that there is any evidence that the property was not worth the amount paid for it, or authorized to be paid for it by the legislative act, I have never heard before; never heard it questioned until this moment.

Now, my point of order is that the legislative act under which that property was purchased provided it should be purchased for a market. That is the law of the District now in force, which never has been repealed and which never has been carried out. But it is attempted now in this bill to divert it from the purpose for which it was originally intended, and the sum of $70,000 is provided in this bill for the erection of a high-school building upon it.

I take this occasion to say, Mr. Chairman, that I am not opposed to the erection of school buildings or to the education of youth. I am as much in favor of it as the gentleman from Ohio can possibly be. I believe that these buildings should be erected with a reasonable regard to the requirements of the people and the ability of the District to pay for them. But there are purposes which are just as important to some parts of the city. It is necessary to have a market at this point, and if I am overruled on the point of order I shall offer an amendment to that effect, that the law shall be confined to that which it originally contemplated, the erection of a market place on this square. This piece of property was authorized to be purchased at the same time that two other pieces were authorized to be purchased for market purposes. One of these was in the northern part of the city, the piece now under consideration, one was in the western and one in the eastern part of the city. In accordance with the provisions of the act market-houses were erected in the eastern and western portions of the city, but in consequence of the failure to negotiate the bonds, although the building was commenced on this square, it was never completed.

It is therefore in consideration of the desire of the people of that part of the city for market facilities, together with the fact that you may find other localities for the erection of the high school, that I make in the first place the point of order.

Mr. KLOTZ. There are two or three things connected with the subject of the market on square 446 which, if the House would understand, they certainly would not devote that ground for school purposes. It was a violation of the rights acquired under the law, and all the circumstances connected with the purchase of that property, to put on it the school-house lately commenced. Eight or nine years ago, when that property was sold by Mr. Corcoran, it was sold for $100,000, in bonds payable in twenty years, at 7 per cent. Mr. Corcoran himself said he sold it to the commissioners with the understanding it should be the site for a market, the object being to promote the furnishing of a market for that portion of the city. To encourage the Corcoran Art Gallery, he afterward agreed to present those bonds, or the interest on those bonds for twenty years, to the Corcoran Art Gallery. About eight years of that time have expired. The District is in debt, head over heels. The amount of money that is appropriated by Congress for District purposes is enormous. There are 20,000 paupers on your hands to be fed; yet it seems there is a desire to spend and squander the money of the District. It would seem as if Congress, in legislating for the District had but two objects—to protect the gas company, and then to protect all those other people in the city who are seeking to carry out private arrangements of their own for the purpose of filling their pockets; and this is one of those schemes.

The very fact that Mr. Corcoran agreed to appropriate the interest for twenty years on those bonds to the Corcoran Art Gallery, directing that it should afterward be presented to the District of Columbia for the purpose of building markets, should be sufficient, at least for honest men, to make them carry out the contract.

The market has been on that ground for a number of years. It consists of nothing but old sheds, as you may call them. At the same time, proving that that is a good place for a market, the revenues from the old sheds that stand there amount at present to four or five thousand dollars a year. This square was set apart for market purposes. The people understood it was for a market, and that attracted various individuals to buy property at an advanced price around the square. The valuation of property around that market was doubled by the assessors because it was around the market square. The people who owned the property paid for years double the amount of taxes because it was a market square. Buildings have been erected and their value has been enhanced just for that reason, which will add in taxes to the revenues of the Government.

They now agree, if they can build a market, to take half of the square for that purpose. They offer, without any cost to the District government, to take half of the square and pay half of the interest on the $100,000—namely, $3,500—for the next twelve years. They agree to pay $3,500 a year interest, helping the District government in its finances to that extent. And they propose to expend $40,000 on a building, and to pay taxes on the building after it is erected. And, as I have said, the income from the market at present is about five thousand dollars.

Now you propose to spend $100,000 on two school-houses. One of the school-houses has been built in the center of one side of the square, and this provides that the other shall be built exactly in the center of the other side of the square. This very fact shows there is something behind that has not been developed here. It is that those who own or fell heirs to the K street market, the stock of which they bought at half price, are the powers behind the throne.

Mr. TOWNSHEND, of Illinois. How far is K street market from this square?

A MEMBER. Several squares.

Mr. KLOTZ. The street-cars do not go within a square and a half of this.

Mr. NEAL. They go right by.

Mr. KLOTZ. What I say is, they do not go within a square and a half of the K street market, and the people will not patronize it. This market pays twice as much to the Government as the K street market in all its glory.

The desire of many men in this House to urge this matter shows that something lies behind it. I say it is robbery from first to last. It is in violation of an agreement and a contract. It is an abuse of the confidence of those who have bought property and paid taxes there for eight years on property the assessed value of which has been doubled by the expectation of having a market house. And now if you make it a site for a school-house you detract from the value of the property.

[Here the hammer fell.]

Mr. COBB. It seems we have got into a discussion of the merits while the point of order was pending; and if there be no objection I should like to say something on the merits.

The CHAIRMAN. The Chair would like to hear the gentleman from Indiana on the point of order.

Mr. COBB. I have not the statutes before me; but the law provides for a board of trustees under the supervision to some extent of the commissioners. And it goes on and provides the system of education as has been stated by the gentleman from Ohio. This system has been carried on for years without objection, and we have appropriated for it every year. Why, sir, the section just preceding this provides for the expenditure of $100,000 for the building of three intermediate school-houses. And the reason why it is proposed to appropriate for building a high school is because the high school is not taught now in a separate building but has to be accommodated in the upper stories of the Franklin building and the Seaton building. The result is that young ladies, or girls of thirteen or fourteen, have now to climb those immense stairways; and every gentleman here who has practical experience knows the danger of requiring females of that age to go up and down stairways.

This system is now in actual existence. Schools are to-day being taught, the very schools that would be transferred to this building, in the upper stories of the Franklin and the Seaton buildings, and teachers are employed under the system directed by law. I think, therefore, there can be no question upon the legal proposition in regard to this point of order.

Mr. BRIGHT. Will the gentleman permit me to ask him a question just there?

Mr. COBB. Certainly.

Mr. BRIGHT. I wish to know of the gentleman whether the deed of the property created any trust for any particular purpose?

Mr. COBB. I will answer the gentleman. I want first to call attention to some facts that will tend to sustain this point of order, though my statements may look rather to the merits of the proposition than to the point of order.

An appeal is made here for a market house on this property. Do gentlemen know that there are now two market houses, one of them one of the finest in the city, within three squares of where it is proposed to put this one? I have a map which has been prepared with great care and which shows the location of the market houses. One of them is the Northern Liberty Market, the finest in the city, and which is wanted by a railroad company as a depot. They are therefore against this school building on that account. They want to break down this Northern Liberty Market which has been built under the direction of the commissioners of this District.

The commissioners of the District in three several reports have recommended that this Corcoran Square be devoted to school purposes. They have already erected a school building on the northeast quarter of the square at a cost of $45,000. The market-men want to drive the school away from a site which is valuable to the people, and which can be reached by street railroads as can no other point in the city. There is no other place in the city so well adapted to a school house as is this square.

It is said that the deed of the property was made in a peculiar way. I have examined that deed and have had others examine it. I have here the brief of counsel heard upon the subject. There never has been any question but what square 446 belonged to the District to do as it pleased with it, and Mr. Corcoran will not pretend to-day that that is not true.

It is true that at the time this property was purchased from Mr. Corcoran it was thought that it would be necessary to use it for a market house. But that necessity has passed away. A school has

been located upon the northeast quarter of it. There are two market houses already within three squares of it. It is now proposed to erect the third market house, and there will then be three market houses, no two of them six squares from each other.

There is one thing I wish to call to the attention of this committee. As I have said, a school building has already been erected under the direction of the present board of commissioners upon a part of this square, at a cost of $45,000. It is not now quite completed. I have here the recommendations of the commissioners upon the subject. In 1875, which I am sure was before the Northern Liberty market building was erected—I think I am correctly informed on that point—before the men had invested their money in the Northern Liberty market, under what they believed to be the intention of the commissioners, to devote this square to school purposes, the commissioners made this statement:

The commissioners venture to call the attention of Congress to the fact of the District now owning a valuable property in the city of Washington, known as Corcoran square, originally purchased for market purposes, but which they are of opinion could be more advantageously used for the public interests in aid of the public schools.

Again, in the year 1878 the board of school trustees urged the appropriation of this square for the benefit of the public schools, and their recommendations again received the approval of the commissioners of the District, as shown in their report. And again in the last report of the commissioners of the District is the following:

We approve that the lots in square 446, purchased by the District for a market, be utilized. These lots, since the erection by private enterprise on square 515, are not required for the purpose intended, and the commissioners are of the opinion that the lots named could be most economically and beneficially used, i. e., for school purposes.

Now, in pursuance of these recommendations, as I have before said, the school board went on and erected a school building on the northeast corner of this square, at a cost of $45,000. Now, I want to ask gentlemen what they think of the proposition of locating a school-house and a market building on the same square? Do you want saloons and restaurants to be set up near the school-house, to tempt and invite the school children to turn away from their studies and indulge in the poisonous draught which will lead them to ruin?

Mr. KLOTZ. They are there now.

Mr. COBB. Do not put such temptations in their pathway unless it is necessary to do it. This proposition comes from a class of men—do gentlemen know who leads it? Mr. Wilson leads it. Who is he? He is a man who lives upon sixth street, away from this market. He spoke at a meeting last night in favor of it, at a meeting held by gentlemen who want to engage in the new enterprise which will ruin one of the best school-houses in the city. He objected to the police court where it now is, because it was near his house. Now he wants to put near a school-house, where fifteen hundred children of this District have to go, a market building which will draw flies there to the great annoyance of the scholars and teachers, and lead to the introduction of saloon keepers and restaurant keepers to mislead and destroy your children.

I put it to you, gentlemen, whether or not this is just? With these two market-houses located as you see upon the map, do the citizens need a market-house at this point? The Baltimore and Ohio Railroad Company want it, because they want the Northern Liberty Market for a depot. They are marching in that direction, as I have found out in the careful examination I have given this question.

Mr. TOWNSHEND, of Illinois. Is this a discussion of the point of order or the merits of the amendment?

The CHAIRMAN. The point of order.

Mr. COBB. I am aware that I am digressing somewhat into the merits of the question; and if objection is made, I certainly will not go on. These considerations have certainly some connection, though a very remote one, with the question of order.

I know, Mr. Chairman, that some men in this city are opposed to locating this public school on this square. The square is divided into four quarters. The northeast quarter is now occupied by the building I have spoken of. The northwest quarter fronts on Seventh street, one of the greatest thoroughfares and business streets in the city. That street is not a proper location for a school-house. The ground on Seventh street is more valuable for other purposes than school purposes, if the District should ever desire so to use it. This bill provides that a school-house shall be erected on the southeast quarter of the square. The market-men want to take the south half of this beautiful square and build a market-house running right along with the school building that is now erected. They want to put this market-house where, according to the board of commissioners, it is not wanted. I do not mean the present board, though I believe two of them take the same position, having been members of the board at the time when the report to which I have already alluded was made.

Now, will this committee undertake to place on this valuable square, so suitable for school purposes, a building that must necessarily interfere with the use of the square for school purposes, so that sooner or later the city must be driven either to remove the market-house that may be erected there or to remove the school-house it already has there? for the two structures are inconsistent and cannot stand together upon the same square.

Mr. KLOTZ. Which was built first?

Mr. COBB. The school-house.

Mr. KLOTZ. It is not half done yet.

Mr. COBB. There is not on this square at present any market-house such as the gentleman would seem to indicate. There are a few old shanties, which have been recently repaired at an expense of more than $1,000 to the District. This brings me to another point. The gentleman says that these market people pay the District five or six thousand dollars. I wish to say that the money received for rents is paid out in the erection or repair of old shanties that do not amount to anything.

Mr. SAMFORD. Mr. Chairman, I shall not attempt at this stage to follow my distinguished friend from Indiana away from the point of order into the merits of this case, though I am aware that in discussing the merits of the question he did so by permission. But I ask leave to refer to one or two statements of fact which I have never heard before. In the first place, I have never heard that any railroad company desires this lot for a depot.

Mr. NEAL. That does not relate to the point of order.

Mr. SAMFORD. I have just said so. Now, as to the statement that the commissioners recommend the erection of this school building on this square, I have a letter which I shall ask to have read at a proper stage of the discussion on the merits.

It is conceded that this proposition does not retrench expenditures. Now, the question is, does it change existing law? I have defied the gentleman to show any authority according to law for the building of this high school. The public-school system of this city does not authorize it. It will not do for the advocates of this measure to call upon me to show the law; the affirmative is with them; they have the laboring oar. Let them show any authority under the law for the erection of this building.

If I were ever called upon to show that there is not such authority, I might refer to the fact that in 1872 an act was passed by the Legislative Assembly of the District of Columbia (and it is the law at this time) the title of which was "An act providing for the purchase of certain ground east of the Capitol, and for the erection thereon of a public market house." Subsequently there was passed another act, "An act providing for the purchase of certain market sites and the erection thereon of certain markets." Then there was another act, the act of June 19, 1872, entitled "An act directing the governor to purchase as a site for a northern market the ground in square 446 offered by W. W. Corcoran, esq."

Mr. ALDRICH, of Rhode Island. What is the gentleman reading from?

Mr. SAMFORD. From an act passed June 19, 1872.

Mr. ALDRICH, of Rhode Island. Passed by whom?

Mr. SAMFORD. By the Legislative Assembly of the District of Columbia.

Mr. ALDRICH, of Rhode Island. Not by Congress?

Mr. SAMFORD. By the Legislative Assembly of this District. It was entirely within the jurisdiction of that Legislative Assembly to pass such an act, and it is the law to-day. I have here a statement of the action on this subject. I have not had an opportunity myself to verify the correctness of this statement; but it has been handed to me by a gentleman who has done so. The act to which I have just referred authorized the governor "to purchase as a site for a northern market the ground in square 446, offered by W. W. Corcoran, esq., on the liberal and munificent terms proposed by him," which terms were to sell the ground to the District for a market site for $100,000, and to donate the bonds to be received in payment to the Corcoran Gallery of Art. The ground was purchased, and the bonds at once turned over by Mr. Corcoran to the trustees of the Art Gallery. The act further provided for a commission to make a contract and cause a market building to be erected, and made provision for the issue and sale of bonds for that purpose. The contract was made. That law still exists; and this appropriation bill proposes an absolute change of that law, while it does not retrench expenditures.

Mr. ALDRICH, of Rhode Island. The paragraph under discussion, and which the gentleman includes in his point of order, involves two propositions: one to erect a high-school building, and the other to fix the location upon which this building shall be erected. Now, it is not denied, I presume, by the gentleman from Alabama, or anybody else, that this Congress has the right in an appropriation bill of this kind to make an appropriation for the erection of a public-school building. This was done in the appropriation bill last year, and is done every year by this House. It is the only way in which it is done, and practically it is the only way in which it can be reached. The appropriation bill of last year provided for the erection of three school buildings, one of which was erected on the very lot now under discussion.

The gentleman himself does not deny we have the right to erect a public-school building, but he undertakes to say a high-school building is not a public-school building. It seems to me in any northern city or any northern State that would be almost absurd, for a high school is as much a part of the public system as the primary schools themselves. I venture to say further there is not a city of 50,000 inhabitants in any of the Northern States which has not a high school as part of its public-school system. It is impossible for us to decide, therefore, as it seems to me, that a high school is not a public school.

That leaves, then, the only other question involved, as to whether we have the right to locate this school-house on this square 446. The gentleman claims it changes existing law, and he cites in proof of

that a certain act passed by the Legislative Assembly of the District of Columbia. Now, the gentleman from Alabama ought to know—and I am not sure whether he does or not—that the supreme court of the District of Columbia has decided this very quesiton. When the commissioners undertook to build a public school on that lot an injunction was sought from the court on the ground that the Legislative Assembly had dedicated this square to market purposes. That court, however, decided it had done nothing of the sort, and that the District had an undoubted and unconditional title to the land.

Mr. SAMFORD. I concur with the gentleman from Rhode Island that it is entirely within the power of Congress to do this thing by proper legislation, but the question before the House at this time is whether you can do this thing on an appropriation bill, which, under the rules, I deny.

Mr. ALDRICH, of Rhode Island. There is no law dedicating it to any other purpose. The court decided the legislation to which the gentleman has alluded as void and of no effect, and that the District of Columbia had an undoubted and unconditional title to the land.

The CHAIRMAN. The Chair will now decide the point of order. By reference to Rule XI of the House, clause 30, it will be found that this bill was taken from the jurisdiction of the Committee on the District of Columbia and given to the regular Committee on Appropriations of the House. It is therefore one of the regular general appropriation bills. And that leads to the question what a general appropriation bill is. As I understand it, it is an annual appropriation by Congress for subjects provided by previous law. The first part of clause 3 of Rule XXI provides that no appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. A general appropriation bill, then, is an annual appropriation bill for carrying on the Government. Is the erection of a high-school building in the District of Columbia an annual appropriation? To my mind it clearly is not.

It is claimed, because Congress has control of the subject of schools in the District of Columbia, that leaves with it as a part of the law the power to erect a school building, because schools are provided for by pre-existing law. It may be said that courts are provided for by pre-existing law in all parts of the United States, and yet no one would claim that by virtue of the law creating courts an appropriation for the erection of a court-house would be considered a portion of the annual general appropriation bill. This to my mind is clearly new legislation, and is therefore subject to the point of order made by the gentleman from Alabama.

Mr. ALDRICH, of Rhode Island. Do I understand the Chair to rule that an appropriation for the erection of a new public-school building would not be in order on this bill?

The CHAIRMAN. The Chair is of the opinion that it is not in order under the rule.

Mr. NEAL. I wish to make a point of order on all this bill from line 471; for if we cannot have a high-school building we do not want any.

Mr. ALDRICH, of Rhode Island. I feel constrained, Mr. Chairman, to take an appeal from the decision of the Chair.

The CHAIRMAN. The Chair is glad to have the gentleman do so, as he would like to have the decision of the committee upon the question.

Mr. COBB. Now, Mr. Chairman, I cannot place my hand at this moment upon the law authorizing this appropriation to be made; but I am quite sure when the Chair comes to see that law he will modify his decision on the point involved. There is an act grading the schools of the District, and I will call the attention of the Chair to that law which I think will cause him to modify his decision.

Mr. HUNTON. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HUNTON. The Chair has ruled upon this question already. Now, the only thing for us to do is to go on and consider the remainder of the bill unless an appeal is taken from that decision. I hold that debate is not in order after the ruling of the Chair.

Mr. ALDRICH, of Rhode Island. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Rhode Island having appealed from the decision of the Chair the question before the committee is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. BRIGHT. I would like to have that part of the bill comprehended in the ruling of the Chair read again, so that we may understand exactly the question pending.

The paragraph was again read.

Mr. ALDRICH, of Rhode Island. Can I be allowed a moment upon this question? [Cries of "Regular order!"]

The CHAIRMAN. The Chair would be very glad to hear the gentleman from Rhode Island if he was permitted to do so.

Mr. ROBINSON. I believe the gentleman from Rhode Island has a right under the rules in Committee of the Whole to address the Chair upon this point. I claim that it is his right and was settled the other day.

The CHAIRMAN. The Chair will be glad to hear the gentleman unless there be objection.

Mr. ALDRICH, of Rhode Island. Mr. Chairman, this is a subject of importance. It should be decided only after mature reflection and consideration. The question presented here is whether or not this is a general appropriation bill. I hold that an appropriation for the District of Columbia is of necessity a private appropriation, a bill providing for a municipality under the control of the Government, and if we exact under this first clause of the twenty-first rule that every appropriation not provided for previously by law is out of order, we shall exclude nine-tenths of all the items in appropriation bills brought into this House by the Committee on Appropriations.

We cannot embark in any new enterprise in the District unless we first pass a law to authorize it, and then get the consent of the Committee on Appropriations to furnish the money. It is well known to every member of this House that it is impossible for us to do that. We shall never have any school-houses erected here or work of any kind done in this District if this rule is to be strictly adhered to and enforced. I have at present no authorities before me on this point, but I shall be very much surprised if the District appropriation bill has ever been decided to be a general appropriation bill within the meaning of the first clause of the twenty-first rule.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The committee divided; and there were—ayes 76, noes 91.

Mr. TALBOTT demanded tellers.

Tellers were ordered; and Mr. TALBOTT, and Mr. ALDRICH of Rhode Island, were appointed.

Mr. FINLEY. I hope the Chair will state distinctly the question upon which the committee is now called upon to vote.

The CHAIRMAN. The gentleman from Alabama made a point of order that the provision contained in this bill which contemplates the erection of a high-school building was not an appropriation authorized by law, and should not under the rules of the House be included in this bill. That point of order was sustained by the Chair. The gentleman from Rhode Island appeals from that decision of the Chair, and the question is, Shall that decision stand as the judgment of the committee?

The committee again divided; and the tellers reported ayes 78, noes 101.

So the decision of the Chair was overruled.

The CHAIRMAN. The Clerk will now report the amendment of the gentleman from Virginia.

The Clerk read as follows:

Strike out from line 471 to 498, inclusive, and insert "and the commissioners are hereby authorized to sell the 3.65 bonds which are held by them in trust as a school fund, amounting to $70,630.47, and apply the proceeds to the erection of two school buildings on sites and according to plans approved by the board of school trustees. Said plans to be furnished and the work to be superintended by the inspector of buildings of the District of Columbia."

Mr. KLOTZ. But not to be erected on square 446.

Mr. HUNTON. I would like, Mr. Chairman, to have the attention of the committee for a few moments while I explain the provisions of the amendment which I have offered. I have been charged, sir, with being an advocate of extravagance in the amendments which I have had the honor of offering and pressing upon the committee for adoption. I now claim that my amendment is in the interest of economy, and I want the gentleman from Indiana to understand that if he opposes the amendment he himself will be the advocate of extravagance and I of economy. The committee will observe, Mr. Chairman, that by the two paragraphs that my amendment proposes to strike out $170,000 is appropriated to the building of school-houses in the District of Columbia in one single fiscal year, an amount for the purpose of school buildings never appropriated within my legislative experience in this body; and I say an amount far beyond the ability of the people of the District under present circumstances to pay. I desire to say here, sir, that I am an advocate of common-school education. I am as perfectly willing as any gentleman upon this floor by my action here and by my vote to provide everything that is necessary for the education of the children of the District of Columbia in the public schools; but I am not willing in any given year to spend such a vast sum as this contemplates—$170,000—for the purpose of building free schools, one of which is to cost $70,000 alone.

Mr. SAMFORD. Not counting the value of the property on which it is erected.

Mr. HUNTON. And when you take into consideration the value of the lot, as my friend from Alabama suggests, it is probably in the neighborhood of two hundred thousand dollars. It is now, Mr. Chairman, I think, the duty of Congress to provide gradually for the erection of the school-houses necessary for the accommodation of the children of the District, but not to do it all in one bill or in one year, by attempting to provide so much as this bill contemplates for the purpose of erecting these buildings. The committee will recollect, when the amendment was offered and adopted to increase the appropriation for taking up the rotten wooden pavements and replacing them with substantial ones of some kind, it was understood that there was to be an economical cutting down somewhere else in the bill to get it within the total amount as recommended by the Committee on Appropriations.

Now, Mr. Chairman, last year, I believe, we erected three school-houses; the year before, one or two; and now we are asked to build

three more, one of which is to cost $70,000. I say, whatever may be the wants of the people of this District in regard to school buildings, they ought for the present to be satisfied with the rooms rented for the purpose, especially as we propose by my amendment to build two school buildings costing $70,000.

[Here the hammer fell.]

Mr. HARRIS, of Virginia, was recognized and yielded his time to Mr. HUNTON.

Mr. HUNTON. My amendment proposes that the 3.65 bonds, amounting to $70,000, shall be paid off and canceled, and that the amount of those bonds held now by the commissioners of the District of Columbia shall be devoted to the building of two school buildings, the site for which shall be determined by the school board under the direction of the commissioners of the District.

I say, Mr. Chairman, with all deference, that this sum of $70,000 is quite enough in one year for the people of the District of Columbia to expend in the erection of school buildings in this District. If the $100,000 appropriated in the first of these paragraphs is stricken out and the appropriation is confined to the $70,000 in 3.65 bonds, then the District of Columbia will have at the end of the next fiscal year two additional school buildings with twenty-four rooms in the aggregate; and the next year we can build two more, and two more the next year, and in time furnish all the schools that are thought to be necessary for the accommodation of the children of the District.

A MEMBER. How much does your amendment save?

Mr. HUNTON. My amendment provides $70,000 instead of $170,000. The two paragraphs to which my amendment applies appropriate $170,000 for the purpose of building school-houses in the District. My amendment cuts off the $100,000 and appropriates the $70,000 now held in 3.65 bonds. And I submit that sum is enough to appropriate in any given year for school buildings in the city of Washington. I trust, therefore, the committee will adopt my amendment.

Mr. COBB. I desire to say but one word. If the gentleman from Virginia will only appropriate $70,000 he ought not to appropriate any. You cannot build one school building for less than $45,000, and the balance, you can readily see, cannot be used for the purpose of erecting such buildings as are now being erected under this system.

The section which the gentleman from Virginia proposes to amend provides for three buildings in the District of Columbia: two in division No. 2, and one in division No. 6. And then there is this high school. As I said yesterday by what is here proposed we will save $8,000 rent which we are now paying in the second school division. And then we propose to take from the upper stories of the Seaton building and the Franklin building these young girls and boys now in the high school and transfer them to this building and to provide room for intermediate schools. We are paying as rent 10 per cent. upon the value of the property rented. We ought to stop this expenditure.

Mr. HUNTON. If the $70,000 are appropriated as proposed in my amendment it is understood one of the two buildings to be erected is needed most in the country and the other in the city. The $70,000 will build two school-houses, one costing from $30,000 to $40,000 in the city, and the other in the country.

Mr. COBB. In the country they only ask $4,000.

Mr. HUNTON. I understand more than that is desired.

Mr. HENKLE. Before the vote is taken upon the pending amendment I want to say a few words upon this market question, which I consider is embraced under the provisions of the amendment now pending.

The gentleman from Indiana, who recently addressed the committee, entered at considerable length on the merits of this question, and made some reflection, as I thought at least, upon the character of a mass-meeting of the citizens of Washington that was held last night upon this subject. The reflection was that the parties composing that meeting were interested in such a manner as was not creditable to their moral character; that they were interested in the sale of intoxicating liquors; that it was a sinister movement altogether; that it was a pecuniary, selfish interest that controlled these people; that their voice was not entitled, therefore, to consideration on the part of Congress.

Now, I desire to send to the Clerk's desk to be read a memorial that has been sent to Congress by these gentlemen, remarking at the same time that the gentlemen composing that meeting last night are among the most respectable men in the District of Columbia, and are entitled to take the interest in this matter which they do, and that as such they are entitled to the consideration of this House.

The Clerk read as follows:

*To the Senate and House of Representatives of the United States in Congress assembled:*

The residents of the northern part of the city of Washington, who are accommodated by the market established by law on square 446, commonly known as "Corcoran square," having met together in mass-meeting to consider the great injury and wrong which they would suffer by the passage of that portion of the appropriation bill for the District of Columbia reported to the House of Representatives on the 26th instant, which provides for the location of a high-school building on the ground now used for a market, and which would involve the taking away of the only convenient market facilities which we now enjoy, do respectfully but most earnestly memorialize your honorable bodies, and represent:

First. That in 1871 and 1872 the Legislative Assembly of the District provided for the purchase of three market sites in the city of Washington—one in the eastern, one in the western, and one in the northern section of the city, and for the erection of permanent market houses thereon. On the eastern and western sites market houses have been built and paid for out of the general treasury of the District, whereby we and our property have paid our proportion for them. The ground in question was purchased as the northern market site, and temporary sheds and stands were erected thereon, and they have served for eight years, and notwithstanding their inadequacy to our needs, have been a great convenience and have yielded to the District treasury a larger revenue than any other public market in the city. Moreover, the real estate in this section of the city, by reason of the location of the market therein, has been assessed for taxation at a much higher valuation than theretofore; so that, besides having paid our proportion for the other two markets, we have also paid, by increased taxes, more than enough to reimburse the District for the cost of the ground.

Second. The site is absolutely needed for a market, and is better located and adapted therefor than any other in the whole northern section of the city, which is shown by the business which has been and still is done at these temporary and inadequate market-sheds, and is further demonstrated by the strenuous and persistent efforts of the owners of private corporation markets, which are claimed to be, but are not, so located as to afford us convenient market accommodations, to procure the diversion of the ground from the purpose for which it was purchased and set apart by law.

Third. The ground was, after the fullest discussion of the question, selected for a northern market, and was purchased from Mr. Corcoran with the understanding between him and the citizens of Washington that it should be devoted to market purposes, and that he would donate the proceeds of its sale to the Corcoran Gallery of Art. This he did, and it would be a breach of faith to now divert it to other uses.

Fourth. The District government having failed to erect a permanent market house on this site we became ready and willing, in order to preserve and improve our market facilities, to erect a suitable market building ourselves on the south half of the ground purchased from Mr. Corcoran, in accordance with the provisions of House bill No. 4749, which was reported favorably by the House Committee on the District of Columbia at the last session of Congress, and is now pending in the House, whereby the District will receive a large annual revenue therefrom and the citizens will have increased market facilities, while the north half of the ground will be devoted to school purposes. And this division of the ground was understood to be a satisfactory adjustment of conflicting claims. Since then a school building has been erected on the north half of the ground, with which the market does not interfere, and it is now proposed to take all the ground for school purposes, and at a loss of revenue to the District which would pay the interest on the cost of two or three proper sites for school buildings.

Wherefore we earnestly appeal to your honorable bodies to regard our situation and refrain from passing the pending bill, which will destroy our market, and respectfully pray for the passage of the House bill, to which we have above referred, providing for the erection of a permanent market without cost to the District or the General Government.

And we authorize the chairman and secretary of this mass-meeting to sign this memorial in our behalf.

And will ever pray, &c.

SAMUEL NORMENT,
*Chairman.*
EDW. W. DONN,
*Secretary.*

Before the Clerk had finished the reading of the above memorial the hammer fell.

Mr. SAMFORD was recognized and yielded his time to Mr. HENKLE.

The Clerk resumed and concluded the reading of the memorial.

Mr. HENKLE. This is no new subject to the Committee on the District of Columbia. It was discussed in a very exhaustive manner by all the parties interested during the last session of Congress, and on several previous occasions. If the committee would give me for a few minutes their attention, which is so difficult a matter to get when business pertaining to the District of Columbia is before the House, I believe I could convince them that this lot should not in equity or justice be taken for the purposes of a high school.

I am not here to oppose a high school in the city of Washington. There is no man in the city or in the District more willing to support education than I am. But I do say, Mr. Chairman, that it is an outrage on the people of the northern section of this city to take that lot and divert it from market-house purposes to the purposes of a high school.

The memorial that has just been read from the desk recites briefly the several points in this case. They are these: that in 1871 or 1872 the Legisative Assembly of the District of Columbia made provision for three public markets: one in the eastern, one in the western, and one located in the northern section of the city.

The Eastern Market House was built; the Western Market House was built. The Corcoran lot was purchased, and the foundation was laid there for the erection of the Northern Market House on that lot. Gentlemen say there is nothing in the deed by which this lot is conveyed to the city that provides that it shall be devoted to the purposes of a market house. I care not whether it was in the letter of the bond or not; it is just as well understood, and it is just as binding in good faith upon this committee and upon Congress to carry out the understanding; for it was known to all men in this District at the time that property was bought that it should be devoted to the purposes of a market house. The proof of that is to be found there in the foundation stones that lie to-day upon that lot. There is the proof, so plain that he who runs may read. It was intended for a market, as is shown by the fact that the District government proceeded to lay the foundation of a market building on that lot.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KLOTZ. I will take the floor, and yield four minutes of my time to the gentleman from Maryland, [Mr. HENKLE.]

The CHAIRMAN. Debate upon the pending amendment has been exhausted.

Mr. HENKLE. Then I move to strike out the last word.

Mr. NEAL. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. NEAL. Is it in order under the rules for a gentleman to take the floor and yield his time to another?

Mr. CLYMER. The gentleman from Maryland [Mr. HENKLE] takes the floor in his own time, having moved to strike out the last word.

Mr. NEAL. The chairman ruled a short time ago that I had no right to do that; and what is good for one is good for another.

The CHAIRMAN. The Chair held that the gentleman from Ohio [Mr. NEAL] had no right at the close of his remarks to move to strike out the last word and continue on the floor.

Mr. NEAL. That is just exactly what the gentleman from Maryland [Mr. HENKLE] has done.

The CHAIRMAN. If that is so, the Chair will rule as he did before.

Mr. KLOTZ. I will move to strike out the last word, and yield my time to the gentleman from Maryland.

The CHAIRMAN. The gentleman from Maryland will proceed.

Mr. HENKLE. I am much obliged to the gentleman from Pennsylvania [Mr. KLOTZ] for his courtesy.

I was going on to say that this property was sold by Mr. Corcoran with the express understanding that it should be devoted to market-house purposes. The Committee on the District of Columbia has undoubted information upon that subject. That committee addressed a note to Mr. Corcoran to ascertain if such was the fact. Mr. Corcoran replied in a letter, which I presume is now in the committee-room, in which he explicitly states that the property was sold to the city with the express understanding that it should be used for market purposes, and for no other purpose.

Now, the citizens of that portion of the District desire a market house on this lot. It is the natural location for a market. Street railways run past it on two sides. It is one of those centers to which population naturally gravitates. It is the natural location for a market. There is the place for one, and though the building is not completed, nothing but the foundation laid, yet such was the general desire for a market house there that temporary sheds were erected, and a successful market has been conducted there from that time to the present. There is a market there to-day, and has been for eight years, a prime necessity to the people of that section of the city.

More than that, in view of the prospective value of property in that section of the city, because of the establishment of a market-house there, prices advanced, property increased in value; and when assessments were made that property was assessed at advanced rates. For years the people of that section of the city have been paying increased taxation because of the enhanced value of their property by reason of the prospective establishment of a market there. Is there anybody here who doubts that? Is there any one cognizant of the condition of affairs in that portion of the city who does not know that to be true? I say it would be bad faith to take this property from them and use it for the purpose of a school-house.

This matter was discussed at great length in our committee. We heard the citizens of that portion of the city, as well as the representatives of the incorporated market houses referred to by the gentleman from Indiana, [Mr. COBB.] The owners of those market houses said they had built them with their own money. That was at the time when a proposition was made to appropriate money by Congress to erect a market house on this Corcoran square.

The owners of the other market houses said they had built their markets with their own money; that if the people would build a market house on this square with their own money they might do it. The only objection was to the Government appropriating money to construct a market house there and break down these private enterprises.

A compromise was then and there agreed to in our committee which was conceded to be satisfactory to all parties, to the people of that portion of the District, to the commissioners of the District, and to these rival corporations also. The proposition was that if the people would build a market on this square at their own private expense, just as the other market-houses had been built, there would be no objection to it. A bill was accordingly prepared for that purpose, and is before the House to-day.

That is the state of the case now. That was the compromise reached. The Committee on Appropriations now come in and ask this House to divert this property from the purpose for which it was originally designed, to break up this market, which is a public necessity for all that northern section of the city, and to erect a high-school building on the property.

Now, I am in favor of a high school, but I am not in favor of doing any injustice that good may come from it. I say let justice be done, though the heavens fall. There are better locations in this city for a high school. This lot is not centrally located, either geographically or with reference to population. Now, why do I say this?

Provision was made by law that there should be one market house in the eastern portion of the city, one in the western portion, and one in the northern portion of the city. And this site was selected as the one for the market house for the benefit of the people in the northern section of the city. That does not indicate that it is central. It is not central. The center of population is east of Sixth street. All the southern and eastern part of the city, including the navy-yard, is remote from this location. If you build a high school, as I hope you may, I want you to locate it where it will be accessible to the poor people of the District.

Mr. COBB. Mr. Chairman, I desire that we shall now give a hearing to parties who have not yet been heard. I send to the desk to be read the proceedings of a public meeting held on the 7th of the present month, in favor of public schools. I ask gentlemen to notice the names of gentlemen who took part in this meeting, and say whether they are representative men of this District.

The Clerk read as follows:

*A District high-school—Meeting of citizens to recommend its erection—A memorial adopted which will be presented to the commissioners and Congress—Expression of opinion on the subject.*

Pursuant to a published call, a number of patrons and friends of the public-school system, who favor the erection of a suitable building for a District high school, met at Seaton school building last night. About thirty-five persons were present, among them Commissioner Dent, Superintendent Wilson, Trustee Lovejoy, A. P. Clarke, W. C. Chase, B. T. Swartz, Joseph Daniels, S. John Thomson, B. Janney, Ex-Trustee Joseph M. Wilson, Ex-Trustee G. Y. At Lee, J. B. Ourand, and others.

On motion of General W. W. Birney, Hon. Matthew G. Emery was called to the chair, and B. F. Marche was elected secretary. A motion was made and carried that a committee of five be appointed to draw up a proper address, setting forth the necessity for a high school in this District. The Chair appointed as such committee General W. W. Birney, General R. B. Mussey, John Randolph, C. E. Hovey, and George Mason. After being out for some time the committee returned, and General Birney reported a series of resolutions, as follows:

Whereas the trustees of the public schools of this District have not yet been able to establish the eleventh and twelfth grades, which are necessary to the thorough training and instruction for practical life contemplated by the public-school system, and which grades have been established in Baltimore, Richmond, Savannah, and generally in the cities of the United States; and

Whereas said trustees, not finding it practicable to rent a suitable building for the ninth and tenth grades, have been compelled to locate them in the third stories of buildings constructed for the use of lower grades, inconvenient for higher ones and contracted in space; and

Whereas the present pupils of the tenth grade will be compelled to leave the public schools at the end of the scholastic year because no provision has been made for their further instruction, and a large number of the present pupils of the eighth grade, desiring to enter the ninth must be refused admission because there is room for a limited number only; and

Whereas the board of school trustees demand immediate attention to this state of things, declaring it to be most serious, and recommend the application of what is known as the "Washington school fund," amounting with interest to more than seventy-two thousand dollars, to the erection of a building for the use of the highest grades, and also that said building be erected on ground belonging to the District in square 446, which site they pronounce central, accessible and available:

*Resolved*, That the recommendations of the board of trustees are reasonable, and ought to be carried out without delay.

That the "Washington school fund" should not be diverted to the use or benefit of any one or two school divisions, but should be applied to the erection of a building for those grades in which all parts of the District are represented.

That we rely with confidence upon the usual appropriation by Congress for the construction of buildings for the lower grades of public schools; and we trust this appropriation will not interfere with the application of the "Washington school fund" as recommended by the trustees.

That the board of trustees of public schools merit our thanks for their efforts in the face of many difficulties, to establish in this District the system of co-education of all the children of the community—a system just to the feeble and defenseless, and which has been proved to be the best preservative of republican institutions by removing prejudices between rich and poor, mitigating sectarian feeling, and promoting industrial prosperity by the multiplication of inventors, able mechanics, engineers, skillful merchants, and intelligent workmen.

That a committee of fifteen citizens be appointed by this meeting to present these resolutions to the honorable District commissioners; to confer with them on the subject-matter with a view to secure favorable action; and to take such other steps, including presentation to the congressional committee having charge of District affairs, as it may deem necessary to carry out the views of this meeting.

General Birney made a speech defending the high-school system. He said that he saw a sentiment in the press some time ago against it. The high school was not for the rich, but to make all competent to earn a livelihood. It is intended to fill a place in the public schools. [A voice: "Don't let it be understood that no languages are to be taught."]

J. B. Johnston spoke in favor of the resolutions.

Judge Dent said there was a great difference of opinion as to the degree of public-school teaching. If there was any place in which the public schools should have a high standard, this city was the place. He spoke of the poor financial condition of the District, and said the schools did not, on that account, receive as much as the commissioners would like them to have. He went on to say that Congress had given them, on their recommendation, the Washington school fund, $72,000, and about thirty thousand dollars for school purposes. He suggested that the school board could either appropriate the money to the erection of low or high schools.

General R. B. Mussey spoke in favor of the resolutions at some length, saying that Washington had more material for high education than any city in the country. He said he had rather have had bad pavements than bad boys, and the way to do away with the latter was to give them school facilities.

Judge Dent again spoke of the trouble of collecting money, and said if this meeting would have the $192,000 of drawbacks placed to the credit of the District he would pledge himself to vote $150,000 for the public schools.

Ex-Treasurer Wilson spoke in favor of the resolutions, saying that Representative COBB was in favor of doing all he could to give them a high school.

General E. F. Hovey said the question had resolved itself into one of ease to the pedal extremity of man, or knowledge to the head; or, in other words, if we have good streets we are to have no high school. So much money was to be expended, according to the commissioners, and he favored giving it to the high school. He concluded by saying that both the streets and the high school could be attended to by properly presenting the case before Congress.

The resolutions were then unanimously adopted, and the Chair appointed the following committee to wait on the commissioners and Congress: M. G. Emery, William Birney, H. D. Cooke, jr., W. C. Dodge, William Dickson, Thomas J. Hume, Rev. George O. Little, William H. Chase, O. H. Irish, R. D. Mussey, J. B. Johnson, George C. Gorham, Lewis Clephane, A. J. Donaldson, B. T. Swart, and Rev. B. F. Bittinger, D. D. The committee will meet at the Second National Bank on Monday morning at 10 o'clock.

Mr. SAMFORD. I would like to have read a letter which I send to the desk from the gentleman who presided over the meeting, the proceedings of which have just been read.

The CHAIRMAN. Debate is exhausted.

Mr. KLOTZ. I withdraw my formal amendment.

Mr. SAMFORD. I renew it, and I ask the Clerk to read the letter which I send up.

The Clerk read as follows:

SECOND NATIONAL BANK,
*Washington, D. C., January 27, 1881.*

MY DEAR SIR: While I am in favor of the erection of a building for high-school purposes, I am not in favor of placing it upon square No. 446, known as Corcoran square. I think there should be a market house erected on this square.

Yours, respectfully,

M. G. EMERY.

Major THOS. P. MORGAN,
*District Commissioner.*

Mr. SAMFORD. I ask to have read also a communication from Major Morgan, one of the District commissioners.

The Clerk read as follows:

OFFICE OF THE COMMISSIONERS, DISTRICT OF COLUMBIA,
*Washington, January 27, 1881.*

DEAR SIR: In answer to your inquiry, as to the commissioners having given their consent to the erection of a public school on the south side of square 446, or that they had recommended the same, I would state that personally I have always been opposed to diverting this property from its original purpose, for markets, to any other.

As to the erection of the proposed high school on the square named, I have been opposed to it all along, and so expressed myself to all who made any inquiry. I talked the matter over with Mr. COBB a few days since, and expressed to him fully my objections, but said if it was determined to build a high school and use square 446, I would advise the sale of the ground on the Seventh street side, included in seven lots—shown on a plat I gave him—and purchase more retired and cheaper ground northwest from this point.

Sincerely,

THOS. P. MORGAN.

Hon. Mr. SAMFORD.

N. B.—The commissioners, *as a board*, have never recommended anything touching this subject.

Mr. SAMFORD. Mr. Chairman, there is now on file in the proper department of this House a petition signed by 2,000 citizens, which was referred to the District Committee, praying that this lot No. 446 might not be diverted from its original purpose.

Mr. VAN VOORHIS. What was that?

Mr. SAMFORD. It was originally devoted to the erection of a market house. My colleague on the committee, the gentleman from Maryland, [Mr. HENKLE,] has had read the proceedings of a very large and intelligent meeting held last night. I do not wish at this late hour to say anything in addition to what has been so well said by the gentleman from Maryland, except this: this whole question was before the Committee on the District of Columbia; it was discussed there time and again. The interests of the common schools and the interests of the market seemed to conflict, and after a most exhaustive argument and a personal inspection of the ground by various members of the committee a compromise was reached, and a vote was had directing the reporting of a bill (it is true there were members of the committee who never gave their consent to the bill, and who voted against it)—a bill providing that one-half of this lot be taken for market-house purposes and the other half for public-school purposes.

Allow me to add that there are now outstanding bonds to the amount of $100,000, issued in payment for this square, upon which bonds this District is paying annually an interest of $7,000. These parties propose to erect a market-house on this square without any expense whatever to the Government; and they propose to insure the payment of sufficient rent to meet a proper proportionate part of the interest upon those bonds, besides paying the taxes upon the buildings which they may erect. But the bill now before the House—not the amendment of the gentleman from Virginia, for I am in favor of that—the bill reported by the Committee on Appropriations, proposes, in devoting this square to school purposes, not only that the District shall continue to pay the $7,000 interest on those bonds, but it proposes an appropriation of $70,000 additional.

I do not propose to go over the argument, but it is a fact of history that this lot was bought under and by virtue of a legislative act of the District of Columbia for the purposes of a market; and just as soon as it was bought a large number of citizens settled around it, whose property was supposed to be enhanced in value by this proposed location of a market-house, and they have paid additional taxation by reason of this enhanced valuation.

[Here the hammer fell.]

Mr. NEAL. Mr. Chairman, the fact is that for a year past certain parties interested in the seizure of public property for private purposes have besieged the Committee on the District of Columbia day and night for the purpose of having this property appropriated for market purposes. The committee considered the question; they heard the arguments of these parties and their attorneys; and a majority of the committee voted against anything of this sort. The bill which the gentleman from Alabama speaks of was never brought before this House by a vote of the majority of the District Committee. So much for that.

Mr. SAMFORD. Certainly the gentleman will not deny that a majority of a quorum of the committee authorized the reporting of that bill to the House—a bill prepared and offered by the gentleman from Pennsylvania, [Mr. KLOTZ.]

Mr. NEAL. I say that a majority of the committee never authorized the reporting of that bill. A majority of a quorum may have done so; but I for one never knew that the bill had been reported until it was brought up here the other night for action. So much for that.

Now, as to another point. It is claimed that because this square was bought from Mr. Corcoran for market purposes, therefore there was a dedication of it to such purposes. Why, sir, the District received a deed in fee-simple for the property, and paid for it double and treble its value. Now, what is proposed? In the first place, Mr. Chairman, these parties wanted us to appropriate the whole square to the building of market houses. Then they came down to a proposition to take one-half. They proposed that this public property should be appropriated for private purposes, when, as has been demonstrated by the gentleman from Indiana, there are ample market facilities in that neighborhood, so that there is no necessity for another market. The full object of this will be to give public property to private persons to enable them to compete with other private enterprises. More than $100,000 has been spent in that neighborhood by one market company, and a large sum by another market company, and the question now addresses itself to this committee, will they appropriate public money for the purpose of feeding men's bellies as the gentleman from Pennsylvania and the gentleman from Alabama desire, or will they go with us and devote it to the purpose of supplying food to the minds and souls of the children of this District?

Gentlemen have insinuated there were interested parties back of this urging it on. I will say to the gentlemen for myself and for every member of the Committee on the District of Columbia who stands as I do on this question, that the only persons who have talked to us in regard to this matter are the men who come here and ask us to give them public property for private purposes. These public market houses are behind the age. In modern times no town appropriates money for any such purpose. Let all these matters be left to individual enterprise.

Further, Mr. Chairman, if you do not use this lot for the purpose indicated, then we shall have to buy private property upon which to erect a high-school building.

Mr. SAMFORD. Let me correct the gentleman. I am in favor of a high school no matter where you put it, provided you do not take this property for that purpose.

Mr. NEAL. Oh, yes; you want us to give public property for private purposes.

Mr. SAMFORD. No, sir.

Mr. NEAL. There is not a single piece of public property in this District that some piratical white man has not placed his covetous eyes upon. [Laughter.]

The CHAIRMAN. The gentleman's time has expired.

Mr. CLAFLIN. I take the floor in my own right and will yield my time to the gentleman from Ohio.

Mr. NEAL. I am very much obliged to the gentleman from Massachusetts.

Mr. Chairman, I say there is not a piece of public property anywhere in this District that some white men do not want for private purposes. Here we have two hundred thousand dollars' worth of public property occupied by a railroad company for depot purposes. Here, too, is the Washington Market-house Company, which has its clutches on a large piece of valuable public domain. So it is with everything else. When, however, it is proposed to put a library building on public property there is a howl raised all over the District, you must not do anything of the sort. When private individuals come and ask us to give them public property for private purposes they have advocates upon this floor who throw out insinuations against other members not warranted by the facts within their knowledge.

Mr. ATHERTON. Is it claimed this property when used as a public market is used for private purposes? Is not a public market as much a public purpose as anything else here?

Mr. NEAL. This is for the purpose of a private market.

Mr. ATHERTON. Is it not for a public market?

Mr. HENKLE. Let me ask whether they do not propose to pay for this lot?

Mr. NEAL. I cannot be interrupted. I want to say to the gentleman we have no right to rent private property for market purpose or any other private purpose. If you do not use this lot for the purpose of this high-school building, then you will have to go somewhere else and buy other property for that purpose. That is what you will have to do, and when you are compelled to do that you will have to pay a high price for improved property. The improvements will have been assessed upon the property, and you will have to pay two or three times over for it.

I appeal now to this House, once for all, to set apart this property for the laudable purpose of educating the youth of Washington City and preparing them properly to discharge the duties and obligations resting upon them as citizens of the greatest and most glorious commonwealth the sun ever shone upon.

Mr. HUNTON. I desire to say a word on this subject. I am a man of peace. [Laughter.] I want to throw oil upon the troubled waters of this committee. If my amendment is adopted this whole fight about Corcoran square is ended and will only come up in the bill which my friend from Alabama has in charge. So if my amendment is adopted this whole question about Corcoran square is out of this appropriation bill and will be left to the bill hereafter to be reported from the Committee on the District of Columbia.

Mr. NEAL. Will not that committee report it as a separate bill to be again fought over?

Mr. HUNTON. It will come as a separate bill, but it will come in a bill from the Committee on the District of Columbia, from which

such matters ought to come, and it will settle the matter as far as that committee is concerned.

The CHAIRMAN. The Chair understands informal amendments are withdrawn, and the question therefore recurs on the amendment of the gentleman from Virginia, [Mr. HUNTON.]

The committee divided; and there were—ayes 46, noes 85.

Mr. KLOTZ. No quorum has voted.

Mr. PAGE. I demand tellers.

Mr. VALENTINE. Pending that I move the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CONVERSE reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes, and had come to no resolution thereon.

Mr. VAN VOORHIS. I move the House do now adjourn.

PRINTING.

The SPEAKER. Pending that motion the Chair will ask unanimous consent for the adoption of an order which the Clerk will read.

The Clerk read as follows:

*Ordered*, That all bills, joint resolutions, and concurrent resolutions relating to printing, and now remaining on the Speaker's table, be taken therefrom and referred to the Committee on Printing.

There was no objection, and it was ordered accordingly.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (S. R. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug.

HOT SPRINGS RESERVATION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, relative to the Hot Springs reservation in Arkansas; which was referred to the Committee on the Public Lands.

FUNERAL EXPENSES OF HON. EVARTS W. FARR.

Mr. MORSE. Mr. Speaker, I ask consent at this time to introduce a resolution touching the funeral expenses of the late Representative from New Hampshire, Hon. Evarts W. Farr.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved*, That there be paid out of the contingent fund of the House a sum sufficient to pay the necessary funeral expenses of Hon. Evarts W. Farr, late a Representative from the State of New Hampshire.

The resolution was agreed to.

ORDER OF BUSINESS.

Mr. SIMONTON. I demand the regular order.

The SPEAKER. The regular order is on the motion of the gentleman from New York, that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifty minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ATHERTON: The petitions of Enoch Perego and 50 others, of C. W. Long and 17 others, of L. B. Lee and 45 others, of Silas P. Rogers and 60 others, and of C. W. Colliflourrs and 42 others, citizens of Ohio, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petitions of the same parties and others, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petitions of the same parties and others, that the Commissioner of Agriculture be made a member of the President's Cabinet—to the Committee on Agriculture.

Also, the petitions of the same parties and others, for legislation on the subject of interstate commerce—to the Committee on Commerce.

By Mr. BURROWS: The petition of L. D. Wheeler and others, citizens of Michigan, for legislation on the subject of interstate commerce—to the same committee.

Also, the petition of the same parties, for legislation that will protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of the same parties, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of the same parties, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of citizens of Michigan, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. CARPENTER: The petition of Peter Demarest, of Iowa, against the passage of the sixty-surgeons bill, and for the passage of the Geddes bill—to the same committee.

By Mr. DWIGHT: The petition of Ransom Walker, of Owego, New York, against the extension of letters-patent to John A. Cummings for improvements in artificial gums and palates—to the Committee on Patents.

Also, resolutions of the Legislature of New York, recommending the passage of a law at the present session of Congress for stamping out the disease among cattle known as pleuro-pneumonia—to the Committee on Agriculture.

By Mr. HURD: The petition of William Hammon and others, of Ohio, for the amendment of the patent laws—to the Committee on Patents.

Also, the petitions of James Crofts, William Hammon, and others, of Ohio, for legislation to regulate interstate commerce—to the Committee on Commerce.

Also, the petitions of William Hammon and of J. C. Messer and others, of Ohio, for a law to make the Commissioner of Agriculture a Cabinet officer—to the Committee on Agriculture.

Also, the petition of William Hammon and others, of Ohio, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of R. J. Cummings & Co. and others, against the passage of a bankrupt law—to the Committee on the Judiciary.

By Mr. LINDSEY: Papers relating to the claim of Emanuel Mason, for services rendered in the Interior Department—to the Committee on Claims.

By Mr. MARSH: The petition of citizens of Illinois, for the reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. NEWBERRY: The petition of 80 manufacturing and mercantile companies and corporations in Detroit, Michigan, against the passage of a bankrupt law—to the Committee on the Judiciary.

By Mr. O'NEILL: Memorial of the officers and members of the "State Society of the Cincinnati of Pennsylvania," asking for the remission of duties upon portions of the monument to Washington about to be erected in Philadelphia, from time to time, as they may be finished and come into the United States—to the Committee on Ways and Means.

By Mr. OSMER: The petition of W. S. Rindernecht, jr., and 207 others, that a duty of at least one and one-half cents per pound be imposed on fish imported into the United States caught in Canadian waters—to the same committee.

By Mr. STEVENSON: The petition of soldiers of Illinois, against the passage of the sixty-surgeons bill and its proposed amendments—to the Committee on Invalid Pensions.

By Mr. WILLIAM G. THOMPSON: The petition of E. H. Colcord and 30 others, ex-soldiers of Benton County, Iowa, of similar import—to the same committee.

By Mr. VAN VOORHIS: Resolutions of the Legislature of New York, favoring legislation for the suppression of pleuro-pneumonia—to the Committee on Agriculture.

By Mr. WARD: The petition of citizens of Chester County, Pennsylvania, for increase of pension in case of entire loss of limb—to the Committee on Invalid Pensions.

By Mr. WILLIS: The petition of colored people of Kentucky, for the amendment of the Burnside educational bill so as to devote the proceeds of the sale of public lands directly for educational purposes—to the Committee on Education and Labor.

By Mr. WALTER A. WOOD: The petition of ex-soldiers of New York, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

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## IN SENATE.

WEDNESDAY, *February* 2, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

REMOVAL OF PONCA INDIANS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read:

*To the Senate and House of Representatives:*

In compliance with the request of a large number of intelligent and benevolent citizens, and believing that it was warranted by the extraordinary circumstances of the case, on the 18th day of December, 1880, I appointed a commission consisting of George Crook and Nelson A. Miles, brigadier-generals in the Army, William Stickney, of the District of Columbia, and Walter Allen, of Massachusetts, and requested them to confer with the Ponca Indians in the Indian Territory, and if, in their judgment, it was advisable, also with that part of the tribe which remained in Dakota, and "to ascertain the facts in regard to their removal and present condition so far as was necessary to determine the question as to what justice and humanity require should be done by the Government of the United States, and to report their conclusions and recommendations in the premises."

The commission, in pursuance of these instructions, having visited the Ponca Indians at their homes in the Indian Territory and in Dakota, and made a careful investigation of the subject referred to them, have reported their conclusions and recommendations, and I

now submit their report, together with the testimony taken, for the consideration of Congress. A minority report by Mr. Allen is also herewith submitted.

On the 27th of December, 1880, a delegation of Ponca chiefs from the Indian Territory presented to the Executive a declaration of their wishes, in which they stated that it was their desire "to remain on the lands now occupied by the Poncas in the Indian Territory," and "to relinquish all their right and interest in the lands formerly owned and occupied by the Ponca tribe in the State of Nebraska and the Territory of Dakota;" and the declaration sets forth the compensation which they will accept for the lands to be surrendered, and for the injuries done to the tribe by their removal to the Indian Territory. This declaration, agreeably to the request of the chiefs making it, is herewith transmitted to Congress.

The public attention has frequently been called to the injustice and wrong which the Ponca tribe of Indians has suffered at the hands of the Government of the United States. This subject was first brought before Congress and the country by the Secretary of the Interior in his annual report for the year 1877, in which he said:

> The case of the Poncas seems entitled to especial consideration at the hands of Congress. They have always been friendly to the whites. It is said, and, as far as I have been able to learn, truthfully, that no Ponca ever killed a white man. The orders of the Government always met with obedient compliance at their hands. Their removal from their old homes on the Missouri River was to them a great hardship. They had been born and raised there. They had houses there in which they lived according to their ideas of comfort. Many of them had engaged in agriculture, and possessed cattle and agricultural implements. They were very reluctant to leave all this, but when Congress had resolved upon their removal they finally overcame that reluctance and obeyed. Considering their constant good conduct, their obedient spirit, and the sacrifices they have made, they are certainly entitled to more than ordinary care at the hands of the Government, and I urgently recommend that liberal provision be made to aid them in their new settlement.

In the same volume the report of E. A. Howard, the agent of the Poncas, is published, which contains the following:

> I am of the opinion that the removal of the Poncas from the northern climate of Dakota to the southern climate of the Indian Territory, at the season of the year it was done, will prove a mistake, and that a great mortality will surely follow among the people when they shall have been here for a time and become poisoned with the malaria of the climate. Already the effects of the climate may be seen upon them in the *ennui* that seems to have settled upon each, and in the large number now sick.
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> It is a matter of astonishment to me that the Government should have ordered the removal of the Ponca Indians from Dakota to the Indian Territory without having first made some provision for their settlement and comfort. Before their removal was carried into effect an appropriation should have been made by Congress sufficient to have located them in their new home, by building a comfortable house for the occupancy of every family of the tribe. As the case now is, no appropriation has been made by Congress, except for a sum but little more than sufficient to remove them; no houses have been built for their use, and the result is that these people have been placed on an uncultivated reservation to live in their tents as best they may, and await further legislative action.
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> These Indians claim that the Government had no right to move them from their reservation without first obtaining from them by purchase or treaty the title which they had acquired from the Government, and for which they rendered a valuable consideration. They claim that the date of the settlement of their tribe upon the land composing their old reservation is prehistoric; that they were all born there, and that their ancestors from generations back beyond their knowledge were born and lived upon its soil, and that they finally acquired a complete and perfect title from the Government by treaty made with the "Great Father" at Washington, which they claimed made it as legitimately theirs as is the home of the white man acquired by gift or purchase.

The subject was again referred to in similar terms in the annual report of the Interior Department for 1878, in the reports of the Commissioner of Indian Affairs and of the agent for the Poncas, and in 1879 the Secretary of the Interior said:

> That the Poncas were grievously wronged by their removal from their location on the Missouri River to the Indian Territory, their old reservation having, by a mistake in making the Sioux treaty, been transferred to the Sioux, has been at length and repeatedly set forth in my reports as well as those of the Commissioner of Indian Affairs. All that could be subsequently done by this Department in the absence of new legislation to repair that wrong and to indemnify them for their losses has been done with more than ordinary solicitude. They were permitted to select a new location for themselves in the Indian Territory, the Quapaw reserve, to which they had first been taken, being objectionable to them. They chose a tract of country on the Arkansas River and the Salt Fork northwest of the Pawnee reserve. I visited their new reservation personally to satisfy myself of their condition. The lands they now occupy are among the very best in the Indian Territory in point of fertility, well watered and well timbered, and admirably adapted for agriculture as well as stock-raising. In this respect their new reservation is unquestionably superior to that which they left behind them on the Missouri River. Seventy houses have been built by and for them of far better quality than the miserable huts they formerly occupied in Dakota, and the construction of a larger number is now in progress, so that, as the agent reports, every Ponca family will be comfortably housed before January. A very liberal allowance of agricultural implements and stock-cattle has been given them, and if they apply themselves to agricultural work there is no doubt that their condition will soon be far more prosperous than it has ever been before. During the first year after their removal to the Indian Territory they lost a comparatively large number of their people by death in consequence of the change of climate, which is greatly to be deplored; but their sanitary condition is now very much improved. The death rate among them during the present year has been very low, and the number of cases of sickness is constantly decreasing. It is thought that they are now sufficiently acclimated to be out of danger.

A committee of the Senate, after a very full investigation of the subject, on the 31st of May, 1880, reported their conclusions to the Senate, and both the majority and minority of the committee agreed that "a great wrong had been done to the Ponca Indians." The majority of the committee says:

> Nothing can strengthen the Government in a just policy to the Indians so much as a demonstration of its willingness to do ample and complete justice whenever it can be shown that it has inflicted a wrong upon a weak and trusting tribe. It is impossible for the United States to hope for any confidence to be reposed in them by the Indian until there shall be shown on their part a readiness to do justice.

The minority report is equally explicit as to the duty of the Government to repair the wrong done the Poncas. It says:

> We should be more prompt and anxious because they are weak and we are strong. In my judgment we should be liberal to the verge of lavishness in the expenditure of our money to improve their condition, so that they and all others may know that, although like all nations and all men we may do wrong, we are willing to make ample reparation.

The report of the commission appointed by me, of which General Crook was chairman, and the testimony taken by them and their investigations add very little to what was already contained in the official reports of the Secretary of the Interior and the report of the Senate committee touching the injustice done to the Poncas by their removal to the Indian Territory. Happily, however, the evidence reported by the commission and their recommendations point out conclusively the true measures of redress which the Government of the United States ought now to adopt.

The commission in its conclusions omit to state the important facts as to the present condition of the Poncas in the Indian Territory, but the evidence they have reported shows clearly and conclusively that the Poncas now residing in that Territory, five hundred and twenty-one in number, are satisfied with their new homes; that they are healthy, comfortable, and contented, and that they have freely and firmly decided to adhere to the choice announced in their letter of October 25, 1880, and in the declaration of December 27, 1880, to remain in the Indian Territory and not to return to Dakota.

The evidence reported also shows that the fragment of the Ponca tribe—perhaps one hundred and fifty in number—which is still in Dakota and Nebraska prefer to remain on their old reservation.

In view of these facts I am convinced that the recommendations of the commission, together with the declaration of the chiefs of December last, if substantially followed, will afford a solution of the Ponca question which is consistent with the wishes and interests of both branches of the tribe, with the settled Indian policy of the Government, and as nearly as is now practicable with the demands of justice.

Our general Indian policy for the future should embrace the following leading ideas:

1. The Indians should be prepared for citizenship by giving to their young of both sexes that industrial and general education which is required to enable them to be self-supporting and capable of self-protection in a civilized community.

2. Lands should be allotted to the Indians in severalty, inalienable for a certain period.

3. The Indians should have a fair compensation for their lands not required for individual allotments, the amount to be invested with suitable safeguards for their benefit.

4. With these prerequisites secured, the Indians should be made citizens and invested with the rights and charged with the responsibilities of citizenship.

It is therefore recommended that legislation be adopted in relation to the Ponca Indians, authorizing the Secretary of the Interior to secure to the individual members of the Ponca tribe, in severalty, sufficient land for their support inalienable for a term of years and until the restriction upon alienation may be removed by the President. Ample time and opportunity should be given to the members of the tribe freely to choose their allotments either on their old or their new reservation.

Full compensation should be made for the lands to be relinquished, for their losses by the Sioux depredations and by reason of their removal to the Indian Territory, the amount not to be less than the sums named in the declaration of the chiefs, made December 27, 1880.

In short, nothing should be left undone to show to the Indians that the Government of the United States regards their rights as equally sacred with those of its citizens.

The time has come when the policy should be to place the Indians as rapidly as practicable on the same footing with the other permanent inhabitants of our country.

I do not undertake to apportion the blame for the injustice done to the Poncas. Whether the Executive or Congress or the public is chiefly in fault is not now a question of practical importance. As the Chief Executive at the time when the wrong was consummated, I am deeply sensible that enough of the responsibility for that wrong justly attaches to me to make it my particular duty and earnest desire to do all I can to give to these injured people that measure of redress which is required alike by justice and by humanity.

RUTHERFORD B. HAYES.

EXECUTIVE MANSION, *February* 1, 1881.

The VICE-PRESIDENT. The message with the accompanying papers will lie on the table and be printed.

Mr. KIRKWOOD. Upon consultation with a member of the standing Committee on Indian Affairs and one of my colleagues upon the special committee, it is deemed advisable to ask the reference of the message and accompanying papers to the Select Committee to examine into the circumstances connected with the removal of the Northern Cheyennes from the Sioux Reservation to the Indian Territory, which committee is charged with the consideration of the Ponca question.

Mr. HOAR. I should like to make a remark while that motion is pending. I desire to express personally my great gratification at the sentence of the President of the United States with which that message concludes. It is a most manly and magnanimous utterance. The President says, if I correctly heard the concluding sentence of that message, that, without inquiring as to the share of blame which may attach to the Executive or Congress, or to the public, he desires as the Chief Magistrate in whose term of office the wrong which he relates has been consummated, to take upon himself so much of the responsibility as to be specially anxious that full and ample reparation for that wrong shall be made during his own term of office.

The recognition in our Indian policy, the recognition in our dealing with feebler and weaker races, that the question of justice or injustice, the question of manly and magnanimous reparation for injustice, where it has been committed, is a question not of the character of the people upon whom it is inflicted, but a question of the character of the people who commit it, marks a new departure in the conduct of this Government in dealing with races other than that of which this people is chiefly composed. The United States has performed many just acts which will be recorded in history for the admiration of mankind, but the United States has never and will never be greater than when, without fear, without hope of gain, solely as a vindication of justice, it acknowledges and repairs its own wrong.

The VICE-PRESIDENT. The question is on the motion of the Senator from Iowa, [Mr. KIRKWOOD.]

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting, in compliance with two resolutions of the Senate, the report of the Ute commission and all correspondence between his Department and the Ute commission and between the Department and the governor of Colorado concerning the Ute Indians since the 15th day of June, 1880; which was ordered to lie on the table and be printed.

He also laid before the Senate a letter from the Superintendent of the United States Coast and Geodetic Survey, transmitting, by direction of the Secretary of the Treasury and in compliance with a resolution of the Senate of January 28, 1881, a copy of the report of A. F. Rogers of the Coast and Geodetic Survey on the proposed harbor of refuge for the Pacific coast, together with its accompanying sketch; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. KIRKWOOD. I present a memorial of the Board of Trade of the city of Des Moines, in the State of Iowa, urging upon Congress the great importance to the welfare of the country generally and to the upper Mississippi River States specially, of the improvement of the channel of the Mississippi River so as to make safer and cheaper the navigation of that great national thoroughfare. I move that the memorial be referred to the Committee on the Improvement of the Mississippi River and its Tributaries.

The motion was agreed to.

Mr. KERNAN presented papers relating to the claim of Susan E. Willard for compensation for the use of property by the United States during the late war; which were referred to the Committee on Claims.

Mr. SAUNDERS presented additional papers to accompany the bill (S. No. 1927) for the relief of Colonel Alfred B. Meacham; which were referred to the Committee on Claims.

Mr. WITHERS presented resolutions of a meeting of the citizens of Petersburgh, Virginia, in favor of an appropriation for the improvement of the harbor at that place, and also for the improvement of the Appomattox River; which were referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. DAVIS, of Illinois. The Committee on the Judiciary, to whom was referred the bill (S. No. 2075) to amend section 989, Revised Statutes, so as to extend its provision to all officers of the United States in the performance of official acts in which the United States is a party or has an interest, have directed me to report it with an amendment striking out all after the enacting clause and inserting a substitute. I beg to give notice that, as the bill is of importance to the Government, at a very early day I shall ask for its consideration.

Mr. McPHERSON. The Committee on Naval Affairs, to whom was referred the bill (S. No. 2131) appropriating money, to be used under the direction of the Navy Department, to prosecute a search for the steamer Jeannette, of the Arctic exploring expedition, have instructed me to report it with an amendment. I desire that the bill be read by the Secretary, as it is short, for the purpose of calling the attention of the Senate to it.

The Chief Clerk read the bill.

Mr. McPHERSON. I desire to state that this case stands so entirely alone with respect to its claims upon the attention of the Senate that to-morrow morning, immediately after the conclusion of the morning business, I shall ask the Senate to consider the bill in preference to any and all other business.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the bill (S. No. 1134) to repay to the State of Georgia $27,175.50, money advanced by said State for the defense of her frontiers against the Indians from 1795 to 1818, and not heretofore repaid, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. WHYTE, from the Joint Select Committee on the Yorktown Centennial Celebration, to whom was referred the joint resolution (S. R. No. 139) for the purchase of a sword formerly belonging to George Washington, reported it without amendment.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1320) for the relief of citizens of Montana who served with the United States troops in the war with the Nez Percés, and for the relief of the heirs of such as were killed in such service, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1741) for the relief of the United States Regulation Fire-Arms Company, submitted an adverse report thereon; which was ordered to be printed.

Mr. McDONALD. I ask that that bill be placed upon the Calendar.

The VICE-PRESIDENT. The bill will be placed on the Calendar, with the adverse report of the committee.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (S. No. 718) to repeal section 3 of chapter 225, Statutes at Large, approved July 24, 1876, submitted an adverse report thereon; which was ordered to be printed.

Mr. McMILLAN. I ask that the bill be placed upon the Calendar.

The VICE-PRESIDENT. The bill will be placed on the Calendar, with the adverse report of the committee.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 6062) donating certain lands in Lake County, State of Colorado, to the Veteran Union Association of Leadville, for hospital and burial purposes, reported it with an amendment.

Mr. TELLER, from the Committee on Claims, to whom was referred the bill (S. No. 304) for the relief of Richard H. Porter, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WALLACE, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes, reported it with amendments.

Mr. EDMUNDS. I am directed by the Committee on the Judiciary, to which was referred the bill (S. No. 811) referring the claim of William T. Duvall against the United States to the Court of Claims, to report it with the expression of opinion that it ought not to pass, and that it be indefinitely postponed. Mr. Duvall had a contract with the United States for furnishing certain iron-work, &c., for some one of the public buildings, and all his rights that may have been violated were within the jurisdiction of the Court of Claims. He sued the United States in the Court of Claims and got judgment for all that under the law and principles of equity he was entitled to receive. The committee are of opinion that there is no ground on anything that has been disclosed to them for giving him any further relief. They therefore recommend that the bill be indefinitely postponed.

The bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. FARLEY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2140) to establish an assay office in the Territory of Arizona; which was read twice by its title.

Mr. FARLEY. I move the reference of the bill to the Committee on Mines and Mining.

Mr. ALLISON. The bill, I think, should go to the Committee on Finance.

Mr. FARLEY. I have no particular objection to that reference, except that it has been the custom of the Senate to refer bills of this character to the Committee on Mines and Mining. It is simply to establish an assay office in the Territory of Arizona. A few days ago the Committee on Mines and Mining reported a similar bill to establish an assay office at Saint Louis. Supposing that the Committee on Finance are somewhat overworked I proposed to refer this bill to the Committee on Mines and Mining, not that I have any serious objection to its going to the Committee on Finance, if there is any good reason why it should go there.

Mr. ALLISON. All questions relating to the mints and coinage——

Mr. FARLEY. This is not of that character; the bill does not propose to establish a mint.

Mr. ALLISON. I understand the bill does not provide for minting but it provides for an assay office which has a particular relation to the establishment of mints. These questions have always been considered by the Committee on Finance.

Mr. EDMUNDS. Always.

Mr. FARLEY. The bill relates to the question of mines and mining interests, and it strikes me that the Committee on Mines and Mining is the proper committee to which it should be referred.

The VICE-PRESIDENT. Does the Senator from Iowa move the reference to the Committee on Finance?

Mr. ALLISON. I do.

The VICE-PRESIDENT. The first question is upon referring the bill to the Committee on Mines and Mining.

Mr. HEREFORD. I am not very jealous as to what bills shall or shall not be referred to the Committee on Mines and Mining, but

being chairman of that committee I deem it my duty to say that I think this bill should be referred to the committee designated by the Senator from California. I cannot see on what principles it ought to be referred to the Committee on Finance. The first question to be ascertained, I presume, by the committee, as to whether there should be an assay office at this, that, or the other point, is whether the amount of mineral produced in that section of the country is sufficient to authorize the expense of an assay office. That question certainly is more particularly under the management, control, and investigation of the Committee on Mines and Mining than any other committee. That knowledge is presumed at least to be with that committee; therefore I cannot see on what ground the reference should be made to the Committee on Finance. I hope that the motion of the Senator from California will prevail.

The VICE-PRESIDENT. The question is on the motion of the Senator from California, to refer the bill to the Committee on Mines and Mining.

The motion was agreed to; there being on a division—ayes 33, noes 13.

Mr. WHYTE (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2141) relating to the aqueduct of the Alexandria Canal Company at Georgetown, in the District of Columbia, and to provide a free bridge across the Potomac River on the piers of said aqueduct; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PLATT. I ask leave to introduce two bills for the extension of separate letters-patent. Accompanying each bill is a petition setting forth the circumstances under which the extension is asked.

By unanimous consent, leave was granted to introduce a bill (S. No. 2142) for the relief of William I. Clark, and a bill (S. No. 2143) for the relief of William I. Clark; which were twice read by their titles respectively, and, with the accompanying papers, referred to the Committee on Patents.

Mr. BOOTH asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2144) to vacate, annul, and set aside an act of the Legislative Assembly of the Territory of Arizona; which was read twice by its title, and referred to the Committee on Territories.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2145) to amend section 714 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENT TO A BILL.

Mr. COKE submitted an amendment intended to be proposed by him to the bill (S. No. 1985) to promote the efficiency of the life-saving service, and to encourage the saving of life from shipwreck; which was referred to the Committee on Commerce, and ordered to be printed.

RICHARD FATHERLY.

Mr. MORGAN. I ask the Senate to take up and to proceed to consider the resolution reported yesterday morning from the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the result of the elections of President and Vice-President of the United States.

The resolution was read.

Mr. HOAR. Will the Senator from Alabama permit the resolution to be informally laid aside for a matter which I suppose will take but one minute, which the Senator from Arkansas wishes to have disposed of? I ask consent to call up the motion to reconsider the vote by which the Senate refused to concur by a two-thirds vote in the bill to remove the political disabilities of Mr. Fatherly.

Mr. MORGAN. I will consent that the resolution be informally laid aside with the understanding that it shall be taken up after that matter is disposed of.

Mr. HOAR. I have moved that the vote by which the bill (S. No. 2054) to remove the political disabilities of Richard Fatherly, of Arkansas, was rejected be reconsidered.

The VICE-PRESIDENT. The question is on the motion to reconsider.

The motion was agreed to.

The VICE-PRESIDENT. The question now is, Shall the bill pass?

Mr. HOAR. I called attention when the bill was originally before the Senate to what seemed to me a defect in the petition for the bill. The Senator from Arkansas, I understand, has in his possession a new petition which seems to be entirely free from defect; and if he will present that petition now I for one will support his bill. I voted against it before.

Mr. GARLAND. I ask leave to present the petition of Mr. Fatherly.

The VICE-PRESIDENT. It will be reported.

The Chief Clerk read as follows:

LITTLE ROCK, ARKANSAS,
*January* 25, 1881.

*To the Senate and House of Representatives of the United States:*

The undersigned respectfully petitions your honorable bodies that he may be relieved from all political disabilities imposed on him by the provisions of the fourteenth amendment to the Constitution of the United States.

I have not held any office since the date of my resignation as military storekeeper of ordnance.

And he will ever pray, &c.

RICHD. FATHERLY.

Mr. HOAR. I will state, in one word, the objection to the old petition was that it merely prayed to be relieved from such disabilities as the petitioner had incurred by a particular course of conduct which manifestly was innocent as he stated it; but now the petitioner simply prays to be relieved from all disabilities. I understand it is a case where the petitioner does not admit that he has done anything which brings him within the provision of the Constitution; but he says in his original petition it is claimed by others that he has. Under such circumstances, it is clear to my mind that it is the duty of Congress to grant relief, even if the person praying for it does not himself admit that he has incurred the disability, because if he is under any disability he cannot hold any public office. People will not vote for him for any public office while they think he is liable to be rejected; the appointing power will not appoint him to any public office if they think he has incurred the disability; and there can be no possible remedy except the act of Congress, for which he prays.

Mr. GARLAND. The Senator from Massachusetts may be correct; I make no issue upon that. The original petition was sent to me by Mr. Fatherly. While it was not very artistically drawn, I will say that Mr. Fatherly has not been in the habit of drawing such petitions. It is the first time he has ever had occasion for one, and I think very likely it will be the last. I hope the Senate will pass the bill.

The bill was passed, two-thirds of the Senators present voting in the affirmative.

COUNT OF ELECTORAL VOTES.

The Senate proceeded to consider the following resolution, submitted by Mr. INGALLS on the 26th of January:

*Resolved*, That the Senate will be ready to receive the House of Representatives in the Senate Chamber on Wednesday, February 9, at twelve o'clock meridian, for the purpose of being present at the opening and counting of the votes for President and Vice-President of the United States; that two persons be appointed tellers on the part of the Senate to make a list of the votes for President and Vice-President of the United States as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the Journals, and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the Journals shall be deemed a sufficient declaration thereof.

The pending question being on the amendment reported by the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the Result of the Election for President and Vice-President of the United States, to strike out all after the word "resolved" and insert:

1. That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881, at twelve o'clock m., and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate and two on the part of the House of Representatives to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States; and, together with a list of votes, be entered on the Journal of the two Houses.

2. That if it shall appear that any votes of electors for President or Vice-President of the United States have been given on a day other than that fixed for casting such votes by act of Congress, in pursuance of the Constitution of the United States; if the counting or omitting to count such votes shall not essentially change the result of the election, they shall be reported by the President of the Senate in the following manner: Were the votes of electors cast on the —— day of ——, 1880, to be counted, the result would be for A B for President of the United States —— votes and for C D for President of the United States —— votes; if not counted, the result would be for A B for President of the United States —— votes and for C D for President of the United States —— votes; but in either event —— is elected President of the United States. And in the same manner for Vice-President.

Mr. MORGAN. I desire to insert after the word "resolved" and before the figure 1 in the amendment the words "by the Senate, the House of Representatives concurring." The substance of the resolution is a concurrent resolution.

Mr. EDMUNDS. That is necessary.

The VICE-PRESIDENT. The Chair hears no objection, and that modification will be made.

Mr. MORGAN. I also move to strike out the words "one person," where it reads "that one person be appointed a teller on the part of the Senate," and to insert "two persons," and changing "a teller" to "tellers," so as to make it read "that two persons be appointed tellers on the part of the Senate;" so that the Houses shall be equally represented.

Mr. EDMUNDS. That is right.

The VICE-PRESIDENT. Is there objection to this amendment? The Chair hears none, and it is agreed to.

Mr. MORGAN. Mr. President, it is just one week from to-day until the Constitution and the law will require that the two Houses of Congress shall assemble at some place for the purpose of counting the vote of electors for President and Vice-President. In May last the Senate sent to the House of Representatives a rule upon this subject, which the House, so far as we are advised, has failed to take action upon. The time is drawing so short for the preparation which is necessary for this very important constitutional event that I suppose, in fact I know, that Senators on both sides of the Chamber consider that it is time that we should take some measures for the purpose of bringing the two Houses together, so that the votes of the electors may be counted.

The committee, I will say the majority of the committee, have concurred with the Senator from Kansas, [Mr. INGALLS,] who offered the resolution for which the committee offers a substitute, in the opinion that it is now necessary for us to go back to some of the old prece-

dents of the fathers in order that we may get together in due form with as little of irritation and as little of debate as possible for the purpose of performing this important duty.

The Senate is aware of the fact, morally convinced of it, that some difficulty exists in reference to the electoral votes from at least one State; and while this matter has not been revealed to us, cannot be revealed to us in any authentic form till the opening of the certificates that have been sent to the Vice-President, still we know so well the existence of the fact that the State of Georgia did not cast her vote on the same day that the other States of the Union cast their votes, that it becomes an important matter that some step should be now taken to prevent controversy, when the two Houses have met together, over that vote. Fortunately for the country, that appears to be the only irregularity, the only difficulty, that is presented in respect of any of the votes of the electors from any of the States.

I think the country is to be congratulated that, after we have had so many difficulties in the past, we at last have an election where there appears to be but one question which can give rise to controversy or difference of opinion in the counting of the votes of electors. For my part, so far as I am advised, I am ready to admit upon all the facts that have been made public, upon that sort of history which is recognized by all men in this country, that Mr. Garfield and Mr. Arthur have been elected President and Vice-President of the United States; that the people of the United States in the respective States have chosen electors who have cast the electoral vote in such a way that they have received each of them a majority of all the votes for the offices for which they have been respectively chosen. I would not put the slightest embarrassment in the way of a peaceful, regular, and orderly count of that vote, and the transmission of our highest office from the hands of the gentleman who now holds it to the hands of his successor; and I believe that in the expression of this sentiment I shall receive the cordial accord on the part of Senators on both sides of this Chamber.

The question in reference to the State of Georgia is one of such serious importance, considered in reference to itself alone, considered in reference to the nature of the question, as that it might require properly long and careful deliberation for this body and the other House to come to a conclusion as to what was the true constitutional rule to be adopted. There are very grave differences of opinion on this question, because the question itself is one of great gravity and one of great importance. It seems to me impossible at this time, in the brief period which must intervene between this and the counting of the electoral votes, that we should arrive at a constitutional settlement of that question. Indeed the tribunal which is to make a constitutional determination of that question is itself a matter of serious disputation, and has been for a great number of years. The manner of arriving at a solution of it, whether by an independent expression in each House, or by a concurrent resolution, or by a joint resolution, or by a law, is also a matter of serious disputation, and has been for a great many years.

It was therefore thought better by the majority of the committee—and I dare say that in this also there is perhaps a concurrence even of the minority—that a precedent which had been acted upon in one form or another during three controversies of this kind should be adopted. It being certain, as we understand, that Mr. Garfield is elected President of the United States, without reference to the question whether the vote of Georgia is counted or not counted, it seems to be the duty of the two Houses now to arrive at, to ascertain, to declare, and to enforce the result in which the country will find its peace, and I hope and trust its satisfaction. We therefore have thought that it was not inappropriate, that it was not a transgression of the traditions of this country, that indeed it was the best thing to do under the circumstances, to adopt that rule which was adopted in 1837, and which is substantially adopted in this resolution, with the exception that the name of a State is not included in the resolution, but the fact that some State may have voted or perhaps has voted on a day not that fixed by laws of Congress and the Constitution of the United States is stated in the resolution, and the resolution is predicated upon the assumption that such a fact exists, and if it is found to exist, an order is arranged to be taken in that event by which that vote can be disposed of without producing any friction in the two Houses when they are assembled. I beg leave to say that in the case of the vote of Wisconsin, in 1857, when such preparation was not made, though the fact was known and should have been anticipated, the omission of this preparation to make provision for the event led to such things in the joint meeting of the two Houses, and afterward in each House, and to such disputation and such discontent on the part of members of the House of Representatives and the Senate as to the settlement of that question, and as to whether it was settled or not settled, as it would be desirable to avoid. In view of what then occurred, it seems to me it is the part of patriotism and prudence that we shall now take some steps for the purpose of anticipating and avoiding that danger.

Mr. EDMUNDS. Mr. President, I have listened with great pleasure to the observations of the Senator from Alabama, who has stated that a constitutional election, as we understand it, of a President and Vice-President of the United States has been achieved and that the persons elected are the persons whom he has named, so that all that is left is really a ceremonial, because the Constitution says that the votes being opened, shall be counted, and that the person who has the majority, being a majority of all the electors appointed, shall be the President of the United States. That makes the Constitution the same as if it had said, shall be the President of the United States, whatever anybody may say to the contrary, be that body the President of the Senate, the Senate, the House of Representatives or any two or all three of those bodies together. I think myself that is the Constitution, and that the Constitution never intended to leave it, and never has left it, by force of the Constitution alone, to any one or all of these three authorities to determine who has been elected by the *States*—and I emphasize that word as a State-rights man—to be the Chief Executive of the nation for the period mentioned in the Constitution.

I have no disposition to discuss or criticise the second part of the amendment recommended by the committee, in respect of, as it is understood, the State of Georgia, rejecting, as I do, and denouncing—not in the sense of personal hostility, but in its broader sense—all implications that any amount of casuistry might draw out of the way in which this amendment is stated, either in its first or in its second part as to an assumption of power on the part of anybody under the existing state of the law to decide in the sense of a finality, or in the sense of any legal effect, whether the vote of the State of Georgia ought to be counted or not.

So saying—and saying this I think for all Senators who agree with me in these general principles, and I believe everybody does—I am willing for one to acquiesce in this method of not disposing of or deciding upon the question, or rather in this method of not disposing or deciding upon any question whatever. In this state of certainty as we suppose, it is not necessary that we should go into the question of whether you as the President of the Senate, or whether the two Houses together or separately, or all three, can determine any question arising out of an event like this.

With this disclaimer and denunciation of the implications which as I said before casuistry might possibly raise out of the language of this amendment, I am willing to have the ceremony proceed; but I submit to the chairman of the committee and to the Senate that the words "Hall of the House of Representatives" ought to be stricken out, and the words "Senate Chamber" inserted in their place, and I make that motion.

I make it not because I suppose or suspect that there is the slightest practical consequence on this occasion in such a change; but precedent does make history and does make law in a certain sense, and the time may come (as it has on one occasion already come) when the carrying of these archives, the voice of thirty-eight sovereign States, an eighth of a mile through such a great crowd of people whom you do not know, in a time of high excitement, to the other end of this Capitol building, would be a matter of danger and exposure; and when you look to the theory of the Constitution—I am not talking about the mere legal propriety of going over to the House of Representatives; I do not for the present deny it or assert it; but I am talking about the wise thing and the wise spirit of the Constitution that says these votes shall be sent to the President of the Senate. They are sent to him as an officer. The person of the President of the Senate may change from day to day, as we all know, including the President *pro tempore* who is the President of the Senate for the time being. They are sent, therefore, to this body in the person of its presiding officer. I do not mean by that to say that the body has any control over them; but I use that phrase in order to show that they come to the head of this body in his official character.

The Constitution itself says that on the day appointed by law, he having in charge the sacred records shall open them in the presence of the two Houses that then the votes shall be counted, and so on. I submit, therefore, earnestly to my honored friend, the chairman of this committee, and to all other Senators, that the true and only wise place—I am not now talking about the mere technical law—for performing this great function is the place where the President of the Senate officially and rightfully always is.

The only argument that was ever suggested against that has been simply the argument of physical convenience; that as the Chambers of the Capitol used to be (after the earlier days when it was done here) the Hall of the House of Representatives being larger, it was physically more convenient to have it done there, and so it was for a great many years. But the Hall of the Senate is now large enough to leave no physical obstacle to the convenient dispatch of that business here; and therefore I claim and I urge upon Senators the propriety of causing this great act to be done in the place where on every theory and upon every principle of security and wise procedure it ought to be done. If at some future day there should arise a disturbance and a trouble, and the President of the Senate and the tellers appointed by the Senate, if there should be any, on such an occasion, moving this eighth of a mile into the other House, should be despoiled of these documents, it would be a very serious thing. If on some such occasion also it should happen that a disagreement, a disturbance, a tumult should arise in the Hall of the House of Representatives, as there has been—not a very serious one, but as there has been on the occasions of the counting of votes in a case like this where there was no doubt in any man's mind as to what the result was, producing a scene of tumult and confusion where nothing could be done except for the President of the Senate to say without taking the opinion of the Senate about it at all that the Senate would now withdraw and march out. That would be very inconvenient.

If any such scene should occur hereafter as I pray there never will, if anybody is to withdraw,—I am not now trying to impress anybody with my ideas about the power—let the withdrawal take place so as to leave the President of the Senate and these public documents in the place where they belong; do not require the person whom the Constitution says as such person, shall open these votes, to move an eighth of a mile or any other distance from his proper place in order that whatever may constitutionally be done on that occasion or succeeding it may go on.

I appeal to Senators, therefore, to vote for this amendment which I offer, to make this place, now when there is no question, the place for the opening and the counting of these votes. As I said before, the only argument that was ever made for another place, that of mere physical convenience, has no weight inasmuch as this Chamber is large enough for every member of the Senate and every member of the other House to be comfortably accommodated.

Mr. THURMAN. Mr. President, for seventy-odd years, if my memory is not at fault, the votes of the electors of President and Vice-President have been counted in the Hall of the House of Representatives; and on no occasion has any Senator, either going to or returning from that Hall, been in any way molested or insulted. I am not for changing a practice sanctioned by such long usage, and especially am I not in favor of introducing a subject about which the two Houses may disagree, when on this day week, only seven days from this time, it will be our duty to attend the counting of these votes. I hope the motion of the Senator from Vermont will be voted down.

Mr. HOAR. Mr. President, I am sorry to detain the Senate in the present position of its business by a discussion of this much discussed subject; but it seems to me to be my duty not to let this resolution pass without calling attention to what appears to me to be its character.

We have had, more than once, more than twice, in our history, to resort to a mere makeshift to get over the temporary difficulties caused by differences of opinion in regard to the proper method of discharging this constitutional duty. Probably on every one of those occasions there has been an expectation on the part of the members of both Houses of Congress and of the public that as soon as the presidential election was settled the wisdom and sense of duty of legislators would cause them immediately to address themselves to the removal from the country in the future of the great danger which grows out of a dispute over the method of ascertaining the title to executive power. And yet as soon as the present emergency has passed by the subject has passed from public attention, to come up again at the time of a close presidential election as a matter of danger, as a matter of alarm, and as a matter to be again encountered by some temporary shift like the one which is now proposed.

Now, sir, what is this resolution so far as it is agreed upon by the members of the committee who have reported it, as the Senate understands their opinion? It is a method of getting around the disputed question who shall count the votes for President and Vice-President of the United States by a provision for declaring the result without counting them at all. The one thing in regard to which the mandate of the Constitution is express and absolute that the votes shall then be counted is got over by the provision that the Senate and House of Representatives shall meet the President of the Senate, that the votes shall be opened, and shall not be counted at all. That is the whole substance of this resolution. There is to be no count of the presidential vote this year, as the Constitution expressly demands. How can you say that the votes are counted? What we are to do is exactly what the Senator from Alabama says he is ready to do, that being satisfied in advance of the official communication and in advance of any opportunity to examine the questions which may come up as to who is elected President and who is elected Vice-President, he is willing that we shall meet and go through some part of the constitutional process, shall declare that Mr. Garfield and Mr. Arthur are elected, and get rid of the question in that way. Have Mr. Garfield and Mr. Arthur a certain number of votes, ascertained by counting the votes without the State of Georgia, or have they eleven more votes, is a question which for all time no human being is ever to be able to answer. The votes are not to be counted at all. How is it counting a vote in any sense of that term to say that Mr. John Smith had either twenty votes or thirty-one, and nobody has inquired or ascertained or determined which?

Mr. THURMAN. Will the Senator allow me to ask him a question?

Mr. HOAR. Certainly.

Mr. THURMAN. The Senator is certainly aware that that is substantially the form that I might say has almost universally been adopted from the foundation of the Government. Certainly we have been for a great many years counting the votes under just such phraseology. Have the votes never been counted?

Mr. HOAR. The votes were not counted in the Wisconsin case.

Mr. THURMAN. We are not speaking about the second resolution. If I understand the Senator, he says the first resolution does not provide for counting the vote.

Mr. HOAR. I say that there is no count of the votes if both resolutions be executed; nothing more.

Mr. THURMAN. I understand the Senator's position is that if that second resolution were not there at all there would be no counting of the vote of Massachusetts or the vote of Ohio.

Mr. HOAR. My position is exactly this, Mr. President, if I may illustrate it by an anecdote: when an Irishman was asked how many pigs he had, he said he counted eleven, but one little pig ran about so much that he could not count him. That is precisely what this resolution proposes to do with the State of Georgia. The counting of the vote under the Constitution is ascertaining, first, the whole number of votes cast, and that is not ascertained by saying "we have looked at the bundles and there are either 150 or 161, we do not decide which;" next, the ascertaining whether any person has a number of votes equal to a majority of the electors appointed. There is first the ascertaining of the number of electors appointed, and that is not to be ascertained by this process at all; next, the ascertaining whether any person has a majority of the whole number of votes cast, being a majority of the electors appointed, and then the ascertaining of the names of the persons from whom under the Constitution the President and Vice-President must be selected, in case no person has such a majority.

Now, it certainly is not ascertaining that number to say, in the absence of any provision for determining how many votes come within either of these categories, "We have satisfied ourselves that without counting the votes, still Mr. Garfield has more than Mr. Hancock." Suppose, instead of the process provided in this resolution, you were instructed when you opened the votes, Mr. President, to place those which appeared to be for one of the candidates in one pile and those which appeared to be for the other candidate in another, and the Senate should say, "Seeing that there is a higher pile on the President's desk for one candidate than there is for the other we are willing to declare that one of the candidates and not the other is elected, without counting the piles at all."

The fallacy of this resolution is in treating the counting process as applicable to each vote, that you count a vote or a number of votes when you determine, not what that number is, but whether they are to be added or not to a pile that is to be counted. You do not count each vote; you count the entire aggregate of votes, and the word "count" can have and does have in popular and constitutional meaning no other signification whatever.

It may be that this make-shift, which this committee has reached, is the only one possible in the existing condition of things in the two Houses of Congress; but it is to go into history; and there is danger unless the character of it is perfectly and thoroughly understood that it is to go into history as a snare and a source of danger to the country at some time in the future. If the vote is counted when you have left undetermined the question whether the 11 votes of one State are or are not to be included in the number entitled to be considered when you make the count, this same thing would be equally true if you had left undetermined that question in regard to ten States or in regard to twenty States, and it might be claimed that you had counted the vote when you had included in your reckoning only the vote of a single State or half a dozen States.

Mr. McDONALD. I should like to ask the Senator from Massachusetts a question. I agree with him that if electors were appointed in Georgia they are to be computed in determining whether any candidate has received a majority of all the electors appointed, which is necessary in order that there shall be a constitutional declaration of a man having been elected President; but does not this resolution, the second resolution, very clearly concede that this declaration can only be made in the event that the votes cast for James A. Garfield, and about which there is no dispute, are a majority of all the appointed electors?

Mr. HOAR. Certainly I answer the Senator's question in the affirmative.

Mr. McDONALD. If it is such a majority, if it is a majority of all the electors that may be by possibility appointed, how can it affect the result in this case to adopt this resolution in this form?

Mr. HOAR. It does not affect it at all. My proposition is, not that it affects the result in this case in the least, that the committee have resorted to a scheme (it being a disputed question who shall count the vote) by which to declare the result of the presidential election without any person counting the votes at all. It is just as if they had said in this second resolution, "having ascertained that James A. Garfield and Chester A. Arthur are elected President and Vice-President without counting the votes," it being true that if the votes are counted and if the votes are not counted precisely the same result follows, therefore, without directing the declaration of a constitutional election to be made, without any count at all, "they are declared elected."

Mr. President, I am very sorry to have detained the Senate, because I have certainly no desire, and no expectation if I had a desire, to resist the progress of this scheme of apparent compromise between the two opinions; but before this matter passed into history to become I am afraid another historic precedent, with very great danger that after the presidential election is settled and the new President inaugurated we shall do just what we have done in the past four years, I deemed it my duty to put on record my protest and my conviction that the Congress of the United States has got over the temporary danger and temporary difficulty, not in a constitutional way, by providing by law as it ought to have done at the time of the last election, a method of performing this constitutional function of counting the vote, but by refusing to perform the one clearest and most imperative duty which rests upon somebody, under the Constitution, to count the vote.

Mr. THURMAN. Mr. President, this second resolution is first found in form, or at least in substance, in a resolution offered by Mr. Clay in the case of the State of Missouri. I think it is found again in substance in the case of the State of Michigan. It was again acted upon in the count of the votes in 1869, when according to the interpretation of the then President of the Senate Congress had decided that if the vote of Georgia would change the result it should not be counted, but if it would not change the result it should be counted—a very curious thing; but that was a misinterpretation of the then presiding officer. The effect really of the enactment of Congress in regard to Georgia was that the vote should not be counted.

Now, Mr. President, I would be perfectly willing, were there not some technical objections which weigh with Senators, that the Senate, and the other House, too, should express their opinion upon the only question that can arise, or is at all likely to arise, under this second resolution. I have no doubt whatever in my own mind that the votes of the State of Georgia can not be counted; but I ought to say that with some diffidence, because there are very good lawyers in this Senate who entertain quite a different opinion upon that subject. But I pass that by. This was the only way in which we could frame this resolution so as to obtain the consent of both Houses of Congress.

Mr. President, the speech of the Senator from Massachusetts is wholly defective. If he is right, it would follow as a matter of course that it is part of his duty to offer an amendment to this resolution which shall declare who shall count, that is to say, who shall count in the sense of deciding, because there are two things to be done; one is to decide, and the other is to count. Suppose it were admitted that the presiding officer of the Senate has the function of counting, limiting the word "count" to its plain and obvious meaning, and carrying it no further by implication, what would follow? That when it was decided by the proper authority whether a vote should be counted or not, and it was put down in the list, then it was the duty of the President to count the vote which was thus decided to be a legal vote. That would be all of it—a mere clerical duty, a mere performance of a sum in arithmetic. That is all.

Mr. HOAR. May I ask the Senator a question?

Mr. THURMAN. Certainly.

Mr. HOAR. I desire to ask the Senator, if this resolution be executed, how many votes will Mr. Hancock have for President of the United States? Does he know or ever expect to know?

Mr. THURMAN. I shall know, and know perfectly well.

Mr. HOAR. Nobody will count it.

Mr. THURMAN. Yes, I know it; and I know it just as well as I know how many votes General Grant had in 1868 or in 1872, how many votes Mr. Tilden had and how many Mr. Hayes had in 1876, or how many Mr. Jefferson, or Mr. Madison, or Mr. Monroe, or Mr. John Quincy Adams had; because under similar resolutions we have had count after count of presidential elections for more than half a century, if not for three-quarters of a century, and nobody ever doubted about those counts. When this resolution says each teller shall make a list of the votes as they are declared, and then the result shall be handed to the President of the Senate, who shall declare that result, and it shall be entered upon the Journals, I really think it is hypercriticism on the part of the Senator from Massachusetts to say there has been no count, and that the votes by which Madison and Monroe and Jefferson and Taylor and Polk and Van Buren and Jackson all were elected were never counted. Oh, Mr. President, that will not do.

There is, as the Senator from Massachusetts has said, a difference of opinion as to who is to count in the sense of deciding; that is, who is to decide upon votes contested. There is perhaps an irreconcilable division now. I shall be perfectly willing and always have been that a law should be passed on this subject, but no law ever has been passed. I believe it to be within our competency to pass a law; but I cannot say in the absence of a law that every declaration of an election from that of General Washington down to this time has failed to perform the duties required by the Constitution, and that the votes, therefore, have not been counted and have not been properly counted. I cannot say that. To say that would be to stultify ourselves, as it seems to me.

But, Mr. President, I am talking too much. I ought not to have said thus much. I do think, however, that it is our duty to pass the resolution and send it to the other House, and let the House act upon it. The time is fast running away. At all events, if this matter is left without anything whatever to regulate it, it shall not be my fault and will not be the fault of my friends here.

Mr. GARLAND. Mr. President, we are engaged in the consideration of a very grave subject, and I have no doubt that we all want to get at this matter in the fairest possible way. The twelfth article of amendments to the Constitution devolves a duty upon the President of the Senate to open the votes. The ballots of the electors are sent to him under an act of Congress, and of them he is made the custodian. The resolution reported by the Senator from Alabama, in the spirit of the Constitution and this act of Congress, makes the President of the Senate the presiding officer when the two bodies are in convention, and devolves upon him the further duty of declaring or announcing the result. So there is nothing in this resolution taking from the official duty, either under the law or the Constitution, of the President of the Senate, as would seem to be intimated by the Senator from Vermont in his amendment.

What I mean, in other words, is this: the resolution reported by the Senator from Alabama does not interfere at all with the duties and rights of the Vice-President or the President of the Senate, either under the Constitution or under the act of Congress; but, in harmony with the Constitution and with the act of Congress, it makes him the presiding officer of the convention of the two bodies and makes it his duty to declare the result. Now, the amendment of the Senator from Vermont would seem to carry with it the impression that something was being in this resolution detracted from the President of the Senate. Such is not the resolution as I read it. He is shorn of no power, of no authority by this resolution; on the contrary, if possible, more power, more duty is placed upon him by the operation of this resolution. The resolution in almost so many words is the same as the one adopted in 1837. We have progressed and counted under it regularly. In the absence of a law, the practice of the Government in any of its departments becomes a law in our country. There is no law on this subject, which is much to be deprecated, but here is a custom now running back to 1837, and practiced from that time continuously, which by force and by operation becomes, in the absence of any statute, a law binding on this country. We have practiced under it since then; the Government has lived under it; the Government has progressed under it; and we are proposing simply a repetition of that which has been peaceful and been effective for the purpose since 1837.

Mr. JONES, of Florida. May I ask the Senator a question?

Mr. GARLAND. Certainly.

Mr. JONES, of Florida. Do I understand the Senator to say that this is a subject which ought to be regulated by law?

Mr. GARLAND. I do not mean law in the sense of statutory law as distinguished from the Constitution. I think I comprehend the scope of the question of the Senator from Florida, and I may concur with him that the regulation should be by the Constitution, instead of by law as distinguished from a constitutional provision. But now we have progressed under this mode of procedure; and as the Senator from Ohio inquired, what is the necessity for a change when the fact is presented to the country broadly that one man is elected President and about that there can be no dispute?

I do not see the difficulties suggested by the Senator from Massachusetts. The Constitution says:

> The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed.

We know, as a matter of fact, and as a matter of law, that there are so many electors by right in the United States, and we know as a matter of law how many are a majority of those electors. When these packages are opened A B has 138 electoral votes beyond controversy; C D has 75, say; and here are 13 from a State that are in controversy. If you count them and put them to the one man or the other, they do not affect the result. Therefore we do not undertake to say by any general proposition how those votes shall be treated; and indeed, as suggested by the Senator from Florida, it may be very doubtful whether we have any authority to say as an abstract proposition that no vote shall be counted that was cast on a day different from that when the others were cast; but whether they be counted or not, the result is not affected. All tribunals, all courts pretermit questions when their decision is not absolutely necessary for the adjudication of the case in hand, and say "the case is decided on this point, and this other point which has been raised is not necessary for the decision and we pass it by." That is what this resolution says and what has been said in half a dozen resolutions of like character.

I am not so fortunate as the Senator from Ohio, when he says he has no doubt that the vote of Georgia ought not to be counted, anticipating a little, presuming now that we know exactly what the vote of Georgia rests upon and the facts that surround that vote. Take it for granted that it was simply cast by the electors on a day different from that named in the act of Congress; I am not as lucky as the Senator from Ohio in saying that I have no doubt about that question. I have very great and very serious doubt about it. In fact I never encountered a proposition upon which I had so much doubt as I have upon it, and until that question is presented to us broadly and a decision exacted upon it, I say we should pretermit it and pass it by as not being necessary to the adjudication of the cause. There is much to be said upon both sides of that question when you come to examine it, and I do not wish to be a party to establishing any mere abstract or theoretical rule which, if established, can bind nobody, that a State shall be disfranchised because her electors happen to cast their vote on a day different from that designated by the act of Congress, whether that casting was caused by negligence, by corruption, or by anything else.

Besides being a very doubtful question it is a very serious one, and I would ask Senators to pause and ponder before sending out any general conclusion on the matter. In America the question in relation to the result of an election is, What is the will of the people voting? If this can be fairly ascertained no irregularity or informality can stifle it; and in law that is certain which can be made certain. In view of this universal doctrine and in view of the fact that election laws in their apparent essentials have over and over again been held merely directory and not mandatory, and no right is

lost by a party when he has done all he can on account of the malfeasance, misfeasance, or nonfeasance of a public officer, it is well for us to be slow in determining this question.

The resolution is sufficient to meet the case as it is presented. Heretofore such a resolution has been sufficient unto the day when the difficulty arose; so let this be sufficient for this occasion; and if any votes come within the category described not affecting the result, let it be declared that if they were cast for A the result is so; if they were cast for B the result is so, but in either event the result is not affected, and that leaves the question to be decided whenever it shall really present itself in a shape to require decision. It will be time enough then to decide it, and not before. As far as I am able to consider the subject I think this is the fairest and best solution we can get, and therefore I shall vote for the resolution reported by the Senator from Alabama.

Mr. INGALLS. Mr. President, this discussion upon the general subject of the electoral count is interesting and valuable, but I respectfully submit that in view of the emergency that is now upon us it is perhaps somewhat unprofitable.

These subjects have been under discussion for the better part of a century, and no conclusion has been reached. It is obvious to all that the Constitution is defective in some particulars, and that it does not provide for conditions that have arisen which were not contemplated by the framers of that instrument. It is too late for us to remedy those defects now. We cannot pass any law that will meet them; neither can we agree upon any joint resolution that will commit both Houses to a principle that will be recognized as settling these disputed questions. The point before is, shall we adopt the resolutions reported by the committee? and I desire to say here that I feel exceedingly grateful to the committee for the action that they have taken and for the resolutions they have reported. They meet very nearly my views upon the subject; and I want to submit merely one or two observations upon the amendment proposed by the Senator from Vermont, which I understand to be the practical question before the Senate, and that is whether we shall in our resolution invite the House to meet us in this Chamber or whether we shall announce to them that we will proceed to the Hall of the House.

There are three reasons why I think at this time the Senate ought to agree to the amendment proposed by the Senator from Vermont; and in expressing those reasons I do not propose to say that I am not willing to meet the House in their own Hall, but there are reasons why I think that in adopting this resolution we should invite them to meet us in this Chamber.

The first is a mere question of etiquette. In this resolution, proceeding from the Senate, is it not appropriate that we should invite them to meet us here? Have we any abstract right to say that we will, without hearing from them on the subject, meet them in their Hall on the 9th of February at the hour of twelve o'clock?

Mr. MORGAN. If the Senator from Kansas will allow me, I will suggest to him that the resolution is concurrent, and until the House concur it is ineffective.

Mr. INGALLS. I understand that, but it proceeds from the Senate, and if the House shall concur with an amendment, of course I shall be entirely willing to meet the House of Representatives in their Chamber. As this resolution proceeds from the Senate, I submit that it is appropriate that we should invite the House to meet us in this Hall, and if they see fit to amend it, in the absence of any stronger reason than I have yet heard, I shall be very glad to concur in that amendment.

There is, however, one other reason which has been suggested by the Senator from Vermont that appears to me to have some weight, and that is that there may emergencies arise in which it will be advisable that the Senate should retain the power of having these votes counted in its own Chamber and by the officer who is under the Constitution the custodian of the certificates. I was one of the tellers of the electoral count in 1877; Senators will recollect that dark and troublous period; and in connection with this subject I will mention an incident of secret history. During that month when this matter was pending we received information one morning that in the course of our progress from this Chamber through the Rotunda to the Hall of the House for the purpose of going into joint convention, there would be an attack made upon the Sergeant-at-Arms and the other officers having the certificates in charge and that they would be taken from us and destroyed. I dare say it was a mere rumor, as a Senator suggests. Very probably it was; but desperate occasions like that give rise to rumors. It is not necessary for me to state what precautions were taken, although no assault was made; but I mention that for the purpose of showing that emergencies may arise where it would be desirable that the certificates should not be exposed to the danger that the Senator from Vermont has depicted.

But there is a third reason why I think the amendment should be adopted, which is more important than all, and that is this: suppose the House take no action at all on this resolution; I do not assume that they will not act; but suppose that they do not; suppose we adopt this resolution and it goes to the House of Representatives and there reposes upon their table not acted upon at all, shall we not be left in a very unfortunate predicament if we have committed ourselves to the fact of meeting them in the Hall of the House of Representatives and thereby to a certain extent have deprived ourselves of the power of counting the vote in our own Chamber?

I say, then, upon these three practical considerations it appears to me that we should adopt the amendment offered by the Senator from Vermont, and if the House concurs with an amendment asking that the meeting be there, we can agree to it; but if the House does not agree, if there is no action whatever taken by the House of Representatives, we still have the power here to proceed in this Chamber to the discharge of the great constitutional duty.

Mr. HILL, of Georgia. Mr. President, I do not rise to discuss the questions which have been raised upon this resolution. The truth is that I feel but very little interest in it. It is conceded on all hands that there is no doubt about who have been elected President and Vice-President of the United States for the next four years, and I presume there is not a man in this Hall or the other, nor, as far as I know, a single man of the fifty millions of the American people, who has the slightest desire to interfere with that result or to obstruct in any way its legal declaration. I think, therefore, all this discussion as to the ways and means of arriving at a conclusion that everybody admits is not very profitable or very interesting to the Senate or the country. I am therefore willing myself, so far as I am concerned, to agree to almost any reasonable plan of ascertaining the result at this time. I think it is the imperative duty of Congress, before another such occasion shall arise after the lapse of four years, to make such provision as will avoid any possible doubt or trouble in the future.

I rise now simply to say one or two things in relation to the vote of my own State. I have seen it intimated, and more than intimated, in several quarters that the failure on the part of the electors of Georgia to cast their vote on the day fixed by the law of Congress arose from a disposition in that State to regard the law of the State on this subject as of higher authority than the law of Congress. I wish to say here that that is not true. There was no intention or idea on the part of anybody in Georgia, in authority or out of authority, to disregard the law of Congress on this subject or doubt that the law of Congress fixing the day for the vote by the electors was the supreme law. There has never been any law in Georgia in conflict with the law of Congress or intended to be in conflict with the law of Congress on that subject.

Without going into the particular history to explain how it happened (a fact which we all know but do not yet know officially) that the electors of Georgia did vote one week after the day fixed by the law of Congress, I simply say that there was simply a failure to know the fact that the first Wednesday in December, 1880, came before the first Monday in December. The failure to know that simple fact of the almanac caused the whole trouble, and there was no desire or intent on the part of anybody to hold that the State law was supreme over the Federal law on this subject, no desire to disregard the Federal law. Indeed, the whole intent was to comply with the law of Congress and vote on the day that the electors in all the other States voted. It was just one of those accidents that may happen anywhere or at any time.

So far as the legality of the vote of Georgia is concerned, I hope I shall be pardoned for saying one thing, and that is this: I concur fully and thoroughly with the view expressed by the Senator from Ohio, and I say, as he said, that to my mind there is no doubt upon this subject—none whatever. As he said, there are very good lawyers in the Senate, and one of them we have heard speak since the Senator from Ohio expressed his view, the excellent Senator from Arkansas, [Mr. GARLAND,] who contend that there is doubt. We must of course admit that there must be doubt in reasonable minds on this subject when such a Senator says there is doubt in his mind; and therefore the question may take somewhat of a doubtful character; but for myself I have and can have but one opinion. I think it is very clearly the duty of Congress, the imperative duty of Congress under the Constitution, to fix the day on which the electors shall cast their votes for President, and it is the imperative duty to fix that day the same throughout the United States. There are admirable reasons, very cogent reasons, why that provision was incorporated in the Constitution. It would be a fatal mistake, in my judgment, to disregard those reasons. I think the convention was wise, very wise, in requiring that the electors should cast their votes on the same day throughout the United States, and it works very great mischief, in my judgment, to disregard that rule.

I deeply regret that my own State, by a simple accident, has cast her vote on a day different from that day fixed by the act of Congress. I rejoice exceedingly that this accident has happened when it can do no harm, when it cannot change the result. Much confidence as I have in the intelligence and patriotism of the American people and of the Representatives and Senators of the American States and people, I do rejoice that the temptation has not been presented to them of counting or not counting these votes when the counting or not counting of them might change the result. I greatly rejoice in that fact; but as it has occurred, to prevent all possible doubt in the future, to prevent the recurrence of such an accident in the future, I think it the duty of Congress to say emphatically and in language that cannot be mistaken that the votes of electors of President and Vice-President of the United States must be cast on the day prescribed by the law of Congress, and that that day must be the same throughout the United States. If the vote of one State can be cast on any day other than that fixed by the law of Congress, then each State may cast her vote on a different day from that of any other State, and thus every State may utterly and totally disregard the law of

Congress and that provision of the Constitution which the law of Congress is intended to carry out. Then we should have the anomaly of the Constitution declaring that the day on which the votes of the electors shall be cast shall be the same throughout the United States, and yet each State voting on a different day from every other State and every State voting on a different day from that fixed by the law of Congress, which would make the Constitution a nullity.

These are my views on the matter. Coming as I do from the State which has made this mistake, I the more cheerfully express these views. Nobody intended to disregard the law of Congress in Georgia; nobody desired to disregard the law; nobody doubted its supremacy. It was simply an accident; fortunately an accident that worked no result; but for one I am willing to say that I cannot doubt that this provision of the Constitution is just as imperative, just as supreme, as any other provision of the Constitution, founded, not in accident, but in most excellent reasons. It was right that it should be so, and being so, we ought to respect it; and the States ought all to be notified that if they fail to cast their vote in the manner, and especially at the time, prescribed by the law of Congress, the vote will not be counted, and ought not to be counted, because if you can disregard the law of Congress in this respect you may disregard it in any other respect, and if the day on which the electors are to cast their votes can be different from that fixed by the law of Congress, then the day on which the people themselves may vote for electors may be different from that fixed by the law, and then we should have elections without law, which in my judgment would be nothing but anarchy.

Mr. JONES, of Florida. Mr. President, I suppose that when the resolution was put in the shape that we find it, it was for the purpose of avoiding the agitation of this very delicate question. It must be obvious to the Senate that had it not been for a very serious difference of opinion in regard to this subject the resolution would not be in the condition that it is. I for one deprecate the discussion of this question at this time. There is no necessity for it, and in my judgment it would be much better to leave it open until a case arises which shall demand a clear expression of the will and opinion of the Senate on this angry and dangerous subject. Still I do not like to be here within the sound of the voice of the Senators who proclaim opinions on this question to make a record to go down and show that I sat in my seat and listened to certain opinions being promulgated and gave them acquiescence. For that reason I should have preferred that nothing had been said about it. I dissent totally from the opinion of the Senator from Georgia and the Senator from Ohio on this question. I do not think that the framers of the Constitution ever contemplated an election for President of the United States to take place and the votes therein to be counted without the voice of each State in the Union being heard; and I for one will never consent to the proposition that because by mere accident, like an invasion, an epidemic, or any cause of that kind, the electors were prevented from meeting at the capital of the State on the day designated in the law of Congress, that is to deprive that State of her voice. Never! The act of Congress not only requires that they shall cast their vote on a given day, but it requires that they shall meet at a designated place, the capital of the State, and cast the vote. And now I ask the question if a public invasion had taken place, if a great epidemic was there which endangered the lives of the electors so that they could not visit the capital, would any man say that because of that overwhelming necessity those votes could not be cast elsewhere?

Mr. HILL, of Georgia. Will the Senator from Florida allow me to ask him a question?

Mr. JONES, of Florida. Certainly.

Mr. HILL, of Georgia. Is the place of voting a constitutional requisition?

Mr. JONES, of Florida. Neither is the other.

Mr. HILL, of Georgia. Is not the time of voting a constitutional requisition?

Mr. JONES, of Florida. Time and place, I admit, in many instances, are substantial elements of an election. I do not think the language of the Constitution is mandatory. I think there is great force in the suggestion made by a Senator within my gaze now that that word "may" is not to be interpreted as meaning "shall."

Mr. EDMUNDS. It says "shall;" "which day shall be the same," &c.

Mr. JONES, of Florida. Congress may prescribe a day, says the Constitution, and if it undertakes to prescribe it, it goes on to say that that day shall be the same throughout the Union. There is no objection to that. I assume the correctness of that principle, and the Constitution would be a very poor instrument if that provision had not been made in that way. But still I say that occasions may arise when that principle will not be violated and the vote cast on a different day.

Mr. HILL, of Georgia. May I ask the Senator a question? Suppose I concede, for the sake of the argument—which I certainly do not concede—that the word "may" in the connection in which it occurs in the Constitution is directory and not mandatory; suppose I concede that Congress may prescribe the day, that confers upon Congress the power to do it, the Senator will admit. Congress exercises that power; Congress does fix the time, and Congress, in pursuance of the latter clause of that paragraph, says the time shall be the same throughout the United States, and fixes the time. Now, if Congress has the power to fix the day, and Congress has fixed it, is not that law made in pursuance of the Constitution the supreme law of the land, and can there be anything against it?

Mr. JONES, of Florida. If the Constitution, which invests Congress with power over that subject, is only directory, then a law which follows it and which is made in pursuance of it must partake of the character of the organic provision.

Mr. HILL, of Georgia. Do I understand the Senator to say, conceding the power to be directory, for the argument's sake, which I do not concede, that where the power has been executed by the passage of a law, that law, because it is in pursuance of a directory and not a mandatory power, is less supreme than would be a law passed in pursuance of a mandatory power? Is not each law of Congress in pursuance of the Constitution equally the supreme law?

Mr. JONES, of Florida. I admit the supremacy of the law; but that does not change the nature of the argument. A law may be supreme and yet be directory; a law may be supreme and yet be mandatory. You may take the electoral laws of nearly every State in the Union, and in one-half the provisions regulating the subject of elections would be held by any court in a case which involved the expressions of the people to be directory. A law is no less supreme because it is directory; but the Constitution says that Congress may prescribe the day, and if it undertakes to exercise that power it shall make it uniform throughout the Union. Now, I say that cases may arise under that law where the States may come forward and contend that some inevitable accident, public invasion, disease, or other great cause over which no human authority could have control, prevented this from being carried out; and in such a case the will of the people ought to be given effect. That is a proper case for making an exception; and the vote of the State ought to be counted.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. MORGAN. I hope the Senate will come to a vote on this question. The very question which has been for the last half hour under discussion is now pending in the Judiciary Committee, and we shall probably have a report from that committee when Senators will have an opportunity of expressing their views more to their satisfaction.

Mr. EDMUNDS. I hope the Senate will come to a vote presently; that is, when every Senator has had the opportunity that he desires to say what he thinks he ought to say, and I hope we shall stick to this matter until it is finished.

I do not wish to go into the question of the validity or invalidity of the vote of Georgia, because I agree with the committee that it is a question that can be passed over without undertaking to decide it. It is, of course, perfectly clear under the Constitution that nothing but legal votes, constitutional votes, can be counted rightfully; and that refers us, in a case like this, to the question, what is a vote constitutionally considered? This resolution proposes to say that the question of whether this act of the State of Georgia is a constitutional act in the election of a President and one which is entitled to force in determining the result, need not be passed upon, without going into the question now whether anybody has power to pass upon it without law, or not—that it need not be passed upon in the event that it is of no practical consequence whether it is a legal vote or is not. This concurrent resolution, therefore, simply says that the papers coming from the State of Georgia may be made manifest, and those papers will show undoubtedly, for the act of Congress provides for showing, who are the electors that the State of Georgia lawfully appointed as electors. Therefore they make up a part of "the whole number of electors appointed," and any person to be elected President of the United States must have a majority of that whole number. How much is a majority is of no constitutional consequence. Now, then, all this says is that if it appears that one candidate or another has a majority of all the electors appointed, without regard to deciding the question whether the act of Georgia is a lawful vote or not, it shall be so declared hypothetically; in other words saying, the state of the papers is so and so; nobody undertakes to decide whether this vote is a constitutional vote or not; and it is of no practical consequence.

Now I want to say in reply to my friend from Florida just a word on the topic itself, although I have made a disclaimer about that, and then I shall be done after one other observation. There is great force in what he says; but I submit to him one test of the strength of his argument as applied and illustrated by the time of choosing the electors as distinguished from the day of their giving their votes. This is the language of the Constitution:

> The Congress may determine the time of choosing the electors and the day on which they shall give their votes; which day shall be the same throughout the United States.

I submit to him whether it is not clear from that language that while Congress may determine the time for choosing electors and the day for giving their votes, the command that the day shall be the same throughout the United States refers to the word "day" mentioned in the last preceding clause, and does not necessarily refer to the word "time" for the choice of electors.

Mr. JONES, of Florida. Will the Senator permit me?

Mr. EDMUNDS. With pleasure.

Mr. JONES, of Florida. I think that the spirit of the Constitution would require that the election for the electors should be held on the

same day, and I think that has been the interpretation given by Congress to it, because the very objection that has been open to electors voting on different days under the practical operation of the Constitution would be open to holding the elections on different days. It is well known that when the Constitution was adopted it was expected, as I had occasion to say on a former occasion in the Senate, that the electors would exercise an independent choice outside of the people; but really and practically the presidential election is now determined on the day on which the electors are chosen, and not on the day that they cast their votes.

Mr. EDMUNDS. What my friend from Florida says is a very strong argument to show that both these provisions are matters of inherent and deep substance, because he has argued to show why the word "time" ought to be taken in the spirit of the Constitution as included within the last clause of this sentence, that it should be the same throughout the United States, and there is very great force in it, but I submit to his consideration—and I do not mean to commit myself about that now, only to compare suggestions—I submit to his consideration whether his very argument, which is quite forcible, does not show that both the provisions were thought to be of fundamental and substantial importance in respect of security against corruption and tumult.

Mr. JONES, of Florida. There is no doubt about that.

Mr. EDMUNDS. If it be, therefore, in the Constitution a matter of real substance for the great reasons which have been suggested, how can we say that it is directory? But let us look at it in another point of view.

"Congress may determine the time for choosing electors." That may or may not fall within the last clause which requires it to be the same throughout the United States; I do not say whether I think it does or not; but suppose that Congress should have determined the time, as it has, to be one day, the Tuesday after the first Monday in November throughout the United States; can it be contended—I am putting it merely as a question to be thought of,—that an election called and held in the State of Vermont on the second Tuesday after the first Monday of November, or on the second Tuesday before the first Monday of November, or on the first Tuesday of September, (which is the day for our constitutional State election, and when it would be immensely convenient to our people to elect their electors,) would be a valid election? And can you make it valid if it is required to be done on that day, on the ground that some overruling necessity prevented it? That is a very serious question which I commend to the consideration of Senators. The principle of it enters into all elections; but I pass that, because, as it appears to me, it is not indispensable that we should come to a solution of that question, and I come back to the amendment that I have offered, and that is, as Senators may have forgotten, to provide in this proposal to the House of Representatives for the assembling of the two Houses here.

My friend from Ohio has said that we have had seventy years of a different practice. I do not know precisely how many years, but I dare say it may have been something like that. Now I have here the record of the first occasion, I believe, when the presiding officer of the Senate departed from his seat and with the Senate proceeded to the Hall of the other House, in 1821. The joint committee of the two Houses who had been appointed to arrange for the ceremony—for it was then nothing but a ceremony—reported in favor of a meeting in the House of Representatives:

Mr. Barbour explained, in detail, the reasons which influenced the committee in adopting the resolutions which it recommended—

which were the ordinary ones, for a meeting in the House of Representatives Hall and providing the hypothetical arrangement about the vote of the State of Missouri, just as in 1837 was done as to Michigan, and in 1869 as to Georgia, and as is proposed on this occasion for the State of Georgia.

Mr. King, of New York—

Who everybody will remember historically as one of the most conservative and wise and upright men—

Mr. King, of New York, spoke in particular reference to what he deemed the correct course of proceeding in joint meetings; thinking it consistent with the Constitution, and with propriety, that the House should come to the Senate if the apartment had not rendered it inconvenient; and that when a convenient plan should be completed for joint meetings, he hoped the practice heretofore prevailing would not be considered in the light of a precedent, but that they should repair thither, and the President of the Senate preside in joint meeting, &c.

That was the first occasion when the Senate departed from its place and its presiding officer from his, to go to some other place and to carry these great records of the Government with him, for a greater or less distance; and it might be from here to Georgetown in case this Capitol should be burnt down, or wherever you could find a convenient building, and there go through with the ceremony. I submit that a practice arising in that way, merely from physical and personal convenience of apartments, is nothing that ought to overrule what Mr. King said and what I think is the correct method and the safe method and in every respect the best and the truest method for doing this great duty. This Hall is large enough for every member of the House of Representatives and every Senator and the officers of the two Houses to perform this duty without discomfort and without inconvenience.

I hope, therefore, that we shall return to the true and best means for all times (because it is of no practical consequence to-day) of doing this thing, and that is here. It may be that four years hence when this body may be politically exactly what it is now and the House of Representatives may be politically entirely different from what it is now, and I suppose it will, and when there may have been a close election, there may be danger of tumult and disorder, and I submit that it is the wise thing to provide that where the records lawfully and constitutionally are of these acts of States, the two Houses shall assemble to perform that duty.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the amendment reported by the committee.

Mr. EDMUNDS called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. EATON, (when his name was called.) In the absence of the Senator from New York [Mr. CONKLING] on various matters, I agreed to pair with him where we should differ. Therefore I withhold my vote.

Mr. TELLER, (when his name was called.) On all political questions I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, I would vote yea, and I presume he would vote nay.

The roll-call was concluded.

Mr. BALDWIN. On this question and all political questions my colleague [Mr. FERRY] is paired with the Senator from Texas, [Mr. MAXEY.] Were my colleague present, he would vote yea, and I presume the Senator from Texas would vote nay.

Mr. BAILEY. I am paired with the Senator from Nebraska, [Mr. PADDOCK.] If he were here, I should vote nay.

Mr. DAVIS, of West Virginia. The Senator from Pennsylvania, [Mr. WALLACE] left the Chamber a few moments ago, and requested me to say on any vote that he and his colleague [Mr. CAMERON, of Pennsylvania] were paired. If he were here, the Senator from Pennsylvania [Mr. WALLACE] would vote nay.

Mr. ALLISON, (after having voted in the affirmative.) As all of one party seem to be voting on one side and all of the other party on the other, I withdraw my vote, being paired on all political questions with the Senator from Maryland, [Mr. WHYTE,] who was obliged to leave the Chamber this morning.

The result was announced—yeas 22, nays 36; as follows:

YEAS—22.

| | | | |
|---|---|---|---|
| Anthony, | Dawes, | Kellogg, | Rollins, |
| Baldwin, | Edmunds, | Kirkwood, | Saunders, |
| Blaine, | Hill of Colorado, | Logan, | Sharon, |
| Blair, | Hoar, | McMillan, | Windom. |
| Burnside, | Ingalls, | Morrill, | |
| Cameron of Wis., | Jones of Nevada, | Plumb, | |

NAYS—36.

| | | | |
|---|---|---|---|
| Bayard, | Garland, | Kernan, | Saulsbury, |
| Beck, | Groome, | Lamar, | Slater, |
| Butler, | Hampton, | McDonald, | Thurman, |
| Call, | Harris, | McPherson, | Vance, |
| Cockrell, | Hereford, | Morgan, | Vest, |
| Coke, | Hill of Georgia, | Pendleton, | Voorhees, |
| Davis of Illinois, | Johnston, | Pugh, | Walker, |
| Davis of W. Va., | Jonas, | Randolph, | Williams, |
| Farley, | Jones of Florida, | Ransom, | Withers. |

ABSENT—18.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Pa., | Grover, | Teller, |
| Bailey, | Carpenter, | Hamlin, | Wallace, |
| Booth, | Conkling, | Maxey, | Whyte. |
| Brown, | Eaton, | Paddock, | |
| Bruce, | Ferry, | Platt, | |

So the amendment to the amendment was rejected.

Mr. INGALLS. I suggest to the Senator from Alabama who reported this resolution that the second paragraph contains what purports to be a formula that shall be used by the President of the Senate in declaring the vote. The last clause is, "And in the same manner for Vice-President." I would suggest to him, without formally offering an amendment, unless he desires, that the formula be perfected by declaring the form of language to be employed in regard to the Vice-President also, as the resolution must go to the House and this formula must be adopted by the two Houses when they assemble for the purpose of counting the vote.

Mr. MORGAN. That is the exact purpose which is intended to be accomplished. The resolutions which have preceded this have always contained the precise language that I have used here, and it has been considered a sufficient instruction to the President of the Senate to use the words "And in the same manner for Vice-President."

Mr. INGALLS. The language appears to me to be somewhat imperfect, but unless the Senator desires it I will not offer an amendment. I had prepared one that incorporated the form of language to be employed with regard to the Vice-President as well as the President, but if the Senator thinks it is not advisable I shall not offer it.

Mr. MORGAN. I think it is better to let it stay as it is.

The PRESIDING OFFICER. The question is on the amendment offered by the committee to the original resolution.

Mr. EATON. Does this cover the whole original resolution?

The PRESIDING OFFICER. It covers the resolution reported from the committee to strike out and insert.

Mr. EATON. If it covers the whole resolution I have a word to say on this point. I do not intend to discuss the question at any length, but I have a word to say. I cannot support a resolution upon

this subject which leaves one very important question in doubt, and that is the question whether the President of the Senate has the right to count the votes for President and Vice-President of the United States. There was a resolution of this sort which I supposed would be brought up yesterday:

[June 15, 1880.—Ordered to be printed.]

Mr. MORGAN submitted the following resolution:

*Resolved by the Senate, (the House of Representatives concurring,)* That the President of the Senate is not invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States so as to determine what votes shall be received and counted or what votes shall be rejected.

I had supposed that that resolution would have been called from the table yesterday and acted upon, and if that resolution had been called up and acted upon affirmatively, I should cheerfully give my vote for the other resolution of the committee, because I should have considered the action of the Senate upon that resolution a determination of their meaning of the resolution which is now before the Senate. But that has not been called up, it has not been acted on. The pending resolution reads in this way:

*Resolved by the Senate, (the House of Representatives concurring,)* That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881, at twelve o'clock m., and the President of the Senate shall be the presiding officer; that two persons be appointed tellers on the part of the Senate and two on the part of the House of Representatives to make a list of the votes as they shall be declared.

What does that mean? The honorable Senator from Alabama says that the word "declared" there is simply the declaration of a clerical fact; another Senator says that the word "declared" there means that A B, C D, and E F are elected or appointed as electors for President and Vice-President. I cannot vote for a resolution that leaves any doubt upon the subject, and therefore at the proper time—and if this be the proper time in the opinion of the Chair I shall offer an amendment now, in the words of the Constitution of the United States. I move to strike out the words "as they shall be declared," and to insert in lieu thereof "as the certificates shall be opened by the President of the Senate." Those are the words of the Constitution, about which there can be no mistake, about which there can be no two opinions. That is the duty of the President of the Senate; and when he has executed that duty then the officers who have been appointed by the Senate and the House will count the votes and hand up their list to the President of the Senate, and he will make the necessary declaration.

I cannot vote for any resolution that leaves any doubt upon that great and important point. It is of no importance, I agree, so far as this election is concerned. Everybody concedes the election of General Garfield and General Arthur. Everybody concedes that they will on Wednesday, the 9th day of February, in some way be declared to be the choice of the people. I regret it, but it is so. But I cannot vote that the President of the Senate shall declare that fact, for it is not his duty.

Therefore I ask that this amendment shall be made. It is in conformity with the Constitution; and in my judgment it is no answer to the reason, poor though it may be, which I have given, to say that for one, or two, or three, or ten countings of votes this language has been used. My opinion is that a very great majority of the Senate are opposed to construing the Constitution in a way which gives the Presiding Officer that power. Very able and exhaustive arguments were made four years ago upon that identical subject; and I should like to have a vote of the Senate upon this point.

Mr. THURMAN. Mr. President——

Mr. EDMUNDS. Let the amendment be reported before the debate goes on. I should like to hear it.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. In the amendment of the committee, it is proposed to strike out the words "as they shall be declared" and to insert "as the certificates shall be opened by the President of the Senate;" so as to read:

That two persons be appointed tellers on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as the certificates shall be opened by the President of the Senate.

Mr. THURMAN. Mr. President, if I had been drafting a resolution for the first time for a count of the presidential votes three-quarters of a century ago, I should not have inserted the words "as they shall be declared," which the Senator from Connecticut moves to strike out; but they have been in resolution after resolution for a long time, I think certainly for more than half a century, and they never have been interpreted at any time as conveying by implication the idea that the President of the Senate had the right to count the votes in the sense of deciding what was a legal vote or what was not, or for whom the vote was cast or for whom it was not. I am not at all afraid that this resolution will convey any such implication. On the contrary, under resolutions of this kind, again and again votes have been received and votes have been rejected by the action of the two Houses of Congress, and not by the decision of the President of the Senate.

In view, then, of this history of the country, it seems to me to be, with great respect to my friend from Connecticut, an unfounded fear that there can be any implication from the use of these words that the President of the Senate has, not the mere power of counting, but the judicial power of determining whether the votes are valid or invalid, or for whom they are cast or for whom they are not cast. Therefore, I think our committee felt it best to follow the old usages, to which there can be no serious objection, and to which there is likely to be no serious objection in either House of Congress, and thus the resolution might pass.

But if I thought differently from that, I should not vote for the amendment of my friend from Connecticut, if he means that making the list by the tellers is to be considered any decision whatever. The language of his amendment is that they shall make a list of the votes "as the certificates shall be opened by the President of the Senate." But suppose there should be two returns, it would be the obvious duty of the President of the Senate to open them both. We have had that again and again. We had it at the last election. I have heard it said that somebody has got up a bogus return from Oregon now. Yes; the Senator from Oregon [Mr. SLATER] nods his head. Some man there gathered together two other able-bodied men, and they constituted themselves an electoral college and voted—I do not know for whom—for Weaver, I believe, or somebody else for President of the United States, and for somebody for Vice-President; it may be that they voted for Hancock for President.

Mr. SLATER. They divided their votes among the candidates.

Mr. THURMAN. They gave one vote for Hancock, and it may be one for Garfield, and one for Weaver; they divided them around fair and square. It may be that that is ridiculous, but still it will not do for the President of the Senate, if the thing comes up to him in the regular time and in a regular way, by people claiming to be electors of President and Vice-President, to say, "This is absurd; this is a hoax." It will not do; they have to be opened. Every law that we have ever passed upon the subject requires them all to be opened. Now the amendment of the Senator from Connecticut is that the tellers make out a list of the votes as the certificates are opened.

I do not think that practically there is any trouble in the world about the declaring of the vote. How is it? Let us look at it now in a practical sense and in an historical sense too. The President of the Senate opens a certificate; he hands it to the tellers, because there never has been a count without tellers. It is read by the tellers. No objection whatever is made to that vote, to its reception, to its being counted. It is put down in the list. There being no objection whatsoever, that vote being recorded in the list is a declaration sufficient that that is the vote of the State; and so it goes on: and just so long as no objection whatever is made to a vote, just so long do the members of Congress of both Houses present assent that that is the vote, and just so long does the President of the Senate, if he is the judicial power to decide, assent that that is the vote. That vote is sufficiently declared. It is only when an objection takes place that the question arises who is to decide upon the objection. I am not afraid to trust that both to the Constitution and to the uniform history, because never, in no single instance, has the President of the Senate decided such a question. Never has he; and in my judgment he never will. No, he will not; even if parties change, I do not believe that any President of the Senate will ever have the audacity to attempt what no man in the whole history of the Government from 1789 down to this day has ever dared to do. But, at all events, that is not the question now.

It has been truly said by Senators on this floor, and we know it is so, that we are tiding over the present case; that is, we do not decide it. We do not decide really who under the Constitution has the judicial power. Are we to blame for that? Our forefathers, eighty years ago, tried to decide it, and they could not. John Marshall drew a bill, when he was a member of the House of Representatives, and it passed that House, I think, but the Senate did not agree to it. The greatest minds in this country have tried it, and it is no disgrace to us that we have not been able to agree upon a measure when John Marshall and his associates in his day were unable to pass a bill. Mr. Van Buren tried it, when he was a member of the Senate, and failed. I hoped that it might happen in my time, not that I might do much about it, but that I might have the satisfaction of voting for it, and that we might agree upon some proper law on the subject. I hope yet it may happen that such a law may be perfected by those who are to come after me, and that, too, before another presidential election shall occur. But "sufficient unto the day is the evil thereof." Your committee have reported a resolution that every man in this body and every man in the House can fairly vote for, as our forefathers voted for similar resolutions for more than half a century, and under which we have got along quietly in the count of the presidential votes.

Although I agree with my friend from Connecticut that if I were framing this resolution for the first time I would leave these words out, I hope the amendment will not be adopted, but that the resolution as reported by the committee will be agreed to, and that without any further modification.

Mr. BLAINE. Mr. President, I do not intend to detain the Senate by any discussion of the amendment of the Senator from Connecticut, but I wish to submit an observation on what the Senator from Ohio has said about the impossibility of getting a law on this subject. He says that seventy or eighty years ago John Marshall tried to correct a trouble then existing and failed; that there is in some way an inherited disability upon the Congress and people of the United States to escape in any way from the danger which we now quadrennially encounter.

Mr. THURMAN. I said nothing of the kind.

Mr. BLAINE. I understood the Senator to say that as John Marshall had failed in doing it, and Martin Van Buren had failed in doing it, it seemed to be something we ought not to take any reproach to ourselves for not doing.

Mr. THURMAN. If the Senator will allow me to interrupt him, I said that what they failed to accomplish it was no disgrace to us that we cannot. I did not say, however, that it would not be accomplished.

Mr. BLAINE. I do not know of any disgrace that was said to attach to it.

Mr. THURMAN. If the Senator from Maine should remain in the Senate—and I am sorry he is going out of it—I have no doubt he would accomplish it before another presidential election.

Mr. BLAINE. I believe he would if he could get the votes of the Senators to go with him. I believe that any good, square, sensible man, and I do not profess to be anything else, could correct this if you could get the two parties to forego partisan advantage. But the trouble is that the moment the democratic party got into possession of both branches of Congress at the middle period of the last four years, they did not want to touch the question. I do not in this debate attribute to the democratic party anything more than I would attribute to any other party; but it somehow has fallen out in the history and development of this country that whereas the founders of the Constitution intended that Congress should have nothing whatever to do with controlling the election of President and Vice-President they now have everything to do with it, and it has now fallen out that when a party, whether it be the republican or the democratic party, controls both branches of Congress and decide on a question of doubtful electoral votes they are apt to decide for their own candidate.

Mr. McDONALD. On their own side?

Mr. BLAINE. Yes, whether it is a democratic or a republican Congress. In my judgment if the elections of 1878 had given a republican House of Representatives and we had had a democratic Senate we would have secured a law on this subject. If that is any reproach to either party it is equally divided, and I am perfectly impartial in the distribution of blame.

If we are to believe the earnest speeches made here in 1876, we were then right on the crater of the volcano, right where the yawning gulf of chaos and dissolution confronted us, and we escaped it by a make-shift, and a pretty rickety one it was. The Senator from Connecticut [Mr. EATON] bows assent to that statement. He and I walked out of this Chamber together on that pleasant winter morning when the bill for the electoral commission passed, having both voted against it. Whether it was an evil or a good, it is not worth while now to discuss. If an evil, we are in the negative on that vote, on the right side of the record. No matter, it was a make-shift; it was purely and entirely a make-shift. It settled nothing and unsettled everything, and in the most important crisis that can confront any people or any government—the law of succession—the people of the United States are to-day without law. There is no rule by which this system is settled. The chairman of the Judiciary Committee tells us it looks to him like an impossibility that we can get a law on this subject.

I do not know what may possibly be the political complexion of Congress for the next four years. We are going to start out with a republican House, but if anybody can tell me what the Senate will be after the 4th of March he is a wiser man than I am. However, I hope there will be at least that sort of divided power which will not give the assurance to either political party that they will have the undisputed sway in 1884, or in any subsequent year, over the electoral votes, and that the patriotism of both parties will come to see that taxation and tariff and funding bill and public debt are all of a subordinate character compared with this great question, which may involve a civil revolution at any moment. Fortunately the present election was conclusively settled in the electoral college, but I ask, without intending the slightest offense, what chance would General Garfield have to be inaugurated on the 4th of March if there was a doubtful electoral vote that came up here, which counted one way would elect Hancock and counted the other way would elect Garfield?

Mr. FARLEY. Has the Senator come to that conclusion from the action of the republicans in 1876?

Mr. BLAINE. I have come to that conclusion from things I have seen here and from the common frailties and common instincts of human nature. I have come to the conclusion that if this were a republican Congress they would decide for their candidate, and being a democratic Congress they would decide for their candidate. I am imputing nothing to the democratic party that I do not also impute to the republican party. I will not impute anything to either of them not inherent in the weakness of human nature. With that crisis staring us in the face, quadrennially returning here, and with that wonderful inclination or destiny which divides people about half and half on any given issue, the question remains undetermined. You can assemble the people by blowing a horn on the east front of the Capitol and state any issue to them and ten to one they will divide about equally upon it. Of the thirty-eight States in this Union nineteen voted for Hancock and nineteen for Garfield. The nineteen for Garfield had a few more electoral votes than the nineteen for Hancock.

Mr. EATON. And the other nineteen had a few more thousand votes.

Mr. BLAINE. Upon that subject I will not enter. The popular vote, I believe, as shown on the record, after depriving three or four hundred thousand American citizens of their dear right of suffrage gave three or four thousand popular majority for Hancock. Another count gives three or four thousand for Garfield; but I am not bringing that into discussion. The popular vote was very nearly equally divided; and to-day whether there be nine or ten million voters in this country, speaking in rough and equal phrase, they are about one-half democratic and one-half republican, as the States are about the same, and they will in all probability remain about the same. This even division seems to be the natural outgrowth of republican institutions based on free discussion and seems as clearly predestined almost as that the world should be peopled one-half of one sex and one-half of the other. It so comes; and we are not escaping this contingency except for four years. No man knows what four years or one year may bring forth in the tides of political fortune.

Therefore, I say it is the first duty of common patriotism that both parties should devote themselves to a constitutional, comprehensive remedy and not have us present the spectacle every four years of going through some extraordinary contrivance by which we shall prevent anarchy from ingulfing the country. I think the severest strain to to which this country was ever subjected outside the war of the rebellion was the incidents connected with the settlement of the Presidency in 1876, and I doubt whether if the term had been for a period of ten years this country could have found an entirely peaceful solution. I say that for the benefit of the gentlemen who think we ought to have a longer presidential term. If that had been for a ten years' settlement of the Presidency I do not believe we could have had as peaceful an adjustment as we happily reached. We got the advantage of a short term of four years, giving a period in the near future in which the case might be tried over again before the high court of the people. The shorter the term the more content the people are to submit. That is why the States that have had annual elections have had the most peaceful administrations in this country, and why they have had the most peaceful political contests. I believe the honorable Senator from Connecticut and myself will both live to see with regret that the New England States are giving up their old system of annual elections, and resorting to the biennial period. I believe the annual election of governor and Legislature in these States has conduced very largely to the peacefulness and harmony and success of their administrations as well as to the general readiness and heartiness of submission to the result by the defeated party. If beaten this year, in only twelve months you can try it again, and with one or two notable exceptions there has been very little excitement or disorder consequent upon the result.

I am very sure at all events that there has been less of unhealthy and dangerous excitement in States that have had annual elections than in any other States in the Union, and I believe that just in proportion as you elongate and lengthen the term of service of the President of the United States, just in the same proportion will there be extraordinary agitation attendant upon it. If it were a two years' term, elected as the House of Representatives is, bearing the imprint, as the Executive ought, of the popular branch of Congress, there would be less excitement than there is now. Make the term six, eight, or ten years, and you increase the excitement exactly in the same ratio. Now we have a four years' term. It is not likely to be changed, certainly not within the lifetime of this generation; but four years to men who have reached forty and fifty and sixty years comes around very rapidly; it comes around rapidly to all. It will be here very soon again, and it will be a reproach to that side of the Chamber and to this, to the Senator from Ohio and to myself, and to all of us, if there be not something done to relieve the country from the apprehension of what occurred in 1876, and what may occur again if no wise forecast be taken to prevent it.

Mr. MORGAN. Mr. President, the committee were anxious to avoid any unnecessary question of controversy at this late hour before the counting of the electoral votes for President and Vice-President. Hence we went back to the form of resolution which has obtained since this Government was first established. I will read the resolution adopted on the 11th of February, 1793:

> That the two Houses shall assemble in the Senate Chamber on Wednesday next, at twelve o'clock; that one person shall be appointed a teller, on the part of the Senate, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice-President, and, together with a list of the votes, be entered on the Journals of the two Houses.

That language "as they shall be declared" has been incorporated in every resolution under which a presidential count has taken place down to the adoption of the famous twenty-second joint rule without any departure whatsoever; and as the Senator from Ohio has very well remarked, no one heretofore seems to have been apprehensive that these words in this resolution either conferred on the President of the Senate any peculiar power to count or denied to him any power to count. It was a mere method of procedure without a declaration of the opinion of the Houses upon the question at all.

The committee have undertaken to arrange a programme or an order of business, and they have not gone beyond that duty. They might very well have incorporated into this resolution a number of incidental questions which by possibility may arise on Wednes-

day next; but feeling that the time was too short to engage in a discussion of that kind, and knowing that both Houses of Congress had consumed a large amount of time in the debate of various propositions which have been brought forward in different forms, both of legislation and of joint rules, the committee thought that it was its duty at this time to confine itself to the arrangement of a method or programme of business, a mere order of procedure; and they have gone back to the first resolution that was ever adopted and have taken the very words from that resolution which are found in this, and which the honorable Senator from Connecticut [Mr. EATON] now moves to strike out. I have such profound respect for his judgment, and also for his patriotism and for his sincere regard for the discharge of his constitutional duties as a Senator, that whenever that honorable Senator presents a question to my consideration I stop to think whether or not my preconceived opinions may not be in error; but on this proposition I think that the committee are not in error. I think the honorable Senator will not accomplish what he desires to do by striking out this language in the resolution and inserting what he proposes to insert.

I had the honor to lay before the Senate the resolution to which the Senator from Connecticut referred, in regard to the powers and a definition of the powers of the President of the Senate in counting the votes of electors for President and Vice-President of the United States; and I assure that honorable Senator that at a proper time I expect to ask the Senate to take that resolution up and pass it; but, whether the Senate shall pass it or whether it shall refuse to pass it, we shall still, if we adopt the resolution that the committee now offer, have a mode of procedure by which this great constitutional duty can be performed. I think that there is no difficulty in the situation; at least none that will be met by the amendment that the honorable Senator from Connecticut now submits.

As to the duty of the Senate and House of Representatives to have proceeded heretofore to have made some definite declaration of law on this subject, I concur fully with the Senator from Maine, [Mr. BLAINE.] Perhaps he and I might differ about the method of arriving at that result, whether by a joint rule of the two Houses or by legislation, but if we had any difference at all it would be a difference that would base itself on our different opinions in respect of our authority under the Constitution of the United States.

But the complaint, although it may be wise and proper in reference to the conduct of the two Houses heretofore, is not one that has any bearing at this moment of time except to disturb our counsels and to prevent us from arriving at an agreement between the two Houses under which this important constitutional duty shall be performed. The Senator from Maine has no real right to complain of any one more than himself on this subject. He and I have been in the Senate together ever since I came here, and I have not yet heard that the honorable Senator had brought forward a proposition of law, a constitutional amendment, a joint rule, a concurrent resolution, or anything of the sort for the purpose of regulating this great subject. In last May, when the Senate had under discussion the joint rule which I had the honor to report from a committee, and a substitute was offered by the honorable Senator from Vermont, whereby he proposed to substitute a law for that joint rule, the law being in all essential particularities the same with the joint rule, I did not hear the honorable Senator from Maine rise and urge either proposition or deliver before the country the remarks which he has favored us with this morning in reference to the duty of the two Houses. There are Senators here who have been urging this question day in and day out from the time I have been here. The honorable Senator from Vermont [Mr. EDMUNDS] has devoted an immense amount of labor to this very question, and no opportunity has been allowed to escape him for urging before the Senate the duty of arriving at some conclusion which would settle all of these grave disputed and unsettled questions between the Houses; but it is now too late. We may lay the fault upon the one party or the other, upon one man or upon another, but how shall our faults of the past excuse us from our present duty of coming to an agreement as to the order of business under which we can perform this important function?

Mr. HILL, of Georgia. Mr. President, I desire to say to my friend from Connecticut that I agree thoroughly with the views expressed by him, and I think a very large majority of the Senate fully concur with him; but I submit to my friend whether it would be better to urge that now—whether, indeed, it would not make the views which he and I both entertain appear weaker than they are, because we discover from the course of this debate that quite a number of gentlemen who concur in the opinion he expresses will not vote for his amendment, whereby a record may be made which may make it appear that his amendment is weaker than it is. I say to my friend that we are not engaged now in building a permanent structure over this terrible stream; we are crossing on a ponton; we are fixing a ponton to cross over because we have got to cross right away, and we think a ponton will carry us over because the waters are very quiet. When we are over this time, then we propose to put up a permanent and a stable structure, and of course I for one will be in favor of doing so, incorporating the idea very clearly suggested by my friend from Connecticut; but in the mean time I do not want the idea weakened by what may appear on the recorded vote.

I will announce one other thing which may seem a little extraordinary, and that is that I have very great pleasure in agreeing with almost everything said this morning by the Senator from Maine, and I think it is a good augury for the future that we do so thoroughly agree. It may be that the lion and the lamb are going to lie down together; of course the Senator from Maine being the lion. If so, we shall pass over all these future troubles without any difficulty; the country will be safe; there is no doubt about that.

I will say one thing that is corroboratory of what the Senator from Maine said, as to the duty of both parties to provide by stable and fixed and well-considered legislation against the recurrence of the dangerous troubles to which he alluded and which we all felt and saw. I think that both parties are somewhat to blame that this has not been done. My excellent friend from Alabama says that much has been done or intended to be done by the Senator from Vermont, and by gentlemen on this side of the Chamber, to provide proper legislation upon this subject during the last four years. That is true; much has been done, but I say to the Senator from Alabama that I do not think that is any answer to the proposition suggested by the Senator from Maine, because in truth, stripping ourselves of all party feeling and looking at this matter with perfect impartiality, we must admit that what was attempted to be done by that side of the Chamber was looking very carefully to contingencies which would give them the advantage in the count; and I am free to confess that looking to what was attempted on this side of the Chamber we were not blind to contingencies which might give us the advantage; and I think it so turned out. If we look at the attempts that have been made by the respective sides during the last four years we shall come to the conclusion that each side was looking as much to the term of its own party as it was to providing for a difficulty common to the whole country. That is my honest judgment about it; and as the Senator from Maine has made a most excellent speech I thought I would second his motion.

Mr. BAYARD. Mr. President, I do not agree with my honorable friend from Connecticut as to the intent of the words in this resolution which he proposes to strike out. The language of the resolution as reported from the committee is "that two persons be appointed tellers on the part of the Senate and two on the part of the House of Representatives to make a list of the votes as they shall be declared." The latter words, "as they shall be declared" are those which my friend proposes to strike out. I cannot agree with him that the intendment of those words in any way conveys the idea of a release of power or control over the count by the two Houses of Congress. If I thought so, I should vote for his amendment; but I do not see any necessity, in view of the fact that the resolution now before the Senate has a precedent, following straight in the line of the unbroken usage and history of the Government, for changing words to which no such meaning has been attached and from which no such effect can be logically deduced as my friend from Connecticut seems to apprehend.

From the foundation of the Government down to the present day, from the first counting of the electoral votes for George Washington until the last count in 1877, no case can be found in which the control of the count of the vote, the ascertainment and declaration of that vote, was not wholly and solely controlled by the two Houses of Congress. There never has been a day in the history of this country when it was conceded by any one act in that history that the Vice-President of the United States *ex officio* presiding officer of this body, or some other officer appointed by the Senate, and by the Senate alone as the President *pro tempore*, has undertaken to control or ascertain the electoral votes given for President and Vice-President. Therefore it would be a solecism, worse than a solecism, it would be a fatal precedent changing the very genius and character of this Government whereby the action of a whole people proceeding under an electoral system should dissolve itself in the will, the caprice, the power of one man. Sir, when the day may come that one man shall undertake of his own will to decide what has been the result of an election and to count or not count the proofs of a people's action, then the shadow of a republic will exist, but the substance of an imperial government.

In the present case I do not propose to prolong the discussion by considering whether the two Houses may act under a joint rule, an action by consent for them to put in operation the powers vested in them by the Constitution, or whether it should take the form of legislation. I do not propose to enter upon that subject. There are obvious reasons why the executive power of this Government ought not to have voice or control in the choice of its successor. The history of this Government is against it; the reason of this Government is against it. When the two Houses are exercising this great power, whatever it may be, it is not a power of legislation; it is the power of which they are the special constitutional depositaries, and they act in it without the consent and beyond the control of the executive branch of the Government. And such has been the history of this Government until 1876, when under the form of law a special act was made to meet a time of great peril and public anxiety. That act has passed into history so far as its own provisions are concerned, but one precedent was made by that act which was but confirmatory of the history of the Government. Under the act of 1877 the control of the counting and the ascertainment of the votes for President and Vice-President was assumed by and wholly committed to the two Houses of Congress, to the exclusion of the presiding officer of the Senate. It is true that they chose to delegate their powers, for convenience' sake, to the decision of an electoral tribunal, two-thirds of which was drawn from the

two Houses of Congress and the other third from the Supreme Court of the United States. They delegated to that tribunal all the powers of the two Houses in judging of the competency of the electoral votes; that is to say, they were to ascertain and declare which were the votes provided for by the Constitution; but the finding of that electoral tribunal was not final; it was reversible by the joint action of the two Houses; and therefore it was but a delegation *sub conditione*. The matter came back again to the two Houses, who had the power to set aside any finding of that tribunal, which had been created for the purpose of the more convenient argument and decision of vexed questions, reducing the number of the court for the purposes of administrative convenience.

In the present case a joint rule was adopted a year ago by the Senate and sent to the House of Representatives, from which it has not returned. Further than that I have no parliamentary right to speak. It has not been adopted. That rule has been discussed in this body. It assumes no new control over this subject. It did attempt to provide for certain dangerous contingencies and to settle them in an orderly, lawful, and just manner. I do here aver that the joint rule which passed the Senate in May, 1880, is in my judgment in perfect consonance with and subordination to the spirit and letter of the Constitution, and in accordance with the usage and precedent of congressional action over the subject of electoral votes; but it has been declared to be otherwise, and the country has been misinformed upon the subject. There has been misrepresentation by the public press and elsewhere upon this subject, so that an obstruction has been created to the orderly count of the vote under that rule by the two Houses; and there it stands.

Then what is the duty of the Senate? What is the duty of every man, whether of the minority or majority party of the Senate? In my judgment it is plain: to do that which under the circumstances will in the best manner promote the honest declaration of the last presidential election, and give to the candidates who have received the highest number of electoral votes such a declaration as shall place them fully, substantially, fairly in the offices to which they have been elected. That is all there is of it. That is all that the present action under this resolution is designed to effect. It proposes that we shall not meet as a mob or meet without pre-arrangement, but shall meet in accordance with that decent, orderly, respectful precedent, which is the line of our country's history, and proceed to make declaration of the great powers conferred by the act of a great people in a simple and yet in a dignified and orderly manner. This resolution has that intent and no more. It has that object and none other. The language in which it is couched is that which time has shown has subserved similar purposes in the past. Why, then, not follow it?

When the question comes before the Senate now or at any time, whether it is competent for the Vice-President to assume this power, whatever it may be, which the Constitution has given to the two Houses to assume to declare, to control, to ascertain the result made by the action of the electoral colleges throughout the country, I shall then stand in firm opposition to such an idea, contesting it at every point as revolutionary and dangerous, and I shall stand with the solid history of this country at my back to prove that when such an act shall be attempted it will be a violation of the history of the country, of the constitutional rights of the two Houses, and in the face of the spirit of representative popular government.

I have said this much to explain why it is I shall not vote for the amendment of the honorable Senator from Connecticut. I wish by taking a precedent so consecrated by time and usage as that which has been brought into the Senate, that all opportunity for cavil or for denial shall be taken from those who I am afraid to think have sought occasions for both. I do not wish that there should be room left for doubt as to what is the purpose of the majority of this body in bringing forward a resolution like this. It is to act upon a resolution which has been time tried and tested, every word of which has been weighed, and the consequences of which have been known. It is that there shall be nothing new, nothing left to morbid imagination or to just suspicion, but that by following the language which has led and controlled in the times of the past, we may know as near as men may know what is to be the result of its use in the future. I have no other view than that; I am clear that those who are present on this side have not; and I beg my friend from Connecticut to believe that there is nothing in the intent which he supposes attaches to this language that can for a moment be a basis for the argument that there is a suggestion that the power exists in any one man in this Government, the Vice-President of the United States or the President *pro tempore* of the Senate, to ascertain and control the count of the electoral votes except it is under the power and control of the two Houses of Congress.

Mr. EATON. Mr. President, I have no doubt of the entire honesty and purity of the honorable Senator from Delaware; I have no doubt that he entirely believes that the passage of the resolution as offered by the committee is all that the public ought to demand; but I beg to say that I differ with him in that matter, and honestly differ. My friend says that four years ago, in the case of the Electoral Commission, the constitutional powers belonging to the Senate and House of Representatives were delegated to a body unknown to the Constitution, and that even then they took steps to determine that that body would not permit the Vice-President of the United States or the President of the Senate to use this power. Why take any steps to do it if that has been the order and rule of the Government for three-quarters of a century? If it was necessary to do it in the establishment of an Electoral Commission in 1877, why not do it now, and let it stand as a precedent for all coming time?

The honorable Senator from Delaware says that there never has been a time, from the inauguration of George Washington down to the present time, when any power of this sort was given to a Vice-President, or a President of the Senate, or any other body. Perhaps the very nature of the circumstances demanded the action, but he surely forgets that the Senate of the United States, or else I am greatly mistaken, before the first inauguration of General Washington did appoint an individual whose sole duty was to count and declare the vote.

Mr. BAYARD. My friend is right in the letter but not in the spirit. The Senate did pass a resolution appointing John Langdon the President *pro tempore* of the Senate for that purpose only.

Mr. EATON. I understand it.

Mr. BAYARD. But that was before the Government was organized. There must be a time to set machinery in motion before you can speak of the principle on which the machinery proceeds.

Mr. EATON. I believe I observed that it may have been absolutely necessary for the Senate to do something, but they did assume a power that was not given them by the Constitution when they did it.

Mr. BAYARD. But even John Langdon was the appointee of one of the Houses of Congress. If he could have acted *ex mero motu*, by his own power, they could not have intended to require of him to attempt this thing as the agent of the Houses of Congress. The idea I wish to convey is that whatever power has been exercised has either been by the two Houses, or by those who were their appointees, and there never has been an origination of action on the part of the Vice-President, or anybody else, in relation to this count. The power has proceeded originally from the two Houses whenever this subject came up. If there were tellers to be appointed it was by resolution of the Houses. If the two Houses were to meet it was a resolution of the two Houses that caused them to meet. When did the Vice-President ever summon the two Houses to meet him? They always summon him to meet them; that is to say, they have brought him as the ministerial agent, with the certificates in his possession, to open them in their presence, and then they were counted under their control.

Mr. EATON. I propose to keep it there.

Mr. BAYARD. I propose so, too.

Mr. EATON. My amendment does that, and you will not have any ponton bridge to pass over four years hence, about which my friend from Georgia speaks, if you adopt the proper language of the Constitution.

Mr. HILL, of Georgia. We will put down an iron bridge before the next four years.

Mr. EATON. Either my friend from Delaware is greatly mistaken or I am. I see the honorable Senator from Vermont takes a book in his hand; I have not referred to the fact in years, but in my judgment the Senate did assume of itself to appoint John Langdon to count the votes, without going to the House of Representatives and asking them to join in that count at all. If my friend from Vermont has it, I shall be glad to hear it. If I am incorrect, I wish some Senator who has a recollection of the matter would state the fact.

Mr. BAYARD. There is a record of it.

Mr. EATON. There is a record of it, I suppose, and my recollection of that record is that it was the action of the Senate alone and by itself, without any action upon the part of the other House.

Mr. INGALLS. May I read the order for the information of the Senator?

Mr. EATON. I should be very glad to hear it.

Mr. INGALLS. It is as follows:

*Ordered*, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice-President of the United States; and that the Senate is now ready in the Senate Chamber to proceed, in the presence of the House, to discharge that duty.

Mr. EATON. Exactly; just as I supposed it was; precisely word for word; absolutely. The Senate appointed John Langdon to do a certain thing, and that was to open and count the votes. They did not ask the House of Representatives to join with them in appointing John Langdon, but they notified the House of his appointment.

Mr. BLAINE. Will my friend submit to another interruption in aid of his argument?

Mr. EATON. Certainly.

Mr. BLAINE. The Senator from Kansas did not read quite all, and left out a very significant part:

And that the Senate have appointed one of their members to sit at the Clerk's table to make a list of the votes as they shall be declared; submitting it to the wisdom of the House to appoint one or more of their members for the like purpose.

That is, they might do it if they chose, but the Senate would go on whether they did or not.

Mr. EATON. Certainly, the Senate assumed to do it. I am very well aware that that was the commencement of the Government, and that therefore there must have been certain action taken at that time that would be utterly indefensible now.

Mr. EDMUNDS. Why so?

Mr. EATON. If my friend really and honestly asks me "why so,"

I would ask him if he proposes to pen a resolution appointing the President of the Senate to go into the House of Representatives and count the votes, or if he proposes to send a messenger to the House of Representatives that they may come in here if they please and witness a count of the votes for President and Vice-President by the President of the Senate, notifying them that the Senate has appointed him to do it?

Mr. EDMUNDS. I think my friend, the Senator from Connecticut, misunderstood my question or the meaning of it. He was saying that it was a necessity at that time, if I understood him.

Mr. EATON. I did say so. I said it might have been then a necessity.

Mr. EDMUNDS. I was desirous of knowing, there being a Senate and House of Representatives existing, what were the peculiar circumstances that made it necessary that the Senate should pass the resolution that it did in that way rather than the one that has obtained a good deal of the time since, and I asked in perfect sincerity, in order to get the views of the Senator.

Mr. EATON. I suppose it was because they had not yet learned to do the business accurately, giving to each House its proper power, if each House has proper power. I simply alluded to that to show that this thing had once been done in the history of the country. It may be done again. There are Senators on this floor—I know more than one or two; I will not say how many—who believe, honestly believe, that the Constitution of the United States gives the President of the Senate, not only the right to open the certificates, but to count the votes. My friend does not; I do not. Men of high character, good lawyers, honest men, patriotic men do assert that right; and therefore I say that the majority of the Senate, if they believe as I believe, ought always to stamp their disapprobation upon such a theory. It may be necessary to adopt a constitutional amendment in order that this matter may be properly and finally determined. I do not know but that my honorable friend from Maine is right in that regard. I know I suggested four years ago that, in my judgment, in order to settle this matter beyond all question, there should be a constitutional amendment; and then honest men, patriotic men, would not differ with regard to the meaning of the Constitution. There is a difference now. My friend from Delaware entertains an opinion different from mine. Very likely he is correct; very likely I am wrong; but I must be governed by my own convictions of constitutional right and constitutional law, however weak I may be, and however wrong those convictions may be.

I would do what is necessary to-day not because there is any doubt with regard to who will be declared elected President and Vice-President; I have no doubt, no sane, sensible man has any doubt on that subject; but in God's name let us do it right. Set a precedent, establish a rule, and let us all vote for it, a rule that determines that the officer presiding over this body has nothing to do with the count of the votes. Let it go down to our successors. My public life will be over in thirty days. I go out of this body never to return, never under any circumstances. My public life is ended. I go out of it devotedly attached to the Constitution of our common country. I shall make no motion, offer no amendment, utter no word that in my judgment is not necessary in order to maintain that instrument in its full power and to maintain the honor of our common country.

Mr. President, if I vote alone, I shall vote against the resolution as it is constituted, hoary though it may be with age, covered all over though it may be with the barnacles of the past. I will not vote for it any more than I would vote, if I were here four years hence, for another electoral commission. God help us, there is precedent for an electoral commission.

A word now in regard to a remark made by the honorable Senator from Ohio. He says if he had lived seventy-five years ago and had been called upon to draw a resolution on this subject, he would not have drawn it as this is. He ought not to draw it now, then. With the experience of seventy-five years, let a change be made. If it was wrong then, it is wrong now. Age does not make it right. Why would he have drawn it differently? Because it does not express his opinion, I apprehend, and for no other reason.

Then, how did he meet my amendment? He met my amendment in this way, with this language, that under no circumstances would he vote for my amendment, because there might be a bogus return coming here from Oregon or somewhere, and that bogus return would be opened by the President of the Senate. What has that to do with my amendment? If there are forty bogus returns, they have nothing to do with it. When a bogus return is read, as it may be, either under my amendment or under the resolution without my amendment, the two Houses will object, and that will be the end of the bogus return. It has nothing to do either with the original resolution or with the amendment which I have had the honor to offer. It does not meet the question.

I did not intend to detain the Senate for the time that I have consumed, but before leaving the floor I want to say one word further in regard to another part of this resolution. My friend from Georgia—and he knows how highly I esteem him—and my friend from Ohio have both said that the vote of Georgia cannot be counted. Now, I agree with my friend from Arkansas and my friend from Florida who have spoken on that question. I am not going into the argument of the question. I think I can sustain them beyond a doubt, or a possibility of contradiction in my own mind that the vote of Georgia has a right to be counted, that a declaratory law of Congress cannot disfranchise a million of people, that a mere declaratory law of Congress cannot disfranchise New York, Pennsylvania, and Massachusetts if they happen to err in the day on which they voted. But I will not take time. I simply wish to say that I agree with my friends from Florida and Arkansas.

Mr. HILL, of Georgia. Will my friend from Connecticut allow me to ask him a question?

Mr. EATON. Certainly.

Mr. HILL, of Georgia. I concur fully with him that no law of Congress can disfranchise a State; but may a State not fail to make her vote available by her own failure to comply with the law?

Mr. EATON. I have not time to argue the question now; but I want to say just this one word, and I want to commend it to my friend from Georgia and my friend from Ohio, and that is, if the vote of Georgia was cast a week behind time, born a little too late, if the vote of Georgia would have elected Winfield Scott Hancock President of the United States, we would have found a way to count that vote. I will not argue the constitutionality of the question to-day at all; but agreeing as I did in a great deal that was said by my honorable friend from Maine, I rather think that the distinguished Senator from Ohio and my good friend from Georgia and I and all the rest of us would have found some way to count that vote.

Mr. BLAINE. Mr. President, I agree very cordially with the last remark of my friend from Connecticut, and if there had been a republican majority on this side—I want to match him in frankness—we should have found overwhelming reasons for rejecting the vote of Georgia. [Laughter.]

The Senator from Alabama spoke in rather reproachful terms that I had done nothing in regard to what I had stated was a great public want.

Mr. MORGAN. I beg to say to the honorable Senator that I was apologizing for him; I was not reproaching him.

Mr. BLAINE. I do not know that a committee can be appointed now to reach over the recess; but I give notice that on the first day of the spring session of the Senate, as there will probably be one, I shall move for the raising of a committee of the Senate—of which I am not willing to be a member—a committee of five, to sit during the recess and report on the first Monday of December next a remedy for this evil. I am going to make it an impartial committee. I want to have two republicans on it and two democrats, and the Senator from Illinois [Mr. DAVIS] for chairman. [Laughter.]

That will be organized as fairly as the electoral commission, to say the least; and then if I could instruct that committee, I would say, in answer to the intimation of the honorable Senator from Delaware that I should be a member, that nothing but a constitutional amendment can remedy the difficulty, and one of the first points of that amendment should be that, whereas the electoral system of counting must be maintained, yet I believe that one of the first steps should be to allow the voter of this country to put the name of the President and Vice-President on his ticket for whom he votes instead of doing it through the medium of electors. California was honestly carried by Hancock. Why should Hancock be deprived of one of the votes of California because there was a prejudice against Judge Terry?

Mr. EDMUNDS. It was because the voters preferred to have Garfield President than Terry elector.

Mr. BLAINE. Yes, but that is not a fair consideration, even if you admit the force of it, which would be a very great stretch of the imagination. Garfield honestly carried Indiana, and yet by a mere sliding up and down of one of the names of the electors, he came very near being deprived of a vote there. This election was not so close that a single vote here or there made any difference; but it was the single elector over which we had the fight in 1876; and had either of these incidents occurred in 1876 it would have caused great convulsion in the country. There is not one voter in the United States out of every ten, taking the people by and large as we run, who understands the electoral system or ever gave any attention to it. Those who have stood around the polls on election day, as all good citizens ought to do, have not failed to note when an intelligent man comes up and asks for a ticket and you hand it to him, he is very apt to say, "I want to vote for Garfield; I do not see his name here." Another man wants to vote for Hancock; why should he not have the right to do it directly.

I undertake further to say that in as large a State as New York or Pennsylvania or Ohio or Illinois, where the electoral vote runs from twenty-one to thirty-five, there is not one voter in every ten thousand in the State who knows the ticket he votes so far that he can certify the correctness of the names he has voted for—not one. The last week of a campaign now in a presidential election consists largely in placarding every advertising stand in the country with great illuminated names of the electors, and warning every republican voter of the deep, intense villainy of the democracy, who want to slip a wrong name on the ticket; and the democracy, to repay the compliment, have great placards out warning their voters of the intentional scoundrelism of the republicans; and so it goes on both sides.

Mr. EATON. Is there no truth in that?

Mr. BLAINE. I am not discussing that, neither affirming nor denying it. But even if you post up an illuminated list of the electors and hand the ticket to the voter, so few people have ever been trained to the art of proof-reading that not even then would one voter in

twenty-five be able to say in an electoral vote for twenty-five men whether the names were correctly transcribed on the ticket he held in his hand. As long as you maintain the system of voting by electors, just so long you are offering an enormous temptation for all kinds of irregularity, all kinds of trickery, as is practiced to a large extent, and attempted to be practiced to a still larger extent, but happily defeated by the vigilance of one side or the other from proving very disastrous.

That would be the first contribution I would make to this committee, which the Senator from Illinois, I am sure, will gracefully preside over; and the next I would make would be that I would go back to the early system of voting by districts. I do not believe anything else was ever contemplated by the framers of the Constitution. I do not believe that the vote of a State should be submerged when it is about equally divided, by an accidental majority of a few thousand, out of a million of voters, saying that the whole electoral vote of New York shall go either one way or the other. It was a party necessity that overthrew it under the leadership of one of the greatest partisans the country has ever produced, Mr. Van Buren. Things were reversed then. The State of New York was democratic, the city of New York was whig; they were voting by districts and carried an uncomfortable minority for the whig side; but with a general vote that city could be submerged; and so it was done. Now, in the whirligig of time, it has just turned around, and rural New York is republican and the city of New York is largely democratic.

I do not pretend to touch upon the mode of securing a fair count and a fair return; I do not pretend to have digested in one moment upon my feet that which has baffled the ingenuity of so many lawyers and statesmen for these many years, but I am very sure that a committee of this body can be found who will be able to prepare a scheme that, wrought into a constitutional amendment, will guard the future of this country against the dangers which we have been discussing here to-day, and I believe it would give the widest possible satisfaction if the people could have restored to them the district system of voting and the individual voter could have bestowed upon him the right to know precisely who it was that he was voting for, and have the name plainly printed upon his ticket. It is not in the least degree in conflict with counting by the electoral system and harmonizing it precisely as well as though you put the name of a blank man—for the elector has become that merely—upon the ticket, instead of the name of the presidential elector.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Connecticut [Mr. EATON] to the amendment of the committee.

Mr. EDMUNDS called for the yeas and nays, and they were ordered.

Mr. HILL, of Georgia. I simply rise to say that while I concur entirely with the Senator from Connecticut in the amendment he has offered as a separate proposition, yet in view of existing circumstances I apprehend very seriously that the adoption of his amendment in this particular emergency may endanger the passage of the resolution by the time required, and I prefer, as a practical man, not to do that. I think we had better adhere to the resolution as reported.

The Secretary proceeded to call the roll.

Mr. BAILEY, (when his name was called.) I am paired with the Senator from Nebraska [Mr. PADDOCK] on all political questions. I do not know how far that extends, and I prefer not to vote.

Mr. EATON, (when his name was called.) On all political questions I am paired with the Senator from New York, [Mr. CONKLING;] but from the position assumed heretofore by the Senator from New York on this question, I have no doubt that his opinion would coincide with mine, and therefore I vote "yea."

Mr. TELLER, (when his name was called.) I am paired on political questions with the Senator from Georgia, [Mr. BROWN.] As this does not strike me as being a political question, I vote "yea."

The roll-call having been concluded, the result was announced—yeas 27, nays 33; as follows:

YEAS—27.

| | | | |
|---|---|---|---|
| Baldwin, | Eaton, | Logan, | Pugh, |
| Blair, | Edmunds, | McDonald, | Saunders, |
| Bruce, | Hill of Colorado, | McMillan, | Teller, |
| Burnside, | Hoar, | McPherson, | Vest, |
| Cameron of Wis., | Ingalls, | Morrill, | Williams, |
| Cockrell, | Kellogg, | Pendleton, | Windom. |
| Dawes, | Kirkwood, | Plumb, | |

NAYS—33.

| | | | |
|---|---|---|---|
| Allison, | Farley, | Jones of Florida, | Slater, |
| Anthony, | Garland, | Kernan, | Thurman, |
| Bayard, | Groome, | Lamar, | Vance, |
| Beck, | Hampton, | Morgan, | Voorhees, |
| Butler, | Harris, | Platt, | Walker, |
| Call, | Hereford, | Randolph, | Withers. |
| Coke, | Hill of Georgia, | Ransom, | |
| Davis of Illinois, | Johnston, | Rollins, | |
| Davis of W. Va., | Jonas, | Saulsbury, | |

ABSENT—16.

| | | | |
|---|---|---|---|
| Bailey, | Cameron of Pa., | Grover, | Paddock, |
| Blaine, | Carpenter, | Hamlin, | Sharon, |
| Booth, | Conkling, | Jones of Nevada, | Wallace, |
| Brown, | Ferry, | Maxey, | Whyte. |

So the amendment to the amendment was rejected.

Mr. EDMUNDS. I do not rise to offer any amendment but simply to remark that, not wishing to take up time, I did not say anything in respect to my vote upon the amendment proposed by the Senator from Connecticut. I voted for it, however, with pleasure, but for entirely different reasons, as I presume other Senators did, from those stated by the Senator from Connecticut. That is all I wish to say.

The PRESIDING OFFICER. The question is on the amendment reported by the committee as amended.

Mr. EDMUNDS. There is one amendment that I think ought to be made that I presume will not meet with any opposition from the Senator in charge of the measure. The amendment as it now stands is simply this in its opening clause, and that is all to which I shall refer now:

That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881, at twelve o'clock m.

I think it would be well to put in "meridian" there instead of "m.," and I presume there will be no objection to that being changed by unanimous consent.

Mr. MORGAN. Of course not.

Mr. EDMUNDS. Then "and the President of the Senate shall be the presiding officer; that two persons be appointed tellers on the part of the Senate and two on the part of the House of Representatives to make a list of the votes as they shall be declared," &c., without stating what they are, what the votes are for. The committee has followed the resolution of 1837, it is perfectly true; but at the same time it is rather loose. Therefore I move to amend by inserting in the third line of the matter printed in italics after the word "meridian" the words "pursuant to the requirement of the Constitution and laws relating to the election of President and Vice-President of the United States," so as to attach it to the occasion. It is a mere matter of form to make it more clear. It looks rather bald as it is.

Mr. MORGAN. I have no objection to those words being inserted.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the amendment of the committee.

Mr. HOAR. I think that is a most excellent amendment, because it exactly marks the distance which the resolution goes in pursuance of the Constitution and indicates that the remainder of the resolution is not in accordance therewith.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the amendment of the committee.

Mr. THURMAN. I think there is no objection to that.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on adopting the amendment of the committee as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the resolution as amended.

The resolution, as amended, was agreed to. So it was—

*Resolved by the Senate, (the House of Representatives concurring,)* 1. That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881, at twelve o'clock meridian, pursuant to the requirement of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be the presiding officer; that two persons be appointed tellers on the part of the Senate and two on the part of the House of Representatives to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States; and, together with a list of votes, be entered on the Journals of the two Houses.

2. That if it shall appear that any votes of electors for President or Vice-President of the United States have been given on a day other than that fixed for casting such votes by act of Congress, in pursuance of the Constitution of the United States, if the counting or omitting to count such votes shall not essentially change the result of the election, they shall be reported by the President of the Senate in the following manner: Were the votes of electors cast on the —— day of ——, 1880, to be counted, the result would be for A B for President of the United States —— votes, and for C D for President of the United States —— votes; if not counted, the result would be for A B for President of the United States —— votes, and for C D for President of the United States —— votes; but in either event —— is elected President of the United States. And in the same manner for Vice-President.

## PENSION APPROPRIATION BILL.

The PRESIDING OFFICER. The Senate resumes the consideration of the special order, which is the unfinished business that has been laid aside informally, the Indian severalty bill.

Mr. DAVIS, of West Virginia. No; the pension appropriation bill.

Mr. EDMUNDS. What is the pending order, Mr. President?

The PRESIDING OFFICER. The pending order is the pension appropriation bill, for which the Indian severalty bill was temporarily laid aside.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. I hope the Senator from Ohio will withdraw that and let us finish the appropriation bill.

Mr. VOORHEES. If I can get the ear of the Senate——

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio, which is not debatable.

Mr. VOORHEES. Allow me to appeal to the Senator from Ohio for a moment. I may be compelled to be absent from the Senate to-morrow. I desire to submit some remarks, which will occupy about twenty minutes, on the measure proposed to the Senate by the Senator from Virginia, [Mr. WITHERS,] and if the Senate will allow me to do so now, I shall be much obliged.

Mr. THURMAN. There is so much disorder that I cannot hear a word. The Senator from Illinois [Mr. LOGAN] has the floor on the pension bill.

Mr. VOORHEES. I will make the appeal to him when I get a chance. If the Senator from Ohio will withdraw his motion, I shall then ask the kindness of the Senator from Illinois to occupy fifteen or twenty minutes now, because I may be compelled to leave the city to-morrow, and if I can be allowed to be heard to-night I shall embrace the opportunity of doing so, because I suppose the bill will be disposed of to-morrow.

Mr. THURMAN. I withdraw the motion.

Mr. LOGAN. If it can be understood that I shall have the floor, of course I have no objection.

Mr. VOORHEES. Certainly.

Mr. LOGAN. I yield to the Senator from Indiana for that purpose, if the Senate will adjourn when he gets through and let me go on in the morning.

Mr. VOORHEES. Certainly.

Mr. LOGAN. Then I yield to the Senator from Indiana.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, the pending question being whether the amendment offered by Mr. WITHERS was in order under Rule 29 of the standing rules of the Senate.

Mr. DAVIS, of West Virginia. One word before the Senator from Indiana proceeds. The Senator from Texas [Mr. COKE] has very correctly stated to me that the Indian severalty bill was the pending order. The pension bill was taken up by general consent and the other bill laid aside informally. I just want to correct the statement I made, so that no Senator need be under a misapprehension.

Mr. COKE. Mr. President——

The PRESIDING OFFICER. The Senator from Texas has a right to call up his bill.

Mr. COKE. I want it understood that the Indian severalty bill is laid aside informally in order to accommodate the Senator from Indiana on the pension bill.

The PRESIDING OFFICER. The Chair hears no objection to laying aside the pending order informally for the purpose of taking up the pension appropriation bill.

Mr. VOORHEES. Mr. President, thanking the Senator from Ohio and the Senator from Illinois for the opportunity of addressing the Senate at this time, I shall proceed to do so.

The Commissioner of Pensions asks for additional legislation for the purpose of preventing and detecting fraud; and a bill (No. 496) has been introduced at his suggestion and is now offered as an amendment to the pension appropriation bill. This bill provides for the appointment of a lawyer and a surgeon in each congressional district in the United States. There are two hundred and ninety-eight congressional districts, and the bill asks to create five hundred and eighty-four Federal officers.

It provides that in each district the lawyer and the surgeon shall disagree in politics. In other words, that if a republican lawyer shall be appointed a democratic surgeon shall be appointed to watch him, and if a democatic lawyer is appointed a republican surgeon shall stand guard. These examiners and surgeons are to take declarations and testimony of applicants for pensions and witnesses. They must visit each county or city in their respective districts at least three times a year. In addition to this they must visit such places as the Commissioner of Pensions may direct. In case a pensioner or witness is sick, the examiner and surgeon must visit him. The third section of the bill provides the Commissioner may dispense with the services of these lawyers and surgeons whenever he may desire.

The next section provides for a board of surgeons, and the following section provides that the declaration for pensions or bounty land may be made precisely as it now is. The seventh section makes the Commissioner supreme, and the eighth provides for the appointment of a kind of surgeon-general for the Pension Bureau with a salary of $2,500 per annum. The presumption is that this surgeon-general is to have the final say upon the question of disability in each case.

You must not forget that this additional legislation is asked on the ground that there is not sufficient law at present to make it possible for the Commissioner of Pensions to prevent fraud. I will call your attention to the law as it now stands, and you can then determine whether any more legislation is absolutely necessary for the discovery of fraud.

Section 4744 Revised Statutes is as follows:

The Commissioner of Pensions is authorized to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the Government through and by virtue of the provisions of the pension laws, and to aid in prosecuting any person so offending, with such additional compensation as is customary in cases of special service; and any person so detailed shall have the power to administer oaths and take affidavits in the course of any such investigation.

It will be seen that this section authorizes the Commissioner of Pensions to send, if necessary, all the clerks in his office anywhere in the country to investigate any suspected claim, and report to him.

Section 4471 is as follows:

In all cases of application for the payment of pensions to invalid pensioners to the 4th day of September of an odd year, the certificate of an examining surgeon duly appointed by the Commissioner of Pensions, or of a surgeon of the Army or Navy, stating the continuance of the disability for which the pension was originally granted, describing it, and the degree of such disability at the time of making the certificate, shall be required to accompany the vouchers, and a duplicate thereof shall be filed in the office of the Commissioner of Pensions; and if in a case of continued disability it shall be stated at a degree below that for which the pension was originally granted or was last paid, the pensioner shall only be paid for the quarter then due at the rate stated in the certificate. But where the pension was originally granted for a disability in consequence of the loss of a limb or other essential portion of the body, or for other cause which cannot either in whole or in part be removed, or when a disability is certified by competent examining surgeons to the satisfaction of the Commissioner of Pensions to have become permanent in a degree equal to the whole rate of pension, the above certificate shall not be necessary to entitle the pensioner to payment.

The next section, No. 4772, authorizes the Commissioner of Pensions to have a pensioner examined just as often as he desires. It is as follows:

Nothing in the preceding section shall be construed to prevent the Commissioner of Pensions from requiring a more frequent examination, if, in his judgment, it is necessary.

Section No. 4773 is as follows:

The biennial certificate of two unappointed civil surgeons shall not be accepted in any case, except upon satisfactory evidence that an examination by a commissioned or duly appointed surgeon is impracticable.

The Senate will see that by this section, although the pensioner has been examined by two civil surgeons, the Commissioner is not bound to take their certificate unless he has satisfactory evidence that the examination could not be made by a duly appointed surgeon, and even then, under previous sections, he has the right to have the pensioner examined just as often as he may suspect that an examination may disclose anything of benefit to the United States.

Section 4774 is as follows:

The Commissioner of Pensions is authorized to organize, at his discretion, boards of examining surgeons, not to exceed three members, and each member of a board thus organized who is actually present and makes, in connection with other members or member, an ordered or periodical examination, shall be entitled to the fee of $1, on the receipt of a proper certificate of such examination by the Commissioner of Pensions.

It is plain that under this section the Commissioner of Pensions has already the right to organize, at his discretion, a board of examining surgeons consisting of three members, and he can have every pensioner examined as often as he pleases by such board, under the law as it now is.

The next section, 4775, is as follows:

Examining surgeons duly appointed by the Commissioner of Pensions, and such other qualified surgeons as may be employed in the Pension Office, may be required by him, from time to time, as he deems for the interests of the Government, to make special examinations of pensioners, or applicants for pensions, and such examinations shall have precedence over previous examinations, whether special or biennial; but when injustice is alleged to have been done by an examination so ordered, the Commissioner of Pensions may, at his discretion, select a board of three duly appointed examining surgeons, who shall meet at a place to be designated by him, and shall review such cases as may be ordered before them on appeal from any special examination, and the decision of such board shall be final on the question so submitted thereto, provided the Commissioner approve the same. The compensation of each of such surgeons shall be $3, and shall be paid out of any appropriations made for the payment of pensions, in the same manner as the ordinary fees of appointed surgeons are or may be authorized to be paid.

By this section the Commissioner of Pensions can have all the surgeons he wants, and, whenever he deems it to the interest of the Government, he can require them to make a special examination of any pensioner, or of any applicant for pension, and such examination shall have precedence over all others, and if any injustice is alleged to have been done the Commissioner may, at his discretion, select another board of examining surgeons for the purpose of reviewing all cases that may be laid before it; but the decision even of this court is not final unless it is approved by the Commissioner.

Section No. 4777 is as follows:

The Commissioner of Pensions is empowered to appoint, at his discretion, civil surgeons to make the periodical examination of pensioners which are or may be required by law, and to examine applicants for pensions where he deems an examination by a surgeon appointed by him necessary; and the fee for such examinations and the requisite certificates thereof, in duplicate, including postage on such as are transmitted to pension agents, shall be $2, which shall be paid by the agent for paying pensions in the district within which the pensioner or claimant resides, out of any money appropriated for the payment of pensions, under such regulations as the Commissioner of Pensions may prescribe.

This section authorizes the Commissioner of Pensions to appoint all the civil surgeons he may want for the purpose of having the applicants examined whenever and wherever he deems an examination necessary.

You will see that under the section already quoted the Commissioner of Pensions has ample authority to do anything he pleases so far as the examination of pensioners is concerned. Every suspicion he may entertain can be at once verified by any number of surgeons and any number of special agents. At the present time he has at least forty special agents constantly traveling for the purpose of finding evidence of some fraud in some pension claim. The whole business of the office is transacted upon the idea that every application is a fraud, that all affidavits are untrue, and that, as a matter of fact, very few people were disabled in the late war.

In addition to the sections I have already called your attention to, there are others of equal importance. Section 184 is as follows:

Any head of a Department or bureau in which a claim against the United States is properly pending may apply to any judge or clerk of any court of the United States in any State, District or Territory, to issue a subpœna for any witness being within the jurisdiction of such court, to appear at a time and place in the subpœna stated, before any officer authorized to take depositions to be used in the courts of

the United States, there to give full and true answers to such written interrogatories and cross-interrogatories as may be submitted with the application, or to be orally examined and cross-examined upon the subject of such claim.

By this section the Secretary of the Interior, or the Commissioner of Pensions if he is the head of a bureau, may apply to any judge or clerk of any court of the United States, in any District, Territory or State, to issue a subpœna for any witness within the jurisdiction of such court, commanding the witness to appear before any officer authorized to take depositions, and to answer all interrogatories that may be submitted to such witness; and this he has a right to do whenever he suspects that any claim against the United States is fraudulent. And section 186 provides for the punishment of any witness who, when subpœnaed, will not testify.

In order to see how difficult it is to perpetrate a fraud upon the Pension Bureau, allow me to tell you what a man has to do to get it.

First, he has to make an application, and this application has to state his name, age, height, occupation, color of hair, color of eyes, where and when he enlisted, in what company, who were his officers, when, where, and for what reason he was discharged, if he was wounded when and where, the extent of his wound, and, in fact, a full description of himself, of his wound or malady. This must be sworn to before a court of record, and in addition, the applicant has to be identified by two witnesses.

Second. There must be the affidavit of a commissioned officer that the affidavits set forth in the application are true; and if there is no commissioned officer the applicant must produce two of his comrades to swear that such affidavits are true, and they must state their means of knowledge. The application is then sent to the Pension Bureau. The next step is to have it referred to the War Department for the purpose of seeing, first, whether the name of the applicant is on the rolls of the War Department; whether he enlisted at the time he stated, and whether he was discharged at the time stated; whether he was borne on the rolls at the time he is stated to have been wounded, and whether, according to the daily reports he was on hand. The same test is made with regard to his two comrades. If he has ever signed the pay-rolls, that signature is compared with the signature to his application. In the same way his comrades are tested, and in the same way their signatures are compared; and the records must show that the comrades were there at the time. If all this is satisfactory and everything appears to be right, the claimant is then examined by a surgeon of the Pension Office, and then, as a rule, there is a second examination before a board of three surgeons. Not satisfied yet, still suspecting a fraud, the applicant is required to produce the affidavit of his family physician, if he ever had one, or of some physician who has been acquainted with him, showing the condition of the claimant from the time of his discharge from the Army to the time of his application for a pension not only, but his then condition. If he never had a family physician, then he must prove all these facts by his neighbors. If, after all this has been done, the Commissioner of Pensions still suspects that it is not all right, he can then send one of his special agents to examine the applicant and report on his case. If that report is all right and the Commissioner still has a suspicion, he can write to the postmaster in regard not only to the claimant's condition as to bodily health, but as to his moral character and as to the moral character of the witnesses. If not then satisfied he can order the applicant before a special board of surgeons to be appointed by himself.

We must also remember that if, after all this has been done, and the applicant's claim has been allowed and his name put on the roll as a pensioner of the United States, at any time thereafter, whenever a suspicion works itself into the brain of the Commissioner, he can order this pensioner to be re-examined, and can send another special agent, or as many as he may desire, to examine his case.

It seems to me that the Commissioner of Pensions has power enough already, and it is hard to see the necessity of five hundred and eighty-four additional Federal officers. If any considerable number of frauds have been perpetrated upon the Pension Office, with all the power already in the hands of the Commissioner that I have shown to exist, it is not the fault of the law.

I have not time now to describe all that an applicant has to do if she happens to be a widow with several children. The amount of evidence it takes to substantiate a marriage, a birth, or a death, is something absolutely amazing. Every possible and conceivable objection is made, and every flaw is found, so that, as a matter of fact, the greatest misfortune a widow has to contend with after the death of her husband is the prosecution of her claim for a pension.

Another reason, however, urged for the passage of this bill, is the alleged dishonesty of the pension agents who practice before the Commissioner under the law as it now is. Every one of them is entirely and absolutely under the control of the Commissioner himself and the Secretary of the Interior. The Commissioner complains that they practice frauds, and put up jobs on him to the extent of millions of dollars per annum. He has all the power that legislation can give him to detect the guilty and have them punished. He has also the power to stop the practice of any pension agent upon even a suspicion of his integrity. Suppose the judge of a court with a hundred lawyers practicing before him should loudly accuse them, or some of them, of corruption in his court, of forging papers, suborning witnesses, falsifying records, suppressing testimony, and packing juries, and yet should disbar none of the alleged culprits, though with full power to do so. What heed would be given to his charges except in so far as they affected himself. The Commissioner of Pensions has plenary power now, under the law, to strike the name of any attorney or agent from his rolls, shut him out from the Department, prosecute, hunt him down with criminal prosecution, and put him in the penitentiary for his offenses if he has committed any. Let him execute the laws rather than ask for additional legislation.

Sir, the object of this bill seems to be to cast suspicion on all pension claims. Like the pamphlets and letters of the Commissioner, it appears to be saturated with the idea that a pensioner is always ready and willing to commit a fraud on the Government, and that a pension, when he gets it, is a gratuity. I deny this assumption from beginning to end. The pensioners and applicants for pensions are as honest as other men, and have given quite as much evidence of friendship for the Government as those who asperse them. Nor do I regard the payment of his pension as a charity; it is the payment of a debt. A pensioner is a creditor, not a pauper. When the Government pays him his pension it does not bestow alms; it discharges an honest obligation. It is the fulfillment of a contract between the Government and the soldier. The soldier has complied with his part of the contract on the fields of war in hardships, weariness, and pain. His wounds are his vouchers, and such evidence is sufficient for me. Others may take care of the illustrious and the fortunate. They may even create new offices for them and grant them high-sounding titles, but while I have the honor to represent a State upon this floor I shall keep the contract with the wounded, torn, and shattered of the rank and file.

Mr. BOOTH. The Senator from Illinois [Mr. LOGAN] is entitled to the floor. I move that the Senate adjourn.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) Before putting that question, the Chair will lay before the Senate the regular order, which is the unfinished business of yesterday, being the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes. The Senator from Illinois, the Chair understands, is entitled to the floor. Does he yield to the Senator from California?

Mr. LOGAN. I do.

The PRESIDING OFFICER. The Senator from California moves that the Senate do now adjourn.

The motion was agreed to; and (at four o'clock and forty-one minutes) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### WEDNESDAY, *February* 2, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

#### CHANGE OF REFERENCE.

On motion of Mr. CRAVENS, by unanimous consent, the letter from the Secretary of the Interior relative to the Hot Springs reservation in Arkansas, referred on yesterday to the Committee on the Public Lands, was directed to be referred to the Committee on Appropriations.

#### REVOLUTIONARY BATTLE-FIELD OF BENNINGTON.

Mr. JOYCE. Mr. Speaker, I ask unanimous consent to take up at this time Senate bill No. 1505, relative to the revolutionary battle-field of Bennington.

The SPEAKER. The bill will be read, after which the Chair will ask for objection.

The bill was read. It is as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be authorized, and is hereby directed, to pay to the governor of the State of Vermont the sum of $40,000 out of any money in the Treasury not otherwise appropriated, to be by him transferred to the Bennington Monument Association, which has raised an equal amount, for the erection of a proposed monument to commemorate the revolutionary battle of Bennington.

SEC. 2. That no moneys shall be paid out of the Treasury for the benefit of such association until the design for its monument shall have been approved by the President of the United States, or by a commission appointed by him for the purpose, and a board of three Army officers appointed by him shall have reported to him that the moneys already raised, together with the sum hereby appropriated from the Treasury of the United States, shall be sufficient to complete the monument in accordance with the design approved by him or by the commission appointed by him.

Amend the title so as to read, "A bill relative to the revolutionary battle-field of Bennington."

The SPEAKER. There being no objection to the present consideration of the bill, the question is on the third reading of the Senate bill.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. JOYCE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM R. WILMER.

Mr. HENKLE. Mr. Speaker, I ask unanimous consent to call up for present consideration House bill No. 301 for the relief of William R. Wilmer, and move to discharge the Committee of the Whole on the Private Calendar from the further consideration of the same, and ask that it be put upon its passage. This bill has been before the House for six years, and it is important that action should be taken upon it speedily.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill was read. It is as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he is hereby, authorized, in adjusting the accounts of William R. Wilmer, late collector of internal revenue for the fifth district of Maryland, to credit him with the sum of $1,813.54, that being the amount in value of internal-revenue stamps and cash of which the safe in his office was robbed by burglars on the night of the 27th of April, 1875, and which have not been recovered: *Provided*, That it shall appear to the satisfaction of said Secretary that said Wilmer was robbed without any collusion or privity on his part.

Mr. HENKLE. I ask that the report accompanying the bill be read, which explains the facts in connection with it and the finding of the Committee on Ways and Means.

The report was read.

Mr. ROBINSON. I would like to inquire, Mr. Speaker, of the gentleman from Maryland, as I do not quite gather from the reading of the report, whether the $1,000 in question is included in the relief to be afforded by this bill? It is plain that the stamps lost are provided for; but I have forgotten the exact language of the bill in that respect as to whether provision is made for the money lost or not.

The SPEAKER. The bill will be again read.

The bill was again read.

Mr. ROBINSON. It is plain that it does not provide for that.

The SPEAKER. The Chair presumes the cash lost was funds belonging to the Government.

Mr. ROBINSON. The report so alleges, but the bill does not propose to give any relief whatever on account of that item.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PAGE. I shall not object, but desire to state that I have a similar bill on the Speaker's table, and I shall ask to take it up tomorrow morning and pass it.

The SPEAKER. The Chair will be glad, if in his power, to recognize the gentleman to make such request.

Mr. BRAGG. I object.

PORT OF GALVESTON, TEXAS.

Mr. JONES. Mr. Speaker, I ask unanimous consent, at this time, to present a memorial of the State Legislature of Texas; and ask that the same be read, printed in the RECORD, and referred to the Committee on Commerce.

Mr. VALENTINE. I hope the gentleman will allow it to be simply printed in the RECORD, and not ask to have it read at this time.

The SPEAKER. If there be no objection the memorial to which the gentleman refers will be printed in the RECORD, and referred to the Committee on Commerce.

Mr. JONES. Very well. I have no objection to that.

The memorial is as follows:

Joint resolution regarding the port of Galveston.

Whereas the State of Texas and the States and Territories north and west of it comprise a vast extent of country possessing great and varied resources which are being developed by a rapidly increasing population, whose immense grain, cotton, and other productions require cheap and adequate communication with the markets of the world, which cannot be afforded by long and expensive land carriage, the most important interests of producers and consumers demanding a near outlet to water transportation; and

Whereas the port of Galveston is the nearest practicable port for said region to the markets of South America, Mexico, Europe, and the Atlantic coast, only requiring, in order to furnish accommodations for all present and future commerce of those States, that its bar be deepened so as to admit vessels drawing over thirteen feet of water; and

Whereas commercial justice requires that the Federal Government should afford proper facilities for the protection and development of the commerce of the South and West, as well as cultivate trade relations with Mexico and South America; and

Whereas the improvement of Galveston Harbor is a matter of national importance, which fact is being realized, as in part appears from a bill recently introduced in Congress by Mr. H. PRICE, of Iowa, and Mr. THOMAS RYAN, of Kansas, setting forth the necessities for the work and providing for an appropriation of $1,000,000 to be used in deepening the channel over the bar into the harbor of Galveston for admission of ocean steamers drawing twenty-six feet of water, which action is appreciated by the people of Texas: Therefore,

SECTION 1. *Be it resolved by the Legislature of the State of Texas*, That our Senators be instructed and our Representatives in Congress be requested to urge by all proper exertions the early passage of said bill, and such other measures having the like object in view, which they may deem expedient, in addition to the current appropriations which their earnest efforts have already secured for that purpose.

SEC. 2. *Be it further resolved*, That the Legislatures of Kansas, Missouri, Nebraska, Colorado, New Mexico, Arizona, Arkansas, Iowa, and all others that are interested, be, and are hereby, requested to take into consideration the same subject, and take appropriate action for the advancement of their agricultural and commercial interests, by aiding in the accomplishment of this work, by memorializing Congress, and by such other means as they may think advisable.

SEC. 3. *Be it further resolved*, That the governor of Texas be requested to transmit copies of these resolutions to the governors and Legislatures of the States named, and ask their co-operation, and also to transmit copies hereof to our Senators and Representatives in Congress.

SEC. 4. The fact that the Legislatures of several of the States mentioned in this resolution are in session, and the Congress of the United States is in session, and is soon to adjourn, and to be effective this resolution should reach said several legislative bodies speedily, creates a public necessity for the suspension of the rule requiring bills to be read on three several days, and creates an emergency that this resolution should take effect from and after its passage, and it is so enacted.

Approved, January 24, 1881.

STATE OF TEXAS, DEPARTMENT OF STATE.

I, T. H. Bowman, secretary of State of the State of Texas, do hereby certify that the foregoing is a true copy of the original joint resolution of the Legislature of Texas regarding the port of Galveston, approved January 24, 1881, the original enrolled joint resolution being now on file in this department.

Witness my official signature and the seal of State, at the city of Austin, the 25th day of January, A. D. 1881.

[SEAL.]

T. H. BOWMAN,
*Secretary of State.*

PETACA LAND GRANT.

Mr. VALENTINE. I ask unanimous consent to take from the Private Calendar for present consideration the bill (H. R. No. 6720) to confirm a certain private land claim in the Territory of New Mexico.

The bill was read, as follows:

*Be it enacted, &c.*, That the private land claim in the Territory of New Mexico known as the Petaca grant, numbered 105, in the report of the surveyor-general of New Mexico, dated February 20, 1875, recommending the same for confirmation, be, and the same is hereby, confirmed to José Julian Martinez and the other claimants named in the juridical possession of said grant: *Provided*, That this confirmation shall only be construed as a quitclaim or relinquishment of title on the part of the United States, and shall not affect the adverse rights of any person or persons to the land so confirmed.

SEC. 2. That the Commissioner of the General Land Office be, and he is hereby, authorized and directed to issue a patent upon the survey of said grant, approved by the surveyor-general of New Mexico December 6, 1878, now on file in his office, upon the payment to the United States of the costs of said survey as provided by law.

Mr. VALENTINE. The report by the committee is unanimous. I ask that it be read.

The Clerk read as follows:

The Committee on Private Land Claims, to whom was referred the bill (H. R. No. 3555) to confirm a certain private land claim in the Territory of New Mexico, beg leave to report:

That this claim is known as the Petaca grant, No. 105, and is situated in the county of Rio Arriba, New Mexico; that under the eighth section of the act of July 22, 1854, (Statutes at Large, volume 10, page 308,) the claimants of this grant filed a petition with the surveyor-general of New Mexico for the confirmation of their title, based upon a grant said to have been made February 25, 1836, to José Julian Martinez and others by Alvino Perez, then civil and military governor of the Territory of New Mexico; that on March 25, 1836, judicial possession was given by José Antonio Martinez, alcalde of the jurisdiction of Santa Cruz del Ojo Caliente, the boundaries being fully described therein in a letter of the honorable Commissioner of the General Land Office of date March 31, 1880, which is herewith submitted as a part of this report.

Your committee are satisfied from all the facts and record in this case that this grant should be confirmed, and therefore recommend a substitute for the bill No. 3555, as suggested by the honorable Commissioner of the General Land Office in his letter before referred to.

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DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., March 31, 1880.*

SIR: I am in receipt of a letter dated 15th instant, from W. W. Reynolds, esq., clerk of the Committee on Private Land Claims, House of Representatives, inclosing, by direction of said committee, a paper entitled "An act to confirm a certain private land claim in the Territory of New Mexico," and requesting an opinion and such information as this office may possess in reference thereto.

In connection with the matter, I have the honor to state that the private land claim in question is known as the Petaca grant, No. 105, in Rio Arriba County, New Mexico.

Under the eighth section of the act of July 22, 1854, (10 Stat., 308), the claimants of this grant filed a petition w th the surveyor-general of New Mexico for the confirmation of their title, based upon a grant said to have been made February 25, 1836, to José Julian Martinez *et al.* by Alvino Perez, then civil and military governor of the Territory of New Mexico. March 25, 1836, juridical possession was given by José Antonio Martinez, alcalde of the jurisdiction of Santa Cruz del Ojo Caliente, the boundaries being described therein as follows: "On the south the entrance to the canoncito and lands of José Miguel Lucero; on the north the hill commonly called the Tio Ortiz hill; on the east the creek of the Aguage of the Petaca; and on the west the boundary of the Vallecito grant."

From the testimony taken by the surveyor-general it appears that this grant has always been settled and occupied, except when the inhabitants were driven off by the Indians, and that the town of Petaca was in existence at the time of the occupation of New Mexico in 1846 by the military force of the United States, and at the date of the treaty of Guadalupe Hidalgo in 1848.

The surveyor-general, in his report of February 20, 1875, states that he has "no doubt that the papers of original title are genuine, and that present claimants are acting in good faith," and therefore recommends "that this grant be confirmed to José Julian Martinez and others named in the act of possession or their legal representatives by Congress." A transcript of this report and of the accompanying title papers and testimony were transmitted by the honorable Secretary of the Interior to each the President of the Senate and the Speaker of the House of Representatives, with his letters of March 2, 1876. Additional evidence in this case was also transmitted to the Speaker of the House of Representatives with your letter of February 6, 1879.

The surveyor-general of the Territory of New Mexico, whose duty it is, under the law, to examine and pass upon the validity of all private land claims in said Territory presented to him for adjudication, having reported that the original title papers in this case are believed to be genuine, I know of no objection to the confirmation of this grant by Congress.

It is proposed by the bill in question to confirm the grant according to a survey approved by Surveyor-General Atkinson December 6, 1878. This survey is on file in this office, and appears to conform substantially to the boundaries named in the juridical possession. It contains an area of 186,977.11 acres, being an average of about 4,350 acres to each claimant. The particular tract awarded to and held by each claimant in severalty does not contain this average, but the surplus contained within said boundaries and not so claimed, it would seem, is held for the common benefit of all.

I inclose a draught of a bill prepared in this office which I would suggest as a substitute for the bill in question.

The letter of Mr. Reynolds and inclosure are herewith transmitted; also a tracing of the survey in question.

Very respectfully,

J. A. WILLIAMSON,
*Commissioner.*

Hon. C. SCHURZ,
*Secretary of the Interior.*

Mr. REAGAN. If this is to give rise to any debate I must object.
Mr. VALENTINE. I do not think it will lead to any debate.
Mr. SIMONTON. Is the bill which has been read the substitute?
Mr. VALENTINE. The committee report the bill (H. R. No. 6729) which has been read as a substitute for the House bill No. 3555. It is the substitute bill which has been read.

There being no objection, the Committee of the Whole House was discharged from the further consideration of House bill No. 6729, and it was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VALENTINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARGES AGAINST INDIAN AGENTS, ETC.

Mr. SCALES. I desire to make a privileged report. I am instructed by the Committee on Indian Affairs to report back, with a favorable recommendation, the resolution which I send to the desk.

The Clerk read as follows:

*Resolved*, That the Secretary of the Interior be, and he is hereby, requested to furnish to the House of Representatives copies of all papers which have been filed in his office during the last eighteen months relating to complaints and charges against any Indian agent, inspector, clerk, or other officer in the Indian service, and to inform this House what, if any, steps have been taken to prosecute the same.

The resolution was agreed to

ORDER OF BUSINESS.

Mr. REAGAN. I demand the regular order.

The SPEAKER. The regular order is the morning hour for the call of committees for reports.

Mr. COX. I move that the morning hour be dispensed with.

The question being taken on Mr. COX's motion, the morning hour was dispensed with, two-thirds voting in the affirmative.

PONCA INDIANS.

The SPEAKER. The Chair asks leave at this time to present a message from the President.

There was no objection.

The message of the President was read, as follows:

*To the Senate and House of Representatives:*

In compliance with the request of a large number of intelligent and benevolent citizens, and believing that it was warranted by the extraordinary circumstances of the case, on the 18th day of December, 1880, I appointed a commission consisting of George Crook and Nelson A. Miles, brigadier-generals in the Army; William Stickney, of the District of Columbia, and Walter Allen, of Massachusetts, and requested them to confer with the Ponca Indians, in the Indian Territory, and, if in their judgment it was advisable, also with that part of the tribe which remained in Dakota, and "to ascertain the facts in regard to their removal and present condition so far as was necessary to determine the question as to what justice and humanity require should be done by the Government of the United States, and to report their conclusions and recommendations in the premises."

The commission in pursuance of these instructions having visited the Ponca Indians at their homes in the Indian Territory and in Dakota, and made a careful investigation of the subject referred to them, have reported their conclusions and recommendations, and I now submit their report, together with the testimony taken, for the consideration of Congress. A minority report by Mr. Allen is also herewith transmitted.

On the 27th of December, 1880, a delegation of Ponca chiefs from the Indian Territory presented to the Executive a declaration of their wishes, in which they stated that it was their desire "to remain on the lands now occupied by the Poncas in the Indian Territory," and "to relinquish all their right and interest in the lands formerly owned and occupied by the Ponca tribe in the State of Nebraska and the Territory of Dakota;" and the declaration sets forth the compensation which they will accept for the lands to be surrendered, and for the injuries done to the tribe by their removal to the Indian Territory. This declaration, agreeably to the request of the chiefs making it, is herewith transmitted to Congress.

The public attention has frequently been called to the injustice and wrong which the Ponca tribe of Indians has suffered at the hands of the Government of the United States. This subject was first brought before Congress and the country by the Secretary of the Interior in his annual report for the year 1877, in which he said:

> The case of the Poncas seems entitled to especial consideration at the hands of Congress. They have always been friendly to the whites. It is said, and, as far as I have been able to learn, truthfully, that no Ponca ever killed a white man. The orders of the Government always met with obedient compliance at their hands. Their removal from their old homes on the Missouri River was to them a great hardship. They had been born and raised there. They had houses there in which they lived according to their ideas of comfort. Many of them had engaged in agriculture, and possessed cattle and agricultural implements. They were very reluctant to leave all this; but when Congress had resolved upon their removal they finally overcame that reluctance and obeyed. Considering their constant good conduct, their obedient spirit, and the sacrifices they have made, they are certainly entitled to more than ordinary care at the hands of the Government, and I urgently recommend that liberal provision be made to aid them in their new settlement.

In the same volume the report of E. A. Howard, the agent of the Poncas, is published, which contains the following:

> I am of the opinion that the removal of the Poncas from the northern climate of Dakota to the southern climate of the Indian Territory, at the season of the year it was done, will prove a mistake, and that a great mortality will surely follow among the people when they shall have been here for a time and become poisoned with the malaria of the climate. Already the effects of the climate may be seen upon them in the *ennui* that seems to have settled upon each, and in the large number now sick.
>
> It is a matter of astonishment to me that the Government should have ordered the removal of the Ponca Indians from Dakota to the Indian Territory without having first made some provision for their settlement and comfort. Before their removal was carried into effect an appropriation should have been made by Congress sufficient to have located them in their new home, by building a comfortable house for the occupancy of every family of the tribe. As the case now is, no appropriation has been made by Congress, except for a sum but little more than sufficient to remove them; no houses have been built for their use, and the result is that these people have been placed on an uncultivated reservation to live in their tents as best they may, and await further legislative action.
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> * * * * * * *
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> These Indians claim that the Government had no right to move them from their reservation without first obtaining from them by purchase or treaty the title which they had acquired from the Government, and for which they rendered a valuable consideration. They claim that the date of the settlement of their tribe upon the land composing their old reservation is prehistoric; that they were all born there, and that their ancestors from generations back beyond their knowledge were born and lived upon its soil, and that they finally acquired a complete and perfect title from the Government by treaty made with the "Great Father" at Washington, which, they claimed, made it as legitimately theirs as is the home of the white man acquired by gift or purchase.

The subject was again referred to in similar terms in the annual report of the Interior Department for 1878, in the reports of the Commissioner of Indian Affairs and of the agent for the Poncas, and in 1879 the Secretary of the Interior said:

> That the Poncas were grievously wronged by their removal from their location on the Missouri River to the Indian Territory, their old reservation having, by a mistake in making the Sioux treaty, been transferred to the Sioux, has been at length and repeatedly set forth in my reports as well as those of the Commissioner of Indian Affairs. All that could be subsequently done by this Department in the absence of new legislation to repair that wrong and to indemnify them for their losses has been done with more than ordinary solicitude. They were permitted to select a new location for themselves in the Indian Territory, the Quapaw reserve, to which they had first been taken, being objectionable to them. They chose a tract of country on the Arkansas River and the Salt Fork northwest of the Pawnee reserve. I visited their new reservation personally to satisfy myself of their condition. The lands they now occupy are among the very best in the Indian Territory in point of fertility, well watered and well timbered, and admirably adapted for agriculture as well as stock-raising. In this respect their new reservation is unquestionably superior to that which they left behind them on the Missouri River. Seventy houses have been built by and for them of far better quality than the miserable huts they formerly occupied in Dakota, and the construction of a larger number is now in progress, so that, as the agent reports, every Ponca family will be comfortably housed before January. A very liberal allowance of agricultural implements and stock cattle has been given them, and if they apply themselves to agricultural work there is no doubt that their condition will soon be far more prosperous than it has ever been before. During the first year after their removal to the Indian Territory they lost a comparatively large number of their people by death in consequence of the change of climate, which is greatly to be deplored; but their sanitary condition is now very much improved. The death rate among them during the present year has been very low, and the number of cases of sickness is constantly decreasing. It is thought that they are now sufficiently acclimated to be out of danger.

A committee of the Senate, after a very full investigation of the subject, on the 31st of May, 1880, reported their conclusions to the Senate, and both the majority and minority of the committee agreed that "a great wrong had been done to the Ponca Indians." The majority of the committee says:

> Nothing can strengthen the Government in a just policy to the Indians so much as a demonstration of its willingness to do ample and complete justice whenever it can be shown that it has inflicted a wrong upon a weak and trusting tribe. It is impossible for the United States to hope for any confidence to be reposed in them by the Indian until there shall be shown on their part a readiness to do justice.

The minority report is equally explicit as to the duty of the Government to repair the wrong done the Poncas. It says:

> We should be more prompt and anxious because they are weak and we are strong. In my judgment we should be liberal to the verge of lavishness in the expenditure of our money to improve their condition, so that they and all others may know that, although like all nations and all men we may do wrong, we are willing to make ample reparation.

The report of the commission appointed by me, of which General Crook was chairman, and the testimony taken by them and their investigations add very little to what was already contained in the official reports of the Secretary of the Interior and the report of the Senate committee touching the injustice done to the Poncas by their removal to the Indian Territory. Happily, however, the evidence reported by the commission and their recommendations point out conclusively the true measures of redress which the Government of the United States ought now to adopt.

The commission in its conclusions omit to state the important facts as to the present condition of the Poncas in the Indian Territory, but the evidence they have reported shows clearly and conclusively that the Poncas now residing in that Territory, five hundred and twenty-one in number, are satisfied with their new homes; that they are healthy, comfortable, and contented, and that they have freely and firmly decided to adhere to the choice announced in their letter of October 25, 1880, and in the declaration of December 27, 1880, to remain in the Indian Territory and not to return to Dakota.

The evidence reported also shows that the fragment of the Ponca tribe—perhaps one hundred and fifty in number—which is still in Dakota and Nebraska prefer to remain on their old reservation.

In view of these facts I am convinced that the recommendations

of the commission together with the declaration of the chiefs of December last, if substantially followed, will afford a solution of the Ponca question which is consistent with the wishes and interests of both branches of the tribe, with the settled Indian policy of the Government, and as nearly as is now practicable with the demands of justice.

Our general Indian policy for the future should embrace the following leading ideas:

1. The Indians should be prepared for citizenship by giving to their young of both sexes that industrial and general education which is required to enable them to be self-supporting and capable of self-protection in a civilized community.

2. Lands should be allotted to the Indians in severalty, inalienable for a certain period.

3. The Indians should have a fair compensation for their lands not required for individual allotments, the amount to be invested with suitable safeguards for their benefit.

4. With these prerequisites secured the Indians should be made citizens and invested with the rights and charged with the responsibilities of citizenship.

It is therefore recommended that legislation be adopted in relation to the Ponca Indians, authorizing the Secretary of the Interior to secure to the individual members of the Ponca tribe, in severalty, sufficient land for their support inalienable for a term of years and until the restriction upon alienation may be removed by the President. Ample time and opportunity should be given to the members of the tribe freely to choose their allotments either on their old or their new reservation.

Full compensation should be made for the lands to be relinquished, for their losses by the Sioux depredations and by reason of their removal to the Indian Territory—the amount not to be less than the sums named in the declaration of the chiefs made December 27, 1880.

In short nothing should be left undone to show to the Indians that the Government of the United States regards their rights as equally sacred with those of its citizens. The time has come when the policy should be to place the Indians as rapidly as practicable on the same footing with the other permanent inhabitants of our country.

I do not undertake to apportion the blame for the injustice done to the Poncas. Whether the Executive or Congress or the public is chiefly in fault is not now a question of practical importance. As the chief Executive at the time when the wrong was consummated, I am deeply sensible that enough of the responsibility for that wrong justly attaches to me to make it my particular duty and earnest desire to do all I can to give to these injured people that measure of redress which is required alike by justice and by humanity.

RUTHERFORD B. HAYES.

EXECUTIVE MANSION, *February* 1, 1881.

NOTE.—The accompanying papers herein referred to are this day transmitted with the message to the Senate.

Mr. SCALES. I move that the message and the accompanying papers when received be printed and referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. CONGER. I ask also that the message be printed in the RECORD.

The SPEAKER. It will be printed in the RECORD, having been read; and it goes into the Journal as well.

POTTAWATOMIE CLAIMS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, in reply to a resolution of the House in relation to Pottawatomie claims.

Mr. SCALES. I move that the communication and the accompanying papers be referred to the Committee on Indian Affairs.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. COBB. I now move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the District appropriation bill.

The SPEAKER. The gentleman from Mississippi [Mr. MONEY] desires to ask the House at this time to pass the post-route bill.

Mr. COBB. I will yield with the understanding that I will be recognized for the motion I have indicated after the gentleman from Mississippi gets through.

POST-ROUTES.

Mr. MONEY. I ask unanimous consent to report from the Committee on the Post-Office and Post-Roads, under instructions from that committee, the post-route bill with amendments for consideration and passage at this time. I move to dispense with the reading. There is no legislation in it except the establishment of post-routes.

Mr. BRIGGS. Is that the printed bill?

Mr. MONEY. It is the printed bill with amendments.

There being no objection, the House proceeded to consider the bill (H. R. No. 7036) to establish post-routes, with amendments.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MONEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DUTIES ON MANUFACTURES OF IRON, ETC.

Mr. TOWNSEND, of Ohio, introduced a bill (H. R. No. 7100) in relation to the duties on manufactures of iron, &c.; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

RIGHT OF SENATE TO ORIGINATE APPROPRIATION BILLS.

Mr. KNOTT. I desire to make a privileged report from the Committee on the Judiciary in relation to the bill (S. No. 1157) authorizing the Secretary of the Treasury to purchase additional lots of ground adjoining the new building for the Bureau of Engraving and Printing. I ask that the report of the committee, together with the views of the minority, be printed and recommitted.

The SPEAKER. This is a report touching the right of the Senate to originate appropriation bills. The chairman of the Committee on the Judiciary asks that the report of the committee, together with the views of the minority and the accompanying papers, be printed and recommitted.

There was no objection, and it was so ordered.

MONROE DOCTRINE.

Mr. KING. I ask unanimous consent that two hours be assigned on Monday next for the consideration of the report of the Select Committee on the Interoceanic Ship Canal, touching the Monroe doctrine.

The SPEAKER. Monday morning cannot be interfered with, that being the day when individuals can move to suspend the rules.

Mr. KING. Then I ask that the two hours be assigned for this purpose on Tuesday next.

Mr. KEIFER. In what form does this come up?

Mr. KING. It is a report from the Committee on the Interoceanic Ship Canal.

The SPEAKER. It requires unanimous consent.

Mr. KEIFER. In what form does it come? Is it merely for discussion?

The SPEAKER. The Chair is not advised. He supposes it is for consideration and discussion. Is there objection?

Mr. COFFROTH, Mr. KEIFER, and others objected.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. COBB. I renew the motion that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of proceeding with the consideration of the District of Columbia appropriation bill.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole House on the state of the Union, (Mr. CONVERSE in the chair,) and proceeded with the consideration of the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of further considering the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes. When the committee rose yesterday it was dividing upon an amendment offered by the gentleman from Virginia, [Mr. HUNTON,] which the Clerk will now read.

The Clerk read the amendment, which was to strike out the following:

For buildings for schools: For the purchase, when necessary, and the erection and completion of three buildings for primary and intermediate schools, two to be erected in the second school division and one in the sixth school division, (county,) $100,000, provided that they shall be contracted for before the 1st day of September next, and finished before the 1st day of August, 1882, to be appropriated as follows, namely: For the second school division, $96,000; for the sixth school division, (county,) $4,000.

For the payment of the Washington school-fund bonds now held by the commissioners of the District of Columbia, $70,630.47; and said commissioners are hereby authorized and directed to cancel and destroy said bonds, and to use said appropriation in the erection and completion of a high-school building. Said building shall be located on that part of square numbered 446 commencing at the rear end of that part of said square heretofore dedicated to school purposes, two hundred feet in width, thence south same width to O street, in Washington City; and said building shall be contracted for and completed within the time fixed for the buildings provided for in the next preceding paragraph: *And provided*, That the plans and specifications for each of said school buildings shall be furnished by the architect of the Capitol and approved by the board of school trustees, and the work shall be superintended by the District inspector of buildings.

And to insert in lieu thereof the following:

And the commissioners are hereby authorized to sell the 3.65 bonds which are held by them in trust as a school fund, amounting to $70,630.47, and apply the proceeds to the erection of two school buildings on sites and according to plans approved by the board of school trustees. Said plans to be furnished and the work to be superintended by the inspector of buildings of the District of Columbia.

The CHAIRMAN. The question is upon agreeing to the proposed amendment.

The question was taken; and upon a division there were—ayes 44, noes 71.

Before the result of this vote was announced,

Mr. HUNTON said: I make the point that no quorum has voted.

Tellers were ordered; and Mr. HUNTON, and Mr. ALDRICH of Rhode Island, were appointed.

The committee again divided; and the tellers reported that there were—ayes 52, noes 96.

So the amendment was not agreed to.

Mr. SAMFORD. I move to amend the paragraph in relation to a high-school building by striking out the words "that part of square numbered 446, commencing at the rear end of that part of said square heretofore dedicated to school purposes, two hundred feet in width, thence south same width to O street, in Washington City," and to insert in lieu thereof the words "such site as the commissioners for the District shall select."

Mr. TOWNSHEND, of Illinois. I desire to offer an amendment to the text of the bill just preceding the portion which the gentleman from Alabama [Mr. SAMFORD] proposes to amend.

The CHAIRMAN. By consent these two paragraphs of the bill are now being considered together.

Mr. TOWNSHEND, of Illinois. And it will be in order for me to offer my amendment when the amendment of the gentleman from Alabama shall have been disposed of?

The CHAIRMAN. It will.

Mr. NEAL. I make the point of order on the amendment of the gentleman from Alabama that the Committee of the Whole has just refused to strike out all the words that are included in his amendment.

The CHAIRMAN. The Chair understands that the Committee of the Whole refused to strike out the entire paragraphs. The proposed amendment is to strike out a portion of one of the paragraphs, and the Chair is of opinion that the point of order is not well taken.

Mr. SAMFORD. Not only does my amendment propose to strike out but a portion of this paragraph, but it proposes to insert that which, in my judgment, will be for the improvement of the rest of the paragraph.

I desire to be distinctly understood as not being opposed to either a high school or to the public schools in this District or in any other section of the country. In my judgment, the time is very near at hand when the main-stay of the popular liberties of this country will be found in the education of its citizens.

I will not now undertake to repeat the arguments made yesterday, because they seem to me to have been exhausted. My amendment still allows the high-school and the common-school buildings provided for by this bill. All it seeks to do is to leave it to the discretion of the commissioners of the District to determine where the high-school building shall be located. I do it in the line of the argument made on yesterday in behalf of the citizens of that portion of this District who desire a market-house on this square.

If my amendment shall be voted down, (which I am free to say I anticipate,) I shall offer no other amendment to this paragraph, judging that the temper of the House is opposed to devoting this square to any other purpose than that contemplated by the Committee on Appropriations reporting this bill.

Mr. COBB. I desire to say but a single word. I submit to this committee that the location provided in this bill for the high-school building is a proper one and in the line of economy. We own the ground, and there is a school building already located there on the ground. As I said yesterday, and as I now repeat, it is proposed to locate a market on the south part of this lot, adjoining the portion on which a public-school building is already located, and one or the other must sooner or later give way, for the two are inconsistent with each other.

Mr. SAMFORD. I do not propose by my amendment to locate a market anywhere. I propose to leave to the discretion of the commissioners of the District where the high-school building shall be located.

Mr. COBB. I understand the proposition of the gentleman. The main fight has been made against this paragraph by those who propose that this lot shall be occupied by a market building instead of a school-house. I submit that it is due to the school interests of this growing city and of the country that this high school shall be located upon this lot rather than a market house, for the reason, as I have already said, that the two are inconsistent, and there is a school building there now.

Now, if we locate a market house upon this square, (which the pending amendment is intended to leave an open question,) we will thereby destroy the usefulness of the school-house already located there, and which has been located there by direction of the commissioners of the District.

This is a matter which we ought to control; it is now within our grasp, and it is our duty to ourselves and to this community not to allow a market house to go upon square 446. As I have heretofore said, there is now a market house southeast of this square, distant a little less than three squares, and another market house a little less than three squares northwest of the site on which it is proposed to erect another market house. I say, then, that we ought to stand by the position we have assumed; we ought to carry through this provision of the bill, and do justice to the children of this District and the parents who have children to send to the public schools. The proposition urged in opposition to the provision of this bill is, I believe, a blow at the public schools, and nothing else. I do not believe it is so intended by the gentleman from Alabama, but that is decidedly the effect of his proposition.

Mr. KLOTZ. Mr. Chairman, the whole House knows that I hardly ever occupy its time; for speech-making is not in my line; but I cannot sit here in silence and hear assertions made from such apparently high authority when the parties themselves know the facts are otherwise. I cannot sit silently by and see an effort made by a combination of Shylocks to ruin other people and enhance the value of their own property. I am hurt to think that party lines have to be drawn on a question of education or a question of private right—a question which should be decided by the purest principles of equity, not influenced by considerations of avarice urged by those who are undertaking to advance their own fortunes. I hope that we shall cease to draw party lines on a question like this, and vote for justice and right.

In the first place, the gentleman from Indiana [Mr. COBB] urges that there is a school-house erected on this square, and if a market is put there the school-house must be removed. Let me state that there has been a market on this square for seven years or more, and the school-house which is spoken of is not half finished. The proposition really is to drive away the market for the benefit of the school, not to drive away the school for the benefit of the market.

Seven or eight years ago this square was purchased for the erection of a market. This is the statement made to us by the commissioners. Work was commenced upon the foundations of a market house. The distance is half a mile from the center of this proposed market house to the other market house which is spoken of, the market house on K street. The latter market house has no railroad nearer than a square and a half. This square has street railways on three sides, affording easy communication with any part of the city. This location is already occupied for market purposes by one hundred farmers. There are one hundred and fifty stalls there, which have been occupied for seven years. People from the whole surrounding country come to this place to sell their produce and supply the needs of the public. If a market house be placed on this square, persons can step from the cars directly into the market house and from the market house back into the cars, with their heavy baskets, instead of paying ten or fifteen cents to have their baskets carried a square and a half. This market-house site is on Seventh street, between O and P. The nearest existing market house is on K street, between Fourth and Fifth. It is a distance of half a mile by actual measurement from the center of this proposed market house to the one already erected. A market has already been established on this square.

I will tell you the whole trouble. The K street market was built in a place not accessible by cars, and consequently the investors did not find it profitable. The property was mortgaged; the stock went down to a nominal value. The people controlling one of the national banks of this city bought up this stock at twenty cents on the dollar. Mr. Temple, who is the heir to this property, was last year made one of the school trustees, for the purpose of monopolizing this square and driving away the people who are now using it for market purposes. The object is in this way to enhance the value of the K street market property and its stock. I say that the commissioner who has charge of the schools appointed Mr. Temple one of the trustees; and this is the reason why that commissioner and this trustee work in harmony for the purpose of doing away with the market on this square. A number of persons, many of them Germans, have bought property in the vicinity of this square because of a market being located there, and for seven years have been paying taxes at enhanced assessments because of the dedication of this square to market purposes. But these rich Shylocks are determined that there shall not be a market house there.

[Here the hammer fell.]

Mr. COFFROTH obtained the floor, and yielded his time to Mr. KLOTZ.

Mr. KLOTZ. As I was saying, Mr. Chairman, when the market was started on this square a great many persons, a majority of them Germans, settled around there, opened their shops and built one very large hotel, called the Farmers' Hotel, for the accommodation of farmers. Fifty thousand dollars or more has been spent in this way on real estate. These people have their stores, their shops, their saloons if you please. Now it is said we ought not to have a market there, because it will bring these stores, shops, and hotels in front of the school-house. I say that these places were established there seven years ago; and now because these other people cannot come in and get the property at half price, thereby lining their pockets, they want to wipe out this market; they want to throw the trade to the K street market, thus enhancing the value of the stock of that concern, which is held by them.

I repeat, it is an outrage that party lines should be drawn on a question of this kind. I repeat that by actual measurement it is a distance of half a mile from the center of one market to the other. I repeat that a market was established on this square seven years before the school-house was commenced. That school building was begun only last summer.

Why cannot the high school be built on one side of this square, which is three hundred feet long? The proposition is that the school-house shall stand on the north side of the square in the middle of it, and this market building on the south side of the square in the middle, exactly where this German market now stands, where the market people now come from ten or fifteen miles around the city, where this hotel has been erected for the accommodation of the farmers. This market has paid more money to the Government for the last five years than any corporate market in the District of Columbia. I do hope that the pending provision of this bill will not be adopted.

Mr. NEAL. Mr. Chairman, if we were ignorant before of the power that is standing behind and urging the striking out of this provision in the bill certainly the frankness of the gentleman from Pennsylvania has removed any such ignorance on our part. It is the market-men who have possession of Government property and who desire to retain possession of it to the exclusion of every beneficial interest which is here advocating the use of this property for a purpose from which it ought not to be diverted to any other.

Who, I ask the gentleman from Pennsylvania, are the Shylocks? Who are the men who have come and besieged the room of the Committee on the District of Columbia and the Halls of Congress, urging that this property shall be disposed of in the manner he suggests? Whose interests and claims does he advocate upon this floor? I say to this House there is not a single person, so far as my knowledge goes, who ever came before our committee except in open session to ask us to make any disposition of this property whatever. When the question came before the committee in a proper and legitimate way, then we heard all sides, and the majority of the Committee on the District of Columbia resolved that the market house should not be established in this place.

Let me state another fact. When these parties took possession of that square they leased it for a period of two years. They have held possession of it ever since without any renewal of that lease. That is all the claim they have upon it. At most, they are mere tenants at will. You may call them squatters unlawfully in the possession of that property.

I said yesterday that the question which addresses itself to the consideration of this committee is, whether or not we shall use this property eligibly situated for the purpose of the location of this high-school building, or whether we shall allow it to be occupied by these men and compel the school board to go elsewhere, condemn property and pay for the improvements already erected, and put this building there? It seems to me there can be but one answer to this question.

Mr. KLOTZ. Is this the only place in the District of Columbia where a high-school building can be erected?

Mr. NEAL. No; and it is not the only place in the District of Columbia where we can establish a market house.

Mr. KLOTZ. But the market house is there now.

Mr. NEAL. Yes; the market house is there now in the hands of squatters who have no more right than you or I have to that place.

Mr. KLOTZ. They have paid the Government dues for seven years.

Mr. NEAL. I do not care what they have paid to the Government; they have no rights there which this House or anybody else is bound to respect.

It seems to me, Mr. Chairman, there should be but one opinion in this House on this subject, unless there are gentlemen upon this floor who have the Bourbonism of that class referred to by an old gentleman in my own town, "who did not want their children to know more than themselves, and who," he added, "could not know a damn sight less." [Laughter.]

Mr. HENKLE rose.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. COFFROTH'S amendment to the amendment was rejected.

Mr. HENKLE. Is it in order to make a remark?

The CHAIRMAN. Not unless the gentleman moves an amendment to the amendment.

Mr. HENKLE. Very well, then I will move to strike out the last two words. Although I have no desire to have the last word on this question, nevertheless I do wish to make a remark in regard to this high-school question. It is a settled matter that we are to have a high school in this District. We cordially indorse that, and will support it if there is an appropriation for it. This amendment provides the commissioners, in their judgment, shall locate it in the best position. This bill selects and locates it upon this market-house site. I think it is reasonable to infer the commissioners of the District have a knowledge of the necessities of the District as well as the gentleman who has reported this bill.

I want to say here now it is a question of importance, and you ought to think of it dispassionately and keep in sight the welfare of the rising generation of this town. I do say here earnestly, candidly, and dispassionately, without having one farthing of interest one way or the other, that the location in this bill is not a central one. The streets in Washington are named alphabetically, commencing at A and running down to the last letter in the alphabet. This is out upon O street, and you may form some idea from that fact whether it is in a central position or not. It is out on O street, which is on the northern border of the city, and upon the site selected for a market-house to accommodate that particular section of the city. O street northwest is not the central portion of the city. It is far remote from South Washington in the neighborhood of the arsenal and from the eastern branch of the Potomac. It is remote from the navy-yard and that part of the city lying east of the Capitol, a large and populous section of the city. In this section live the poor people who are to be benefited by public education, for whose benefit the system of public education has been established and paid for. Therefore I beseech you to think of the interest of these people and do not establish this school-house in an aristocratic section of the city and remote from the poor people for whom the system of public education was established.

Mr. COBB. I dislike, Mr. Chairman, to detain the House further on this subject of a high school. The school board of this District, composed of nineteen members, unanimously favored the erection of this high-school building upon the site upon which this bill locates it. They have been before the committee and we have heard their suggestions on this subject. When the gentleman from Maryland undertakes to say that this is not a central location he is just mistaken, and that is all about it.

Mr. HENKLE. Will the gentleman allow me to ask him a question?

Mr. COBB. I did not interrupt the gentleman, and I hope he will not interrupt me.

Taking the east and the west this is as nearly a central location as any that could possibly be selected in this city, and it is nearly a central location north and south. The city, as is well known, is growing in the northern and northwestern direction. Now, the school board are unanimously in favor of locating it here, and the necessities of instruction here of this character demand the erection of this building in some such point which has the sanction of the school board. This board is exceedingly anxious to establish it at this point. No place, according to their judgment, is so well adapted for a public school of this kind as this.

Now, I do not desire to take up the time of the committee any further with discussing this matter, and I hope it will come to a vote upon it.

Mr. HENKLE. I withdraw the *pro forma* amendment.

The CHAIRMAN. The question is on the amendment submitted by the gentleman from Alabama.

The committee divided; and there were—ayes 37, noes 80.

So (no further count being demanded) the amendment was not agreed to.

Mr. HUNTON. Mr. Chairman——

Mr. COBB. I hope the gentleman from Virginia will give way a moment, so as to allow me to ask to have two words inserted in the first line of this paragraph, which seem to be omitted from the bill. In the bill as printed the words "of sites," after the word "purchase," in line 471, should be inserted so that it will read, "for the purchase of sites when necessary," &c.

The amendment was agreed to.

Mr. HUNTON. Mr. Chairman, I now move to strike out the first paragraph of this section. It will be observed that there are two paragraphs under consideration in this section. The first, beginning on line 471 and ending at line 480, I move to strike out.

Mr. COBB. Mr. Chairman, I must raise the question of order upon that amendment. The committee has passed that point.

Mr. HUNTON. Oh, no! The gentleman will remember that these two paragraphs are considered as one.

Mr. COBB. I do not understand that we are considering this section in connection with the next one beginning at line 481.

The CHAIRMAN. That was an agreement made on yesterday in committee, to consider both of these together.

Mr. COBB. Very well.

Mr. HUNTON. Provision is sought to be made here for the erection of school buildings and the purchase of sites, in this city. I regret to take up the time of the committee with further amendments, but I believe that it is proper that I should press to a vote the amendment which I now offer. As the bill stands, there is appropriated for the purpose of school buildings in the District of Columbia the sum of five hundred and seventy-odd thousand dollars. The Secretary of the Treasury estimates for the same purpose in the next fiscal year $422,000, so that it is an increase over the estimates of the Secretary of somewhere in the neighborhood of one hundred and fifty thousand dollars to one hundred and seventy thousand dollars. I believe, Mr. Chairman, that it is more than can be properly appropriated in one year for purposes of schools in this district.

Mr. CLAFLIN. Will the gentleman allow me to ask him a question?

Mr. HUNTON. I have only five minutes, and hope the gentleman will not interrupt me at this time.

I say, Mr. Chairman, that this is a larger sum than can be afforded by the revenues of the District in any one year; and while I would not limit the educational advantages to be afforded to the children of this city and of Georgetown, yet I believe that it is to the interest of the District not to appropriate so large an amount during the present year for this particular purpose. I do not believe, sir, that that amount of money can be expended wisely at this time in building school-houses. If my amendment prevails to strike out this paragraph, the only effect on the bill that would result from it would be to limit the building of school-houses to one high school already provided for in the next paragraph and postpone for the present the building of the common-school houses provided for in this paragraph. It is in the interest of the people of this District that the building of the three school-houses provided for here shall be postponed for the present and that we continue to rent, as we are now doing, for a short time longer. And I desire to say further that the committee have already adopted the amendment appropriating $300,000 for the purpose of replacing the rotten wooden pavements; and I apprehend, gravely apprehend, that if one hundred thousand is appropriated for the building of school-houses in addition to the $70,000 already passed upon by the committee for the purpose of building a high school there will not be money enough out of the current revenues of the

District to pay the $300,000 for replacing these pavements. Therefore I ask the committee to postpone for this year the building of these school-houses and continue the renting of rooms as at present only for a little time. There are now in process of erection two new buildings for school purposes, which will be completed and ready for occupancy by the end of the fiscal year; so that when next year comes there will be twenty-four additional school-rooms in the city of Washington, which I apprehend will meet all reasonable demands in that direction; and it strikes me for the present that the bill should be confined to this high-school building and limited in other respects as I have suggested.

Mr. CLAFLIN. Mr. Chairman, I desire briefly to call the attention of the committee to the appropriations made last year for the District of Columbia. The gentleman from Virginia objects to this appropriation, but he will, it seems to me, concede that the amount can be paid by the District of Columbia by a comparison with the amounts paid in a former year. The amount appropriated for 1881 was in round numbers $3,425,000. It is proposed here to appropriate only some three million two hundred and seventy-three thousand dollars, including the amount necessary for the erection of these school-houses. The gentleman says that the appropriation for the repair of the roads and streets amounts to $150,000 more than the amount set apart in the bill, having been increased to that extent. That is true; that has been increased by the amendment of the committee, but I submit to the committee whether it is better for the schools to fail or the roads to fail. It seems to me if there is anything to fail it should not be the schools. Again, the taxes of course, as every gentleman must know, are constantly increasing. Now, the taxes to be applied to the purposes of this bill are the taxes to be collected in 1882, not in 1881, and it seems to me that no reasonable fear need be felt that the revenues of the District will be insufficient for this purpose; that is, to build the school-houses as well as to repair the roads.

It seems to me there can be no reasonable fear but the appropriation will be sufficient for both purposes, to build the school-houses and to repair the streets, which, to be sure, are in bad condition, but not in so bad a condition as the schools are. A large number of the schools are located in basements of churches and all sorts of out-of-the-way buildings, where children are suffering and to which parents are not willing to send their children.

Mr. COBB. We have now the issue made, and it is presented squarely. The gentleman from Virginia [Mr. HUNTON] in his amendment now proposes to strike out two school-houses which are proposed in this bill to be built. He claims that the revenue of the District will perhaps not be able to bear the burden of erecting these two school-houses thus provided for. He gives that as a reason why his amendment should be adopted and that portion of the bill stricken out which provides for the erection of these buildings.

Now, when the gentleman from Virginia was proposing his amendment of $150,000 for the repair and repaving of streets, &c., he presented an estimate by Major Twining, as he said, which will make the revenues amount to about three million six hundred thousand dollars. He now says the revenues will not be sufficient when it comes to building school-houses. If Major Twining is right and if the gentleman from Virginia is right in his quotation from him—and I have the same figures—why, then there will be enough. I did not favor the gentleman's amendment, because I was in favor of fostering the revenues of the District as best I could, giving them such direction as would most benefit the people of the District and save the revenues in the end.

I have before me a map showing where school-houses are located in the locality where we propose to put these two buildings. As I have already stated, the rents amount to nearly eight thousand dollars a year. There are seven school-rooms in this school division that are not fit to-day for the children to go to. They are unhealthy and illy ventilated. There i s not a school building in my State that is as bad as those seven rooms. There is not a school building out of the more than nine thousand in my State which is as bad as seven of these buildings. And, as I have said, we are paying as much as 10 per cent. on the full and complete value of the entire property by way of rents for these rooms. In addition to that we are spending $15,000 a year on repairs, a part of which goes to repair these buildings.

The gentlemen from Virginia has made the issue. It is whether we shall have common schools in this District or not. That is the question we have been fighting on for nearly two days, and the issue is presented squarely at last. Will you build the school-houses or not? If this committee determines we ought not to build, at least I have done my duty. I am for it heart and soul, and regret my friends on this side do not more generally stand by me.

Mr. HUNTON. I move to strike out the last word. I do not desire to detain the committee, and shall only do so for a moment. I am the last man to make the issue on free schools.

Mr. COBB. You are doing it now.

Mr. HUNTON. The gentleman will excuse me; I am not doing that now. The only question is, how we shall accommodate the scholars; whether we shall rent or build school-houses.

As regards the estimates, I am not inconsistent now with the position I took in the early part of the consideration of the bill. The estimates of Major Twining, alluded to by the gentleman from Indiana, will not bring the receipts of the District up to the expenditures of the bill if $170,000 are appropriated for building school buildings. I will give you the figures. Major Twining estimates the receipts of the next fiscal year at $1,698,000, with a surplus added of $21,000 from the current fiscal year. That will bring into the treasury $3,394,000. The amount of this bill as originally reported was $3,272,994. Take that sum from the estimated receipts and there are left $121,000. But the amount added to the bill for the purposes of relaying the rotten pavements of the streets is $150,000; and it is evident the $121,000 would not pay the $150,000. And I submit, Mr. Chairman, it is a much more important thing to have these rotten wooden pavements taken up and to preserve the health of the children and the adults than it is to build fine school-houses for the present accommodation of the children.

Mr. ALDRICH, of Rhode Island. Will the gentleman permit me to ask him a question?

Mr. HUNTON. Certainly.

Mr. ALDRICH, of Rhode Island. If it is so very important for the health of the District that these rotten wooden pavements should be replaced—and I agree to a considerable extent in what the gentleman from Virginia has said as to that—why have not the commissioners expended the money appropriated by Congress for that purpose? Why is there an unexpended balance of $419,000 in the treasury to-day?

Mr. HUNTON. There is not that much by a long way belonging to the replacing of pavements.

Mr. ALDRICH, of Rhode Island. That was the statement that was made the day before yesterday.

Mr. HUNTON. I have the statement of Major Twining, which shows that there are some three hundred thousand dollars to the credit of that fund; and I beg to state that contracts are made now to be executed by the 1st July that will consume that fund.

Mr. TOWNSHEND, of Illinois. And there will be nothing left?

Mr. HUNTON. No; there will be nothing left. I am so informed by the engineer commissioner, that the contracts made and suspended now in consequence of the extreme cold weather, to be completed by the 1st July, will spend every dollar of this balance in the treasury.

Mr. ALDRICH, of Rhode Island. I hope so.

Mr. HUNTON. I hope this amendment will prevail.

The question being taken on Mr. HUNTON'S amendment it was not agreed to.

Mr. TOWNSHEND, of Illinois. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out "three," on line 472, and insert "two."
Strike out "two," on line 473, and insert "one."
Strike out "one hundred," on line 475, and insert "fifty."
Strike out "ninety-six," on line 479, and insert "forty-six."
Strike out all from line 481 to 498 inclusive, so that it will read:
"For buildings for schools: For the purchase of sites, when necessary, and the erection and completion of two buildings for primary and intermediate schools, one to be erected in the second school division and one in the sixth school division, (county,) $50,000, provided that they shall be contracted for before the 1st day of September next, and finished before the 1st day of August, 1882, to be appropriated as follows, namely: For the second school division, $46,000; for the sixth school division, (county,) $4,000."

Mr. COBB. I make a point of order on that amendment.

Mr. TOWNSHEND, of Illinois. What is the point of order?

Mr. COBB. My point of order is that the committee has already passed upon this matter, at least so far as striking out the second paragraph is concerned, and I hold that if my point of order is good against one portion of the amendment it is good against all of it.

The CHAIRMAN. The gentleman from Indiana is mistaken in his point of order. By general consent the two paragraphs are being considered together.

Mr. HUNTON. I would suggest to the gentleman from Illinois [Mr. TOWNSHEND] that the Committee of the Whole is unquestionably in favor of retaining the second paragraph. I would therefore recommend to him to omit from his amendment the portion relating to the second paragraph.

Mr. TOWNSHEND, of Illinois. I will adopt the suggestion of my friend from Virginia, [Mr. HUNTON.]

I have said nothing thus far in regard to this bill, and I would not now say anything if I did not feel it my duty to speak for those whom I represent on this floor and to say a word for those who are not represented on this floor. We are legislating here as the British Parliament legislated a little over one hundred years ago for the American colonies; we are imposing taxation without representation. And when it is remembered that our forefathers testified their abhorrence of that principle on many a bloody battle-field, it should at least serve to admonish us to be very careful about imposing taxation without representation.

There are in this District nearly two hundred thousand people who have no representation on this floor. While the head of each Executive Department of this Government has access to this Hall and can consult with members on matters relating to the Departments no one representing these 200,000 people can obtain admission through the doors of this Hall in order to consult with the members here when legislation is under consideration affecting the interests of the people of this District.

What do you propose to do by this bill, or rather by the portion to which my amendment relates? You propose to impose a tax of $160,000 for building new school-houses. Are they needed in this District? If you will consult most of those who ought I think know

more about that question than any of us here, they will tell you that they are not needed.

Mr. VAN VOORHIS. Will the gentleman allow me to ask him a question?

Mr. TOWNSHEND, of Illinois. Not now; I have but five minutes. I desire to call the attention of members to the fact that thus far the commissioners of this District have not recommended the construction of one of these additional school-houses, and neither has it been recommended by the Committee on the District of Columbia of this House.

Some one in this debate has remarked rather flippantly that it is not necessary to consult the District commissioners. Why not? Can any one here cast any imputation upon their integrity or upon their good judgment? My friend from Indiana [Mr. COBB] has testified truthfully with regard to one of the commissioners. I happen to know them all, and I know them to be good and worthy citizens, and I believe they are judicious and faithful officers deserving of consideration and consultation. They have given a good administration of the affairs of the District and have reduced expenditures, notwithstanding the increase of population since they came into office in July, 1878.

What do those commissioners say? They say it is more important to the health, comfort, and the welfare of the people of this District that the old rotten pavements, many of which were put down under fraudulent contracts, before they came into office, should be replaced with good and substantial paving. The engineer commissioner of the District, in whom my friend from Indiana [Mr. COBB] has confidence as to his judgment upon this question, has said that it is important that these rotten pavements should be replaced. He expresses the sentiment of all those who understand their condition.

I want to call attention to what has been said by an ably edited and popular journal of this District upon this very question, and which ought to receive some attention from members of this House. I hold in my hand an article from the Evening Star of this city. The editor of that paper has been known to me for many years, and I know his statements are worthy of credit. He is a son of Maine, a State of steady habits, of good school-houses, and of an excellent common-school system. I ask the Clerk to read the portion of that article which I have marked bearing directly on this question, and which I believe expresses the sentiments of a very large majority of the tax-payers of this District.

The Clerk read as follows:

At the same time that these sweeping reductions were made in the appropriations for work so largely affecting the public comfort, health, and convenience, the bill takes the large sum of $210,630 from the general revenues of the District for the erection of school buildings, not for general school purposes, but for school buildings alone. And this large amount is appropriated almost entirely for three buildings, whereas it should suffice for the erection of a dozen school-houses of reasonable size, and placed at points most convenient for the use of the greatest number of pupils. But much as school buildings are needed, this is altogether too large a sum to be drawn from the District revenues in a single year for buildings alone, especially as the burden of general school expenses is exceptionally large in Washington. Further, the commissioners are required to place one of these buildings on the site of the present O street market, whereby the city will lose about six thousand dollars revenue. For some reason, not apparent upon the face, it is provided that the plans and specifications for these school buildings shall be furnished by the Architect of the Capitol, although the District has competent architects in its employ for that very service.

Mr. TOWNSHEND, of Illinois. How many school buildings are there in the city of Washington, in the District of Columbia to-day? Does any one know? I am informed that there are two hundred and twenty-four school buildings owned by the District of Columbia. I venture the assertion that there are more school-houses in the District of Columbia to-day than there are in any other city on earth of equal population.

Mr. COBB. I know that the gentleman from Illinois [Mr. TOWNSHEND] does not desire to misrepresent. The number he states includes the rooms also rented for school purposes.

Mr. TOWNSHEND, of Illinois. The gentleman from Indiana is mistaken. I have here a statement obtained from what I regard as reliable authority, from one of the officials of the District government.

Mr. VAN VOORHIS. A question.

Mr. TOWNSHEND, of Illinois. I have not time.

Mr. VAN VOORHIS. Then I call the gentleman to order; he has spoken five minutes.

Mr. TOWNSHEND, of Illinois. I find that there are two hundred and twenty-four school buildings owned by this city. I asked the question particularly, and was told that that number did not embrace any rented school-houses whatever.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARRIS, of Virginia. I will take the floor and yield my time to the gentleman from Illinois.

Mr. TOWNSHEND, of Illinois. I thank my friend from Virginia for his courtesy.

I am the last person on this floor who would oppose the construction of any school-house where it is needed in all this broad land. A portion of the education of my early boyhood I owe to the common schools of the District of Columbia, and I believe I know something about them. And I think I am warranted in saying that my knowledge of the public-school system of the State of Illinois is perhaps equal to that of almost any other citizen of that State. While I regard the public-school system of Illinois as exceptionally good, I am convinced from the examination I have given the subject that in the city of Washington there is as good if not the best common-school system, the best common schools, and the best methods of primary instruction that can be found in any other city or State in this Union.

Why, sir, some Cabinet officers, Senators, members of Congress, and many of the wealthiest citizens of this District have had their children partly educated in the common schools of this District. I submit, therefore, that the common-school system and facilities of this District are good enough. But I come back to the question, is there a necessity for an increased number of school buildings? It may be that the constant increase of population will render it important that provision should be made for an increased number of school buildings. Therefore I propose as a compromise measure on this subject the amendment I have offered. I propose in this amendment that two of the three common-school houses recommended by the Committee on Appropriations shall be constructed—one in the county and one in the very division spoken of by the gentleman from Indiana, where it is said the school buildings are insufficient and unfit to accommodate the scholars. This amendment will save an expenditure of $46,000, which I think ought to be used in replacing these rotten, malaria-generating, death-breeding pavements of this city.

I am satisfied from articles in the press of this city and from my conversations with prominent citizens that if we can progress with the building of school-houses at the rate of one building a year, we shall progress as rapidly as the interests of education and of the tax-payers of this District as well as the tax-payers throughout the country would require or warrant. Bear in mind, gentlemen, that you are not only imposing taxes upon the people of this District, but also upon your own people in your own States. Unless you can show a necessity for these taxes they should not be laid. In the State of Illinois (and my State stands almost at the head of the column in respect to education) I do not believe there is a city or a district where you will find more ample and valuable common-school facilities than in this District. Therefore I am opposed to an increase of the burden of taxation on my own people or the tax-payers of the District, when I feel that such a burden will be unnecessary.

Mr. VAN VOORHIS. I move *pro forma* to amend by striking out the last word. Mr. Chairman, a single fact will upset the fervid argument of my friend from Illinois. This fact is that in addition to all the school-houses in this city we are paying $30,000 annually as rent for insufficient, inconvenient, poorly-ventilated, and unhealthy school accommodations. Thirty thousand dollars is the interest at 5 per cent. on $600,000. If we appropriate $200,000 in this bill for school buildings we save $30,000 a year. Now, I say that this District ought to have school accommodations enough; and we ought not to be paying $30,000 a year as rent for the miserable places which are rented in this city for school purposes.

Mr. ALDRICH, of Rhode Island. As an indication of the value of the statistics given by the gentleman from Illinois, [Mr. TOWNSHEND,] I want to say that according to the report of the board of school trustees for the present year there were two hundred and thirty-eight school-rooms occupied in this District.

Mr. TOWNSHEND, of Illinois. Will my friend allow me a moment? I will not vouch for the accuracy of my statement in regard to school buildings. This morning when I asked well-informed officials the number of school buildings in the District, I was told there were two hundred and twenty-four. I am willing to concede that perhaps I misunderstood my informant; he may have intended to say school-rooms, instead of school buildings.

Mr. ALDRICH, of Rhode Island. I have no doubt that much of the information the gentleman has given is quite as accurate as that to which he has alluded.

Mr. TOWNSHEND, of Illinois. That is the only information I have given.

Mr. ALDRICH, of Rhode Island. There is no reason why we should not make this appropriation for school-houses as reported by the committee, and also the appropriation for pavements as already agreed to. The revenues of the District will be ample for both purposes. This Committee of the Whole has expressed its opinion three, four, or five times already on every question now submitted by the gentleman from Illinois; and I believe there is no occasion for further discussion. I withdraw the formal amendment.

Mr. TOWNSHEND, of Illinois. Mr. Chairman, [Cries of "Vote!" "Vote!"] I wish to say only a word in reply to my friend from Rhode Island. It is possible that I may have been misinformed as to the number of school buildings in the District, but still the point to which I wish to draw the attention of the House is that this amendment provides for two of the three school buildings which the Committee on Appropriations recommend, and in view of what I have already said, should be accepted as a compromise.

Mr. BRIGGS. I rise to a point of order. The gentleman from Illinois has already occupied ten minutes on the discussion of this very question.

Mr. TOWNSHEND, of Illinois. I move *pro forma* to amend by striking out the last two words. In my judgment, Mr. Chairman, the amendment I propose will furnish all the new buildings that the city needs for school purposes, and if adopted it will avoid the necessity for creating a deficiency; for having increased to $300,000 the appropriation for the improvement of streets, if you adopt this bill as it

now stands, there is danger that a deficiency will occur at the end of the next fiscal year. But if my amendment be adopted, all needed funds will be afforded for the improvement of streets and for all school buildings really needed at the present time. I hope that, as a compromise measure, this amendment will be adopted.

Mr. NEAL. Let me correct the gentleman from Illinois. If the House should agree to all that the Committee of the Whole has done on this bill and should leave unchanged this provision for school-houses, the appropriations will be no larger than we made last year, while the revenues we may reasonably hope will largely increase.

Mr. TOWNSHEND, of Illinois. I withdraw the formal amendment to the amendment.

The question recurring on the amendment of Mr. TOWNSHEND, of Illinois, it was not agreed to.

The Clerk read as follows:

HEALTH DEPARTMENT.

For one health officer, $3,000; six sanitary inspectors, at $1,200 each; one food-inspector, $1,200; one inspector of marine products, $1,000; for clerks, $7,000; one messenger, $540; one pound-master, $1,000; and for contingent expenses, including books, stationery, fuel, rent, laborers under pound-master, repairs to pound, and wagon and horse for pound-master, forage, meat for dogs, disinfectants, horseshoeing, and miscellaneous items, $2,500; removal of garbage, $15,000; in all, $40,440.

Mr. PAGE. I move to amend, in line 523, by striking out "2,500" and inserting "3,800" as the appropriation for contingent expenses. Thirty-eight hundred dollars is the amount which was appropriated last year for contingent expenses of the health department; and I am informed that this amount is absolutely necessary for the proper conduct of this office. To reduce this amount about thirteen hundred dollars would seriously cripple that office. I think it poor economy to strike down appropriation for this the most important department in the city of Washington. To cut off $1,300 in the health department of this city, not only in my judgment, but in the judgment of those with whom I have conversed, would seriously cripple it. I hope the amount asked for this year, and which is the amount appropriated last year for this purpose, all of which was used legitimately, and $28 beside paid out of the pocket of the health officer himself—I hope the full amount will be granted to this health office.

I know but little personally of this health officer, but what I hear of him is much to his credit. I understand he is an energetic and able officer, and faithful in the discharge of all his duties. I do not regard it as good economy for this House or for the members who bring their families to Washington to reside for many months during the summer season to have this important branch of the city government crippled in any respect whatever. I believe the full amount asked for and the full amount appropriated and expended legitimately last year should be appropriated for the next fiscal year. I hope the gentleman from Indiana who has this matter in charge will place no obstacle in the way of giving this officer a sufficient amount for the honest and intelligent management of the health office over which he presides.

Mr. COBB. Mr. Chairman, I think the point of order would rule out this amendment if it had been made in time. Last year, when this bill was made up, I presume the attention of the Committee on Appropriations was not called to the general law on the subject. Now, that general law is as follows. I call the attention of the committee to it:

SEC. 8. That in lieu of the board of health now authorized by law, the commissioners of the District of Columbia shall appoint a physician as health officer, whose duty it shall be, under the direction of the said commissioners, to execute and enforce all laws and regulations relating to the public health and vital statistics, and to perform all such duties as may be assigned to him by said commissioners; and the board of health now existing shall, from the date of the appointment of said health officer, be abolished.

SEC. 9. That there may be appointed by the commissioners of the District of Columbia, on the recommendation of the health officer, a reasonable number of sanitary inspectors for said District, not exceeding six, to hold such appointment at any one time, of whom two may be physicians, and one shall be a person skilled in the matters of drainage and ventilation; and said commissioners may remove any of the subordinates, and from time to time may prescribe the duties of each; and said inspectors shall be respectively required to make, at least once in two weeks, a report to said health officer, in writing, of their inspections, which shall be preserved on file; and said health-officer shall report in writing annually to said commissioners of the District of Columbia, and so much oftener as they shall require.

SEC. 10. That the commissioners may appoint, on the like recommendation of the health officer, a reasonable number of clerks, but no greater number shall be appointed, and no more persons shall be employed under said health officer, than the public interests demand and the appropriation shall justify.

SEC. 11. That the salary of the health officer shall be $3,000 per annum; and the salary of the sanitary inspectors shall not exceed the sum of $1,200 per annum each; and the salary of the clerks and other assistants of the health officer shall not exceed in the aggregate the amount of $7,000, to be apportioned as the commissioners of the District of Columbia may deem best.

I have given the health officer more than the general law requires, and it is for this committee to determine whether or not he ought to have more than the bill provides. The amount appropriated last year exceeded the amount required because the attention of the Committee on Appropriations was not called to the general law. Mine certainly was not. This was a new bill; for the first time it was an appropriation bill for the District of Columbia made up and brought in separate and apart from any other appropriation bill. The law which I have read has governed me in regard to the appropriation for this health department, and the appropriations contained in this bill are in accordance with the statute.

Mr. STEVENSON. I desire to say one word in regard to this subject. I concur fully in what has been said by the gentleman from California in regard to this appropriation. The amount proposed by the gentleman from Indiana is not equal to what was appropriated last year for the same purpose. I do not understand the gentleman from Indiana denies that the amount proposed in the amendment of the gentleman from California is identically the same amount which was appropriated for the present fiscal year. The gentleman from Virginia also calls my attention to the fact that it is precisely the amount estimated by the Secretary of the Treasury for the next fiscal year. Therefore, unless the gentleman from Indiana can show some reason for changing the amount, unless he can show the amount appropriated last year was more than was necessary for this health department, then I think this committee ought to be reluctant to reduce that appropriation for the coming fiscal year.

I suggest, Mr. Chairman, this is a matter of great importance. It has reference to the sanitary condition and health of this city. I understand the efficiency of this office, one of the most important in the District—important because it relates to the health of the people here—will be greatly interfered with if this amendment should not prevail.

Let me suggest to the gentleman from Indiana that the statute he has read is not in conflict with the amendment of the gentleman from California, nor is this amount in excess of what is required under that law.

MESSAGE FROM THE PRESIDENT.

The committee informally rose; and the Speaker having resumed the chair, a message in writing was received from the President of the United States, by Mr. PRUDEN, his Private Secretary.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

Mr. HUNTON. I move, Mr. Chairman, to strike out the last word. Whatever I may say on the subject of general economy, I think it is penny-wise and pound-foolish to economize on the subject of health. If there is one thing deserving more attention than another, it is the care of the public health. We have at the head of the health department in this city a most excellent, accomplished, and efficient officer; and I say it is not prudent, it is not wise to cut down the estimates for that department, believed to be important and necessary not only by the health officer himself, but by the commissioners of the District and by the Secretary of the Treasury, who, I believe, has indorsed the estimates of the commissioners, which are identical with the appropriation for the present fiscal year.

The Committee on Appropriations have cut down this appropriation in many particulars, which I fear will cripple the efficiency of that department. There were two food-inspectors in the District of Columbia, and the committee have cut that down to one. I am informed by Dr. Townshend that it is impossible for one food-inspector to discharge the duties of that office.

Mr. STEVENSON. I would like the gentleman from Virginia to state exactly the service the food-inspector is required to perform under the law.

Mr. HUNTON. The inspector of food in the cities of Washington and Georgetown is required to inspect all food sold in those cities. When it is remembered that we have thirteen markets, beside the private markets scattered over every portion of the city, some idea of the extent of the duties may be gathered. The food sold all over both cities has to be inspected by this inspector. It is utterly impossible for one man to perform that duty. It is as much as two men can perform.

Then, again, in reference to the inspector of marine products. There were two originally; now this appropriation proposes to cut it down to one. The duties of the inspector of marine products are such that one man cannot possibly perform them.

In regard to the pound-master. He received $1,200, and the committee have cut it down to $1,000. That pound-master cannot discharge his duties without having a buggy and horse to enable him to get around, and it was because of that fact that two years ago the Committee on Appropriations increased his salary from $1,000 to $1,200. Now the committee proposes to cut it down to $1,000 again. The committee also propose to cut down miscellaneous items from $3,860, the amount estimated, to $2,500.

Suppose, Mr. Chairman, an epidemic should break out in this city. The efforts of this department would be utterly powerless for the want of a few thousand dollars. Is that to be the case? Will this committee allow the people here to be subjected to the possibility of such a calamity? Will they allow this people to be placed in that condition when the health department of the District of Columbia, the commissioners, and the Secretary of the Treasury all say that this amount, $3,860, ought to be appropriated, instead of the amount proposed to be here given? I trust, Mr. Chairman, that whatever of economy the committee may choose to indulge in, that it will not be done at the expense of the health of the people of this District. I beg leave to have read in this connection a letter from the health officer upon this subject.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PAGE. I desire to occupy the attention of the committee for a moment, and I will permit the paper which the gentleman refers to to be read in my time.

Mr. Chairman, the argument of the gentleman from Indiana is the very best that could have been made to show why the committee should increase this appropriation to the amount asked for and to the amount appropriated last year. The only argument he gives is because, he says, that the general law prohibits it. But he goes on to state that last year, in the face of that general law, an appropriation bill was passed which supersedes the general law, and has been so decided, (and the point of order might have been raised against that proposition in this bill,) the effect of which was to increase the appropriation for that special department to a larger sum than he claims was authorized under the general law. Still it has not been denied that that amount was necessary for the proper execution of the duties of that office last year, and that fact is a sufficient argument that the same amount should be appropriated this year.

The gentleman from Indiana acknowledges that the committee exceeded the amount in their appropriations of last year in the face of that law, because of the fact that it was an absolute necessity.

Mr. COBB. Oh, no.

Mr. PAGE. It was asked for; it was estimated for in the estimates furnished the committee, and was appropriated by the committee. There must have been some reason why the committee should exceed the law, because, as the gentleman himself admits, they did exceed it. It is not to be supposed that the committee was ignorant of the law. Now, Mr. Chairman, it is a fact that they did exceed the general law, and appropriated some thirty-eight hundred dollars for this service. We ask the same amount this year, because it has been shown in the management of this office during the last year that this sum of money is absolutely necessary for this purpose. I hope, sir, that the amendment will be agreed to.

Mr. HARRIS, of Virginia. Mr. Chairman, I desire to occupy the attention of the committee but for a moment to read that portion of the general law which the gentleman from Indiana has referred to, and which I claim has no reference whatever to this appropriation, but only limits the pay of the assistants of the health officer. The law says:

> And the salary of the clerks and other assistants of the health officer shall not exceed in the aggregate the amount of $7,000, to be apportioned as the commissioners of the District of Columbia may deem best.

That is the language of the law. It has no reference whatever to the items of miscellaneous expenditures incorporated in this bill, and I hope the amendment will be adopted.

Mr. HUNTON. I ask now to have that paper read which I have sent to the desk.

The CHAIRMAN. Without objection, the paper will be read.

The Clerk read as follows:

The reductions made in the estimates for maintenance of the health department are as follows:

| | |
|---|---|
| One food inspector | $1,200 |
| One inspector marine products | 1,000 |
| From salary of pound-master | 200 |
| From contingent expenses | 1,000 |
| Total | 3,400 |

The removal of one food inspector leaves but one to prevent the sale of unwholesome food in this District. Only two have been allowed heretofore and the only work which could be accomplished was a supervision of the prominent sources of supply. With the District divided into two inspection districts and by constant unremitting labors these two officers have succeeded in doing valuable service, as is evidenced by the large amount of unsound and unwholesome meats, fruits, and vegetables condemned.

It would be impossible for one man to visit more than one-half of the markets alone in the District and inspect food on sale.

Therefore, to remove one, as proposed, would so seriously cripple the service as to render it practically valueless.

The salary of all inspectors should be uniform, I think, as their duties are about equal, both in importance and extent. The inspector of marine products should receive $1,200, as should the pound-master. The salary of the latter officer was fixed at that amount last year upon passage of the law extending the area for the taking up and impounding of domestic animals. He is a bonded officer and the duties are very onerous; the present incumbent has filled the position most acceptably for nearly eight years, and the strict performance of duties pertaining to his office has been the sole means of bringing in a revenue to the District of from $8,000 to $10,000 per annum.

The following statement will show, I think, that the estimate for contingent expenses was based upon a careful calculation as to the actual necessities of the service. The estimate was for $3,800, to include:

| | |
|---|---|
| Rent of office | $780 00 |
| Stationery | 500 00 |
| Blank forms and printing | 750 00 |
| Fuel | 140 00 |
| Forage for pound | 400 00 |
| Furniture | 100 00 |
| Harness, repairs, and blacksmithing | 150 00 |
| File cases | 150 00 |
| Rent of telephones | 117 00 |
| Incidentals—such as gas, ice, food for dogs, and other animals at pound; pay of laborers, disinfectants, drugs, and medicines, for use in cases of contagious disease, general repairs, &c | 700 00 |
| Total | 3,787 00 |

These amounts correspond to expenditures made last year, and the most rigid economy was necessary to get us through. It would be simply impossible for me to pay contingent expenses of this department from the sum of $2,500.

SMITH TOWNSHEND, M. D.,
*Health Officer.*

Mr. HUNTON. I withdraw the *pro forma* amendment.

Mr. COBB. I renew it. Mr. Chairman, I do this to show to the committee that we did not arbitrarily strike down this department, and in order to establish that fact I wish to call the attention of the committee to the language of the Secretary of the Treasury himself. The gentleman from Virginia has stated that the estimates of the commissioners were indorsed by the Secretary of the Treasury. In that I think the gentleman is mistaken, as I will show. The Secretary says this; he estimates this department $3,860. He says:

> This item is $6,140 less than the amount of the commissioners' estimate. The reduction is made in order that the estimate for employés under the health officer may not exceed the amount which the act of June, 1878—

And which I read and to which the gentleman from Virginia has referred—

> authorizes to be expended for that purpose. So long as this act remains in force this office cannot recommend the approval of any estimate for the employés under the health office which contemplates an expenditure in excess of the amount authorized thereby.

That is the language of the Secretary himself. Now, in regard to this health office, I want to say that I have given it some examination as best I could. Provision has been made for three food inspectors; and it is provided in this amendment here that two more shall be appointed, as I understand.

Mr. PAGE. No; my amendment provides that the sum of money shall be increased to $3,800.

Mr. COBB. I will state now that two food or four food inspectors cannot accomplish what seems to be contemplated to be done here.

Now, what can an inspector do? Why, he can inspect meats and vegetables. But how much can four inspectors in the summer season accomplish in the way of inspecting food further than what is brought in here in bulk? An inspector may inspect a mutton now, and in three hours it is spoiled and unfit for use. And it is the same with vegetables and marine products.

Mr. PAGE. My amendment has nothing to do with that.

Mr. COBB. I have looked into this matter and have found that the four food inspectors are unnecessary, and therefore we struck out three of them. I think, looking over the whole field, this department receives under this bill all that is necessary. I know it is claimed by the health officer that he ought to have more; but, in my judgment, from the best investigation I can give to the subject, I think it is enough.

I suppose the health officer is a very good officer. I have not a word to say derogatory to his character as an officer, or in any other way. But I do find this to be in accordance with the usual practice in this District—who are to blame for it I can hardly say—you can not appropriate too much money. However much you appropriate they do not leave any over. They are always expending and always asking more.

It occurs to me what is in the bill will meet all the proper demands of the health department. There are six sanitary inspectors. What do they do? They go around and visit the alleys and make reports.

[Here the hammer fell.]

The *pro forma* amendment was withdrawn.

The question was taken on Mr. PAGE'S amendment, and it was agreed to.

Mr. HAZELTON. I offer the amendment which I send to the desk.

The Clerk read as follows:

> In line 515 strike out the words "one food-inspector" and insert "two food-inspectors," and after "dollars" insert the word "each;" so that it will read: "Two food-inspectors, at $1,200 each."

Mr. HAZELTON. We have learned from the letter which has been read, and also from the argument as made by the gentleman from Virginia and others, the necessity for continuing that number. The necessity of the amendment having been clearly presented to the House, I will not attempt to discuss it further.

The question being taken on Mr. HAZELTON'S amendment, there were—ayes 26, noes 28.

Mr. STEVENSON. I call for tellers.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Illinois, Mr. STEVENSON, and the gentleman from Wisconsin, Mr. HAZELTON.

Mr. HAZELTON. It appears to be the sense of the committee that the amendment will not be adopted. I therefore withdraw it.

Mr. HEILMAN. I offer the amendment which I send to the desk.

The Clerk read as follows:

> In line 519 strike out "$1,000" and insert "$1,200;" so that it will read: "One pound-master, $1,200."

Mr. HEILMAN. I shall only say that this man has to keep a horse in order to get around. His salary was $1,200 last year, and it should be that if anything.

Mr. NEAL. I will say to the committee that a thousand competent men could be got to do this work at the salary provided in the bill.

The question being taken on Mr. HEILMAN'S amendment, there were—ayes 27, noes 35.

Mr. HEILMAN. A quorum has not voted. I call for tellers.

The CHAIRMAN. The Chair will order tellers, and appoints the gentleman from Indiana, Mr. HEILMAN, and the gentleman from Ohio, Mr. NEAL.

The committee again divided; and the tellers reported—ayes 43, noes 26.

Mr. PHILIPS. No quorum.

Mr. NEAL. Who makes the point of order as to a quorum?

Mr. PHILIPS. I make the point of order, and insist on it.

The CHAIRMAN. The tellers will resume their places.

The count was resumed; and the tellers reported—ayes 109, noes 41.

So the amendment was agreed to.

Mr. NEAL. As the committee thinks the pound-master's services are worth so much, I move an amendment that hereafter the commissioners of this District shall pay $2 for common labor.

The CHAIRMAN. At what point does the gentleman desire his amendment to come in?

Mr. NEAL. At the end of this section.

The CHAIRMAN. The gentleman will please reduce his amendment to writing.

Mr. ALDRICH, of Rhode Island. I make the point of order on it.

Mr. HUNTON. While the gentleman from Ohio is preparing his amendment, will he allow the gentleman in charge of the bill to offer an amendment?

Mr. NEAL. Certainly.

Mr. COBB. Since the bill was prepared there has been a law passed creating an inspector of plumbing. I do not know exactly what are the duties of that office; or, rather, I know in what the duties consist, but I do not know as to the amount of labor necessary to perform them. I take it they will require for their discharge a skillful man. I think an appropriation to pay him should be put in this bill, and the sum of $1,800 has been suggested to me. I presume that will be enough.

I know that the gentleman from Virginia [Mr. HUNTON] will not object to an amendment to the bill that adds to the amount of the appropriation. I believe the sum I have named is about the fair amount, and therefore I move that the bill be amended by inserting after the word "dollars," in the first line, the words "one inspector of plumbing at $1,800."

The question being taken on Mr. COBB's amendment, there were—ayes 20, noes 30.

Mr. HUNTON. I call for tellers.

The CHAIRMAN. The Chair appoints as tellers the gentleman from Virginia, Mr. HUNTON, and the gentleman from Wisconsin, Mr. HAZELTON.

The committee divided; and the tellers reported ayes 5.

Mr. COBB. Further count is not demanded.

Mr. HUNTON. Yes; I call for a further count.

The count was resumed; and the tellers reported ayes 24, noes 39.

So (further count not being called for) the amendment was not agreed to.

Mr. NEAL. I offer the amendment which I send to the desk, to come in at the end of line 525.

The Clerk read as follows:

At the end of line 525 add these words:

"Hereafter the commissioners of the District shall pay $2 per day for common labor."

Mr. BROWNE. And I move to amend the amendment by adding that eight hours shall be deemed a day's labor.

Mr. ALDRICH, of Rhode Island. I make the point of order on the amendment that it is not germane.

Mr. McMILLIN. I make the point of order on the amendment that it changes existing law and does not retrench expenditures.

The CHAIRMAN. The gentleman from Rhode Island has already made the point of order, and the Chair is of the opinion it is well taken.

Mr. FORT. I desire to offer an amendment. I would very much prefer to have it come in at some other place in the bill, but I offer it here, and think there will be no objection to it.

The amendment was read, as follows:

Insert after the pending paragraph the following:

"For the relief of children and other indigent persons found begging upon the streets, to be expended under the direction of the commissioners of the District of Columbia, $5,000, or so much thereof as may be necessary."

Mr. HAZELTON. Is that amendment subject to a point of order?

Mr. FORT. I hope none will be made.

Mr. HAZELTON. I make the point of order upon it.

Mr. FORT. I would like to hear what grounds the gentleman has for his point of order.

Mr. KLOTZ. It does not do away with a market-house. [Laughter.]

Mr. FORT. It is certainly as serious a thing as a market-house. I take it that if the gentleman has no reason to urge for his point of order, the amendment is in order.

Mr. COBB. I will state to the gentleman from Illinois [Mr. FORT] that the Committee on Appropriations have already provided in this bill $15,000 for the poor.

Mr. FORT. That may be, but not for this specific class of the poor. There is not a city on this continent where there is so much begging, especially by little children, as there is here in this city, and no man can tell whether these little beggars are really needy or not—whether they are begging for themselves or for their parents or others who send them out to obtain money, with which I am told they pay for liquor to get drunk upon.

If my amendment shall be adopted, the commissioners of the District can send some person home with these little children to find out where they live, how they live, and whether they need relief or not. If they need relief, it can be given them; and if they do not, it is not likely they will be found again upon the streets begging. I think no one will object to this amendment.

Mr. McMILLIN. I think the point of order is well taken because, under existing law, the money in the Treasury is to remain there unless we change existing law so as to get it out. It will not do to say that this amendment does not change existing law, because there is as yet no statute providing for giving aid to this class of individuals. The very fact that there is no law to give them money, the failure of the statute to provide for any such thing, in view of the fact that the money cannot be taken out of the Treasury for this purpose without further legislation I think is conclusive evidence that this amendment would change existing law, and is therefore not in order.

Mr. HAZELTON. Perhaps it is due to myself to say a word or two upon this proposition. I assure the gentleman from Illinois [Mr. FORT] and the gentlemen of this committee that I have no objection to the exercise of the broadest charity by this Government, provided it is properly guarded by some law which has been carefully arranged and determined and comes within the powers of the Government.

Take this case. We are asked to appropriate $5,000 without making any direction as to how it shall be expended, without making any provision for the details of the expenditure. As the amendment now stands, to my mind it will simply invite into the streets a large number of pretended poor, instead of affording aid to those who might be actually in need of charity. If the gentleman from Illinois will bring forward a bill by which there can be established some institution into which these poor children may be taken and there cared for and educated, some bill providing means which may be given to the poor of this city with good results, by which it can be expended properly, then I will vote with him. I want it understood that I will go as far as anybody to establish such institutions as are proper to be established in this District for the benefit of the needy poor.

The CHAIRMAN. The Chair is of opinion that the proposed amendment is new legislation, and therefore not in order.

The Clerk read the following:

INTEREST AND SINKING-FUND.

For interest and sinking fund on the funded debt, exclusive of water bonds, $1,213,947.97.

Mr. NEAL. I offer as a proviso to the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

*Provided*, That the Treasurer of the United States, as *ex officio* sinking-fund commissioner, is hereby authorized, whenever in his opinion it will be more advantageous for the interest of the District of Columbia to do so, to sell the bonds authorized to be issued under the provisions of the sixth section of the act of the Congress of the United States, entitled "An act to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes," approved June 16, 1880, for the satisfaction of the judgments which may be rendered by said Court of Claims under the provisions of said act, and pay the said judgments from the proceeds of said sales, instead of delivering to said judgment claimants the said bonds as provided for in said act.

Mr. McMILLIN. I desire to make a point of order upon that amendment with the view of getting at the facts of the case.

Mr. NEAL. I will state the facts, and then I think the gentleman will have no objection to the amendment.

Mr. McMILLIN. I will reserve all points of order until I can hear the statement of the gentleman.

Mr. NEAL. The Treasurer of the United States, who is *ex officio* sinking-fund commissioner, in a report in regard to the condition of the sinking fund and of the funded debt of this District, lately presented to Congress, recommends that section 6 of the act of June 16, 1880, be modified so as to enable the Treasurer of the United States to satisfy the judgments of the Court of Claims either by delivering the 3.65 bonds or paying the money to be realized from the sales of such bonds, as may be most advantageous to the public interest.

The facts are that when the law of 1880 was passed the bonds were worth not more than par, while now they are at a premium of 2 and 3 per cent. If this amendment is agreed to, giving the Treasurer of the United States the discretionary power to sell the bonds and to pay the judgments of the Court of Claims in money, the premium upon the bonds will accrue to the benefit of the District of Columbia. This amendment, therefore, is in the interest of economy and not subject to a point of order. It seems to me that no one should object to it.

Mr. McMILLIN. One question?

Mr. NEAL. Certainly.

Mr. McMILLIN. I understand that this amendment does not authorize the increase of the bonded debt of the District.

Mr. NEAL. Not at all; it only authorizes the Treasurer of the United States to sell bonds already authorized to be issued.

Mr. McMILLIN. From the statement made by the gentleman, I believe that whether the provision be subject to a point of order or not it ought to be incorporated into the bill.

Mr. HUNTON. I am glad my friend from Tennessee [Mr. McMILLIN] withdraws the point of order. The amendment of the gentleman from Ohio is, in my opinion, eminently proper. Its object is to save the Government the premium on the 3.65 bonds. It authorizes the Treasurer of the United States, who is *ex officio* sinking-fund commissioner, to sell these 3.65 bonds at such premium as they may command in the market, and with the proceeds pay judgments on these claims.

The amendment was agreed to.

Mr. NEAL. I move to amend by adding the further proviso which

I send to the desk. I ask the attention of the Committee of the Whole to this proposition, for it is just as important as the one just adopted. I will give my reasons for it as soon as it has been read.

The Clerk read as follows:

*And provided further*, That the said Treasurer as *ex officio* sinking-fund commissioner, as aforesaid, is hereby authorized and empowered to purchase any of the funded indebtedness of the said District of Columbia for the sinking fund authorized to be created for the redemption and payment of the indebtedness of said District of Columbia as in his opinion may be for the best interest of said District of Columbia.

Mr. TOWNSHEND, of Illinois. Is not that embraced in the amendment just adopted?

Mr. NEAL. No, sir.

Mr. COBB. I desire to reserve a point of order on this amendment.

Mr. NEAL. The Treasurer of the United States, in the report to which I have already referred, makes the following recommendation:

That authority of law be given for the investment of the permanent annual appropriation for a sinking fund on the 3.65 loan in any of the bonds of the District of Columbia.

The law requires the Treasurer to purchase these bonds at par. They are now above par, and consequently, as the law now stands, he cannot purchase any of the bonds of the District for the purposes of the sinking fund. There are other bonds of the District besides these 3.65 bonds; and we propose to give the Treasurer a discretionary power so that the persons holding these 3.65 bonds cannot compel him to purchase them at a premium, or else to allow the sinking fund to go unprovided for.

Mr. McMILLIN. Under the existing law with what funds are the bonds to be paid for?

Mr. NEAL. The act requires that the sinking fund shall be invested in 3.65 bonds.

Mr. McMILLIN. From what source are the funds derived?

Mr. NEAL. From the general annual appropriation made for the purposes of a sinking fund. Such an appropriation is made in this bill, and has been made in every similar bill since the passage of the act. There ought not to be any objection to this amendment. It simply gives to the Treasurer of the United States a discretionary power so that whenever a corner is made upon him by the holders of the 3.65 bonds he may be enabled in his discretion to invest in other securities for the sinking fund of the District.

Mr. COBB. Though I regret very much to have general legislation put on this bill, I presume that this provision is right. I would like to hear it reported again.

The amendment of Mr. NEAL was again read.

Mr. COBB. I do not press any point of order against the amendment; but I suggest to the gentleman from Ohio that he insert the word "hereafter" after the word "that" and before "authority of law," &c.; so as to make the provision a general law.

Mr. NEAL. I have no objection to that. I modify the amendment so as to read "and provided further, that hereafter," &c.

The amendment of Mr. NEAL was agreed to.

The Clerk read as follows:

For payment of the Linthicum loan, $40,000.

Mr. HUNTON. I move to amend by striking out the paragraph just read. This sum of $40,000 was loaned by the Linthicum Institute of Georgetown to the District government for school purposes, I believe. The object of this paragraph is to pay back that sum. The managers of the Linthicum Institute earnestly request that this money be not paid back at present; and they make that request for the reason that under the will endowing the Linthicum Institute there will be some difficulty in loaning out this money in the District of Columbia if it be paid back now. The parties receiving the money will have to go into court to get authority for loaning it to private individuals. The government of the District of Columbia is now paying on other debts a higher interest than that which this loan bears. Hence it is suggested that the money be not refunded now.

The Linthicum Institute is an educational institution of Georgetown, endowed by Mr. Linthicum for the purpose of conducting a night school. That school educates a great many poor children, and educates them in the very highest branches of learning. Some of the teachers of that institute are professors in the Columbia College. There is no reason why the government should pay back this fund at the present time, especially when the institute requests that it shall not now be paid, and when also the District government is now paying a larger rate of interest on other indebtedness.

Mr. COBB. The will of Mr. Linthicum, under which this money was devised, requires that the fund shall be loaned on real estate security in Georgetown. Now, this is not such a loan; the District has not given real estate security, and the terms of the devise are not being followed.

This loan, on which for awhile 8 per cent. was paid, is now bearing 6 per cent. interest. I take it that the loan should be repaid, for the reason that this interest is a tax upon the general school fund of the District. The money is now loaned in a manner which was not intended by the devisor; and the same objection now made to the repayment of the loan must exist for all time to come. This objection arises from the fear that the money cannot be reloaned in strict accordance with the devise; in other words, that it cannot be loaned on real estate security in Georgetown. For this reason the parties propose that we shall keep this money indefinitely, and continue to pay 6 per cent. interest. But is it not better to pay off this debt instead of paying $2,400 a year as interest from the school fund, for the commissioners always charge this interest to the school fund. I submit that we ought to pay our debts when we can.

The question recurred on Mr. HUNTON's amendment.

The committee divided; and there were—ayes 14, noes 33.

So the amendment was rejected.

The Clerk read as follows:

That the sum of $2,500 be, and the same is hereby, appropriated, out of the contingent fund of the District of Columbia, for the purpose of the establishment, and for the current expenses for one year, of an emergency hospital in connection with the Central Free Dispensary of the District of Columbia, to be expended on the order of the commissioners of the District of Columbia.

The CHAIRMAN. The Committee on Appropriations recommend an amendment to strike out that paragraph.

The motion was agreed to.

Mr. COBB moved that the committee rise and report the bill and amendments to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CONVERSE reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. COBB. By unanimous consent, I ask leave to move an amendment which I think should be adopted. Information was received in regard to it since the bill was reported to the House. It is in reference to paying commissioners of the Court of Claims as provided for by law. They are authorized under the law, as gentlemen will remember, to appoint referees to take evidence in reference to engineering, &c., and to report to the court. The law fixes their pay at not exceeding $10 per day. There is no money appropriated for that purpose, and I have received a letter from the court asking an appropriation of $2,000 be made for that purpose. I presume it is right. If any gentleman objects to it, of course it will have to go over.

The SPEAKER. The Chair hears no objection. The gentleman will send his amendment to the Clerk's desk.

The Clerk read as follows:

Page 17, after line 400, insert "for payment, on order of the Court of Claims, of referees appointed by the said court under act approved June 16, 1880, $2,000."

The amendment was agreed to.

Mr. COBB demanded the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

The question first recurred on the following amendment:

Line 26, strike out "$150,000" and insert "$300,000," and in the same line strike out "and fifty;" and in line 27 strike out "three" and insert "four," and after "and" insert "fifty;" so it will read:

"For repairs to concrete pavements, $50,000; for completion of New York avenue intercepting sewer, $7,000; for repairs to macadam roadways, $5,000; for materials for permit work, $20,000; for continuation of surveys of the District of Columbia with reference to the extension of various avenues to the District line, $5,000; for Boundary street auxiliary sewer, $50,000; for lateral sewers, $15,000; for dredging James Creek Canal, $5,000; for work on sundry avenues and streets, and replacement of pavements on streets named in Appendixes A and B annexed to the estimates of the commissioners of the District for 1882, (being schedules of streets requiring immediate attention,) $300,000; in all, $457,000."

Mr. COBB demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 132, nays 107, not voting 53; as follows:

YEAS—132.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Dwight, | Manning, | Robinson, |
| Aldrich, William | Einstein, | Marsh, | Russell, Daniel L. |
| Bailey, | Errett, | Martin, Edward L. | Russell, W. A. |
| Ballou, | Ferdon, | Mason, | Ryan, Thomas |
| Bayne, | Fisher, | McCook, | Shallenberger, |
| Beale, | Forsythe, | McGowan, | Sherwin, |
| Bicknell, | Frye, | McKinley, | Singleton, J. W. |
| Bisbee, | Gillette, | McLane, | Slemons, |
| Blake, | Goode, | Miles, | Smith, A. Herr |
| Bliss, | Hammond, John | Miller, | Speer, |
| Boyd, | Harmer, | Mitchell, | Starin, |
| Brewer, | Harris, Benj. W. | Monroe, | Stone, |
| Brigham, | Harris, John T. | Morse, | Taylor, Ezra B. |
| Buckner, | Haskell, | Morton, | Thompson, W. G. |
| Butterworth, | Hawk, | Murch, | Townsend, Amos |
| Camp, | Hawley, | Neal, | Townshend, R. W. |
| Carpenter, | Hayes, | Newberry, | Tucker, |
| Caswell, | Henderson, | Norcross, | Tyler, |
| Chittenden, | Henkle, | O'Connor, | Updegraff, Thomas |
| Claflin, | Hooker, | O'Neill, | Urner, |
| Conger, | Horr, | O'Reilly, | Van Aernam, |
| Cowgill, | Houk, | Orth, | Van Voorhis, |
| Crapo, | Hubbell, | Osmer, | Voorhis, |
| Crowley, | Hunton, | Overton, | Wait, |
| Daggett, | Jorgensen, | Pacheco, | Ward, |
| Davidson, | Joyce, | Page, | Washburn, |
| Davis, George R. | Kelley, | Pound, | Weaver, |
| Davis, Horace | Ketcham, | Prescott, | Williams, C. G. |
| Deering, | Kitchin, | Price, | Willits, |
| De La Matyr, | Klotz, | Ray, | Wise, |
| Dick, | Lindsey, | Reed, | Wood, Walter A. |
| Dunn, | Loring, | Richardson, D. P. | Yocum, |
| Dunnell, | Lounsbery, | Robeson, | Young, Thomas L. |

NAYS—107.

| | | | |
|---|---|---|---|
| Aiken, | Culberson, | Ladd, | Shelley, |
| Atherton, | Davis, Joseph J. | Le Fevre, | Simonton, |
| Atkins, | Deuster, | Lowe, | Singleton, O. R. |
| Bachman, | Dibrell, | Martin, Benj. F. | Smith, William E. |
| Beltzhoover, | Dickey, | McKenzie, | Sparks, |
| Berry, | Evins, | McMahon, | Springer, |
| Bland, | Felton, | McMillin, | Steele, |
| Blount, | Finley, | Mills, | Stevenson, |
| Bouck, | Forney, | Money, | Talbott, |
| Bragg, | Fort, | Morrison, | Thomas, |
| Briggs, | Frost, | Muldrow, | Thompson, P. B. |
| Bright, | Geddes, | Muller, | Tillman, |
| Browne, | Godshalk, | Myers, | Turner, Oscar |
| Cabell, | Gunter, | New, | Turner, Thomas |
| Caldwell, | Hall, | Nicholls, | Vance, |
| Carlisle, | Hammond, N. J. | Philips, | Waddill, |
| Chalmers, | Hatch, | Phister, | Warner, |
| Clark, John B. | Herbert, | Poehler, | Wellborn, |
| Clements, | Hill, | Reagan, | Wells, |
| Cobb, | Hostetler, | Richardson, J. S. | White, |
| Coffroth, | House, | Richmond, | Whiteaker, |
| Colerick, | Hurd, | Robertson, | Williams, Thomas |
| Converse, | Johnston, | Ross, | Willis, |
| Cook, | Jones, | Ryon, John W. | Wilson, |
| Covert, | Kenna, | Samford, | Wright, |
| Cox, | Killinger, | Sawyer, | Young, Casey. |
| Cravens, | King, | Scoville, | |

NOT VOTING—53.

| | | | |
|---|---|---|---|
| Acklen, | Clark, Alvah A. | Humphrey, | Scales, |
| Anderson, | Clymer, | Hutchins, | Smith, Hezekiah B. |
| Armfield, | Davis, Lowndes H. | James, | Stephens, |
| Baker, | Elam, | Keifer, | Taylor, Robert L. |
| Barber, | Ellis, | Kimmel, | Updegraff, J. T. |
| Barlow, | Ewing, | Knott, | Upson, |
| Belford, | Field, | Lapham, | Valentine, |
| Bingham, | Ford, | McCoid, | Whitthorne, |
| Blackburn, | Gibson, | O'Brien, | Wilber, |
| Bowman, | Hazelton, | Persons, | Wood, Fernando |
| Burrows, | Heilman, | Phelps, | Yeates. |
| Calkins, | Henry, | Rice, | |
| Cannon, | Herndon, | Rothwell, | |
| Clardy, | Hiscock, | Sapp, | |

So the amendment was agreed to.

During the roll-call,

Mr. CLARDY said: Not being here when my name was called, I now ask leave to vote.

Objection was made.

On motion of Mr. HARRIS, of Virginia, by unanimous consent the reading of the names was dispensed with.

The following pairs were announced from the Clerk's desk:

Mr. HARMER with Mr. ELLIS, for this day, on political questions; but either may vote to make a quorum.

Mr. LAPHAM with Mr. KNOTT, for the remainder of the day, on all political questions.

Mr. HERNDON with Mr. SAPP.

Mr. ROBESON with Mr. EWING, on all political questions.

Mr. SCOVILLE with Mr. CROWLEY.

Mr. SMITH, of Georgia, with Mr. WILBER, on political questions.

Mr. HUTCHINS with Mr. KETCHAM.

Mr. BINGHAM with Mr. SMITH of New Jersey, on this vote.

Mr. ROBESON. I am paired with Mr. EWING on all political questions, but not regarding this as such, I have voted.

Mr. CROWLEY. The gentleman from Buffalo with whom I have been paired is present, and I have voted.

The vote was then announced as above recorded.

The remaining amendments of the Committee of the Whole House on the state of the Union were then agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. The question recurs upon the passage of the bill upon which under the rules the yeas and nays will be taken.

The question was taken; and it was decided in the affirmative—yeas 209, nays 25, not voting 58; as follows:

YEAS—209.

| | | | |
|---|---|---|---|
| Acklen, | Bright, | Davis, Joseph J. | Haskell, |
| Aiken, | Buckner, | De La Matyr, | Hawk, |
| Aldrich, N. W. | Cabell, | Deering, | Hawley, |
| Aldrich, William | Caldwell, | Deuster, | Hayes, |
| Anderson, | Camp, | Dick, | Hazelton, |
| Atkins, | Cannon, | Dickey, | Henderson, |
| Bachman, | Carpenter, | Dunn, | Henkle, |
| Bailey, | Chittenden, | Dunnell, | Herndon, |
| Baker, | Claflin, | Dwight, | Hill, |
| Ballou, | Clardy, | Einstein, | Hooker, |
| Bayne, | Clark, John B. | Errett, | Horr, |
| Beale, | Clymer, | Evins, | Hostetler, |
| Beltzhoover, | Cobb, | Ferdon, | Houk, |
| Berry, | Coffroth, | Field, | House, |
| Bicknell, | Colerick, | Finley, | Hubbell, |
| Bingham, | Conger, | Fisher, | Humphrey, |
| Bisbee, | Converse, | Forney, | Hunton, |
| Blackburn, | Cook, | Forsythe, | Hurd, |
| Blake, | Covert, | Fort, | Johnston, |
| Bland, | Cowgill, | Frost, | Jones, |
| Bliss, | Cox, | Frye, | Jorgensen, |
| Blount, | Crapo, | Geddes, | Joyce, |
| Bowman, | Cravens, | Goode, | Kelley, |
| Boyd, | Crowley, | Hall, | Kenna, |
| Brewer, | Daggett, | Hammond, John | Ketcham, |
| Briggs, | Davidson, | Hammond, N. J. | Killinger, |
| Brigham, | Davis, Horace, | Harmer, | Kimmel, |
| King, | Neal, | Ryon, John W. | Urner, |
| Kitchin, | New, | Sawyer, | Valentine, |
| Ladd, | Newberry, | Scales, | Van Aernam, |
| Lapham, | Nicholls, | Scoville, | Vance, |
| Le Fevre, | Norcross, | Shelley, | Van Voorhis, |
| Lindsey, | O'Connor, | Sherwin, | Voorhis, |
| Loring, | O'Neill, | Singleton, O. R. | Waddill, |
| Lounsbery, | O'Reilly, | Slemons, | Wait, |
| Manning, | Overton, | Smith, A. Herr | Ward, |
| Marsh, | Pacheco, | Smith, William E. | Washburn, |
| Martin, Edward L. | Page, | Sparks, | Weaver, |
| McCook, | Phelps, | Speer, | Wells, |
| McGowan, | Phister, | Springer, | White, |
| McKenzie, | Poehler, | Starin, | Whiteaker, |
| McKinley, | Pound, | Stevenson, | Williams, C. G. |
| McLane, | Prescott, | Stone, | Williams, Thomas |
| McMahon, | Price, | Talbott, | Willis, |
| Miles, | Ray, | Taylor, Ezra B. | Wilson, |
| Miller, | Reed, | Thomas, | Wise, |
| Mitchell, | Rice, | Thompson, P. B. | Wood Walter A. |
| Monroe, | Richardson, D. P. | Tillman, | Yocum, |
| Morton, | Richardson, J. S. | Townsend, Amos | Young, Casey |
| Muldrow, | Richmond, | Townshend, R. W. | Young, Thomas L. |
| Muller, | Robinson, | Tucker, | |
| Murch, | Ross, | Turner, Thomas | |
| Myers, | Ryan, Thomas | Updegraff, Thomas | |

NAYS—25.

| | | | |
|---|---|---|---|
| Atherton, | Dibrell, | Martin, Benj. F. | Turner, Oscar |
| Bouck, | Gunter, | McMillin, | Updegraff, J. T. |
| Bragg, | Harris, John T. | Philips, | Wellborn, |
| Browne, | Hatch, | Reagan, | Wright. |
| Clements, | Herbert, | Samford, | |
| Culberson, | Klotz, | Simonton, | |
| Davis, George R. | Lowe, | Steele, | |

NOT VOTING—58.

| | | | |
|---|---|---|---|
| Armfield, | Felton, | Mills, | Singleton, J. W. |
| Barber, | Ford, | Money, | Smith, Hezekiah B. |
| Barlow, | Gibson, | Morrison, | Stephens, |
| Belford, | Gillette, | Morse, | Taylor, Robert L. |
| Burrows, | Godshalk, | O'Brien, | Thompson, W. G. |
| Butterworth, | Harris, Benj. W. | Orth, | Tyler, |
| Calkins, | Heilman, | Osmer, | Upson, |
| Carlisle, | Henry, | Persons, | Warner, |
| Caswell, | Hiscock, | Robertson, | Whitthorne, |
| Chalmers, | Hutchins, | Robeson, | Wilber, |
| Clark, Alvah A. | James, | Rothwell, | Willits, |
| Davis, Lowndes H. | Keifer, | Russell, Daniel L. | Wood, Fernando |
| Elam, | Knott, | Russell, W. A. | Yeates. |
| Ellis, | Mason, | Sapp, | |
| Ewing, | McCoid, | Shallenberger, | |

So the bill was passed.

On motion of Mr. MCKENZIE, by unanimous consent the reading of the names was dispensed with.

The result of the vote was then announced as above recorded.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS, from the Committee on Appropriations, reported a bill (H. R. No. 7101) to provide for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes; which was read a first and second time, recommitted to the Committee on Appropriations, and, with the accompanying report, ordered to be printed.

Mr. BAKER. I reserve all points of order on the bill.

ORDER OF BUSINESS.

Mr. REAGAN. I ask the regular order.

Mr. SPARKS. I would like to know what the regular order is?

The SPEAKER. The regular order under the rule is the unfinished business.

Mr. COX. I rise to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. COX. I propose to report back from the Committee on the Census the apportionment bill, recommitted to that committee, which is a question of the highest privilege under the Constitution.

The SPEAKER. The House can determine, on the question of consideration, what class of business shall have priority. The Chair is advised that there are three gentlemen endeavoring to get the floor for different objects. The first business in order under the rule is the unfinished business. The Chair recognizes the gentleman from Texas to proceed with the unfinished business, which bears the character of a special order as well, and known as the interstate-commerce bill. The gentleman from New York seeks the floor to report back from the Committee on the Census a bill touching the apportionment of representation, and the gentleman from Illinois has some purpose in view in connection with the floor.

Mr. SPARKS. I want to get up the bill for the relief of General Porter, as it precedes the bill of the gentleman from Texas.

The SPEAKER. The Chair will state to the gentleman from Illinois that it does not now precede it, because the bill which the gentleman from Texas alludes to has the characteristic of being unfinished business, and in that way takes precedence of the bill referred to by the gentleman from Illinois. If the gentleman from Illinois moves to go to business upon the House Calendar, it would bring the gentleman from Texas on the floor first on the unfinished business, and thereafter reach other bills on the House Calendar, one of which is the Porter bill.

Mr. REAGAN. I desire to say, Mr. Speaker——

Mr. COX. If there is to be any debate I want to have an opportunity of taking part in it.

The SPEAKER. The Chair will give each gentleman an opportunity as far as the House will permit.

Mr. REAGAN. All I desire to say is, that I wish to ask the House to permit general debate upon this bill for two days, and if it will agree to do that I will call the previous question on the amendment to the original bill and let the House determine which it will take up under the five-minute rule and dispose of.

This, Mr. Speaker, is a question which involves the interests of the people of this entire Union. Action upon it is called for by many Legislatures, by many chambers of commerce and boards of trade throughout the whole country.

Mr. O'NEILL. Mr. Speaker, if the gentleman from Texas is to make a speech upon this question I would like to have an opportunity of replying to him.

The SPEAKER. It is a question for the House to determine whether it will consider it or not.

Mr. O'NEILL. The gentleman is going into the merits of the question.

Mr. REAGAN. I hope I will be indulged for a moment without interruption.

Mr. O'NEILL. Other gentlemen have rights upon this floor as well as the gentleman from Texas.

The SPEAKER. The Chair will see that the gentleman's rights are protected.

Mr. REAGAN. I desire one moment here to call the attention of the House to this measure. I wish to say, Mr. Speaker, that in my judgment this House has before it no more important question; nor do I believe that one of greater magnitude to the vital interests of the country can come before this Congress. I desire to have the House give it at least brief consideration. That much I think is due to the American people and to their interests. I desire that it shall not longer be superseded by private bills and by petty measures of all kinds that would not occupy the attention of a country court. This session has already gone so far and no measure of this kind has been permitted to be acted upon. As I have said, there is no measure before this Congress that ought to demand so much attention as this, while other measures of less importance have been permitted to occupy the attention of the House. I say again, sir, that the interests of the American people demand that some consideration should be given to this matter. The interests of every class of the American people in every portion of the country are directly involved in this question and call for at least a little consideration and a little attention at our hands. I ask the House, therefore, to consider it for two days, allow general debate to run for that time, and if it shall be agreeable to the House I would like to get meetings of the House for debate only in the evenings during those two days, so that gentlemen who desire it may have an opportunity of speaking upon this question. We can act upon the measure and test the sense of the House whether it is desirable to secure the passage of the bill or not.

Mr. COX. Mr. Speaker, I desire to say that I come before the House and ask for the fulfillment of a high constitutional duty, one that must be performed every ten years, and unless it be done at this session, while members of the State Legislatures are waiting our action, thirty-two of the States having only biennial sessions of their Legislatures, it will require extra sessions of their Legislatures, and involve an expense upon the people of those States aggregating six or eight millions of dollars. I know the importance of the bill to which the gentleman from Texas refers. It has had consideration and attention time and again. But if it should pass this House there is not much probability of its passing the other. But we must pass this apportionment bill, otherwise an extra session of Congress may be necessary, at great expense, or thirty-two extra sessions of the Legislatures of our States must be held in order to avert the trouble we had in 1850, 1860, and 1870, by reason of the dilatory action of Congress upon this important subject.

I therefore ask the House, not in the interest of any one class, but of the whole represented people of the country, that this bill be taken up, considered, and disposed of. I raise the question of consideration on the bill called up by the gentleman from Texas.

Mr. REAGAN. I desire to say just one word. I feel as the gentleman from New York does, a willingness and a desire to see the apportionment bill pass. But gentlemen will remember that after each census was taken in the years to which the gentleman from New York refers, 1850, 1860, and 1870, no apportionment bill was passed till the subsequent Congress, and the States whose Legislatures did not meet subsequently to that had to elect their extra number of members by general ticket.

Mr. COX. At great expense.

Mr. REAGAN. If this be a constitutional question, the Constitution has been violated every census.

Mr. COX. I will ask my friend from Texas this question, whether after the passage of the last apportionment bill the Legislature of the State of Texas had not adjourned *sine die* and could not be got together again to make the redistricting?

Mr. REAGAN. In cases where a Legislature cannot come together to make a redistricting in time for the election of the next Congress the members can be elected on a general ticket, as has always been done heretofore.

We have yet a month of this session and a little more. I ask for but two days of general debate. Three days will enable us, in all probability, to dispose of this great question. And then there will be ample time to pass the apportionment law and ample time to pass the appropriation bills. There is time enough to do all that; but I do not wish the apportionment measure to come in and displace one commanding such general attention and so much interest as the measure I now call up. I ask the House to proceed with the regular order.

Mr. SPRINGER. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. I make the point of order that questions relating to priority of business are not debatable.

The SPEAKER. The Chair sustains the point of order.

Mr. HARRIS, of Virginia. I desire to give notice that I antagonize both the gentleman from New York [Mr. COX] and the gentleman from Texas, [Mr. REAGAN;] and that if their propositions are not carried I shall move that the House go into Committee of the Whole House on the state of the Union to consider the bill (H. R. No. 2272) directing the Secretary of the Treasury to examine and settle the accounts of certain States and the city of Baltimore growing out of moneys expended by said States and the city of Baltimore for military purposes during the war of 1812. That bill has been reported by the Committee on the Judiciary and is now in the Committee of the Whole House on the state of the Union.

Mr. HOOKER. And I give notice that if we go into Committee of the Whole House on the state of the Union I shall ask the committee to consider the first bill on the Calendar, the bill for the ascertainment of the amount due the Choctaw nation. I will antagonize the gentleman from Virginia by insisting that we proceed with that bill.

Mr. HARRIS, of Virginia. The claims to which the bill I have reported has reference, were existing before the railroads were made. [Laughter.]

Mr. O'NEILL rose.

The SPEAKER. The point of order has been made by the gentleman from Illinois [Mr. SPRINGER] that priority of business is not debatable. Does the gentleman from Illinois insist on his point of order?

Mr. SPRINGER. I do.

Mr. O'NEILL. I want to say to this House that, although in the estimation of the gentleman from Texas his bill is the most important bill before Congress, I, for one, do not want to delay all public business for the sake of a bill containing sentiment only and nothing practical.

The SPEAKER. The gentleman from Texas [Mr. REAGAN] calls up the unfinished business, which is the interstate-commerce bill, and the gentleman from New York [Mr. COX] raises the question of consideration.

Mr. COX. I also raise the question of privilege under the Constitution.

The SPEAKER. If the House is against the consideration of the interstate-commerce bill it will determine in the negative and then the apportionment bill will next have its turn. The majority will determine between the two. There is no occasion to raise now the issue of privilege.

The question being taken, there were—ayes 84, noes 108.

Mr. REAGAN. I call for the yeas and nays. I desire the record to show who are in favor of disposing of this question.

The yeas and nays were ordered.

The question was taken; and there were—yeas 98, nays 150, not voting 44; as follows:

YEAS—98.

| | | | |
|---|---|---|---|
| Acklen, | Davis, George R. | Marsh, | Shallenberger, |
| Anderson, | Davis, Horace | Martin, Benj. F. | Singleton, J. W. |
| Atherton, | Davis, Joseph J. | Martin, Edward L. | Singleton, O. R. |
| Atkins, | De La Matyr, | McKenzie, | Sparks, |
| Bayne, | Dibrell, | McMahon, | Speer, |
| Beltzhoover, | Dick, | McMillin, | Springer, |
| Berry, | Dickey, | Mills, | Stevenson, |
| Bisbee, | Errett, | Mitchell, | Tillman, |
| Blackburn, | Felton, | Muldrow, | Townshend, R. W. |
| Blount, | Forney, | Murch, | Turner, Oscar |
| Bouck, | Forsythe, | Myers, | Turner, Thomas |
| Boyd, | Geddes, | New, | Weaver, |
| Bragg, | Gillette, | O'Connor, | Wellborn, |
| Brewer, | Godshalk, | O'Reilly, | White, |
| Briggs, | Hall, | Pacheco, | Williams, C. G. |
| Brigham, | Hatch, | Philips, | Williams, Thomas |
| Bright, | Henderson, | Phister, | Willis, |
| Caldwell, | Herbert, | Price, | Willits, |
| Clardy, | Houk, | Ray, | Wilson, |
| Clements, | House, | Reagan, | Wise, |
| Clymer, | Hurd, | Reed, | Yocum, |
| Covert, | Kenna, | Richardson, J. S. | Young, Casey, |
| Culberson, | Le Fevre, | Russell, Daniel L. | Young, Thomas L. |
| Daggett, | Lowe, | Ryan, Thomas | |
| Davidson, | Manning, | Samford, | |

NAYS—150.

| | | | |
|---|---|---|---|
| Aiken, | Bicknell, | Cabell, | Cobb, |
| Aldrich, N. W. | Bingham, | Calkins, | Coffroth, |
| Aldrich, William | Blake, | Camp, | Colerick, |
| Bachman, | Bland, | Cannon, | Conger, |
| Bailey, | Bliss, | Carpenter, | Converse, |
| Baker, | Bowman, | Caswell, | Cowgill, |
| Ballou, | Buckner, | Chittenden, | Cox, |
| Beale, | Butterworth, | Clark, John B. | Crapo, |

| | | | |
|---|---|---|---|
| Cravens, | Hill, | Morton, | Starin, |
| Crowley, | Hiscock, | Muller, | Steele, |
| Davis, Lowndes H. | Hooker, | Neal, | Stone, |
| Deering, | Horr, | Newberry, | Talbott, |
| Deuster, | Hostetler, | Nicholls, | Taylor, Ezra B. |
| Dunn, | Hubbell, | Norcross, | Thomas, |
| Dunnell, | Humphrey, | O'Neill, | Thompson, P. B. |
| Dwight, | Hunton, | Orth, | Thompson, W. G. |
| Einstein, | Jones, | Osmer, | Townsend, Amos |
| Ellis, | Joyce, | Overton, | Tucker, |
| Evins, | Ketcham, | Phelps, | Tyler, |
| Ferdon, | Killinger, | Poehler, | Updegraff, J. T. |
| Field, | Kimmel, | Pound, | Updegraff, Thomas |
| Finley, | King, | Prescott, | Urner, |
| Fisher, | Kitchin, | Rice, | Valentine, |
| Fort, | Klotz, | Richmond, | Van Aernam, |
| Frost, | Ladd, | Robertson, | Vance, |
| Frye, | Lindsey, | Robinson, | Van Voorhis, |
| Goode, | Loring, | Ross, | Voorhis, |
| Gunter, | Lounsbery, | Russell, W. A. | Waddill, |
| Hammond, N. J. | Mason, | Ryon, John W. | Wait, |
| Harmer, | McCook, | Sawyer, | Ward, |
| Harris, Benj. W. | McKinley, | Scales, | Washburn, |
| Harris, John T. | McLane, | Scoville, | Wells, |
| Haskell, | Miles, | Shelley, | Whiteaker, |
| Hawk, | Miller, | Sherwin, | Wood, Walter A. |
| Hawley, | Money, | Simonton, | Wright, |
| Hayes, | Monroe, | Slemons, | Yeates. |
| Hazelton, | Morrison, | Smith, A. Herr | |
| Henkle, | Morse, | Smith, William E. | |

NOT VOTING—44.

| | | | |
|---|---|---|---|
| Armfield, | Elam, | Jorgensen, | Robeson, |
| Barber, | Ewing, | Keifer, | Rothwell, |
| Barlow, | Ford, | Kelley, | Sapp, |
| Belford, | Gibson, | Knott, | Smith, Hezekiah B. |
| Browne, | Hammond, John | Lapham, | Stephens, |
| Burrows, | Heilman, | McCoid, | Taylor, Robert L. |
| Carlisle, | Henry, | McGowan, | Upson, |
| Chalmers, | Herndon, | O'Brien, | Warner, |
| Claflin, | Hutchins, | Page, | Whitthorne, |
| Clark, Alvah A. | James, | Persons, | Wilber, |
| Cook, | Johnston, | Richardson, D. P. | Wood, Fernando. |

So the House refused to proceed with the consideration of the interstate-commerce bill.

At the conclusion of the second roll-call,

Mr. SPRINGER said: I ask unanimous consent that the reading of the names be dispensed with.

Mr. REAGAN. I hope that will not be done.

The SPEAKER. Objection is made.

The Clerk then read the names of those voting.

The following additional pair was announced:

Mr. COOK with Mr. PAGE. If present, Mr. COOK would vote in the affirmative.

The result of the vote was then announced as above stated.

Mr. COX. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The SPEAKER. That motion is not essential.

### NAVAL STATIONS ON THE AMERICAN ISTHMUS.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit herewith, for consideration and appropriate action by Congress, a letter from the Secretary of the Navy in relation to the proposed establishment of naval stations of the United States on the American Isthmus. In this paper the current testimony of prominent officers of this Government for a long series of years, as to the feasibility and necessity of establishing such stations and the great advantage to flow therefrom to the naval and commercial interests of the United States, is clearly set forth, and the considerations adduced cannot but commend themselves, I am confident, to the careful attention of Congress. Convinced of the wisdom and propriety of the suggestions thus presented, I recommend to Congress the appropriation of the sum named by the Secretary of the Navy, to be at his disposal at once, for expenditure as soon as suitable arrangements can be made to the proposed end.

R. B. HAYES.

EXECUTIVE MANSION, *Washington, February* 2, 1881.

The message, with the accompanying documents, was referred to the Committee on Naval Affairs, and ordered to be printed.

### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WILBER until Tuesday next.

### GOVERNMENT HOSPITAL FOR THE INSANE.

The SPEAKER laid before the House a letter from the Secretary of the Interior, relative to the management of the Government Hospital for the Insane; which was referred to the Committee on Appropriations.

### ORDER OF BUSINESS.

Mr. COX. I now report back from the Select Committee on the Census the apportionment bill.

Mr. NEWBERRY. I ask the gentleman to yield to me to introduce a bill for reference only.

Mr. COX. I cannot yield.

Mr. HARRIS, of Virginia. I desire to raise the question of consideration upon the bill which the gentleman from New York [Mr. COX] proposes to report at this time.

The SPEAKER. The report will first be received.

Mr. COX. I report back from the Select Committee on the Census the bill (H. R. No. 7026) making an apportionment of Representatives in Congress among the several States under the tenth census.

Mr. SHERWIN. On behalf of the minority on the committee I report a further substitute for the bill of the majority.

Mr. HARRIS, of Virginia. I now raise the question of consideration on that bill, and give notice that if the House does not now proceed to its consideration, I will move to go into Committee of the Whole on the state of the Union to consider a bill which involves the computation of interest to several of the States for moneys advanced and loaned to the General Government during the war of 1812.

The question was taken upon considering the apportionment bill, and it was decided in the affirmative.

### APPORTIONMENT OF REPRESENTATION.

The SPEAKER. The House has decided to proceed with the consideration of the bill just reported from the Select Committee on the Census. The bill will be read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That after the 3d of March, 1883, the House of Representatives shall be composed of three hundred and eleven members, to be apportioned among the several States as follows: Alabama, eight; Arkansas, five; California, five; Colorado, one; Connecticut, four; Delaware, one; Florida, two; Georgia, ten; Illinois, nineteen; Indiana, thirteen; Iowa, ten; Kansas, six; Kentucky, ten; Louisiana, six; Maine, four; Maryland, six; Massachusetts, eleven; Michigan, ten; Minnesota, five; Mississippi, seven; Missouri, fourteen; Nebraska, three; Nevada, one; New Hampshire, two; New Jersey, seven; New York, thirty-two; North Carolina, nine; Ohio, twenty; Oregon, one; Pennsylvania, twenty-seven; Rhode Island, two; South Carolina, six; Tennessee, ten; Texas, ten; Vermont, two; Virginia, ten; West Virginia, four; Wisconsin, eight.

Mr. SHALLENBERGER. I ask that the bill for which this is reported as a substitute be now read.

Mr. COX. I informed the gentleman from Pennsylvania [Mr. SHALLENBERGER] to-day that the bill which has just been read is one reported from the Select Committee on the Census to this House as an original bill. The bill which was sent to the Census Committee is still left there. The gentleman from Pennsylvania understands this perfectly.

Mr. SHALLENBERGER. I have raised this point in order that it may be now decided by the Chair. I find by reference to the printed bill, which has been read, that it is reported as "a substitute for House bill No. 6958." I may desire to know what that House bill No. 6958 is, before I am required to vote on this proposed substitute of the committee. Moreover, I may desire to move to amend the text of that House bill 6958, if pending, before I vote on the substitute. Hence I desire that the original bill be read.

The SPEAKER. Does the gentleman from New York [Mr. COX] object to the reading of the original bill for which a substitute is reported?

Mr. COX. I have no objection to it.

The SPEAKER. That will be more satisfactory to members.

Mr. SHALLENBERGER. And the original bill is to be considered as pending before the House?

Mr. COX. No, sir; it is not.

The SPEAKER. The substitute for the original bill is first to be considered.

Mr. COX. The gentleman from Pennsylvania knows, for I so informed him, that the original bill is not reported to the House.

Mr. TOWNSHEND, of Illinois. If the original bill is not before the House, why is it to be read?

The SPEAKER. The Chair understands the gentleman to desire its reading for information. The original bill the Chair thinks should come with the substitute just read as a substitute for that original bill.

Mr. SHALLENBERGER. I do not want to antagonize particularly the bill of the gentleman from New York, [Mr. COX,] nor do I want to obstruct public business. There is a point involved in this matter, however, which may be an important one. At a specific time during the discussion and pendency of this bill I may wish to offer an amendment to it.

The SPEAKER. The gentleman will not be prevented from doing that in any event.

Mr. SHALLENBERGER. My desire to do so may depend upon whether the original House bill No. 6958 is pending before the House or not. If pending, together with the substitute reported for it, I can move to amend the text of the original bill before a vote can be had upon the substitute or amendments thereto.

The SPEAKER. The gentleman from New York [Mr. COX] thinks this substitute is in fact an original bill, and that it does not come back in manner as the gentleman from Pennsylvania [Mr. SHALLENBERGER] supposes.

Mr. SHALLENBERGER. How can the bill be in committee when it is here referred to by number and substantially reported back with an amendment in the nature of a substitute?

Mr. FRYE. Mr. Speaker, is not the very first question before the House whether or not this bill shall be substituted for House bill No. 6958?

The SPEAKER. The Chair did not clearly comprehend. As now advised it seems that the gentleman from New York reports a substitute for an original bill referred and the original bill should be a part of the report. If the substitute should be voted down, then the original bill comes before the House for consideration.

Mr. COX. The matter is indifferent to me so that the House understands it.

The SPEAKER. The Chair thinks that the original bill had better be read, so that the House may understand more fully the subject.

Mr. COX. Why does the gentleman want it read when it has been in print two weeks?

Mr. SHALLENBERGER. I withdraw the request for its reading if the original bill is considered pending before the House.

Mr. COX. The gentleman withdraws the request.

Mr. SHALLENBERGER. With the understanding that the original bill is pending before the House. Am I to understand that if my request is withdrawn the original bill is pending before the House open to amendment?

The Clerk read as follows:

A bill (H. R. No. 6958) making an apportionment of Representatives in Congress among the several States under the tenth census.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That after the 3d of March, 1883, the House of Representatives shall be composed of three hundred and one members, to be apportioned among the several States as follows: Alabama, eight; Arkansas, five; California, five; Colorado, one; Connecticut, four; Delaware, one; Florida one; Georgia, nine; Illinois, nineteen; Indiana, twelve; Iowa, ten; Kansas, six; Kentucky, ten; Louisiana, six; Maine, four; Maryland, six; Massachusetts, ten; Michigan, ten; Minnesota, five; Mississippi, seven; Missouri, thirteen; Nebraska, three; Nevada, one; New Hampshire, two; New Jersey, seven; New York, thirty-one; North Carolina, eight; Ohio, nineteen; Oregon, one; Pennsylvania, twenty-six; Rhode Island, two; South Carolina, six; Tennessee, nine; Texas, ten; Vermont, two; Virginia, nine; West Virginia, four; Wisconsin, nine.

SEC. 2. That whenever a new State is admitted to the Union, the Representative or Representatives assigned to it shall be added to the number.

SEC. 3. That in each State entitled under this apportionment the number to which such State may be entitled in the Forty-eighth and each subsequent Congress shall be elected by districts composed of contiguous territory, and containing as nearly as practicable an equal number of inhabitants, and equal in number to the Representatives to which such State may be entitled in Congress, no one district electing more than one Representative.

Mr. ROBINSON. Mr. Speaker, there is a slight error in that bill as read. The number of Representatives assigned to Massachusetts should be eleven; "ten" is a misprint.

Mr. COX. That has been already corrected in the RECORD, at the request of the gentleman.

Mr. ROBINSON. It has been corrected in the RECORD, but not changed in the printed bill. I ask that the correction be made.

The SPEAKER. The gentleman from Massachusetts asks that a clerical error as to Massachusetts may be corrected.

Mr. COX. That has all been changed in the RECORD.

The SPEAKER. But it has not been changed in the bill as read. The House should make the change. Without objection, the change will be made.

There was no objection.

Mr. FIELD. I desire to call attention to another correction. In the bill which was read at the desk "Wisconsin, nine," should be "Wisconsin, eight."

Mr. COX. That has already been corrected.

Mr. FIELD. The correction was made in regard to Massachusetts.

Mr. COX. And the other correction was also made, at the request of the gentleman's colleague, [Mr. ROBINSON.]

Mr. COX addressed the House. [See Appendix.]

Mr. SHERWIN obtained the floor.

### FORT LEAVENWORTH MILITARY RESERVATION.

Mr. ANDERSON, by unanimous consent, introduced a bill (H. R. No. 7102) to provide for the sale of certain portions of the Fort Leavenworth military reservation; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

### CALIFORNIA NAVIGABLE WATERS.

The SPEAKER *pro tempore*, (Mr. CLYMER in the chair,) by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report showing how to prevent injury to the navigable waters of California; which was referred to the Committee on Commerce, and ordered to be printed.

### CONTINGENT EXPENSES OF THE TREASURY DEPARTMENT.

The SPEAKER *pro tempore* also laid before the House a letter of the Secretary of the Treasury, transmitting a statement of the expenditures under the appropriation for contingent expenses of the Treasury Department for the fiscal year ending June 30, 1880; which was referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

### ATLANTA A PORT OF DELIVERY.

Mr. FELTON, by unanimous consent, from the Committee on Ways and Means, reported, as a substitute for House bill No. 5376, a bill (H. R. No. 7103) to constitute Atlanta, Georgia, a port of delivery; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

And then, on motion of Mr. MARTIN, of Delaware, (at four o'clock and fifty-five minutes, p. m.,) the House adjourned.

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### PETITIONS, ETC.

The following petitions, memorials, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ATHERTON: The petition of E. M. Montgomery and 500 others, citizens of Ohio, against the reissue of a patent for improvements in artificial gums and palates to John A. Cummings—to the Committee on Patents.

Also, the petition of Tyre & Miller and 10 others, manufacturers of cigars of Newark, Ohio, for a reduction of tax on cigars—to the Committee on Ways and Means.

By Mr. BERRY: Memorial of mayor and common council of the city of Eureka, California, asking for the improvement of Humboldt Bay—to the Committee on Commerce.

By Mr. BLACKBURN: The petition of citizens of the seventh congressional district of Kentucky, for a change in the patent laws—to the Committee on Patents.

Also, the petition of citizens of the seventh congressional district of Kentucky, for the passage of a law to regulate interstate commerce—to the Committee on Commerce.

Also, the petition of citizens of Kentucky, for the passage of a law making the Commissioner of Agriculture a member of the Cabinet—to the Committee on Agriculture.

Also, the petition of citizens of Kentucky, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of 12 citizens of Kentucky, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. BROWNE: The petition of 56 ex-soldiers of Indiana, against the passage of the sixty-surgeons bill—to the same committee.

By Mr. CALDWELL: The petition of R. M. Clayton, a soldier of the Mexican war, for a pension—to the Committee on Pensions.

By Mr. COX: The petition of E. W. Barber and others, citizens of Michigan, for an amendment to the Constitution which will permit the Legislatures of the several States to levy a duty, tariff, or tax upon all the products of the soil and factories brought into each State from other States—to the Committee on Ways and Means.

By Mr. DICKEY: The petition of W. M. Butler and 72 others, citizens of Brown County, Ohio, for the passage of an income-tax law—to the same committee.

Also, the petition of Charles Wood and 82 others, of Brown County, Ohio, for the passage of a bill to prevent fraud in the sale of patent-rights—to the Committee on Patents.

Also, the petition of Thomas W. Hare and 80 others, and of L. A. Wright and 42 others, citizens of Brown County, Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, the petition of W. H. Scott and 121 others, citizens of Clearmont County, Ohio, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

By Mr. DUNN: The petition of F. W. Lynn, for pay due him as a messenger of the House of Representatives—to the Committee on Claims.

By Mr. FINLEY: The petition of citizens of Ohio, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of citizens of Ohio, for the passage of a law establishing a permanent winter and summer tariff on all railroads terminating on the seaboard—to the Committee on Commerce.

Also, the petition of citizens of Ohio, for legislation on the subject of interstate commerce—to the same committee.

Also, the petition of citizens of Ohio, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of citizens of Ohio, for the reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. HERNDON: The petition of the county of Mobile, Alabama, to be reimbursed moneys expended by it in improving Mobile Harbor and Bay—to the Committee on Commerce.

By Mr. LAPHAM: Resolutions of the New York Board of Trade and Transportation, for legislation to prevent the consolidation of certain telegraph companies in the United States—to the Committee on the Post-Office and Post-Roads.

By Mr. NEW: The petition of citizens of Indiana, for a reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. ORTH: The petition of citizens of Indiana, for amendment of the patent laws—to the Committee on Patents.

Also, the petition of citizens of Indiana, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of citizens of Indiana, for the passage of a law regulating interstate commerce—to the Committee on Commerce.

Also, the petition of citizens of Indiana, for the passage of a law making the Commissioner of Agriculture a Cabinet officer—to the Committee on Agriculture.

Also, the petition of Silas Larimore, for an honorable discharge from the Army—to the Committee on Military Affairs.

By Mr. URNER: The petition of J. E. Earle and 135 others, citizens of Queen Anne County, Maryland, for the survey of Corsica Creek, at Centreville Harbor—to the Committee on Commerce.

By Mr. WARD: The petition of the American Iron and Steel Association and others of the largest manufacturers of Pennsylvania, for the passage of the Eaton tariff-commission bill—to the Committee on Ways and Means.

By Mr. WILBER: Resolutions of the Legislature of New York, asking for legislation to stamp out the disease known as pleuro-pneumonia among cattle—to the Committee on Agriculture.

## IN SENATE.

THURSDAY, *February* 3, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.
The Journal of yesterday's proceedings was read and approved.

### BALTIMORE AND OHIO RAILROAD COMPANY.

The VICE-PRESIDENT laid before the Senate a letter from the commissioners of the District of Columbia, transmitting, in reply to a resolution of January 27, 1881, a copy of the contract or terms of settlement and agreement entered into between the commissioners of the District of Columbia and the representative of the Baltimore and Ohio Railroad Company; which was ordered to lie on the table and be printed.

### PETITIONS AND MEMORIALS.

Mr. LOGAN presented the petition of John Schoemaker and others, citizens of Illinois, pensioners of the United States, praying for an amendment to the pension laws in regard to certain classes of wounds; which was referred to the Committee on Pensions.

He also presented the memorial of George W. Deardoff and others, citizens of Havana, Illinois; the memorial of Oliver Finley and 34 others, citizens of Georgetown, Illinois; and the memorial of Benjamin C. Goodhue and others, citizens of Lansing, Michigan, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which were referred to the Committee on Pensions.

He also presented the memorial of William Ward and others, citizens of Virginia, colored soldiers in the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was referred to the Committee on Pensions.

Mr. LOGAN. I also present a memorial of the Board of Trade of the city of Chicago, in the following words:

*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

The undersigned, by order and on behalf of the Board of Trade of the city of Chicago, respectfully represents unto your honorable bodies that

Whereas this board is convinced that the adulteration of human food and drugs is a serious and growing evil, an outrage upon an otherwise sufficiently suffering humanity, greatly detrimental to the public health, tending to increase the death-rate and to lower the standard of public and private morals, and that its eradication by well-considered legislation is both desirable and necessary; and

Whereas a bill entitled "A bill to prevent the adulteration of food and drugs," prepared after long and careful consideration by a committee of able experts, on behalf of the National Board of Trade, has been presented to your honorable bodies by the representatives of that organization, with the request that favorable action thereon may be had at an early date: Therefore,

Having carefully considered the provisions of said bill, your memorialists respectfully petition and urge your honorable bodies that said bill may receive from you that consideration which the great importance of the subject seems to demand, and that it may be enacted into law during the present session of Congress.

Respectfully submitted, on behalf and by order of the Board of Trade of Chicago.

H. W. ROGERS, JR., *President.*
CHAS. RANDOLPH, *Secretary.*

CHICAGO, *January*, 1881.

I do not know to what committee such memorials are usually referred; probably it should go to the Committee on Finance.

The VICE-PRESIDENT. Such memorials have been heretofore referred to the Committee on Agriculture, the Chair understands.

Mr. LOGAN. Then I move that the memorial be referred to the Committee on Agriculture.

The motion was agreed to.

Mr. KIRKWOOD. I present the petition of 30 soldiers of the late war, some of whom were enlisted in Iowa regiments and others having served in regiments of other States, but who now reside in the State of Iowa, praying for the passage of a bill equalizing the bounties of soldiers at the rate of eight and one-third dollars per month for the time served. I move that the petition be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. HAMLIN presented resolutions of the Bar Association of Cumberland County, Maine, in favor of the erection of a monument in the city of Washington, in memory of Chief-Justice John Marshall; which were referred to the Joint Committee on the Library.

Mr. DAVIS, of Illinois, presented the petition of Mary Brown, widow of George W. Brown, Company B, Twelfth Ohio Cavalry Volunteers, praying that she be granted arrears of pension; which was referred to the Committee on Pensions.

Mr. SAUNDERS presented a letter from the Secretary of the Interior, addressed to the chairman of the Committee on Indian Affairs, relating to the bill (S. No. 2057) for the relief of Arthur J. Carrier; which was referred to the Committee on Claims.

Mr. INGALLS. I present the petition of sundry citizens residing in the State of Kansas, formerly soldiers, praying for the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, which I ask may be laid on the table, the bill having been reported from the Committee on Pensions.

Mr. LOGAN. I will ask the Senator if in presenting that petition it would be out of the way for him to read a note that is at the head of it. I should like to have it read for the information of the Senate. I have seen quite a number of petitions of that kind, and should like to have the head-note read.

Mr. INGALLS. I should be glad to have it read. It was evidently left on through an inadvertence on the part of those who sent it.

The Chief Clerk read as follows:

NOTE.—Sign three copies; forward one to your member of Congress, one to your United States Senator, and one to Headquarters Grand Army of the Republic. Attach more paper if needed.

Mr. LOGAN. I merely asked to have the note which is at the head of the petition read, in as much as there were some remarks made by the Senator from Virginia [Mr. WITHERS] the other day about the memorials in opposition to this bill, in order to show the character of the petitions that come to us in favor of the passage of the bill. There is a note at the head of them saying, "Sign three copies; forward one to your member of Congress, one to your United States Senator, and one to Headquarters of the Grand Army of the Republic." It is sent out from Washington City.

Mr. WITHERS. I will say if that is to be read, I shall ask for the reading of several petitions and memorials from organizations of soldiers.

Mr. LOGAN. I have no objection in the world; I merely desired to have the head-note read.

Mr. BLAIR. I should like to know if it is designed to create the impression that the request to send one copy to the Grand Army of the Republic is an indication that Senate bill No. 496 is countenanced and supported by the Grand Army of the Republic or by its officers? I do not understand that the intimation this orginates in Washington would be found to be a fact; but I do understand that the Grand Army through its officers designs to create the impression that it is favorable to the passage of this bill.

Mr. PLATT. If I may be allowed one moment. I hold in my hand an address issued by one of the pension agents in Washington asking soldiers to sign a memorial, the form of which is given, remonstrating against the passage of Senate bill No. 496, some extracts from which I will take occasion at the proper time during the discussion of the subject to read.

The petition was ordered to lie on the table.

### REPORTS OF COMMITTEES.

Mr. KERNAN, from the Committee on Finance, to whom was referred the bill (S. No. 1867) to provide for the refunding of certain taxes in conformity with a decision of the Supreme Court, reported adversely thereon; and the bill was postponed indefinitely.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 2072) for the relief of the widow and daughters of the late Connolly F. Trigg, reported adversely thereon; and the bill was postponed indefinitely.

Mr. BLAINE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1964) for the relief of Greenleaf Cilley, reported it without amendment.

Mr. GROOME, from the Committee on Claims, to whom was referred the petition of F. E. Stewart, administratrix of the estate of Michael S. Stewart, deceased, of Tennessee, praying for compensation for wood cut under contract for the Government, submitted a report thereon accompanied by a bill (S. No. 2146) for the relief of Frances E. Stewart, administratrix of Michael S. Stewart, deceased.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BURNSIDE submitted a report to accompany the bill (S. No. 1833) to remove charge of desertion from the military record of William Hull, heretofore reported by him; which was ordered to be printed.

Mr. CALL, from the Committee on Patents, to whom was referred the bill (H. R. No. 2414) for the relief of Mrs. S. A. Wright, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1782) for the relief of William G. Budlong, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. JONES, of Florida, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1792) for a public building at Rochester, New York, reported it with amendments.

Mr. KIRKWOOD. I am instructed by the Committee on Post-Offices and Post-Roads to report back the joint resolution (S. R. No. 140) in regard to the extension of the franking privilege, and to say on behalf of the committee that they have considered the resolution and find themselves equally divided as to its merits, and therefore report it back without recommendation, and ask that it may be placed on the Calendar for consideration.

The VICE-PRESIDENT. The joint resolution will be placed on the Calendar.

Mr. LOGAN. I will ask the Senator if the committee who reported the joint resolution would not as lief it should lie on the table so as to be called up without going on the Calendar?

Mr. KIRKWOOD. I am perfectly content to have done whatever the introducer desires in regard to it.

The VICE-PRESIDENT. It goes upon the Calendar in either event.

Mr. KIRKWOOD. That is what I supposed. It can be called up in one case as well as the other.

BILLS INTRODUCED.

Mr. JOHNSTON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2147) to provide for the purchase from Mrs. Hubard of a bronze statue of General Washington; which was read twice by its title, and referred to the Committee on the Library.

Mr. CAMERON, of Wisconsion, (by request,) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2148) for the relief of John H. Huyett; which was read twice by its title, and referred, with the accompanying papers, to the Committee on Claims.

Mr. SAUNDERS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2149) to establish an assay office in the city of Omaha, in the State of Nebraska; which was read twice by its title, and referred to the Committee on Mines and Mining.

Mr. PLUMB asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2150) to grant the right of way through the Fort Bliss military reservation to the Rio Grande and El Paso Railroad Company; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BUTLER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2151) to restore certain articles of silverware to Mrs. Isabella S. McRae; which was read twice by its title, and referred to the Committee on Finance.

SAMUEL POLLOCK.

On motion of Mr. MCPHERSON, it was

*Ordered*, That the vote by which the bill (S. No. 1706) for the relief of Samuel Pollock was indefinitely postponed be reconsidered, and that the bill be recommitted to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolution:

A bill (S. No. 1805) relative to the revolutionary battle-field of Bennington;

A bill (S. No. 1573) to provide for the furnishing of certain public documents to soldiers' homes; and

A joint resolution (S. R. No. 146) to provide for printing and distributing the index of the CONGRESSIONAL RECORD semi-monthly.

The message also announced that the House had concurred in the resolution of the Senate to print 15,560 copies of the report of the Smithsonian Institution for the year 1880.

The message further announced that the House had concurred in the resolution of the Senate for the printing of 1,000 copies of the report of the joint commission appointed under the eighth section of the act of Congress of June 21, 1860, to examine into the organization, system of discipline, and course of instruction of the United States Military Academy at West Point, submitted December 13, 1860.

The message further announced that the House had concurred in some, and non-concurred in other amendments of the Senate to the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1882, and for other purposes.

The message also announced that the House had concurred in some and non-concurred in other amendments of the Senate to the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 6729) to confirm a certain private land claim in the Territory of New Mexico;

A bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes;

A joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish-culture; and

A joint resolution (H. R. No. 388) to provide for publishing an edition of Hayden's Atlas of Colorado.

ENROLLED BILL SIGNED.

The message also announced that the Speaker had signed the enrolled joint resolution (S. R. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug; and it was thereupon signed by the Vice-President.

COUNT OF ELECTORAL VOTES.

The VICE-PRESIDENT. Concurrent and other resolutions are next in order.

Mr. MORGAN. I ask the Senate to take up and proceed to the consideration of the resolution which I submitted on the 15th of June last, relating to the right of the President of the Senate to count the votes of electors for President and Vice-President of the United States.

The VICE-PRESIDENT. The Senator from Alabama calls for the consideration of a resolution standing on the Calendar, formerly submitted by him.

Mr. LOGAN. If the morning business is through——

The VICE-PRESIDENT. The Chair had recognized the Senator from Alabama under the morning-hour business.

Mr. LOGAN. I understood that the call was for the introduction of resolutions.

The VICE-PRESIDENT. The Chair announced the order of business, which is "concurrent and other resolutions." Does the Senator from Illinois desire to submit a resolution?

Mr. LOGAN. No, sir; if the business of the morning hour is over in reference to the introduction of bills and resolutions, I desire, in pursuance of the notice I gave a few days ago, to move that the present and all prior orders be postponed temporarily in order to take up the bill (S. No. 1992) to place Ulysses S. Grant, late General and ex-President of the United States, upon the retired list of the Army.

The VICE-PRESIDENT. The Chair had recognized the Senator from Alabama, [Mr. MORGAN,] and the Secretary will report the resolution called for by him.

The Chief Clerk read the resolution submitted by Mr. MORGAN on the 15th of June, 1880.

Mr. MCDONALD. I ask the Senator from Alabama to allow me to give a notice.

Mr. MORGAN. Very well.

Mr. MCDONALD. I desire to give notice that on the conclusion of the special order I shall move to postpone the present and all prior orders for the purpose of taking up the bill (S. No. 19) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes. I shall ask for the consideration of that bill on the close of the special order.

Mr. INGALLS. To what does the Senator refer, the unfinished business or the Indian severalty bill?

Mr. MCDONALD. The Indian severalty bill.

Mr. INGALLS. That was informally laid aside for the purpose of considering the pension appropriation bill, which is now under consideration; but the understanding was that at the conclusion of the consideration of the pension bill the Indian severalty bill should be resumed.

Mr. MCDONALD. I do not propose to antagonize the Indian severalty bill, but to make the motion I suggested as soon as that is disposed of; and I desire the friends of the measure with which I am charged to be advised of this notice, for if we are to do anything with the bill at this session we should take action upon it at an early day.

My notice, then, Mr. President, is that as soon as the special orders now indicated are disposed of I shall move to take up this bill and ask the friends of the measure to aid me as far as they can in bringing it before the Senate. It is an important measure, and if not acted on now cannot be disposed of at this session.

Mr. SAUNDERS. The Senator will allow me to ask him whether he means by the bills "now indicated" the two bills that are before the Senate?

Mr. MCDONALD. Yes; the pension appropriation bill and the Indian severalty bill.

Mr. MORGAN. I ask the Senate to proceed with the consideration of the resolution before the Senate.

Mr. SAUNDERS. If the Senator from Alabama will allow me, I should like to give notice that as soon as I can do so——

Mr. MORGAN. The Senator can give his notice at any time, and a notice amounts to nothing practically at this stage of the session.

The Senate proceeded to consider the following concurrent resolution, submitted by Mr. MORGAN June 15, 1880:

*Resolved by the Senate, (the House of Representatives concurring,)* That the President of the Senate is not invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States so as to determine what votes shall be received and counted or what votes shall be rejected.

Mr. MORGAN. The resolution I have offered is one that becomes immediately important, if it has any importance whatever, and I hope the Senate will proceed with its consideration.

Mr. CONKLING. Although I wish to hear, I cannot hear a word the Senator says.

Mr. MORGAN. It is not really my fault, but I am not in a condition of health to-day to exert myself much. I have brought forward this resolution for the purpose of getting an expression from the Senate of the United States; and as the resolution is at present framed, from the House of Representatives, a concurrent expression, upon a question in regard to which, in my judgment, it is within the power of the two Houses to declare the law. So far as I am personally concerned, I have heretofore debated this question in the Senate during the present session at such length as I desired, through the courtesy of the Senate; and if I should make any extended remarks on this resolution now I should only be repeating what I have said heretofore.

Mr. CONKLING. Will the Senator allow me to interrupt him again?

Mr. MORGAN. Yes, sir.

Mr. CONKLING. I do not know, and I am not alone in my ignorance, the resolution to which the Senator is speaking. Will he be kind enough to indicate it or allow it to be reported?

Mr. MORGAN. Let the resolution be reported.

The Chief Clerk again read the resolution.

Mr. MORGAN. This subject has been so frequently before the Senate that almost every Senator who has been here for more than one

term at least has had an opportunity of expressing his opinion, and I think that almost the entire body who have been here that length of time have given expression to their views upon the subject. I do not care myself to engage in the discussion of a trite subject, and I am entirely willing at any moment of time that any Senator thinks the vote ought to be taken, or when it shall be indicated that there will be no further discussion on the resolution, that a vote shall be taken on it.

I will say, moreover, that the language in which the resolution is couched was intended to express the idea that the President of the Senate, whether he might be President *pro tempore* or whether he might be the Vice-President of the United States, is not invested by the Constitution with the authority to determine what votes shall be received and counted, or what votes shall be rejected; that that matter belongs to some other jurisdiction, some other power, which this resolution does not undertake to define. The resolution goes simply to the extent of declaring that that officer has not that power.

Whether we have the right to control the President of the Senate in a matter of this kind, I admit is a question that is open to debate. My own views about it are fixed and settled. I regard the President of the Senate as an officer of the Senate, whether he is here under the Constitution as an *ex officio* officer of the Senate, or whether he is here by the election of this body, and that like all other officers of the Senate he is charged by the law and the Constitution, and probably by the rules of the Senate, to execute its will and pleasure whenever that may be properly and constitutionally expressed, and that the Senate cannot get into such a relation with its officer, as that he would have a right to disregard its order upon any subject that fell within the purview of its authority.

I am not well enough this morning to engage in an extensive discussion of this measure, and with this brief explanation of the purpose of the resolution I shall not detain the Senate any further.

Mr. COCKRELL. Is the resolution before the Senate?

The VICE-PRESIDENT. It is, and the question is, will the Senate agree to the same? Is the Senate ready for the question?

Mr. EDMUNDS. Not quite ready, Mr. President. It appears to me that after what has transpired, if not before, it is quite unnecessary to make any declaration at this present time upon the subject. I have not heard, even in the newspapers, that the present Vice-President of the United States and President of the Senate has threatened or has even been suspected of any intention to be a usurper, if the counting, (with all that that implies, more or less,) of the votes for President and Vice-President of the United States by the President of the Senate be a usurpation. It does not appear to me, therefore, that a bald declaration of opinion upon a purely and practically abstract question, which does not contain any declaration of opinion touching certain other bodies on the same subject, is wise, if we are to make a declaration of our opinion upon this subject; though this does not purport to be a declaration of opinion; it seems to stand in the nature of an edict. It does not say that in the opinion of the Senate the President of the Senate has not that power, but it purports to be the declaration of a fact which is to be enforced by the authority of the Senate in some way, perhaps at the point of the bayonet of the Sergeant-at-Arms, who, I believe, is the executive officer of the Senate, or at the point of his mace if he has one,—something of that kind.

Now, I am opposed to making any half declaration, if any declaration at all, at this time. There is a proverb, I believe, that a half truth is an untruth. I think that as this is stated, even if you put it in the form of an opinion, leaving it just where it is, it is a half truth, assuming it to be a truth at all, as I think it is, if by the word "counting" you mean quite a different thing; Senators will excuse the Hibernian form of putting it. Counting a vote is an arithmetical or numerical performance; and deciding what paper is a legal vote is quite a different thing. If this resolution read that the President of the Senate is not invested, by the Constitution merely, with authority to decide whether the State of New York, or the State of Georgia, or the State of Vermont is entitled under given circumstances to participate in the election of a President and Vice-President of the United States, I should give it my most cordial adhesion, if the question arose at a time and under circumstances when it was necessary to say anything about it. If it still further declared that by the force of the Constitution merely this body possessed no such power, I should give that also my cordial adhesion. If it said that the House of Representatives, by force of the Constitution merely, possessed no such power, I should also accede to that with equal cheerfulness. If it said that both the Houses together, (whatever that may mean,) except as a "presence" which the Constitution speaks of, did not possess by force of the Constitution alone the power to decide whether the electoral vote of the State of Vermont or of Georgia should enter into the decision of the question who are elected President and Vice-President of the United States, I should say amen to that with all my heart. If it went still further and said that all three together, the President of the Senate, the Senate, and the House of Representatives, by force of the Constitution alone, possessed no such power, I should agree to that most cordially, not only as a mere intellectual question, as a legal definition of the terms and purport of the Constitution, but as a question of the highest patriotism in respect of preserving the liberties of the people of the United States against usurpation and tyranny on one side and anarchy on the other that would flow from a contrary decision, as it seems to me. For I happen to be one of those truly democratic persons who believe that one of the fundamental securities and perhaps the chief security of the liberty of the people of this Republic as a nation depends upon the security of every right in these respects, as well as a great many others, that the Constitution has given to the States of this Union, and I believe that so strongly that I do not intend that any act or declaration of mine shall contribute in any degree toward assuming by force of constitutional construction alone any authority in any one, or all, or any combination of the three personages (if I may use that expression) to whom I have referred.

I should hope, therefore, that the Senator from Alabama would not press this resolution at this time. There is no occasion for it in point of fact. It does not state except by construction and inference—if you can put construction and inference upon it—what is the real question; and that is the decision respecting the rights of States to cast their votes at all. It does not state, if it were put in that form only, one-half or one-third of what I believe to be the whole question, which if we are to make any statement about it at all, ought to be embraced one way or the other.

So I trust that my friend from Alabama will not insist on bringing the Senate to a vote upon this subject so very important at this present time.

Mr. THURMAN. Mr. President, I think it may safely be assumed that this question has been discussed so much and for so long a period that every Senator on this floor has his mind made up upon it. Believing that, I hope that we may soon come to a vote upon it, and I hope that the resolution will be adopted without any amendment at all. I think it presents one very clear proposition; and if anybody wants to have other propositions considered, he can do it by introducing a resolution, or whatever may be the proper form to adopt to bring it before the Senate. I hope that this resolution will be adopted precisely as it is and with as little debate as Senators may feel that it is their duty to indulge in.

Mr. CONKLING. Before the Senator from Ohio sits down, will he allow me to ask him a question?

Mr. THURMAN. Yes, sir.

Mr. CONKLING. Having been absent for a day or two I was not here when this resolution was reported. I shall be obliged to the honorable Senator from Ohio to inform me as far as he can do so what is the practical purpose of the resolution. Why should any expression of opinion on this point take place in the Senate now? I say to the Senator that I ask this question not by way of any strategy or contrivance in debate, but I ask him because I presume that some reason may have been assigned or can be assigned which I know nothing about.

Mr. THURMAN. I do not think it is necessary to go into that. I am not actuated, as some members of other bodies appear to have been, by fears that the democrats are going to perpetrate some great wrong in the count of the electoral vote next week, and I am quite as certain that there is no intention on the part of our republican friends to do anything that they think would be wrong; but I think it is a very good time to express the opinion of the Senate on this question. That is all I have to say.

The VICE-PRESIDENT. Is the Senate ready for the question?

Mr. EDMUNDS. I am not ready for it, and in order to test the sense of the Senate whether it will now with all the other business on its Calendar go into a discussion of all that is involved in this and the cognate things at this time, I move to lay the resolution on the table.

The VICE-PRESIDENT. The Senator from Vermont moves to lay the resolution on the table.

Mr. THURMAN. On which I ask for the yeas and nays.

Mr. EDMUNDS. So do I.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. HILL, of Georgia, (when Mr. BROWN'S name was called.) My colleague [Mr. BROWN] is paired with the Senator from Colorado [Mr. TELLER] on this question.

Mr. TELLER, (when his name was called.) On all political questions I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, I should vote "yea."

Mr. WALLACE, (when his name was called.) I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] If he were here, I should vote "nay."

The roll-call was concluded.

Mr. BALDWIN. My colleague [Mr. FERRY] is paired with the Senator from Texas, [Mr. MAXEY.] If my colleague were present, he would vote "yea."

Mr. JONES, of Nevada. I am paired with the Senator from Indiana, [Mr. VOORHEES.] If he were present, I should vote "yea."

Mr. McDONALD. The Senator from Kentucky [Mr. WILLIAMS] is paired with the Senator from Nevada, [Mr. SHARON.] If the Senator from Kentucky were here, he would vote "nay."

Mr. BAILEY. On political questions I am paired with the Senator from Nebraska, [Mr. PADDOCK.] If he were present, I should vote "nay."

Mr. McMILLAN. I am paired with the Senator from North Carolina [Mr. RANSOM] on this question. If he were here, I should vote "yea," and I presume he would vote "nay."

The result was announced—yeas 22, nays 32; as follows:

YEAS—22.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Wis., | Hill of Colorado, | Platt, |
| Anthony, | Conkling, | Ingalls, | Plumb, |
| Baldwin, | Davis of Illinois, | Kellogg, | Rollins, |
| Blair, | Dawes, | Kirkwood, | Windom. |
| Booth, | Edmunds, | Logan, | |
| Burnside, | Hamlin, | Morrill, | |

NAYS—32.

| | | | |
|---|---|---|---|
| Bayard, | Farley, | Jonas, | Pugh, |
| Beck, | Garland, | Jones of Florida, | Randolph, |
| Butler, | Groome, | Kernan, | Saulsbury, |
| Call, | Hampton, | Lamar, | Slater, |
| Cockrell, | Harris, | McDonald, | Thurman, |
| Coke, | Hereford, | McPherson, | Vance, |
| Davis of W. Va., | Hill of Georgia, | Morgan, | Vest, |
| Eaton, | Johnston, | Pendleton, | Walker. |

ABSENT—22.

| | | | |
|---|---|---|---|
| Bailey, | Ferry, | Paddock, | Wallace, |
| Blaine, | Grover, | Ransom, | Whyte, |
| Brown, | Hoar, | Saunders, | Williams, |
| Bruce, | Jones of Nevada, | Sharon, | Withers. |
| Cameron of Pa., | McMillan, | Teller, | |
| Carpenter, | Maxey, | Voorhees, | |

So the motion was not agreed to.

Mr. EDMUNDS. Mr. President, I am bound to infer that the Senate has refused to lay this resolution on the table for fear that it may be called up again to-morrow morning or at some such time. Therefore I think, in order to enable the Senate to express its opinion upon, the resolution in its present form——

The VICE-PRESIDENT. The Chair reminds the Senator that the morning hour has now expired.

Mr. MORGAN. I move that the Senate continue the consideration of the resolution.

The VICE-PRESIDENT. That involves the postponement of the pending order.

Mr. MORGAN. I make that motion.

The VICE-PRESIDENT. The Senator from Alabama moves to postpone the pending order, being the consideration of the Calendar of General Orders under the Anthony rule, for the purpose indicated by him.

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McMILLAN. I should like to inquire what is the pending order to be postponed.

The VICE-PRESIDENT. The pending order is the consideration of the Calendar of General Orders under the standing order of the day, the Anthony rule. The question is on postponing that order.

The yeas and nays were taken.

Mr. McDONALD. I desire to state that my colleague [Mr. VOORHEES] is paired with the Senator from Nevada, [Mr. JONES.] If my colleague were here, he would vote "yea."

The result was announced—yeas 33, nays 23; as follows:

YEAS—33.

| | | | |
|---|---|---|---|
| Bayard, | Groome, | Lamar, | Slater, |
| Beck, | Hampton, | McDonald, | Thurman, |
| Butler, | Harris, | McPherson, | Vance, |
| Call, | Hereford, | Morgan, | Vest, |
| Coke, | Hill of Georgia, | Pendleton, | Walker, |
| Davis of W. Va., | Johnston, | Pugh, | Withers. |
| Eaton, | Jonas, | Randolph, | |
| Farley, | Jones of Florida, | Ransom, | |
| Garland, | Kernan, | Saulsbury, | |

NAYS—23.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Wis., | Hill of Colorado, | Morrill, |
| Anthony, | Conkling, | Hoar, | Platt, |
| Baldwin, | Davis of Illinois, | Kellogg, | Plumb, |
| Blair, | Dawes, | Kirkwood, | Rollins, |
| Booth, | Edmunds, | Logan, | Windom. |
| Burnside, | Hamlin, | McMillan, | |

ABSENT—20.

| | | | |
|---|---|---|---|
| Bailey, | Carpenter, | Jones of Nevada, | Teller, |
| Blaine, | Cockrell, | Maxey, | Voorhees, |
| Brown, | Ferry, | Paddock, | Wallace, |
| Bruce, | Grover, | Saunders, | Whyte, |
| Cameron of Pa., | Ingalls, | Sharon, | Williams. |

So the motion was agreed to.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The order is postponed.

Mr. MORGAN. I move that the Senate continue the consideration of the resolution.

The PRESIDING OFFICER. The question is on the adoption of the resolution.

Mr. EDMUNDS. The motion was to postpone the pending order and that was the only orderly motion according to the previous rulings of the Vice-President. We are now therefore——

The PRESIDING OFFICER. The Chair was advised by the Chief Clerk, not knowing the condition of business himself.

Mr. EDMUNDS. The question now is on whatever anybody may move. We have not yet voted to proceed to consider this resolution.

The PRESIDING OFFICER. The Chair was informed that the resolution was pending, probably erroneously.

Mr. MORGAN. I move that the Senate proceed to the consideration of the resolution.

The PRESIDING OFFICER. The Senator from Alabama moves that the Senate proceed to the consideration of the resolution previously read.

Mr. EDMUNDS. I ask for the yeas and nays on that question.

The yeas and nays were ordered and taken.

Mr. TELLER. On all political questions I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present I should vote "nay."

Mr. JONES, of Nevada. On this question I am paired with the Senator from Indiana, [Mr. VOORHEES.] Were he present I should vote "nay."

The result was announced—yeas 31, nays 18; as follows:

YEAS—31.

| | | | |
|---|---|---|---|
| Bayard, | Farley, | Jonas, | Ransom, |
| Beck, | Garland, | Jones of Florida, | Saulsbury, |
| Butler, | Groome, | Kernan, | Slater, |
| Call, | Hampton, | McDonald, | Thurman, |
| Cockrell, | Harris, | McPherson, | Vance, |
| Coke, | Hereford, | Morgan, | Vest, |
| Davis of W. Va., | Hill of Georgia, | Pugh, | Withers. |
| Eaton, | Johnston, | Randolph, | |

NAYS—18.

| | | | |
|---|---|---|---|
| Anthony, | Davis of Illinois, | Hoar, | Plumb, |
| Baldwin, | Dawes, | Ingalls, | Rollins, |
| Blair, | Edmunds, | McMillan, | Windom. |
| Booth, | Hamlin, | Morrill, | |
| Burnside, | Hill of Colorado, | Platt, | |

ABSENT—27.

| | | | |
|---|---|---|---|
| Allison, | Carpenter, | Lamar, | Teller, |
| Bailey, | Conkling, | Logan, | Voorhees, |
| Blaine, | Ferry, | Maxey, | Walker, |
| Brown, | Grover, | Paddock, | Wallace, |
| Bruce, | Jones of Nevada, | Pendleton, | Whyte, |
| Cameron of Pa., | Kellogg, | Saunders, | Williams. |
| Cameron of Wis., | Kirkwood, | Sharon, | |

So the motion was agreed to.

The PRESIDING OFFICER. The resolution is before the Senate.

Mr. EDMUNDS. Let it be reported.

The PRESIDING OFFICER. The resolution will be read.

The Chief Clerk read the resolution as submitted by Mr. MORGAN.

Mr. BLAIR. Mr. President, I rise to make a motion to commit this resolution to the Committee on the Judiciary. It seems to be assumed by the older Senators in this body that the subject has been exhaustively discussed in previous years, that they have their minds thoroughly settled upon the great questions that are involved in this resolution in all their ramifications, and that they are ready to vote upon it, when it is admitted by everybody that there is no occasion in existing emergencies for the expression of legislative opinion on the subject at all. I am the youngest member on the floor of the Senate, I think, and I am not anxious to vote on this resolution. I admit that the tendencies of my own mind and of my own investigations on this subject, so far as I have been able to make them, are rather favorable than otherwise to the resolution; and yet I am not prepared to vote for it at this time. I think the topics involved in it are altogether too important for the majority of the Senate and the older members of the Senate to be justified in forcing an expression of opinion by a formal vote when there is no occasion for it, as they admit; and if I am obliged to vote upon this subject during this session or any time I shall be glad to be instructed by the Committee on the Judiciary when opportunity has been given them to form and to express it maturely.

If there were necessity for immediate action, I should feel otherwise; but as it is I think it almost a matter of courtesy which older members should perform toward those who are less ready to vote until there shall be occasion for it, that this resolution be sent to the Judiciary Committee, a committee organized by the Senate to treat of questions of this kind and to give to other and younger members who have less opportunity for the investigation of this particular class of subjects the benefit of their examination and counsel. I hope that the resolution will be sent to the Committee on the Judiciary.

The PRESIDING OFFICER. The Senator from New Hampshire moves that the resolution be committed to the Committee on the Judiciary.

Mr. BLAIR. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMAN. I do not rise to debate this matter, but to call the attention of my friend from New Hamshire to the fact that a majority of the committee that reported this resolution are members of the Judiciary Committee.

Mr. EDMUNDS. Mr. President, if any committee has reported this resolution, it is a committee of some caucus and not a committee of the Senate of the United States. I have no doubt, therefore, that the Senator from Ohio refers to some committee of which the Constitution and the rules of the Senate have not any cognizance. That may be true. We have been told in the public newspapers and otherwise informed that since the advent of that happy day, when the party that is called or calls itself the democratic party came into power at the Capitol, the legislative branch of the Government has been chiefly carried on nights and Sundays and at other convenient times by an organization embracing people of particular views or a want of particular views, as the case may be, considering out of leg-

islative halls what would be I must suppose the most popular thing to do next or not to do next, and its rescripts and arrangements have been brought forth and attempted to be put in the form of laws and resolutions and so on. I did not certainly know whether that was true although I was strongly inclined to believe it, until the Senator from Ohio tells us that a majority of the committee who reported this resolution constitute a majority of the Committee on the Judiciary.

Mr. THURMAN. Will the Senator from Vermont allow me to interrupt right there?

Mr. EDMUNDS. With the greatest pleasure.

Mr. THURMAN. I did say so; but I said it under a misapprehension. The resolution had been here so long that I was under the impression that it had been reported from the committee of which the Senator from Alabama is chairman. I find I was mistaken in that, and therefore my statement to the Senator from New Hampshire was incorrect.

Mr. EDMUNDS. Yes, Mr. President, that was what I was going to try to show from the face of the official print now before me. This does not appear to be a caucus print precisely, which I hold in my hand. This says:

> Forty-sixth Congress, second session.—Senate Mis. Doc. No. 103.
>
> In the Senate of the United States, June 15, 1880, ordered to be printed.
>
> Mr. MORGAN submitted the following resolution:

Here follows the resolution. My friend from Ohio, therefore, was mistaken in saying that a majority of the Committee on the Judiciary, to which the Senator from New Hampshire has proposed to refer this resolution, constituted a majority of the committee or a part of it, (he did not say a majority, I believe,) that reported this resolution, if by that he referred to a committee of the Senate, because no committee of the Senate has ever considered this resolution, for it has not been referred to any committee of the Senate at all. It may still be true, and I am inclined to believe it is, that a majority of the Committee on the Judiciary composed a part of some committee or other assemblage of individuals and persons who, outside of the hours of the Senate and the hours of the people in that "other place"—which I believe is the constitutional phrase—have considered what sort of a resolution it would be most advantageous to the interests of that association of gentlemen to whom I have referred to permit. So the correction that my friend from Ohio has made is really a comparatively unimportant one; but we now have the fact that this resolution that is supposed to be of so much importance, either in respect of pending events or in respect of something else, as to induce a majority of this body to set aside all the pension cases on the Calendar and all the cases of private claims and all the cases of general public consideration, for the purpose of taking up this resolution at this time.

Now, what the Senator from New Hampshire has said has very great force. It may not be in accordance with the designs, (and I believe that is a perfectly polite word; I do not mean to use any other)—it may not be in accordance with the designs of that committee, whatever it was, or that other body of people, if it were not a committee, who framed this resolution; but if the reference to a committee is in accordance with the practice of the Senate that has endured and been followed in general for a longer period of time than that to which the Senator from Ohio referred yesterday when he said that for seventy years the Senate had marched over to the House of Representatives to be present at the opening of the certificates and the counting of the votes for President and Vice-President of the United States. Why, then, should not this resolution be referred to the Committee on the Judiciary, or to the committee of which the distinguished Senator from Alabama is the chairman to take into consideration the state of the law touching all these questions? Why should we not have the consideration, the study, the conclusion, with its reasons, of one or the other of these committees? The committees of this body are supposed to be at present in safe hands, unless indeed it should be referred to the Committee on Revolutionary Claims of which my distinguished friend from Rhode Island [Mr. ANTHONY] is the chairman, and perhaps the fear might be that if it were so referred it might not be in the hands of a majority of people for the moment who would be entirely willing from that mere cause to carry into effect the edicts of any caucus, if there had been one, but might be disposed to consider the resolution on its constitutional or, borrowing the name of the committee, its revolutionary merits, whatever they might be. So I do not think that I would vote to send it to the Committee on Revolutionary Claims. It might imperil the cause of constitutional freedom this week and next, to do so, and I should be sorry to do anything imperiling the cause of constitutional freedom either this week or next or any other week that I know of. But to send it to the Committee on the Judiciary of which the distinguished Senator from Ohio is the *facile princeps* would be to send it, I was going to say—but that would be getting outside of anything that is in the rule—I was going to say back to the bosom of its friends from which it sprang. I am not sufficiently informed to be justified in saying that exactly; and indeed, as I look at the phraseology of the resolution, I am strongly inclined to think that the distinguished chairman of the Committee on the Judiciary did not compose it or write it out. It does not bear the characteristics that I have so long observed with admiration that adorn the character and cultivation of the honorable chairman of the Committee on the Judiciary. But still as the Senate evidently considers it embraces a subject of great constitutional importance, (whether of practical importance or not at this time remains to be seen,) if the Senate does with it as it has done almost always with similar questions it will gladly send it to that committee for early and careful and constitutional consideration and report, and I hope it will be done.

The whole subject deserves inquiry. It is one of the most interesting and important, perhaps I ought to say the most interesting and important of any of the subjects that can enter into the theory or the operations of the Government of the United States. Why not, then, allow that committee to consider it? Has anybody stated the reason? We have not heard any. Why not allow that committee to report upon the subject, and to define, if it can, what it believes to be the powers, and where they may be vested, mentioned in the article of the Constitution touching this subject, and what means, if any there may be, can be wisely and lawfully provided for clearing up all points of probable or even possible dispute and difference, all collisions and tumults of party bias and hate, and putting the state of the law, as the phrase is in the appointment of the committee of the Senator from Alabama, into a clear condition, defining or limiting or lodging these duties in the hands of somebody or some board or some tribunal? Why not?

It is only a short time since that the present occupant of the chair [Mr. INGALLS] offered a resolution upon this subject which had been taken, as I am informed—and I think I have seen it since—from the institutions of the fathers, from the days of Jefferson, and which simply provided that the Senate, in the peformance of its constitutional duty, would receive the House of Representatives on the day fixed by law, for the purpose of doing whatever the Constitution required to be done in respect of the opening and counting of the votes for President and Vice-President; and yet although that resolution provided for the simplest formality, although it had been sanctified by commendation, unanimously received, of the men who occupied the Halls of the two Houses of Congress in 1801, it was sent, on the motion I believe of the Senator from Alabama, certainly on the motion of some of the gentlemen who seem apparently disposed not to refer this resolution, to the committee of which that Senator is chairman.

The PRESIDING OFFICER. The hour of half past one having arrived, the Senate resumes the consideration of its unfinished business, being the Indian severalty bill.

Mr. MORGAN. I move to postpone——

The PRESIDING OFFICER. The Secretary will report the title of the bill which is the unfinished business.

The CHIEF CLERK. A bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

Mr. MORGAN. I move to postpone all prior orders, with a view of continuing the consideration of the resolution which has been under discussion.

The PRESIDING OFFICER. The Senator from Alabama moves that the pending order be postponed.

Mr. WINDOM. What is the pending order?

The PRESIDING OFFICER. The Clerk will again report the unfinished business of the Senate.

The Chief Clerk read the title of Senate bill No. 1773.

Mr. WINDOM. I had the impression that the pension appropriation bill was the pending order.

The PRESIDING OFFICER. The Senator is misinformed. The bill just reported by the Clerk is the unfinished business which was yesterday by unanimous consent informally laid aside for the purpose of considering the pension appropriation bill, and the bill just reported by the Clerk was called up prior to adjournment last evening and became the unfinished business of the Senate. The Senator from Alabama now moves that the pending order, which is the unfinished business just reported, be postponed.

Mr. EDMUNDS. Postponed till when?

Mr. MORGAN. With a view of continuing the resolution.

Mr. EDMUNDS. There are only two motions to postpone that I know of under the rules, if the rules make any difference; one is to postpone to a day certain and the other is to postpone indefinitely; and therefore I should be glad to have the question put in the way the rules require.

The PRESIDING OFFICER. The Senator from Vermont is correct.

Mr. THURMAN. I suggest to my friend from Alabama to make his motion to postpone until to-morrow, and if we get through with the pension bill it will be easy enough to rescind that order and take up the allotment bill. The Senator from Vermont has made the point that the rules require a motion to postpone to a time certain or indefinitely. Therefore I suggest to my friend from Alabama that he move a postponement until to-morrow.

Mr. MORGAN. The purpose is not to displace that order of business but to dispose of this resolution. It is not in hostility to that measure at all. I therefore modify my motion, and move to postpone the consideration of the present order until to-morrow with a view to take up the resolution which has been under discussion this morning.

The PRESIDING OFFICER. The Senator from Alabama moves that the pending order be postponed until to-morrow.

Mr. EDMUNDS called for the yeas and nays.

The yeas and nays were ordered and taken.

Mr. ALLISON. The Senator from North Carolina [Mr. RANSOM] stepped out of the Chamber a moment ago and asked me to pair with him. If he has not voted I shall refrain from voting; otherwise I should vote "nay."

Mr. TELLER. As this assumes a political phase, I am paired with the Senator from Georgia, [Mr. BROWN.] I would vote "nay" if he were present.

The result was announced—yeas 31, nays 19; as follows:

YEAS—31.

| | | | |
|---|---|---|---|
| Bayard, | Farley, | Kernan, | Slater, |
| Beck, | Garland, | McDonald, | Thurman, |
| Butler, | Hampton, | McPherson, | Vance, |
| Call, | Harris, | Morgan, | Vest, |
| Cockrell, | Hereford, | Pendleton, | Walker, |
| Coke, | Hill of Georgia, | Pugh, | Whyte, |
| Davis of W. Va., | Johnston, | Randolph, | Withers. |
| Eaton, | Jonas, | Saulsbury, | |

NAYS—19.

| | | | |
|---|---|---|---|
| Anthony, | Conkling, | Ingalls, | Morrill, |
| Blair, | Dawes, | Kellogg, | Platt, |
| Booth, | Edmunds, | Kirkwood, | Rollins, |
| Burnside, | Hill of Colorado, | Logan, | Windom. |
| Cameron of Wis., | Hoar, | McMillan, | |

ABSENT—26.

| | | | |
|---|---|---|---|
| Allison, | Carpenter, | Jones of Nevada, | Sharon, |
| Bailey, | Davis of Illinois, | Lamar, | Teller, |
| Baldwin, | Ferry, | Maxey, | Voorhees, |
| Blaine, | Groome, | Paddock, | Wallace, |
| Brown, | Grover, | Plumb, | Williams. |
| Bruce, | Hamlin, | Ransom, | |
| Cameron of Pa., | Jones of Florida, | Saunders, | |

The PRESIDING OFFICER. The regular order, the unfinished business, is postponed.

Mr. EDMUNDS. Mr. President, I think the Senate must not have considered exactly the idea throwing aside this Indian bill in this way; therefore I move to reconsider the vote by which it was postponed until to-morrow.

The PRESIDING OFFICER. The Senator from Vermont moves that the vote by which the pending order was postponed until to-morrow be reconsidered.

Mr. EATON. Did the Senator vote with the majority?

Mr. HARRIS. Did the Senator from Vermont vote for the motion to postpone?

The PRESIDING OFFICER. The Chair is not advised.

Mr. EDMUNDS. I did not.

Mr. EATON. Then he cannot make the motion.

Mr. EDMUNDS. That is true.

The PRESIDING OFFICER. Does the Senator from Connecticut make a point of order on the motion made by the Senator from Vermont?

Mr. EATON. Yes, sir.

Mr. MORGAN. I move that the Senate proceed to the consideration of the resolution which has been under discussion this morning.

The PRESIDING OFFICER. The Senator from Alabama moves that the Senate proceed to the consideration of the resolution which has heretofore been read by the Clerk.

Mr. BOOTH. Before the vote is taken I desire to call the attention of the Senate to the fact that a general appropriation bill, the bill making appropriations for pensions, has been before the Senate now for two days, and it is very important that it should be passed. I therefore trust that the motion of the Senator from Alabama will not be concurred in, and that the Senate will proceed to the consideration of the pension bill.

Mr. HOAR. I expect to vote for the resolution of the Senator from Alabama, and I agree with him that it is a proper resolution to be passed during the present session of Congress, possibly with some amendments which may suggest themselves to the Senate. I think it is proper, in consideration of the recent history of this country, that a declaration to the extent certainly to which this resolution goes, should be put on record. But I do not think, and I appeal to him whether I am not right, that this should be insisted upon at the present time, to the displacement of all the other important business before the Senate. Let the electoral count go on; let both Houses proceed under the resolution which has been sent down to the other House from the Senate already. No man then will suppose that there is any purpose anywhere—nobody in the country will be disturbed by the idea that there is any purpose anywhere except what appears disclosed on the face of the resolution itself. There will be no embarrassment in dealing with proposed amendments or modifications from the impression growing out of the fear that possibly some unseen meaning may lurk in this resolution which will embarrass a very important constitutional duty that is so soon to be performed.

Mr. President, what reason is there which can be given for displacing the proposition to facilitate the settlement of the pension cases now pending, for the postponement of that pension bill? Whatever may be the policy which will be agreed upon, everybody, I suppose, agrees that there should be some provision, either by a simple increase of administrative force or by the pending amendment to that bill, to grant relief to the soldiers who are now waiting for their pensions. There is nothing in tragedy more moving than some of the appeals which come to Senators in their mail day after day from soldiers and widows who are dying broken-hearted at the delay of justice under the existing administration of the Pension Office. In saying that, I mean not to intimate any reproach in the least to any existing executive officer. I believe, on the contrary, that the failure is a failure on the part of Congress to provide an adequate administrative force in the Pension Office and in the other various offices; but there are soldiers by the thousand whose honest claims were made two and three years ago, whose evidence as they believe is ample, and yet who get not even a response. They are obliged to send to their Senators or Members to avail themselves of their influence to learn why it is that not even a response is made acknowledging the filing of the evidence on which their title to relief depends. Every day, every hour that the Senate defers action upon this question increases the probability that this session of Congress will pass away without any adequate relief to this most meritorious class of claimants. And it seems to me that when the Senate has reached and undertaken the consideration of the pension bill, when, if I correctly recollect, a Senator is entitled to the floor for the expression of his opinion upon the bill who has commenced but not yet concluded his remarks, we ought not to lay it aside for a mere naked declaration of an opinion on any question, however important.

I will aid by my vote the Senator from Alabama to take up and to pass this resolution next week, or within a very short time, when the existing pressure of the pension bill shall have passed away; but the insisting upon the right of way to this scheme here and elsewhere is an attack, and a most dangerous attack, possibly a fatal attack, upon the measures calculated to relieve the pensioners who are waiting for justice.

Mr. WINDOM. Mr. President, I would not venture to say a word on this question, which I think would be more properly said by the chairman of the Committee on Appropriations, did I not suspect from remarks made by the Senator from Vermont as to the origin of this resolution that the chairman of the Committee on Appropriations may be a little embarrassed, and therefore does not feel at liberty to urge his appropriation bills as he otherwise would do. Hence I feel it to be my duty to say a word in behalf of the Appropriations Committee. We have now pending the bill appropriating some fifty million dollars for pensions. We have also prepared, and now before the Senate, ready for action, another bill making appropriations for the Post-Office Department. There is also in the Committee on Appropriations, ready for action, and will be, I suppose, reported to the Senate very soon, the bill making appropriations for fortifications. So it will be observed that the Senate is a good deal behind the House in its action on the appropriation bills. I know if the honorable chairman of that committee, with the zeal which he always displays in behalf of the appropriation bills, were not embarrassed by some cause which I cannot explain, he would stand up here in the presence of the Senate and urge immediate action upon these bills.

There are but four weeks left of the session. If we expect to complete the appropriation bills and avoid an extra session, it seems to me of the utmost importance that we should give to the appropriation bills the right of way, instead of laying them aside to take up a mere political measure, if it be such, that will occupy probably one or two or three days' time.

There is a special reason that I wish to submit, in addition to what has been said by the Senator from Massachusetts, why the pension bill should be passed at once. It is not merely an appropriation to pay pensions for the next year; but the Senate has added since the bill was reported from the committee nearly eighteen million dollars to pay deficiencies. Those deficiencies are absolutely necessary to be provided for; and I am informed by the Commissioner of Pensions—at least I heard him make the statement—that there are many pensions which cannot now be paid which have been passed upon, but the money cannot be furnished because it has not been appropriated. I think I am not mistaken in that fact; if I am the other members of the Appropriations Committee will correct me. There, then, are over seventeen million dollars of deficiencies with pensions that have been allowed unpaid which ought to be paid at once, and the money ought to be furnished.

Now, I submit that the Senate cannot, with any justice to this great class of deserving American citizens, lay aside this bill and further postpone the payment of pensions found due and only awaiting the supply of money, in order to take up an unimportant measure for the sake of a political discussion.

Mr. HILL, of Georgia. Mr. President, I hope in view of what the gentlemen on the other side have severally said and in which they seem to be very earnest, that they will pardon me for a suggestion. They are very anxious to save time. Evidently they are sincere in that. They admit that this is a very unimportant matter anyway, and some of them say they are inclined to favor it anyhow, and a good many of them have favored it. Now, I suggest to the gentlemen that if they will just quit talking we will pass this measure and get it out of the way in fifteen minutes, and we might as well get rid of it in fifteen minutes as in fifteen hours. If they are really sincere and want to save time, let them quit talking. If they continue talking it will be the talk, and not the resolution, that consumes time.

Mr. HOAR. If the Senator from Georgia will agree to reciprocate that great favor, I will agree for one to quit talking now if he will quit talking the next time I ask him to.

Mr. HILL, of Georgia. I do not understand the Senator. Let us vote now.

Mr. CONKLING. Mr. President, having heard the distinguished and taciturn Senator from Georgia, I feel moved to ask a question. Before doing so, however, I would make to the honorable Senator from Ohio, the chairman of the Committee on the Judiciary, as I do now, my acknowledgments for the very luminous and satisfactory answer which he was good enough to give to a question of mine a few moments ago. I asked him the object of pressing the resolution now; and his answer must have satisfied every inquiring mind in the Senate. Now, in the hope that I may receive an equally satisfactory answer to another question, I venture to propound that to whom it may concern; and I shall be grateful to any Senator on either side who will favor me with the information, where does this resolution come from, the one the Senate is asked to take up?

Mr. WALLACE. The Senator from Alabama, I believe, offered it; it is on the Calendar upon his motion.

Mr. CONKLING. My honorable friend from Pennsylvania expresses a belief which shows there is not such faith, no, not in Israel. I wonder if the Senator from Pennsylvania really believes that this resolution comes from so distinguished a source, and from that source alone, as the Senator from Alabama. If he does, then all these Senators have been making use of many idle words, for which I hope they will be brought into judgment, especially the Senator from Vermont who, in some talkative observations that I listened to from him some time ago, stated that it had been alleged here that this resolution was reported from a committee, and then he went on to say that that committee must belong to that invisible empire known as the democratic caucus. Now comes the Senator from Pennsylvania, who in the chance medley of newspaper reports is called the charioteer of that caucus; the newspapers say he presides in it himself personally, with headquarters in the saddle I presume when he takes the field in person; and he says that this resolution comes from the honorable Senator from Alabama.

Well, Mr. President, it could not come from a more distinguished or a more thoughtful Senator; and if it does come from a single Senator as a resolution not sanctioned by any committee, either by any authorized committee or by any of those invisible, unauthorized, nondescript but potential committees, (which my honorable friend from Florida [Mr. JONES] smiles with satisfaction when he remembers control and govern the business of this body,) then I submit to the Senate that it presents a question additional to those which I have heard discussed. Is it possible that at this stage of the session and upon an abstract question, a resolution offered by a single Senator, never referred to a committee, never reported by a committee, not having the *imprimatur* and authenticity of a caucus of the democratic party, is to be taken up not only against the regular orders of the Senate, not only against the committees of the Senate and their reports, but against the appropriation bills, which we have understood, as I thought by common consent, were to have what is called in the Senate the right of way. If that is so, without going any farther I should concur most fully in the objections which have been made by other Senators to any such proceedings. I submit that it makes the action of the Senate as to its order, as to the arrangement of its business, a mere hap-hazard chance affair from day to day.

And yet, Mr. President, I expect at least to be prepared at the proper time for the question covered by this resolution, and for the treatment that question receives in the resolution; and therefore I say to the Senator from Alabama and to other Senators who favor this proposition that at an appropriate time, at any time when the question comes conveniently and practically before the Senate, I shall be found with them in denying that the presiding officer of the Senate, be he who he may, whether the Vice-President or the President of the Senate elected by the Senate, has any power whatever to adjudicate whether the certificate of the electoral votes from a State shall be counted or not, or if there be two such certificates which shall be counted. This resolution declares:

> That the President of the Senate is not invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States.

Did the resolution stop there, I should have great doubt about it; the Senator from Alabama no doubt would have great doubt about it. I say no doubt he would, because he has added other words to exclude that doubt. Did the resolution stop where I have stopped in reading it, and the operative word should be deemed the word "count," different if not conflicting opinions might well arise upon the exactness and legal truthfulness of the proposition it would assert. That I say because I conceive that counting may be of various kinds. He who counts the chairs in the Senate Chamber counts them, no doubt, within the clear definition of the word. The expert in money, the cashier or receiving or paying teller of a bank who counts coin or bank notes, with a view to separating the true from the false, to detect the counterfeit coin or the counterfeit bill, also counts. But between the function he performs and the function of him who counts the fingers of his hand, there is a difference so broad that it need not be pointed out.

So, there being no dispute about electoral votes, there being no doubt that every State which has voted had the right to vote; in other words, that every State claiming to be a State is and was on the day when the votes were cast a State of the Union; there being no doubt about the authenticity of the papers; there being but one electoral certificate from the State; there being in short nothing whatever to do in order to make it a fact accomplished, save only to open and exhibit the contents of one paper after another, and then to tabulate and add together the votes as shown, I should not be prepared to say that the President of the Senate had not as much power as would suffice for that. In the presence of the two Houses, and in the absence of objection, practically, virtually, in common parlance if not in strict exact legal phrase, he would have the power.

You, Mr. President, have no power to appoint any committee, in a strict sense; yet should a message come from the House of Representatives that the House had disagreed to an amendment and a conference were asked, whoever at that moment happened to be the occupant of the chair would appoint a committee of conference on the part of the Senate. It would be done *sub silentio;* it would be done with the assent of the Senate; it would be done as the exertion of a power, some part of which would be drawn, of course, from the fact that the man who makes the appointment is the presiding officer of the body; the residue of the power to do the act would be drawn from the body itself because of the assent it would give. So, nobody dissenting, there being no question about the validity, identity, or authenticity of electoral votes, should the President of the Senate proceed to that purely ministerial, in one respect hardly even ministerial, function—I might almost say mere manual, formal, matter of course thing which would be the adding up of these votes, the displaying of the certificates before the two Houses, their submission to the tellers appointed by the two Houses, unquestionably some part of his power to do it would be beyond that conveyed in the mere assent of the witnessing bodies. How much of it, what proportion of it, if it could be measured in exact scales, is not important for the present purpose. Some of it would result from the function of the presiding officer and his function as recognized in the Constitution, and some portion of it would result from the assent, the acquiescence, and therefore the authority of the two Houses of Congress assembled before him. I say, then, that had the resolution asserted merely an absence of power in the presiding officer of the Senate to count, because of lack of definition of the word "count," I should at least hesitate to agree to such phraseology. It however concludes with these words:

> So as to determine what votes shall be received and counted or what votes shall be rejected.

I may feel at liberty hereafter to criticise that language, and if so, only with a view of making more unmistakable, if I can, the idea which I have no doubt it is designed to convey. I will not do it now. I allude to it merely to say that the resolution means to distinguish, it does distinguish between what in one sense would be a "count" within the meaning of the lexicon and within the meaning of the law and what in another instance, although a quite different function, might also fall within the word "count." The concluding member of this resolution was, I assume, designed to deny to the presiding officer of the Senate that judicial or quasi-judicial power, that power of deciding or determining, which must be invoked when the question of the validity, authenticity, or identity of electoral votes arises. I observe the Senator from Alabama does me the honor to listen to that statement, and perhaps he will do me the favor to let me know whether I am right in the supposition.

Mr. MORGAN. The Senator from New York is quite right in the view upon which the resolution was drawn, unless it may be as to the mere question of identity. I have not considered that proposition. I do not regard it as being included in the words I have used there, though it may be. I am not committed on that point, however.

Mr. CONKLING. I will say frankly to the Senator that he has touched one matter to which I referred a moment ago when I said that I might possibly venture to criticize this language. He says now that the question of the identity of votes might not be brought within the scope of these words. Suppose from the State of New York there had been sent to the presiding officer of the Senate an electoral certificate by a messenger and a duplicate by mail; suppose apparently, and ostensibly from the same authorities, afterward and within the allotted time should come two other duplicates, and on examining them it should be found that the result was not the same as evidenced by the two certificates; suppose one should declare that one of New York's thirty-five electors had voted as none of his associate electors voted, had voted separately for a President of the United States and for a Vice-President of the United States, one of them not being a resident of the State in which he lived; that would be a constitutional vote; and the question would arise whether the certificate which attested that New York's thirty-five electors had voted together, or whether the certificate which asserted that thirty-four of New York's electors had voted together and one had voted adversely, was to be received and counted. There would be a question of identity. The Senator perhaps may say that it could be described by other phrases, that it might be also a question of validity. I submit that practically it would be a question of identity. So would the question of identity arise in many other not impossible, hardly improbable cases, and I do not believe that the presiding officer of the Senate has power to determine that question.

The inquiry in a given instance is how Connecticut has voted; how the electors appointed by the State of Connecticut have cast their ballots, and that question may be made up of many elements. It may begin with the inquiry, first, whether the State of Connecti-

cut appointed any electors at all or not; second, who those electors were; third, whether they voted and voted at the time and place required; fourth, whether they voted and certified their votes according to the Constitution and the act of Congress executing the Constitution, and so on. These questions precede the count at last or the refusal to count at last these votes; and neither might be more nor less than a question of mere identity. Do they present occasion for the action of the President of the Senate? These words, I submit, if they do not cover all the cases to which the law they assert applies, should do so, and should be restricted so as to cover no other case.

It is said that the State of Georgia (without impediment, error, or failure in any other respect, I will assume) sends here an electoral certificate which evidences the votes of electors cast not at the time and at the place designated by law, but cast on a day which the law did not designate for that purpose. Of course I will not express, if I have one, any opinion as to the ultimate resolution that should be made of that question. I refer to it to treat it for a moment only as a question whether that certificate is valid or not, whether it is competent or not, whether it complies with those provisions of the Constitution and of the law, without which it would be of no consequence any more than any fugitive paper on which men had written their names and recitals. When that question is presented, in my belief the presiding officer of the Senate as such, unauthorized by any special warrant for that purpose either of the law-making power or of the two Houses of Congress, has no more power to decide and determine it, than the Sergeant-at-Arms of the Senate. He has power to do other things. He has power to be the recipient, and upon his conscience and his oath the custodian of the certificates; he is bound by his obligations to preserve them carefully and inviolably; he is empowered and commanded to bring them into the presence of the two Houses, and there open them; and at that point the Constitution turns its back on him and speaks to him no longer. If by the authority of the two Houses he is authorized or commanded to affix his signature to a certificate which recites or asserts or formulates the result, that he has power to do, not alone because he is presiding officer of the Senate, not alone because the Constitution invests him with any function or power whatever, but because, in lawyer's phrase, *pro hac vice* he becomes the organ, the agent, the deputy of the Senate and of the House of Representatives to whatever extent that may impart power, or of the whole law-making power including the Executive if the authority under which he act be a statute as distinguished from a concurrent resolution.

Mr. EATON. May I ask my friend if that is not simply his action as the presiding officer of the two Houses, not as the presiding officer of the Senate?

Mr. CONKLING. I understand my honorable friend to mean by that a suggestion of his own, not a question.

Mr. EATON. I do.

Mr. CONKLING. Then although I am prolonging my very casual and unpremeditated part in this debate as I did not mean to do, I will say a word to the honorable Senator from Connecticut with whom, by the bye, I agree upon all matters as often and as fully as it is possible for me to agree with any gentleman disabled and embarrassed by the politics held by my distinguished friend. I know of no man who succeeds, in spite of his democratic belief, in being right oftener than the honorable Senator from Connecticut. I cannot, however, agree now fully with that he says if I understand him. The idea he conveys to me is that you, Mr. President, [Mr. INGALLS in the chair,] were you, as it would be very proper you should be, the presiding officer of the Senate next Wednesday, might, under the direction of the Senate and the House, do something more vigorously, more effectually, at least more appropriately than you a member of the Senate could do were you not the officer presiding in the joint meeting of the two Houses. Without an opportunity to reflect upon it, I greatly doubt that. It does not occur to me that the act of presiding, the permission of the two Houses to preside, the honor and precedence conferred by being selected to preside, over the two Houses of Congress met together, would of itself impart any authority or confer any power upon that presiding officer beyond the power to preside with whatever that implies.

The two Houses have met together; I will not say have convened, because I think that is a misleading word in this connection. The two Houses have met together. The electoral certificates have been brought in; they have been opened; none of them have been challenged; they have all been tabulated by the tellers; they have been announced in the hearing of the two Houses and of all the people who witness the proceeding. The declaration has been read first by the tellers, or one of them, to the presiding officer, and second, by the presiding officer to my honorable friend from Connecticut, and to such other of my friends on the other side as are still in doubt of the result of the last presidential election, or whom the news of that election have not yet reached. All that has been done, and the Houses have separated; the Senate has come back into its Chamber; the House remains in its Hall. The two Houses have before resolved, as they have heretofore in ancient times frequently resolved, that a particular person named shall sign a certificate which shall perpetuate and recite the action that day of the two Houses thus met. How does the Senator from Connecticut conclude that the person who had presided in this joint meeting which is now dissolved, who comes afterward to be denoted as the person to present to the President-elect his certificate, to sign that certificate, does that because he presided in the joint meeting, or that he could not do it as well had he not presided at all in the joint meeting? How does the honorable Senator from Connecticut arrive at that conclusion?

Without finally answering him, in the frankness of a first impression I should say that the authority under which this certificate is to be signed is the direction of the Senate and of the House, and I should say that the Senate and the House had just as much power to select and depute the honorable Senator from Florida before me [Mr. JONES] to go, as I know it would give him infinite pleasure to go, to a republican President and Vice-President, however much it might wring his heart to do so had they been democrats, and apprise them that the two Houses had ascertained and made record of the election in the different States. When the honorable Senator from Florida went to perform that function, with all the pomp and circumstance not only but with all the eagerness which I know would attend him upon such a mission, my belief is that it would be as imposing, as effectual, as complete in law, as if the honorable Senator from Florida had been also the person selected to act as moderator of the meeting composed of the members of the two Houses when the electoral votes were counted; and I strongly suspect on reflection that my honorable friend from Connecticut, older and a better lawyer as he is, will say I am not quite wild in my suggestion.

I do not believe that the office of President of the Senate, or that the Constitution, or that the act of presiding, confers any power upon the presiding officer of the Senate or of the two Houses except, after having beyond those presented and opeend the electoral votes, to discharge duties which by parliamentary law, usage, and intendment pertain to a presiding officer. When he comes on the next day or a future day to set down and make record historically of what has been done before, and certify to the persons chosen as the incumbents of the offices, that they have been ascertained to be elected, that act in my belief is to be performed by him not in virtue of the circumstance that it so happened that he and not another was selected to preside over the two bodies when they met together. If the Speaker of the House of Representatives were ill, if in his absence the compliment of presiding in the House should fall for a day or for a week upon the youngest and the least notable member of the House, and if on the occasion of the two Houses meeting together some disposition of mere compliment or courtesy should lead the Senate or its presiding officer to waive his privilege of presiding, and the temporary Speaker, a member of the House, the junior member of the House, should preside, I think my honorable friend will scarcely argue that that circumstance would clothe him with power to do anything except to preside; and if afterward the Houses separated and each directed him to be the mouthpiece and organ of the two Houses in informing the President and Vice-President-elect, my honorable friend I think would not insist that he derived the power to do that, the authority to do it, from the circumstance that he had presided, instead of from the fact that the two Houses by deliberate resolution had committed to him, in the language of the old commissions, having special confidence and trust in him, the duty to go and do their mission and utter their voice in that behalf.

But, Mr. President, the Senate owes the honorable Senator from Connecticut some reprimand or penalty for inflicting upon it this part of the remarks I have made. I rose not to discuss this question at length, but to disabuse the mind of the Senator from Alabama, so far as one Senator on this side is concerned, of the idea that there is a disposition either to misstate the law or to shrink from an assertion of the law, because it is not deemed wise and expedient upon a mere moot question now like this, to thrust aside pension bills, appropriation bills, and all other bills, on the 3d of February, in a session which is necessarily to end on the 3d of March.

The PRESIDING OFFICER. The question is on the motion of the Senator from Alabama, [Mr. MORGAN,] to proceed with the consideration of the resolution submitted by him.

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. McDONALD, (when the name of Mr. VOORHEES was called.) My colleague [Mr. VOORHEES] is paired with the Senator from Nevada, [Mr. JONES.] If my colleague were present, he would vote "yea."

Mr. WINDOM, (when his name was called.) I am paired with the Senator from North Carolina, [Mr. VANCE.] If he were here, I should vote "nay."

The roll-call was concluded.

Mr. DAWES, (after having voted in the negative.) I am paired with the Senator from Kentucky [Mr. WILLIAMS] and desire to withdraw my vote.

Mr. JONES, of Nevada. I am paired with the Senator from Indiana, [Mr. VOORHEES.] Were he here, I should vote "nay."

Mr. TELLER. I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, I should vote "nay."

Mr. BAILEY. I am paired with the Senator from Nebraska, [Mr. PADDOCK.] If he were here, I should vote "yea."

Mr. BALDWIN. My colleague [Mr. FERRY] is paired with the Senator from Texas, [Mr. MAXEY.] If my colleague were here, he would vote "nay."

Mr. DAVIS, of West Virginia. I am requested to announce that

the Senator from Maine [Mr. HAMLIN] is paired with the Senator from North Carolina, [Mr. RANSOM.]

The result was announced—yeas 30, nays 20; as follows:

YEAS—30.

| | | | |
|---|---|---|---|
| Bayard, | Farley, | Jonas, | Pugh, |
| Beck, | Garland, | Jones of Florida, | Saulsbury, |
| Butler, | Groome, | Kernan, | Slater, |
| Call, | Hampton, | Lamar, | Thurman, |
| Cockrell, | Harris, | McDonald, | Walker, |
| Coke, | Hereford, | McPherson, | Withers. |
| Davis of W. Va., | Hill of Georgia, | Morgan, | |
| Eaton, | Johnston, | Pendleton, | |

NAYS—20.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Wis., | Ingalls, | Morrill, |
| Baldwin, | Conkling, | Kellogg, | Platt, |
| Blair, | Edmunds, | Kirkwood, | Plumb, |
| Booth, | Hill of Colorado, | Logan, | Rollins, |
| Burnside, | Hoar, | McMillan, | Saunders. |

ABSENT—26.

| | | | |
|---|---|---|---|
| Anthony, | Davis of Illinois, | Paddock, | Voorhees, |
| Bailey, | Dawes, | Randolph, | Wallace, |
| Blaine, | Ferry, | Ransom, | Whyte, |
| Brown, | Grover, | Sharon, | Williams, |
| Bruce, | Hamlin, | Teller, | Windom. |
| Cameron of Pa., | Jones of Nevada, | Vance, | |
| Carpenter, | Maxey, | Vest, | |

So the motion was agreed to.

The PRESIDING OFFICER. The resolution is before the Senate, and will be reported by the Secretary.

The Secretary read the resolution submitted by Mr. MORGAN June 15, 1880, as follows:

*Resolved by the Senate, (the House of Representatives concurring,)* That the President of the Senate is not invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States so as to determine what votes shall be received and counted or what votes shall be rejected.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire [Mr. BLAIR] to commit the resolution to the Committee on the Judiciary, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BAYARD, (when Mr. RANSOM'S name was called.) The Senator from North Carolina, [Mr. RANSOM,] as I believe has already been announced, is paired with the Senator from Maine, [Mr. HAMLIN.] The Senator from North Carolina would vote "nay" if present.

The roll-call was concluded.

Mr. TELLER. On this subject I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, I should vote "yea."

The result was announced—yeas 22, nays 32; as follows:

YEAS—22.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Wis., | Kellogg, | Plumb, |
| Anthony, | Conkling, | Kirkwood, | Rollins, |
| Baldwin, | Edmunds, | Logan, | Saunders, |
| Blair, | Hill of Colorado, | McMillan, | Windom. |
| Booth, | Hoar, | Morrill, | |
| Burnside, | Ingalls, | Platt, | |

NAYS—32.

| | | | |
|---|---|---|---|
| Bayard, | Eaton, | Johnston, | Pendleton, |
| Beck, | Farley, | Jonas, | Pugh, |
| Butler, | Garland, | Jones of Florida, | Randolph, |
| Call, | Groome, | Kernan, | Saulsbury, |
| Cockrell, | Hampton, | Lamar, | Slater, |
| Coke, | Harris, | McDonald, | Thurman, |
| Davis of Illinois, | Hereford, | McPherson, | Walker, |
| Davis of W. Va., | Hill of Georgia, | Morgan, | Withers. |

ABSENT—22.

| | | | |
|---|---|---|---|
| Bailey, | Dawes, | Paddock, | Voorhees, |
| Blaine, | Ferry, | Ransom, | Wallace, |
| Brown, | Grover, | Sharon, | Whyte, |
| Bruce, | Hamlin, | Teller, | Williams. |
| Cameron of Pa., | Jones of Nevada, | Vance, | |
| Carpenter, | Maxey, | Vest, | |

So the motion was not agreed to.

Mr. EDMUNDS. I am very sorry that the Senate has apparently intimated that the committee of which my honorable friend from Ohio [Mr. THURMAN] is the honored and distinguished chairman, is not suitable to be trusted with an investigation of this subject; but I cannot help supposing that it will have more confidence in the committee of which the honorable Senator from Alabama [Mr. MORGAN] is the chairman. So, without taking up any time, which I do not wish to do, I move that the resolution be referred to the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the Result of the Elections of President and Vice-President of the United States.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont [Mr. EDMUNDS] to commit the resolution to the select committee named by him.

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 35; as follows:

YEAS—19.

| | | | |
|---|---|---|---|
| Allison, | Burnside, | Ingalls, | Platt, |
| Anthony, | Cameron of Wis., | Kellogg, | Rollins, |
| Baldwin, | Conkling, | Kirkwood, | Saunders, |
| Blair, | Edmunds, | Logan, | Windom. |
| Booth, | Hill of Colorado, | Morrill, | |

NAYS—35.

| | | | |
|---|---|---|---|
| Bayard, | Farley, | Jones of Florida, | Saulsbury, |
| Beck, | Garland, | Kernan, | Slater, |
| Butler, | Groome, | Lamar, | Thurman, |
| Call, | Hampton, | McDonald, | Vance, |
| Cockrell, | Harris, | McPherson, | Vest, |
| Coke, | Hereford, | Morgan, | Walker, |
| Davis of Illinois, | Hill of Georgia, | Pendleton, | Whyte, |
| Davis of W. Va., | Johnston, | Pugh, | Withers. |
| Eaton, | Jonas, | Randolph, | |

ABSENT—22.

| | | | |
|---|---|---|---|
| Bailey, | Dawes, | McMillan, | Teller, |
| Blaine, | Ferry, | Maxey, | Voorhees, |
| Brown, | Grover, | Paddock, | Wallace, |
| Bruce, | Hamlin, | Plumb, | Williams. |
| Cameron of Pa., | Hoar, | Ransom, | |
| Carpenter, | Jones of Nevada, | Sharon, | |

So the motion was not agreed to.

Mr. EDMUNDS. Inasmuch as it appears that the Senate is unwilling to have this subject considered by a committee, I take it it is willing to consider it itself, though perhaps that is stating it rather too strongly. So I move to amend the resolution by inserting after the word "that" in the first line of the print the words "in the opinion of the Senate, neither the Senate, nor the House of Representatives, nor," and then after "is" to strike out the word "not," so as to make it read correctly, so that the resolution if thus amended will read:

That, in the opinion of the Senate, neither the Senate, nor the House of Representatives, nor the President of the Senate is invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States so as to determine what votes shall be received and counted or what votes shall be rejected.

It will be noticed that this resolution is measuring the power of the President of the Senate by the test of the provisions of the Constitution alone, and not by such a test as might exist if under the Constitution a law had been passed regulating the subject; so that the resolution as it stands purports to be a declaration that the Constitution itself, in the absence of any law, has not vested the power to determine what votes shall be received and counted, or what votes shall be rejected, in the President of the Senate.

I propose, as I said some time ago, not to state a half truth. While the Senate is attempting to guard against what it might conceive to be a usurpation, if such a thing should be attempted by the President of the Senate, I think it equally ought to guard, so far as the declaration of its opinion can go, against what I consider in the absence of a law would be a similar usurpation by either the Senate or the House of Representatives under the Constitution alone. I believe that if the framers of the Constitution had been called upon to express their opinion as to the possibility of vesting the power to decide, as a constitutional power, such a question in either House of Congress, it would not have received a single vote. It will be remembered that when the Constitution was framed it was proposed at one time that the electors should be appointed by the National Legislature, as some people at that time, thinking we were to have a nation, called it; and that was finally, after discussion, and after, I believe, having been once agreed to, entirely reconsidered, and the notion of investing any power over the choice of a President of the United States in the National Legislature was absolutely rejected. When they came to provide for the possibility of a failure to elect by a majority of all the electors appointed, they took care, after exhaustive discussion, to provide not that the two Houses of Congress in joint convention or separately should elect a President and Vice-President of the United States, or either of them, and that neither House voting by persons should be authorized to exert any power or will over the matter, but that the respective States, in their character as such, represented in the House of Representatives, should, voting by States and not by numbers, in the case of a failure to elect by the electors previously provided for, elect a President of the United States.

That, to my mind, with the other circumstances and debates which I do not wish to take up time to refer to at this time, demonstrates that the language of this provision in the Constitution can by no legal construction, can by no historic illumination, can upon no principle of safety or policy, be considered as conferring upon either the Senate or the House of Representatives, as a deposition of a constitutional power by force of the Constitution alone, which this resolution is speaking about, any such power, any more than I agree it can be considered that the language of the Constitution warrants the inference that the President of the Senate has any such power.

Now, I want to make a complete declaration upon this subject, and not a half declaration, if we are to declare at all; and so I move this amendment.

Mr. THURMAN. I only rise to make a single observation, which is that the resolution would read somewhat amusingly, as it seems to me, if the amendment were adopted. It would then read, That it is the opinion of the Senate, the House of Representatives concurring. If the House of Representatives concurs, that is the opinion of the Senate; if the House of Representatives does not concur, then it is not the opinion of the Senate. I hope the amendment will be voted down.

Mr. EDMUNDS. That is perfectly true, and it is pefectly true as the resolution stands now:

*Resolved by the Senate—*

Then comes the parenthesis—

*(the House of Representatives concurring,)* That the President of the Senate is not invested by the Constitution

with a certain power that is named. That is to say we are of that opinion if the House of Representatives is willing that we should have it; or we are of that opinion, to put it in the very best possible way for the safest intent of the resolution, if the House of Representatives is also of that opinion. So I hope my friend will not criticise my having followed the artistic and rational language of the resolution itself reported from that spiritual, and immaculate, and unseen, and indescribable committee, to which the honorable Senator referred.

Mr. TELLER. Let the amendment be reported.

The Secretary read the amendment.

Mr. EDMUNDS. Perhaps I ought to say in fairness and propriety that if this amendment should meet with the approval of a majority of the Senate, I shall move to so correct the resolving clause in the first line as to not leave it where the Senator from Ohio correctly states it is left, and where the resolution itself is left.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. EDMUNDS. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. I understand, as I was diverted when the Senator from Vermont offered the amendment, and if my understanding is wrong I beg him to correct me, that he intends to assert that neither the President of the Senate alone, nor the Senate alone, nor the House of Representatives alone, has this power.

Mr. EDMUNDS. That is exactly what my amendment says.

The PRESIDING OFFICER. The roll-call will proceed.

The Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, I should vote "yea."

Mr. WALLACE, (when his name was called.) On this question I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] If he were present, I should vote "nay."

The roll-call was concluded.

Mr. RANSOM. I desire to state that I am paired to-day on all political questions with the Senator from Maine, [Mr. HAMLIN.] If he were here, I should vote "nay."

Mr. KIRKWOOD, (after having voted in the affirmative.) When I voted I forgot that I was paired with the Senator from Virginia, [Mr. JOHNSTON.] He has gone out of the Chamber unwell, and requested me to pair with him on all votes on this proposition, which I did. I withdraw my vote.

Mr. DAWES. I am paired upon this question and upon all political questions for the afternoon with the Senator from Kentucky, [Mr. WILLIAMS.]

Mr. DAVIS, of Illinois, (after having voted in the negative.) I withdraw my vote upon the proposition.

The result was announced—yeas 18, nays 28; as follows:

YEAS—18.

| | | | |
|---|---|---|---|
| Allison, | Burnside, | Hoar, | Rollins, |
| Anthony, | Cameron of Wis., | Ingalls, | Saunders, |
| Baldwin, | Conkling, | Kellogg, | Windom. |
| Blair, | Edmunds, | Logan, | |
| Booth, | Hill of Colorado, | Morrill, | |

NAYS—28.

| | | | |
|---|---|---|---|
| Bayard, | Garland, | Kernan, | Randolph, |
| Beck, | Hampton, | Lamar, | Saulsbury, |
| Butler, | Harris, | McDonald, | Slater, |
| Call, | Hereford, | McPherson, | Thurman, |
| Coke, | Hill of Georgia, | Morgan, | Vest, |
| Davis of W. Va., | Jonas, | Pendleton, | Walker, |
| Farley, | Jones of Florida, | Pugh, | Withers. |

ABSENT—30

| | | | |
|---|---|---|---|
| Bailey, | Dawes, | Kirkwood, | Teller, |
| Blaine, | Eaton, | McMillan, | Vance, |
| Brown, | Ferry, | Maxey, | Voorhees, |
| Bruce, | Groome, | Paddock, | Wallace, |
| Cameron of Pa., | Grover, | Platt, | Whyte, |
| Carpenter, | Hamlin, | Plumb, | Williams. |
| Cockrell, | Johnston, | Ransom, | |
| Davis of Illinois, | Jones of Nevada, | Sharon, | |

So the amendment was rejected.

Mr. COCKRELL. I aimed to get the ear of the Chair before the roll-call began, to announce why I should vote in a certain way; and not having had that opportunity, I did not vote, for the simple reason that I believe the naked proposition that the Senate by itself independently, or the House of Representatives by itself independently, or the President of the Senate by himself independently, has no authority, or right, or power, whatever to decide what electoral votes shall be counted, and that nothing else should be counted. I believe that proposition, and therefore I did not vote in this case.

Mr. EDMUNDS. I am strongly inclined to believe it is true myself, and that is why I voted for it, and it would be entirely incorrect to say that that might account for its not having got a majority of the votes of the Senate, and yet the majority of the Senate is perfectly consistent, or approximately consistent, in refusing to accede to that simple proposition, for in the joint rule, as it was called, that the Senate did pass at its last session, I believe, a provision was contained that was exactly the opposite of the principle of the amendment I had the honor to offer, for that joint rule did provide that in respect of certain questions as to the reception and computation of the votes coming from States and purporting to be electoral votes, one House alone, of its own will, no matter what the other thought, should decide that question. That is good State-rights doctrine, I suppose, because it was agreed to!

Mr. THURMAN. I said this morning that I hoped the resolution would not be amended, and in accordance with the wish I then expressed I voted against the amendment of the Senator from Vermont without any reference whatsoever to its merits or demerits. I do not wish to see a solution of all the conundrums that can be propounded in reference to presidential elections tacked to this resolution, which is a plain, simple, clear proposition and ought to stand on its own bottom and be decided as a distinct and separate proposition. Therefore I voted against the amendment, and I do not think I shall change my mind and vote for any amendment whatever. I want to see the resolution passed as it is.

The PRESIDING OFFICER. The question is on the passage of the resolution.

Mr. THURMAN. I call for the yeas and nays.

Mr. WHYTE. Mr. President, it is always embarrassing to differ from one's party friends upon a question which is political or *quasi* political in its character; and although upon a former occasion I had the honor to express my sentiments and the opinions which I entertain upon this question, I feel that I might do myself injustice in voting against this resolution without a very brief explanation of my vote.

In the first place, the resolution itself is rather of a dubious character. It involves two distinct propositions, the one in reference to the ministerial duty of the President of the Senate in counting the votes as tabulated by the tellers, and the other as to the judicial determination of what are votes themselves. Blended as they are, it makes it more difficult for me to vote on the resolution, because I entertain the opinion that the President of the Senate has the right under the Constitution to count the votes of the electors as they are returned from the States, upon the theory that there will be no contest; that under the provisions of the acts of Congress providing the machinery how these votes shall be authenticated, and there being single State governments in all the States, no question can arise as to which is the correct return, and therefore the counting of the votes in such a condition of things is a mere ministerial duty. I have long entertained that opinion; I have on more than one occasion enunciated it, and I have seen no reason in the long years that I have had occasion to look at it to change that early-formed opinion.

The framers of the Constitution when they sent it down to the States provided in their resolution for the first meeting of Congress, and used these words:

> That the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed, and directed as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a president of the Senate for the sole purpose of receiving, opening, and counting the votes for President.

Mr. Langdon was accordingly chosen President of the Senate for the sole purpose of receiving these votes, of opening these votes, and of counting these votes; and for years after that they were so opened, they were so received, they were so counted; and the President of the Senate gave his own certificate over his own hand that he had, in the presence of the Senate and of the House of Representatives, opened the votes, counted the votes, and certified to whomsoever the Presidency had gone by the election, and the Vice-Presidency in the same way. Then it ran on and a new system in part grew up, but not changing its character except in so far that a committee was subsequently appointed to advertise the gentlemen chosen to the offices of President and Vice-President of their election.

So it came down until 1868, so far as my knowledge of the proceedings is concerned, when I had the honor of holding a seat upon the floor of the Senate. The then dominant party, not recognizing the rights of certain of the Southern States, passed a joint resolution excluding from the electoral count those States, and declaring that they should have no part or lot in that count unless they had complied with certain prerequisites. That joint resolution went to the President of the United States. The President (the office being then held by Andrew Johnson) vetoed the joint resolution, and the veto came before the Senate with the joint resolution for consideration.

Mr. MORGAN. Did not Mr. Lincoln veto it?

Mr. WHYTE. No, sir. Mr. Johnson vetoed the joint resolution to which I refer. It was a previous joint resolution which Mr. Lincoln returned to Congress without his approval, upon the ground that he had nothing to do with it; and Mr. Johnson sent this joint resolution back to the Senate with his objections, to which I ask the attention of my brothers upon the floor on this side of the Chamber, because we stood here then a small band of democratic Senators, but eight in number, and every one of us voted to support the objections of the then President of the United States. This is his message:

> The mode and manner of receiving and counting the electoral votes for President and Vice-President of the United States are in plain and simple terms prescribed by the Constitution. That instrument imperatively requires that the President of the Senate "shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted." Congress has therefore no power under the Constitution, to receive the electoral votes or reject them. The whole power is exhausted, when, in the presence of the two Houses, the votes are counted and the result declared. In this respect the power

and duty of the President of the Senate are, under the Constitution, purely ministerial. When, therefore, the joint resolution declares that no electoral votes shall be received or counted from States that since the 4th of March, 1867, have not "adopted a constitution of State government, under which a State government shall have organized," a power is assumed which is nowhere delegated to Congress, unless upon the assumption that the State governments organized prior to the 4th of March, 1867, were illegal and void.

The joint resolution, by implication, at least, concedes that these States were States by virtue of their organization prior to the 4th of March, 1867, but denies to them the right to vote in the election of President and Vice-President of the United States. It follows either that this assumption of power is wholly unauthorized by the Constitution, or that the States so excluded from voting were out of the Union by reason of the rebellion, and have never been legitimately restored. Being fully satisfied that they were never out of the Union, and that their relations thereto have been legally and constitutionally restored, I am forced to the conclusion that the joint resolution which deprives them of the right to have their votes for President and Vice-President received and counted, is in conflict with the Constitution, and that Congress has no more power to reject their votes than those of the States which have been uniformly loyal to the Federal Union.

When that message was received the question was put to the Senate, Shall the joint resolution be passed again, notwithstanding the objections of the President? As I said before, every democrat on this floor voted to sustain the objections of the President, and I will read their names, that my statement may not be questioned. Those who voted in the negative were Messrs. Buckalew, Garret Davis of Kentucky, Doolittle, Hendricks, McCreery, Patterson of Tennessee, Vickers, and WHYTE. So that long ago I was committed by vote, by judgment, to the belief that so far as the counting of the votes of electors was concerned, it was purely a ministerial duty on the part of the President of the Senate; that he had no power judicially to determine what States had the right to cast votes. I will admit, following the views of the great Chancellor Kent, that it is a *casus omissus* in the Constitution, and that before we do anything else it is our duty to pass a constitutional amendment to provide for that case which our fathers never dreamed could exist in this American Republic, of two returns from two State governments each claiming to be the lawful government of a State.

Therefore, Mr. President, with my view, with my record, I cannot vote for the resolution of the Senator from Alabama.

Mr. CONKLING. Mr. President, the Senator from Maryland finds himself unwilling to take his place on the record upon this resolution without an explanation, and I find myself unwilling to do the same thing without at least a word of reply to the observations which have fallen from the honorable Senator. It has been a part, if not of his purpose, of the effect of his remarks, to convict the democratic members of this body of inconsistency; and ardently as I feel for the interests of the democratic party, not being attorney of record for that historic organization——

Mr. WHYTE. Will the honorable Senator allow me to interrupt him right there?

Mr. CONKLING. In the midst of this sentence?

Mr. WHYTE. I am the only remaining democratic Senator of that day in this body.

Mr. CONKLING. As the last leaf upon the tree; not as the last rose of summer, but as the rose of last summer, I wish to offer to the honorable Senator from Maryland, and I trust he will receive, my profound condolence. As was said of Napoleon, that honorable Senator is wrapped in the solitude of his own originality. He is the last of the Mohegans; the last of the Barons; the last of that long and historic line of statesmen who once belonged to the late democratic party; and I uncover in the presence of the sole representative of the pale memory of a thing that was.

Resuming, now, the remark in the midst of which the honorable Senator interrupted me, anxious as I am to preserve as an antiquity the past consistency of the democratic party, I do not feel myself authorized, standing in the presence of the distinguished Senator from Ohio and of so many others able and authorized to bear up the tattered democratic banner, or even to expostulate against the exposure made by the distinguished Senator from Maryland of the inconsistency of those who have followed that faded flag. I do not rise, therefore, to reply to that portion of the Senator's speech, but to dissent, as I do sharply although respectfully, from the argument or the sophistry—for that the honorable Senator must let me think it is—that the precedent he was pleased to cite proves anything in favor of his position. He goes back, not to the beginning of the Government, that would be lawyer-like, that would be a resort to a precedent on all fours and authentic; but he goes behind the existence of the Government; he goes to the prehistoric epoch, and displays to us a transaction begun, continued, and ended before the Constitution ever spoke; and from that he deduces the argument that now, proceeding under the Constitution and exemplifying it, we are inconsistent who depart, if we do depart, (which I shall deny in a moment,) from the precedent, as he calls it, established at a time when the Constitution was silent.

It has been my fortune to hear distinguished members of this body, those whose rank and service and consideration gave them privileges and liberties which do not pertain to me, read to the Senate what they themselves had said on past occasions. For the first time in my common-place experience, I venture upon such a presumption, and beg to read to the honorable Senator from Maryland in order to show, if nothing else, that I am at least consistent with myself, the view I took four years ago of the point which so cogently and with so much animation the Senator has presented. I said then and I say now of the counting of the electoral vote which chose George Washington President, which counting took place before there was a Constitution of the United States:

In the first place the whole proceeding antedated the Constitution; it was before it was ratified; it was before it was proposed. Geologists would say it was prehistoric. It was a prefatory, or provisional proceeding. In the language of the resolution, "proceedings were to be commenced under the said Constitution." The ship was to be launched, and the launch might be by the sails or the machinery of the vessel, or by external and imparted force. It might be, as the French would say, by an impulsion; and those who made the launch chose so to make it. The resolution did not profess to define or construe any clause in the Constitution. It merely designated an occasion, and referred to the objects of that occasion. It did not even profess to conform to the modes which the Constitution would bring in. The Constitution directed that the electors should send their certificates to the President of the Senate. This resolution suggested that they should be sent to the Secretary of the United States. Who was he? He was the Clerk of the old Continental Congress. They had but one House, and had a clerk, and this was the man. The resolution did not even propose that the counting should take place in the presence of the two Houses.

How did the Senate regard the action thus suggested?

George Washington had been unanimously chosen President. Every elector had voted for him. The electors themselves had been appointed with unanimity. Everybody from the beginning knew it would be so; it was a matter of course. John Adams had been overwhelmingly elected Vice-President. To ascertain the election was a substantial and solemn proceeding, only as it is substantial and solemn for the Secretary of State to announce the Fourth of July, or a holiday.

The time "to commence proceedings," according to the suggestion of the resolution, was March 4, 1789. Ten States had ratified the Constitution. A quorum of the Senate was 11. No quorum came to the seat of Government till April 6. Then no Senator was sworn in. It was January 3, 1790, before the oath of office was taken. Till then there was no Senate and no Senator, but only Senators-elect. Ten months before they were sworn in as Senators, and on the 6th of April, 1789, eleven of those who afterward became Senators proceeded to start the Government, and impart life and motion to the Constitution.

They passed an order. Here it is:

I am going to read it as the most emphatic and the briefest way of italicizing what I conceive to be, for the purpose now before us, its operative and distinguishing words:

*Ordered*, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice-President of the United States.

I suspend the reading to observe, that had the resolution stopped here it would certainly be open to the argument of the honorable Senator. Even then that argument in my opinion would be fallacious for several reasons but conspicuously for this: had the House of Representatives sent to the Senate articles of impeachment and had the Senate passed a resolution that the honorable Senator from Illinois should be elected President of the Senate for the sole purpose of trying that impeachment, that resolution in my judgment would not purport to divest the Senate of its function in that behalf. It would merely designate the Senator from Illinois to perform so much duty, to exert so much power, to incarnate so much of constitutional authority as resides in him who presides when the Senate tries an impeachment. Should the Governor of Maryland issue a commission addressed to one of the judges of a *nisi prius* court informing him that, reposing special trust and confidence in him, he was designated and appointed for the sole purpose of trying A B for murder, such order would convey to my mind the impression, and no other, that this justice of first instance—I know not the appellation in Maryland—this particular *nisi prius* judge was designated and appointed to go to that court of oyer and terminer, if so it be called in Maryland, and there, being there for that sole duty, proceed to try the culprit to be arraigned for the highest crime known to Maryland law; but it would not dismiss the jury; it would not abolish the common law; it would not overthrow the constitution of Maryland: it would perform no function except to designate, not somebody else, but the particular person, and him alone, to exercise all the faculties, to wield all the powers, to administer all the judicial faculty lodged in the presiding officer of such a trial and in such a court. So, should the honorable Senator from Rhode Island be, by an order of the Senate to-morrow, elected its presiding officer, for the sole purpose on Wednesday next, of counting the electoral votes, or conducting the count of electoral votes, or discharging (described by any other phraseology) that function, such an order of the Senate as I should understand it, would not, in the estimation of a hair, either add to or diminish the powers of the presiding officer of the Senate as those powers are found in the instrument, which is the warrant and the master of us all.

But the resolution did not stop there, so as to depend upon such an argument as I now present; it proceeded to declare:

And that the Senate is now ready, in the Senate Chamber, to proceed in the presence of the House to discharge that duty.

What duty, I inquire of the honorable Senator from Maryland? If it were true that the presiding officer of the Senate, and he alone, were not only to bring in and display the certificates, not only to open the certificates, but to identify and verify and establish the votes, to adjudge whether they came from communities calling themselves States, and whether each of them was in fact a State, whether those certificates were forgeries or were genuine, in fine whether they had all the attributes and all the solemnities pre-requisite to votes, and then to declare their force and effect, to certify it—if it were true that the President of the Senate was "the be-all and the end-all" of the matter, the Aaron's rod swallowing all the prerogatives before the fact and after the fact and of the fact, I inquire what was that "duty" which the Senate was to proceed, in the presence of the House, to discharge? No duty save that of a spectator who witnesses a pageant?

I correct myself; not so substantial a duty as that, because they cannot even be witnesses. If the presiding officer of the Senate is to proceed to read, as I now read the pamphlet before me, in his seat, no matter who may be in this Chamber, or in any part of it while he does it, in no legal, effectual, I will add in no substantial sense, are those who sit here witnesses. Senators around me see me in the act of reading from this book. Whether I read from it truly or falsely, correctly or incorrectly, they have no more knowledge than the doorkeeper in the corridor or the members now in the other wing of the Capitol. Instead of being a duty to act as such witnesses, it would not even be a ceremonial; it would be the merest vain motion, as an Attorney-General, now gone, used to be fond of saying, it would be a mere mockery, the very derison of legal or practical proceeding. But the resolution does not yet stop:

And that the Senate have appointed one of their members to sit at the Clerk's table to make a list of the votes as they shall be declared; submitting it to the wisdom of the House to appoint one or more of their members for the like purpose.

And Mr. Ellsworth reported that he had delivered the message. Will the honorable Senator from Maryland tell me for what? If there was reposed with the President of the Senate as a single individual the power and the whole power to begin, continue, and conclude this transaction, for what purpose, nay under what permission of courtesy, I may say of decency, was the House of Representatives to appoint one or two men to sit at his elbow to peer over the thing he did? A judge on the bench sitting alone has the power to determine the issues of law and of fact before him. What would you think of the appointment by the order of somebody, of a tipstaff, a teller, a mentor, a sentinel, a watchman, a spy, an intruder to perch himself upon the bench and look over the judicial shoulder to ascertain whether the judge committed fraud, was guilty of a cheat by statute or at common law in the rendition of a decision or in his manipulation and declaration of a paper?

All this, Mr. President, is not, however, quite all. The light streams on this proceeding not from the resolution alone, but from what in the case of a diplomatic convention would be called the protocol, from what my astute and learned friend sometimes calls in another forum the *res gestæ*, the surrounding circumstances of the transaction itself as it was enacted in real life. The Houses came together; they counted these votes. George Washington had been chosen President, everybody had voted for the electors, and every elector had voted for George Washington. It was a solemnity to make the declaration, but it was the most formal and unnecessary solemnity that perhaps ever engaged a body of men. There was such a total absence of need to observe technical rules that it was quite natural that those who did it should observe the advice given by Lady Macbeth to her guests, to stand not upon the order of their going, but go at once. Under circumstances so full of invitation to disregard formality, on an occasion so obviously suggestive of the needlessness of adhering to formal observances, look and see what the two Houses did. After the certificates were opened; after the tellers had verified, tabulated, and reported; after the announcement had been made; after the Houses had separated, a committee was appointed to do what? I beg the attention of the honorable Senator to this, because I understood him to emphasize with somewhat of ponderous particularity the fact that John Langdon signed a certain certificate in which appeared certain recitals:

A committee was appointed to prepare the certificates of election. One of the committee was Mr. Ellsworth and he had sat in the constitutional convention. The committee drew the certificate, and every word of it, and the President of the Senate was directed to sign it, and he did sign it. He signed it not of his own motion, or because authorized by the Constitution, but by the command of the Senate speaking for both Houses, and he signed it as the organ and mouth-piece of the two Houses.

This reminds me that there is a missing link in my narrative as thus given, and I will now supply that link. There is in this pamphlet a memorandum of it which I will not stop to find but I will venture upon recollection to assert that Mr. Madison, then a member of the House, came to the Senate and stated to the Senate that by a resolution of the House he had been directed to come and inform the Senate that the House committed to the Senate the preparation of the certificate, the solemnization of the fact, and had directed him to say that the Senate might determine the persons—my recollection is that the message was in the plural—that the Senate might determine the persons by whom this certificate should be signed.

Mr. WHYTE. Will the Senator from New York allow me to correct him? I know that he is generally very accurate. The persons who were designated by the Senate under the consent of the House were the individual persons who were to carry Mr. Langdon's notification to those gentlemen. Mr. Langdon, if the Senator will read his certificate, certifies that he himself did open and count the votes.

Mr. CONKLING. My honorable friend leaps, if he will pardon me, before he comes to the stile or at least before I come to the stile. I shall not forget Mr. Langdon's certificate; I shall come to it in a moment. I am dealing with another point; but my friend's interruption has enabled me to fortify my recollection. I have found the very words in which the House declared itself. I will read them:

Mr. Madison came to the Senate to say that the House had directed him to inform the Senate that the House had agreed that the election should be certified or notified by such persons and in such manner as the Senate shall be pleased to direct.

My friend from Maryland is a lawyer and he is a well-taught and accomplished lawyer, and I should darken counsel by words were I to spend one moment in satisfying his mind that that message demonstrates that the House of Representatives directed that Mr. Madison should bear the message implying that they had the right and the power to designate any person or persons within their province whom they pleased to make this certificate upon the force and effect of which the honorable Senator has commented.

Mr. WHYTE. Now, will the Senator allow me to interrupt him?

Mr. CONKLING. Certainly.

Mr. WHYTE. The Senator is always very strong in what he states; but if he will look at the Senate's resolution, that the Senate immediately acted upon the notification of Mr. Madison—

Mr. CONKLING. Undoubtedly.

Mr. WHYTE. And "appointed Charles Thomson, esq., to notify George Washington, esq., of his election to the office of President of the United States of America; and Mr. Sylvanus Bourn to notify John Adams, esq., of his election to the office of Vice-President of the said United States." And these were the two messengers who were directed to carry Mr. Langdon's certificate to those gentlemen.

Mr. CONKLING. Does my friend mean that when the House gravely resolved and sent perhaps its most illustrious member to the Senate to bear its resolution, that the Senate might designate the persons to certify the result, it meant only that the Senate might name a messenger who should carry word to General Washington of what had been done?

Mr. WHYTE. That is the Journal of the Senate.

Mr. CONKLING. Oh, no. If my honorable friend will loan me that Journal, I will undertake to demonstrate the fact——

Mr. WHYTE. It is the report of Mr. Gorham, Secretary of the Senate.

Mr. CONKLING. We shall see.

Mr. WHYTE. If you read the verbal message of Mr. Madison, you will see that right upon it the action of the Senate took place.

Mr. CONKLING. My friend will be sure that I shall read what he hands me and I shall do it without any teller to look over my shoulder to see that I read it correctly. Under the Constitution now, I have the sole power to read this page. That power resides with me, and, therefore, it would not be either appropriate or competent for the honorable Senator from Maryland or the whole Senate to raise a committee of pages or tellers or anybody else to come here and look over me to see that I do not garble or pervert these historic passages. There is a good deal I notice on this page that would be quite instructive, passages which escaped not the attention of the honorable Senator from Maryland, but which owing to the rule which denies time to Senators here to express themselves, my honorable friend from Maryland did not think it worth while to read. I do not find upon this Journal any certificate signed by Mr. Langdon. Does the Senator find it here?

Mr. WHYTE. Not there. It is in the volume of the electoral count.

Mr. CONKLING. Then I will not look in the book that does not contain it.

Mr. WHYTE. The message of Mr. Madison is in that book.

Mr. CONKLING. I will look at the other. Whom did the honorable Senator say was appointed to bear this message?

Mr. WHYTE. A man by the name of Thomson.

Mr. CONKLING. On the Journal I find this written by John Langdon:

SIR: The Senate of the United States have appointed you to wait on John Adams, esq., with a certificate of his being elected to the office of Vice-President of the United States—

Does the Senator from Maryland perceive anything in that reading which illuminates him? The Senate has appointed you to wait on John Adams with a certificate! That is the paper I am talking about; that is the paper Mr. Madison came to the Senate to talk about; that is the paper which he said the House had resolved that the Senate might direct who should sign; that is the paper which a committee raised by the Senate prepared; that is the paper which the Senate directed John Langdon to sign. And now comes my honorable friend from Maryland and he thinks that the House sent a message over here to say that the Senate might, after that was done, select anybody they pleased, either the Sergeant-at Arms, or anybody else they thought was a competent person in that regard, to go and carry that certificate to George Washington and to John Adams. I say to him that this very Journal says that they were even formal enough to put in writing the fact that Mr. Bourn was deputed to do what? To carry a certificate to John Adams. Mr. Bourn did not sign the certificate. It had been prepared by a committee of the Senate, a committee raised by the House and sent over here committing to the Senate the whole conclusion of the matter. That committee prepared the certificate, and the Senate directed John Langdon to sign it, and he did sign it, and then he gave the certificate to Mr. Bourn and gave him his credential saying to him that he was authorized to go and give that to Mr. Adams; and Mr. Thomson to give the certificate to General Washington.

Mr. President, I want now to advance the honorable Senator from Maryland one step in time if I can, and bring him to the occasion in 1805 when the electoral votes were counted. The men were there who met each other in the constitutional convention; the men were there who laid the keel of our Constitution and of our institutions;

the men were there who building not in the gray twilight of the morning, but with the beams of many centuries streaming upon them, laid the foundations of the government under which we live. They were not only profoundly learned in the science and in the evils of government; they were not only sufferers and students of the imperfections of many systems of government, but they were masters of language, and so careful were they in the formation of the Government, that they gravely appointed a committee on style, on style alone. Such a committee now would be deemed finical, nay, it would be absurd, because all that comes from the statesmen of this epoch is sufficiently terse, sufficiently polished, sufficiently perfect to require no revising hand. But in that day they were more careful. The men who were thus careful and thus equipped for their work were on the stage in 1805. Among these men was Aaron Burr, never distinguished for the symmetry of his character, but conspicuously eminent always for two masterful faculties, one the keenness of his intellect, the other the intrepidity of his character. He was the presiding officer of the Senate. He was not coy or bashful. He was not a man to shrink from responsibility, opportunity, or prerogative. He was not a man to belittle, even if he did not magnify his office. To him, on the occasion I now refer to, the Constitution spoke in the ordinance requiring the President of the Senate to receive, keep, bring in, and open the certificates; and although not addressed by the Constitution, he was the person observing the Constitution in those other words which, turning their back upon the presiding officer, declare "and the votes shall then be counted." How did Aaron Burr understand, how did he interpret, and expound? How did all the members of both of the Houses receive and sanction the interpretation of this clause of the Constitution? Mr. Burr stated—

That pursuant to law there had been transmitted to him several packets, which, from the indorsements upon them, appeared to be the votes of the electors of a President and Vice-President; that the returns forwarded by mail, as well as the duplicates sent by special messengers, had been received by him in due time.

And then he said that to which I ask the attention of the Senator from Maryland. Addressing the assembled members of both the Houses, Mr. Burr said:

You will now proceed, gentlemen, said he, to count the votes as the Constitution and laws direct, adding that, perceiving no cause for preference in the order of opening the returns, he would pursue a geographical arrangement, beginning with the Northern States.

The certificate had been signed by John Langdon; the Journal of the Senate bore the order appointing John Langdon; all the lights and shadows which fall upon the page to-day were freshly visible then. Aaron Burr was an astute lawyer, he was very largely taught in the science and in the realities of the Government of which he was an officer. He was speaking, eye to eye, before the face of the very men, many of them, who sat in the constitutional convention or in the State conventions explained and carried it and who everywhere in the forum of discussion had been accepted as the students, the expounders, the masters of the meaning of the Constitution; and yet he, speaking to them and speaking that the nation might hear, conducting this occasion while yet it was a novelty; before it had become by frequent recurrence the familiar thing which now it is, said to the two Houses:

You will now proceed, gentlemen, to count the votes as the Constitution and laws direct.

One would suppose that a man so acute as Burr, a man having so much of the pride of appearance, a man standing as he did in so conspicuous a tableau to be looked upon not only then but as we see it now from a long thereafter, would have been circumspect when he came to write his name solemnly and officially upon a paper which was to survive among the archives of the Government. What certificate did he sign? The same certificate which had been signed by John Langdon. Can any man suppose that Burr, in the teeth of his own declaration, in utter repugnance of the public and conspicuous fact, in denial of the recorded truth that the two Houses and their tellers had done what he proffered them to do, signed a certificate which he understood to mean that he (Burr) not only absorbed and possessed in legal theory but that in point of fact he had arrogated and assumed to himself and had actually exerted and performed this function and the whole of it?

Mr. WHYTE. Now, will the Senator from New York allow me to ask him a question?

Mr. CONKLING. Oh, yes.

Mr. WHYTE. I ask whether after the tellers had made a tabulation of the votes it was not handed to Mr. Burr to be examined by him, and whether he did not then declare that it was his duty to state that Thomas Jefferson had been elected President of the United States; whether he did not himself assume that it was his duty to make the declaration on that occasion and that it was his count by that declaration?

Mr. CONKLING. Mr. President, the law has a maxim which has become a principle that, the presumption is that all public officers do their duty; and proceeding upon that presumption, without resorting either to memory or to history, I am prepared to say that Aaron Burr did what the honorable Senator now ascribes to him. It was once an honor conferred upon me by a presiding officer of the Senate now no more to act as teller on the part of the Senate when an illustrious citizen had been chosen to the presidential office. On that occasion there were disputed votes. On that occasion there was tumult and disorder in the House. On that occasion violence of controversy distinguished the declaration of the count. On that occasion the two Houses separated, and each for itself pronounced, and pronounced finally, whether votes should or should not be counted. On that occasion no man dissented, not one; and on that occasion the jaded ingenuity of no late brother, anxious to distinguish the occasion by some novelty of his, ever suggested that the President of the Senate had anything more to do with deciding the questions that arose than the Sultan of Turkey or the man in the moon. And yet it was my duty, as I thought, as teller, in the midst of a raging din, to read to the presiding officer of the two Houses the result of the vote as I found it to be, and the presiding officer thought it was his duty to do exactly that which in the form of a question to me the Senator from Maryland asserts was done by the presiding officer in 1805. No doubt of it, but had the presiding officer asserted or implied all that the honorable Senator imputes to him now, it would have been the veriest travesty, the veriest mockery, the most insolent and outlandish burlesque upon the whole proceeding.

The idea that Mr. Wade, as President of the Senate, after coming at the head of the Senate repeatedly along the corridors into this Chamber and then walking back again at the head of the Senate and announcing what the Senate had decided, he having had nothing on earth to do with it except that which you, sir, at this moment have to do with the very imperfect argument that I am making, namely, to be doomed to sit there and hear it, I say had Mr. Wade, after all that and after himself announcing and ratifying the propriety and efficacy of these proceedings, made a declaration in the presence of the same men, who knew it to be ridiculously false, that he, of himself, upon his *ipse dixit* had decided a question upon which as President of the Senate he never voted even,—I say had he done that, it would have been the very blasphemy of falsehood and absurdity. If Mr. Wade voted upon these questions, he voted *qua* his Senatorship, and not because he was presiding officer.

Mr. THURMAN. In 1873 Mr. Colfax, who was President of the Senate, on the occasion of the count did not vote at all on any question.

Mr. CONKLING. Precisely, just at the lord-chancellor of England may vote if he is a member of the Lords, not because he is lord-chancellor but because he votes *qua* his peerage because a member of the House; and as my honorable friend from Ohio reminds me, when Mr. Colfax, not a member of the body but its presiding officer by the ordinance of the Constitution, presided at the count of the electoral votes, he did not even vote, he did not even exert the aliquot part of power pertaining to a single member of a body composed of seventy-six members.

Mr. THURMAN. Will the Senator allow me to remind him there, we decided on the votes of no less than three States on that occasion? Georgia voted for Greeley after he was dead and then there was an argument on the question whether the returns of Arkansas were certified under the proper seal. The two Houses decided all those questions.

Mr. CONKLING. I well remember it, Mr. President. I remember that we not only did it, but we did it under a rule which in its infinite wisdom and goodness declared that we should not even debate, and, accordingly, when a filed objection,—filed while the two Houses were together, which objection compelled them instantly to separate and each to proceed to consider it—stated that in the case of Arkansas the great seal of the State had not been affixed to the commission, so sedate and contemplative was the proceeding, so proper was it, so free from being summary or arbitrary, that, without debate, the Senate proceeded to decide that the vote of Arkansas should not be counted at all, because the governor of the State had affixed the executive seal as distinguished from the great seal of the Commonwealth to the paper which the Vice-President had received. And when this solemn proceeding had concluded, when the announcement had been made, when the vote had been forever discarded, when the decision had become forever final as it was unchallenged by any member, some bookworm of the Senate went into the library of the Senate and discovered that there was no seal in Arkansas save only that seal which had been appended to the certificate; and thus Arkansas as she could not have been had my astute and ever sleepless friend [Mr. GARLAND] whom I see now with a sagacious expression of face, been here, was deprived of all voice whatsoever in the great question pending, because of ignorance on the part of the Senate in respect of her seal. Does not my honorable friend from Maryland know that had this power been reposed in the presiding officer he would undoubtedly have understood all about these seals and would have decided otherwise?

Mr. WHYTE. We were working then under the joint rule.

Mr. CONKLING. Yes, we were, and that brings me to notice another argument made by the honorable Senator from Maryland. Before doing that, however, I wish to refer to the many contests we had beginning with that over the vote of Missouri. There was one over Indiana because it was said Indiana had cast out her shoe over certain territory not belonging to her, and her vote was challenged and litigated and decided, never by the presiding officer, but by the two Houses acting separately and comparing their views together. After the Missouri case, after the Indiana case, after the Michigan case, after repeated instances had occurred, the question to be decided going to the very root of the validity of an electoral certificate, no Vice-President ever having proposed to take part in it, ever having hinted that he had the power over the question,—after such instances time after

time had occurred, this very immemorial, venerable, formal certificate which, under the direction specifically given at the time by the two Houses John Langdon signed, continued to be the form which all presiding officers employed. Does my friend from Maryland think that it would be either convincing or lawyer-like to cite the form or the formality of these after-coming certificates in order to overthrow the notorious, historical, incontestable fact that the Vice-President performed no function whatever in respect of these decisions, did not participate in them, but that they were made wholly by the majority of the one House and of the other?

I come now to speak of that which I should have forgotten but for the remark of the honorable Senator from Maryland that we were proceeding under a joint rule. The honorable Senator said that his view was like that of the illustrious Chancellor Kent. Mr. President, the honorable Senator and I contend at this moment for the robes and scepter of Chancellor Kent. I say Chancellor Kent never intimated such an opinion as the honorable Senator has stated. Chancellor Kent, speaking to the sons of men of wealth, speaking in Columbia College to young gentlemen to whom he said that a knowledge of the law would be not only useful but ornamental; speaking after he had left the bench, speaking in the colloquial, and I think I may say inexact language in which the greatest of jurists might have addressed students in the law, said, "I presume in the absence of all legislative provision"—I stop there without concluding the sentence; I choose to stop, leaving it imperfect, in order to commend to the honorable Senator from Maryland those words without any others. "I presume." I will not dwell upon that. That is not the language in which he was wont when he was on the bench to deliver judgments. It is a remark; it is a guess; it is an observation. It is not the calm, deliberate, final language of judicial judgment; far from it. I throw that away, and ask the honorable Senator what he does with these words uttered by this great publicist and patriot, "in the absence of all legislative provision?" Does any man believe that he who wrote Kent's Commentaries did not know the futility, the absurdity, the usurpation, the violence done to reason, of talking about legislative provisions to transplant from one place to another or to impair in any manner functions created and deposited by the Constitution? "In the absence of all legislative provision." If the honorable Senator from Maryland is right, if the Constitution nominates the President of the Senate and reposes in him exclusively the right, the duty, and the power to count, in the broad and many-sided sense of that word, electoral votes, in the name of the law, which the Senator from Maryland reverences, I ask him what legislative provision, or what the absence of legislative provision could have to do with the question? The Constitution says the President of the United States shall be commander-in-chief of the Army and Navy. What would you think of Chancellor Kent, what would you think of the Master of the Rolls, what would you think of a clerk in a law office who would gravely say in public, "in the absence of all legislative provision I presume the President of the United States is commander-in-chief of the Army and Navy," or, as my friend from Ohio suggests, "has the veto power?"

Does not the honorable Senator from Maryland see that when dealing with the language of Chancellor Kent he finds those words, he gives up his argument in so far as those words prevail? Does he not see that their employment is irreconcilably hostile to the idea that Chancellor Kent believed that the Constitution had ordained that the presiding officer of the Senate was to have the *jus disponendi* of electoral votes? I say again to the honorable Senator that he and I contend in argument for the robes and scepter of Chancellor Kent. His language proves all that I maintain, namely that in some form—I will not now, admonished by the dial, venture upon the particulars—either by an exertion of the law-making power, (of course, by means of a statute to be signed by the Executive as well as adopted by the two Houses,) or by the concurrent action of the two Houses, or in some way these two bodies have the control, the duty, the function in this behalf. This is manifest in so far as the opinion of Chancellor Kent can manifest it from those words found in one of his lectures delivered at Columbia College. Never in the freedom of a chat with young men, never in the unstudied expression of his views to a law class, never in any moment however unguarded or listless, could the great chancellor, the great commentator, the great master of style, and the great master of the science of the law, have talked about the intervention of legislative provisions to add to or take from, or in any way change, a deposition of a high power made by the Constitution in one single official. It is incredible.

So, Mr. President, as I understand it, the whole history of the Government, the judgment of both Houses, the action in every instance of the Houses, the absence of all action by the presiding officer, the comments and exposition of a long line of lawyers and statesmen of all political parties, stand in flat contradiction to the idea that the President of the Senate can decide whether a State alleged to be, is or is not a State, can decide whether a State in voting upon a day not named in the law has or has not effectually voted, or can decide any other matter or thing on which may hinge the ascertainment or the declaration of a presidential result.

I beg pardon of the Senate for traversing all this ground. It is a somewhat old story; it has few attractions for me; but after the remarks of a Senator of so much reputation as the Senator from Maryland, a Senator held, and justly held, in so high esteem as a member of the profession which he adorns and which so long he has successfully practiced, I was unwilling that the precedent he cited, the language of Chancellor Kent, and the other incidents which he drew to his argument, should be narrated and marshaled as if they disproved and refuted the position which now and sometimes heretofore I have endeavored to maintain, and for which I must vote whenever presented in a resolution to which it is my duty to respond.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the passage of the resolution.

Mr. THURMAN. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TELLER. Mr. President, I do not expect to vote on the resolution, inasmuch as I am paired with the Senator from Georgia, [Mr. BROWN.] I do not know how he would vote, and I shall decline to vote on it. I will, however, say a word with reference to it inasmuch as I cannot put myself on the record by voting.

If the resolution means that it is not in the power of the President of the Senate to tabulate and perform a simple ministerial duty in counting the electoral votes, so far as that means counting the electoral votes, then I am opposed to the resolution. If it means, on the other hand, that the President of the Senate cannot pass upon the validity of a vote, cannot act judicially, then I am in favor of the resolution. But in the very language of the resolution as it is now put I am not in favor of it at all, because it is uncertain to me what the mover of the resolution means. I think, as the Senator from Maryland said, the simple matter of tabulating the vote is within the power of the Vice-President.

The Senator from Maryland called the attention of the Senate to the fact that in 1789 a President of the Senate was elected for the sole purpose of counting the electoral votes. I find by an examination of the Journal that in 1793 the Senate informed the House that they had elected a President *pro tempore* for the sole purpose of opening and counting the votes; so that at least twice this body has elected an officer for that express purpose. I find that at least half a dozen times the Senate by the direct order of the body has adopted a notification as follows: That the underwritten as Vice-President or as President *pro tempore* of the Senate, has opened the votes and counted them; and those have passed upon the yeas and nays being called upon them, by a majority on one or two occasions. So I do not think it can be successfully said in this body or anywhere else that the President of the Senate has not repeatedly tabulated the votes and counted them. In that view, if the resolution means that he cannot do that, I am against the resolution. If the resolution means that he cannot act judicially and cannot determine what is the vote, if a plural vote comes up from a State, then I am in favor of the principle.

But I am opposed to the resolution now because it has not been to any committee; it has not been considered. It presents a question of the very gravest importance, and one upon which the very best men in the Senate may differ. It is a question that has been discussed heretofore a great deal, and it ought to be discussed a good deal more before the Senate puts itself on record as to what is the law or what is not.

I am opposed to the resolution again for the reason that it will amount to nothing when we shall have passed it. When we have said that this is the judgment of the Senate if the House concurs, for that is the resolution, if the House does concur, it amounts to nothing at all. I believe that it is the duty of the Senate to put its judgment in a law, and put it in such a position that when it becomes the rule it will remain the rule until it shall be withdrawn by the methods provided by the Constitution for the repeal of an enactment; and because I so feel, while I do not propose to vote upon this resolution, if I could vote upon it I should vote in the negative.

Mr. INGALLS. This resolution involves, to my mind, two propositions, one of which I am in favor of and the other of which I am opposed to. I believe that the Vice-President of the United States, or the President of the Senate, has the right to count the votes in the sense of mere computation—but that he has the right to determine between conflicting returns what votes shall be counted or what votes shall be rejected, I deny. In order to separate these two propositions in the resolution, I move to amend by striking out the word "not" after the word "is" and before "invested" in the second line of the resolution, and by striking out the words "so as" before the words "to determine," in the last line but one, and inserting the words "but not;" so that the resolution, if amended, will read:

*Resolved by the Senate, (the House of Representatives concurring,)* That the President of the Senate is invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States, but not to determine what votes shall be received and counted or what votes shall be rejected.

If the resolution can be so amended as to separate these two propositions and make them distinct and unmistakable, I am willing to vote for it; but in its present shape I shall be compelled to vote against it. In order that these two propositions may be separated, I move the adoption of the amendment that I have suggested.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. BLAINE. I have not enjoyed the privilege of hearing the discussion to-day, and I rise to ask a question. Does the resolution come from the Judiciary Committee of the Senate?

Mr. EATON. No, sir.

Mr. BLAINE. Does it come from the Committee on Privileges and Elections?

Mr. EATON. It comes from an individual member of the Senate, Mr. MORGAN, of Alabama.

Mr. BLAINE. The chairman of a caucus possibly.

Mr. EATON. Sir?

Mr. BLAINE. Representing the democratic sentiment possibly in an independent committee.

Mr. EATON. I have not said any such thing, and the Senator not being a member of any such caucus ought not to say so.

Mr. BLAINE. I qualified it by saying "possibly."

I think, Mr. President, that the resolution would meet the wishes of men who want to look at both sides of this question if it would just declare who can count the votes, and if then those who support it would tell the particular object of making this negation on the Vice-President's power at this time, when nobody is asserting it and there is no particular necessity on anybody to deny it. I do not think for myself that the honorable Senator from Alabama merely wishes upon an individual motion of his own to divide the Senate and prolong it at this critical and late period of the session for an abstract declaration of this kind, which was argued down on both sides four years ago; and I do not think he ought to do it without being willing to put into his resolution a declaration which shall have just as far a reach as that does, as to who shall count the votes and what shall be the authority competent to reject. The honorable Senator has given great attention to the subject; he is an able lawyer; is he prepared to state on the floor of the Senate who, in his judgment, should reject or count the votes?

Mr. MORGAN. I will say to the honorable Senator from Maine that the Senate to-day declined by a vote to go into that question.

Mr. BLAINE. Declined to go into it? Why, the Senate is in it now. It is perfectly within the power of the honorable Senator to do so when we are considering a mere declaratory resolution which is aimed at nothing in particular but a shot in the air, a mere declaratory resolution which might just as well be an attack upon the Copernican system. There is nobody here asserting the right; there is nobody here who attempts the exercise of it; and therefore a resolution of this kind cannot be quite fair, in perfect candor, without a declaration of both sides of it. It is in that spirit that I ask the honorable Senator from Alabama, for he is a very frank man, to amend his resolution in order that we shall have a comprehensive declaration. If the democratic party of the Senate of the United States is laying down a rule which shall be applicable to years after 1881, let us know the whole of the rule.

Mr. THURMAN. Does not the Senator know the whole of it, or enough of it?

Mr. BLAINE. I do not.

Mr. THURMAN. May I interrupt the Senator a moment?

Mr. BLAINE. Certainly.

Mr. THURMAN. I mean that the Senator from Maine should not be in doubt of the opinion of the Senator from Alabama or of a majority of the Senate, in view of the fact that we passed a concurrent resolution by a decided majority, I think nearly every democrat voting for it, or every one, and sent it to the House; and if the Senator will only work on his friends there it will become the rule and will govern the count, and we shall know not only what the Senator from Alabama thinks, but what he himself thinks.

Mr. BLAINE. Does the Senator refer to the resolution which passed the Senate yesterday?

Mr. THURMAN. No, sir; I refer to the rule that was passed at the last session, in May, and which certain things have prevented from passing in another place, to which I cannot allude.

Mr. BLAINE. Will the honorable Senator go further, as long as he is upon his feet, and tell me, for I ask for information, just what that rule was?

Mr. THURMAN. The Senator will find that it was taken mainly, I might almost say bodily, from the bill of the Senator from Vermont.

Mr. BLAINE. In a word, was it that both branches of Congress or either should decide a question?

Mr. THURMAN. Both of them.

Mr. BLAINE. That it took both Houses to reject a vote?

Mr. THURMAN. Yes, in the case of a single return.

Mr. BLAINE. And in the case of a double return?

Mr. THURMAN. Then that the vote should be counted if both Houses agreed to count it.

Mr. BLAINE. Then why is not the Senator, when he is making a negation on one side, willing to put upon the record what the affirmation shall be? Why leave it loose for future contingencies that either rule may be adopted which may apply to a particular case that may arise?

Mr. THURMAN. That is already provided for; we have already passed it.

Mr. BLAINE. If it had not been so often quoted on the honorable Senator I should say, "That won't do."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. JONES, of Florida. Let it be reported.

The Secretary read the amendment.

Mr. THURMAN. I have only one word to say upon the amendment. There is not a single word in the Constitution of the United States that invests the President of the Senate with any such power. As the Senator from New York [Mr. CONKLING] has well said, after saying that the President of the Senate shall open the certificates in the presence of the two Houses, the Constitution, to use the vigorous phrase of the Senator from New York, turns its back on the President of the Senate and goes on to say, "and the vote shall then be counted." That is all it is; and he never did count the vote; and he never will count it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

The amendment was rejected.

The PRESIDING OFFICER. The question now recurs on the passage of the resolution. On this question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. JOHNSTON, (when his name was called.) I am paired with the Senator from Iowa, [Mr. KIRKWOOD.] If he were here, I should vote "yea."

Mr. RANSOM, (when his name was called.) I am paired on all questions to-day with the Senator from Maine, [Mr. HAMLIN.] If he were here, I should vote "yea."

Mr. MCDONALD, (when the name of Mr. VOORHEES was called.) My colleague [Mr. VOORHEES] is paired with the Senator from Nevada, [Mr. JONES.] If my colleague were here, he would vote "yea."

The roll-call was concluded.

Mr. INGALLS. The Senator from Virginia [Mr. WITHERS] was called away from the Chamber and I agreed to pair with him.

Mr. HILL, of Georgia. My colleague [Mr. BROWN] is paired on political questions with the Senator from Colorado, [Mr. TELLER.] As I believe this is not a political question, as it now stands, I will consent to release my colleague from the pair that the Senator from Colorado may vote.

Mr. WALLACE. I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] If he were here, I should vote "yea."

Mr. INGALLS. I omitted to state when the name of my colleague [Mr. PLUMB] was called, that he is paired with the Senator from New Jersey, [Mr. RANDOLPH.]

Mr. TELLER. If this were not a political question I might vote, but all day it has been treated as a political question by the umpire. Therefore I shall not vote.

The result was announced—yeas 33, nay 1; as follows:

YEAS—33.

| | | | |
|---|---|---|---|
| Bayard, | Eaton, | Jonas, | Saulsbury, |
| Beck, | Farley, | Jones of Florida, | Slater, |
| Butler, | Garland, | Kernan, | Thurman, |
| Call, | Groome, | Lamar, | Vance, |
| Cockrell, | Hampton, | McDonald, | Vest, |
| Coke, | Harris, | McPherson, | Walker. |
| Conkling, | Hereford, | Morgan, | |
| Davis of Illinois, | Hill of Georgia, | Pendleton, | |
| Davis of W. Va., | Hoar, | Pugh, | |

NAY—1.

Whyte.

ABSENT—42.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Wis., | Kellogg, | Rollins, |
| Anthony, | Carpenter, | Kirkwood, | Saunders, |
| Bailey, | Dawes, | Logan, | Sharon, |
| Baldwin, | Edmunds, | McMillan, | Teller, |
| Blaine, | Ferry, | Maxey, | Voorhees, |
| Blair, | Grover, | Morrill, | Wallace, |
| Booth, | Hamlin, | Paddock, | Williams, |
| Brown, | Hill of Colorado, | Platt, | Windom, |
| Bruce, | Ingalls, | Plumb, | Withers. |
| Burnside, | Johnston, | Randolph, | |
| Cameron of Pa., | Jones of Nevada, | Ransom, | |

The PRESIDING OFFICER. No quorum has voted.

Mr. THURMAN. I ask that the names of those who have not voted be called.

Mr. BLAINE. Under what rule is that request made?

Mr. THURMAN. No quorum having voted, the next thing to be done is to call the absentees.

Mr. BLAINE. That is a very different question, indeed. It is a request I never heard made before in the Senate, that the names of those not voting should be called. The honorable Senator will please have the rule read under which he asks that to be done.

Mr. THURMAN. They are presumably absent, because it is to be presumed that every Senator will discharge his duty. The rule requires every Senator to vote or to ask to be excused and to give his reasons for asking to be excused. I say, therefore, that it is not only right under the rule, but it has been the uniform practice; and then when it is found out, if it should be the case, that Senators are here who will not obey the rule of the Senate in respect to voting, it will be for the Senate to decide what shall be done.

Mr. BLAINE. I desire to ask if it is not the case that when, in the orderly proceedings of the Senate, the lack of a quorum is disclosed, the only thing in order is to adjourn or to have a call of the Senate?

The PRESIDING OFFICER. The Chair thinks that the precedents are that the roll is to be called again for the names of absentees.

Mr. McDONALD. Undoubtedly. These gentlemen ought to have a chance to vote.

Mr. EDMUNDS. I should like to have the Chair read the rule.

Mr. BLAINE. I should be glad to be informed of the rule before the Chair enforces that order. I should like to have the rule read, if it be in order, under which that is to be done.

Mr. HOAR. I desire to inquire of the Chair whether he did not himself just now raise the question of the presence of a quorum, by announcing that no quorum was present as he announced the number of the vote. If that be true, does not the second rule operate upon that condition of things?

Mr. EDMUNDS. That is perfectly clear.

Mr. JOHNSTON. Mr. President, is it too late to vote now? I was simply out of the Chamber for a moment during the call, and I ask that I may be allowed to vote.

The PRESIDING OFFICER. The Senator cannot vote now. The result of the vote has been declared.

Mr. BURNSIDE. I move that the Senate adjourn.

Mr. WHYTE. I ask that the roll be called in pursuance of Rule 2.

Mr. BURNSIDE. I have moved to adjourn, which I think is in order.

The PRESIDING OFFICER. The Senator from Rhode Island moves that the Senate adjourn.

The motion was not agreed to.

Mr. WHYTE. Now I ask for a call of the roll.

The PRESIDING OFFICER. The second rule of the Senate is that—

If either at the commencement of any daily session of the Senate, or at any time during its daily sessions, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll of Senators, and shall announce the result to the Senate; and these proceedings shall be without debate.

The Chair therefore directs the call of the roll of Senators.

The Secretary called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Anthony, | Davis of Illinois, | Johnston, | Ransom, |
| Baldwin, | Davis of W. Va., | Jonas, | Rollins, |
| Bayard, | Dawes, | Jones of Florida, | Saulsbury, |
| Beck, | Eaton, | Jones of Nevada, | Saunders, |
| Blaine, | Edmunds, | Kernan, | Slater, |
| Blair, | Farley, | Kirkwood, | Teller, |
| Booth, | Garland, | Lamar, | Thurman, |
| Bruce, | Groome, | Logan, | Vance, |
| Burnside, | Hampton, | McDonald, | Vest, |
| Butler, | Harris, | McMillan, | Walker, |
| Call, | Hereford, | McPherson, | Wallace, |
| Cameron of Wis., | Hill of Georgia, | Morgan, | Whyte, |
| Cockrell, | Hill of Colorado, | Pendleton, | Windom. |
| Coke, | Hoar, | Platt, | |
| Conkling, | Ingalls, | Pugh, | |

The PRESIDING OFFICER. Fifty-eight Senators are present, being a quorum.

Mr. WHYTE. Now the vote is to be taken again.

Mr. McDONALD. I ask that the following rule be enforced:

When the yeas and nays shall be called for by one-fifth of the Senators present, each Senator when his name is called shall, unless for special reasons he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question.

I ask that those Senators who were present, whom the call shows to have been present when the yeas and nays were taken, be now called.

Mr. INGALLS. I hope before any action is taken the Senate will hear the seventeenth rule read, which provides that all these methods for enforcing a senatorial vote shall be taken before the announcement of the result. The vote has already been declared.

Mr. THURMAN. I ask that the vote be taken again. The question now before the Senate is, Shall the resolution pass?

Mr. McMILLAN. I move that the Senate adjourn, and I ask for the yeas and nays on that motion.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DAWES, (when his name was called.) I am paired, as I have already stated, for the afternoon, on all questions of this character, with the Senator from Kentucky, [Mr. WILLIAMS.]

Mr. RANSOM, (when his name was called.) If I were not paired, I should vote "nay."

Mr. WALLACE, (when his name was called.) I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.]

The roll-call having been concluded, the result was announced—yeas 19, nays 31; as follows:

YEAS—19.

| | | | |
|---|---|---|---|
| Anthony, | Bruce, | Edmunds, | McMillan, |
| Baldwin, | Burnside, | Hill of Colorado, | Rollins, |
| Blaine, | Cameron of Wis., | Hoar, | Saunders, |
| Blair, | Conkling, | Jones of Nevada, | Windom. |
| Booth, | Davis of Illinois, | Kellogg, | |

NAYS—31.

| | | | |
|---|---|---|---|
| Bayard, | Garland, | Jones of Florida, | Saulsbury, |
| Butler, | Groome, | Kernan, | Slater, |
| Call, | Hampton, | Lamar, | Thurman, |
| Cockrell, | Harris, | McDonald, | Vance, |
| Coke, | Hereford, | McPherson, | Vest, |
| Davis of W. Va., | Hill of Georgia, | Morgan, | Walker, |
| Eaton, | Johnston, | Pendleton, | Whyte. |
| Farley, | Jonas, | Pugh, | |

ABSENT—26.

| | | | |
|---|---|---|---|
| Allison, | Ferry, | Morrill, | Teller, |
| Bailey, | Grover, | Paddock, | Voorhees, |
| Beck, | Hamlin, | Platt, | Wallace, |
| Brown, | Ingalls, | Plumb, | Williams, |
| Cameron of Pa., | Kirkwood, | Randolph, | Withers. |
| Carpenter, | Logan, | Ransom, | |
| Dawes, | Maxey, | Sharon, | |

So the Senate refused to adjourn.

Mr. MORGAN. I am satisfied, from the condition that we are in this evening in the Chamber, that it is probably impossible to dispose of the resolution to-day. I think it is due to the democrats, who are paired with republicans on the other side, that they should at least be relinquished from their pairs, in order to make a quorum and thereby save time in the transaction of the public business. That is all we desire to do; but inasmuch as there seems to be an indisposition of that kind, inasmuch as there seems to be no disposition here to allow democrats to vote, we having a quorum here and able to carry the measure if we were not under the obligation of pairs, I move that the Senate adjourn.

The motion was agreed to; and (at five o'clock and fifteen minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 3, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

BUSINESS BY UNANIMOUS CONSENT.

Mr. ANDERSON. I ask by unanimous consent to introduce a proposition touching the order of business in the House, for reference to the Committee on Rules.

The Clerk read as follows:

*Resolved*, That during the remainder of the present session sixty minutes shall be set apart each day immediately following the "morning hour," or upon its suspension, during which Members and Delegates shall have an opportunity to ask for unanimous consent to consider and pass bills. The roll of States shall be called and members recognized in the order thereof. Each Member or Delegate shall have but one opportunity to ask for such consent until after all other members have been called; nor shall debate on any one bill exceed five minutes. This order may be suspended upon the same conditions as the "morning hour."

There was no objection, and the resolution was received and referred to the Committee on Rules.

ANNUAL REPORTS OF THE BUREAU OF ETHNOLOGY.

Mr. BLACKBURN, by unanimous consent, presented the following concurrent resolution; which was referred to the Committee on Printing:

*Resolved by the House of Representatives, (the Senate concurring,)* That there be printed at the Government Printing Office 15,000 copies each of the second and third annual reports of the Director of the Bureau of Ethnology of the Smithsonian Institution, with the necessary illustrations; 7,000 copies of which shall be for the use of the House of Representatives, 3,000 copies for the use of the Senate, and 5,000 for distribution by the Bureau of Ethnology.

CONTRIBUTIONS TO NORTH AMERICAN ETHNOLOGY.

Mr. BLACKBURN also, by unanimous consent, submitted the following concurrent resolution; which was referred to the Committee on Printing:

*Resolved by the House of Representatives, (the Senate concurring,)* That there be printed at the Government Printing Office 6,000 copies each of volumes 6, 7, 8, 9, and 10 of Contributions to North American Ethnology uniformly with the preceding volumes of the series, with the necessary illustrations; 3,000 of which shall be for the use of the House of Representatives, 1,000 for the use of the Senate, and 2,000 for distribution by the Bureau of Ethnology.

CONTESTED-ELECTION CASES.

Mr. BRIGHAM. I ask by unanimous consent to submit the following resolution for reference to the Committee on Rules.

The Clerk read as follows:

*Resolved*, That the first section of Rule XI be amended so that the first clause and section shall read as follows:

"All proposed legislation shall be referred to the committees named in the preceding rule, as follows, namely:

"Subjects relating to the election of members; to the Committee on Elections, with whom all papers and records in contested cases must be filed within ten days after the announcement of said committee by the Speaker: *Provided*, That ninety days shall have elapsed since the service of the answer of the contestee on the contestant as required by law; otherwise such papers and records shall be filed with said committee immediately after the expiration of said ninety days if Congress be in session; if not, immediately after the opening of the next succeeding session.

"The committee shall proceed at once to the consideration of such contested cases in the order of their submission, holding daily sessions, and shall present their reports thereon in the order of consideration to the House within thirty days from the time of filing said papers and records.

"Said reports shall receive the consideration and final action of the House to the exclusion of all other business."

Mr. O'NEILL. Just one word about that. I want to make this suggestion——

Mr. BRIGHAM. I hope the House will give me a single moment to state a fact.

The SPEAKER. Is there objection to the resolution?

Mr. BLAND. I object unless it be referred.

Mr. BRIGHAM. But a moment. If the organization of this House was effected at all, it was effected on the 18th of March, 1879; but, sir, as we all know——

Mr. BLAND. I object to debate, and will object to the resolution unless it be referred without debate.

The SPEAKER. The Chair hears no objection to the reference of the resolution, and it is accordingly referred to the Committee on Rules.

Mr. O'NEILL. I wish to move an amendment to the resolution.

The SPEAKER. It is not before the House for amendment.

Mr. BRIGHAM. I wish to move instructions to the committee.

The SPEAKER. Nor is it before the House for instructions. It has been referred to the Committee on Rules.

CENTENNIAL CELEBRATION OF BATTLE ON GROTON HEIGHTS.

Mr. JOHNSTON. I ask by unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of a bill (H. R. No. 5097) appropriating money toward the expense to be incurred in the centennial celebration of the battle on Groton Heights, and for other purposes, and that the same be now put upon its passage.

The bill was read, as follows:

Whereas the battle of Groton Heights was one of the closing events of the American Revolution, preceding the final surrender of the British forces at Yorktown, in Virginia, only one month and thirteen days, and is logically and historically connected with that great event; and

Whereas the State of Connecticut has already commenced preparations for the centennial celebration of this battle, the massacre attendant upon the capture of Fort Griswold, and the burning of New London—all scenes in the bloody drama of September 6, 1781; and

Whereas the people of the other States of the Union, proud of the part which their fathers took in achieving American Independence, and actuated by the feeling of a common brotherhood, must desire to unite with the people of Connecticut in paying a proper tribute to the patriotism, dauntless courage, and heroic sacrifice of the noble band of men who fought valiantly against superior numbers of British troops, and chose death rather than surrender their homes to the brutality and lust of the invaders: Therefore,

*Be it enacted, &c.*, That the sum of $5,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended by the centennial committee of the Groton Monument Association, under the direction of the Secretary of War, for the purpose of aiding to defray the expenses which will be incurred in celebrating the one hundredth anniversary of the battle and massacre at Fort Griswold, on Groton Heights, and the burning of New London, on the 6th day of September, 1781, in such manner as shall befit the historical significance of that event, and be indicative of the present power, prosperity, and greatness of the United States as a nation.

SEC. 2. That the further sum of $5,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of the money in the Treasury not otherwise appropriated, for the purpose of thoroughly repairing the granite monument erected in 1826, on Groton Heights, and to be disbursed under the direction of the Groton Monument Association.

SEC. 3. That the centennial committee of the Groton Monument Association are hereby authorized to enter upon and use the battle-field on Groton Heights at such times and in such manner as may be necessary for the centennial services.

The SPEAKER. Is there objection to the present consideration of the bill? The Chair hears none. The Chair desires to state that the Committee on Military Affairs reported unanimously in favor of this bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JOHNSTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIGHT OF WAY THROUGH PUBLIC LANDS IN RICHMOND COUNTY, N. Y.

Mr. KETCHAM. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States, in Richmond County, New York, and ask that the same be put upon its passage. This bill has the unanimous indorsement of the Committee on the Public Lands.

Mr. BLAND. Mr. Speaker, I shall object to giving unanimous consent for the further consideration of any of these measures at this time. A resolution has been introduced and submitted to the Committee on Rules by which business may be reached in a regular way. I must object.

PUBLIC DOCUMENTS TO SOLDIERS' HOMES.

Mr. HAYES. Mr. Speaker, I wish to make a privileged report from the Committee on Printing in reference to Senate bill No. 1573.

The SPEAKER. The bill will be read.

The Clerk read as follows:

*Be it enacted, &c.*, That section 4837 of the Revised Statutes of the United States be, and the same is hereby, repealed and re-enacted to read as follows: "The Secretary of the Senate and the Clerk of the House of Representatives shall cause to be sent to the National Home for Disabled Volunteer Soldiers, at Dayton, in Ohio, at Augusta, Maine, Milwaukee, Wisconsin, Hampton, in Virginia, and the soldiers' home at Knightstown Springs, near Knightstown, in Indiana, each one copy of each of the following documents: The Journals of each House of Congress at each and every session, all laws of Congress, the annual messages of the President, with accompanying documents, the daily CONGRESSIONAL RECORD, and all other documents or books which may be printed and bound by order of either House of Congress. And the Public Printer is hereby authorized and directed to furnish to the Secretary of the Senate and the Clerk of the House of Representatives the documents referred to in this section."

The SPEAKER. The report will be read.

The report is as follows:

The Committee on Printing have considered the accompanying bill (S. No. 1573) and respectfully report the same back to the House without amendment and recommend that the same do pass. The change proposed in existing law by the bill simply includes the daily edition of the CONGRESSIONAL RECORD among the documents to be furnished the institutions named, and authorizes the Public Printer to supply the Secretary of the Senate and the Clerk of the House with facilities to comply with the law.

The bill was ordered to be read a third time; and was accordingly read the third time, and passed.

REPORT OF THE SMITHSONIAN INSTITUTION FOR 1880.

Mr. HAYES. Mr. Speaker, I desire also to report from the Committee on Printing the following Senate concurrent resolution referred to that committee.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved by the Senate, (the House of Representatives concurring,)* That 15,560 copies of the report of the Smithsonian Institution for the year 1880 be printed; that 2,500 of which shall be for the use of the Senate, 6,060 for the use of the House of Representatives, and 7,000 for the use of the Smithsonian Institution.

Mr. HAYES. The committee recommend the adoption of this resolution.

The resolution was agreed to.

NEW DISCOVERIES IN FISH-CULTURE.

Mr. HAYES. I desire also to report from the Committee on Printing the joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish-culture, with amendments.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved, &c.*, That the Public Printer be, and he is hereby, instructed to print and stereotype, from time to time, any matter furnished him by the United States Commissioner of Fish and Fisheries relative to new observations, discoveries, and applications connected with fish-culture and the fisheries, to be capable of being distributed in parts, and the whole to form an annual volume or bulletin not exceeding five hundred pages. The extra edition of said work shall consist of 5,000 copies, of which 2,500 shall be for the use of the House of Representatives, 1,000 for the use of the Senate, and 1,500 for the use of the Commissioner of Fish and Fisheries.

The report is as follows:

The Committee on Printing having considered the accompanying resolution (H. R. No. 372) report the same back to the House with the following amendments: "In line 4, after the words 'from time to time,' insert the following: 'the regular number of 1,900 copies of.' In line 10 strike out the word 'extra.' In the same line, after the word 'said,' insert the word 'annual.'"

With these amendments the committee recommend that the resolution do pass.

The amendments were agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time; it was accordingly read the third time, and passed.

DISTRIBUTION OF CONGRESSIONAL RECORD.

Mr. WILSON. Mr. Speaker, I wish to make a privileged report from the Committee on Printing in reference to House joint resolution No. 377 providing for the distribution of the daily CONGRESSIONAL RECORD to the representatives of foreign governments in Washington, District of Columbia.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be the duty of the Public Printer to mail one copy of the daily CONGRESSIONAL RECORD, as the same may be printed, to each of the representatives of foreign governments in the city of Washington, District of Columbia.

Mr. WILSON. The Committee on Printing recommend the adoption of this resolution.

Mr. REAGAN. I wish to ask if that resolution comes in by unanimous consent.

The SPEAKER. The Chair does not think that this is a matter touching the privilege of the Committee on Printing under the rules to report at any time.

Mr. REAGAN. If it carries unanimous consent, then I must object.

Mr. O'NEILL. I think, Mr. Speaker, that this is a matter of courtesy to the representatives of foreign governments here, and is as high as a question of privilege.

The SPEAKER. The Chair does not think that this is a matter which comes within the privileges allowed to the Committee on Printing to report.

PERSONAL EXPLANATION.

Mr. DAVIDSON. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. DAVIDSON. I regret that circumstances make it necessary for me to ask the indulgence of this House, even for a few moments, to speak to a question of privilege.

In the daily RECORD of the 1st instant, there appears a speech purporting to have been delivered by Hon. HORATIO BISBEE, jr., of Florida, in the House of Representatives, Saturday, January 29, 1881. In that speech, and on the eighth page of that issue of the RECORD, Mr. BISBEE is reported to have said: "In this congressional district," (meaning the first district of Florida,) "in 1878, the names of republican voters were corruptly stricken from the registration books and their votes were refused or destroyed by fraud to the extent of 3,000; and thus two democratic congressmen were counted in and certified

elected, from the State of Florida—and one of them still occupies a seat on this floor."

Mr. KEIFER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. KEIFER. I think that it has been disclosed, from what the gentleman has already said, that there is no attack upon him.

Mr. DAVIDSON. You have not heard me yet.

Mr. KEIFER. If the gentleman says there is an attack upon him, of course the point of order is not well taken.

Mr. DAVIDSON. Just hear me through, if you please.

Mr. KEIFER. If the gentleman insists there is a direct attack upon him, I will withdraw the point of order.

Mr. DAVIDSON. I beg the gentleman to permit me to proceed and he will see that I am making a personal explanation, which I am entitled to make under the rules of the House.

The SPEAKER. The gentleman has stated that he rose to make a personal explanation.

Mr. KEIFER. If the gentleman says there is an attack upon him, of course I withdraw the point of order.

The SPEAKER. The gentleman will proceed in order.

Mr. DAVIDSON. The gentleman goes on to say, "neither of whom had any more right to it than the captain of a privateer has to the plunder which his piratical crew have captured and stolen from their innocent and helpless victims." Had these words, Mr. Speaker, been uttered in this House, I think that I should have heard them. I did not hear them, and therefore conclude that they must have gotten into the RECORD under the "leave to print additional remarks" which was granted by the House to the member from the second district of Florida. And they were evidently intended for me, for I am the only democratic congressman who occupies a seat in this Hall from the State of Florida. The allegation is a grave and serious one. Wanton and unprovoked it was, and utterly base and absolutely untrue it is.

I am here, sir, as a member of Congress in accordance with the constitution and laws of the State of Florida, and of the United States. My credentials are the sealed certificate of the governor of my State and the wishes of a large majority of the voters of my district expressed at the ballot-box.

Should I admit, for argument, that to be true, which is false, namely, that republican votes in my district "were destroyed by fraud to the extent of 3,000," even then, I would have been legally elected, for in the contest in that district in 1878 my vote exceeded that of ex-Senator Conover, the republican candidate, more than 3,200.

Mr. BISBEE knows that notwithstanding the whole political machinery of the State was in the hands of the republican party in the campaign of 1876, and notwithstanding fraud, intimidation, and tissue ballots, yet I was elected to Congress. He knows that it was publicly predicted by a leading republican in the very convention that nominated my opponent in the contest of 1878 that I would defeat him. He knows, moreover, sir, that the recent census shows that there are nearly sixteen thousand more white people in Florida than there are colored, and that the State is emphatically and without doubt democratic. He knows that as far back as the year 1870 Niblack, a democrat, beat Walls, a republican, for Congress in the State of Florida. Niblack was wickedly and criminally counted out by a republican State canvassing board, but a republican Congress gave to him his seat. And so it was at the same election the democratic candidate for lieutenant-governor was counted out by the same canvassing board, but so justly and clearly was he entitled to the office that the supreme court of the State, composed of a majority of republicans, gave it to him.

It comes with ill grace from Mr. BISBEE to speak of political frauds committed by democrats in Florida. I assert it here as a fact that but for the iniquitous wrong-doings of republicans the State of Florida would have been under the control of democrats long before 1876. The gentleman from the second district is thoroughly acquainted with the means which republicans—Florida republicans—used to thwart the wishes of the people of that State. He well remembers, no doubt, when he was the United States district attorney for the northern district of Florida how even a court of justice was made an engine of persecution, and not only men but feeble women were arrested upon false charges.

Mr. CONGER. Mr. Speaker, I rise to a point of order.

Mr. DAVIDSON. I trust the gentleman will not interfere with me.

Mr. CONGER. I wish the gentleman to stop until we get a ruling from the Chair.

The SPEAKER. The Chair will stop the gentleman if he is going beyond what the Chair believes to be his right.

Mr. CONGER. I ask the Chair to stop the gentleman now, and I was about to assist him in stopping him. I submit the gentleman from Florida is going far beyond what the privilege of this House allows under the title of personal explanation.

The SPEAKER. The Chair was advised that the gentleman from Florida desired to obtain the floor or intended to claim the floor for the privilege of making a personal explanation, on the ground that there had been inserted in the RECORD a personal assault upon himself which was not uttered in the House, and therefore the Chair recognizes him in consequence of that statement. The Chair thinks that on the statement of facts alleged by the gentleman from Florida, if a personal assault had been made upon him in the manner stated, it is his right to be heard upon the floor in response to any personal assault.

Mr. DAVIDSON. It is but fair and right that I should have that privilege under the circumstances.

Mr. CONGER. I have submitted one point of order on which I would like to have the ruling of the Chair, and I hope the gentleman from Florida will wait the judgment of the House before he attempts to proceed.

Mr. DAVIDSON. I shall submit, sir, of course, to the decision of the Chair.

Mr. CONGER. The point I make is that in his self-defense, in his personal explanation, he is going outside of it to attack this House, to attack the republican party of this Union, to attack the republicans of Florida, and to attack worse than he was attacked by the gentleman of whom he complains.

Mr. DAVIDSON. Not worse; not worse.

Mr. CONGER. Yes, sir; in the very last sentence the gentleman uttered.

The SPEAKER. The gentleman from Florida will confine his reply to matters of a personal character.

Mr. CONGER. I think it is the duty of the Chair whenever a member passes beyond a reasonable personal explanation, without a point of order being raised, to call him to order.

Mr. DAVIDSON. I will proceed, sir.

And he has not forgotten, I am sure——

The SPEAKER. The Chair will enforce the rule. The attention of the Chair was not directed particularly to the language of the gentleman from Florida.

Mr. CONGER. If the Chair had heard it he would have stopped him and not left it to me to make the point of order.

The SPEAKER. What is the language the gentleman from Michigan complains of?

Mr. CONGER. I complain of his attack upon the republican party of the United States in this House——

Mr. DAVIDSON. I am not attacking the republican party.

Mr. CONGER. Upon the republican party in this House, in this country, and especially in the State of Florida. I complain of his attack on his fellow-member here, a worse attack than he charges upon him.

The SPEAKER. The Chair is unable to run in between the gentlemen and decide which is the worst attack, both being bad. [Laughter.]

Mr. DAVIDSON. I wish the gentleman from Michigan would hear me through, and he can then see whether I am transgressing the rules.

The SPEAKER. The gentleman from Florida will confine himself strictly to what is personal. The Chair will undertake to prevent any transgression of the rules of order.

Mr. DAVIDSON. And I am sure the Chair will not prevent me replying to the attack which has been made upon me.

Mr. HOUK. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. HOUK. I make the point of order that to attack a member of this House for what he did as a judicial officer or in some other capacity eight or ten years ago does not come within the purview of a personal explanation. It is a violation of the rules and privileges of this House to raise any such personal wrangle under the plea of a personal explanation.

The SPEAKER. The gentleman from Florida said there had been inserted in the RECORD an assault upon him not uttered in the House; and the Chair felt it to be his duty to recognize the gentleman that he might have an opportunity to reply. But the gentleman from Florida must confine himself to what is legitimately a personal explanation.

Mr. DAVIDSON. I shall endeavor to do so. I am replying to a charge which was made against me.

And he has not forgotten, I am sure, how a judge of the circuit court of the State was taken I may almost say from the bench, indicted and prosecuted for having pronounced an honest and correct opinion in reference to a political matter, adversely to the interest of the republican party in Florida.

And it has not escaped the recollection of the member from the second district of Florida, I am satisfied, that when he was United States district attorney democratic State senators-elect were arrested by a United States marshal and taken from the capital of the State two hundred miles away to Jacksonville, out of the judicial division in which they resided, just as the Legislature was about to convene, so that a democratic majority in the senate might be destroyed and the republicans be enabled to organize that body.

Mr. HOUK. I think the Chair will see that the gentleman from Florida is not confining himself to the question at issue.

The SPEAKER. The gentleman from Florida will confine himself to what is legitimately a personal explanation.

Mr. DAVIDSON. I am endeavoring to do it. My colleague is not complaining, and I think it comes with a bad grace from the gentleman from Tennessee to interfere.

Mr. HOUK. I have not conferred with the gentleman's colleague, but I know what are the rules of the House.

Mr. CALKINS. That the gentleman's colleague is not complain-

ing is not the question. The question is, if the gentleman's explanation goes into that wide range, where will it end?

The SPEAKER. The Chair has more than once stated to the gentleman from Florida that he must confine himself to the personal explanation.

Mr. DAVIDSON. I will do so. But time would fail me to tell of all the infamous wrongs which in days gone by were committed by Florida republicans, and in which my colleague was no doubt a *particeps criminis*.

The SPEAKER. The gentleman must not speak to the injuries perpetrated by Florida republicans, but to the injuries he has himself experienced. [Laughter.]

Mr. DAVIDSON. Now, sir, as evidence of his bitter, indecent partisanship I beg you and this House to note the fact which appears in his speech that he was not willing to content himself with slandering me, but went from this Hall to the Senate Chamber to misrepresent and traduce a distinguished member of that body. Of the thirty-nine counties in the State of Florida the republicans have majorities in only seven or eight. Is it surprising, then, that a democratic Senator should be elected from that State? And now, Mr. Speaker, in conclusion I must say that the attack made on me and the democrats of my State by Mr. BISBEE was altogether unwarranted. Why did he make it? It could not have been made for the purpose of aiding Mr. Martin, for the remarks were not relevant or pertinent to his case. Was it made to celebrate his advent into this House, to which he has so recently been admitted by democratic votes? Or was it made with the hope that gentlemen here might be induced to prejudge contested-election cases which may arise in the next House? Whatever his motive was, Mr. Speaker, I have but to say that the unkind, bitter, and malignant spirit evinced by the member from the second district of Florida must have emanated from a heart which is never moved or influenced by the kinder, nobler, and more generous impulses and feelings of our nature.

Mr. BISBEE. I had no notice whatever that my colleague from Florida would rise this morning to make a personal explanation, much less to make a personal attack on me for acts performed, or alleged to have been performed, by myself in the capacity of United States district attorney eight and ten years ago. I did not have the pleasure of listening to his introductory remarks, but I understand the gravamen of them was that something has been inserted in the RECORD——

Mr. DAVIDSON. Will the gentleman permit me to interrupt him for a moment?

Mr. BISBEE. Yes, sir.

Mr. DAVIDSON. The gentleman says he did not hear a part of my remarks. I sent for him to the rooms of the Committee on Elections and knew he was in the House when I rose.

Mr. BISBEE. The gentleman sent for me to the committee-room, as he states, but he did not inform me for what purpose he wished to see me. I supposed it was with reference to a consultation regarding the bill now pending before the House.

I wish to state that I had leave to print that portion of my remarks which were not delivered in the House for the want of time. I disclaim any intention either of violating the rules of this House or of reflecting personally upon the gentleman from Florida. I have not done either. No proper construction of any portion of my remarks will warrant that conclusion. I have stated facts which have occurred; I have stated acts which have been performed, crimes that have been committed upon the purity of the ballot-box by the party and the members of the party to which the gentleman has the honor to belong. I think there is some hope of the gentleman from Florida, and of the members of the party to which he belongs, when I see him showing here some sensitiveness upon that point. "While the lamp holds out to burn, the vilest sinner may return."

A MEMBER. You live yet.

Mr. BISBEE. At the proper time and in the proper place I shall be ready, as I am ready now if the House desires to listen to the controversy, to defend the republican party and its whole record in the State of Florida.

I did while United States district attorney prosecute to conviction two citizens of the county of Gadsden, where the gentleman resides, one of them an ex-governor of the State, of a conspiracy to prevent republican electors from casting their ballots on election day. That ex-governor was justly convicted, was sentenced, and he served his term in prison and paid the fine. Because weak men signed a petition for his pardon, and because I had pluck enough at that time to prevent his pardon being granted, I have been pursued by the democracy of that State with relentless scorn and contempt. I have so far outlived it.

I will not burden the patience of the House at this time by going into any extended argument to vindicate my administration while I was district attorney in that State. I wish a better state of things existed in Florida now than does exist. I think it is proper in reply to the general remarks of the gentleman from Florida that I should state a fact which shows the condition of the democracy in the county in which the gentleman lives.

A citizen of that county, formerly from Kentucky, a republican, was recently subpœnaed before the United States court to testify in regard to election frauds in the late election. He obeyed that subpœna, and because he obeyed it his house has been visited by armed men, democrats, and his wife and five little children have been threatened that he, the husband and father, would be killed the moment he returned to his home because he obeyed that subpœna. That is the condition of the democratic party in the very county in which the gentleman himself resides.

Mr. DAVIDSON. Let me say to the gentleman that I have never before heard anything of that.

### ORDER OF BUSINESS.

Mr. RYON, of Pennsylvania. I move that the morning hour of to-day be dispensed with.

The motion was agreed to, two-thirds voting in favor thereof.

### NAVAL APPROPRIATION BILL.

Mr. ATKINS. I am instructed by the Committee on Appropriations to report back the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes, with the Senate amendments thereto, and to recommend that certain amendments be concurred in and certain other amendments be non-concurred in.

The SPEAKER. The report of the committee will be read.

The Clerk read as follows:

The Committee on Appropriations, to whom was referred the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes, together with the Senate amendments thereto, beg leave to report as follows:

Concurrence is recommended in the amendments of the Senate numbered 1, 2, and 6.

Non-concurrence is recommended in amendments numbered 3, 4, 5, 7, 8, 9, and 10.

The SPEAKER. The Chair will direct the amendments in which the Committee on Appropriations recommend concurrence to be first read.

Mr. ATKINS. I believe I can say to the House that there is virtually an entire concurrence of the Committee on Appropriations in the report just read. If members desire any explanation in regard to the amendments, I can make it. But as the report is virtually concurred in by the whole committee, I suppose such explanation is not necessary.

The SPEAKER. The Chair would suggest that the vote be first taken on those amendments in which concurrence is recommended; and then on those in which non-concurrence is recommended.

Mr. ATKINS. That will be satisfactory.

The first amendment in which concurrence was recommended was, on page 2, line 18 of the bill, after the words "commission and interest," to insert the words "transportation of funds."

The amendment was concurred in.

The next amendment was, on page 5, line 4, to increase the appropriation for drawing, engraving, and printing charts, &c., from $40,000 to $45,000.

The amendment was concurred in.

The last amendment in which the committee recommend concurrence was, on page 10, in line 25, to insert before the words "converting the ships Brooklyn and Lancaster into flagships" the words "repairing and."

The amendment was concurred in.

The SPEAKER. The amendments in which non-concurrence is recommended will now be reported.

The first amendment in which non-concurrence was recommended was, on page 7, line 15, to increase the appropriation for equipment of vessels, &c., from $800,000 to $850,000.

The amendment of the Senate was non-concurred in.

The next amendment in which non-concurrence was recommended was, in the paragraph making appropriations for contingent expenses of the Bureau of Equipment and Recruiting, to increase the appropriation from $55,000 to $60,000.

The amendment was non-concurred in.

The next amendment in which non-concurrence was recommended was, on page 10, line 25, for the Bureau of Construction and Repair, to increase the appropriation from $1,500,000 to $1,600,000.

The amendment was non-concurred in.

The next amendment in which the committee recommended non-concurrence was, to strike out in line 11, page 11, in the first paragraph relating to Bureau of Steam Engineering, the word "eight" and insert "nine;" so as to make the appropriation $900,000.

The amendment was non-concurred in.

Mr. CONGER. I do not know whether the House desires or not to act on these amendments without knowing what the propositions are. Non-concurrence would seem to be an indication that the House is unwilling to make these amendments; yet I venture to say there are not three men in the House who understand the effect of the amendments.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] who makes the report stated that the committee were unanimous in their recommendations.

Mr. ATKINS. I have stated two or three times that if the House desired me to make an explanation I would do so. As no such request has been made I did not volunteer any further explanation. As I have already stated, although there were some differences in the committee, we have agreed to the report now made.

Mr. CONGER. Unanimously?

Mr. ATKINS. Yes, sir; unanimously. I hope, however, the gentleman will understand that remark. I stated that there were some

differences of opinion as to the ultimate and final determination of these amounts, but the report is a unanimous report. The committee unanimously agreed to these concurrences and non-concurrences.

Mr. CONGER. I do not make any further point.

The next amendment in which the committee recommended non-concurrence was, on page 11, at the end of line 11, to add to the first paragraph relating to Bureau of Steam Engineering the following:

*Provided*, That $75,000 of this amount shall be immediately available for the purpose of repairing and converting the ships Brooklyn and Lancaster into flag-ships.

The amendment was non-concurred in.

The next amendment in which the committee recommended non-concurrence was, to strike out after the word "California," in line 6, page 16, the words "and for two private horses for commanding officer at the same place, seven hundred and fifty;" and insert "five hundred;" so as to make the paragraph read as follows:

For forage for three public horses, one for messenger to commandant and staff, Washington, District of Columbia, and two for general use at marine barracks, Mare Island, California, $500.

The amendment was non-concurred in.

The next amendment in which the committee recommended non-concurrence was, to add the following as a new section:

SEC. 2. That sections 1418, 1419, and 1420 of the Revised Statutes, relating to enlistment of minors in the naval service, be, and hereby are, amended by striking out the word "sixteen" and inserting in its stead the word "fourteen."

The amendment was non-concurred in.

Mr. ATKINS moved to reconsider the several votes concurring and non-concurring in the amendments respectively; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SEMI-MONTHLY INDEX OF CONGRESSIONAL RECORD.

Mr. SINGLETON, of Mississippi. I am directed by the Committee on Printing to report back, without amendment, the joint resolution (S. R. No. 146) to provide for printing and distributing the index of the CONGRESSIONAL RECORD semi-monthly.

The joint resolution was read, as follows:

*Be it resolved*, &c., That the Joint Committee on Printing be, and they are hereby, authorized and directed to make the necessary provisions and arrangements for hereafter issuing the index of the CONGRESSIONAL RECORD semi-monthly during the sessions of Congress, beginning with the next ensuing session.

That the Public Printer be, and he is hereby, directed to print and distribute the same number of copies of said semi-monthly index as he prints and distributes of the daily issue of the RECORD, and to the same persons and in the same manner.

That the Public Printer shall employ such person to prepare said index as shall be designated by the Joint Committee on Printing, who shall also fix and regulate the compensation to be paid by the Public Printer for the said work and direct the form and manner of its publication: *Provided, however*, That the compensation allowed for preparing said semi-monthly indexes, including their compilation into a session index, shall not exceed the average total amount now allowed by the Joint Committee on Printing for compiling the session index.

The report was read, as follows:

The Committee on Printing, to whom was referred the joint resolution (S. No. 146) to provide for printing and distributing the index of the CONGRESSIONAL RECORD semi-monthly, report that they believe that the purposes for which the RECORD was designed can only be fulfilled by making its contents available for daily use by the issue of current indexes. They find upon examination that by the adoption of a proper system of indexing semi-monthly indexes can be furnished at the same cost as the present session index. As a most needed reform and improvement can thereby be accomplished without any increase of expenditure, they recommend concurrence in the Senate resolution.

Mr. SINGLETON, of Mississippi. This resolution so clearly expresses its objects that explanation is scarcely necessary. The RECORD is published daily during the session in order that it may be available in conducting the business of Congress, afford members information necessary for their guidance, and furnish the public with an official statement of the daily proceedings. It is obvious that so far as those purposes are concerned the large amount of money expended in the daily publication of the RECORD is almost absolutely wasted. After Congress has been in session a few weeks the accumulated numbers of the RECORD are nearly valueless, as they present such a bulk of matter, and the task is so hopeless, that no member attempts to use them to learn the condition of any business pending. It is evident that the daily issue of the RECORD can only be made valuable by publishing indexes periodically during the session.

The present session indexes have grown to such enormous proportions that the committee find that by introducing proper system of indexing, semi-monthly and session indexes can be prepared at the same cost as now paid for the session index alone.

Since the first session Forty-third Congress the Joint Committee on Printing have directed the Public Printer to contract for preparing the index and pay for it by the thousand ems. This system has produced bad results. It is obvious that this system simply offers a premium to making as large an index as possible, and that method, system, phraseology of entries, form of arrangement, and everything necessary to be considered to making a good index, would naturally be sacrificed to producing as many thousand ems of printed matter as possible. This is the key to all the defects of the index of the RECORD that are now so generally complained of.

To illustrate this point: RECORD of first session Forty-third Congress contained 5,954 pages, and the index was contained in 366 pages. RECORD of last session (second session Forty-sixth Congress) contained 4,976 pages, and the index amounted to 1,083 pages.

There has been no change in the form or system of the index during this time to account for or justify this increase in size, but simply an increased experience and ingenuity in making the entries as prolix as possible.

The committee propose to change this system and either pay according to the number of pages of the RECORD, or to fix a definite price which the Public Printer shall be allowed to pay, not exceeding the present total.

The resolution provides that the Public Printer shall not allow greater compensation than is now allowed, and the committee are assured that under a proper system of indexing this compensation will be ample.

In regard to the printing it is evident from what we have stated that at least six hundred superfluous pages have been added to the index of a single Congress, which have not only made the indexes superlatively bad, but also entailed a very serious waste of money. From one of the reports of the Public Printer (Senate Miscellaneous Document 23, third session Forty-fifth Congress, page 17) we learn that the cost of printing and publishing 7,279 pages of the RECORD was as follows: Composing-room, $60,787.32; press-room, $53,924.18; folding-room, $15,057.93; stereotype-room, $2,969.24; bindery, $25,278.33; miscellaneous items, $3,351.13. Omitting the cost of binding and miscellaneous items as expenses that would not be materially affected by the number of pages, we find that the direct cost of the superfluous pages has been $18.23 a page. Making a full allowance for expenses that would not be reduced by reducing the number of pages, it would appear to be a moderate estimate to say that the cost of printing and publishing the superfluous pages of the index is not less than $5,000 a year. In other words, the amount of money saved in printing the session index will pay for printing the semi-monthly indexes.

The joint resolution was ordered to a third reading, was accordingly read the third time, and passed.

Mr. SINGLETON, of Mississippi, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DELAY IN PRINTING PUBLIC DOCUMENTS.

Mr. SINGLETON, of Mississippi, from the Committee on Printing, reported back the following resolution:

*Resolved by the House of Representatives of the United States in Congress assembled*, That the Public Printer inform this House of the cause of delay in printing certain reports necessary for the information of Congress; and why the same were not printed and furnished at the commencement of the present session of Congress, namely, report on foreign relations, of Chief Signal Officer, Navy and Interior Departments, Chief of Ordnance, and report on finances.

The SPEAKER. This resolution is accompanied by a report from the committee, which will be read.

The Clerk read as follows:

The Committee on Printing, to whom was referred the following resolution of inquiry in regard to the delay in publication of certain reports therein set forth, respectfully report the same back to the House with the accompanying letter from the Public Printer in relation to the subject, and ask to be discharged from the further consideration thereof:

OFFICE OF PUBLIC PRINTER,
*Washington, January 26, 1881.*

SIR: I have the honor of acknowledging the receipt of your letter inclosing a copy of the following resolution, referred by the House on the 24th instant to the Committee on Printing:

"*Resolved*, That the Public Printer inform this House of the cause of delay in printing certain reports necessary for the information of Congress; and why the same were not printed and furnished at the commencement of the present session of Congress, namely, report on foreign relations, of Chief Signal Officer, Navy and Interior Departments, Chief of Ordnance, and report on finances."

The following are the reasons why the reports named in the resolution "were not printed and furnished at the commencement of the present session of Congress:"

First. All of the copy for the report on foreign relations has not been received at this office.

Second. No portion of the copy for the report of the Chief Signal Officer has been received at this office.

Third. All of the copy of the report of the Secretary of the Navy was not furnished until the 10th of last month. It will contain a greater number of pages than any report heretofore printed. It is nearly all in type, and will be printed as speedily as possible.

Fourth. The letter-press of the report of the Chief of Ordnance was completed on the 10th of last month. It will contain many lithographic and other illustrations, (executed by contractors,) which were not delivered until the 16th instant. It will be completed within a few days.

Fifth. The usual number of the report on finances was delivered to the document-room on the 25th instant.

Sixth. The report of the Secretary of the Interior will make three large volumes. The first volume contains the reports of the Land and Indian Bureaus. The report from the Commissioner of the General Land Office will contain an unusual number of pages. It will be finished in about two weeks.

Volume second, being miscellaneous reports, has been printed, but the copy for the index has not been furnished.

The third volume is on education, but no portion of the copy has been furnished this office.

Very respectfully, yours, &c.,

JNO. D. DEFREES,
*Public Printer.*

Hon. O. R. SINGLETON,
*Chairman of the Committee on Printing.*

The SPEAKER. The Committee on Printing ask to be discharged from the further consideration of this resolution and that it be laid on the table. If there be no objection, that order will be made.

There was no objection.

HAYDEN'S ATLAS OF COLORADO.

Mr. SINGLETON, of Mississippi. The Committee on Printing, to

whom was referred with Senate amendments a resolution of the House directing the Public Printer to furnish 3,000 copies of the Atlas of Colorado, by F. V. Hayden, have directed me to report back as a substitute for that resolution a joint resolution.

The joint resolution reported by the committee was read, as follows:

Joint resolution (H. R. No. 388) to print 3,000 copies of the Atlas of Colorado, by F. V. Hayden.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Public Printer be, and he is hereby, directed to furnish 3,000 copies of the Atlas of Colorado, by F. V. Hayden, provided the same can be supplied in sheets in every way equal in style and quality to the edition published by order of the Department of the Interior, for a sum not exceeding $3.50 per copy; and provided also, that the necessary corrections be made in the same up to date; 800 copies of which shall be for the use of the Senate, 1,515 for the use of the House of Representatives, and 685 for the use of the Department of the Interior; and the sum of $10,500 is hereby appropriated for the purposes of this resolution.

The joint resolution was read a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SINGLETON, of Mississippi, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISCIPLINE AND INSTRUCTION AT WEST POINT ACADEMY.

Mr. SINGLETON, of Mississippi. The Committee on Printing has also directed me to report back, with a recommendation that it be concurred in, a resolution of the Senate to print the report of the joint commission appointed under the act of June 21, 1860, to examine into the organization, discipline, and instruction at the West Point Academy.

The resolution was read, as follows:

*Resolved by the Senate, (the House of Representatives concurring,)* That there be printed 1,000 copies of the report of the joint commission appointed under the eighth section of the act of Congress of June 21, 1860, to examine into the organization, system of discipline, and course of instruction of the United States Military Academy at West Point, submitted December 13, 1860.

The SPEAKER. The report of the Committee on Printing accompanying this resolution will be read.

The Clerk read as follows:

The Committee on Printing having considered the accompanying resolution, respectfully report the same back without amendment, and recommend that the same do pass. The cost will be about $890.

The resolution was adopted.

Mr. SINGLETON, of Mississippi, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. WELLS. Mr. Speaker, I am directed by the Committee on Appropriations to report back the amendments of the Senate to the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1882, and for other purposes; and I ask the report be read.

The Clerk read as follows:

The Committee on Appropriations, to whom was referred the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1882, and for other purposes, together with the amendments of the Senate thereto, having considered the same, beg leave to report as follows:

They recommend concurrence in the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 28, 29, and 32.

They recommend non-concurrence in the amendments numbered 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 30, and 31.

The SPEAKER. The question will be taken first upon the amendments of the Senate in which concurrence is recommended.

First amendment:

Page 1, line 6, strike out "sixty-seven" and insert "sixty-six;" so it will read:

"For pay of sixty-six agents of Indian affairs at the following-named agencies, at the rates respectively indicated, namely."

Mr. CONGER. What agency is left out?

Mr. WELLS. Malheur agency. We have consolidated some of the agencies. The committee recommend concurrence in that amendment.

The amendment was concurred in.

Second amendment:

Strike out the following:

"At the Malheur agency, at $1,000."

The amendment was concurred in.

Third amendment:

Strike out "ninety-seven" and insert "ninety-six;" so it will read:

"At the Moquis Pueblo agency, at $1,300; in all, $96,800."

The amendment was concurred in.

Fourth, fifth, sixth, and seventh amendments:

Strike out "seven" and insert "six;" after "Umatilla" insert "and;" strike out "and Malheur," and strike out "two thousand one" and insert "one thousand eight;" so it will read:

"Six for the tribes in Oregon, namely, two for the Klamath, and one each for Grand Ronde, Siletz, Umatilla, and Warm Springs agencies, at $300 per annum each, $1,800."

The amendments were concurred in.

Eighth and ninth amendments:

Strike out "six" and insert "seven," and strike out "one thousand eight" and insert "two thousand one;" so it will read:

"Seven for the tribes in Washington Territory, to be assigned to such agencies as the Secretary of the Interior may direct, at $300 per annum each, $2,100."

Mr. HAYES. Mr. Speaker, is it necessary to read all of these amendments?

The SPEAKER. These are amendments of the Senate, which have to be acted upon in the House. The committee recommend concurrence in these two amendments.

The amendments were concurred in.

Tenth amendment:

After the word "Interior" insert "and for special interpreters, when necessary;" so it will read:

"For additional payment of the said interpreters, to be distributed in the discretion of the Secretary of the Interior, and for special interpreters, when necessary, $4,000; in all, $26,500."

The amendment was concurred in.

Eleventh amendment:

Strike out "fifteen" and insert "fifty;" so it will read:

"For subsistence and civilization of the Arapahoes, Cheyennes, Apaches, Kiowas, Comanches, and Wichitas who have been collected upon the reservations set apart for their use and occupation, $350,000."

The SPEAKER. The committee recommend concurrence in this amendment.

Mr. WELLS. This is an increase of $35,000 over the appropriation as recommended by the House. The Committee on Appropriations recommended $315,000, and so the bill went to the Senate, but the Senate have increased the appropriation to $350,000. I will state to the House that we have assurances from the Indian Department it will be necessary to have this increased appropriation. Last year we appropriated $305,000, and the Department has asked for a deficiency of $5,000. We are informed that upward of ten thousand Indians are upon these reservations, and are short of rations. They are warlike tribes, and we must feed them, or they will go upon the war-path, and then we shall have to fight them. This increased appropriation is necessary, and is recommended by the Department. The Committee on Appropriations recommend concurrence in this appropriation.

The amendment was concurred in.

Twelfth amendment:

Strike out "fifteen" and insert "twenty;" so it will read:

"For support and civilization of Joseph's band of Nez Percés Indians in the Indian Territory, $20,000."

The amendment was concurred in.

Thirteenth amendment:

Strike out "fifteen" and insert "twenty;" so it will read:

"For support and civilization of Shoshone Indians in Wyoming, $20,000."

The amendment was concurred in.

Fourteenth and fifteenth amendments:

After "Yakamas" insert "and all Indians removed from Malheur reservation," and strike out "twenty" and insert "thirty-two;" so it will read:

"For subsistence and civilization of the Yakamas and of Indians removed from Malheur reservation, including pay of employés, $32,000."

The amendments were concurred in.

Twenty-eighth amendment:

Insert the following:

"And out of this sum the Secretary of the Interior may make and pay such allowance, not exceeding the rate of $1,000 a year, as he shall think just, to Captain R. H. Pratt, in charge of the school at Carlisle, Pennsylvania, from and after the passage of this act."

The amendment was concurred in.

Twenty-ninth amendment:

Insert the following:

"For this amount, to assist the Creek Nation of Indians in rebuilding the 'Tallahassee mission school building,' destroyed by fire December 19, 1880, $5,000."

The amendment was concurred in.

Thirty-second amendment:

Strike out the following:

"SEC. 6. All advertisements for contracts involving the expenditure of money herein appropriated shall be made at least sixty days before any such contract shall be awarded."

The amendment was concurred in.

The SPEAKER. The Clerk will now read the amendments in which non-concurrence is recommended.

The Clerk read the amendments.

Sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth and twenty-seventh amendments:

Strike out in each of the following paragraphs, after the words "Indian service," the words "including traveling expenses of agents and transportation of supplies;" so the paragraphs will then read as follows:

"GENERAL INCIDENTAL EXPENSES OF THE INDIAN SERVICE.

"Incidental expenses of Indian service in Arizona: For general incidental expenses of the Indian service, support and civilization of Indians at the Colorado River, Pima and Maricopa, and Moquis Pueblo agencies, $20,000, and pay of employés at same agencies, $16,000; in all, $36,000.

"Incidental expenses of Indian service in California: For general incidental expenses of the Indian service, support and civilization of Indians at the Round Valley, Hoopa Valley, Tule River, and Mission agencies, $23,000, and pay of employés at same agencies, $9,000; in all, $32,000.

"Incidental expenses of Indian service in Colorado: For general incidental expenses of the Indian service and pay of employés, $4,000.

"Incidental expenses of Indian service in Dakota: For general incidental expenses of the Indian service and pay of employés at eight agencies for the Sioux, $10,000.

"Incidental expenses of Indian service in Idaho: For general incidental expenses of the Indian service, $1,000, and pay of employés at Lemhi agency and additional employés at Fort Hall, Idaho, $3,000; in all, $4,000.

"Incidental expenses of Indian service in Montana: For general incidental expenses of the Indian service and pay and expenses of detectives, $5,000.

"Incidental expenses of Indian service in Nevada: For general incidental expenses of the Indian service, support and civilization of Indians located on the

Pi-Ute, Walker River, Western Shoshone, and Pyramid Lake reservations, $7,000, and pay of employés, same agencies, $6,000; in all, $13,000.

"Incidental expenses of Indian service in New Mexico: For general incidental expenses of the Indian service, support and civilization of Indians at Abiquiu, Pueblo, and Mescalero agencies, $10,000, and pay of employés at same agencies, $8,000; in all, $18,000.

"Incidental expenses of Indian service in Oregon: For general incidental expenses of the Indian service, support and civilization of Indians, at Grand Ronde and Siletz agencies, $16,000, and pay of employés at the same agencies, $8,000; in all, $24,000.

"Incidental expenses of Indian service in Utah: For general incidental expenses of the Indian service, support and civilization of Indians, at Uintah Valley agency, $8,000, and pay of employés at said agency, $3,000; in all, $11,000.

"Incidental expenses of Indian service in Washington: For general incidental expenses of the Indian service at seven agencies, and pay of employés, and the support and civilization of Indians at Colville and Nisqually agencies, $20,000.

"Incidental expenses of Indian service in Wyoming: For general incidental expenses of the Indian service and pay of employés, $2,000."

The SPEAKER. The Committee on Appropriations recommend non-concurrence in all of these amendments.

The amendments were non-concurred in.

Thirtieth amendment:

Strike out the following:

"That all laws and parts of laws creating or authorizing the commission of ten citizens provided for in the act of April 10, 1869, be, and the same are hereby, repealed."

Mr. WELLS. The committee recommend non-concurrence in that amendment.

Mr. CONGER. Is that subject to the point of order?

Mr. WELLS. The gentleman cannot raise the point of order upon this amendment, as it is an amendment which comes from the Senate.

Mr. CONGER. Is it a Senate amendment?

The SPEAKER. The amendment of the Senate is to strike out the words which have been read, which are a part of the text of the bill.

Mr. WELLS. The House adopted this portion of the bill and sent it to the Senate, and the bill now has been returned from the Senate with an amendment to strike out the words which have just been read by the Clerk. The Committee on Appropriations recommend non-concurrence in that amendment of the Senate to strike out the paragraph.

Mr. CONGER. I should like to have a vote on concurrence in that amendment of the Senate.

The SPEAKER. It is competent for the gentleman to make such a motion.

Mr. CONGER. I withhold the point of order at this time, Mr. Speaker, and will raise it if necessary when the matter comes before the House again on the conference report.

The amendment was non-concurred in.

Thirty-first amendment:

Insert the following:

"Expenses of Indian commissioners: For the expenses of the commission of citizens, serving without compensation, appointed by the President under the provisions of the fourth section of the act of April 10, 1869, $10,000."

The SPEAKER. The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Mr. WELLS moved to reconsider the votes just taken, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### DISTRICT OF COLUMBIA BUSINESS.

Mr. BLACKBURN. Mr. Speaker, I desire to call up at this time the privileged report made by the Committee on Rules, and ask the Clerk now to read it for present consideration.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved*, That upon the expiration of the morning hour on Monday, the 14th of February, the Committee for the District of Columbia shall be entitled to the floor for the consideration during the remainder of that day of business for the District as may be called up by said committee.

Mr. BLACKBURN. Mr. Speaker, in view of the work upon the hands of the House now, I trust that this will lead to no extended debate. This is a unanimous report from the Committee on Rules, adopted in view of the fact that under the Calendar system, adopted by the present Congress in its new rules, which cut off the District day, the consideration of legislation for the District of Columbia has not had perhaps a fair chance.

Mr. CALKINS. Is it contemplated that that resolution shall apply only to the remainder of this Congress?

Mr. BLACKBURN. It applies to only one day, Monday the 14th instant.

Mr. HAYES. Would it interfere with the consideration of appropriation bills?

The SPEAKER. The Chair thinks that it would interfere, but that the question of consideration might be raised if desired at that time. This is the opinion of the Chair after a casual reflection, without, however, going into the merits of the question.

The resolution was agreed to.

Mr. BLACKBURN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### CONTINGENT FUND, NAVY DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Navy, transmitting a statement of the expenditures of the contingent fund of the said Department; which was referred to the Committee on Expenditures in the Navy Department, and ordered to be printed.

### NEW ROCHELLE HARBOR.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report of the survey of New Rochelle Harbor; which was referred to the Committee on Commerce, and ordered to be printed.

### SAN JOAQUIN RIVER.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the survey of the San Joaquin River; which was referred to the Committee on Commerce, and ordered to be printed.

### INVALIDATED LAND-PATENTS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting papers relating to land-patents set aside by the courts, with the draught of the bill for the relief of patentees; which was referred to the Committee on the Public Lands.

### APPORTIONMENT OF REPRESENTATION.

Mr. COX. I now ask, Mr. Speaker, to present an amendment to the original bill in reference to apportionment, which I ask to have printed. I offer it as a pending amendment.

The SPEAKER. Without objection, the amendment will be printed in the RECORD.

The proposed amendment is as follows:

*Be it enacted, &c.*, That after the 3d of March, 1883, the House of Representatives shall be composed of three hundred and seven members, to be apportioned among the several States as follows: Alabama, eight; Arkansas, five; California, five; Colorado, one; Connecticut, four; Delaware, one; Florida, two; Georgia, nine; Illinois, nineteen; Indiana, twelve; Iowa, ten; Kansas, six; Kentucky, ten; Louisiana, six; Maine, four; Maryland, six; Massachusetts, eleven; Michigan, ten; Minnesota, five; Mississippi, seven; Missouri, thirteen; Nebraska, three; Nevada, one; New Hampshire, two; New Jersey, seven; New York, thirty-two; North Carolina, nine; Ohio, twenty; Oregon, one; Pennsylvania, twenty-seven; Rhode Island, two; South Carolina, six; Tennessee, ten; Texas, ten; Vermont, two; Virginia, nine; West Virginia, four; Wisconsin, eight.

Mr. SHERWIN. Mr. Speaker, it is needless for me to state the importance of the bill now before us. Whenever apportionment bills have been before Congress in past years for discussion they have always afforded a theme for warm and animated debate. They have often partaken of a partisan nature. They have been governed largely in their consideration by the interests of the constituency of members of the different States and of the different sections of the country.

For that reason it has been a difficult question, and the result of it has been that, with one exception, the apportionment has not been made until the second year after the census has been taken.

I cannot see, sir, any reason why this apportionment shall not be made at this session of Congress. The data upon which it is to be made are all in our possession. The calculations on which the basis of apportionment shall rest have all been made and are before us. They are clear, and every gentleman, by the expenditure of a few hours' time, can ascertain what ratio will be most just to the different States and sections of the country, and which should therefore be adopted by us in this bill.

I was pleased to listen in the speech of the gentleman from New York [Mr. COX] to his eulogium upon our representative system; to the fact that it is a crowning glory of our Government and that it is only exhibited in its perfection in this country. My pleasure in listening to him was equaled by the fact of the unanimity with which his sentiments were applauded by the members upon this floor and the general praise his eloquence received from all sides.

But there is another question, Mr. Speaker, connected with this important matter of representative government which I should have been glad if the gentleman had referred to, and I should have been pleased if he had brought the force of his generalization and the gifts of his eloquence and pictured it before this House. That is that not only is it made the duty of Congress to adopt a representative system adequate to the needs of the country and distributed properly among the people of the country, but that they shall also see that every man who by law has a right to vote for the members so provided for shall be free to vote and exercise all the privileges which the law gives him without restraint or molestation; otherwise, our enactmments here are futile and our laws are vain. We should not be content, Mr. Speaker, until every man, be he rich or poor, white or black, whether he lives among the bayous of the Yazoo or the pine groves of North Carolina; whether he lives upon the prairies of Illinois or the hills of New England, shall be free to cast his ballot unawed and unalarmed by fear of personal injury or social ostracism, and that the officer who receives his ballot on the day of election shall be fearless to honestly receive and honestly count it and make an honest return. When that shall obtain there will be a grander theme for eloquence than the gentleman has yet touched upon, for we will have attained to the summit of the representative system, and when shall be added to that the purity and intelligence of the individual voter, it would seem that we had reached the perfection of good government under the representative system.

Some gentlemen have said that this apportionment is easy to be made because it is a mere question of arithmetic. Now, it is more than a question of arithmetic. It is a redistribution of political

power. To be sure, this distribution is made upon arithmetical principles. But it is not a question of arithmetic only; if it were we could bring in our boys who have ciphered as far as long division and let them make the figures. We could give them a number to be divided. We could give the dividend and they could draw curved lines to the right and the left of it; but the important question would be what shall be the divisor. To determine what that divisor shall be is a political act. That is a political question. But having given the divisor, then the processes of arithmetic proceed. The boy can find the quotient; but that quotient when it is found represents the potent integers of political power.

Now, then, the change of a divisor from three hundred and one to three hundred and eleven or three hundred and nineteen may change the political status of this House. It may change the political organization of the electoral college, and therefore it does assume a political aspect. I can say, with the gentleman from New York, that I could wish as he wishes, that there could be no partisan feeling in this matter; that we could get rid of this ogre of partisanship. But looking at the facts as they exist to-day, as sensible men, we know we cannot get rid of it, because it is a political question, a redistribution of power that will not affect this Congress, but that will affect five Congresses hereafter to be elected, that will extend for five Congresses to come, and that shall not only affect them but shall affect the next two presidential elections. Not only that, but it will affect the legislation in those next five Congresses. It will affect your tariff laws or legislation. It will affect your legislation on the monetary matters of this country. It will affect your legislation upon education. It will affect your legislation upon all great questions that divide the parties of this country. These questions are only reached through parties; and as they are reached through parties this apportionment is of necessity a party question and assumes a political aspect from its very nature and object.

Now, this is the way that I look at this matter, and I shall discuss it from that stand-point; not referring to parties in any invidious sense; not referring to sections or States in any odious sense; but as a matter to be got at practically, I shall accept the existing situation, and discuss the question from that point of view.

There have been three bills introduced before this House: the bill of the gentleman from New York, [Mr. COX,] providing for three hundred and one members; the bill of the majority of the committee providing for three hundred and eleven members; the bill that was presented by myself, and is sustained by the minority with but one exception, providing for three hundred and nineteen members. Now in discussing these ratios, all the principles involved in this subject can be seen and understood. The same method of arriving at the conclusions can be applied to any one of the numbers that is applied to these.

Having the views on the subject which I have expressed, I propose briefly to examine the two bills before this House, and the one of the gentleman of New York, [Mr. COX,] which he proposes to offer as an amendment. These bills propose a House of three hundred and one members upon a ratio of 1 : 164,018, a House of three hundred and eleven members upon a ratio of 1 : 158,745, and a House of three hundred and nineteen members upon a ratio of 1 : 154,764, respectively.

I will first examine the effect of the different ratios upon the representation of the States as compared with their present representation.

Upon the basis of three hundred and one representatives each of the following-named States gain one member: Arkansas, South Carolina, Mississippi, West Virginia, California, Iowa, and Michigan; Nebraska and Minnesota each gain two, Kansas three, and Texas four—a gain of eighteen in all, of which the democratic States have eight and the republican States ten.

The losses upon a basis of three hundred and one are one each for the States of Florida, Indiana, Maine, New Hampshire, Ohio, Pennsylvania, Tennessee, and Vermont, and two in New York, of which losses the certainly democratic States sustain two and the republican States eight, making a net gain to the certainly democratic States of six and to the republican States which are sometimes democratic of two. The eighteen States not named neither gain nor lose.

Upon a basis of three hundred and eleven members fifteen States gain altogether twenty-two members, namely: Arkansas, California, Georgia, Iowa, Michigan, Mississippi, Missouri, North Carolina, South Carolina, Virginia, and West Virginia gain one each; Minnesota and Nebraska two each; Kansas three, and Texas four; of which gain the certainly democratic States have twelve and the other States ten.

Four States, Maine, New Hampshire, Vermont, and New York, each lose one, leaving the net gain to the certainly democratic States twelve and to the republican States six. The other nineteen States neither gain nor lose.

Upon a basis of three hundred and nineteen, the bill of the minority, twenty-one States gain twenty-nine members, namely, Arkansas, California, Mississippi, North Carolina, South Carolina, Georgia, Illinois, Iowa, Missouri, Ohio, Kentucky, Massachusetts, New York, Pennsylvania, Virginia, and West Virginia each one; Nebraska, Minnesota, and Michigan each two; Kansas three, and Texas four; of which number the certainly democratic States gain thirteen and the other States sixteen.

Upon the basis of three hundred and nineteen, three States, Maine, New Hampshire, and Vermont each lose one, making the net gain to the certainly democratic States thirteen, and to the other States thirteen, and producing an equality of gains between the States certainly democratic and the other States.

To recapitulate: Upon a basis of three hundred and one, the certainly democratic States have a net gain of 6; the other States have a net gain of 2. Upon a basis of three hundred and eleven, the certainly democratic States have a net gain of 12; the other States have a net gain of 6. Upon a basis of three hundred and nineteen, the certainly democratic States have a net gain of 13; the other States have a net gain of 13.

Fewer States (only three) lose upon the last basis than upon either of the others.

Fewer States (fourteen) stand still without gain or loss than upon the other rates. And four of these fourteen States, namely, Oregon, Nevada, Colorado, and Delaware could not gain upon any practicable ratio, thus leaving only ten States stationary.

The gains and losses under the different ratios are owing to the change of divisor and consequent change of fractions. Upon the basis of three hundred and one, the number of Representatives upon an even division would be but two hundred and eighty-two, and the twenty highest fractions are therefore each given a Representative to make the number three hundred and one.

Upon a basis of three hundred and eleven, and also three hundred and nineteen, members are given to eighteen fractions. The States which gain a member upon a fraction at three hundred and nineteen which do not have them at three hundred and eleven are Illinois, Kentucky, Massachusetts, Michigan, New York, Ohio, and California.

The basis of three hundred and twenty-two would give a net gain of thirteen to the States certainly democratic and sixteen to the other States. But in the interest of fairness the minority chose three hundred and nineteen instead of three hundred and twenty-two.

I do not contend that the different sections of the country should necessarily gain equally in their representation. Of course that must depend upon the population of the States and sections. But as will be seen by the examples I have given, there is quite a latitude within which changes may be made, and within those limits is the field of dispute, over which is waged the war of debate, upon which also are sought to be gained advantages which could not be secured upon a division based upon whole numbers only and not partly upon fractions. This being so, we must recognize the fact and select that number for a ratio which will be most fair and equitable in its operation.

In my opinion that number is the one that gives us three hundred and nineteen members. It is in accordance with the mathematical principles used in making apportionments. It leaves fewer States with their representation decreased. More States gain in that number than either of the others. Fewer States are stationary. It distributes the gains more generally over the country than the other numbers. And happily it gives no advantage to one section or party over any other section or party. The other numbers fail in all these particulars, and therefore should not be adopted. A great injustice will be done if either of them shall be selected.

The number three hundred and nineteen approaches nearest mathematically to an accurate apportionment as between the groups of States under discussion. The population of the Southern States is .3748 per cent. of the whole representative population of the United States. At three hundred and one those States have .3722 per cent. of the representation; at three hundred and eleven they have .3794 per cent. of the representation; at three hundred and nineteen they have .3730 per cent. of the representation, the latter number being the nearest of any of the ratios in question.

The gentleman from New York [Mr. COX] and others have asserted that dividing the country into three sections, namely, the Northeast, comprising the New England States, with New York, New Jersey, and Pennsylvania; the South, comprising the sixteen old slave States; and the West, embracing all the other States, the number three hundred and one would be most nearly accurate of any of the other numbers. He is mistaken in this as, at the risk of being prolix, I will show by the following statement: The Northeastern States mentioned contain .2938 per cent. of the representative population. At three hundred and one they would have .2956 per cent. of the representation; at three hundred and eleven they would have .2926 per cent. of the representation; at three hundred and nineteen they would have .2946 per cent. of the representation, showing again that three hundred and nineteen is the nearest to accuracy.

The Western States mentioned have .3313 per cent. of the representative population. At three hundred and one these States have .3322 per cent. of the representation; at three hundred and eleven these States have .3279 per cent. of the representation; at three hundred and nineteen these States have .3322 per cent. of the representation, showing once more that no number is more nearly accurate.

In the Southern States it is shown, according to the table given above, that three hundred and nineteen is the nearest.

My excuse for entering into what might seem an over refinement of figures is to demonstrate that that number, three hundred and nineteen, which upon its face is most just as between the Southern and the Northern States is also the most accurate. And further, that by grouping the States into three sections, Northeast, West, and South, that accuracy is still upon the side of three hundred and nineteen.

Another point worth observing is that all the gains on present representation between the numbers three hundred and one and three hun-

dred and eleven fall to the Southern States, the South, as I have before pointed out, at the latter number having a net gain of six; while between the numbers three hundred and eleven and three hundred and nineteen all the gains but one are in the Northern States, and having arrived at three hundred and nineteen the gains between North and South are equal. Another thing to be observed is that the greatest loss which the New England and Central States sustain actually and relatively is at three hundred and one. The Central States do not hold their own until they pass three hundred and eleven.

Can any member in this House, in the face of these figures, vote for either of the numbers three hundred and one or three hundred and eleven? The only reasonable excuse for so doing is that three hundred and nineteen makes the House too large. It is but eight larger than three hundred and eleven. Who can say an addition of eight or eighteen would be at all perceptible in this House?

Besides, I do not think that three hundred and nineteen is too large a House or too great an increase. At the last apportionment the House was increased by the addition of fifty members, while the representative population had increased but 6,936,484. This amendment proposes an increase of but twenty-six, while the representative population has increased 11,214,090. The question of the size of the House has been much discussed at each apportionment. Many of the wisest statesmen of our country have favored a larger House than this amendment proposes. Such statesmen as Edward Everett, John Quincy Adams, and Thomas H. Benton have contended for a high number. I will not enter into any argument upon that point, as it is after all largely a matter of opinion. But we know that the lower house of the Massachusetts Legislature formerly contained six hundred and forty members, and experience showed that its legislation at that time was conducted carefully and well. The fault of whatever confusion there may be in this House may be more in our rules and in ourselves than in the size of the body. The minority has incorporated in its amendment a provision that the Representatives apportioned to the different States shall be elected by districts, and that those districts shall be composed of contiguous territory. This was a part of the law of 1872 and of 1842, and should be retained in this and in all future apportionment laws.

It is claimed by some gentlemen upon this floor that it is a needless and unconstitutional interference with State rights. It is said that the States are free under the Constitution to choose the method by which their Representatives in Congress shall be elected; that they are free to construct districts as to them shall seem best, whether of contiguous territory or otherwise, or to abandon the district system and elect their Representatives upon one general ticket. This claim is not new. It has been asserted here before. So long ago as in 1823 a select committee was appointed in the House of Representatives for the purpose of "inquiring into the expediency of recommending to the several States the propriety of amending the Constitution of the United States in such manner that the mode of electing the members of the House of Representatives in Congress may be uniform throughout the United States," and for other purposes; and that committee, of which Mr. McDuffie, of South Carolina, was chairman, made a very able report upon the subject. Many States at that time elected their Representatives upon a general State ticket. It was seen that by that system the voice of a minority could be suppressed. That New York, for instance, could send a delegation to Congress which would be solidly democratic or solidly republican, and that too by a small majority of the popular vote, instead of one which should represent various interests and constituencies as now under the district system. It was also seen that a State might be gerrymandered in the interest of the party in power, by making one district of contiguous territory and another separated into parts; by constituting one district so that it should elect two or more members and another one member; that one district should have too great a population and another too small.

That committee in its report submitted a plan which proposed "that each State shall be divided into as many districts as will equal the number of Representatives to which the State may be entitled in Congress, and that each of the said districts shall elect one Representative." The committee further say:

> It is susceptible of demonstration that the elections might be so arranged by a party in power that a small minority of the people would elect a majority of the national Representatives. The mode of operation would be various according to varying circumstances. Sometimes the object would be accomplished by changing the district into the general ticket system, sometimes by an artificial arrangement of districts, and sometimes by a skillful combination of both.
>
> With a view to give strength and durability to the essential bonds of union, it is of the utmost consequence that the local minorities in the several States and various geographical divisions of our extensive country should have a fair and full representation in Congress. In periods of deep political excitement nothing is better calculated to allay sectional animosities and subdue the angry spirit of faction than the mediatorial influence of such Representatives.

The committee proposed an amendment to the Constitution which should make it imperative upon the States, without any legislation by Congress, to divide their State into districts, each of which should elect one Representative.

Again, in 1842, the question was before Congress and gave rise to a long and able debate. It arose upon an amendment to the bill for apportionment then pending in the House, and was offered by Mr. Halstead, of New Jersey, by direction of the Committee on Elections. The amendment was in these words:

> *And be it further enacted*, That each State shall be divided by the Legislature thereof into as many districts composed of contiguous territory as shall be equal to the number of Representatives to which said State may be entitled in the House of Representatives of the United States, and that each of said districts shall elect one Representative.

At that time there were seven of the twenty-six States which elected their Representatives upon a general ticket. The point was raised by Mr. Atherton, of New Hampshire, as to whether the amendment was germane to the bill or not. The chairman decided that it was, and overruled the point of order. After several days' discussion the amendment was adopted in the House, and it was afterward adopted in the Senate and became a part of the apportionment law of 1842. The point most fully discussed was as to the power of Congress to direct that the States should elect by districts under that clause of section 4 of the Constitution which declares that Congress may at any time make or alter regulations as to the times, places, and manner of holding elections for Senators and Representatives.

It was in 1842 also, that the representation of minorities greater than a moiety was first provided for. In the year 1832 Daniel Webster had attempted to provide for the representation of moieties, and made a report upon that subject distinguished for the strength and clearness which always characterized his efforts. He was defeated at that time, but his principles were adopted in 1842 and have continued in operation ever since.

Mr. Garrett Davis, of Kentucky, in discussing this district system, said that—

> It seemed evident to him Congress had the power, under this clause of the Constitution, to make regulations respecting the elections, totally and wholly, as, to alter the State regulations * * * he was astonished that any man who claimed to be a State-rights man should come forward and advocate the general-ticket system.

Mr. Arnold, of Tennessee, said:

> They had a right to interfere in this, and it was their duty to do it now.

Again he said:

> It was a question of expediency entirely. It involved no constitutional question.

Mr. Barnard, of New York, said:

> In his opinion the time had come when in consequence of the manner in which some of the States of the Union had performed this duty, it was the duty of Congress to interfere in this matter.

Mr. William Cost Johnson, of Maryland, said:

> He believed Congress had full and ample power to pass such a law.

Mr. PENDLETON, of Ohio, said:

> He was amazed that there should be any difference of opinion as to the power of Congress to adopt the amendment.

Mr. Butler, of South Carolina, said:

> He had always considered that if there was any question settled by the express terms of the Constitution, it was the power of Congress over this whole subject.

In the Senate Mr. Rives, of Virginia, conceded that Congress had the power, but he opposed its exercise on grounds of expediency.

Mr. Crittenden, of Kentucky, also asserted the power of Congress and advocated its expediency and necessity.

I do not understand the opposition to this section of the amendment. Are we still within the shadow of the extra session? Do we still breathe its atmosphere? Must the National Government again be warned from trespassing upon the sacred precincts of a State, and forbidden to suggest even that the States shall elect members of Congress by districts and that those districts shall be contiguous? I cannot explain this opposition upon any hypothesis, except an unwillingness to concede any right or power in Congress to legislate upon the subject of the election of members of Congress.

I commend gentlemen to the words I have read of the State-rights statesmen of the country upon this subject. If we have the right, as those statesmen concede we have, to legislate upon the subject, why not accept this amendment? Can it be that there are any States which desire the opportunity to return to the general-ticket system, to crush out some troublesome minority? Is it because of a desire to make districts of territory not contiguous? It seems to me to be the duty of Congress to retain control of this matter in the interests of fair elections. I am not ready to wipe out this faint vestige of national control over them.

I think the bill of the minority should commend itself to every gentleman in this House who desires a true, just, and equitable apportionment.

Mr. NEW. I wish to ask the gentleman from Illinois a question. Is it not true that the number 319 will leave a larger unrepresented population than the number 301, or 307, or 311?

Mr. SHERWIN. It leaves a slightly larger aggregate of fraction throughout the whole country unrepresented than 301 or 311. I am not informed as to 307.

Mr. NEW. I have made some calculations with care, and according to the results of my figuring, 319 would leave a larger number of people unrepresented than either of the other numbers.

Mr. SHERWIN. It does so apparently, as compared with two of the numbers. But the gentleman ought also to understand that, comparing the numbers of fractions unrepresented between the two sections of the country, in one section we have sixteen States and in the other we have twenty-two States; so that, in reality, as applied to the population of the country, this number is nearer the true mathematical representation than any other we can get. Also it gives us a greater representation for all of the States which gain at all, and fewer States lose at that number than at any other; so I cannot see how the fractions are unrepresented.

*Exhibit showing the gains in Representatives of the Northern and Southern States over their present representation upon the different numbers proposed from 293 to 325, inclusive.*

Under the census of 1870 the Southern States now have ..... 106
The Northern States ..... 187
Under the census of 1880, at 293 members, the Southern States ..... 108
The Northern States ..... 185
The South gaining two, and the North losing two on present representation.

At 294 members, the South ..... 108
At 294 members, the North, (Massachusetts) ..... 186
The South gaining two on present representation, and the North losing one.

At 295 members, the South, (Louisiana) ..... 109
At 295 members, the North ..... 186
The South gaining three on present representation, and the North losing one.

At 296 members, the South ..... 109
At 296 members, the North, (Pennsylvania) ..... 187
The South gaining three on present representation, and the North losing none.

At 297 members, the South, (Maryland) ..... 110
At 297 members, the North ..... 187
The South gaining four on present representation, and the North none.

At 298 members, the South ..... 110
At 298 members, the North, (New York) ..... 188
The South gaining four on present representation, and the North gaining one on present representation.

At 299 members, the South, (Alabama) ..... 111
At 299 members, the North ..... 188
The South gaining five on present representation, and the North gaining one on present representation.

At 300 members, the South, (Alabama loses one, and Texas gains one) ..... 111
At 300 members, the North, (Illinois) ..... 189
The South gaining five on present representation, and the North gaining two on present representation.

At 301 members, the South, (Alabama) ..... 112
At 301 members, the North ..... 189
The South gaining six on present representation, and the North gaining two on present representation.

At 302 members, the South, (Florida) ..... 113
At 302 members, the North ..... 189
The South gaining seven on present representation, and the North gaining two on present representation.

At 303 members, the South ..... 113
At 303 members, the North, (Ohio) ..... 190
The South gaining seven on present representation, and the North gaining three on present representation.

At 304 members, the South, (North Carolina) ..... 114
At 304 members, the North ..... 190
The South gaining eight on present representation, and the North gaining three on present representation.

At 305 members, the South, (Tennessee) ..... 115
At 305 members, the North ..... 190
The South gaining nine on present representation, and the North gaining three on present representation.

At 306 members, the South ..... 115
At 306 members, the North, (Pennsylvania) ..... 191
The South gaining nine on present representation, and the North gaining four on present representation.

At 307 members, the South ..... 115
At 307 members, the North, (New York) ..... 192
The South gaining nine on present representation, and the North gaining five on present representation.

At 308 members, the South, (Georgia) ..... 116
At 308 members, the North ..... 192
The South gaining ten on present representation, and the North gaining five on present representation.

At 309 members, the South, (Missouri) ..... 117
At 309 members, the North ..... 192
The South gaining eleven on present representation, and the North gaining five on present representation.

At 310 members, the South, (Virginia) ..... 118
At 310 members, the North ..... 192
The South gaining twelve on present representation, and the North gaining five on present representation.

At 311 members, the South ..... 118
At 311 members, the North, (Indiana) ..... 193
The South gaining twelve on present representation, and the North gaining six on present representation.

At 312 members, the South ..... 118
At 312 members, the North, (California) ..... 194
The South gaining twelve on present representation, and the North gaining seven on present representation.

At 313 members, the South ..... 118
At 313 members, the North, (Illinois) ..... 195
The South gaining twelve on present representation, and the North gaining eight on present representation.

At 314 members, the South, (Kentucky) ..... 119
At 314 members, the North ..... 195
The South gaining thirteen on present representation, and the North gaining eight on present representation.

At 315 members, the South ..... 119
At 315 members, the North, (Michigan) ..... 196
The South gaining thirteen on present representation, and the North gaining nine on present representation.

At 316 members, the South ..... 119
At 316 members, the North, (New York) ..... 197
The South gaining thirteen on present representation, and the North gaining ten on present representation.

At 317 members, the South ..... 119
At 317 members, the North, (Ohio) ..... 198
The South gaining thirteen on present representation, and the North gaining eleven on present representation.

At 318 members, the South ..... 119
At 318 members, the North, (Pennsylvania) ..... 199
The South gaining thirteen on present representation, and the North gaining twelve on present representation.

At 319 members, the South ..... 119
At 319 members, the North, (Massachusetts) ..... 200
The South gaining thirteen on present representation, and the North gaining thirteen on present representation.

At 320 members, the South ..... 119
At 320 members, the North, (Iowa) ..... 201
The South gaining thirteen on present representation, and the North gaining fourteen on present representation.

At 321 members, the South ..... 119
At 321 members, the North, (Wisconsin) ..... 202
The South gaining thirteen on present representation, and the North gaining fifteen on present representation.

At 322 members, the South ..... 119
At 322 members, the North, (Kansas) ..... 203
The South gaining thirteen on present representation, and the North gaining sixteen on present representation.

At 323 members, the South, (South Carolina) ..... 120
At 323 members, the North ..... 203
The South gaining fourteen on present representation, and the North gaining sixteen on present representation.

At 324 members, the South, (Texas) ..... 121
At 324 members, the North ..... 203
The South gaining fifteen on present representation, and the North gaining sixteen on present representation.

At 325 members, the South ..... 121
At 325 members, the North, (New York) ..... 204
The South gaining fifteen on present representation, and the North gaining seventeen on present representation.

The SPEAKER *pro tempore*, (Mr. CLYMER.) To whom does the gentleman from Illinois yield the balance of his time?

Mr. SHERWIN. I yield it to the gentleman from New York, [Mr. CROWLEY,] or as much of it as he desires.

### RIVER AND HARBOR BILL.

Mr. REAGAN, from the Commitee on Commerce, reported a bill (H. R. No. 7104) making appropriation for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was read a first and second time, recommitted to the Committee on Commerce, and ordered to be printed.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed a concurrent resolution relative to the counting of electoral votes for President and Vice-President of the United States, in which the concurrence of the House was requested.

The message further announced that the Senate had passed the bill (S. No. 2054) to remove the political disabilities of Richard Fatherly, of Little Rock, Arkansas, in which the concurrence of the House was requested.

### APPORTIONMENT OF REPRESENTATION.

Mr. CROWLEY. Mr. Speaker, no measure coming before Congress can be more important than the one under discussion. It is to determine for ten years to come the representation of each State in this House.

The first question which meets us at the threshold of this debate is as to the wisdom and policy of increasing the numbers of Representatives. From sixty-five members fixed by the Constitution in 1789, we have grown to two hundred and ninety-three members in eighty years; and it is now proposed by every measure before this House to still further increase its membership. We stand to-day, not including New Hampshire, the eighth largest legislative body in the world. Hungary, but a portion of the Austrian Empire, has a chamber of magnates of 731, and a house of representatives of 444; and yet no one will claim that there is greater wisdom and deliberation in the Parliament of Hungary because of this large representation. England, which legislates for nearly three hundred millions of human beings, has a House of Lords of 497, and a House of Commons of 652, and yet I am informed that the daily average attendance upon the House of Commons is less than the daily average attendance upon this House of Representatives.

France, in her Corps Legislatif, has a Senate of 300 members and a Chamber of Deputies of 532; and yet so noisy is that Chamber of Deputies that it cannot claim to be a deliberative body.

Italy has a Senate of 220 members and a Chamber of Deputies of 508; Prussia has an upper house of 302 members and a lower house of 434; Austria has an upper house of 191 members and a lower house of 383. And the German Empire, where are gathered all the German States, has in its upper branch only 59 members and in its lower 397.

Next comes the American Congress. And let me say that from the numbers of this House it is noisy and confusing and unwieldy also. It is disorderly and at times turbulent. This calendar which I hold in my hand, containing over twelve hundred bills, shows that it cannot act with dispatch upon all the measures coming before it. The roll-call of the members of this House upon the average now takes upward of one-half hour. We have adopted a system of rules, complex, arbitrary, and apparently tyrannical, for the purpose of enabling us to dispatch business and to aid in the deliberations of this body.

Sitting or standing in this outer circle where many of us are located, it is now impossible, from the size of this Chamber, for us to know what is being daily transacted here. We are compelled to look into the RECORD of the next morning for the purpose of accurately learning what is daily transpiring in our very presence. My observation is that a strong voice, an interesting subject, long experience,

or great reputation only can arrest, command, and hold the attention of this House constituted as it is.

Let me say, in speaking of the size of a legislative body, it is interesting to turn back for a short time to the century's experience of the workings of this House of Representatives, to hear what was said by the founders of the Government concerning it when they framed it, and what has been said by the great commentators who have spoken concerning its organization and workings since that time. It was feared by many of the fathers of the Constitution that a small legislative body would not possess a proper knowledge of the local circumstances of their constituents; that a small number would be an unsafe depository of power and would be taken from those who would not sympathize with the feelings of the people. Story, in his Commentary on the Constitution, written forty years after its adoption, speaking of the objections urged against a small legislative body, says:

Time and experience have demonstrated the fallacy of some, and greatly impaired, if they have not utterly destroyed, the force of all of these objections. The fears, which were at that period so studiously cherished; the alarms, which were so forcibly spread; the dangers to liberty, which were so strangely exaggerated; and the predominance of aristocratical and exclusive power, which was so confidently predicted, have all vanished into air, into thin air. Truth has silently dissolved the phantoms raised by imaginations heated by prejudice or controversy; and at the distance of forty years we look back with astonishment at the laborious reasoning which was employed to tranquilize the doubts and assuage the jealousies of the people. It is fit, however, even now, to bring this reasoning under review, because it inculcates upon us the important lesson, how little reliance can be placed upon mere theory in any matters of government; and how difficult it is to vindicate the most sound, practical doctrines against the specious questioning of ingenuity and hostility.—*Story on the Constitution*, section 648.

I will read no further from that section, but turning now to the subject of the numbers which should compose the House of Representatives, I beg leave to call attention to what he said:

But the question itself, what is the proper and convenient number to compose a representative legislature, is as little susceptible of a precise solution as any which can be stated in the whole circle of politics. There is no point upon which different nations are more at variance; and the policy of the American States themselves, on this subject, while they were colonies, and since they have become independent, has been exceedingly discordant. Independent of the differences arising from the population and size of the States, there will be found to be great diversities among those whose population and size nearly approach each other.

* * * * * * *

It is by no means true that a large representation is necessary to understand the interests of the people. It is not either theoretically or practically true that a knowledge of those interests is augmented in proportion to the increase of representatives. The interests of the State of New York are probably as well understood by its sixty-five representatives as those of Massachusetts by its three or four hundred. In fact, higher qualifications will usually be sought and required where the representatives are few than where they are many. And there will also be a higher ambition to serve where the smallness of the number creates a desirable distinction than where it is shared with many, and of course individual importance is essentially diminished.—*Ibid.*, sections 651, 653, 678.

And Kent, speaking upon this subject, well expresses the principle which should guide in the formation of a House of Representatives:

A due acquaintance with the local interests of every part of the Union ought to be carried into the House, and a sufficient number collected for all the purposes of information, discussion, and diffusive sympathy with the wants and wishes of the people. When these objects are obtained any further increase neither promotes deliberation nor increases the public safety. All numerous bodies of men, although selected with the greatest care, are too much swayed by passion, and too impatient of protracted deliberation.—1 *Kent*, 232.

The history and policy of our American Congress in the main has tended to an increase of its representation. The older States, for the purpose of not losing Representatives, for the purpose of not losing political power, and to keep pace with the more rapidly growing States of the West and Northwest, have always favored such apportionment of representation as would save to them the number of Representatives which they had whenever the question of apportionment came up.

The first apportionment act passed in 1792, three years after the Constitution went into operation, fixed one member for every 33,000 people, and gave us a House of 105 members. In 1802 the same ratio was maintained, which gave us a House of 141 members. In 1811 the ratio of one member for every 35,000 population was adopted, which gave us a House of 181 members. In 1822 the ratio of 40,000 was adopted, which gave us a House of 212 members. In 1832 the ratio of 47,700 was adopted, which gave us a House of 240 members. In 1842 we dropped for a decade, and in the apportionment bill of that year the ratio of representation was 70,680, which gave us a House of 223 members. In 1850 the ratio was 93,420, which gave us a House of 233 members. In 1862 the ratio was 126,823, which gave us a House of 241 members. And in 1872 the ratio was 131,425, which gives us the present House of 293 members.

Now, Mr. Speaker, is it policy, is it wisdom, to increase still further the membership of this House? Have we not reached a limit where we should pause for a while? Will business be dispatched more rapidly by increasing our numbers? Will more wisdom mark our deliberations? Will there be more order? Will roll-calls take less time? Will it be less expensive? Under our Constitution the Senate of the United States must pass upon every bill which passes this House; it must adopt the same legislative methods upon every measure. In addition to that it must act upon every nomination sent to it by the Executive—no inconsiderable duty of late years. The Senate is also a part of the treaty-making power of the nation, and is the sole court for the trial of all impeachments. Yet, with these additional duties, who will say that the Senate of the United States, with only seventy-six members, does not dispatch business with as much promptness and with as much wisdom and deliberation as this House, with its two hundred and ninety-three members?

Let me take one illustration more as to the policy of an increase. The State which I have the honor in part to represent, New York, an empire in itself—with all the industrial and material interests which go to constitute a great commonwealth—has never found it political wisdom to increase the size of its Legislature. From 1789, when its population was only 340,112, down to 1821, the numbers constituting its legislative bodies were substantially the same. In 1821, when its population was 1,372,812, it created a Legislature whose senate consisted of thirty-two members, and an assembly of one hundred and twenty-eight members only. Although, in 1846, when its population had increased to 2,604,495, it changed its constitution and held a constitutional convention—in 1867, and afterward, a constitutional commission, when its population had doubled. Yet New York, in its wisdom, is to-day transacting its public business with a Legislature of the size fixed in 1821; and now, with a population of 5,083,810, adhering to a Legislature created sixty years ago, who will say that New York is not as rich, great, prosperous, and populous, and as well governed, as any of her sister States or as this Union, which, by its Congress, has increased its representation at every decade.

Mr. Speaker, I am opposed to apportionment at this session of Congress. In section 2 of article 14 of the amendment to the Constitution it is provided that—

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors of President and Vice-President of the United States, Representatives of Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Every apportionment bill pending in this House bases representation upon numbers only. That was the principle of the old Constitution, under which nine censuses were taken and nine apportionments made; but under section 2 of the fourteenth amendment voters as well as numbers may be taken into the account in apportioning Representatives among the respective States; and when any State denies to any of its qualified male citizens, being twenty-one years of age, the right to vote for any of the officers specified in the fourteenth amendment, in my judgment that State should be denied representation in this House in the proportion which it denies the right of voting to any of its male citizens otherwise qualified. [Applause.]

Turning to the constitutions of the States, we find that Massachusetts and Connecticut disqualify citizens on educational grounds. I am not going to criticise the wisdom of those States. I am not standing here to attack either of those States or any others; and let me say in passing that the question of education is becoming one of the paramount questions of the present time. Thoughtful men, who are anxious for the perpetuity of our institutions, who are looking to the future welfare of this Republic, are scanning closely the Constitution to find whether or not there are any powers in it authorizing Congress to take control of the whole subject of education for the nation and for all the States of the nation. But let me say that while Massachusetts and Connecticut have imposed an educational qualification which debars certain citizens in those States from voting for the officers enumerated in section 2 of the fourteenth amendment, Massachusetts, Delaware, Georgia, New Hampshire, Pennsylvania, Rhode Island, Tennessee, Texas, and Virginia have added a property qualification, either in regard to amount of property which the voter shall possess, or in regard to the payment of poll taxes, or county, State, or municipal taxes.

Let me call attention somewhat to the effect of this in regard to representation in this House. The State which I have the honor to represent in part upon this floor sends here under the apportionment act of 1872 thirty-three Representatives. In the last election of those Representatives the total vote for Representatives in Congress in each of those thirty-three districts was not less than 23,000; and in the Erie district, where the highest vote was cast, there was a little upward of 45,000 votes cast for candidates for Representative in this House.

Now turn to the State of Rhode Island. Rhode Island in the last presidential election cast 29,210 votes, all told, for the presidential electors, and both of the members from the first and second congressional districts of that State had had cast for them and for their opponents all told in both of those districts only 28,964 votes. That is the aggregate of both districts. In twenty-three of the congressional districts of the State of New York there was a larger vote than 28,964 cast for congressional candidates in each and every one of those twenty-three congressional districts.

Now, Mr. Speaker, the gentleman from New York, [Mr. COX,] chairman of the Committee on Census, in his speech yesterday, which was able and exhaustive, on this question, asks, in regard to the effect of the fourteenth amendment, a question which I think should receive an answer at this time and in this place. And that I may do him no injustice I read from the RECORD what purports to be his remarks on that question:

The first question which arises under this second section of the fourteenth amendment is, What is a denial or abridgment of the right to vote as contemplated? Must it be by law or by individuals? What constitutes a denial or

abridgment if otherwise than by law? What is the amount of private force and intimidation, or the kind of device or fraud which constitutes a denial or abridgment? The last act of apportionment was passed on the 2d of February, 1872. It did not pretend to settle this or anything else as to this fourteenth amendment. It re-enacted the clause of the Constitution, and fixed the power which must deny or abridge.

It says "should any State" deny or abridge. It does not say person or community or other organism; so that, in so far as any interpretation may be drawn from the law of 1872, the only constraint on suffrage must be from the State and by legal enactment. No practical application has been made of the constitutional clause or the law. It has been hitherto a dead letter. Nor is it possible now, with any known data ascertainable with reasonable accuracy, to apply either the Constitution or the law to the apportionment.

The SPEAKER *pro tempore*, (Mr. CLYMER in the chair.) The gentleman's time has expired.

Mr. HISCOCK. I ask, by unanimous consent, Mr. Speaker, that my colleague's time be extended for ten minutes.

Mr. ROBESON. I hope no limit will be placed upon the gentleman's time, but that he will be permitted to go on until he has concluded his speech.

Mr. HISCOCK. I ask that.

The SPEAKER *pro tempore*. The Chair hears no objection, and it is ordered accordingly.

Mr. CROWLEY. Mr. Speaker, I thank the House for its courtesy in extending me this privilege.

Now, let me say, sir, that the answer to the question asked by the chairman of the Committee on Census has been given by the Supreme Court of the United States at the October term in 1879, in the matter of the Commonwealth of Virginia and J. D. Coles, petitioner. That was a writ of *habeas corpus*, coming up from the State of Virginia, in regard to a county judge in one of the counties of that State, who was charged with having refused to select jurors under the provisions of the recent amendments to the Constitution of the United States.

The Supreme Court in rendering judgment—Justice Strong delivering the opinion—holds in regard to that the following, to which I particularly ask the attention of the House. In speaking of these recent constitutional amendments, and the legislation necessary to carry them into operation, the court observes "all of the amendments derive much of their force from this latter provision." That is, the provision existing in Congress to pass appropriate legislation to enforce them:

It is not said the judicial power of the General Government shall extend to enforcing the prohibitions and to protecting the rights and immunities guaranteed. It is not said that branch of the Government shall be authorized to declare void any action of a State in violation of the prohibitions. It is the power of Congress which has been enlarged. Congress is authorized to enforce the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendments fully effective. Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view—whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights, and the equal protection of the laws against State denial or invasion, if not prohibited—is brought within the domain of congressional power. Nor does it make any difference that such legislation is restrictive of what the State might have done before the constitutional amendment was adopted.

And let me say here, all these constitutional qualifications or limitations which exist in these ten States I have named, I believe without exception, unless in the case of one or two of them, were passed before the adoption of the fourteenth amendment to the Constitution:

The prohibitions of the fourteenth amendment are directed to the States, and they are to a degree restrictions of State power. It is these which Congress is empowered to enforce, and to enforce against State action, however put forth, whether that action be executive, legislative, or judicial. Such enforcement is no invasion of State sovereignty. No law can be which the people of the States have, by the Constitution of the United States, empowered Congress to enact. This extent of the powers of the General Government is overlooked when it is said, as it has been in this case, that the act of March 1, 1875, interferes with State rights. It is said the selection of jurors for her courts and the administration of her laws belong to each State; that they are her rights. This is true in the general; but in exercising her rights a State cannot disregard the limitations which the Federal Constitution has applied to her power. Her rights do not reach to that extent. Nor can she deny to the General Government the right to exercise all its granted powers, though they may interfere with the full enjoyment of rights she would have if those powers had not been thus granted. Indeed, every addition of power to the General Government involves a corresponding diminution of the governmental powers of the States. It is carved out of them.

We have said the prohibitions of the fourteenth amendment are addressed to the States. They are "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; * * * nor deny to any person within its jurisdiction the equal protection of the laws."

And now the court, in passing upon the exact phraseology used in section 2 of the fourteenth amendment, say:

A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever by virtue of public position under a State government deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition, and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or to evade it.

But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons; and to insure to all persons the enjoyments of such rights power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured.

In 1876, in the fierce struggle for political power in this country, it was supposed that every State in the Union had polled its full vote for President in that year. New York, my own State, cast upward of a million in that election, the largest vote ever cast up to the election of 1880. Four years pass away. We have another presidential election in 1880, and it is fair to assume that the lapse of four years would have brought increased numbers of voters in all of the States of the Union, but it will be found that in certain States the vote cast in 1880 for presidential electors is considerably less than that cast in 1876. I have stated as a reason for my opposition to the passage of any apportionment bill by this Congress that every one of these bills for the apportionment of Representatives is based upon numbers without taking into the count voters. Under the Constitution as amended, I regard voters as well as numbers a basis for an apportionment bill, where citizens are denied the right to vote by State action. I am not speaking in a partisan sense; but it is alleged and believed that in some parts of the Union, in some of the States in this Union or in some sections of the country, there exists and has existed fraud, intimidation, and violence, by which means a large number of voters have been denied the right of voting in elections in the past. I do not assert, sir, whether that is so or not. The allegation has been made, and it is believed in a portion of this Union that this condition of affairs absolutely exists.

Now, every one of the twenty-two States of the North increased its vote in 1880 over that cast in 1876; but when we come to certain States of this Union, the sixteen Southern States, we find that some of them have fallen off largely in the number of voters in the election of 1880 as compared with what they cast in 1876. South Carolina did not poll within 12,246 votes as many in 1880 as she did in 1876; Alabama did not poll within 18,725 as many as she did in 1876; Virginia did not poll within 22,483 votes in 1880 as she did in the preceding election in 1876; Georgia did not poll within 24,879 votes in 1880 as she did in 1876; Louisiana did not poll within 48,442 votes in 1880 as she did in 1876; Mississippi did not poll within 48,377 votes as many in 1880 as she did in 1876. For myself, Mr. Speaker, I am in favor of having one of the committees of this Congress, or a select committee, if you please, raised for that purpose, which shall investigate the whole question of disqualification, either educational or property, in all these States of the Union where constitutional prohibitions against the right of suffrage are alleged to exist; and I would have this committee look into this whole question and report to Congress what qualifications or disqualifications exist in all sections of the country to deprive citizens of the right to vote; and then when we have a full report of the disqualifications, either educational or property, or whether by violence and oppression men are denied the right of suffrage, and all of the facts before us, it will then be within the power of Congress to go to work and consider an apportionment bill which can be based upon justice, equity, and the Constitution, based upon the voters of this country as well as upon the numbers.

The gentleman from New York, [Mr. COX,] in his exceedingly able speech, asks the question, suggested by way of illustration, that if the State of Pennsylvania should choose to impose a property qualification it might disfranchise all of Pennsylvania, and there would be no voter in Pennsylvania whatever. Well, Mr. Speaker, if that should become a fact, Pennsylvania would be to blame and not the Constitution or the General Government. Let Pennsylvania remove her property disqualifications and put herself upon the same basis that twenty-eight other States stand upon, and then that objection will be obviated as to Pennsylvania.

Only four weeks of this session of Congress are left. Certainly within that time the qualifications or disqualifications existing in ten States of this Union, or the fraud, violence, and intimidation alleged to exist in other States, cannot be properly investigated and considered, nor can we have all the facts in such proper shape before the House as to permit an apportionment bill based upon voters as well as upon numbers. One other reason why I am opposed to any of these bills, or rather to the majority bill reported by the committee, is because it does not provide that the district system shall be maintained. And let me pause here and ask the gentleman whether in the amendment which he has indicated his intention to offer (to make the number of Representatives three hundred and seven) he intends to incorporate in that the district system?

Mr. COX. I will answer the gentleman. My amendment is to the original bill which I introduced, for three hundred and one members. That has now those two sections. I propose to retain those two sections, and so to amend the original bill as to leave them in, only amending the first section, as you will perceive.

Mr. CROWLEY. Mr. Speaker, I am glad that the gentleman so says, because I can most heartily and cordially sustain that proposition for the establishment of a district system. In 1842, as the gentleman who preceded me said, this question of the district system was discussed with much deliberation and *in extenso* in both branches of Congress. This dogma of State rights which has come before Congress every once in a while for now nearly one hundred years was brought up in that discussion, and it was settled by the weight of discussion, under section 4, article 1 of the Constitution, which says:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

It was settled, I say, by the weight of deliberation, or rather by the weight of argument, and incorporated in section 2 of the act of 1842, that Congress had the power of prescribing to the States the manner in which Representatives should be chosen in the different States of the Union. Prior to that time the States regulated that matter for themselves. Some of them elected by districts; some of them, I think, although I am not certain of that now, elected by Legislatures; certainly some of them elected by a general ticket. Why the wisdom of adopting the district system? The report of the majority of this committee leaves this whole question a blank. You elect your Representatives by a general ticket, and then you have a State representation instead of a district representation. More than that, you leave it to the States to say of what territory each district shall be composed. And they may make one district for political purposes consist of 200,000 people, if you please; or, if the ratio is not so high as that, they may make it consist of what the ratio may be, while they make another district consist of 50,000 people, and another of 100,000, and thus work inequalities and injustices in the election of Representatives throughout the country.

More than that, if you say you will not have this district system and that the district shall not be composed of contiguous territory, you put it in the power of the respective State Legislatures to say that they will take one county in one end of a State and attach it to another county at another end of a State, and thus overwhelm or drown out the political sentiment of a locality. By way of illustration, they may take a ward which gives 10,000 democratic majority in the city of New York and attach it to the district of my colleague in Syracuse, which gives about three thousand or four thousand republican majority, and drown out the republican majority in the district and thwart the wishes of the majority of the people in that locality.

Now, Mr. Speaker, I have as much faith in the wisdom of State Legislatures and in the wisdom of the people of localities as any gentleman. But in reading our political history, let me say that when men are engaged in a fierce strife for political power they do those things which are unjust and which they would not do in their calmer moments.

Let me read to you briefly what so great a man, so patriotic a man, indeed one of the greatest men, if not the greatest man this country ever produced—Alexander Hamilton—proposed to do at a time when it was necessary, in his judgment, to thwart the majority of the American people in the election of Mr. Jefferson as President. Hammond in his history on political parties in the State of New York says, speaking of the election of Mr. Jefferson:

> Immediately after the result of the State election was known, and on the 7th day of May, General Hamilton, with the approbation, as is said, of a caucus of his political friends in New York, addressed a letter to Governor Jay, requesting and urging him forthwith to call the then existing Legislature together, with a view that before the legislative year expired (and it will be remembered that under the old constitution it expired on the 1st of July) they should pass an act dividing the States into districts for the choice of presidential electors by the people. It was supposed, and the event proved the supposition well founded, that Mr. Jefferson could not get, including the twelve New York votes, more than seventy-three votes, and seventy votes were necessary to a choice. If, therefore, four Federal votes could be obtained in this State (and that there could, if the State was divided into districts, did not admit of any doubt) the election of Jefferson would be defeated. Mr. Hamilton, in his letter, uses this extraordinary language, "You, sir, know in a great degree the anti-Federal party; but I fear you do not know them as well as I do. It is a composition, indeed, of very incongruous materials, but all tending to mischief—some of them to the overthrow of the Government by stripping it of its due energies," [Jeffersonians,] "others of them" [Burr] "a revolution after the manner of Bonaparte. I speak from indubitable facts, not from conjecture and inference." How General Hamilton could feel authorized to make these bold, and as all will now admit, unwarrantable assertions, to such a man as Governor Jay, it is difficult to conceive. He concluded by urging the Governor to make the call as the only remaining means of saving the nation.

If so great and patriotic a man as Alexander Hamilton, to thwart the wishes of the people and gain political power, could urge a measure of this kind, say not to me that in the struggles through which we have passed, in the struggles which probably await us, Legislatures will not gerrymander their States for the purpose of securing political power—and I am not saying whether that will be done by republicans or democrats or any political party which may come after them. I am simply saying that in the light of the political history of this country, in the light of the history of the respective States, it is wise and constitutional for this Congress to say that we shall elect the Representatives to this body by districts composed of contiguous territory and as equal as may be in population; while on the other hand if we throw open the doors to all these possible evils which may result from any other system it will not be good statesmanship nor wise legislation.

Mr. Speaker, I thank the House for listening to me much longer than I had intended to trespass upon its time. I am nearly through.

Let me say that large deliberative assemblies, large legislative bodies, have not tended to the dispatch of business in any country in the world, have not tended to political wisdom. Nothing of that kind marks this Hungarian legislature of which I have spoken. Nothing of the kind marks, to the degree which it ought, the deliberations of the great Parliament of Great Britain. The French Corps Legislatif has become so turbulent as almost to cease, as I said before, to be a deliberative legislative body.

Our American Congress as it stands to-day, even with the disqualifications existing in the several States and with the fraud and intimidation which it is charged exists in some of the States of this Union, is the most truly representative legislative body, in my judgment, in the world. Let us have all the facts of disqualifications in all the States; let us have, as far as we can ascertain it, a knowledge of the intimidation and fraud which are alleged to be committed in any portion of this country properly placed before this body, and then in the passage of an apportionment bill we can make it so wise, so just, so strong, that we can make this Chamber of Representatives, this American Congress, what it ought to be, and what I believe it is destined to be, the freest and grandest parliamentary body in the world. [Great applause.]

Mr. RAY. If I understood correctly, the gentleman from New York [Mr. CROWLEY] included the State of New Hampshire among those which imposed property qualifications. That is a mistake. New Hampshire has had no property qualification touching the right of suffrage since 1852.

Mr. THOMPSON, of Kentucky. Mr. Speaker, being a member of the committee to which this matter was referred, and being probably more responsible than any member of that committee for the bill presented by the majority, I feel that I ought to state to the House the reasons in support of it which induced its adoption. I have no set speech to make, none written and none printed. I only wish to present to the House, in support of the majority report of the committee, such opinions as may occur to me during the course of the remarks which I may make.

I have listened to the gentleman on the other side of the House who has just closed his speech, [Mr. CROWLEY,] and to the objections which he has urged against our bill. It seems to me that all the positions which he has taken are unsound and cannot be maintained. The first objection, I believe, which he urges to the majority report made by the Select Committee on the Census, in favor of a House of three hundred and eleven, is that it proposes an increase of the members of this House beyond its present number.

Now I know that each gentleman entertains his own views on the subject of the number of members which should constitute this House. I believe that in the decision of that question we should be guided not exclusively by our own personal interests or the interests of our State or of the section of the country in which we live. I do hope that the question of sectional interests will play no part in the decision of this question—one of the most important, I think, ever submitted to us for our judgment.

I know it has been said that this is a question of mathematical calculation. But it involves likewise a redistribution of the political power of this country, a redistribution back to the States of the power given to them by the Constitution affecting their right to participate in the government of this country. I believe that we have more to fear from a reduction of this House than from its extension, and if I had to vote for either the one or the other I should prefer that the increase of this House should go to five hundred members than that it should be reduced a single one.

I believe, and I hope that the House will concur with me in those views, that at each decade, as we go forward increasing in population, the House of Representatives ought to respond in some measure by its increase in numbers to that increase in numbers in the several States. We have since the last census increased in population in this country over eleven millions. Are we not to increase the members of this House to correspond to that? Will we make a Procrustean bed upon which we are to lay this House, to "cabin, crib, and confine" it—to say, "beyond this you shall not go?" Are we to lay down any particular number, and say that inside of that number it can progress, but beyond that limit it shall never pass? Can this House respond to the demands made by the country upon it if it is to be made an exclusive body of that kind? Should it not be an epitome of the people? Is it not to respond at every election to the changes in public sentiment upon every question brought before the people?

Take the next House. Gentlemen claim, some of them, that we are to have a minority representation in that House. A bill has been presented to the House for that purpose. I believe that whole idea is perfectly Utopian, one not required, one for which there is no necessity at this time. I do not believe this House will adopt any such plan. I do not know that the plan will be forced upon the House for its consideration. I do not know that the gentleman who presented it will ever press it further upon the consideration of the House. I do not believe the House is prepared to accept it, or that there is a necessity now which demands it.

Is not this House now, and will not the next House be, a fair representation of public sentiment? If you will take the political complexion of the next House you will find that according to the best calculations made it will have a republican majority of one over all other political parties, counting the House upon a strict party vote. On the popular vote Garfield did not receive quite a majority, but local influences and personal popularity will easily account for the majority of one in the House. The political divisions into States, counties, and districts for local purposes insures the minority fair representation. The history of the country shows this conclusively. Now, why should we abandon the district system which has been in operation for the last forty years? Why should we change that system and adopt the plan of minority representation, which has been suggested by some, when the relative strength of all political parties is fairly represented in the complexion of the House year after year with unvarying certainty?

But, Mr. Speaker, the gentleman who last addressed us seemed

uneasy for fear something might be done to break down the district system. He wanted to know why the majority of this select committee struck from the bill presented by its chairman those two clauses. I will tell him. It was to escape the argument and discussion which may follow if the gentleman from Illinois [Mr. SPRINGER] undertakes to attach to this bill the measure which he has presented to us for minority representation. We saw no reason—and this is the explanation of our action—we saw no reason why the long and tedious discussion which that bill would involve should be injected here in the closing hours of this Congress. We did not understand it to be necessary that that question should be now determined. We did not understand that question to be germane to the apportionment bill, which is a mere distribution of the members among the States according to the rule prescribed by the Constitution.

Nor do we find any necessity that the law on that subject should be now re-enacted. Do not gentlemen well know that there is an independent act on this subject, passed July 14, 1862, which now stands on the statute-book unrepealed? Why should we pile statute upon statute to secure the same thing? This provision having been passed in 1842, repassed in 1852, and, though unrepealed, repassed again in 1862 by an independent statute, why should we re-enact such a provision in this apportionment bill? Is that necessary to make the bill more effective? I will send to the Clerk's desk and have read the statute of 1862 to which I have referred.

The Clerk read as follows:

An act in relation to the election of Representatives to Congress by single districts.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in each State entitled in the next and any succeeding Congress to more than one Representative, the number to which such State is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of Representatives to which said State may be entitled in the Congress for which said election is held, no one district electing more than one Representative: *Provided*, That the provisions of this act shall not apply to the State of California, so far as it may affect the election of Representatives to the Thirty-eighth Congress: *And provided further*, That in the election of Representatives to the Thirty-eighth Congress from the State of Illinois, the additional Representative allowed to said State by an act entitled "An act fixing the number of the House of Representatives from and after the 3d day of March, 1863," approved March 4, 1862, may be elected by the State at large, and the other thirteen Representatives, to which the State is entitled by the districts as now prescribed by law in said State, unless the Legislature of said State should otherwise provide before the time fixed by law for the election of Representatives therein.

Approved, July 14, 1862.

Mr. THOMPSON, of Kentucky. Now, Mr. Speaker, with that act standing upon the statute-book unrepealed, also of 1842 and 1852, I see no necessity for pressing the matter further upon the House.

Mr. SHERWIN. Will the gentleman allow me a question?

Mr. THOMPSON, of Kentucky. Yes, sir.

Mr. SHERWIN. When was that statute enacted?

Mr. THOMPSON, of Kentucky. July 14, 1862.

Mr. SHERWIN. Is it embraced in the Revised Statutes?

Mr. THOMPSON, of Kentucky. No, sir.

Mr. SHERWIN. How, then, can it be in force now?

Mr. THOMPSON, of Kentucky. Because the Revised Statutes do not repeal any independent laws which they do not touch. If the gentleman will turn to the enacting clause of the Revised Statues he will find that by the terms of that revision this law is left in force.

Mr. SHERWIN. In the act of 1872 fixing the apportionment the provision that the districts shall be composed of contiguous territory is confined to that apportionment alone.

Mr. THOMPSON, of Kentucky. This is the act of 1862, not the act of 1872. It is an independent law and not embraced in or repealed by the Revised Statutes.

But, Mr. Speaker, I do not see why we should go into this matter at all. It is a dangerous subject, to say the least of it, when we see what progress has been made in this direction by the legislation of Congress during the last forty years. The year 1842 was the first time that Congress ever undertook to interfere with the regulations of the States on this subject. Then it was that the moiety system was first adopted, giving to each State on even divisions so many Representatives, and to each State having a fraction greater than one-half an additional member. At that time another change was introduced. Theretofore, whenever it was necessary to apportion representation, the ratio was first found, the populations of the States divided by that ratio, and whatever number of members they might obtain by that division was given to them. Then for the first time a limit was fixed upon the membership of this House, the number being fixed at two hundred and forty-one, and the ratio being adopted to produce that result. Theretofore a ratio was determined and the number of members was left to be what it might under the ratio determined. A new system was devised, carrying with it the moiety system, or some system allowing fractional representation. Then for the first time what is now known as the district system was adopted. How have we progressed in our legislation on this subject! We have gone on until Congress has assumed almost entire control of the election of members in the States. In 1870, 1871, and 1872, when the republican party was in power in both branches of Congress, they seized upon this whole subject; they forced upon the States the ballot system, which many of them do not like, and which produces more fraud in one day than the *viva voce* system will in a hundred years, as those of us who have lived under both systems well know. We hear more of fraud, corruption, ballot-box stuffing, and intimidation in a single contested-election case in this House than the whole State of Kentucky furnishes in all our elections for State officers during twenty-five years.

Is it wise for this House to interfere? What is the object? Congress has thus interfered to direct the States as to the time when they shall elect their Representatives, fixing a uniform day, thereby throwing the power and control of the Federal Government, with its innumerable supervisors and deputy marshals, into the State elections which occur on the same day. Then came the legislation providing for supervisors and deputy marshals, of whom we have heard so much. Complete machinery has been provided by the central Government here to dominate the States in their elections. I am opposed to this interference on the part of the Government with the States, even for the purpose of dictating to them that they shall elect by districts. It is inconsistent with the theory upon which our Government is based. If you will go back and look at the history of that provision in the Constitution under which this action is had, you will find that nine out of the thirteen original States which adopted that Constitution adopted it with the distinct understanding that Congress never would exercise that latent power except for the purpose of self-preservation, as in cases where a State refuses to elect Representatives, or from some other cause could not.

Under what section of the Constitution, Mr. Speaker, does Congress claim power to pass these clauses regulating the elections of Representatives by the States? There is but one; in these words:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

And no provision of that instrument aroused so much opposition to its adoption by the States as this. Nearly all the conventions placed upon record their solemn protest against its use being ever resorted to, except as a matter of self-preservation. Opposition was not confined to sections. In fact, State rights had its birth and earliest propagandist and defender among the New England States and around Plymouth Rock. Massachusetts, in her convention, said:

The convention do, therefore, recommend that the following alterations and provisions be introduced into the said Constitution:

"SEC. 3. That Congress do not exercise the powers vested in them by the fourth section of the first article, but in cases when a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution."

Thus it will be seen the old State of Massachusetts, always zealous of her rights as a State, left a record to future Congresses, in the following language:

And the convention do, in the name and in behalf of the people of this Commonwealth, enjoin it upon their Representatives in Congress, at all times, until the alterations and provisions aforesaid shall have been considered, agreeably to the fifth article of the said Constitution, to exert all their influence, and use all reasonable and legal methods, to attain a ratification of the said alterations and provisions, in such manner as is provided in the said article.

I will take South Carolina next—and part of the record of her convention, which adopted the Constitution for her people:

And whereas it is essential to the preservation of the rights reserved to the several States, and the freedom of the people, under the operations of a general government, that the right of prescribing the manner, time, and places of holding the elections to the Federal Legislature, should be forever inseparably annexed to the sovereignty of the several States, this convention doth declare that the same ought to remain, to all posterity, a perpetual and fundamental right in the local exclusive of the interference of the General Government, except in cases where the Legislatures of the States shall refuse or neglect to perform and fulfill the same, according to the tenor of the said Constitution.

It is grandly sublime to study the history of those times and men after a new nation had been born, to note the unanimity of sentiment of their jealous vigilance for the rights of the States and the people. The instruction of the convention to its Representatives in Congress is of no doubtful meaning, namely:

*Resolved*, That it is a standing instruction to all such delegates as may hereafter be elected to represent this State in the General Government to exert their utmost abilities and influence to effect an alteration of the Constitution conformably to the aforegoing resolutions.

The State of New Hampshire follows next, whose conventions took under consideration this particular section of the Constitution, and upon her record are found the following emphatic entries:

The convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution: 3. That Congress do not exercise the powers vested in them by the fourth section of the first article but in case when a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress; nor shall Congress in any case make regulations contrary to a free and equal representation.

And the convention do, in the name and in behalf of the people of this State, enjoin it upon their Representatives in Congress at all times until the alterations and provisions aforesaid have been considered agreeably to the fifth article of the said Constitution, to exert all their influence and use all reasonable and legal methods to obtain a ratification of the said alterations and provisions in such manner as is provided in the said article.

The wise statesmanship of Virginia, whose vigilance and prudence had a controlling influence from the Declaration of Independence in 1776 to the adoption of the Constitution in 1787 has left upon its record a declaration on this amendment strong, emphatic, and to the point, in the following words, namely:

XVI. The Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same.

They placed upon the same record a perpetual instruction to their future Representatives in Congress of the United States, namely:

And the convention do, in the name and behalf of the people of this Commonwealth, enjoin it upon their Representatives in Congress to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the foregoing alterations and provisions, in the manner provided by the fifth article of the said Constitution; and in all congressional laws to be passed in the mean time, to conform to the spirit of these amendments, as far as the said Constitution will admit.

The next in order is now one of the most powerful and influential States in the Union; and I ask to be pardoned for quoting from a distinguished Senator from the State of Louisiana, Mr. White, who I believe was a native of New York, when he said he "referred with pride and pleasure to the proceedings of her convention upon this important point:"

New York was not then a large State in the comparison; and yet the cautious jealousy of her statesmen against this wanton exercise of Federal power over her local elections was not the less, because she had at that day the less to fear and to lose from the assumption. Her record is more full as to this grant of power than that of any other State, as her convention seem to design to set up every guard against an abuse of its exercise. They therefore, in express terms, first put their construction upon the clause of the Constitution as they found it, in the following language, to wit: "That nothing contained in the said Constitution is to be construed to prevent the Legislature of any State from passing laws at its discretion, from time to time, to divide such State into convenient districts, and to apportion its Representatives to and among such districts.

After this emphatic declaration of the rights of the States, the convention of New York proceeded to make their ratification of the Constitution in this language:

Under these impressions, and declaring that the rights aforesaid are consistent with the said Constitution, and in confidence that the amendments which shall have been proposed to said Constitution will receive an early and mature consideration, we, the said delegates, in the name and in the behalf of the people of the State of New York, do, by these presents, assent to and ratify the said Constitution. In full confidence, nevertheless, that, until a convention shall be called and convened for proposing amendments to the said Constitution * * * that the Congress will not make or alter any regulation in this State respecting the times, places, and manner of holding elections for Senators or Representatives, unless the Legislature of this State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that in those cases such power will only be exercised until the Legislature of this State shall make provisions in the premises.

The convention of New York went even further than this. They looked forward with prophetic vision at the encroachments of the Federal power, and to warn them of the danger of centralization they proceeded to instruct their future Representatives against that encroachment, to wit:

And the convention do, in the name and behalf of the people of the State of New York, enjoin it upon their Representatives in the Congress to exert all their influence and use all reasonable means to obtain a ratification of the following amendments to the said Constitution in the manner prescribed therein, and in all laws to be passed by Congress, in the mean time, to conform to the spirit of the said amendments, as far as the Constitution will admit.

The amendment proposed by the convention follows, and is in this language, namely:

That the Congress shall not make or alter any regulation in any State, respecting the times, places, and manner of holding elections for Senators or Representatives, unless the Legislature of such State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and then only until the Legislature of such State shall make provisions in the premises: *Provided*, That Congress may prescribe the time for the election of Representatives.

On that account, Mr. Speaker, because there is no necessity that this law shall be re-enacted by this Congress because it endangers this apportionment bill and may prolong indefinitely this debate, because, to say the least of it, it is of doubtful constitutionality, because it is almost in the nature of things where any State dares to violate it, which she may do, we can do no more than exclude her Representatives from the halls of the House, I hope it will not be insisted upon. I ask these gentlemen who now contend so stubbornly for it, suppose a State, according to the rule as you understand it, does not make her territory contiguous; or suppose every district of that State is based on contiguous territory save one, are you going to exclude all the members of such a State because she has not complied in one instance with what you understand to be the requirement of this law? This power was given to you to bring members into Congress, not to drive them out. Will you turn around and use it for that purpose? Will you say to New York, with thirty-three members here upon this floor, if your Legislature does not square itself according to the rule which we prescribe we will exclude your thirty-three members, although you have five million people, and they will go unrepresented upon this floor? How do you propose to do it? Is it not a *brutum fulmen* which you issue against the State, directing them to do this thing without the power on your part except by the exclusion of its representation to compel it to do it?

Now, Mr. Speaker, I have but little more, if anything, to say on that subject. I do not wish to invoke sectional issues here, nor do I wish to get up a partisan strife on this subject; but I do say, as the law stands on the statute-book it gives to gentlemen on the other side all they ask, and it is unnecessary to ask us on this side to re-enact it, or meddle with elections in the States against the protest of our forefathers, made, as it has been, so often and so emphatically.

The other objection alleged by the gentleman from New York against the bill of the majority was, if I recollect aright, the increase of the number of the House. That is a question, of course, which each member must consider for himself, and we have all equal lights before us and can form each our own opinion as to whether the country can be better served by a smaller or larger House. I listened to what he had to say on that subject, and when he cited his own great State with a small Legislature, as he said, probably one that dates back for sixty years and not increased through that whole time, as a fair sample of what a State can be and what it can do with a small Legislature, I thought it was a little unfortunate, because out in our part of the world at least New York is not considered the freest State from fraud, nor her Legislature the most incorruptible in the Union. We have never heard any charge against New Hampshire, which I believe has a Legislature like a great big town-meeting, like that which is made against the Legislature of New York, of having big railroad bills and measures for railroad interests lobbied through it, and that men were elected to it who were controlled and held in hand and sent there, as it is understood, to be in a large measure the attorneys and promoters of railroad corporations and banking interests. I do not know it would be better for his State to have an increased representation in her Legislature, but I am satisfied it would do her no harm.

As far as we of the committee are concerned, and at least as far as I personally am concerned in reference to the number of Representatives, I do not ask nor demand the House to be increased to any extraordinary number. It certainly seems to me when we increase the number eighteen, as the majority bill in this House proposes to do on an increased population of 11,000,000, it is asking no big increase, because it fixes the representation at over five hundred and fifty thousand population for each of the new members who can enter this House on account of the increase. Is that increase an expansion too far? Do we not derive some practical benefit from it? Have we not the history of the world before us, which shows a large representative body is a safer and greater protector to the liberties of the people than a smaller one? The gentleman would like to reduce this House within the narrow limits of the Senate. Are we to have no popular branch of this Government; and are the people to have no voice in it? Are we to hold it up as a model republic, and at the same time stifle the direct voice of the people? Where else is their power directly felt in our system of government save in this House alone?

You may take your President, your Supreme Court, and you may take the Senate, and the power of the people is not felt directly there. They are elected in the first place for a long period of time. The Senator is elected for six years, the President for four. The people do not elect either. They do not rest upon them. The President is elected through the intricate machinery of the electoral college or directly by the vote of the States, where the electors have failed to choose. His election rests upon the States, and only indirectly upon the people. Four years of time must pass before he can respond again to a change in sentiment.

Take the Senate. They are not the people's representatives. They are the representatives of the States, elected by their State Legislatures, and for a period of six years. They do not respond to the change in public sentiment, as we well know. Public sentiment may change time and again upon great measures of national importance during the course of his senatorial career, and there is no power in the people to change the man upon the floor of the Senate to correspond to this change in public sentiment.

Take, again, the Supreme Court, the co-ordinate branch of the Government. How is it selected? They are appointed by the Executive and confirmed by the Senate—all removed far away from the people. They have no part with the people, nor have they any interest with them in the question of representation. The people have nothing to do with it, have no power over them. They are placed in that position by the powers not directly responsible or representing the people, and remain there until they are retired or removed by impeachment or resignation or death. They are absolutely independent of any change of public sentiment or of requirements of the people. They are masters of the situation. As far as it has been possible we have retained the system of democratic government, but it will be found that it exists only in the House of Representatives. All these other branches, as I have shown, are upon an entirely different basis; and are we now to strike down the only popular branch of representation? Are we, as some gentleman suggests, to narrow it down to the narrow limit of two hundred and fifty, or even less, as some recommend? Do not we stand up as the only power that is able to withstand the increasing power and prerogatives of the executive and judicial branches of the Government? Are we not the only branch able to stand against the tremendous money power, the combined national wealth and aggregated capital of this country, which comes here and orders that this or that measure shall pass, subordinating to their own interests the rights and interests of the great masses of the people? Do you not know that the House stands here day after day as the only power and the only protection that the people have against the encroachments of giant corporations and the inordinate greed of the moneyed interests? Will any gentleman upon this floor question it? Why is it so? Because every two years every Representative upon this floor may be changed by the vote of the people. Every two years the whole personnel of this House changes, and the country has the right to send back men who will not forfeit their trust. When the great controversy that must sooner or later, ay, has already, come between the capitalists and the people, they have a right to see to it that their rights shall be guarded and main-

tained by men who, directly responsible to them, live among them in small districts, giving opportunity for a scrutiny into their public and private life.

It seems that public policy demands that there shall be a large number of Representatives unapproachable and incorruptible who cannot be moved by corporate greed to impose unfair and unjust burdens upon the people.

We have seen, Mr. Speaker, time and again in the history of the world instances wherein men have undertaken to overthrow the will of the people, and every time they have undertaken to do it it has been through the means of small legislative bodies. Look at the history of the French Empire. It was the House of Ancients that was subject to the will of Bonaparte, and not the House of Deputies. The House of Deputies with its five hundred members stood out against his will until his armed grenadiers with their bayonets entered the chamber and thrust them out bodily through the windows and doors. They were willing to withstand his great power and his demands; but it was the Ancients that yielded, and Bonaparte recollected that when he established his consular government by cutting down the number of the chamber until he made them subordinate to his will and deprived them of the essential power that they had possessed. He made them small and hewed them down to his own purposes. The history of England shows that a large Parliament withstood the power, nay, demanded and obtained the execution of Charles I, but the Rump Parliament, of one hundred members, yielded to Cromwell, who demanded it of them. Are we now, Mr. Speaker, the House being the only representative body, directly responsible to the people, to yield to an attempt which is to be made to cut down its number and power, or shall we respond to the expectations of the people by increasing the number of their Representatives by adding the small number contemplated by the bill? Eighteen new members to help represent them fairly and protect their interests upon the floor of this House is certainly not extraordinary.

Coming as the gentleman from New York does from a State where they feel the combined effect of vast capital and corporate greed, where financial power seeks to and does dominate the will of the people, his position is not surprising. Perhaps he would like to bring us within that power, which sooner or later will demand control of this Government. The question then presented will be, How are we to meet this demand? There is but one practical way: increase the representation, give the growing South and West their increased power, then let united interests combine them into opposition to the demands of capital and corporations, which antagonize equally the agriculturists of both sections.

Now, Mr. Speaker, one other objection has been urged by the gentleman from New York against this measure. He says he will not vote now for any apportionment bill. And why not? He will not vote for this apportionment bill at the present session, because he says the apportionment is not based upon population, as the gentleman from New York [Mr. COX] asserts. He says it should be based upon suffrage, upon the number of voters, and not upon population. The gentleman is not warranted by the fourteenth amendment in making that assertion. The fourteenth amendment leaves the apportionment based upon population, except in those States which violate the provisions and clauses of that amendment.

He read from the decision of the Supreme Court that only where the States themselves, by a legislative enactment, interfere with the right of all resident males to vote, and pass unjust laws prohibitory thereof—only in that case could Congress interfere. But I understood from the last remarks the gentleman made that, under the lead of the plumed knight of Maine, he broke away from the decision of his own supreme court, which he read for our enlightenment, and that he wanted a congressional committee appointed to go into all of the Southern States and find out whether by fraud, by bulldozing, or by kukluxing, anybody was deprived of the right of suffrage.

Why all this cry about negroes not voting? Why all this pretense that they are bulldozed? Why this effort to take from the South the increased power which her enfranchized slaves have given her? Is this the object of your demand for investigation? Are you disappointed in your calculations? Did you expect the negroes to ever and forever vote the republican ticket against their own interests? Are you stricken with remorse, and do you regret your hasty action? The republican party, seeing the negroes vote against it, like Manfred in the Jungfrau, filled with remorse and regret, seem ready to exclaim:

> The spirits I have raised abandon me—
> The spells which I have studied baffle me—
> The remedy I reck'd of tortured me;
> * * * * * *
> For I have ceased
> To justify my deeds unto myself—
> The last infirmity of evil.

But to recur. Does the gentleman mean to insinuate or say that under the decision of the Supreme Court which he has read we have the right to reduce representation for any individual matters of that kind? And are we to wait until we send out a congressional committee under the fourteenth amendment to investigate all the States of the Union which have in their constitutions or statutes provisions and clauses inconsistent with that fourteenth amendment? Are we to wait until we send out such a committee to ascertain the constitutions of the States and make a report on which we can rationally act, and act with exactness? Are we to proceed to do that? I refer to a report of the committee made on the ninth census, in 1869–'70, by the President-elect, Mr. Garfield, then a Representative from Ohio, presented the matter to the House. Nothing was done except to pass section 6 of the act of 1872. What are the provisions in the constitutions and the statutes of the different States? I only call attention to them for a moment to show the utter impossibility of ever undertaking by investigation, by the census or in any other way, to ascertain the exact number of people who under this provision are excluded from the right to vote who have that right according to the fourteenth amendment to the Constitution of the United States. I will take the State of Pennsylvania, to which the gentleman referred. What is the provision of the law of Pennsylvania? It is that those over twenty-two years of age who have paid the poll-tax assessed on them ten days before the election shall be entitled to vote. I quote from memory.

Now, I ask you if all the congressional committees that were ever appointed could go into the State of Pennsylvania and ascertain, from one end of it to the other, how many individuals come within the reach of that clause? Do they not change as often as an election comes round? Are they not so many this year and so many next year? If a man who did not pay last year pays his tax this year, he is not excluded. Next year he may be. It is as changeable as the sand on the sea-shore.

How are you to ascertain these matters? And is a gentleman warranted in asserting that he is not to vote for an apportionment bill until this thing becomes an absolute, fixed fact and certainty? Are we to stand here and deny to the great and growing West and South; are we going to deny to Texas and Kansas their increased representation in this House until a congressional committee goes out over Pennsylvania and finds how many people over twenty-two years of age have failed to pay their tax assessed ten days before election? And suppose we find out the number this year, will it not change the next; and we will require to have a different basis for the election of all the Congressmen in this House, and yet will know as little about it as we do now? Take Massachusetts and her illiteracy clause, which, it is said, excludes many of the population from voting, which under the fourteenth amendment ought to affect her representation in proportion; are we to appoint a congressional committee to open schools in Massachusetts and examine voters as to whether they can read? What power have we to examine a voter in this way? May he not learn to read in a month, and thus remove the disqualification? Yet all this and others ten thousand times more ridiculous must be gone over before the tender conscience of some members will allow them to apportion representation.

This matter has undergone an investigation in this House. When the republican Congress in 1872 fixed the apportionment bill they had this same subject before them. It has already been provided for as far as a State can provide for it. If the gentleman will turn to the act of 1872, he will find this provision:

> SEC. 6. That should any State, after the passage of this act, deny or abridge the right of any of the male inhabitants of such State, being twenty-one years and citizens of the United States, to vote at any election named in the amendments to the Constitution, article 14, section 2, except for participation in the rebellion or other crime, the number of Representatives apportioned in this act to such State shall be reduced in the proportion which the number of such male citizens shall have to the whole number of male citizens twenty-one years of age in such State.

So, Mr. Speaker, congressional action is unnecessary to accomplish this purpose. We already have upon the statute-book all that this House can do. We have passed an act to cut down the representation of each State in proportion as it disfranchises citizens contrary to the clause of the fourteenth amendment to the Constitution. Now, it is impracticable and impossible that this can be executed. There stands the law. In the face of it stands the impossibility, the utter and sheer impossibility and worse than nonsense, of any attempt to execute it. When the fourteenth amendment was passed no man dreamed of the consequences of it. When it was passed no word was ever said in regard to any subject save the right of the colored population, then being enfranchised, to vote. It was not expected that every State of this Union would be struck by it. It was not expected that every State of this Union would have a clause in its constitution in conflict with the fourteenth amendment to the Constitution.

It was not expected that all this trouble would arise out of it. We stand here to-day with that amendment before us, and with an absolute utter impossibility of ever enforcing it by any practical legislation or in any practical way. So, in 1872 the whole thing was abandoned by a republican Congress simply passing a law. They undertook to institute and carry out some things which the gentleman now asks for. I hold in my hand a table prepared by the Census Committee at that time, and which was presented to the House for its action on that very subject. It was pronounced so inefficient, so far from being just and correct, that it was totally abandoned by the republicans themselves at that time.

How many people under the fourteenth amendment were disqualified in 1870? In all the States of the Union, adding them all together, the total was 40,380. Where did these disfranchised people live? Were they in the sixteen States to which the gentleman refers? Were they located in the South? Are we to invoke the shades of slavery now to prevent an apportionment and a fair representation of the people? I ask what were the States in which lived the 40,380 persons who were prevented from voting at elections by State regu-

lations contrary to the fourteenth amendment? Upon examination it will be found that a large portion of them lived in the Northern States. Every State of this Union had something like the same number except the State of Missouri, which reported 9,000. I suppose that was more from the fact that she made a correct and honest report rather than that she excluded more people from voting than did any other State.

The gentleman talks about the State of Rhode Island. How many were excluded from voting in the little State of Rhode Island? Nearly 3,000; the exact number was 2,825. And the gentleman has read there a long list to show that in the South there were fewer votes polled in the last presidential election than were polled in 1876. Is that a fair showing of the voters for the two years? Does not the gentleman well know that in 1876 the democratic party at that time was in power and marching forward as they believed to a result which they had long had near at heart, and expected to attain that result under the lead of the great statesman of New York? Every democrat in the Southern States rallied to the polls. I will not say that it was in the hope of getting an office; but still they went to the polls and every one of them voted, because they believed that Tilden would be elected, (as he was.) How was it in 1880? They expected to be beaten, and if a few votes fell off it was no more than might have been looked for. In 1876 Tilden carried the State of Kentucky by about 70,000 majority. In 1880, under the depressing influence of the Indiana election, we scarcely squeezed up to 45,000 majority. That is the way it went.

Talk about the Southern States falling off. Take the State of Rhode Island again; look at its vote in the last election. The two gentlemen who now expect to represent the State of Rhode Island in the Forty-seventh Congress received both together only 10,315 votes, unless the gentleman in the Library, who furnished me information from the Congressional Directory, has made some mistake about it. How many voters in Rhode Island failed to vote? It is fair to presume that there are 50,000 voters in that State from her population, and but 10,000 votes were cast, and the balance, 40,000, failed to register and to vote, four-fifths remaining away. Yet gentlemen raise their hands in holy horror because in the State of Virginia 24,000 less votes were polled in 1880 than in 1876.

Now, it is a well-known fact, if we are to consider this matter from a party stand-point, that the leaders of the republican party met and made a solemn resolve that they would not make any fight in the South, because they did not want to show a large number of votes there, but preferred to go to the country and say that they had been bulldozed from voting, as the gentleman now cries out.

That, I think, practically disposes of all the objections which the gentleman from New York [Mr. CROWLEY] has raised against the bill reported by the majority of the Select Committee on the Census.

A few words in support of that bill and that will conclude what little I have to say on the subject. I am aware that in framing any apportionment bill, if we group the States arbitrarily, it is impossible to so frame the bill that some unfairness shall not be presented by it. I am aware that there can be no apportionment of Representatives by which some State will not receive an advantage and gentlemen from another State not rise and say that their State has been unfairly treated, that its fraction is within a few thousand of the fraction of the other State that has been allowed a fractional Representative and they are not so allowed.

I know it is utterly impossible to frame any bill and present it to this House in which, if I may be allowed to arbitrarily group the States together, whether northern or southern, I cannot show an unfair distribution growing out of fractions. I will take the number presented by the gentleman from Illinois [Mr. SHERWIN] in his address to the House. He says that three hundred and nineteen is a perfectly fair number. He groups the States, I believe, into what he terms the sixteen Southern States and the twenty-two Northern States. This is purely arbitrary.

Now there is no reason why he should so group them; there exists no reason in this country for such grouping. The Constitution contains nothing about the North or about the South. We do not under the Constitution apportion Representatives to the North and to the South, to the East and to the West; but we apportion them to the States of this Union according to their population. He has no right to group these sixteen States in one class, and those twenty-two in the other, count them up, and say "These have received more than their share, and the others have not received as many." Let me point him to a little calculation which he can make to see whether his apportionment is fair. I want him to take the States which I will name, group them together, divide their population by the ratio, and then take the other States and divide their population by the ratio; and I will show him that his is the most unfair presentation of the case that has been submitted to this House. Take the States of Massachusetts, Rhode Island, New York, Pennsylvania, California, Illinois, Indiana, Michigan, Nebraska, Ohio, Florida, Georgia, Kentucky, Tennessee, Virginia, and West Virginia, having in the aggregate a population of 29,653,785. Divide this population by 154,764, and you find that those States should have one hundred and ninety-one Representatives. But under the gentleman's bill, taking the tables furnished by the Census Office, those States get one hundred and ninety-six Representatives, five more than they are entitled to on an even division of their population; and in proportion as they gain unfairly other States must lose. The other States lose five, making a difference of ten in favor of these above named. I have as much right to group the States in my way as he has to group them in his. The result depends altogether upon the manner in which you group them. I will take all the States that get fractional representation, and under any number that can be selected I will group them in such a way as to make a difference of from eight to ten in favor of those States getting the fractions and against the others that do not.

The gentleman has no right to fix upon an imaginary line, call one the Southern, the other Northern States, and say that the number three hundred and eleven is unfair because with that number most of the fractional votes happen to fall on a particular side of that line.

If this is a question as to political parties, ought not the States to be grouped so that those voting the democratic ticket, or apparently doing so, shall be in one class and those voting the republican ticket in the other? Now take the States voting the democratic ticket in the last election. Take the sixteen Southern States and add California, (supposed to be a democratic State,) Indiana, and Connecticut. Add together the population of these States and divide the result by 158,745, the ratio of three hundred and eleven. Then take the other States, add their population together, divide the aggregate by 158,745, the ratio of three hundred and eleven, and you have a perfectly fair and even distribution of political power as between the two parties. Now, if questions of the effect on political parties is to be considered, what better or fairer result can you expect or do you desire? So far as parties are concerned the fixing of three hundred and eleven as the number of districts operates evenly and fairly between the democratic and republican parties. Now, why not select three hundred and eleven and stand by the bill which the committee has presented? Why should we go back upon the action of a committee who have considered this question so long?

Take the bill of the gentleman from New York, [Mr. COX,] which fixes the number at three hundred and one. Why should you adopt that number? Why arbitrarily stop there? Does it make a fair distribution? Apply even the rule of the gentleman from Illinois, granting sixteen States on one side and twenty-two States on the other, and you will find that these twenty-two States under an even division with a fraction of thirty thousand get a Representative belonging to the other group, because the Southern States have a fraction of one hundred and thirty-four thousand; and they do not get the odd member, while the other States with a fraction of thirty thousand do. If we are to do this thing fairly, I ask you whether that is fair among sections? If we are to consider sections as sections at all, three hundred and seven reaches the same result as three hundred and one, and is subject to the same criticism.

Now, upon a full consideration we have adopted three hundred and eleven; because it is as fair as any other number that can be fixed. You cannot reach absolute fairness in this matter; it never has been attained though it has been undertaken ever since the Constitution was adopted. First, there was the adoption of a ratio, regardless of the number of members which it would produce; and afterward the moiety system was ingrafted into the law, giving an additional member to each State having a fraction greater than one-half. This was found to operate harshly, as was supposed, in the case of some States; and it was scarcely ever strictly adhered to. The fairest system ever adopted was that of 1850, which has been adopted by this committee; that is, to fix what shall be the number of the House and then divide the aggregate population of all the States by that number in order to obtain a ratio; throwing off any fraction of a unit that may be presented; and then after giving each State so many Representatives upon an even division of its population by the ratio obtained to distribute the remaining member among those States having the largest fractions, regardless where they fall. If that is not perfectly fair, what rule can be fair? I know it has not been adhered to all the time. The republicans seem to have mixed this and the moiety system. In 1862, and probably also in 1872, the wholesome rule which I have just indicated was disregarded and the moiety system was partly followed. But even that did not suit the party in power. Arbitrarily and without cause they assigned to certain States numbers to which they were not entitled by any rule which could be discovered.

In 1872 two hundred and eighty was first fixed as the number the House was to have, and I think the ratio, if I recollect rightly, was adopted in regard to that number. Afterward it was increased to two hundred and eighty-three. They then added eight more to it, arbitrarily, by assigning them to various States, and on that they gave them two more, and finally a State was admitted, making the two hundred and ninety-three members we now have.

Are we to go by arbitrary assignment in this matter or shall we adopt some uniform and permanent rule and march up to the number, regardless of where the fraction falls? That is all we have done in this case. That is what the committee recommend.

Why did the committee adopt three hundred and eleven? I will tell you why. It affects fewer of the States in regard to their representation than any other reasonable number that could be reached. We had regard for the expressed will of a great many members of the House that the number should not be increased very largely. We looked over the floor of the House and we concluded that eighteen additional members could be seated in this Hall without its undergoing any great or permanent change, at least we believe they can.

We found there was a willingness on the part, as we believed, of members of the House to go as far as an increase of eighteen mem-

bers and a great unwillingness to go beyond that. We found when we got to three hundred and eleven, every State in this Union preserved intact its representation or increased, except four, that is the States of Maine, Vermont, Connecticut, New York, and we could not reach those States without increasing the number of the House beyond what we believed we would be sustained in doing.

Therefore, when we got to that the most practicable point we could stop at, we did stop. Indiana under that gets a Representative and maintains its position just as it does now. She came and she begged and insisted, as a State always does, that she should be considered. Massachusetts will go to three hundred and three, because she remains intact. Pennsylvania says "I want to go to three hundred and seven," because there she remains as she is. Now should we stop at three hundred and seven, and leave Indiana out when by going there she can be reached?

I do not look at this from any partisan standpoint, and I hope I do not from any party or political point of view. My own State will increase one Representative if we go to three hundred and fourteen. I do not ask this House to increase the power of that State by going to three hundred and fourteen—to make the small increase of three more—to reach it. I am willing to stand here on the committee's bill, three hundred and eleven, because I believe it a particularly fair bill to every State in this Union and to every party.

As I said awhile ago, we may look over the fractional representation and see who is it that gets this increased power growing out of it. Why, sir, Southern States and the great and growing West. You cannot expect New England and the East not to lose their representation and power because "westward the star of empire has taken its way." These Western and Southern States, growing as they do, and, as they have, increasing year by year in population and in power and strength, it is to them the fractional votes should be assigned. Why should New England have a fractional vote when two years from now, if we had another apportionment, she could not possibly reach it? She is going down and declining, while the West is growing up; and if the West had a fractional vote to-day to which she was not entitled, two years from now, if a new apportionment was made, many of the Western States would be entitled not only to one fractional vote, but to two or three others. One State in the West has increased in population 367 per cent. Are we not to respond to that State with an increased representation? Texas has increased from six to ten members—an empire within itself—and, growing at that rate, five years from now, if we could have a new apportionment, she would be entitled to five more. Shall we hesitate about giving her a fractional Representative when, before he gets his seat, she will be entitled to four or five?

Now, New England and the Eastern States have their fair representation. They have not only population collected from other portions of the country, not only emigrants who halt there on their way west, not only those who gather there in the season of pleasure to their springs and other places of resort, but those whom business carries in that direction, making many thousands counted for them who do not belong to their population, but are merely migratory and belong to the West or will in a little time. They have already the power they ought to have. The great South and West, united in every interest, finding, as you do, the largest number of fractional Representatives go to those sections, is it not just and fair their increase in population should have it? If we are to invoke personal interest, is it more than is to be expected that these two great sections, united by common ties, agriculturists as they are, furnishing the food and largely the raiment to nearly the whole world, united in every interest, corporate ridden by the mighty corporations of the East and overwhelmed as they are by unjust and iniquitous taxation in their interest, you will find the great and growing West and South will stand together claiming the advantages they have under the bill to strengthen their power in the common fight against the tariff, the most unjust and oppressive the world has ever known, and the railroads which rob them of hundreds of millions of dollars upon their agricultural products every year. I say, standing together on all the great questions of taxation and together in all the great fights we are sooner or later to make on the corporations of this country now undertaking to control and dominate us, is it more than fair these two sections should claim at least what is just and fair to them in the way of representation in this House by fractions or otherwise?

I trust, Mr. Speaker, when this House comes to consider the bill presented to it by the committee that at least upon this side of the House it will receive calm, patient, and careful consideration with a view to the distribution of the political power among the States in accordance with their rights. The South too long has been deprived of its representation by the unjust and inaccurate census of 1870. She was deprived of a fair representation upon this floor, the representation to which she was entitled. And while I do not believe that her population has increased in the marvelous degree the census shows, for the reason that I am convinced, as I believe is the judgment of the country, that the census of 1870 was unfair; still, in consequence of the fact that for the last ten years she has been deprived of her fair share of representation, we give it to her now under the terms of this bill. Under the present census South Carolina, thrice gone over because of the claim of partisan press and of party spirit, to show that there was not a fair count of the population of that State; I say that State, deprived of its fair share of representation, should now have it under the terms of this bill. If any advantage is to follow, it should fall to those States that so long have been deprived of their rights.

Now, I think this is a fair bill, I think it is a fair presentation of an old subject, and I do hope that at all events the democratic side of this House will agree to the bill reported from the committee. [Here the hammer fell.] I append, with leave of the House, a few tables giving the result of some calculations which I have made, and some statistics which may be of advantage to the members, (A, B, C.)

TABLE A.

| Number of Representatives. | Northern States on division. | Southern States on division. | Actual number received North. | Actual number South. | Advantage to North. | Advantage to South. | Northern fraction. | Southern fraction. |
|---|---|---|---|---|---|---|---|---|
| 290 | 181 | 108 | 181 | 109 | ..... | +1 | 51,779 | 119,180 |
| 291 | 181 | 108 | 182 | 109 | +1 | +1 | 137,654 | 119,357 |
| 292 | 182 | 109 | 183 | 109 | +1 | ..... | 93,740 | 75,030 |
| 293 | 183 | 110 | 184 | 109 | +1 | −1 | 30,439 | 69,535 |
| 294 | 183 | 110 | 185 | 109 | +2 | −1 | 35,298 | 32,565 |
| 295 | 183 | 110 | 185 | 110 | +2 | −1 | 139,608 | 93,265 |
| 296 | 185 | 111 | 186 | 110 | +1 | −1 | 9,425 | 526 |
| 297 | 185 | 111 | 187 | 110 | +2 | −1 | 113,210 | 52,892 |
| 298 | 186 | 111 | 188 | 110 | +2 | −1 | 59,970 | 114,835 |
| 299 | 186 | 112 | 188 | 111 | +2 | −1 | 153,814 | 11,213 |
| 300 | 187 | 112 | 189 | 111 | +2 | −1 | 81,735 | 72,925 |
| 301 | 188 | 112 | 189 | 112 | +1 | ..... | 30,016 | 134,184 |
| 302 | 188 | 113 | 189 | 113 | +1 | ..... | 132,090 | 31,530 |
| 303 | 189 | 113 | 190 | 113 | +1 | ..... | 69,686 | 91,437 |
| 304 | 190 | 113 | 190 | 114 | ..... | +1 | 109,390 | 153,005 |
| 305 | 190 | 114 | 190 | 115 | ..... | +1 | 110,470 | 51,253 |
| 306 | 191 | 114 | 191 | 115 | ..... | +1 | 49,641 | 111,559 |
| 307 | 191 | 115 | 192 | 115 | +1 | ..... | 150,107 | 10,710 |
| 308 | 192 | 115 | 192 | 116 | ..... | +1 | 89,518 | 70,740 |
| 309 | 193 | 115 | 193 | 116 | ..... | +1 | 90,394 | 130,425 |
| 310 | 193 | 116 | 193 | 117 | ..... | +1 | 125,799 | 30,393 |
| 311 | 194 | 116 | 193 | 118 | −1 | +2 | 68,760 | 89,780 |
| 312 | 195 | 116 | 194 | 118 | −1 | +2 | 9,370 | 148,829 |
| 313 | 195 | 117 | 195 | 118 | ..... | +1 | 98,040 | 49,995 |
| 314 | 195 | 117 | 195 | 119 | ..... | +2 | 69,370 | 26,629 |
| 315 | 196 | 118 | 196 | 119 | ..... | +1 | 136,425 | 10,163 |
| 316 | 197 | 118 | 197 | 119 | +2 | +1 | 87,499 | 68,707 |
| 317 | 198 | 118 | 198 | 119 | ..... | +1 | 28,870 | 126,885 |
| 318 | 198 | 119 | 199 | 119 | +1 | ..... | 125,890 | 29,455 |
| 319 | 199 | 119 | 200 | 119 | +1 | ..... | 67,354 | 87,989 |
| 320 | 200 | 119 | 201 | 119 | +1 | ..... | 9,390 | 144,885 |
| 321 | 201 | 120 | 202 | 119 | +1 | −1 | 92,391 | 120,325 |
| 322 | 201 | 120 | 203 | 119 | +2 | −1 | 47,770 | 103,565 |
| 323 | 201 | 121 | 203 | 120 | +2 | −1 | 147,143 | 9,718 |
| 324 | 202 | 121 | 203 | 121 | +1 | ..... | 85,640 | 56,830 |
| 325 | 203 | 122 | 204 | 121 | +1 | −1 | 18,472 | 41,468 |

TABLE B.

| Number of Representatives. | Northern. | | | | Southern. | | | | Gain of South over North. | Gain of North over South. | Total northern Representatives. | Total southern Representatives. | Northern members by fractions. | Southern members by fractions. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total. | | Net. | | Total. | | Net. | | | | | | | |
| | Gains. | Losses. | Gains. | Losses. | Gains. | Losses. | Gains. | Losses. | | | | | | |
| 290 | 7 | 13 | .... | 6 | 7 | 4 | 3 | .... | 9 | ..... | 181 | 109 | 11 | 7 |
| 291 | 8 | 13 | .... | 5 | 7 | 4 | 3 | .... | 8 | ..... | 182 | 109 | 12 | 7 |
| 292 | 9 | 13 | .... | 4 | 7 | 4 | 3 | .... | 7 | ..... | 183 | 109 | 12 | 7 |
| 293 | 10 | 12 | .... | 3 | 7 | 4 | 3 | .... | 6 | ..... | 184 | 109 | 13 | 7 |
| 294 | 10 | 12 | .... | 2 | 7 | 4 | 3 | .... | 5 | ..... | 185 | 109 | 13 | 6 |
| 295 | 10 | 12 | .... | 2 | 7 | 3 | 4 | .... | 6 | ..... | 185 | 110 | 13 | 7 |
| 296 | 10 | 11 | .... | 1 | 7 | 3 | 4 | .... | 5 | ..... | 186 | 110 | 14 | 6 |
| 297 | 10 | 10 | .... | .... | 7 | 3 | 4 | .... | 4 | ..... | 187 | 110 | 15 | 6 |
| 298 | 10 | 9 | 1 | .... | 7 | 3 | 4 | .... | 3 | ..... | 188 | 110 | 14 | 5 |
| 299 | 10 | 9 | 1 | .... | 7 | 2 | 5 | .... | 4 | ..... | 188 | 111 | 14 | 6 |
| 300 | 10 | 8 | 2 | .... | 8 | 3 | 5 | .... | 3 | ..... | 189 | 111 | 13 | 5 |
| 301 | 10 | 8 | 2 | .... | 8 | 2 | 6 | .... | 4 | ..... | 189 | 112 | 12 | 6 |
| 302 | 10 | 8 | 2 | .... | 8 | 1 | 7 | .... | 5 | ..... | 189 | 113 | 11 | 7 |
| 303 | 10 | 7 | 3 | .... | 8 | 1 | 7 | .... | 4 | ..... | 190 | 113 | 11 | 7 |
| 304 | 10 | 7 | 3 | .... | 9 | 1 | 8 | .... | 5 | ..... | 190 | 114 | 10 | 8 |
| 305 | 10 | 7 | 3 | .... | 9 | .... | 9 | .... | 6 | ..... | 190 | 115 | 7 | 9 |
| 306 | 10 | 6 | 4 | .... | 9 | .... | 9 | .... | 5 | ..... | 191 | 115 | 7 | 8 |
| 307 | 10 | 5 | 5 | .... | 9 | .... | 9 | .... | 4 | ..... | 192 | 115 | 8 | 8 |
| 308 | 10 | 5 | 5 | .... | 10 | .... | 10 | .... | 5 | ..... | 192 | 116 | 8 | 8 |
| 309 | 11 | 5 | 6 | .... | 10 | .... | 10 | .... | 4 | ..... | 193 | 116 | 7 | 9 |
| 310 | 11 | 5 | 6 | .... | 11 | .... | 11 | .... | 5 | ..... | 193 | 117 | 7 | 9 |
| 311 | 10 | 4 | 6 | .... | 12 | .... | 12 | .... | 6 | ..... | 193 | 118 | 6 | 10 |
| 312 | 11 | 4 | 7 | .... | 12 | .... | 12 | .... | 5 | ..... | 194 | 118 | 6 | 10 |
| 313 | 12 | 4 | 8 | .... | 12 | .... | 12 | .... | 4 | ..... | 195 | 118 | 7 | 9 |
| 314 | 12 | 4 | 8 | .... | 13 | .... | 13 | .... | 5 | ..... | 195 | 119 | 7 | 10 |
| 315 | 13 | 4 | 9 | .... | 13 | .... | 13 | .... | 4 | ..... | 196 | 119 | 8 | 10 |
| 316 | 13 | 3 | 10 | .... | 13 | .... | 13 | .... | 3 | ..... | 197 | 119 | 9 | 9 |
| 317 | 14 | 3 | 11 | .... | 13 | .... | 13 | .... | 2 | ..... | 198 | 119 | 9 | 8 |
| 318 | 15 | 3 | 12 | .... | 13 | .... | 13 | .... | 1 | ..... | 199 | 119 | 9 | 7 |
| 319 | 16 | 3 | 13 | .... | 13 | .... | 13 | .... | ..... | ..... | 200 | 119 | 10 | 6 |
| 320 | 17 | 3 | 14 | .... | 13 | .... | 13 | .... | ..... | 1 | 201 | 119 | 11 | 5 |
| 321 | 18 | 3 | 15 | .... | 13 | .... | 13 | .... | ..... | 2 | 202 | 119 | 10 | 3 |
| 322 | 19 | 3 | 16 | .... | 13 | .... | 13 | .... | ..... | 3 | 203 | 119 | 11 | 3 |
| 323 | 19 | 3 | 16 | .... | 14 | .... | 14 | .... | ..... | 2 | 203 | 120 | 10 | 4 |
| 324 | 19 | 3 | 16 | .... | 15 | .... | 15 | .... | ..... | 1 | 203 | 121 | 10 | 5 |
| 325 | 19 | 3 | 17 | .... | 15 | .... | 15 | .... | ..... | 2 | 204 | 121 | 10 | 5 |

TABLE C.

| States. | Aggregate representative population. | Male citizens twenty-one years of age and upward. | Male citizens of the United States of twenty-one years of age and upward whose right to vote is denied or abridged on other grounds than rebellion or other crime. |
|---|---|---|---|
| Alabama | 996,992 | 202,182 | 690 |
| Arkansas | 484,471 | 102,359 | 189 |
| California | 560,247 | 145,002 | 243 |
| Connecticut | 537,454 | 127,499 | 1,249 |
| Delaware | 125,015 | 28,207 | 284 |
| Florida | 187,748 | 38,871 | 41 |
| Georgia | 1,184,109 | 234,971 | 1,064 |
| Illinois | 2,539,891 | 542,833 | 609 |
| Indiana | 1,680,637 | 377,938 | 566 |
| Iowa | 1,191,792 | 255,471 | 283 |
| Kansas | 364,399 | 99,929 | 1,223 |
| Kentucky | 1,321,011 | 284,096 | 873 |
| Louisiana | 726,915 | 159,007 | 185 |
| Maine | 626,915 | 153,160 | 840 |
| Maryland | 780,894 | 169,845 | 533 |
| Massachusetts | 1,457,351 | 312,770 | 3,719 |
| Michigan | 1,184,059 | 274,459 | 1,318 |
| Minnesota | 439,706 | 75,274 | 117 |
| Mississippi | 827,922 | 169,551 | 342 |
| Missouri | 1,721,296 | 381,129 | 9,265 |
| Nebraska | 122,993 | 35,009 | 115 |
| Nevada | 42,491 | 18,652 | 16 |
| New Hampshire | 318,300 | 83,361 | 689 |
| New Jersey | 906,096 | 194,109 | 335 |
| New York | 4,382,758 | 984,255 | 469 |
| North Carolina | 1,071,361 | 214,142 | 674 |
| Ohio | 2,665,260 | 593,950 | 2,551 |
| Oregon | 90,923 | 24,608 | 123 |
| Pennsylvania | 3,521,791 | 776,627 | 2,345 |
| Rhode Island | 217,355 | 43,996 | 2,835 |
| South Carolina | 705,606 | 146,979 | 516 |
| Tennessee | 1,258,520 | 258,033 | 733 |
| Texas | 818,579 | 166,343 | 2,766 |
| Vermont | 330,551 | 74,867 | 107 |
| Virginia | 1,225,163 | 266,437 | 981 |
| West Virginia | 442,014 | 93,847 | 982 |
| Wisconsin | 1,054,670 | 204,177 | 301 |
| Total | 38,113,253 | 8,314,805 | 40,380 |

Mr. HUNTON. I move to extend the time of the gentleman from Kentucky.

Mr. THOMPSON, of Kentucky. I am very much obliged to the gentleman from Virginia, but I had just concluded, and desired, if I had any time remaining, to yield it to the gentleman from Pennsylvania. [Mr. WHITE.]

Mr. LORING. Mr. Speaker, I desire to yield my time to the gentleman from Ohio, [Mr. KEIFER.]

Mr. KEIFER. I do not desire to take up the time of the House but a few minutes in the consideration of this question, especially at this time, and therefore I will yield whatever time the gentleman from Michigan [Mr. HORR] may desire out of the time allowed to me.

Mr. HORR. Mr. Speaker, there is a provision of the Constitution found in article 14, section 2, which says that—

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State.

It further provides that—

> When the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

I am aware, Mr. Speaker, that lawyers construe this provision to mean that such "denial or abridgment" must be by some legal enactment. While this may be good law, I submit that the spirit of the Constitution may be violated while the letter remains unbroken. I insist that whenever one portion of the citizens of any State by a systematic plan so bring it about that a large number of her citizens are kept from the polls, that the violation of this provision is as complete as if a law was duly enacted which simply produced the same effect, and that such citizens should be deducted in making any fair calculation upon which to base an apportionment bill, or at least that such lack of votes in any given State should be taken into account in any fair apportionment bill.

Hence it is that I claim that an apportionment bill founded upon the last vote of people of the United States would really meet the requirements of the Constitution in spirit much more perfectly than one founded on the last census, because upon that basis we would eliminate from representation those citizens whose right to the ballot has been abridged. You must remember that the election last fall was a general one, one in which all the people were equally interested without regard to latitude or sectional lines; that the canvass was spirited and determined in all parts of the country alike, so that the inference is fair that the great bulk of voters whose rights were not in some way denied or abridged went to the polls and cast their ballots. Therefore I affirm that the votes of that election are a better index of the people who should be taken into account in this apportionment than is the census just completed.

In view of this conviction I have carefully prepared a table showing the vote of each State, the present number of members from each State, the number that would be here from each State, using the average number of votes cast for a Congressman as the basis of calculation; also the number which the bill of the committee proposes to give to each State, and then the number each State would have if the committee had used the vote for the basis of their calculation instead of the census. I have also added a column showing the average number of votes cast in each State for one Congressman in the next Congress. Also another column, showing what the average vote would have been for each Congressman in each State had the number elected been the same as is now proposed by the bill of the committee—that is, 311. This table I ask leave to print in the RECORD, and so will not detain the House to read it now.

*Table showing the total vote and number of Representatives of each State.*

| States. | Total vote in each State. | Present number of members. | Number of members based on vote. | Number of members by bill of committee. | Number of members would have if the committee took vote for basis. | Average number of votes to each member in each State in next House. | Average number of votes each member in each State would receive by committee bill of 311 members. |
|---|---|---|---|---|---|---|---|
| Alabama | 151,507 | 8 | 5 | 8 | 5 | 18,936 | 18,908 |
| Arkansas | 106,249 | 4 | 3 | 5 | 4 | 26,555 | 21,249 |
| California | 164,166 | 4 | 5 | 5 | 6 | 41,041 | 32,833 |
| Colorado | 53,532 | 1 | 2 | 1 | 2 | 53,532 | 53,532 |
| Connecticut | 132,358 | 4 | 4 | 4 | 5 | 33,089 | 33,087 |
| Delaware | 29,233 | 1 | 1 | 1 | 1 | 29,233 | 29,233 |
| Florida | 51,618 | 2 | 2 | 2 | 2 | 25,809 | 25,809 |
| Georgia | 155,655 | 9 | 5 | 10 | 5 | 17,295 | 15,565 |
| Illinois | 621,716 | 19 | 20 | 19 | 21 | 32,722 | 32,722 |
| Indiana | 470,678 | 13 | 15 | 13 | 16 | 36,206 | 36,206 |
| Iowa | 322,076 | 9 | 10 | 10 | 11 | 35,786 | 32,207 |
| Kansas | 201,019 | 3 | 6 | 6 | 7 | 67,006 | 33,503 |
| Kentucky | 264,047 | 10 | 8 | 10 | 9 | 26,404 | 26,404 |
| Louisiana | 97,201 | 6 | 3 | 6 | 3 | 16,200 | 16,200 |
| Maine | 143,853 | 5 | 4 | 4 | 5 | 28,770 | 35,963 |
| Maryland | 173,039 | 6 | 5 | 6 | 6 | 28,839 | 28,839 |
| Massachusetts | 282,512 | 11 | 9 | 11 | 10 | 25,683 | 25,683 |
| Michigan | 352,541 | 9 | 11 | 10 | 12 | 39,171 | 35,254 |
| Minnesota | 150,771 | 3 | 5 | 5 | 5 | 50,257 | 30,154 |
| Mississippi | 117,078 | 6 | 4 | 7 | 4 | 19,513 | 16,725 |
| Missouri | 397,221 | 13 | 13 | 14 | 13 | 30,555 | 28,373 |
| Nebraska | 87,355 | 1 | 4 | 3 | 3 | 87,355 | 29,118 |
| Nevada | 18,343 | 1 | 1 | 1 | 1 | 18,343 | 18,343 |
| New Hampshire | 80,363 | 3 | 3 | 2 | 3 | 28,787 | 43,181 |
| New Jersey | 245,737 | 7 | 8 | 7 | 8 | 35,105 | 35,105 |
| New York | 1,104,671 | 33 | 35 | 32 | 37 | 33,475 | 34,521 |
| North Carolina | 241,218 | 8 | 8 | 9 | 8 | 30,153 | 26,802 |
| Ohio | 724,967 | 20 | 23 | 20 | 24 | 36,248 | 36,248 |
| Oregon | 40,812 | 1 | 1 | 1 | 1 | 40,812 | 40,812 |
| Pennsylvania | 874,783 | 27 | 28 | 27 | 29 | 32,400 | 32,400 |
| Rhode Island | 29,235 | 2 | 1 | 2 | 1 | 14,618 | 14,618 |
| South Carolina | 170,956 | 5 | 5 | 6 | 6 | 34,191 | 28,492 |
| Tennessee | 241,827 | 10 | 7 | 10 | 8 | 24,182 | 24,182 |
| Texas | 237,133 | 6 | 7 | 10 | 8 | 39,522 | 23,713 |
| Vermont | 64,483 | 3 | 2 | 2 | 2 | 21,494 | 32,241 |
| Virginia | 211,754 | 9 | 7 | 10 | 7 | 23,528 | 21,175 |
| West Virginia | 112,713 | 3 | 4 | 4 | 4 | 37,571 | 28,178 |
| Wisconsin | 267,172 | 8 | 8 | 8 | 9 | 33,396 | 33,396 |
| Total | 9,297,592 | 293 | 293 | 311 | 311 | ..... | ..... |

It is perhaps proper for me to state that these computations have all been made by myself, and while they may not be absolutely accurate, I do not believe there are any material errors. Unfortunately for me, I did not have the Census Bureau at my command to aid me in these calculations. I desire now to state some of the most striking results that my examination of this subject has discovered.

The whole number of votes in the entire thirty-eight States at the last election was 9,297,592. Hence the average number of votes to each Congressman of the next House is 31,732, and the average number of votes to each Congressman, if you fix the number at 311, as does the bill of the committee, would be 29,896. Now, let us take, for example, the State of Mississippi. This bill gives her seven members, whereas upon the basis of her vote she would be entitled to only four. You can readily see this. Four times 29,896 gives 119,584, and the vote of Mississippi was only 117,078. Hence she would get the

fourth member by a fraction, though a large one. On the basis of this bill she would get a Congressman for every 16,725 votes cast, which is just about one-half the number that it takes under the bill to elect a member, on an average, in the Northern States. Let me say right here, that it appears from actual calculation that the average number of votes for each Congressman in the Northern States, if the number were 311, is 33,838, while the average vote for each one in the Southern States is only 23,376, a difference of 10,462 votes.

For another example, let us take the State of Alabama. The bill of the committee gives her eight members, whereas upon the basis of her vote she is entitled to only five. Take the average number of votes again for a Congressman, 29,896; five times that is 149,480. The entire vote of Alabama was 151,507. So that after giving her the five members, there is only left a small fraction of 2,027. This State by the number fixed by this bill would get a Congressman for every 18,938 votes, which is fifteen thousand less than the average number of votes for a Northern Congressman, and 10,958 less than the average of the entire country.

Again, take the State of Arkansas. The bill gives her five members. She had a vote of 106,249. This would entitle her to three members, and leave a fraction of 16,561. Allow her a member for this fraction, and then she would have but four. The bill would give her a member for every 21,249 votes, which is 12,000 less than the average at the North, and 8,647 less than the general average.

Once more, take the State of Georgia, and here the disparity between the vote basis and the census is certainly glaring. The bill of the committee gives Georgia ten members, while upon the basis of her vote she would be entitled to only five. For, take the average vote, 29,896, and repeat it five times, and you have 149,480. Now, the entire vote of Georgia was 155,655. Take from it the 149,480, and you have left only the small fraction 6,175. The bill gives her a member for every 15,565 votes, which is 1,500 less than one-half the number required in the Northern States, and is 14,331 less than the general average.

Mr. HAMMOND, of Georgia. Will the gentleman allow me to interrupt him?

Mr. HORR. Of course I will, for my next sentence was to be: "And does not such a state of facts call upon Georgia to rise and explain?" [Laughter.]

Mr. HAMMOND, of Georgia. I desire simply to ask the gentleman a question. As I understand the gentleman, the logic of his remarks is that apportionment ought to be based upon the figures of the last election, and not upon numbers, as required by the Constitution. Conceding that that is the gentleman's view, and that is the only sense there is in it——

Mr. HORR. I am glad there is that much. [Laughter.]

Mr. HAMMOND, of Georgia. Conceding that is true, would it not be the better way for your party to succeed if they were not to try to vote at all in Georgia, and then you would greatly reduce the number of Representatives?

Mr. HORR. They have come so mighty near that already it does not make much odds now. How much of this thing does she expect the people of this country to endure and still hold their peace?

Then again there is Louisiana. This bill gives her six members. Her vote would entitle her to but three. Her entire vote was only 97,201. Three times the average, 29,896, gives us 89,688, which taken from her vote leaves a fraction of only 7,513, which is only about one-quarter of the average vote for a Congressman, and would not of course entitle her to another. The bill gives her a member for every 16,200 votes, which is not half the number required to elect a man in the North under the same bill, and is 13,690 less than the general average. But you say these States are exceptional. Not at all. Texas and Virginia are but little better. The bill gives Texas ten members. Her vote would entitle her to but eight, and it gives Virginia ten when her vote would entitle her to but seven.

Here we have seven States which the bill gives fifty-six members, and which, upon the basis of votes cast are entitled to but thirty-six members, showing a gain of twenty Congressmen who really have no voting people at their backs.

Let us take the eight States, Georgia, Alabama, Arkansas, Florida, Virginia, Louisiana, Mississippi and Kentucky. The total vote of these eight States was 1,155,109. They have fifty-eight members in the next House. That gives an average of 19,917 votes to each member.

Now take these eight States: Connecticut, Illinois, Indiana, Michigan, Massachusetts, New York, Ohio, and Pennsylvania. Their total vote was 4,564,226, and they have one hundred and thirty-six members, which gives an average of 33,643 votes to each member. Thus you see it takes 13,643 more votes to send a man to Congress from these eight Northern States than it does to send one from those eight Southern States. But it may be claimed that I have selected States so as to bring about this result. Let us see about that. The entire vote of the sixteen Southern States was 2,758,449. There are from those States one hundred and six members. This would give for each Congressman-elect from those States an average vote of 26,023, but if the number were one hundred and eighteen, as fixed by the bill of the committee, it would take only 23,376 votes for each member.

The entire vote of the twenty-two Northern States was 6,539,143. There are from those States one hundred and eighty-seven members, which would give for each Congressman-elect 34,968 votes; and had the number elected been one hundred and ninety-three, as provided by this bill, then the average vote to each member would have been 33,833; which shows that it took 8,945 more votes to elect a member of the next House in the Northern States than it did in the Southern States; and if the number of members had have been the same as is fixed by this bill of the committee, the discrepancy would be swelled to 10,462 votes.

If you should give the Northern States a member for every 23,376 votes cast at the last election, and that is the number it would have taken on the average for each member from the South had the number of members been as fixed by this bill, she would have in the next House two hundred and eighty members! And if you should give the South only a member for each 33,838 votes, and that is the average vote in the North with the number fixed as by the bill, she would have only eighty members in the next House. The mere statement of these facts shows that there is something wrong somewhere.

Mr. ACKLEN. I would like to ask the gentleman to permit me to ask him one question in reference to the comparison that he has made of the districts of the South, particularly in the State of Louisiana. I ask him if the answer to the suggestions he has made is not this: that there is practically no contest in most of the districts in the South? I know that it is particularly the case in the State of Louisiana. In the third district, which I have the honor to represent, there was, however, a very sharp contest at the last election, and the vote was about twenty-five thousand; whereas in the sixth district of that State the entire vote was only about fifteen thousand, and in some of the other districts it was, I believe, a little less. Is not the answer to his statements the one I suggest?

Mr. HORR. I wish to say to the gentleman from Louisiana [Mr. ACKLEN] that I first looked up this matter on the basis of taking individual districts of the South, but the figures were so severe on the South that I had not the pluck to present them to the House. [Laughter.] So I took the general average, because it is milder; does not appear so savage.

Mr. ACKLEN. Allow me to say——

Mr. HORR. I would have to ask another question of you, which would lead to a long debate. It would be the question, why there is no contest in the districts of the South?

Mr. ACKLEN. I am satisfied that the gentleman is aware that in some of the northern districts there is practically no contest.

Mr. HORR. Before I get through I will give you ample credit for this trouble up north.

Mr. McMILLIN. Has the gentleman included the State of Rhode Island in his calculations?

Mr. HORR. I think that before I get through Little Rhody will be taken care of. [Laughter.]

But this basis for an apportionment bill cuts both ways. Take the State of New York. The bill of the committee gives her thirty-two members, but when you take the vote for the basis of your calculations she would be entitled to thirty-seven. The committee's bill gives her a member for each 34,521 votes, which is 4,625 votes more than the general average on each member, and which on her thirty-two members amounts to 148,000 votes, thus compelling her to throw away almost as many votes as the State of Alabama casts.

Do you know if you should give the State of New York a member for the same number of votes that sends one here from Georgia to the next House that she would have on this floor in that Congress *seventy-one* members, and she would not have to have a little fractional member either, as she is compelled to under the bill of the committee. With such a membership she might indeed be called the Empire State. And if Georgia had only a member for each number of votes that sends one from New York she would have only *four*, in place of the ten given her by the bill. Can the gentleman in charge of this bill, [Mr. COX,] can any one, give any good reason why the State of Georgia should have a member here representing only 15,565 voters while the great State of New York requires 34,521 votes to each of her members?

Again, take the State of Ohio. The bill gives her twenty members, while on the voting basis she would be entitled to twenty-four. It takes under this bill of the committee 36,248 votes for a member of Congress from Ohio. That is 6,352 in excess of the general average. On her twenty members it would amount to 127,040 votes, which is 29,839 more votes than the State of Louisiana cast, and it takes in Ohio 20,048 more votes to get a man to the next Congress than it does for this same State of Louisiana. Only think of it: if Ohio had a member for every same number that sends one from Louisiana she would be represented in the next House by forty-five members—a sufficient number, it seems to me, to satisfy even the modest claims of her timid, unobtrusive statesmen. Does any one claim, can any one claim that such a disparity as this can be explained on any theory of fair dealing?

But, again, let us take the State of Indiana. She cast at the last election 470,678 votes. The bill under consideration gives her thirteen members. On the vote basis she would be entitled to sixteen. The bill of the committee makes it take in this State 36,206 votes to elect a member of the next House. That is 6,310 more than the general average, which on her thirteen members amounts to 82,030 votes, about two-thirds as many votes as the entire State of Mississippi cast. In other words, it takes 19,481 more votes to elect a Congressman in Indiana than it does in the State of Mississippi. To con-

tinue my former comparison, if the same number of votes cast for a Congressman in Mississippi would send one from Indiana there would be twenty-eight Hoosiers on the floor of the next House instead of thirteen; and should Mississippi be allowed a member for only the same number that sends one from Indiana her seven members would dwindle down to three. And yet a bill which produces these astounding results the gentleman from New York [Mr. COX] would have us think is the "very pink of perfection."

We are told that "comparisons are odious." One would think so. But let me say that the only exception to this state of affairs in the entire North is the State of Rhode Island and in a slight degree perhaps the State of Massachusetts. The vote of Rhode Island looks bad. The census basis gives her *two* members while she votes enough for only *one*, and even that one is on a fraction. I am sorry for this, for if there is a gamy State in the Union it is Little Rhody. Her wealth, her common schools, her great industries, her distinguished statesmen, her entire history from Roger Williams down to the present time, need cause none of her sons to blush. Yet I am compelled to say that there is something wrong in her voting arrangements. She needs overhauling somewhere. Her vote leads me to believe she ought to be contented with one Congressman, and I think her statesmen upon reflection will see it.

Massachusetts by the voting basis also loses one member. This bill gives her eleven; her vote shows her entitled to but ten; and I am clearly of the opinion that ten does her ample justice.

Is it not singular that in the entire twenty-two Northern States, if you fix the number at three hundred and eleven and calculate upon the basis of votes, Rhode Island and Massachusetts are the only two that would lose a member; six of them, to wit, Vermont, Oregon, Nevada, Nebraska, Maine, and Minnesota, would neither gain nor lose, and the remaining fourteen Northern States would all gain, while in the South not a single State gains on the vote basis. Florida, Delaware, West Virginia, Maryland, and South Carolina neither gain nor lose, and the remaining eleven all lose. So that whereas the bill gives the Southern States one hundred and eighteen members, and the Northern States one hundred and ninety-three, on the basis of votes cast the Southern States are entitled to only ninety-three members, and the Northern States should get two hundred and eighteen. That is a difference of fifty members in favor of the South and against the North; and yet with all these facts staring them in the face the committee go to work deliberately and fix upon a number that will give the South more proportionate strength than she now has by six members, and then claim that this is a fair, impartial bill. And the number selected by the gentleman from New York [Mr. COX] gives the same section an advantage of four.

I am aware that under the strict letter of the Constitution the census basis is the proper one. But let me say to gentlemen here that there is a deep feeling in the minds of the people of this country that this systematic crushing out of nearly one-third of the entire vote in so many States of this Union is little less than a terrible crime, and the people fear that if not prevented it will destroy the very foundations of civil liberty in this country. If we cannot have a free, untrameled ballot, then there is little need of apportionment bills of any kind, for without that the will of the people cannot be expressed and all elections become a mere farce.

Now, I am not going to say whether the recent census is a fair one or not. There are many of the returns that cannot be explained upon what was supposed to be reliable history of the events of the past ten years in some of the States. But what I do maintain is, that no man can reconcile the census returns with the votes cast on any basis of fair dealing. It seems to be beyond the power of contradiction that there was gross cheating either in the census or in the voting. Then I ask does it not follow that to have a fair apportionment both of these elements should be taken into account?

For one I am satisfied that the present number of members in this House is large enough, if not too large, for the good of the country. It is now as unwieldy a body as the heart of man can well wish. If there is any number that would render it more difficult to do any needed work than the one we are now laboring under, and any one knows what that number is, in all conscience, I hope he will keep it to himself, for should our leaders here get hold of it I should well-nigh despair of all legislation in the future.

However, if we are to increase the present number at all, then such a number should be selected as will leave the relative strength of the two sections just as it now is; in any event no number should be taken which will add strength to that portion of the country which now has so much more than she is really entitled to, as I have already shown.

Mr. MCMILLIN. Will the gentleman yield to me for a moment?

Mr. HORR. Certainly.

Mr. MCMILLIN. The gentleman has given us a long mathematical disquisition upon the disparity between the votes cast North and South, and he has delivered to us a lecture upon the small votes on which some men represent constituencies here. Now, on looking at the Directory, I see that there were 18,071 votes polled against the gentleman from Michigan [Mr. HORR] and only 11,993 for him. Why did not this conscientious qualm strike the gentleman earlier, if he is in favor of the majority ruling in the different districts?

Mr. HORR. Which vote is it the gentleman is figuring from?

Mr. MCMILLIN. I figure from the vote upon which the gentleman now occupies his seat here and speaks.

Mr. HORR. There was a large majority against me in my district on that vote, if you add together the greenback and democratic votes.

Mr. MCMILLIN. Yes, sir.

Mr. HORR. The greenback craze, which is similar to the one the gentleman has, although he is a democrat, [laughter,] ran through my district; and the majority against me, taking the democratic and the greenback vote, was, as I remember, about 8,500. But if the gentleman will look at the returns of the last election in my district, he will see that the people came to their senses on that subject.

Mr. MCMILLIN. But the point is this: How is it that the gentleman, with the views he has uttered here, is willing to represent his constituency on so small a minority—so small a vote?

Mr. HORR. Why, sir, I represent my whole district. Our State elects on pluralities.

Mr. MCMILLIN. So, I would answer the gentleman from Michigan, under the Constitution we must fix the basis of our future representation upon the population, and not upon the votes cast.

Mr. HORR. All I claim is, that the vote should be taken into account; and I am trying to show that this proposition of the committee fixing three hundred and eleven, the only number which gives the South six more members than they now have, is an outrage in view of the fact that they already have a good deal more representation than their votes show they ought to have.

Mr. MCMILLIN. And in defense of the committee, I ask the gentleman whether it is not the fact that there are numbers smaller than three hundred and eleven which will give the South a greater proportional representation?

Mr. HORR. No, sir.

Mr. MCMILLIN. There is such a number.

Mr. HORR. Then, I do not know it.

Mr. MCMILLIN. I will say there is a smaller number which will do it, and the committee is not subject to that animadversion.

Mr. HORR. My memory is different; that is all.

Mr. MCMILLIN. The statistics show it.

Mr. HORR. I was stating, Mr. Chairman, that a bill on the basis of three hundred and nineteen would wrong no one and could be passed here in a day. The number proposed by the minority of the committee, three hundred and nineteen, does that very thing, and leaves a large number of the States with exactly their present number of members, or gives them an increase, and leaves only Maine, Vermont, and New Hampshire to suffer a loss of one each.

If you go above the present number at all, why not fix upon some number that will thus be free from all charge of partisanship, and which will or should give perfect satisfaction to all sections of the country. I believe it best that a fair and just apportionment bill should be passed by us at this session of Congress. So many State Legislatures are in session that such a measure at this time seems advisable. It is perhaps impossible to have a non-partisan measure of any kind proposed by the majority here. If so, we may be compelled to choose between this unjust and unfair measure of the committee and no bill at all. I dislike such an alternative, but this question is of such grave import to the whole nation that I am satisfied that rather than have this bill become the law we would better refer the whole matter to a new Congress, composed of men just fresh from the people, men who were elected in a contest when all these questions were discussed and fully investigated, and who will come here knowing the wishes of the people on this important subject. Believing as I do that this bill was drawn with the simple purpose of giving more strength to that section whose people are guilty of the great wrongs against the ballot which I have pointed out, for one I am fully determined to oppose the measure, first, last, and all the time, and that, too, with all the means that a kind Providence and parliamentary law will permit. [Laughter.]

In conclusion, let me say that I have given the foregoing figures with no desire of censure or abuse toward any portion of our fair land. If any of these statements seem harsh it is simply because some sections of the country so conduct their elections that to recite the multiplication table even within their borders would seem abusive. If I know the earnest desire of my own heart it is that such a bill may be finally passed as will show that we are all actuated by a lively sense of fair dealing, and that each member here may be able to say that in this one matter I rose above all party considerations and was actuated and inspired only by the exalting sentiment of "charity toward all and malice toward none."

Mr. KEIFER. I yield now for five minutes to the gentleman from New Hampshire, [Mr. BRIGGS.]

Mr. MCLANE. Will the gentleman yield to me for a question?

Mr. KEIFER. I have but very few minutes, but will yield for a short question.

Mr. MCLANE. I wish to develop an idea of the gentleman from Michigan a little more fully than he has. I understand him, although he has not said it in express terms, but the general spirit of his remarks leads me to the conclusion that he feels the Southern States have in some way or other deprived the negro of his suffrage.

Mr. HORR. I do not know who they are who do not vote. I do not know exactly the folks. [Laughter.]

Mr. MCLANE. And therefore they should lose representation. Now,

I want to know from the honorable gentleman from Michigan if that is the idea he wishes to convey?

Mr. HORR. My idea was simply this, that they ought to be deprived of a portion of their representation under that clause of the Constitution which I first quoted if they persist in keeping people away from the polls.

Mr. McLANE. People away from the polls!

Mr. HORR. My main object was to show the unfairness of a bill which fixes the number so as to give them this advantage with all these facts staring them in the face.

Mr. McLANE. I wish to say to the gentleman that he can hold his soul in patience as to that negro vote. If he supposes we, the white voters of the South, mean to deprive the negroes of their votes, I say he may hold his soul in patience. We accept in its full development the constitutional theory propounded by the gentleman from New York that the Constitution of the United States bases representation upon population, and our past experience has given us confidence in the result of universal suffrage. There is no occasion, therefore, for any honorable gentleman on this floor to suppose that the negroes of the South, whether they be voters or whether they be Representatives, will fall below the level of the white voter or the white Representative as he has been found in the States of the North.

Mr. HORR. Will you let me ask you a question?

The SPEAKER *pro tempore*. The gentleman from New Hampshire is entitled to the floor.

Mr. HORR. Do you think negroes of the South have been permitted for the past six years to have a free and untrammeled ballot all over the South?

Mr. McLANE. Mr. Speaker, I have no idea that the people of the South—the negroes of the South—have had as free and as untrammeled a suffrage in the past as they will have in the future. But——

[Cries of "All right!" on the republican side.]

Mr. HORR. That is encouraging.

Mr. McLANE. But, Mr. Speaker, while I give that frank answer to the gentleman from Michigan, to his inquiry, he will not withhold from me his attention when I say that while the negroes have not had as untrammeled a suffrage in the past as they will have in the future——

Mr. HORR. That would lead to a long debate.

Mr. McLANE. It would not lead to a long debate. I simply want to make a brief reply in answer to the gentleman's question as to why the negroes of the South have not——

Mr. BRIGGS. I decline to yield the floor any further.

Mr. McLANE. I think I am entitled to the privilege of answering the gentleman from Michigan.

Mr. HORR. I say this would lead to a debate, because I have some facts myself in that connection which I would like to submit.

Mr. BRIGGS. Mr. Speaker——

Mr. McLANE. If the gentleman still declines to yield to enable me to complete my answer, then I will take the liberty of doing what has been done occasionally here, of publishing in the RECORD a full answer to the question of the gentleman from Michigan.

Mr. BRIGGS. Mr. Speaker, I do not propose, in the brief time allotted to me, to discuss this question of a new apportionment of representation in Congress. I could hardly state my views in the brief period of five minutes; but during this discussion constant reference has been made to the State which I have the honor in part to represent. I notice by the speech of the gentleman from New York that, according to his statement, New Hampshire has a senate which consists of twelve, and that she has in the popular branch of her Legislature three hundred and seventy-nine members.

Now, Mr. Speaker, both of these statements are erroneous. The senate of the State of New Hampshire consists of twenty-four members. The house of representatives varies, sometimes one number and sometimes another. Under our constitution we endeavor to give every town in the State its representation in the lower house of the State Legislature, and every town which has a population of six hundred inhabitants is entitled to a representative upon that floor. If the town has not six hundred inhabitants and is so situated that it can be classed with another smaller town, making the aggregate population of both six hundred or over, we class the two towns together and give them a representative in common in the lower branch of the State Legislature. If the town has less than six hundred and is so situated that it cannot be classed with another, then we give that town a representative for such a proportion of the time as its population bears to the whole number required. Under that basis the Legislature of the State of New Hampshire, in the popular branch, had every place elected, would have contained three hundred and one members, and the Legislature for 1880 would have contained three hundred and three. Now, under the last census, the census just taken, we shall reapportion our representation in the Legislature, and have a larger house than we have ever had before.

In the discussion here to-day it is assumed that a large house is unwieldy and that it cannot be controlled, and that business cannot be conducted or transacted as well as in a smaller one. Is that true? If it is, the fault lies at the door of every member of that house and nowhere else. We have a larger house in our State than this. We transact the business of that little State sometimes in four weeks, sometimes in six weeks, and hardly ever extend our legislative session beyond a period extending over eight weeks; and this talk, gentlemen, that you cannot manage and control a large house I have no faith in, for I believe the fact that this House is sometimes disorderly—I believe it and know it—and you know as well as I do that the fault lies right at your own doors and nowhere else. Another thing: they point to the Calendar of this House and talk about the mass of business that lies there untransacted. Who is to blame? It is the rules which you have enacted; the rules which you have established, which cripple every motion and thwart the efforts of all the members everywhere to consider the public business here. Reorganize your rules, let members of the House observe them, and the size of the House will be no objection then in the transaction of its business.

Now, there is another thing: I do not believe in reducing the size of the lower House of Representatives. This body is the body that represents directly the people of this nation. If you look over your country you will find railroad corporations extending their rails from ocean to ocean, grasping and absorbing their side lines, and growing in wealth and proportions, and exerting a terrible power and influence over the legislation not only of the House, but over that of the States themselves—a power that is being felt everywhere. The smaller you make your House the more easy do you make it for these vast corporations to control the interests and the legislation of this country.

[Here the hammer fell.]

Mr. KEIFER. I now yield two minutes to the gentleman from Pennsylvania, [Mr. WHITE.]

Mr. WHITE. Mr. Speaker, my friend from Ohio has yielded me two minutes, for which I am very much obliged, and in which I propose to make a brief explanation in justice to my State. At another time I shall avail myself of the opportunity to express my views on the proposition on this subject for which I intend to vote.

Pennsylvania, however, has been somewhat conspicuous in this discussion, and has been severely commented on for retaining what is known as the property qualification in the apportionment of members of the Legislature, and thus affecting the apportionment for members of Congress. Such is not the case. Pennsylvania has no mere property qualification for the voter, nor for the holding of office. At one time the property qualification existed in the constitution of Pennsylvania. Our ancestors, when they settled in Philadelphia, being freeholders themselves, determined that no one should be admitted to the privileges of the government unless he was himself a freeholder. He must possess a certain amount of land. This property qualification was a prerequisite to the privilege of suffrage. This qualification was then common to all or most of the States. But long since a more liberal spirit has obtained in Pennsylvania, and now there is no property qualification to the voter. Representation there is based entirely upon population. This change was made by our present constitution, framed in 1873. We have a tax-paying prerequisite, but this is not based upon property.

It is provided a tax shall be paid at least thirty days before the election, which shall have been assessed at least sixty days before the election. No amount of tax is required. The smallest amount of a county or State tax is sufficient. This is in the nature, indeed, of a poll-tax for the purpose of fixing the place of residence and to prevent fraud at our elections. And the man or the voter against whom the tax is assessed is not required to have any quantity of property whatever. It is assessed by the borough and ward and township assessors. These are the same officers who register the voters. This registry is a precaution against fraudulent voting. The tax—the inconsiderable tax required of the voter—is more of a registry proceeding than a property qualification. And I may say further, that this registration is not really a prerequisite; for if a man has the privilege under the constitution to vote otherwise he can prove it, notwithstanding his name may not be on the registry list. I make this brief statement in answer to the criticisms about the alleged property qualification in our Pennsylvania constitutions.

Mr. ROBINSON. Will the Chair allow me to make a suggestion? I understand all that remains of the hour of the gentleman from Ohio [Mr. KEIFER] is only about five minutes.

The SPEAKER *pro tempore*. It is seven minutes.

Mr. ROBINSON. I understand further that the gentleman from Mississippi [Mr. HOOKER] wishes to take the floor after the gentleman from Ohio, who is not ready to proceed to-night. I suggest under those circumstances that the House allow the gentleman from Ohio to go on this afternoon and occupy the time he needs, after which the gentleman from Mississippi may be recognized in his own right.

The SPEAKER *pro tempore*. What is the proposition of the gentleman from Mississippi?

Mr. ROBINSON. My proposition is to let the gentleman from Ohio know in advance that he can have more than five minutes to discuss this question.

Mr. HOOKER. I have no objection whatever to the proposition of the gentleman from Massachusetts, and agree to it with this modification, however, that, at the request of my friend from Maryland, [Mr. McLANE,] I desire to give him five minutes to reply to an inquiry of the gentleman from Michigan, [Mr. HORR.]

Mr. KEIFER. I need only about twenty minutes altogether.

The SPEAKER *pro tempore*. Unanimous consent is requested that

the gentleman from Ohio, who is entitled to seven minutes, may have his time extended thirteen minutes, so that he may occupy twenty minutes in all.

Mr. McLANE. When does the gentleman propose to take his twenty minutes?

Mr. KEIFER. Right now.

The SPEAKER *pro tempore*. The gentleman proposes to occupy the time till four o'clock; and after that the gentleman from Mississippi, who will be next recognized, proposes to yield a portion of his time to the gentleman from Maryland, [Mr. McLANE.]

Mr. COX. I desire to say, before my friend from Ohio proceeds, there will be no vote taken to-night. I will also ask the gentleman from Ohio whether he will not allow the gentleman from Maryland [Mr. McLANE] to occupy his five minutes before he proceeds with his own remarks?

Mr. KEIFER. I have no objection whatever to that if such is the wish of the House.

The SPEAKER *pro tempore*. The gentleman from Maryland [Mr. McLANE] is entitled to the floor for five minutes.

Mr. McLANE. When I said to the gentleman from Michigan [Mr. HORR] that I had no idea the negro vote in the South had been as untrammeled in the past as it would be in the future I was about to proceed to tell him why.

At the close of the war, and for ten years or for twelve years after the war, the South was held in subjection by the Army and the vote in the Southern States was under the protection of the Army; I might almost say under the direction of the Army. And the white and the black populations in the South were held in a relation of antagonism. There was no question as to the fact that the South was in a state if not of anarchy then of military subjection; and through the entire South the voting during that period was a forced and unnatural vote. The black man voted or the white man voted as the military forces permitted, or subject at least to the violent excitement which this unconstitutional supervision created.

And especially was it true of the black man that he only voted where the Army stood ready to protect him, not because the white man of the South assailed him, but because he had been made by force to consider himself the ward of the Federal Government; and not only was he made to vote under the protection of the bayonet, but the white man was taught to know that the colored man thus protected and inspired was to govern the State, and a condition of anarchy unparalleled in the history of the world existed through those States. And this same bayonet that protected the black man in his vote carried the black man into the hall of legislation and protected him in the hall of legislation when he was wrongfully legislating for the State. During that time there was no free vote in the South, whether of the white man or of the black man. That period ceased when the administration of General Grant ceased. The last vestige of that military despotism was in 1876. It was as recently as this present administration. When Rutherford B. Hayes was inaugurated President of the United States the Army still held the legislative halls of Louisiana. And from and after that day the black man of the South—and I say it to his credit—votes as freely as the white man of the South. [Cries of "Oh!" "Oh!" on the republican side.]

Mr. HORR. How is it in Louisiana?

Mr. ROBERTSON. I say that is true in regard to Louisiana.

Mr. McLANE. And it is for the credit of Louisiana that the black man can vote as freely there as the white man can vote in Michigan.

Mr. HORR. I desire to ask the gentleman from Maryland one question.

Mr. McLANE. I say to the honorable gentleman from Michigan without disrespect, that if comparison be made between the Representatives sent to the floor of this House from Michigan and the Representatives sent by the negro vote of Louisiana it will not be in any sense to the disparagement of the latter.

Mr. HORR. Will you answer me this question? If your statement is true, why is it at the election in 1876 that the vote given has fallen off? Why is it that your vote in 1880 is less than it was four years ago at the presidential election?

Mr. McLANE. The gentleman from Michigan knows perfectly well that the vote is light where there is no contest, or where the result of the contest is certain, and this result obtains in the North as fully as in the South, and in 1880 there was little or no contest in Louisiana.

Mr. HORR. And why no contest?

Mr. MORRISON. Because the republicans abandoned the contest in the South and undertook to buy votes enough to answer their purpose in the North.

Mr. ROBERTSON. I will answer the gentleman's question why there was no contest.

Mr. McLANE. I do not want to be interrupted.

Mr. ROBERTSON. I want to answer the gentleman from Michigan; the gentleman from Maryland has not answered him. I want to answer his question truthfully.

The SPEAKER *pro tempore*. The time of the gentleman from Maryland [Mr. McLANE] has expired and the gentleman from Ohio [Mr. KEIFER] is entitled to the floor.

Mr. ROBERTSON. As the gentleman from Michigan [Mr. HORR] propounded a question to the gentleman from Maryland [Mr. McLANE] which he has not answered fully, I would like to answer it and answer it truthfully, as it applies to my State. [Cries of "Order!" "Order!"] You do not want the truth. [Cries of "Order!"]

The SPEAKER *pro tempore*. The gentleman from Louisiana [Mr. ROBERTSON] is not in order.

Mr. ROBERTSON. I only want a minute or two.

Mr. KEIFER. If it will not come out of my time I will yield to the gentleman, because the House has been very liberal to me.

Mr. ROBERTSON. The gentleman from Michigan asked the question why it was that the vote of Louisiana——

The SPEAKER *pro tempore*. Is there unanimous consent for the gentleman from Louisiana [Mr. ROBERTSON] to proceed?

A MEMBER. How long?

Mr. ROBERTSON. A few minutes.

Mr. REED. We desire unanimous consent that the gentleman from Michigan [Mr. HORR] shall have time to reply.

Mr. ROBERTSON. That is right.

Mr. REED. If that is done, then as many of those gentlemen may talk as want to.

The SPEAKER *pro tempore*. Is there consent?

Mr. WHITE. I rise to a question of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. WHITE. The gentleman from Louisiana [Mr. ROBERTSON] asked for a moment or two of time to make a statement, and appealed to the gentleman from Ohio [Mr. KEIFER] to yield, which he did.

Mr. KEIFER. Not to come out of my time.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. WHITE] will recollect that the gentleman from Ohio [Mr. KEIFER] yielded upon condition that it should not be taken out of his time, which condition it was not in the power of the Chair to grant. The House itself must give consent to that.

Several MEMBERS. Regular order!

The SPEAKER *pro tempore*. The regular order being called for, the gentleman from Ohio [Mr. KEIFER] will proceed.

Mr. KEIFER. In the midst of this wild confusion I can hardly expect to speak calmly and moderately, as I always try to do, and yet entertain the distinguished gentlemen here.

I shall vote for three hundred and nineteen members in this House for the coming decennial period. Having announced that, I want to go back and ascertain how far it would be just and equitable for us to accept the original bill introduced into this House by the distinguished chairman of the Census Committee, [Mr. COX,] a bill which provides for three hundred and one members of this House.

That gentleman told us yesterday that the number three hundred and one was more convenient and more fair than three hundred and eleven or three hundred and nineteen; that it would produce as little inequality as any other number that could be selected. Now, when we look at this matter on this side of the House in a partisan point of view, we are charged with doing something unfair. Yet examining that bill in that view, it will appear that the number three hundred and one would give to the States which we now commonly denominate the Southern States, to distinguish them from the Northern and free States, an advantage of four members.

Now, the majority of the Committee on the Census concluded that that was not enough advantage, that it would be better to find the only number perhaps that would give to the Southern States the advantage of six members, while the number which I favor, and the number favored by the minority of the committee, three hundred and nineteen, would give to neither section of the country, North or South, any advantage at all. It is the only number, so far as I have seen the figures, that fixes the apportionment exactly on an equality between the two sections so far as gains and losses are concerned. This matter of looking carefully to the interests of the North and South is not an original question with this Congress. It was the first question upon which the first President of the United States took issue with Congress. Out of apportionment legislation grew the first veto message ever signed by a President of the United States, and it was on the theory that the first apportionment bill submitted to him in 1793 was unfair to the South.

If the Clerk will now read the first veto message of April 5, 1792, I will then call attention to the history and the circumstances under which it came to be written and sent to the House.

The Clerk read as follows:

UNITED STATES, *April* 5, 1792.

*Gentlemen of the House of Representatives:*

I have maturely considered the act passed by the two Houses, entitled "An act for an apportionment of Representatives among the several States, according to the first enumeration;" and I return it to your House, wherein it originated, with the following objections:

First. The Constitution has prescribed that Representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill.

Second. The Constitution has also provided that the number of Representatives shall not exceed one for every thirty thousand; which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States, and the bill has allotted to eight of the States more than one for every thirty thousand.

GEORGE WASHINGTON.

Mr. KEIFER. It will be found that by taking the number three hundred and one as a basis for the future House of Representatives there is "no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of

Representatives proposed by the bill," to use the exact language used by the President of the United States, George Washington.

Before going into a demonstration of that statement, I ask the Clerk to read—and I beg the attention of members to it—what Thomas Jefferson says on the subject of the history of that veto message. He will read an extract from Elliot's Debates on the Federal Constitution, volume 4, page 624.

The Clerk read as follows:

The President called on me before breakfast, and first introduced some other matter, then fell on the representation bill, which he had now in his possession for the tenth day. I had before given him my opinion in writing, that the method of apportionment was contrary to the Constitution. He agreed that it was contrary to the common understanding of that instrument, and to what was understood at the time by the makers of it; that yet it would bear the construction which the bill put; and he observed that the vote for and against the bill was perfectly geographical—a northern against a southern vote—and he feared he should be thought to be taking side with a southern party. I admitted the motive of delicacy, but that it should not induce him to do wrong, and urged the dangers to which the scramble for the fractionary members would always lead. He here expressed his fear that there would, ere long, be a separation of the Union; that the public mind seemed dissatisfied, and tending to this. He went home, sent for Randolph, the Attorney-General, desired him to get Mr. Madison immediately, and come to me; and if we three concurred in opinion, that he would negative the bill. He desired to hear nothing more about it, but that we draw up the instrument for him to sign. They came; our minds had been before made up; we drew the instrument. Randolph carried it to him, and told him we all concurred in it. He walked with him to the door, and, as if he still wished to get off, he said, "And you say you approve of this yourself?" "Yes, sir," says Randolph, "I do, upon my honor." He sent it to the House of Representatives instantly. A few of the hottest friends of the bill expressed passion, but the majority were satisfied, and both in and out of doors it gave pleasure to have at length an instance of the negative being exercised. Written this the 9th April.

Mr. KEIFER. My time will not permit me to occupy the attention of the House any further with the history of that matter. It shows that early in the constitutional history of this country this matter of apportionment was regarded as a very grave and important one. It was then believed that it was right and proper to find some common divisor that would be equitable and just to each and all of the States. There was a jealous eye to the interest of the Southern States in connection with that matter.

I state this in support of my non-partisan position on the subject of fixing a number for the Representatives of coming Congresses that will give no advantage either to the North or to the South.

If we look over this bill and make calculations upon it, we will find some queer figures, some queer results. I refer to the original bill upon the subject before this House. It will strike a man as rather curious, if he were not to go to the very foundation of all these peculiar relations of numbers, how it could happen that Ohio, with an increased population from 1870 to 1880 of 532,979, should under that bill lose one member of Congress, while South Carolina, with an increased population of a little more than one-half of that number, that is, 290,016, should gain one member.

The same thing may be said in reference to Mississippi. With an increased population from 1870 to 1880 of 203,670, that State gains one member under this bill, fixing the number at three hundred and one; while Ohio, with her gain of 533,000, loses one member. But this would lead us into some further explanation about the figures which I do not choose to go into. I simply state these mathematical curiosities in support of my claim that we ought to select a number that will be exactly fair. These singular results are not confined to a comparison of Ohio with other States. New York State, with an increased population from 1870 to 1880 of 701,051, under this bill loses two members, and Pennsylvania, with an increased population from 1870 to 1880, of 760,835, loses one member under the bill, while Mississippi with an increased population in the same time of only 203,670, and South Carolina with an increased population, also for the same time, of 290,016, each gain one member by the provisions of this bill. Other comparisons could be made with like results.

Mr. HAMMOND, of Georgia. Has the gentleman made inquiry whether Ohio has not now more representation relatively to South Carolina than she ought to have?

Mr. KEIFER. Oh, no; I have taken the figures of 1870 as a fair apportionment with the ratio then adopted; then I take the ratio given now; and taking the difference between the census of 1870 as reported and the census of 1880 as reported, I find these singular results. The matter of fairness or unfairness in the taking of the census for either of the years 1870 or 1880 has nothing to do with the question.

Mr. HAMMOND, of Georgia rose.

Mr. KEIFER. I cannot yield further; I have not the time.

Now, I am not quite satisfied with the position of the gentleman from Kentucky [Mr. THOMPSON] when he argues in favor of a large body of men as more likely to be a pure body. While I am not afraid of having the number increased, for other reasons which I will indicate, I am not quite satisfied that the reason the gentleman gave—that a large body of men is always the safest—is the right one. I understood him to say that the rule is universal in relation to large bodies of men being safer than small ones. History will prove that to be absolutely untrue, if the gentleman takes into account the fact that in other countries the methods of choosing such bodies and the powers that choose them have not recognized the people as the governing power. I wish to say as I pass along that when we get a perfectly pure body of men in our Republic, large or small, it will be a body representing the people of the several districts of the country who have had a fair opportunity to cast their ballots without fraud or intimidation and to have those ballots honestly counted and fairly returned. When the time shall come that we have that in this country we may expect to have a good and pure House of Representatives. If it has happened in other countries that small bodies of men have been more tyrannical than large, it will be found to be because some concentrated power other than the masses of the people has selected or chosen that small body of men, and therefore directed and controlled them.

I believe, however, in a reasonably large House of Representatives, in view of the great amount of work that we have to perform. The Constitution fixed 30,000 as the ratio of representation for the first apportionment. It was then supposed that one member for 30,000 inhabitants was enough, and only enough.

Now, with all the varied interests of this country, with all the subjects that our constituents are concerned about, with all the multiplication of duties growing out of our business here, it is proposed to adopt the ratio of 164,018 as the basis of representation here. This number is the ratio on which the original bill fixing the number of members at three hundred and one is based. The bill reported by a majority of the Census Committee fixing the number of members at three hundred and eleven is based on a ratio of 158,745, and the bill of the minority of that committee fixing the number at three hundred and nineteen is based on a ratio of 154,764. The ratio ten years ago was only 135,239, I believe.

We are expected to perform all our many duties promptly and well. There comes requisition after requisition upon members of Congress. It may be that many of these demands upon us are for the performance of duties that do not properly belong to our position here; but custom has made it the duty of every member of Congress to run errands to the Departments—to be a sort of counselor or adviser between the people and the different Departments where the business of the people is pending. If the number of Representatives is to be cut down and our constituencies increased, it will be impossible for us to perform the duties that these people expect of us. For that reason I am in favor of an increase on the basis of the figures I have named.

Turning aside for one moment in this discussion, I will say that there are some other remarkable figures and facts worked out under this census. My own State will not suffer on a basis of voting population, if such a basis could be adopted (and I do not say it could) under the Constitution. Ohio, I am happy to say, has a people not only free to vote when election day comes, but a people educated to vote, and who do vote. Let me state a fact that may not have been noted. At the election in November last, Ohio cast 103,046 more votes than were cast in the great State of Illinois, with substantially the same population, the population of Illinois being 3,078,769 as against 3,198,239 in Ohio. Now, this larger vote in Ohio comes from the freedom of the people to vote and also (for they are as free in Illinois) from the education of the people in the matter of voting. We have first tried before the people of Ohio the great issues of this country. We have tried the great financial issues there in advance of the nation. First in 1875 we fought the battle, and we won the financial victory as it has been won since by the people of this whole country.

The election returns coupled with the vote at the late election show some curious results in the North and West in the ability or willingness of the people to vote. Take the table of figures made up in round numbers, as follows:

| States. | Vote. | Population. | Per cent. |
|---|---|---|---|
| Illinois | 622,000 | 3,100,000 | 1 in 5.0 |
| Ohio | 725,000 | 3,200,000 | 1 in 4.4 |
| Indiana | 575,000 | 2,000,000 | 1 in 3.4 |
| Iowa | 323,000 | 1,600,000 | 1 in 5.4 |
| Kansas | 201,000 | 1,000,000 | 1 in 5.0 |

It will be seen that Indiana is a good voting State. The now good roads and accessibility of voting places in Ohio and Indiana may have something to do with the voters getting to the polls in a larger per cent. than in some other States.

The gentleman from Michigan [Mr. HORR] has given figures from the Southern States which in comparison to these would astonish the country if it was not already aware that something terrible was the matter with the voting population in those States.

Before taking my seat, I wish to say but one other thing in support of my proposition. Taking three hundred and one as the number, Ohio with nineteen members (which would be her apportionment under that number) would have one member for every 168,328; Mississippi one member for every 161,656; South Carolina one member for every 165,937; Louisiana one member for every 156,683. Thus, without taking the time to run through the list, it will be seen that my State is to be put at a disadvantage of several thousand in population, (to say nothing of votes,) as against these States of the South. Therefore I protest, Mr. Speaker, against a bill such as the one originally offered by the gentleman from New York; and I still more protest against the bill reported by the Committee on the Census, because it is still more unfair. I insist upon a fair number, one that will be just to each section. So far as I am concerned, (I do not speak for those around me,) I shall oppose, as does the gentleman

from Michigan, [Mr. HORR,] any number that is unfair; and I will do it by every means known to the rules of parliamentary law.

[Here the hammer fell.]

Mr. COLERICK. Mr. Speaker, in view of the lateness of the hour, and of the further fact that I have consented to yield one-half of the time accorded to me to the gentleman from Pennsylvania, [Mr. RYON,] I prefer, if it is agreeable to the House and satisfactory to that gentleman, that he should occupy the first half hour, and that the remaining half hour shall be reserved by me until to-morrow.

Mr. RYON, of Pennsylvania. Mr. Speaker, it is quite as important that we should determine the manner of electing the Representatives to this House as it is that we should determine the number which shall compose the popular legislative branch of this Government. In the discussion of this question, it is of the utmost importance to us that we should be guided by those plain, simple, constitutional provisions which determine the basis upon which representation shall rest. If there is anything settled by the uniform history of our Government it is that representation is based upon numbers—upon the number of inhabitants in the several States—and not alone or in any instance by the number of qualified electors. Any attempt to regulate representation by the qualification to vote, under the circumstances of this case and with the facts which are now before the country, would be utterly futile and lead to manifest injustice. We have no basis upon which we can act. The people voluntarily go to the polls if they go at all. Many of them remain at home. Therefore the constitutional provision of the country, that upon which we are bound to act, that which we are sworn to support and protect, requires that in apportionment of Representatives to the American House of Representatives we shall confine ourselves alone to the number of inhabitants which have been returned by the enumerators of the census as the basis of our work.

Now, while it is not my purpose to devote any time to the discussion of this aspect of the question raised and discussed by members on the floor of the House, I propose for a few moments to direct the attention of my fellow-members to a subject which I deem of the utmost importance in the determination of the question now before us.

The bill reported by the committee fixes the number of Representatives at three hundred and eleven, but it makes no provision whatever for the representation of new States which may be admitted into the Union, it is utterly and entirely silent on the subject of the admission of new States into the Union, and without legislation upon that subject either in the bill admitting the State or in the apportionment, States admitted after we have passed an apportionment bill would be without representation in Congress.

I propose in the discussion of this question, Mr. Speaker, to announce my purpose to add an amendment to this bill which shall authorize new States when admitted into this Union to have representation according to their population. In addition to that I find it has heretofore been the practice in making apportionments to determine in some way how the Representative shall be elected by the States either in single districts or by dividing the State or referring to the Legislatures of States the duty of determining the local divisions in the States which shall be entitled to Representatives. The minority of the committee reported a third section to the bill which they submitted to the House which, so far as it goes, meets every requirement of the law. But it is a part of the necessities of the case that additional safeguards should be adopted, and therefore I propose to move an amendment to attach to the third section of the bill reported by the minority. Section 3 as reported by the minority of the committee is taken from the apportionment act of 1871. I have added to the third section the provision which I now send up to the Clerk to be read.

The Clerk read as follows:

It shall be unlawful to divide any county or parish where any district shall consist of more than one county or parish, and in all districts consisting of more than one county or parish the counties or parishes contiguous to each other having the number of inhabitants nearest to the ratio fixed by law for a Representative in the Congress of the United States shall be made a representative district.

Mr. RYON, of Pennsylvania. It will be noticed, Mr. Speaker, that the third section of this bill as reported by the minority of the committee provides that each State shall be divided into districts corresponding with the number of Representatives to which that State may be entitled; second, that the districts shall be composed of contiguous territory, and third, there shall be but one Representative from each district. Now, that provision which I have recited was contained in the apportionment act passed in 1871, and so far as it appears upon the report made by the minority of the committee it is copied verbatim from that act. But it falls short, as I have already said, of accomplishing any beneficial purpose in restraining the Legislatures of the States from committing what I regard as a crime against the free citizens of this Republic. Therefore, I provide in the amendment which I have submitted that there shall be no division of counties, that territory contiguous wherever a district is composed of more than one county shall contain the nearest possible number of inhabitants that will correspond with the ratio fixed by law. The words in the existing law which provide that contiguous territory containing as near as practicable an equal number of inhabitants to the ratio required by law shall be a district, have proved entirely insufficient as a warning to the Legislatures of the several States in determining this question of representation in Congress.

As nearly as practicable, says the law, leaving the Legislatures entire discretion over the whole subject of districting States for the purpose of representation, and it illustrates the old adage with a perfection that cannot be equaled, that "honeyed words butter no parsnips."

Now, a great deal has been said here upon the subject of disfranchising citizens entitled to exercise the privilege of franchise in the several States. A great deal has been said about "bulldozing" to prevent people who are entitled to cast their ballots according to their judgment, from doing so in certain States. I do not propose to discuss that question at any considerable length, but I propose to meet this subject upon grounds plain, fair, and reasonable, and to advocate such an apportionment of the Members of Congress as shall give to the people in this country fair, free, and honest elections, and a due representation upon the floor of Congress. I have no partisan claim of my own to advance in the discussion of this question, or in the support of the measures which I trust will be adopted; but what I do want and what I wish and shall strive to do, is to endeavor to prevent the disfranchisement of one-half of the population of this country by a system of reckless gerrymandering, and by which fully half of the people have no representative in the National Legislature.

In the first place I want to prevent the process of dividing counties. Well, gentlemen, you will say that you have not done it. In all the researches that I have given to the subject I have found but one State only besides Pennsylvania where this practice is carried on. In all the other States, I believe, counties have been yoked and united together in single districts; but in the State of Pennsylvania no such wholesome practice prevails. We divide counties there and unite the fragments in districts to accomplish partisan ends. We annex townships to counties and counties to townships. Another proposition which I advocate is that the counties contiguous to each other having the nearest population to the ratio fixed by law for a Representative in Congress shall be made into a congressional district. Does this hurt the people? No; by no means. The people have a right to it; it hurts nobody but the politicians who want to make districts for themselves or for their friends, who will use partisan power to accomplish the result; a result, let me say with emphasis to you here and now, that never can be followed in any free government without putting in peril civil liberty. Another proposition in that amendment is that the population, as I have already stated, nearest to the ratio fixed by law shall constitute a representative district. Now, sir, turning to actual practice upon the subject, we find that in districting States there has been no sort of regard whatever paid to the number of inhabitants fixed by law as the ratio of representation.

In support of this assertion I can point to the record. I can find districts that never had the population required by law, which have Representatives; districts in which thirty or forty or fifty thousand are allowed to elect a Representative; and upon the other hand thousands and thousands have been piled into a district in excess of the population required by law to answer partisan purposes. This thing should not be continued. My friends upon the other side, who claim to be friends of honest elections, who claim to be friends of the people, who claim that they want a fair apportionment, I ask you to join with me, then, in the support of such measures as shall give to the people of this country a representation in their National Legislature which is fair, honest, and equitable.

Mr. DAVIS, of North Carolina. Will the gentleman from Pennsylvania point out where this has been done?

Mr. RYON, of Pennsylvania. I will tell the gentleman where I know that it has been done. I will take the district represented by my friend Mr. KLOTZ, which has twenty townships annexed to it from Luzerne County. It is composed of four or five democratic counties——

Mr. KLOTZ. I would like to make a correction; they have added to it twenty townships and a half. [Laughter.]

Mr. RYON, of Pennsylvania. They took some twenty townships from Luzerne County and added them with Columbia County to Carbon, Monroe, and Pike Counties, all democratic counties, thereby making a democratic district, with 10,000 democratic majority, with a population of 150,000 or 160,000 people. Take also the district of my colleague who represents Berks County. That district is below the ratio in the number of its inhabitants. It has but 106,000 inhabitants in it, and 130,000 is the ratio required by law. But Berks is democratic by 6,500, and there is no adjoining county that can be annexed to Berks to make a republican district. The little county of Lebanon on the west side, which with Berks would have made a district, has 1,500 republican majority. They could not afford to throw away that republican majority, and therefore they make him a district of 106,000 in it.

Let me again call the attention of the House to the district represented by my friend from Northampton, [Mr. BACHMAN,] the district composed of the counties of Northampton and Lehigh. These are heavy democratic counties. But they added to them a number of democratic townships from Bucks, leaving in the residue of Bucks a republican majority. Then they give to my colleague from Montgomery and Bucks all the remaining portion of Bucks County not included in the tenth district. Having abstracted the democratic majority from Bucks, how did they fix it up to make a republican district out of two democratic counties by adding the remaining part of Bucks to Montgomery? By making a very large democratic dis-

trict for my friend, Mr. BACHMAN, they succeeded in getting up a pretty good republican district for my friend GODSHALK in two democratic counties. [Laughter.]

Mr. WHITE. Will the gentleman allow me a moment?

Mr. RYON, of Pennsylvania. Yes, sir.

Mr. WHITE. Let me tell my friend that the democratic senator from Berks County, at the time of the apportionment, voted for and approved of the bill. And I think the democratic representatives from this northeastern portion of the State approved of it. They were all in favor of that apportionment.

Mr. RYON, of Pennsylvania. Well, I think it is not the first time that democrats have sold their constituents for power. [Laughter on the republican side.]

Mr. WHITE. Do not blame the republicans, then, for it.

Mr. RYON, of Pennsylvania. Now, they talk about the disfranchisement of the negro. He ought not to be disfranchised. His right to vote should be secured to him. I do not think my friend from Michigan or anywhere else could oppose such legislation any more heartily than I do. But I hope my friend will be equally emphatic in his condemnation of this system of gerrymandering. I give these Pennsylvania cases as illustrations, not because they are peculiar, for the whole system is wrong and it obtains everywhere. Let us correct the wrong by compelling a fair district system.

In the State of Pennsylvania, where we have 407,428 democrats, it takes 50,928 to send a Representative to this House. These 407,000 electors in Pennsylvania are represented by eight men upon this floor. The republican vote in 1880 was 444,704. It takes 23,450 republicans to elect a Representative to Congress. These 444,000 thousand republicans in the State of Pennsylvania are represented by nineteen men in this House. The city of Philadelphia has five Representatives on this floor. One is a democrat and four are republicans. It takes 75,000 democrats in that city to elect one democrat, and 94,000 republicans to elect four republicans.

Mr. O'NEILL. Let me state to the gentleman that the democrat from the city of Philadelphia never objected to the districting of the city which secured his return to this House.

Mr. RYON, of Pennsylvania. He never had any voice in the matter; besides democrats love to be disfranchised.

Mr. O'NEILL. The difficulty is that it was a hard matter to so apportion the city of Philadelphia as even to get in one democrat, the democratic population is so small.

Mr. BELTZHOOVER. The republicans did not object to the apportionment.

Mr. RYON, of Pennsylvania. And though they have the power they have never attempted to correct the injustice.

Mr. WHITE. It cannot be corrected unless you can get the democratic votes more scattered. As it is now they all live in a bunch.

Mr. RYON, of Pennsylvania. Every Representative on this floor from that city but one is a republican under that system of gerrymandering.

Mr. O'NEILL. The gentleman ought to confine his attention to the rural districts rather than the city.

Mr. RYON, of Pennsylvania. Now I propose to tell you how this is done.

Mr. O'NEILL. I hope he will confine himself to his own district, then.

Mr. RYON, of Pennsylvania. In Pennsylvania, with 5,000,000 of people, every county in the State full of people and full of voters, we have districts one hundred and twenty miles long——

Mr. WHITE. My district is that long.

Mr. RYON, of Pennsylvania. And the lines are more crooked than any snake track made in the sand. [Laughter.] They take one or two strong republican counties and in the republican majority in these counties they sink one or two democratic counties, and in that way make a republican district. Thus they parceled out the State among themselves, as did those gentlemen who sat at the foot of the cross and divided our Saviour's raiment. They have done that all over the State. There are twenty-seven districts in the State and only one instance where they put a republican county in a democratic district. They put the little county of Union in a democratic district because they could not do anything else with it. They had nowhere else to put it.

Now, do you wish this state of things continued? I do not say that it is peculiar to Pennsylvania alone, for her politicians are about as honest as the average run of the country.

Mr. WHITE. Will my friend allow me?

Mr. ROBINSON. I hope the gentleman will allow that mistake to be corrected.

Mr. RYON, of Pennsylvania. I cannot allow any more time to be taken up with questions.

Mr. WHITE. That apportionment was made in 1874, and since that time——

Mr. RYON, of Pennsylvania. By a republican Legislature.

Mr. WHITE. Certainly; and since that time the republican aggregate majority of the State has been increasing. The people there approved of it and indorsed it.

Mr. RYON, of Pennsylvania. I suppose you mean to say the republicans approved of it?

Mr. WHITE. The democrats approved of it, too.

Mr. RYON, of Pennsylvania. But there are machine republicans in Pennsylvania. The people there have stood more than any people on earth of dishonest and partisan legislation. The gentleman knows very well, because he has been there himself. [Laughter.]

Now, in the State of New York, in the State of Ohio, and in the State of Pennsylvania by this process of gerrymandering more white men are practically disfranchised than there are negroes in the South. I do not approve of it in the North any more than I do in the South. It is wrong anywhere and everywhere, and it is our duty to put a stop to it if we can. We can only stop it by adding to this bill such legislation as will render a repetition of such a wrong, such a crime, and such an offense against the people of this Republic impossible hereafter.

[Here the hammer fell.]

Mr. KEIFER. Will the gentleman allow me, before he takes his seat——

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. COX. I move that the House now adjourn.

LEAVE OF ABSENCE.

Pending the motion to adjourn, by unanimous consent leave of absence was granted as follows:

To Mr. MULLER, until Tuesday next; and

To Mr. RICHMOND, for one week from Monday, on account of important business.

LEAVE TO PRINT.

Mr. BELTZHOOVER was granted leave to print in the RECORD as a portion of the debates an argument in favor of the bill (H. R. No. 2272) for the settlement of the accounts of certain States for moneys expended in the war of 1812. [See Appendix.]

SUPPLIES FOR INDIAN TRIBES.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Secretary of the Interior, relative to the deficiency estimates for the issue of supplies to certain Indian tribes; which was referred to the Committee on Appropriations.

FORT ASSINIBOINE.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, recommending an appropriation for Fort Assiniboine; which was referred to the Committee on Appropriations.

PURCHASE OF TELEGRAPH LINES.

The SPEAKER *pro tempore* also laid before the House the following communications; which were severally referred to the Committee on Appropriations:

A letter from the Secretary of War, recommending the purchase of the Cheyenne and Black Hills telegraph line; and

A letter from the Secretary of War relative to the purchase of the Cheyenne and Black Hills telegraph line and the construction of telegraph lines in Oregon and in Washington Territory.

FREE BRIDGE ACROSS THE POTOMAC.

Mr. KLOTZ, by unanimous consent, introduced a bill (H. R. No. 7105) relating to the acqueduct of the Alexandria Canal Company, at Georgetown, in the District of Columbia, and to provide a free bridge across the Potomac River on the piers of said acqueduct; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

SEED CANE.

Mr. KING, by unanimous consent, introduced a bill (H. R. No. 7106) appropriating $20,000 for the purchase and distribution of seed cane; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

The motion of Mr. COX was then agreed to; and accordingly (at four o'clock and forty minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. WILLIAM ALDRICH: The petition of C. Feustel and others, of Geneva and Chicago, Illinois, for the reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. ANDERSON: The petition of citizens of Kansas, ex-soldiers, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

By Mr. BACHMAN: The petition of 16 citizens of Pennsylvania, against the passage of Senate bill No. 496—to the same committee.

By Mr. BENNETT: The petition of 33 citizens of Pembina County, Dakota Territory, for the division of that Territory on the forty-sixth degree of north latitude, the organization of the north half into a Territory, and the admission of the south half as a State—to the Committee on the Territories.

By Mr. FRYE: The petition of R. W. Pratt and other soldiers of New Vineyard, Maine, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr GEDDES: The petition of Charles Horn and others, of Mansfield, Ohio, for a reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. HEILMAN: The petition of citizens of Evansdale, Indiana, for the reduction of the duty on salt—to the same committee.

Also, the petition of soldiers of Pikeville, Indiana, against the pas-

sage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

By Mr. HOUK: The petition of citizens of Tennessee, against the passage of the sixty-surgeons pension bill and for the passage of the Geddes bill—to the same committee.

By Mr. HOUSE: Resolution of the Tennessee State board of health, asking the continuance of the National Board of Health—to the Committee on the origin, introduction, and prevention of Epidemic Diseases in the United States.

By Mr. JOYCE: The petition of citizens of Vermont, that a pension be granted Alfred M. Magoon—to the Committee on Invalid Pensions.

Also, the petition of James A. Dickey, for arrears of pension—to the same committee.

By Mr. KETCHAM: The petition of Adolph Joseph and 20 others, citizens of New York, against the passage of the sixty-surgeons pension bill—to the same committee.

By Mr. LAPHAM: The petition of wool-growers of the United States, for the passage of the Eaton tariff-commission bill—to the Committee on Ways and Means.

By Mr. EDWARD L. MARTIN: The petition of J. B. Slaymaker and others, for the passage of a law regulating interstate commerce—to the Committee on Commerce.

Also, the petition of C. Gundy Brown and others, for a revision of the patent laws—to the Committee on Patents.

Also, the petition of C. Gundy Brown and others, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of C. Gundy Brown and others, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of George T. Dodd and 392 others, for an appropriation for the improvement of Indian River, Delaware—to the Committee on Commerce.

By Mr. McMAHON; The petition of Edward Kimball and others, citizens of Butler County, Ohio, for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. MONEY: The petition of Mary A. Wortham, for a bounty-land warrant—to the Committee on Military Affairs.

By Mr. PRICE: The petition of citizens of Muscatine County, Iowa, for a law to protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. ROSS: The petition of citizens of New Jersey, for a reduction of the tax on cigars—to the Committee on Ways and Means.

Also, the petition of citizens of New Jersey, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. ROTHWELL: The petitions of James Eason and others, and of M. Y. Buchanan, V. Rollins, and 18 others, for the passage of a bill to make the Commissioner of Agriculture a Cabinet officer—to the Committee on Agriculture.

Also, the petition of O. P. Philips and 7 others, citizens of Missouri, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of John Starkey and others, citizens of Missouri, for the amendment of the patent laws—to the Committee on Patents.

Also, the petitions of W. S. Christian, Thomas Boyd, and 21 others, and of Charles B. Comstock and others, citizens of Missouri, for legislation to regulate interstate commerce—to the Committee on Commerce.

By Mr. J. T. UPDEGRAFF: The petition of William Thompson and others, citizens of Belmont County, Ohio, for legislation to promote the interests of agriculture—to the Committee on Agriculture.

By Mr. UPSON: The petition of citizens of Texas, for legislation to suppress the disease among cattle known as pleuro-pneumonia—to the same committee.

By Mr. VANCE: The petition of T. G. Hensen and others, for a post-route from Rutherfordton, North Carolina, to Spartanburgh, South Carolina, via Big Island—to the Committee on the Post-Office and Post-Roads.

By Mr. WILSON: The petition of James Singleton and 40 others, of West Virginia, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

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## IN SENATE.

### FRIDAY, *February* 4, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

#### NAVAL APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes.

On motion of Mr. WINDOM, is was

*Resolved*, That the Senate insist on its amendments disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

*Ordered*, That the conferees on the part of the Senate be appointed by the Vice-President.

And Mr. WINDOM, Mr. DAVIS of West Virginia, and Mr. WITHERS were appointed the conferees.

#### INDIAN APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1882, and for other purposes.

On motion of Mr. WALLACE, it was

*Resolved*, That the Senate insist on its amendments disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

*Ordered*, That the conferees on the part of the Senate be appointed by the Vice-President.

And Mr. WALLACE, Mr. BECK, and Mr. WINDOM were appointed the conferees.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 6729) to confirm a certain private land claim in the Territory of New Mexico was read twice by its title, and referred to the Committee on Private Land Claims.

The bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish culture was read twice by its title, and referred to the Committee on Printing.

The joint resolution (H. R. No. 388) to provide for publishing an edition of Hayden's Atlas of Colorado was read by its title.

Mr. ANTHONY. That joint resolution, I believe, is *in totidem verbis* like one passed by the Senate last week. I ask that it be put upon its passage.

Mr. EDMUNDS. I object.

The VICE-PRESIDENT. Objection is made.

The joint resolution was read the second time, and referred to the Committee on Printing.

#### EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting copies of letters from Agents Miles and Hunt, of the Cheyenne and Arapaho, and Kiowa, Comanche, and Wichita agencies, Indian Territory, respectively, in connection with the deficiency estimate transmitted in his letter of the 21st ultimo; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a communication from the Chief Signal Officer, recommending an appropriation for the purchase of the Cheyenne and Black Hills Telegraph Company's line; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting copies of papers relative to the abandonment of Camp Sheridan, Nebraska; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, transmitting a communication from General A. H. Terry, commanding the Department of Dakota, asking an additional appropriation of $45,000 to complete the post of Fort Assinaboine, in Montana Territory; which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Secretary of War transmitting, in compliance with section 232 of the Revised Statutes, an abstract of the militia force of the United States; which was ordered to lie on the table, and be printed.

#### PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a letter from the Secretary of War, transmitting the memorial of Alanson M. Randol, captain First Artillery, brevet colonel United States Army, remonstrating against the passage of the bills to restore to the Army William A. Winder and Dunbar R. Ransom, late captains Third Artillery; which was referred to the Committee on Military Affairs.

Mr. KERNAN presented the memorial of C. H. Hull and others, Union soldiers, of New York, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims and the amendments thereto; which was ordered to lie on the table.

Mr. PENDLETON presented the petition of T. E. Hoyt and others, of Ashtabula, Ohio, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

He also presented the petition of the Trades and Labor Assembly of Cincinnati, Ohio, praying for the passage of the joint resolution (H. R. No. 239) to provide for the enforcement of the eight-hour law; which was ordered to lie on the table.

Mr. SAUNDERS. I present the petition of Mrs. Louisa L. Correll, Mrs. Mary Converse, and some 64 others, praying Congress to remove the legal disabilities imposed by the law-makers of the General Government in depriving them of their inherent right of suffrage. The petitioners also ask the Senate to appoint a standing or select committee, to whom papers relating to women's rights may be referred. In the absence of any such committee, I move that the petition be referred to the Committee on Rules, to whom, I believe, a resolution was referred the other day on this same subject, and I hope we shall have a report on it.

The VICE-PRESIDENT. Similar petitions have heretofore gone to the Committee on the Judiciary.

Mr. SAUNDERS. I have no objection to the reference to that committee. The reason why I suggested a reference to the Committee on Rules is because a resolution for the appointment of a committee on this subject was referred to that committee. Let it take the same course that has been adopted in reference to such petitions heretofore.

The VICE-PRESIDENT. The petition will be referred to the Committee on the Judiciary.

Mr. McDONALD presented the memorial of John R. Carr and other citizens of Rushville, Indiana, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

Mr. McMILLAN presented a resolution of the Legislature of Minnesota, in favor of an appropriation for the construction of locks and dams at Goose Rapids on the Red River; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Stillwater, Minnesota, praying for an appropriation of $1,000,000 to be expended during the fiscal year ending June 30, 1882, for the improvement of the Mississippi River, one-half of said amount to be used from Saint Paul to the Des Moines Rapids, and the remaining half from the Des Moines Rapids to the mouth of the Illinois River, all to be expended under the direction of the Secretary of War; which was referred to the Committee on the Improvement of the Mississippi River and its Tributaries.

## REPORTS OF COMMITTEES.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2044) granting a pension to Martha J. Porter, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. DAVIS, of Illinois, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 859) to authorize the claimants to certain lands in Los Angeles County, California, to submit their claims to the United States district court for that State for adjudication, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. BAYARD. I am instructed by the Committee on Finance, to whom was referred the bill (H. R. No. 4592) to facilitate the refunding of the national debt, to report it with amendments. I will take leave to ask the attention of the Senate to this bill as soon as it shall be printed, because in view not only of the importance of the subject but of the necessity for prompt action upon it, I propose to call it up for the consideration of the Senate at an early day, next week—as early as possible.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (S. No. 8) granting a pension to Elizabeth T. Winder, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 2052) for the relief of Alfred E. Jaques, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PLATT. The Committee on Pensions, to whom was referred the bill (H. R. No. 3772) granting a pension to Samuel Burwell, have directed me to report it adversely. At the request of a member of the committee, I ask that the bill be placed upon the Calendar.

The VICE-PRESIDENT. The bill will be placed upon the Calendar with the adverse report of the committee.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (S. No. 1673) granting a pension to Leonhard Weber, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BLAIR. I am instructed by the Committee on Pensions, to whom was referred the bill (H. R. No. 788) for the relief of James J. Ferris, to submit an adverse report thereon. In order to guard against any misapprehension upon the part of the applicant, I will say that this bill is adversely reported for the reason that the Pension Department has since taken action on the matter.

The report was ordered to be printed, and the bill was postponed indefinitely.

Mr. PENDLETON. I am instructed by the Select Committee on the bill (S. No. 227) to provide that the principal officer of each of the Executive Departments may occupy a seat on the floor of the Senate and House of Representatives, to report the bill with an amendment. I give notice that I shall, at a convenient time and as soon as possible, call up the bill for discussion.

Mr. VANCE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 881) for the relief of Judson S. Post, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

## NATIONAL MUSEUM.

Mr. MORRILL. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 7098) making an appropriation for the flooring of the National Museum, to report it without amendment. The bill has already passed the House, and I desire that it may be read, and I ask for its immediate consideration.

Mr. DAVIS, of West Virginia. Let the bill be read for information.

The Chief Clerk read the bill.

Mr. MORRILL. I will say that this bill should have been considered yesterday. It is important to have its immediate consideration because, although the sum appropriated is no more than will be required for putting tiles in the Museum, it is thought to be exceedingly desirable that the bill should pass now, in order that a certain portion of the building may be available for the 4th of March.

Mr. DAVIS, of West Virginia. I recognize the necessity for immediate action, and therefore do not object, but I should like to ask the Senator if this appropriation covers the entire expense for tiling the museum?

Mr. MORRILL. I so understand it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $26,000 to place a flooring of marble and encaustic tiles in the large halls of the National Museum building, to be expended according to the plans and under the direction of the building commission of the Board of Regents of the Smithsonian Institution, under whose supervision the museum has been constructed.

Mr. DAVIS, of West Virginia. I noticed from the reading of the bill that it provides for only one room, which is a large part of the building. I do not know why there should be two parts of the appropriation. I ask the Senator how that is?

Mr. MORRILL. I must say that I have not made particular inquiries as to that. A portion of the building, I understand, is to be covered with a pine floor or concrete. This appropriation is all that is asked for, and it is all that I know anything about.

Mr. WITHERS. I will state to the Senator from West Virginia, with the permission of the Senator from Vermont, that this is designed simply to provide a paving for the central hall of the museum building. Other portions of it are to be floored with plank. The central building is now completed with a flooring merely according to the original plan. It is designed to pave it with marble and tiles. That is the whole of it.

Mr. MORRILL. And if the bill passes to-day, I understand there is some chance for the completion of the flooring in time for the inauguration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## HAYDEN'S ATLAS OF COLORADO.

Mr. ANTHONY. I am directed by the Committee on Printing, to which was referred the joint resolution (H. R. No. 388) to provide for publishing an edition of Hayden's Atlas of Colorado, to report it without amendment and recommend its passage. I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## CIVIL SERVICE.

Mr. VEST. I am instructed by the Select Committee to examine the several branches of the Civil Service to submit an amendment to be proposed to the general appropriation bill. I move that it be referred to the Committee on Appropriations and printed.

Mr. EDMUNDS. I should like to hear it read.

The Chief Clerk read the proposed amendment, as follows:

> The sum of $25,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated to enable the President to execute the provisions of section 1753 of the Revised Statutes for the promotion of efficiency in the different branches of the civil service.

The amendment was referred to the Committee on Appropriations, and ordered to be printed.

## BILLS INTRODUCED.

Mr. PLATT asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2152) granting a pension to Phebe W. Ross; which was read twice by its title, and referred to the Committee on Pensions.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2153) relinquishing the right of the United States to an island therein named; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. EATON asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 151) directing the Secretary of State to withhold payment of certain Mexican awards; which was read the first time by its title.

Mr. EATON. I desire the joint resolution to be read at length.

The joint resolution was read the second time at length, as follows:

*Resolved by the Senate and House of Representatives of the United States in Congress assembled*, First. That the Secretary of State be, and is hereby, directed to withhold any further distribution of the sums of money paid to the Government of the United States by the Government of Mexico under the convention of July 4, 1868, between the two said governments, so far as the same are applicable to the claims of Benjamin Weil and La Abra Silver Mining Company, allowed by the commission organized to carry said convention into effect, until the further action of Congress.

Second. That the Secretary of State be, and is hereby, directed to invest so much of the money as is applicable to the claims mentioned in the preceding section in bonds of the United States bearing the lowest rate of interest, which, with the accumulation thereof, shall be held in trust to answer such further disposition of the same as Congress may direct to be made, or such further proceedings as may be had by the two said governments in the premises.

The VICE-PRESIDENT. The joint resolution will be referred to the Committee on Foreign Relations.

Mr. EATON. No, I do not wish a reference. I wish to say one word. I have received information which I regard as reliable, that these two claims are absolutely frauds upon the Government of Mexico. Installments have already been paid on those claims. There is money now in the hands of the Secretary of State for distribution, and I am informed that certain installments will be called for next week. Therefore, if my opinion be correct with regard to the fact that these claims are fraudulent, the joint resolution ought to pass, and the money ought to be withheld until further action, and placed in securities of the United States to await the further action of Congress. I should be glad to have the joint resolution acted upon to-day. However, I shall not ask for action now, but let it be printed, and I shall call it up to-morrow during the morning hour.

The VICE-PRESIDENT. The joint resolution will be printed and lie on the table subject to the call of the Senator from Connecticut.

## POST-ROUTE BILL.

Mr. HARRIS and Mr. JONAS submitted amendments intended to be proposed by them to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 5097) appropriating money toward the expense to be incurred in the centennial celebration of the battle on Groton Heights, and for other purposes; in which it requested the concurrence of the Senate.

## STEAMER JEANNETTE.

Mr. McPHERSON. I desire to call up for consideration the bill (S. No. 2131) appropriating money, to be used under the direction of the Navy Department, to prosecute a search for the steamer Jeannette, of the Arctic exploring expedition.

Mr. COCKRELL. I call for the regular order.

Mr. McPHERSON. It will not take more than ten minutes to dispose of the bill, and I say to the Senator from Missouri that it stands entirely alone with respect to its weight for consideration. I hope no Senator will object to its being considered now.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. COCKRELL. I call for the regular order, if the morning business is through.

Mr. McPHERSON. I shall ask, then, the indulgence of the Senate for a vote to take up the bill.

The VICE-PRESIDENT. The question is on the motion of the Senator from New Jersey, that the pending order, being the consideration of the Calendar of General Orders under the standing order of the day, be postponed in order that the bill indicated may now be considered.

Mr. McPHERSON. I think I can make it perfectly clear when the bill is brought before the Senate that it is one entitled to immediate consideration by the Senate.

Mr. McDONALD. What is the bill?

The VICE-PRESIDENT. It will be reported by title.

Mr. EDMUNDS. Let it be read at length.

The Chief Clerk read the bill.

Mr. McPHERSON. I wish simply to state before the motion is put to the Senate that it seems to me as though the Senate could scarcely afford to delay action upon a measure so important and humane as this. The vessel Jeannette, which was purchased, repaired, and fitted out by Mr. James Gordon Bennett, whose progressive spirit in all things is entitled to all commendation, has not been seen since the 2d day of September, 1879. Grave doubts are entertained as to her safety. A call has been made upon the Government for succor, for some vessel to be equipped and sent to the Arctic regions for the purpose of discovering whether the Jeannette is in need of aid or not. I think the experience of the past fully demonstrates that it is the duty of this Government to provide relief for those people if they are in a suffering condition. We should remember that in the case of Sir John Franklin's expedition an appeal was made to the people of this country for relief one year before the first expedition to relieve the exploring party sailed. If that relief had been granted when the appeal was first made it would have saved, perhaps, two hundred lives, but the relief was not granted in time, and the consequences we all know.

I do not believe there is a single Senator in this body who would refuse an appropriation of money for so meritorious and humane an object; and unless this action be taken immediately it will be impossible for the bill to be passed by the House and the aid so much needed, perhaps, accorded to this expedition.

The VICE-PRESIDENT. The question is on the motion of the Senator from New Jersey, that the pending order be postponed in order that the bill named by him may now be considered.

The motion was agreed to.

The VICE-PRESIDENT. The Senator from New Jersey moves that the Senate now proceed to the consideration of the bill named.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 2131) appropriating money, to be used under the direction of the Navy Department, to prosecute a search for the steamer Jeannette of the Arctic exploring expedition.

The VICE-PRESIDENT. The bill is reported from the Committee on Naval Affairs with an amendment, which will be read.

Mr. McPHERSON. I shall offer an amendment as a substitute for the bill, and therefore the amendment reported by the committee will be entirely unnecessary. I desire to state to the Senate that the bill was referred to the Committee on Naval Affairs and was reported back by that committee favorably to the Senate, appropriating $100,000 as the sum deemed to be necessary by the Navy Department to fit out a vessel of war. The vessel designated by the Department was the Wachusett, now in the Pacific Ocean. That vessel could reach San Francisco and could probably be refitted, repaired, strengthened, &c., to do all the necessary work upon this expedition, for the sum of about one hundred thousand dollars. That was the estimate of the Department, and the estimates are here, included in a communication sent by the Secretary of the Navy and addressed to myself, which I should like the Secretary to read.

The Chief Clerk read as follows:

NAVY DEPARTMENT,
*Washington, February 4, 1881.*

SIR: I have the honor to forward the accompanying estimates of the cost of fitting a vessel for arctic search for the Jeannette and lost whalers.

If the Wachusett be selected she will require in—

| | |
|---|---|
| Construction department | $20,000 |
| Engineering | 10,000 |
| Provisions and clothing | 52,000 |
| Equipment and contingencies | 18,000 |
| | 100,000 |

If a whaler be purchased, as is recommended, this amount would have to be increased to cover probable cost; and to prepare her for a more thorough search than can be made by a vessel of war under the most favorable circumstances, there will be required $175,000.

The Navy Department recommends the purchase of a whaler, as the number of men required to man her will be but about thirty, (30,) while not less than one hundred and twenty (120) will be requisite for the Wachusett, thus quadrupling the risk of loss. The Wachusett is also too large and unmanageable in ice for the purpose, and will not be so efficient. She will probably be a loss to the Navy and can be illy spared; while the purchased vessel can be either sold or retained as a useful addition to the Navy.

A similar vessel, the Tigress, was purchased in 1873, to search for the crew of the Polaris, at a cost of $60,000, and $22,000 were expended in preparing her for the purpose, not including any outfits, and was resold to same owners.

Respectfully, &c.,

N. GOFF, JR.,
*Secretary of the Navy.*

Hon. J. R. McPHERSON,
*Chairman Naval Committee, United States Senate.*

Mr. McPHERSON. The bill considered by the Naval Committee and reported back is the bill that has been read by the Secretary, appropriating $100,000. It was the intention at that time to fit out this particular vessel, which could be done at an expenditure of about one hundred thousand dollars; but upon consideration the risk was deemed to be a greater one than was necessary or expedient. The Wachusett is worth about three hundred thousand dollars. The cost of fitting her out will amount to $100,000 more; so that in reality we would place at the risk of the perils of arctic navigation a vessel worth about four hundred thousand dollars. The vessel is too long and too unwieldy for arctic service; would require a great deal of strengthening, and perhaps would be injured by the ice-floes of the arctic seas. There are other vessels now on the Pacific coast, one of them a vessel named the Mary and Helen which has been constructed in Bath, Maine. A description of that vessel has also been furnished me by the Department. The vessel is one hundred and forty-four feet long, has thirty-one feet beam and sixteen and a half feet depth. The capacity for coal in bunkers is one hundred and fifty tons, and in the hold one hundred and fifty tons more can be stowed away. It is solid from the stem twenty-four feet aft; the sides are thirty-three inches in thickness, including the sheathing; and it steams eight knots per hour on four tons of coal per day. It works remarkably well under sail, and the propeller is about double the usual weight in order to resist the ice. The memorandum of the Secretary of the Navy in regard to these steam-whalers says further:

One of these vessels, the Mary and Helen, is in San Francisco at the present time. Another one, the Belvidere, left New Bedford, on the 17th of August last, for the Sandwich Islands, and is probably there now.

These vessels have been built under the direction of men of thirty years' arctic experience, and there are no better vessels for arctic work than these.

The Navy Department upon reconsidering the case have decided to recommend that one of these vessels be purchased, and be fitted out,

and repaired at an expense not to exceed $75,000 in addition to the original cost. I understand these vessels have cost the company under whose orders they were built for the purpose of engaging in the whaling business in the arctic regions about eighty thousand dollars or ninety thousand dollars. They ask the Government $100,000 for one vessel. Two of them now on the way are entirely new vessels, and the one at San Francisco is comparatively new, having seen only one year's service.

This vessel if purchased by the Government could very easily be sold to the same company for the like service perhaps for a sum of money approximating its cost. So in reality, that is, provided no accident or catastrophe should happen, the entire expense ultimately to the Government will not be an expenditure greater than $75,000 or $100,000. I therefore move on behalf of the committee, although without consultation with its members, because I have not had time to do so, an amendment adopting the view taken by the Navy Department. I move to strike out all after the enacting clause of the bill, and to insert by way of amendment the following:

That the sum of $175,000, or so much thereof as may be necessary, be and is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be applied under the direction of the Secretary of the Navy to the immediate charter or purchase, equipment, and supply of a vessel in the prosecution of a search for the steamer Jeannette, of the arctic exploring expedition, and such other vessels as may be found to need assistance during said cruise.

I desire to say further that there are two whaling vessels that are supposed to be in distress somewhere in the Arctic Sea. Last summer the revenue steamer Corwin, under command of Captain Hooper, was sent to the Arctic regions in search of the whalers, and also to render such aid as might be needed to the Jeannette. Captain Hooper cruised around for several months, but his cruise was unsuccessful. He was forced to return without even having discovered any trace either of the whalers or of the Jeannette. The Jeannette was last seen in the vicinity of Wrangel's Land, and the floes of ice and the storms were so great in that region during the time she was making her cruise that it was almost impossible, in fact impossible, for her to reach Wrangel's Land owing to her insufficiency of strength and power to go through the ice.

Therefore it is proposed to adopt the recommendation of the Secretary of the Navy and purchase one of the whaling ships, fit her out with all the necessary appliances, to go in quest of not only the crew of the lost whalers but also of the Jeannette. In case the Jeannette should be found not to be in a distressed condition it certainly would be to the interest of the project that some relief be granted her. She will need additional coal; she will need additional supplies of fresh provisions. The maimed and the sickly upon board that vessel could be removed and supplied by other and stronger men, and the project itself would be humane in its start, and, while in the interest of humanity, it would perhaps result greatly to the interest of science.

Mr. EDMUNDS. I would suggest to the Senator from New Jersey that the language "in a prosecution of a search" is perhaps not quite adequate in strict law. What we wish to do is not only to authorize the Secretary of the Navy to expend this money, but to authorize him to send this vessel forth with his officers and men, I suppose. Therefore, I think we ought to say instead of "in the prosecution," "for the prosecution of such a search which the Secretary of the Navy is hereby authorized to undertake" so as to make it clear. Probably it will be construed that way now; but in legislating it is well enough to have the language perfectly clear. I suggest that merely.

Mr. McPHERSON. I considered that the language of the amendment covered the idea entirely, but I will accept the modification suggested by the Senator from Vermont.

The VICE-PRESIDENT. The amendment will be so modified.

Mr. EDMUNDS. That will make it perfectly clear at any rate so that there will not be any haggling about it.

The VICE-PRESIDENT. The question is on the amendment of the Senator from New Jersey as modified.

Mr. EDMUNDS. I shall vote for this amendment, and as at present advised, I shall vote for this bill; but I wish to say that I think, whenever I have been present in the Senate when original expeditions have been provided for, or aided, I have always voted against them for experience has proved in the civilized history of mankind that the constant warfare against the north pole which civilized nations are undertaking from time to time is a losing warfare on every occasion, losing in all respects, and that that *quantum* which is gained for science is entirely outweighed by the suffering and loss of life and property (if loss of property can be named in connection with loss of life) by whoever undertakes it. But we did authorize and contribute to in one way and another the sending out of the Jeannette, and, therefore, I am perfectly willing to vote to have a search made to get her out of the difficulty which it was morally certain she would be in, and which it is almost equally certain that this vessel, if she pursues that unfortunate craft to where she may be, if she is above the surface of the seas anywhere with her officers and crew, stands ninety-nine chances in one hundred of being ingulfed and beset in the ice and will require further efforts to extricate her. But we have entered upon the affair, and I am willing as at present advised, to run the risk of trying to get at it once more, and I hope that when we get them if we happily can, we shall be a little cautious about encouraging any such fruitless and destructive expeditions.

Mr. McPHERSON. Mr. President, I am glad to hear the Senator from Vermont propose to vote for the passage of this bill; but I must say that I quite disagree with him in respect to what I think should be the policy of this Government in regard to arctic exploring expeditions. So long as the American people exist and the north pole remains undiscovered, we shall have enterprising and progressive spirits, like Mr. James Gordon Bennett, who will be seeking to find it; and unlike the honorable Senator from Vermont, I expect to live long enough yet to see a Polaris edition of the New York Herald published at the north pole, and I hope this vessel to be sent out in search of the Jeannette will so strengthen and support her that she may be able to reach that desired spot. The north pole will probably be of no more value, when found, to Mr. Bennett than it will be to the Senator from Vermont, therefore his noble yet disinterested endeavor to find it is entitled to and will receive the gratitude of all men. Mr. Bennett has generously given every dollar of money needed to fit out the most perfect expedition which has yet been launched for the discovery of the yet hidden mysteries which surround the pole; and, for myself, I propose to meet his efforts in the same liberal spirit which has characterized his action in all he has done in support of this great enterprise.

And, sir, when we come to consider the experience of the past with respect to our polar excursions or expeditions, we find that the loss of life has been comparatively small, the percentage of loss of life very small in proportion to those who have engaged in these enterprises. The first expedition started out under Grinnell consisted of two brigs, the Advance and the Rescue. They sailed northward until they encountered floes of ice, were frozen in the ice, and floated to the seventy-fifth degree of north latitude and back again southerly to the sixty-fifth degree while confined and tied up in icebergs. During that entire period there was scarcely any loss of life; the vessels became released by reason of the active efforts of those on board by sawing and wedging and the action of the sun, and when they were relieved they started back again upon their cruise.

The second Grinnell expedition, consisting of the Advance alone, was finally abandoned in the northern seas, and her crew started over land by a long and tedious trip and were finally rescued by Captain Hartstein's expedition. That was a relief expedition, sent out for the purpose, whereas, if no relief had been sent, the probability is that the crew of that vessel would have perished.

We all remember the Resolute, which was a part of the Sir Edward Belcher exedition to the arctic seas, a part of his fleet of five vessels. She encountered ice-floes, and was confined in a cake of ice from 1853 till 1855, having been abandoned by her crew, and floated over twelve hundred miles. In 1855 she was discovered and released from her perilous condition; she was brought safely into port, was repaired, and presented to the English Government, she having been a part of the expedition which was fitted out in Great Britain.

I think the experience of the past fully demonstrates that it is possible to reach the north pole by some means, and I believe it appears to be the opinion of scientific men generally that the route adopted by Mr. Bennett—namely, by way of Behring Straits—is the one through which we shall eventually reach the pole, as what are called the Japanese currents are all tending toward the pole, while by the Baffin's Bay route, the one heretofore pursued by all expeditions, the current is outwardly.

I trust and believe that the enterprise of the American people will eventually find the pole, and give us the benefit of the astronomical, meteorological, and geological surveys that they may there be able to make, which I think will be of vast benefit to the people of the world.

The VICE-PRESIDENT. The question is on the amendment of the Senator from New Jersey as modified.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

### HOUSE BILL REFERRED.

The bill (H. R. No. 5097) appropriating money toward the expense to be incurred in the centennial celebration of the battle of Groton Heights, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

### GENERAL U. S. GRANT.

Mr. LOGAN. I desire to call up Senate bill No. 1992, and I move that the present and all prior orders be postponed temporarily for that purpose.

The VICE-PRESIDENT. The Senator from Illinois moves that the pending order, being the consideration of the Calendar of General Orders under the standing order of the day, be postponed.

Mr. INGALLS. It has been postponed already, I understand.

The VICE-PRESIDENT. For the consideration of one bill just passed.

Mr. INGALLS. That could not be done. It had to be postponed generally or not at all.

The VICE-PRESIDENT. It was postponed, but the Senator stated his object to be for the consideration of the bill just passed.

Mr. INGALLS. That could not control the action of the Senate.

The VICE-PRESIDENT. The Chair will submit the question on the motion of the Senator from Illinois.

Mr. COCKRELL. I call for the regular order, and that will test the question.

The VICE-PRESIDENT. As many as favor the motion of the Senator from Illinois will say "ay." [Putting the question.]

Mr. LOGAN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HARRIS. Let the bill be reported by its title, so that we may know what it is.

The VICE-PRESIDENT. The bill will be reported.

The CHIEF CLERK. A bill (S. No. 1992) to place Ulysses S. Grant, late General and ex-President of the United States, upon the retired list of the Army.

The yeas and nays were taken.

Mr. WALLACE, (after having voted in the negative.) I withdraw my vote. I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.]

Mr. HAMLIN. When my name was called I did not vote as the Senator from North Carolina, [Mr. RANSOM,] with whom I was paired, was out of his seat. He has since come in and voted, and therefore I vote "yea."

Mr. PLUMB. On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH,] who was called away from the Senate yesterday. If he were present I should vote "yea."

Mr. TELLER. I am paired on all political questions with the Senator from Georgia, [Mr. BROWN,] and the Senator from Georgia, who is present, [Mr. HILL,] considers this a political question, and therefore I refrain from voting. If the Senator from Georgia [Mr. BROWN] were here I should vote "yea."

Mr. BAILEY, (after having voted in the negative.) I voted inadvertently. I am paired with the Senator from Nebraska, [Mr. PADDOCK.] I therefore withdraw my vote.

Mr. BALDWIN. My colleague [Mr. FERRY] is paired on all political questions—and this seems to have been made a political question—with the Senator from Texas, [Mr. MAXEY.] If my colleague were present, he would vote "yea."

Mr. EATON, (after having voted in the negative.) I was paired with the Senator from New York [Mr. CONKLING] for yesterday; but he seems not to be in his seat, and therefore I withdraw my vote.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The vote will be withdrawn.

Mr. LAMAR. I was not in when the roll-call was made. I should like to say just a word.

The PRESIDING OFFICER. The Senator will proceed if there be no objection.

Mr. LAMAR. I am willing to consider this bill, but I think other matters more important are pressing, and therefore I vote "nay."

Mr. BAILEY. An arrangement has been made by which my pair has been transferred to the Senator from Kansas, [Mr. PLUMB,] and the Senator from New Jersey [Mr. RANDOLPH] is paired with the Senator from Nebraska, [Mr. PADDOCK.] I vote "nay."

Mr. PLUMB. Then I shall vote "yea."

The result was announced—yeas 26, nays 30; as follows:

YEAS—26.

| | | | |
|---|---|---|---|
| Allison, | Davis of Illinois, | Ingalls, | Platt, |
| Anthony, | Dawes, | Jones of Nevada, | Plumb, |
| Baldwin, | Edmunds, | Kellogg, | Rollins, |
| Blair, | Hamlin, | Kirkwood, | Saunders, |
| Booth, | Hill of Colorado, | Logan, | Windom. |
| Burnside, | Hill of Georgia, | McMillan, | |
| Cameron of Wis., | Hoar, | Morrill, | |

NAYS—30.

| | | | |
|---|---|---|---|
| Bailey, | Groome, | Lamar, | Vance, |
| Bayard, | Grover, | McDonald, | Vest, |
| Beck, | Hampton, | Morgan, | Walker, |
| Butler, | Harris, | Pendleton, | Whyte, |
| Call, | Hereford, | Pugh, | Williams, |
| Coke, | Jonas, | Ransom, | Withers. |
| Farley, | Jones of Florida, | Saulsbury, | |
| Garland, | Kernan, | Slater, | |

ABSENT—20.

| | | | |
|---|---|---|---|
| Blaine, | Cockrell, | Johnston, | Sharon, |
| Brown, | Conkling, | McPherson, | Teller, |
| Bruce, | Davis of W. Va., | Maxey, | Thurman, |
| Cameron of Pa., | Eaton, | Paddock, | Voorhees, |
| Carpenter, | Ferry, | Randolph, | Wallace. |

So the motion was not agreed to.

FRANKING PRIVILEGE.

Mr. LOGAN. I desire to call up Senate joint resolution No. 140, which was reported back by the Committee on Post-Offices and Post-Roads yesterday, in regard to the extension of the franking privilege. The resolution was up in the Senate before, referred to the committee, and reported back without amendment; and I should be very glad, if there is no necessity for any discussion upon it, if the Senate would take it up and have action on it. I ask that it be taken up.

The PRESIDING OFFICER. The Senator from Illinois asks consent to take up the resolution he has indicated. Is there objection?

Mr. COCKRELL. I ask for the regular order.

The PRESIDING OFFICER. The regular order is the asking for consent. The Chair understands the call of the Senator from Missouri as in the nature of an objection.

Mr. INGALLS. The regular order has been laid aside by a vote of the Senate; and it is in order for the Senator from Illinois to move this resolution or any other without asking anybody's consent.

The PRESIDING OFFICER. The Chair understands that the custom of the Senate is, when the Calendar is laid aside for a special purpose announced, after that matter has been disposed of the Calendar revives; and the Chair understood that to be practically the ruling of the Vice-President just now when after the suggestion was made by the Senator from Kansas the Vice-President still submitted a motion to lay aside the pending order to the Senate which has been negatived.

Mr. INGALLS. I did not understand the Vice-President to decide that. The Senator from New Jersey asked unanimous consent that the pending order, which was the consideration of cases on the Calendar under the Anthony rule, might be informally laid aside to enable him to take up the Jeannette relief bill. The regular order was called for; objection was made, and the question was submitted to the Senate whether the pending order should be laid aside or not, and decided in the affirmative; and whatever the motive of the Senator from New Jersey might have been, that could not control the action of the Senate. The pending order was laid aside, the other bill was considered; and now I submit respectfully that the Senator from Illinois is in order in moving this resolution, and the Senator from Missouri cannot call for the regular order because it has been laid aside by the vote of the Senate.

The PRESIDING OFFICER. The Chair would remind the Senator from Kansas that although the suggestion which he has now made was made, the Vice-President proceeded to put the question on the motion of the Senator from Illinois to lay aside the pending order the second time, which has just been voted on. The Chair will submit to the Senate the question.

Mr. INGALLS. Will the Chair indulge me one moment? If the ruling of the Chair is correct, I voted under a misapprehension. I understood that the question was upon taking up the bill to place General Grant upon the retired list, and not on laying aside the order. I so voted, and I think that was the understanding of the Senate that we were voting directly upon the bill.

Mr. DAWES. If the parliamentary view of the Senator from Kansas is correct, it would require a vote of the Senate to restore the regular order. I have never known that. If the regular order, though laid aside for a special purpose, is laid aside for the day, we cannot of course resume the regular order without a vote of the Senate.

Mr. INGALLS. Of course not. No parliamentary rule is better settled than that.

Mr. LOGAN. Inasmuch as the Chair has made a ruling I will move the postponement of the present and all prior orders for the purpose of taking up this joint resolution.

Mr. INGALLS. Before that motion is submitted I should like to be advised what the Journal says in regard to the last vote of the Senate that was taken.

The PRESIDING OFFICER. The Chair does not understand that any ruling has been made by him. The Chair merely called the attention of the Senator from Kansas for his consideration in reference to the point he was making to what the Chair understood to have been the course of proceeding of the Vice-President.

Mr. INGALLS. The Chair does not understand me. I asked upon what question the yeas and nays were last called.

The PRESIDING OFFICER. The record so far as it be a record of yeas and nays of the Journal Clerk is:

On motion of Mr. LOGAN to lay aside the pending orders, &c.

That is the motion which the Chair understands to have been voted on.

Mr. INGALLS. I did not intend to vote on that motion; I thought I was voting to take up.

Mr. HILL, of Georgia. I simply wish to say that I voted a moment ago, and I was not aware that I was giving a vote the effect of which would be or might be to displace the pending order, the resolution of the Senator from Alabama [Mr. MORGAN] in relation to the electoral count. I would give no vote to displace that order. If I gave a vote that might displace it, I did so under a misapprehension.

Mr. EDMUNDS. That is not the pending order now, and will not be until half past one.

The PRESIDING OFFICER. The Senator from Illinois moves to lay aside the pending order, indicating his purpose to be to move to take up Senate joint resolution No. 140.

Mr. LOGAN. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS, of West Virginia. Now, will the Chair state the question so that we may vote understandingly?

The PRESIDING OFFICER. The Senator from Illinois [Mr. LOGAN] moves to lay aside the present and all pending orders, he stating the purpose of his motion to be to move to take up the resolution in relation to the franking privilege.

Mr. TELLER. I want to know what the pending order is before I vote.

The PRESIDING OFFICER. The Chair understands the pending order to be the Calendar of General Orders.

Mr. TELLER. All right.

The Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) I am paired with the Senator from Georgia [Mr. BROWN] on political questions. As this seems to be taking that direction, I withhold my vote.

The result was announced—yeas 20, nays 34; as follows:

YEAS—20.

| | | | |
|---|---|---|---|
| Allison, | Burnside, | Hill of Colorado, | Logan, |
| Anthony, | Cameron of Wis., | Hoar, | McMillan, |
| Baldwin, | Davis of Illinois, | Ingalls, | Morrill, |
| Blair, | Dawes, | Kellogg, | Platt, |
| Booth, | Edmunds, | Kirkwood, | Windom. |

NAYS—34.

| | | | |
|---|---|---|---|
| Bailey, | Groome, | Kernan, | Thurman, |
| Bayard, | Grover, | Lamar, | Vance, |
| Butler, | Hampton, | McDonald, | Vest, |
| Call, | Harris, | McPherson, | Walker, |
| Cockrell, | Hereford, | Morgan, | Wallace, |
| Coke, | Hill of Georgia, | Plumb, | Whyte, |
| Davis of W. Va., | Johnston, | Pugh, | Williams. |
| Farley, | Jonas, | Saulsbury, | |
| Garland, | Jones of Florida, | Slater, | |

ABSENT—22.

| | | | |
|---|---|---|---|
| Beck, | Conkling, | Paddock, | Sharon, |
| Blaine, | Eaton, | Pendleton, | Teller, |
| Brown, | Ferry, | Randolph, | Voorhees, |
| Bruce, | Hamlin, | Ransom, | Withers. |
| Cameron of Pa., | Jones of Nevada, | Rollins, | |
| Carpenter, | Maxey, | Saunders, | |

So the motion was not agreed to.

COUNT OF ELECTORAL VOTES.

The PRESIDING OFFICER. The hour of half-past one having arrived, the Senate resumes the consideration of the unfinished business of yesterday, being the resolution of the Senator from Alabama, [Mr. MORGAN,] which will be read.

The Chief Clerk read as follows:

*Resolved by the Senate, (the House of Representatives concurring,)* That the President of the Senate is not invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States so as to determine what votes shall be received and counted or what votes shall be rejected.

The PRESIDING OFFICER. The question is, Will the Senate agree to this resolution? upon which the yeas and nays have been ordered.

Mr. EDMUNDS. Mr. President, I infer from something that was said by some Senators last evening in regard to the fact that several Senators present in the Chamber did not vote on the passage of the resolution, or whatever the question then was, that it was supposed that those Senators had a purpose or intent to obstruct the action of the Senate. For one, I wish to disabuse the minds of Senators on that subject, and to say that so far as I am concerned, and so far as I know as to others, any such impression is groundless.

Mr. THURMAN. Mr. President, I rise to a question of order. I have no objection to the Senator from Vermont going on by unanimous consent; I am willing to consent for one; but the question is on the passage of the resolution; the yeas and nays have been called; one vote has been taken; members have answered to their names, and certainly no remarks are now in order except by unanimous consent.

The PRESIDING OFFICER. The Senator from Vermont proceeds by unanimous consent, as the Chair understands.

Mr. EDMUNDS. Mr. President, I do not proceed by unanimous consent, with great respect to my friend from Ohio and to the Chair. The yeas and nays were ordered; all the names that answered on the roll were called, and it turned out that there was no quorum of the Senate present for action. The call of the names of Senators, therefore, entirely fell, and the Chair has restated the question as he ought to do, and stated that the yeas and nays have been ordered and they have to be taken from the beginning, and until the first name on the roll-call answers I am entitled to be heard.

The PRESIDING OFFICER. The Chair will submit the question to the Senate whether the Senator from Vermont is entitled to proceed.

Mr. THURMAN. Then it is debatable. I wish to say in support of my point of order—I believe I am entitled to state it——

Mr. EDMUNDS. Of course it is open to debate.

Mr. THURMAN. I wish to say that yesterday the yeas and nays were ordered; the roll was called; Senators answered to their names; a quorum did not vote; and before anything further was done, except some little skirmishing, the Senate adjourned. The Senate could do nothing but call the roll or adjourn, if there was not a quorum. I do not forget a ruling—for I made it myself and was sustained by the Senate—that the fact that a quorum has not voted is not conclusive of the fact that a quorum is not present.

There can be no question that the Senate could not have gone on last night, because the only things that were in order, if there were no quorum present, were to call the roll and enforce attendance, if the Senate saw fit to enforce it, or to adjourn. The Senate adjourned. It may be that there is a difference because the Senate is now met on another day, and it is presumed that there is a quorum present or we should not be transacting business. That may raise some doubt about it. It may be that my point is not well taken on that ground; and as I do not want to take up time, on the suggestion of the Senator who has the resolution in charge, I withdraw the point of order.

The PRESIDING OFFICER. No objection being made, the Senator from Vermont will proceed.

Mr. EDMUNDS. Mr. President, I do not wish to proceed, no objection being made; I wish to proceed as a matter of right and not by by unanimous consent.

Mr. THURMAN. I have withdrawn my point of order.

Mr. EDMUNDS. But the Chair submitted the question. I do not object to its being withdrawn, for I am sure my friend from Ohio on a moment's reflection will admit that it is untenable.

Mr. THURMAN. I believe I can withdraw a point at any time before the yeas and nays are ordered. I have withdrawn it.

Mr. EDMUNDS. If the Chair has withdrawn the submission of the question to the Senate, I will address the Chair and begin again.

The time may come, and I think it will before a great while, when it will be desirable for my friend from Ohio, and his political associates, not to endeavor to exert any very strong tyranny, by force of constructions of rules, over minorities. I stand up for the rights of minorities, as he generally does if he stands up for his party, as he does bravely; and it would be rather a new thing on principles of parliamentary law or on principles of justice, that a question having been put and the result announced showing that no action had been taken at all, and requiring a resubmission of the question to the Senate when it should be in a condition to act, a Senator should not be entitled to speak, or to move amendments, or to do whatever under the general rules he would be entitled to do. I never heard of such a point before, and I doubt if I shall ever hear of it again.

That being dismissed, Mr. President, I will proceed to state what I was about to state before. There seemed to be an impression last evening, that Senators who did not vote for or against this resolution were resorting to what are called filibustering or obstructing tactics; and I was saying that so far as I am concerned, and so far as I know or believe, that was a false impression. I certainly—and I believe I can say so for every other Senator on this side of the Chamber—had no disposition to exert what sometimes may be a right and a duty, on this occasion, by any step which would tend to prevent the Senate from coming to a vote in the ordinary way, after suitable discussion, and after trial of such amendments as Senators choose to suggest.

But I felt for myself, and I presume a good many other Senators felt, that after we had asked of the gentleman in charge of this performance what was the object to be gained under existing circumstances, what was the danger to be averted under existing circumstances, and got no reply, and taking that in connection with the fact that differing from every other species of business before this body, this resolution had never been sent to any committee, had never been reported from any committee, but was, as is universally understood, the midnight work of a secret conclave—more or less secret I will say—of the body of the people who have been undertaking to govern this country for the last four years in that way, there was good ground to be a little shy of leaping before we came to the stile, without going into any declarations, however true they might be, upon abstract questions, unless we went into the whole subject and covered it, and then covered it by the report of a committee that should agree in telling us precisely what the language meant, precisely what it implied, and precisely what implications should not be drawn from saying one thing and not saying another, when that other thing was part of the transaction referred to.

In that state of the case, with my construction of this resolution, believing it to be a true statement as far as it goes, and therefore not wishing to appear by any possible construction to deny it, I did not wish to vote against it. After what I have said also on the matters to which I have referred, I did not wish, and I do not wish and I do not intend, to vote for it, because I think I can see that by an ingenious construction and considering the implications, these two Houses, if they agree to this resolution, are asserting what is tantamount to a doctrine that does not appear on the face of this resolution correctly read as I think; but other Senators, a majority, may read it in a different way and may raise out of it a crop of recognitions of powers neither regulated by statute nor rule that I do not propose to recognize just now.

So I felt justified, as a Senator responsible to the people of the United States and to my immediate constituents that appoint me, in not voting either way upon the proposition, and for those reasons. And I remembered what a distinguished Senator, the chief and head rightly of the democratic party in this Chamber, had said on a former occasion when a similar question of not voting arose; and I think what he then said is my perfect justification upon sound ground of what I omitted to do last night, and I will ask leave to read it.

This was on the 23d of February, 1871, in this body, when a republican Senator who moved to proceed to the consideration of a bill protecting the rights of citizens of the United States to vote for members of Congress and so on—that was the substance of the title, I do not read it with precision because I do not wish to occupy time unnecessarily—and on the question of taking up that bill sundry Senators failed to vote, and the Senate found itself without a quorum voting. Then the Senator who had charge of the bill and wished to take it up, said:

Then I call the attention of the Senate and of the Chair to the rule which imposes upon Senators present the obligation of voting, and in that connection I call attention to the fact that the honorable Senator from Ohio,

Then in brackets, I suppose put in by the Reporter, comes the name—

[Mr. THURMAN,] the honorable Senator from California, [Mr. CASSERLY,] the honorable Senator from Delaware, [Mr. BAYARD,] and the honorable Senator from Virginia, [Mr. JOHNSTON,] all being now in their seats, according to my hearing of the roll have not voted although their names have been called.

Then follows a quantity of cross talk which I would be glad to take time to read but I will not, and I come to the definitive declaration (which what with certain limitations I agree to) of the duty of Senators on some subjects. The Chair had said, although he afterward reversed that ruling, that the names of the not voting Senators should be called just as I believe somebody on the other side asked that they might be called last night. From that the Senator from Ohio [Mr. THURMAN] appealed, and then proceeded to say:

Now, Mr. President, let us see what the result of this rule would be. The result would be that you could introduce a debatable question between the call of the roll and the announcement of the vote. To say that any business can intervene between the call of the roll and the announcement of the vote is to say that the announcement may be postponed indefinitely; because if one kind of business can be interposed another can be interposed. Suppose the Senator from New York calls the attention of the Senate to the fact that certain Senators have declined to vote, and their names are called again and they still decline to vote; what then? What is to be done? Are they to be censured? Are they to be punished in any way? If so, they are at least to have a trial; they are to be heard before they are punished; they are to be tried before they are executed; and you have between the call of the roll and the announcement of the vote the trial of just as many Senators as shall decline to vote. Why, sir, there would be no taking a vote under such circumstances.

Now, sir, this very question was determined on the Virginia bill; this very question was decided on the Virginia bill. On the Virginia bill there was not a democratic Senator voting. They stated the reasons why they did not vote. They stated that they would not vote against the bill because they wished Virginia represented on this floor; but they could not vote for the bill because it contained provisions which, in their judgment, were unconstitutional, and therefore they could not vote for it. They were not the only Senators who did not vote on that bill. There were republican Senators who sat in their seats and did not vote. After that vote was taken the then Senator from Missouri, I think it was, (Mr. Drake,) called the attention of the Chair to the fact that the democratic Senators had sat in their seats and had not voted on that bill, and the Chair then decided that there was no power to compel them to vote. That was the decision; a decision that was acquiesced in by the Senate.

Never in the history of the Senate has there been an attempt made to coerce a Senator to vote. A Senator may have various reasons for not wishing to vote. He may have good reasons for not wishing to vote. Bills come up here upon which he may lack information and not be able to vote one way or the other, and he may withhold his vote. But what is this that we are now told? Here you are asked to take some measures, I suppose, against four democratic Senators. Why take measures against them? Because without them, I believe, you have no quorum. That is the only reason. Where are your sixty-three republican Senators, that you have to assume an extraordinary jurisdiction to punish or compel four democratic Senators to vote in order to constitute a quorum?

If you wish to debate this matter, let it be debated, and let us see what will come of it. I say there is no mode known to the usages of the Senate by which you can compel a Senator to vote. On his own responsibility to his constituents and his duty as a Senator he decides that question for himself.

That, Mr. President, I say is sound sense; but I would add this limitation: I should say that it is within the power of the Senate, not to compel a Senator to vote, because that would be like the old-fashioned illustration of taking a horse to the trough and compelling him to drink; you cannot do it, but you can punish him for a contempt of the Senate in refusing to do his duty in obedience to the rules in not voting, whether he thinks he ought to vote or not. Undoubtedly you have that legal power for the rules provide for it, and I do not take any time now to go into a discussion of the question whether they do or not. I only say that in my opinion the Senator from Ohio stated on that occasion what on all occasions when there is a quorum present every Senator recognizes to be the right and just practice and rule, and that is that every Senator must be left to judge for himself whether he is prepared to take the responsibility then and there of saying "yes" or "no" to a particular conundrum—to borrow the phrase of my friend from Ohio—that is propounded to him.

Now, I agree that emergencies and exigencies may arise when the public business might possibly be interrupted and broken down by saying that you would take no steps to punish Senators for refusing to vote upon important public questions. While therefore I admit that it is within the power of the Senate to punish a Senator for not voting when he is required to vote, I say it is a power that never has been exercised, and that never ought to be exercised except in some extreme public emergency, where it is impossible, after getting everybody present who is physically able to be present, to carry on the public business. With that limitation I think the Senator from Ohio laid down a very sound doctrine, and a doctrine I repeat which when a quorum is present has always been recognized in this body from the beginning of the Government to this day.

I say that, Mr. President, in view of what I had heard that it was supposed that the Senators who did not vote last night were endeavoring to resort to tactics of obstruction and seeking to defeat the measure in that way. I disclaim it for one. I think I can disclaim it for all, although I have no special authority. There has not been any conclave that I have known or heard of, where a comparison of views could be noted. It might be submitted to the next conclave that invents another resolution on this or some other subject on the other side of the Chamber for their consideration.

So much for that. Having said that I do not intend for one to take any responsibility in respect of saying "yes" or "no" to this abstract half proposition which on one interpretation of it I would vote for cheerfully, and which on another interpretation of it by way of implication I would vote against; and I do not see the necessity at this present time of making haste to make a declaration upon this important subject unless you make one, as I endeavored to have the Senate do yesterday without any success, that is comprehensive and undertakes to cover the subject.

What gain are you to make, Mr. President, suppose this resolution had been passed through both Houses now? It is a resolution which undertakes to declare rights, and there is carefully excluded from it the usual statement that it is the expression of an opinion, but it purports to be—whether correctly or not is another question—the declaration of a fact, the settlement of a question of right. How are you going to settle the question of the right of the President of the Senate in his constitutional character under this clause of the Constitution to which we are referring, by a concurrent resolution of the two Houses? Does that make law? It does in a mob; it does with a revolutionary party that may be determined to seize power and to centralize it at all hazards in two bodies of men that happen to be assembled at the national Capitol; but when you look it in the face it would be a little difficult for the Senator in charge of this resolution or anybody else to say that you could produce any legal effect by any declaration of the two Houses of Congress upon the right of another person or officer under the Constitution of the United States to do or not to do this thing. Suppose you were to reverse the resolution, and make it declare that it was not only the right but the duty of the officer named in the Constitution, the President of the Senate, to determine upon the opening and computation of these votes which were legal votes and which were not, and suppose the President of the Senate should think otherwise, what could be done about it? What force has it; whom does it bind? I should be glad to know.

You can by your rules say that the conduct of particular Senators or all Senators—of course it would have to be equal—shall be so and so, and that if the Senators affected by that arrange their conduct in a different way, you proceed to punish them or censure them, or whatever it may be. You have the power to expel them for misbehavior. But where do you get the power to expel the President of the Senate of the United States when he happens to be the Vice-President under the Constitution? Suppose you were to declare, as I said a moment ago, that it was the right and the duty of the President of the Senate, he being now the Vice-President of the United States and by the Constitution and not by any will or power of ours the president of this body, to decide whether or not the vote of Georgia shall be counted as an effective element in this presidential election; and suppose when the day comes, that resolution having passed, the President of the Senate, over whose conduct when that edict is measured by the Constitution we have no control at all, should say "it is not my right, it is not my duty to decide whether the vote of Georgia is a legal vote or is not a legal vote," what are you going to do? What measures are you going to take to render your declaration effective? Is it not a mere *brutum fulmen*? Can it be followed by any legal consequences or any consequences of fact even in the history of the proceeding? I take it not, clearly. And if it would be true put in that way, it is equally true put in the negative, that the President of the Senate has no right to determine whether the vote of the State of Georgia is legal or illegal. You have not taken a single step in advance. If the resolution is put in the form in which all such resolutions hitherto have been, as an opinion of one or both Houses, it has the weight and force of an opinion; but when you put it in the form of an edict as this literally is—whether it will bear that legal construction I do not know—the case is different. As I said the usual expression of opinion of the Senate and the House of Representatives is, I assume carefully, excluded from it. When you put it in the form of an opinion it goes as an opinion; when you put it in the form of an edict the Constitution says that you shall not pass any edicts that shall have any effect until those edicts are submitted to another representative of the people in a free government and another representative of the States in a free government for his approval. You do not propose to do it.

Therefore, Mr. President, as an edict, taking this thing literally, however true it may be stripped of all implications and negatives pregnant, it is absolutely void. As an opinion if it were expressed with any considerable unanimity it undoubtedly would have great weight and would commend itself to the judgment of anybody whom it affected; but as a command having the force of law compelling obedience, as laws only can compel obedience by punishment for an infraction of them, it is an absolutely void act.

But, as I said, I have had no disposition to delay the action of the Senate on this resolution further than was necessary to bring its various points to the attention of the Senate, and to endeavor, if we were to express any opinion about this business at all, to express one that would cover the subject. I believe now I am done with it.

Mr. THURMAN. Mr. President——

The PRESIDING OFFICER. Before the Senator from Ohio proceeds, the Chair craves leave to make one observation on the question of order that just now arose.

When the question came up, the first impression of the Chair was that the roll-call having been ordered and having begun, although no quorum was declared, nothing else was in order except the proceeding provided for in the rules in the case of the declaration of no quorum, and that the proceeding to a new roll-call was in fact but a continuance of the original proceeding into which no other business could be injected. But on reflection, the Chair is now clearly of the

opinion that as the roll-call disclosed no quorum present when it was made, it also disclosed that the original submission of the question to the vote, and the whole call of the names being without a quorum was informal and inoperative, and therefore that after the call of the Senate had disclosed the need of a quorum the question was open to debate and to amendment or remarks or any other senatorial action as if the original roll-call had not taken place. Therefore the Senator from Vermont was in the exercise of his right as a Senator in proceeding to debate the question without asking any consent.

Mr. THURMAN. Mr. President, I have refrained from discussing this question; I did so all day yesterday, except to make a few observations that did not occupy five minutes, I think, of the time of the Senate, and I was in hopes that I should not be called upon to say anything more about it and I would not now but for the speech which the Senator from Vermont has just delivered. I had provocation enough yesterday, if I had been disposed to go into a political discussion, to make some remarks, and I have provocation enough now; but I do not now intend to take up any considerable time of the Senate; I shall be very brief indeed.

Mr. President, I propose to go backward in reply to the points made by the Senator from Vermont. His first objection to this resolution is that he says it is an edict, and in the same sense he says as an edict it is absolutely void; it is *brutum fulmen*. Well, if that is true, then it can only be the expression of an opinion, the opinion of the Senate and the opinion of the House of Representatives, if the House concur in the opinion of the Senate. So, taking the Senator's own logic, this is nothing but the expression of the opinion of the two Houses upon this great constitutional question, and I understand him not to deny at all that it is competent for the two Houses to express their opinion upon a constitutional question. He could not deny that in the face of the history of this country or of the history of England.

Why, Mr. President, the established mode of procedure in Parliament was to bring in resolutions, declaratory resolutions, and when they had passed then to frame measures pursuant to those resolutions, and that was the custom in the Congress of the United States long after I first knew it. Who can forget the resolutions offered again and again and upon which the whole debate took place, almost before anything in the shape of a law was brought in? Who forgets Henry Clay's celebrated resolutions which resulted in the compromise act on the subject of the tariff and put an end to nullification? Who can forget his celebrated resolutions of 1850? Who can forget the whole history of congressional proceeding which shows on almost every page of it resolutions declaratory of principles without one single word of proposed legislation in them? It would be a new idea indeed that the Senate of the United States and the House of Representatives could not express their opinion upon the Constitution of the United States by a resolution.

I am not at all afraid, Mr. President, that that point made by the Senator from Vermont will influence the minds of Senators here. This does not profess to be an edict, as the Senator says, and it is the sheerest refinement in the world, the merest hypercriticism to say so of this resolution. It is a declaration of the opinion of the Senate, and if the House shall concur in it, it is a declaration of the opinion of the House and it is nothing more, and it is just as much so as if it were said "it is the opinion of the Senate," and is also the opinion of the House if the House concur in it, that the President of the Senate has no right to decide upon these votes. That is all there is in it.

But there is another thing that troubles the Senator from Vermont, and for that, forsooth, he cannot vote either yea or nay; and that is he imagines that this resolution came from a caucus, as if his party never, never held a caucus. Why, sir, if we were to believe the newspapers, his party have held a caucus on this very resolution and decided to defeat it if they can. I do not say it is so, but it is in the newspapers to that effect; I do not pretend to say it is so; but to hear the Senator from Vermont talking about caucuses! Has he forgotten when a Senator from Ohio, then my colleague, the chairman of the Committee on Finance, brought from a caucus one of the most important measures that ever passed the Congress of the United States, the resumption act, and brought it into this Senate without ever consulting the democratic members of the Finance Committee at all, and put it through the very day on which it was laid on our tables and refused positively to explain the measure and to tell what it meant? Complaint is made that we do not say what we mean by this resolution. No explanation is necessary; but there was a great measure, a measure that might affect the fortunes of millions of men in this country, brought out of a caucus, matured in caucus and agreed upon in caucus, and if the rumors are correct, the chairman of the Finance Committee who had charge of that measure was compelled to swallow it against his will, and to advocate it against his will—brought into the Senate and passed through before sunset of the day on which it was laid on our tables and with the most positive refusal of the chairman who had it in charge to say what that bill meant.

Mr. President, I have heard some curious things about that. When the friends of the late chairman who passed that bill were advocating his claims to the Presidency last year the great argument in his favor was that he was the author of the resumption measure. I have heard that title disputed. I have heard it said that he was not the author; I have heard it said that it was crammed down his throat very much against his stomach; I have heard it said that the caucus overruled his objections to the measure and compelled him to bring it into the Senate and to advocate it and to pass it into a law, and that that same caucus decided that there should be no debate upon it on the part of those who advocated the measure. And yet the Senator from Vermont, who was here, the Senator from Vermont who was in the Chamber when that thing passed, the Senator from Vermont to whom the authorship of that measure I have heard in a large degree attributed, finds himself shocked at the idea of a democratic caucus!

But, Mr. President, enough of that. Now the Senator has been pleased to read some remarks that I made in 1871 when I declined to vote, when four of us declined to vote. Under what circumstances did we decline to vote? I believe there were but nine democrats on this floor then; I am not quite certain that there were that many. Night after night, when there were sixty-three republican Senators and only nine democrats, had we sat here and made by our votes a quorum when nearly one entire half of the republican Senators were in their beds. We got tired of it that night, away towards midnight, and we said we would not vote and we did not vote; that is, all of us did not. The Senator from Delaware, [Mr. BAYARD,] more law-abiding than my Irish friend Casserly and myself, did vote; and I do not know but that the Senator from Virginia [Mr. JOHNSTON] voted—I am not quite sure about that—but Brother Casserly and I did not vote. The reason was stated by me, and I shall never forget it, because the late Senator from Massachusetts (Mr. Wilson) came around to me and said, "You were just right in what you have said," which was that we would not sit here night after night and away into the night, nine members of us, and make a quorum, when thirty republican Senators were in their beds. That was it. It was no intention to fillibuster; it was no disposition to resort to obstructive measures; it was no disposition whatever by irregular methods or irregular modes to stop the legislation of the Senate. It was a measure necessary for our own protection that we should not be made mere hewers of wood and drawers of water to keep a quorum in the Senate when one-half of the republican members and more were quietly sleeping in their beds.

Mr. President, the Senator from Vermont has been pleased to read some remarks that were made on that occasion, in which I said that you could not compel a Senator to vote, and the argument that I made that to bring up that question before the announcement of the vote would be to indefinitely postpone the announcement of the vote. What I said then was perfectly correct; it would be to indefinitely postpone it. But how stood the rule then? The rule then, sir, was as follows; it was Rule 16:

> When the yeas and nays shall be called for by one-fifth of the Senators present, each Senator called upon shall, unless for special reasons he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question.

And that was all of it. Under that rule I said you cannot interpose this question as to the dereliction of duty of a Senator between the roll-call and the announcement of the result; and I was right, perfectly right. But what has taken place since then? The Committee on Rules, and if I am not mistaken the Senator from Vermont was one of them, have seen fit to change that rule, and, as if to meet the very argument that I made on that occasion, they have put here Rule 17 in addition to the old Rule 16:

> When a Senator, being present and declining to vote when his name is called, shall be required to assign his reasons therefor, and shall so assign them, the presiding officer shall thereupon submit the question to the Senate: "Shall the Senator, for the reasons assigned by him, be excused from voting?" which shall be decided without debate.

And now, sir, comes this clause, put in, it seems, to answer the very argument which I made and which the Senator has read:

> And these proceedings shall be had after the roll shall have been called and before the result of the vote is announced.

There it is, sir. By rule of the Senate they knocked my argument to pieces, and if I am not mistaken my friend from Vermont was one of the framers of this new rule. In view of that, it does not do very well for him to read the argument I made in 1871, when there was no such rule here.

But, Mr. President, I do not want to take time, and I shall say no more.

Mr. EDMUNDS. Mr. President, my learned friend from Ohio has, with his usual skill, a little missed the point of my remarks. I was not paying especial attention to the question of what the Senate could or could not do last night before the result of the roll-call was announced; I believe I said nothing about it last night; but the point that I was endeavoring to attract the attention of the Senate to was what the Senator from Ohio had said, and what he has now again justified when you weigh his remarks, that every Senator must be the judge for himself of the cause and occasion of his voting or declining to vote. That is it. Upon that the Senator spoke bravely and well, and he has not thought it necessary to withdraw any of the observations that he made upon that point. It was equally within the power of the Senate of the United States on the occasion to which he refers, if the rules were different then from what they are now—I do not know that they were, I assume as he says they were that they were—to punish him, as it is within the power of the Senate today to punish me if I do not vote, being required to do so, in the method provided by the rules, for not doing it. The rule declared then, as it does now and as it always has, that when the roll-call on a question submitted is going on, it shall be the duty of every Sena-

tor to respond "yes" or "no," without debate, to that question. That is what it says, just as the other rules of the Senate say that reports of committees shall come in at a certain time and that the unfinished business shall be taken up at a certain hour,—rules which every day we disregard and disobey, because the general body of the Senate is willing not to enforce them for that occasion. The same precisely applies to the question of voting. As I stated before, there is not a single day in the sessions of the Senate when Senators on both sides of the Chamber do not fail to respond to their names, being present when the roll is called; and although I do not doubt their power, for the very reason so well stated by the Senator from Ohio ten years ago, that every Senator "on his own responsibility to his constituents and his duty as a Senator he decides that question for himself," I should add, I think, as a proper limitation, that when the emergency arises which in the judgment of a majority of the Senate, having the power to decide if they have a quorum for the purpose of doing business, makes it necessary to punish a Senator for not doing his duty that the rules call upon him to do, they can punish him. The rule as it stands now only provides for the mere formality of calling upon a Senator to vote or to give his reasons for not voting and asking to be excused. Suppose the Senate does not excuse him, and suppose there is not a quorum, what then? Less than a quorum cannot punish a Senator; and if you have a quorum, as the Senator from Ohio so well said, the rules now do not provide and were not intended to provide for stopping the passage or disposition of a measure in order to try a question of contempt. You put the party in contempt and then you try him afterwards if you want to; but that is all simple enough and it is not necessary to take any time over it.

The honorable Senator from Ohio states that he and his fellow-Senators of the democratic party declined to vote on the occasion referred to in 1871 because there were a great many republicans who were not present, as if the question of the duty of obeying the rules depended upon the number of persons who constituted the opposite party. I doubt if that doctrine will hold on a careful consideration, but I do not wish to take time to discuss that; but he vindicates what he then did upon a ground that is precisely the ground that he stated before and that I state now, with the limitations I have affixed to it, that in the opinion of the Senators not voting they were justified in withholding their votes for one reason or another which might be good for one Senator and might not be good for another Senator; he might have another and a better reason for himself.

The Senator from Ohio now says that it was away into the night that this thing occurred; that everybody was worn out, and that it was time for all the small boys to go home. Why, Mr. President, after all this matter had occurred and a considerable quantity of other proceedings had taken place about getting a quorum present, it was only twenty minutes after eleven, as the record shows, when the Senate adjourned on that occasion,—much earlier than most of us come home from the festivities to which I suppose at this season of the year many Senators are invited; and could we not give the same number of hours in the evening to our beloved country that we give to our friends in their parlors and refreshment rooms? I think, Mr. President, in the language of a distinguished statesman, "that won't do."

But my friend says that this unrecognized and illegitimate child of a caucus has had, if not a paternity, a precedent in what he understands to be the action of some caucus of other people. Let me tell my distinguished friend that so far as I understood him in what he said, he was greatly mistaken. I do not know whether like my friend from Illinois, not now in his chair, I am in sufficiently good standing in any healthy political organization to be invited to its caucus, but I will say that I have never heard of any caucus except the democratic one, so called, on the subject of this resolution, and I will say that I had entirely forgotten until I saw it stated in the papers a day or two ago as the result of a democratic caucus, that there was any such resolution in existence, if, indeed, I ever knew of it at all.

Then my friend says that the resumption bill of the year 1875 was brought from a republican caucus by an unwilling member of it into this Senate and forced upon the Senate without consideration by any committee.

Mr. THURMAN. I did not make that assertion positively, as if I knew it. I only said that it was so reported.

Mr. EDMUNDS. That is what I understand the Senator to say. There is no misunderstanding between us.

Mr. President, if the Senator would apply his usual industry to reading the Journals of the Senate, I think he would see—though I have not looked it up, but that is my recollection—that the resumption act of 1875 was reported from the Committee on Finance of this body by its chairman in the regular way.

Mr. THURMAN. I did not deny that. What I said, and what I charged at the time, and what was not denied, was that the bill was not made in the Finance Committee, but was made in caucus, and the Finance Committee was merely the means used to bring it into the Senate.

Mr. EDMUNDS. That may be said, whether true or false, of every bill nearly that passes through the scrutiny of this body; probably ninety-five in every hundred bills that the Senate acts upon are prepared in somebody's private room. They are then introduced, or sent to a committee, as I know is frequently the case with the Committee on the Judiciary, without being introduced here in the first place, introduced and sent to that committee, or laid before the committee without being introduced. That committee considers the bill under its sworn responsibility as the organ and agent of this body. It reports, with assent, and with dissent, if there be a minority, its judgment and opinion upon the bill.

The resumption bill of 1875 came through regular channel in the regular way; every member of the Committee on Finance had the opportunity—whether he exerted it or not I do not know—to say "yes" or "no" to that bill in the committee.

Mr. THURMAN. If my information is correct, the Senator is entirely wrong; but the Senator from Delaware can answer for himself whether he ever had any knowledge of it or not.

Mr. EDMUNDS. I think it will turn out—perhaps I am mistaken—that the bill referred to was reported from the Committee on Finance to the Senate.

Mr. THURMAN. I do not deny that.

Mr. EDMUNDS. Then so far as caucuses are concerned, I am not quite able to see what the relevancy of the observations of the Senator from Ohio is.

Mr. BAYARD. Mr. President——

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) Does the Senator from Vermont yield to the Senator from Delaware?

Mr. EDMUNDS. With pleasure.

Mr. BAYARD. The Senator from Ohio has referred to the fact that I was the only member of the democratic party upon the Committee on Finance at the time of the report of that bill, and he was quite correct in saying that I knew nothing of that bill having been brought into the committee. I knew nothing of its having been reported from the committee or considered in committee until it came here to the Senate as from that committee. I do not say that I could have been in that committee-room at every moment of its sessions; but I say this, that I was and am a very diligent member in my attendance upon the sessions of the committee, and at no time during my attendance, or to my knowledge, was that bill in the committee or considered there.

Mr. EDMUNDS. Mr. President, that is another question. I was not then and am not now a member of the Committee on Finance. I do not know whether the method of proceeding of that committee was fair in that case or not. I never heard it impugned before. If it were not fair, it does not touch the question that we are now discussing. The bill came from the committee; it came in the regular order; whether that committee did its duty toward all of its members or not I have no means of knowing except the presumption in favor of the fairness of committees and the statement of the Senator from Delaware.

I am so sure that I am right as to what the Journal of the Senate shows that I will not take up the time of the Senate in waiting until I can get the book. I am sure it does show—and if it turns out that I am mistaken I will take pleasure in correcting it when I so ascertain afterwards, so as not to delay the business now—that that bill was reported in the regular way, that it went over one day, and was then taken up and was considered and observations were made upon it, and it passed to the great benefit of the country and in spite of the resistance of the democratic party, as is usually the case.

Now this resolution, on a subject that everybody agrees is one of the gravest interest and importance, not only does not come from any committee, but a party majority of this body upon yea and nay votes refuse to send it to any committee. It comes direct from that troubled fountain to which reference has been made.

But my friend from Ohio says that the observations I made on the absolute want of validity in this resolution as an edict, as a law, as a thing that is to command or oblige anybody to do or omit anything, are mistaken, because he says that it has always been the practice of the Senate, (and he refers to many famous resolutions and debates to prove, which he need not have done) to express its opinion upon topics of public interest. So it has been; so it ought to be; so I hope it always will be. Do I understand the Senator from Ohio to say that that is what this resolution is, the expression of an opinion or the proposed expression of an opinion upon the part of the two Houses of Congress; and if so, if it passes the Senate and does not pass the House, it will be just as good because it will be the expression of the opinion of the Senate, and I suppose we have a right to our opinion, even if the House of Representatives does not think the same way. But we can make it pretty clear whether this is designed to be an absolutely void edict, or whether it is designed to be such an expression of opinion as the Senator from Ohio speaks of by putting on an amendment which I will now offer, to insert after the word "That," the words "in the opinion of the Senate and House of Representatives."

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Vermont, which will be reported by the Secretary.

The SECRETARY. In line 1, after the word "that," it is proposed to insert "in the opinion of the Senate and House of Representatives;" so as to read:

*Resolved by the Senate, (the House of Representatives concurring,)* That in the opinion of the Senate and House of Representatives the President of the Senate is not invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States so as to determine what votes shall be received and counted or what votes shall be rejected.

Mr. BAYARD. I do not propose to discuss the amendment of the

honorable Senator from Vermont, nor to consider the merits or demerits of the resolution before the Senate. The debate upon that I had hoped would close on yesterday, and I had said quite enough upon a former occasion to vindicate my vote to my own satisfaction.

It is almost impossible to exaggerate the importance to the people of this country of the proposition contained in the resolution. If that proposition shall be negatived and it shall be affirmed by the two Houses of Congress, and the affirmation accepted by the people of this country, that after a popular election shall be held in every State of the Union to decide into whose hands the executive power of this country shall pass, all of that proceeding and all of that voting has to be submitted to the will, the control, the decision of a single officer of the Government, who may be and in the history of the country has been deciding in his own case, that his counting and declaration shall make him the Chief Magistrate of the United States, it is difficult to state a proposition more fraught with consequences to the people of this country; and yet that is the question which the Senate is asked to consider by the resolution before it. I do not propose to discuss that now.

But, sir, this is the question before the Senate: whether the rules of this body are obligatory upon the members, whether they have any binding force, and whether they are in fact rules of proceeding subject to which our duties of legislation are to be conducted, or whether they are to be thrown off at the caprice of a moment, obeyed when convenient and contemned and despised when they bind us contrary to our passing emotions? Yesterday there was a vote called upon the final passage of this resolution. Fifty-odd Senators were in the Chamber; about twenty of those refused to vote at all. The rule upon the subject is plain and explicit:

16. When the yeas and nays shall be called for by one-fifth of the Senators present, each Senator when his name is called shall, unless for special reasons he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question; and in taking the yeas and nays upon any question the names of the Senators shall be called alphabetically.

Then rule 17:

When a Senator, being present and declining to vote when his name is called, shall be required to assign his reasons therefor, and shall so assign them, the presiding officer shall thereupon submit the question to the Senate: "Shall the Senator, for the reasons assigned by him, be excused from voting?" which shall be decided without debate. And these proceedings shall be had after the roll shall have been called and before the result of the vote is announced, and any further proceedings by the Senate in reference thereto shall be after such announcement.

Here is a clear rule amenable to the understanding of any man, essential for the prosecution of public business; and the question is, has this rule binding force, or is it legitimate and proper and orderly that a member of the Senate shall contumaciously refuse to vote when his name is called, break a quorum of the Senate, and prevent the prosecution of any public business? That is the broad and that is the important question.

The Senator from Vermont read from the record of a debate in 1871, that upon an occasion there to be found four Senators of the democratic party, the Senator from Ohio, [Mr. THURMAN,] Mr. Casserly, of California; the Senator from Virginia, [Mr. JOHNSTON,] and Mr. BAYARD, of Delaware, had their names called because they had sat in their places mute, declining to vote, although present, and that thereby a quorum of the Senate could not be had. That was true so far as it went, but only so far. I think the Senator should have done me the justice to have gone further and read what did occur, what was my action in that case. I had then been a member of the Senate but little over one year and had not a very close acquaintance with the rules; I certainly had never had occasion to have this rule brought before me; but when the rule was read by me, and I saw that as a member of the Senate the question was whether I should obey or disobey, whether I should be subordinate or insubordinate, whether I should proceed in an orderly or a disorderly manner, I made no question nor hesitation. I read from page 1603 of the Congressional Globe, Forty-first Congress, third session, the debate, February 23, 1871. I had asked that I might be excused from voting when my name was called; I had been told by the presiding officer, that objection had been made, that my request came too late. Let me read:

The PRESIDING OFFICER. The Chair is of opinion that the Senator from Delaware is too late to ask to be excused. The request must be made before the roll-call is commenced.

Mr. BAYARD. I ask, then, the ruling of the Chair on the subject. It is my desire, coming into this body, to abide by its rules. What they were I have an opportunity of knowing, or else I have an opportunity of leaving it. While I am here I propose to abide by the rules of the Senate, and should be exceedingly sorry if I thought any imputation to the contrary could properly be made. Therefore, I ask for the ruling of the Chair in this case, as I do not desire to vote for this motion and do not care to vote against it particularly. I ask the Chair for information, that I may be guided by his ruling.

The PRESIDING OFFICER. Under the sixteenth rule, which reads as follows:

"When the yeas and nays shall be called for by one-fifth of the Senators present, each Senator called upon shall, unless for special reasons he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question."

At the request of the Senator from Delaware, the Chair rules that it is his duty to answer.

Mr. BAYARD. Does the Chair rule that I am too late to ask to be excused?

The PRESIDING OFFICER. Yes, sir.

Mr. BAYARD. From that decision I respectfully appeal.

Then the honorable Senator from Maine [Mr. HAMLIN] interposed:

Mr. HAMLIN. If the Senator will allow me a suggestion, he now presents precisely the same point which the Senator from Ohio presented a few moments since, of interjecting another question while the Senate is dividing. I agreed with the Senator from Ohio in the point he took then, and I certainly shall hold to it now. The Senator will see that he is raising precisely the point which the Senator from Ohio a few minutes ago suggested, that we could not raise any other question while the Senate were dividing. That is good parliamentary law.

Mr. BAYARD. Does the honorable Senator accept the logic of the Senator from Ohio on that subject?

Mr. HAMLIN. I do, undoubtedly.

Mr. THURMAN. I rise to a question of order.

The PRESIDING OFFICER. The Senator will state his point of order.

The point of order was overruled.

Mr. HAMLIN. And allow me to say that that is in accordance with the uniform practice of the Senate always.

Mr. EDMUNDS. They understand it perfectly.

The PRESIDING OFFICER. The Secretary will call the names of the Senators who did not answer.

Mr. THURMAN. If that is the case, then the Senator from Delaware, undoubtedly, had a right to ask to be excused when called, as he could when his name was called the first time.

The Chief Clerk again called the name of Mr. BAYARD.

Mr. BAYARD. I vote "nay."

I merely complete the record to show that it was an unjust imputation to suppose that I could remain a member of this body and deliberately violate its rules. I said then, and I say now, that having had the opportunity to know what those rules are, if I do not like them I can leave the Senate; that is my privilege; but if I stay here I hold that I am bound in conscience and in honor and in a sense of public duty to obey the rules of this body; and that is my doctrine as applied to every member of the Senate. If our rules are faulty, amend them; they may be the subject of discussion and difference of opinion; but in regard to this rule there can be none.

In the case of 1871, as the honorable Senator from Ohio has well explained, we had been kept here night after night. The opposition, as it was then called in this body, consisted of one-tenth of its members; we had not enough to call the yeas and nays. We had been kept here while nearly one-half the Senate were in their beds or enjoying themselves elsewhere; we were compelled to sit here night and day; and this very question arose somewhere in the early hours of the morning; but that does not affect the principle. When the rule was read to me I bowed to it in self-subordination as well as in subordination to the rule itself; and so I hold it to be the duty of order, the duty of decorum, the duty of a Senator, that the rules of this body should be preserved inviolate, and for that I accept no other man's reasoning than my own; upon my own reasoning I stand.

More than that, sir, there was no suggestion in 1871 that we had silenced the voice of Senators on the other side by pairing with them. Pairing is an honorable engagement, personal to those who make it. It is not known to the rules of this body; it is not mentioned in the text of those rules; and it has no other force than the sense of an honorable obligation. It is intended to allow the balance of opinion to be preserved in the absence of the parties to the agreement; that is all. It never could be intended, it never would be made, if it were supposable that the withholding of the vote would obstruct the legislation of the country. There was no such thing as a pair in 1871. There was no voice or vote that the gentlemen of the republican party silenced by an honorable agreement with democrats at that time. But the case was different yesterday. Yesterday there were Senators on this floor willing and anxious to vote upon this subject to procure the passage of the resolution regularly, in an orderly and proper manner, but their lips were sealed. A padlock was on their mouths. Of what? Of an honorable obligation which was being perverted to an end that never was contemplated by those who entered into the pair.

Therefore, I say that feature was added to what I do consider a deliberate breach of the rules of this body yesterday, for which, if gentlemen can find excuse, they may make it; to me there is none. The rule that I lay down to them is the rule that I laid down and followed for myself, and which I propose to continue to follow, and that is that when I see a rule of this body that constrains me to a certain action, I will obey it or I will cease to be a member of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMAN. Before the question is put on the amendment I would beg most respectfully to ask my friend from Vermont, if I may do so without giving offense, whether it will accord with his views to vote for the resolution if his amendment be adopted?

Mr. EDMUNDS. I will answer that question by asking another, whether it will accord with the views of the Senator from Ohio to make this resolution what I understood him to intimate it was meant to be, a declaration of the opinion of the two bodies and not a coercive edict? I have stated what my views are about this resolution, that I believe in the principle it declares as far as it goes, with the construction that I put upon the words, and leaving off the implication which I think some people might make that does not appear in the phraseology of the resolution; but if it is to pass and is honestly to be what the argument of the Senator from Ohio demonstrated it must be, if it was anything, that is an expression of the opinion of these two bodies, then let us say so.

Mr. THURMAN. Every one will observe what a categorical answer the Senator makes to my question. I do not think the Senator means to answer me in that way; surely he does not. I asked the Senator, who of course does everything in perfect good faith, if his amendment were adopted would he vote for the resolution. He has asked me a question in return. I say to him, in answer to his question, that

the resolution as it stands is precisely the same in its effect and in its meaning as it would be if his amendment were adopted; but if he will tell me that he will be satisfied with the resolution if his amendment be adopted, so that we may have the valuable support of his opinion and his vote, I shall vote for his amendment.

Mr. EDMUNDS. I should be far better satisfied than I am now, Mr. President.

Mr. MORGAN. I have no more right than any other Senator on this floor to interpret the meaning of the language of the resolution. If this language shall be adopted by the two Houses, its meaning and significance will thereupon become a question of construction in the mind of every man who has to deal with it. Therefore my opinion in regard to it will have no more weight than the opinion of any other gentleman in the Senate, for I cannot add to the resolution or take from its meaning at all by any construction that I choose to place upon it. I have therefore abstained from making any further declaration in regard to the resolution than that which I made when I had the honor to bring it forward yesterday morning, when I said:

I will say, moreover, that the language in which the resolution is couched was intended to express the idea that the President of the Senate, whether he might be President *pro tempore* or whether he might be the Vice-President of the United States, is not invested by the Constitution with the authority to determine what votes shall be received and counted, or what votes shall be rejected; that that matter belongs to some other jurisdiction, some other power, which this resolution does not undertake to define.

So far as I am concerned that expresses the whole view of the resolution as I intended to frame it, and as yet I have heard no suggestion that the language of the resolution was inappropriate or insufficient to convey that distinct meaning.

I will say, further, that if I had designed the resolution to become a rule of the Senate I should not have made it a concurrent resolution for the action of the House, for the House has no right to participate in the adoption of any rules for the government of the Senate. Therefore the declaration not being in the form of an act of legislation, not being in the form of a bill or of a joint resolution, could not be more than an expression of opinion on the part of the Senate, in which the House would concur or non-concur as it might see proper. I hold to the doctrine, and I think I am entirely fortified by the uniform experience of the Senate in holding to that doctrine, that the Senate of the United States has a right to prescribe rules to its presiding officer. I find in Rule 42, and in various other instances, but in this instance perhaps more definitely and specifically stated, the very proposition which I now have in my mind:

All questions shall be put by the presiding officer of the Senate, and before a motion be debated it shall be seconded.

It is made the duty by a rule of the Senate of its presiding officer to put all questions, it makes no difference what the question may be so it is a parliamentary question, one that is within the purview of the right of any member to suggest; and if a second is obtained to that question then it becomes the subject-matter of debate under the rules which we have prescribed to the presiding officer of this body. It did not require the concurrence of the House to enable us to prescribe that rule to the President of the Senate, whether he be Vice-President or whether he is President *pro tempore*. Suppose that at any place or at any time when the Senate is in session the question arises whether the Vice-President, being there as President of the Senate, will present to the Senate a question as to whether a vote is to be counted or a vote is to be rejected. I would suppose that, as has occurred in frequent instances, the Houses have met, and upon an objection or a suggestion of difficulty having been made the Houses have separated, and the Senate has returned to its Chamber or has remained in its Chamber, as the case may be, a Senator rises and presents a question, the question that we now anticipate, for instance, "Shall the vote of Georgia," it having been ascertained that it would change the result, "be counted;" and the President of the Senate should say, "I refuse to put that question, because in my individual judgment the Senate has no power to compel me to put it. I decide that for myself, and no one else shall participate with me in a decision *pro* or *con*." In making such a declaration as that the President of the Senate would violate the forty-second rule, which requires that "all questions shall be put by the presiding officer of the Senate, and before a motion be debated it shall be seconded."

I repeat again, that if I had intended to make this a rule of the Senate, I should never have thought of asking the concurrence of the House, and passing the question beyond the pale of the Senate for the concurrence of the House (the question not having been put in the form of a joint resolution or a bill) cannot amount to anything more than a grave declaration of opinion, to which the President of the Senate, I dare say, would yield, or to which he might decline to yield, according to his own convictions of constitutional duty. In the event that he should decline to yield, then a question would arise between him and the Senate as to the manner in which he had executed the orders of the Senate; but I beg leave to say this, as my opinion: the President of the Senate has no right to refuse to execute any order of the Senate lawfully passed, in parliamentary session or in any session. I cannot conceive that a presiding officer of this body, though he may be the Vice-President of the United States, who has been assigned by the Constitution to the duty of presiding here, has power to refuse to execute the orders of the Senate any more than the Speaker of the House of Representatives has the power or the right to refuse to execute the orders of that body.

Senators more experienced than myself, better lawyers than I am, men whose minds are amply stored with all necessary rules of construction of language and laws, have expressed the unqualified opinion on the floor this morning that the legitimate meaning of the resolution as it now stands is that it is an expression of opinion on the part of both Houses. I have therefore no difficulty, so far as I am concerned personally, if the Senate will permit me to do so, in accepting the amendment of the Senator from Vermont.

The PRESIDING OFFICER. Will the Senate agree to the amendment proposed by the Senator from Vermont, upon which the yeas and nays have been ordered?

Mr. THURMAN. Before I vote on that question I wish to know of my friend from Alabama, who has this matter in charge, whether he desires that we should vote for the amendment? It will not make the least difference in the meaning of the resolution; but as he has charge of it, if he thinks we had better vote for it, as it does not change the resolution one particle in meaning or intendment, I shall vote for it.

Mr. MORGAN. I think it does not change the resolution at all. That is my impression about it.

Mr. DAVIS, of Illinois. Let us hear the amendment read.

The SECRETARY. After the word "that," in the first line of the resolution, it is proposed to insert "in the opinion of the Senate and House of Representatives;" so that the resolution will read:

*Resolved by the Senate, (the House of Representatives concurring.)* That, in the opinion of the Senate and House of Representatives, the President of the Senate is not invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States so as to determine what votes shall be received and counted or what votes shall be rejected.

Mr. THURMAN. If the yeas and nays have not been ordered, the Senator from Alabama has power to accept the amendment.

Mr. EDMUNDS. They have been ordered.

Mr. SAULSBURY. I hope the Senator from Alabama will not accept the amendment. I have no special objection to the amendment except I am satisfied that it emanates from that spirit which has prompted many of the amendments offered to this resolution. It comes from an enemy to the resolution. When I find a resolution of which I am in favor antagonized by those who are opposed to it, I regard it as one of my privileges to vote against all propositions that they may make. I am willing that any fair suggestion which emanates from any quarter as to improving the resolution shall be made; but when I know it is the purpose all the time to defeat it, and the amendment emanates from a quarter which is designed to defeat the resolution, I shall certainly not vote for it. Therefore I object to the Senator from Alabama accepting the amendment.

Mr. MORGAN. I did not assume the right to accept it. The yeas and nays having been demanded upon the amendment, of course I am cut off from the power to accept it. At the same time, I do not believe the adoption of the amendment would alter the sense of the resolution.

Mr. HILL, of Georgia. I should like to have the amendment reported again.

The Secretary again read the amendment.

Mr. HILL, of Georgia. Oh, well, that is trifling, with due deference to whoever offered it.

The PRESIDING OFFICER. The Secretary will call the roll on the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

The Secretary proceeded to call the roll.

Mr. RANSOM, (when his name was called.) I am paired to-day on all party questions with the Senator from Maine, [Mr. HAMLIN,] who has been called home by sickness, with the understanding that if my vote is necessary to make a quorum I can vote.

Mr. TELLER, (when his name was called.) On all political questions I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, I should vote "yea."

Mr. HILL, of Georgia. I will say to the Senator from Colorado that I do not think the question involved by this amendment is political. I must say candidly I do not think there is any question in the amendment at all.

The roll-call was concluded.

Mr. BAILEY. By an arrangement my pair with the Senator from Nebraska [Mr. PADDOCK] has been transferred to the Senator from New Jersey, [Mr. RANDOLPH,] and I vote "nay."

The result was announced—yeas 28, nays 33; as follows:

YEAS—28.

| | | | |
|---|---|---|---|
| Allison, | Conkling, | Jones of Florida, | Platt, |
| Anthony, | Davis of Illinois, | Jones of Nevada, | Plumb, |
| Baldwin, | Dawes, | Kellogg, | Rollins, |
| Booth, | Edmunds, | Kirkwood, | Saunders, |
| Bruce, | Hampton, | Logan, | Sharon, |
| Burnside, | Hoar, | McMillan, | Whyte, |
| Cameron of Wis., | Ingalls, | Morrill, | Windom. |

NAYS—33.

| | | | |
|---|---|---|---|
| Bailey, | Garland, | Lamar, | Vance, |
| Bayard, | Groome, | McDonald, | Vest, |
| Beck, | Grover, | McPherson, | Voorhees, |
| Butler, | Harris, | Morgan, | Walker, |
| Call, | Hereford, | Pendleton, | Williams, |
| Coke, | Hill of Georgia, | Pugh, | Withers. |
| Davis of W. Va., | Johnston, | Saulsbury, | |
| Eaton, | Jonas, | Slater, | |
| Farley, | Kernan, | Thurman, | |

ABSENT—15.

| | | | |
|---|---|---|---|
| Blaine, | Carpenter, | Hill of Colorado, | Ransom, |
| Blair, | Cockrell, | Maxey, | Teller, |
| Brown, | Ferry, | Paddock, | Wallace. |
| Cameron of Pa., | Hamlin, | Randolph, | |

So the amendment was rejected.

The PRESIDING OFFICER. The question is, Will the Senate agree to the resolution? upon which the yeas and nays have been ordered.

Mr. HOAR. I move to amend, to which I suppose there will be no objection, by adding at the end of the resolution the words:

And that it is the duty of Congress, without delay, to institute measures to secure the due and orderly performance of said duty in future.

Mr. President, I suppose there is no person in this country, unless it be a person who desires disorder and revolution, who does not agree that the disputed questions in reference to the mode of proceeding in determining the result of the vote for President and Vice-President ought if possible to be put at rest, and they ought to be put at rest in a time when no practical question of the result of a particular election is in dispute before the people. Some think that this can be done by the law-making power; others think that it can be done only by an amendment of the Constitution; but in either event, the measure which is to secure that result must be inaugurated in the first instance by Congress. It cannot be the purpose of the mover of the resolution, or of any person who proposes to vote for it, (among which number I am myself to be reckoned,) that we should continue the present doubt and uncertainty and anxiety to hang over the country at every future closely contested presidential election. If it is not possible in the brief period remaining of the present Congress to deal with the subject, and that a majority should agree on any practical measure, certainly we ought not to abandon the question without an emphatic declaration, and so far as we can pledge the two Houses of Congress an emphatic pledge, that the subject shall be immediately dealt with.

Mr. KERNAN. I ask that the amendment of the Senator from Massachusetts be reported.

The Chief Clerk read the amendment.

Mr. MORGAN. I hope that will be adopted.

Mr. GARLAND. I agree entirely with the amendment, and also with the remarks made by the Senator from Massachusetts. As one member of the committee, for the past two years I have been working very hard to accomplish what the amendment contemplates. I think it is one of the first duties that Congress owes to this country, to make provision for the orderly performance of that duty as specified and named in the amendment offered by the Senator from Massachusetts. I do not think that it ought to be postponed, if possible, many days longer. I hope the Senator from Alabama who has charge of the main resolution will accept the amendment offered by the Senator from Massachusetts.

Mr. MORGAN. I also concur in the spirit and purpose of the amendment, and see no possible objection to its being adopted. On the contrary, I think it is in the line of the duty of Congress. I hope the Senate will concur in the amendment of the Senator from Massachusetts.

Mr. TELLER. We have on the Calendar two bills for this very purpose; one bill reported favorably from the select committee, by the chairman, [Mr. MORGAN,] and another bill, which is in substance the bill the Senate passed in the Forty-fifth Congress, reported adversely. They are both on the Calendar. If Senators will give attention to the Calendar, there will not be any trouble probably about getting one or the other bill before Congress, and out of it getting some kind of a bill that will be satisfactory. I do not suppose that the addition of these words to the resolution will change things very much, but I do not suppose there is any objection to the amendment.

Mr. THURMAN. The yeas and nays have not been ordered on the amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered on agreeing to the resolution.

Mr. THURMAN. But not on this amendment?

The PRESIDING OFFICER. No, the yeas and nays have not been ordered on the amendment.

Mr. THURMAN. Then it is competent for the Senator from Alabama to accept the amendment, and I hope he will do so.

Mr. MORGAN. I have stated my willingness to accept the amendment.

The PRESIDING OFFICER. The yeas and nays having been ordered on the original resolutions, the Chair doubts the power of the Senator from Alabama to accept an amendment, and thus to modify his resolution.

Mr. THURMAN. Then let us have a vote on it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the resolution as amended, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. RANSOM, (when his name was called.) As I stated a few moments since, on this question I am paired with the Senator from Maine, [Mr. HAMLIN,] who has gone home in consequence of sickness, but I am paired with the understanding that I may vote if my vote is necessary to make a quorum.

The roll-call was concluded.

Mr. KIRKWOOD, (after having voted in the affirmative.) I wish to withdraw my vote. I thought the question was upon the amendment of the Senator from Massachusetts.

Mr. TELLER. On all political questions I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, I should vote "nay."

Mr. WALLACE. I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] I should have voted "yea," if he had been here.

Mr. COKE. I desire to state that my colleague [Mr. MAXEY] has been paired with the Senator from Michigan [Mr. FERRY] on all these votes.

The result was announced—yeas 42, nay 1; as follows:

YEAS—42.

| | | | |
|---|---|---|---|
| Allison, | Davis of Illinois, | Hoar, | Saulsbury, |
| Bailey, | Davis of W. Va., | Johnston, | Slater, |
| Bayard, | Eaton, | Jonas, | Thurman, |
| Beck, | Farley, | Jones of Florida, | Vance, |
| Blair, | Garland, | Jones of Nevada, | Vest, |
| Booth, | Groome, | Kernan, | Voorhees, |
| Butler, | Grover, | Lamar, | Walker, |
| Call, | Hampton, | McPherson, | Williams, |
| Cockrell, | Harris, | Morgan, | Withers. |
| Coke, | Hereford, | Pendleton, | |
| Conkling, | Hill of Georgia, | Pugh, | |

NAY—1.

Whyte.

ABSENT—33.

| | | | |
|---|---|---|---|
| Anthony, | Dawes, | McDonald, | Rollins, |
| Baldwin, | Edmunds, | McMillan, | Saunders, |
| Blaine, | Ferry, | Maxey, | Sharon, |
| Brown, | Hamlin, | Morrill, | Teller, |
| Bruce, | Hill of Colorado, | Paddock, | Wallace, |
| Burnside, | Ingalls, | Platt, | Windom. |
| Cameron of Pa., | Kellogg, | Plumb, | |
| Cameron of Wis., | Kirkwood, | Randolph, | |
| Carpenter, | Logan, | Ransom, | |

So the resolution was agreed to.

LAND IN SEVERALTY TO INDIANS.

Mr. THURMAN. It will be recollected that the Indian allotment bill was postponed until to-day in order that the resolution which has just been passed might be considered. The postponement until to-day gives it no precedence, and as I suggested the postponement, (the Senator from Alabama moved it at my suggestion,) although I am not in favor of the bill, I move that the Senate proceed to its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

Mr. DAVIS, of West Virginia. The Senator from California [Mr. BOOTH] wishes to have the pension appropriation bill taken up.

Mr. BOOTH. I ask that the pending order be laid aside informally in order to proceed with the consideration of the bill making appropriations for the payment of pensions.

The PRESIDING OFFICER. The Senator from California asks unanimous consent of the Senate that the regular order may be informally laid aside in order that the Senate may proceed with the consideration of the pension appropriation bill. Is there objection? The Chair hears none.

PENSION APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882.

The PRESIDING OFFICER. The pending question, as the Chair is informed by the Secretary, is upon a question of order raised by the Senator from Colorado [Mr. TELLER] to the reception of the amendment of the Senator from Virginia, [Mr. WITHERS,] which the Chair had submitted to the Senate, and the Senate was debating the question of order when the bill passed from the consideration of the Senate.

Mr. LOGAN. I believe I am entitled to the floor upon that question.

The PRESIDING OFFICER. The Senator from Illinois is entitled to the floor upon the amendment offered by the Senator from Virginia, [Mr. WITHERS,] but there is a question of order pending which is submitted to the Senate for its decision.

Mr. LOGAN. Mr. President, at the time this bill was laid aside, I was attempting to discuss the proposition in regard to the power of the Commissioner of Pensions under the law as it now exists and intended to try to demonstrate to the Senate, if I could, that the proposition now proposed to be put on the pension appropriation bill does not afford the authority that the Commissioner claims that he desires, and that it will not effect the object that is proposed by the Senator who offers it. I do not know that I can satisfy any one in reference to these two points, but I have examined it very carefully and I am thoroughly satisfied that it will not advance either the

interests of the pensioner or of the Government if the amendment should be adopted.

Prior to proceeding I desire to call the attention of the Senate to one thing, so that Senators may be notified that if any others shall take the same ground that I do, what perhaps they will be accused of in some of the newspapers of the country. I am not in the habit of calling the attention of the Senate to things that are said about me in the newspapers; that would take up too much time; but to this attack I do desire to call the attention of the Senate for a reason that I shall explain. In the New York Tribune of February 2, from a special correspondent in Washington City, I find the following language:

Mr. LOGAN distinguished himself to-day as the enemy of reform in the Pension Office and the superserviceable friend and representative of the Washington claim-agents' ring.

I should not notice that at this time were it not for one thing, which I will mention. I was not surprised at it. For years past it has been so common for some of the correspondents of the New York Tribune to make assaults upon me that I suppose it is about time now for a renewal of the attack. I presume this correspondent, by the card of some Senator, has the right to be on this floor, as I frequently see him in the seats here during the hours of business. I cannot here in this Chamber, with due propriety, properly characterize this false statement or the correspondent who wrote it, whose name I understand to be F. C. Bickford, and therefore must now content myself by saying that the author of this base falsehood is wanting in all the essentials that go to make up a gentleman. I make this enduring record for this person that he may have it for a reference hereafter; and I will say further that I desire to call the attention of the Senator who furnishes a card to such a person that he may take notice to whom he furnishes cards.

When the bill was last under discussion my attention was called, by the Senator from West Virginia [Mr. DAVIS] to the array of figures that he brought to the attention of the Senate. I would not dispute with him in reference to his calculation, knowing how often he does figure for the benefit of the Senate, if it had not been for one very extraordinary statement that I find in his calculation, and I will call his attention to it so that he may explain how he arrives at the conclusion. The amount of arrears of pensions for the last year was $25,000,000, as I understand the Senator. Was it not? I ask the Senator.

Mr. DAVIS, of West Virginia. I will say to the Senator from Illinois that I have not the figures now before me, but I presume he is correct. I will send and get the RECORD, however.

Mr. LOGAN. The first payment of pensioners was $8,821,826.09. "Arrears in pending claims"—now mark, this is what I desire to call his attention to—"arrears in pending claims, $192,000,847.50;" "annual pensions to 125,000 new pensioners, $284,185,000;" making in all $510,301,637.25. If that Senator with all his genius and power and knowledge in mathematics which he has demonstrated so frequently on this floor can satisfy the Senate how he arrived at the amount of arrears that are to be paid to pending claims now in the office of the Commissioner of Pensions, I should like to know how he does it.

Mr. DAVIS, of West Virginia. Does the Senator wish an answer?

Mr. LOGAN. I do. I wish the gentleman to state how he arrives at that conclusion.

Mr. DAVIS, of West Virginia. I do not know that I can state how I arrived at it exactly; but, in the first place, it will be understood—and I think the Senator understands it, for I stated it two or three times—this was an estimate, and that is all we can make of anything that is to come. We cannot state anything positively that has not already taken place, but this is an estimate. The Senator will notice that this is taken from the letter of the Commissioner of Pensions. The Commissioner of Pensions goes on to state the basis upon which he predicates his remarks and figures, and I quoted from him. I believe I took the identical figures. I will say to the Senator, as I understand, and the document shows, it came through the Secretary of the Interior to the Senate, and it was called for by a letter from myself, as chairman of the Committee on Appropriations, to know what in his opinion would be the amount. It is an opinion only of course, but he appears to give facts that look reasonable, I will say to the Senate.

Mr. LOGAN. That is exactly the reason why I called the Senator's attention to it. The presumption is that every Senator had read the estimate made by the Commissioner of Pensions, but the Senator got up here with slips of paper and read these figures off as though he had made the calculation, and any one reading his remarks will understand it as being remarks made by himself on his own figures.

However that may be, it is immaterial; but if the Senator relies on the Commissioner of Pensions, I should like to know from him or from any one else how the Commissioner of Pensions can make any calculation whatever upon the amount of pensions that are to be allowed from claims that have never been examined, for he says that these claims have not been examined?

Mr. DAVIS, of West Virginia. I will not interrupt the Senator unless it is agreeable to him.

Mr. LOGAN. It is perfectly agreeable. What I want is to get at the merits of this thing.

Mr. DAVIS, of West Virginia. As I understand, the way the Commissioner of Pensions gets at these claims is, that he knows exactly how many are now pending; he estimates the number that will probably be rejected at 30 per cent. That is based, as I understand his letter, upon what has heretofore taken place. About one-third, in round numbers, of the whole claims that have been filed are rejected, and he deducts, as I understand, about one-third, and then estimates the 66⅔ per cent. or 70 per cent., whichever is left, and proportions it in proportion to those he has examined, and estimates then what it will cost. That is the way I understand it.

Now I want to say one word for the Commissioner of Pensions. The Commissioner of Pensions I believe is an honest, square, upright man. I believe he is trying to do his duty, and I am glad to say for him that I have seen nothing in him but what becomes an officer and a gentleman, and a man who understands the office as well as or better, in my opinion, than any man who has been in it since I have been in Congress.

Mr. LOGAN. That is all gratuitous. So far as I am concerned I have nothing to say, but I do have something to say in reference to those figures made and indorsed by Senators here to the country and in that indorsement trying to establish the proposition before the country that the arrears of pensions are over five hundred million dollars. Of that man I have naught to say at this point. If his estimate is so correct now, how is it that his estimate was $50,000,000 at the time the arrears-of-pensions act passed, and how is it that these estimates change so rapidly. You know from the examination of one of his reports right before you that he demonstrates the fact that by the examination he has made of suspected claims he has refused more than one-half.

Mr. BOOTH. Will the Senator allow me to interrupt him one moment?

Mr. LOGAN. Certainly.

Mr. BOOTH. The impression has gone abroad, possibly through the speech of the Senator from West Virginia and the speech of the Senator from Kentucky on the free-ships resolution, that the amount to be paid for arrears of pensions is estimated at $510,000,000.

Mr. LOGAN. That is exactly what I am calling the attention of the country to now.

Mr. BOOTH. But that is not the estimate of the Commissioner of Pensions. His estimate is that the amount of arrears to be paid to pensioners who get on the rolls through the arrearage act and the amount of annual pensions that these persons will receive during their probable expectation of life will amount to $510,000,000.

Mr. LOGAN. Exactly. That is a very different proposition; and that is just what I was coming to. Two statements have been made on the floor of the Senate in order to alarm the country and the people in reference to pensions; and so it reads in the RECORD here to-day—and no man can read it without so understanding it—that the arrears of pensions are not the $510,000,000. That is exactly what I am controverting. I say it is not the fact. That is the reason why I called the attention of the Senator from West Virginia to it. Senators who are so prolific of figures on this floor, without any intention whatever of distorting the facts, but using figures in which they make such mistakes, go to the country and alarm the tax-payers of the country in reference to the persons who are drawing pensions from the Government. When I rose to defend the pensioners of this country the other day I was assailed by newspapers and persons because I desired to call the attention of the country to the fact that these statements were untrue and had no basis or justification at all.

Now let us go a little further with the statement of the Senator from West Virginia.

Mr. DAVIS, of West Virginia. Will the Senator be kind enough to give me the date of the RECORD to which he refers, so that I can send for a copy?

Mr. LOGAN. Yes, sir; it is the RECORD containing the proceedings of February 1. I find by examining the figures of the Senator that he makes an estimate of the arrears of pensions at $560.15 per pensioner who is entitled to arrears of pension. In almost the next line, in order to make the amount $192,000,000, he estimates it at $1,025 per annum.

Mr. DAVIS, of West Virginia. Will the Senator allow me to interrupt him?

Mr. LOGAN. Certainly I will allow the Senator.

Mr. DAVIS, of West Virginia. The $560 is the actual payment of the pensioners now on the roll, not an estimate, the actual payment of the old pensioners.

Mr. WILLIAMS. Those already paid?

Mr. DAVIS, of West Virginia. Those already paid; $560 is the amount, I think. I am speaking from recollection. The $1,025, if that is the amount which is estimated, which I think appears, is the estimate upon what is to come; in other words, new claims; and the Commissioner of Pensions estimates it from the new claims that he has examined; so that the new claims cost much more than the old ones.

Mr. WILLIAMS. Because they run back further?

Mr. DAVIS, of West Virginia. Because they go back, under the back pay.

Mr. LOGAN. I do not wish to criticise what the Senator has said here, but it will not do for him to give that as an excuse. If the arrears of pensions running for fifteen years make the average pension $560, will he please inform me if it is running on two years more how it will increase to $1,025. That is an impossibility. If it ran

three years or five years more, it would not do it. Eight dollars per month, $96 a year, which is more than the average pension that is paid to the common pensioner, will not double itself in a short length of time. If it is $560 now, at $96 per annum, it will take over five years to do it. These statements in the Senate Chamber as elsewhere are sometimes very loosely made and very damagingly made to men who ought not to be damaged by statements that are not correct.

I do not wish to pursue these figures further than to say that these estimates are not well founded. Now let us go a little further in this question. I perhaps during my remarks said that the law as it stands to-day was sufficient and gave sufficient authority to the Commissioner of Pensions to detect frauds. For that I was arraigned, and it was said I was in the interest of somebody other than the pensioners. Sir, my colleague and I represent more pensioners for disability in the late war than all the members from every Southern State put together. Why should I advocate a proposition to the injury of the pensioner unless I did it unwittingly?

But to carry out what I was saying, that justice was not done in the reports and in the statements that have gone to the country in reference to the poor people who are drawing pensions, and to show that there has been an attempt to cast suspicion upon every one of them, no matter where he resides or how much or how little pension he draws, I desire to call the attention of the Senate to a paragraph in a letter written by the Commissioner of Pensions to a gentleman by the name of A. V. Rice, chairman of the Committee on Invalid Pensions, House of Representatives, 1878. In one paragraph of this letter he says:

> The duties pertaining to the settlement of pension claims partake largely of a judicial nature. The officer who is charged with the duty of admitting or rejecting the claims must be convinced by the proof adduced either that the claim is just or that it is without merit, and the difficulty which is now experienced by the persons charged with the settlement of the claims which have accumulated and those which are now being filed is that they cannot bring themselves to believe the testimony which is offered.

Will any Senator in this Chamber accuse me of being unfair with this Commissioner of Pensions, when over his own signature he accuses, indirectly, every pensioner who applies to-day of being a dishonest man, and says the difficulty is that they cannot bring themselves to believe what is sworn in these cases. It is partially a judicial act on the part of these clerks and officers to examine and decide on pension cases. While it is partly a judicial act, and I agree to that, I ask how it is that a man sitting as a judge cannot be brought to believe the evidence, unless he has reason to disbelieve it?

Mr. CAMERON, of Wisconsin. If the Senator will allow me, he will observe a further statement in the letter of the Commissioner to the effect that very frequently in examining the evidence adduced in support of these claims it appears that the statements contained in the different affidavits are contradictory, and that the statements contained in the affidavits contradict the record as it appears in the War Department. The Senator will not seriously insist that the Commissioner of Pensions means to state, or does state in the extract which he has just read from his letter, that it is difficult for the clerks to bring themselves to believe the testimony in any case. The Commissioner of Pensions does not intend any such thing; but he refers in his letter, as the Senator observes, to the fact that all the testimony except the testimony derived from the records of the War Department is in the shape of *ex parte* affidavits; he speaks of the unsatisfactory nature of that evidence, and, as I have already remarked, refers to the contradictory statements in the affidavits. For that reason it is difficult for the clerks, who certainly perform a judicial function—they are judges—to bring themselves to believe these contradictory statements.

Mr. LOGAN. Of course I do not wish, outside of the record, to make accusations against any person, but when I take the record that they make for themselves I must take what they state. If the Commissioner of Pensions is unable to believe contradictory statements, that is very easily stated; but when he states, as he does here, that "the difficulty which is now experienced by the persons charged with the settlement of the claims which have accumulated and those which are now being filed is that they cannot bring themselves to believe the testimony which is offered," what does he mean? They cannot bring themselves to believe what testimony? Not the contradictory testimony; that is not what he says; but the claims which are filed and which are being filed cannot be believed by these clerks. They cannot bring themselves to believe. Why? It is too bad that these judicial gentlemen cannot bring themselves to believe some things that are said on behalf of these poor soldiers. I suppose if a man proves that his leg was shot off these judicial gentlemen would believe it if they should see the man with his leg off.

Mr. CAMERON, of Wisconsin. It would depend on where and under what circumstances the leg happened to be shot off. If it were shot off in a bar-room brawl, he would not be believed. He must have received it in the line of his duty.

Mr. LOGAN. But if a man proves that he lost his leg in the line of duty? There is another proposition: "in the line of his duty." There are quibbles in the Pension Office about what is the line of duty. Some people cannot bring themselves to believe that if a man is lying in camp he is not in the line of duty; they cannot bring themselves to believe that if he is ordered home he is in the line of duty. Some men actually think a man must be at the front firing at the enemy in order to be in the line of duty. A man is in the line of duty wherever he is under orders, and not disobeying orders, but in the Army. If he lost his leg, his arm, his eye, received a wound, or was disabled in the service, or contracted a disease while in the service, not in disobedience of orders, but performing lawful and proper duty, that man is entitled to a pension under the pension laws.

If a man proves by the record in the War Department that he was a soldier; that he was in battle or that without being in battle he received an injury or contracted a disease that is the first proposition, that is sufficient. Then the question comes as to proof. The evidence comes to prove these facts, and then this man says that his judges or clerks cannot bring themselves to believe, what? Any of the evidence? That is not his statement. They cannot bring themselves to believe the proof in the office. If the proof is unworthy of belief, of course it ought to be discarded, but when the wholesale statement is made that the proof cannot be made merely because it is made in behalf of a soldier, then the distinction is made. Proofs are made in the Senate Chamber. But recently a claim was passed through the Senate on *ex parte* statement. Why? Because the Senators believed the facts; because the Senators believed the evidence. Why? The first proposition being established, the other followed, and they believed it.

So it is in reference to a soldier. The first proposition being established that he was a soldier and in the line of his duty, then the mere question as to whether he was shot or contracted a disease can be proven by the record, if any exists, or by his comrades, by a physician, or by persons who know the fact; and to say that all this evidence cannot be believed is a broad statement that I think ought not to be made by any man who is a friend to the man who is decrepid and disabled and diseased on account of service to his country.

Right here I wish to call the attention of the Senate again to the intimations made in reference to the law not being competent authority for the purpose of making examinations in pension cases. The Commissioner of Pensions, in his report of the 30th of June, 1880, after speaking of the amounts, says:

> It will be observed that the rates at which the arrears have been adjusted in detail exceed the average of the estimate—

What average? The average that he made for the Senate and House of Representatives when the act was passed—

> upon the whole 45,155 cases less than one cent and two mills on the dollar, which, under the circumstances of the adjustments, is an exceedingly slight difference.
>
> This result fully vindicates the plan adopted for rating the arrears, and speaks highly for the unprejudiced judgment and skill of the clerks who were employed upon that work, and particularly of Captain C. F. Sawyer, who has had charge of all matters touching the settlement of these cases.

Now, put the two statements of the Commissioner together. In one he says the evidence is such that they cannot bring themselves to believe it. In the next statement he follows it up. His last report to the Congress of the United States is that it is only one cent and a few mills over his estimate; and he is proud of it; he brags of it in his report, and calls attention to the fact of how well the officers have adjudicated these claims. I ask if there is any consistency in this; if there is any reason why these statements should be made in reference to the pension laws and the pensioners? for these are facts that he has recently stated.

Let me call the attention of the Senator from West Virginia, who has retired, because of course all the interest he has in this case is passed after he has made his speech, which was demonstrated to the country and to the Senate to be of no very great value so far as his figures are concerned; but I desire now to call the attention of the Senate to the present law, because the great objection made is that frauds cannot be detected. Let me read from the report of the Commissioner of Pensions himself made on the 30th of June, 1880, where he said:

> Out of an appropriation of $40,000 to pay the expenses of the clerks detailed to make the investigations only $26,466.19 was expended. The crowded condition of the office work rendered it inexpedient to detail the usual number of clerks for this duty, and the same conditions continue to be operative.
>
> During the last four years the investigations have been very thorough and made with great care, and so conducted as to furnish the pensioners and claimants, whose cases were under investigation, as ample opportunity as possible under the system for presenting to the office all the facts connected with their cases which might tend to clear them from the suspicion which had attached.

There the Commissioner of Pensions had $40,000 given to him for investigations. He says he has only expended $26,000 of it, and he says for four years these investigations have been thorough, and so thorough as to be satisfactory to the pension claimants and the Pension Office. If these investigations have been so thorough as to be satisfactory, I ask, then, what is the matter with the law under which these investigations were made? I desire to examine the law, which, as I have said before in the Senate, is ample for the purpose of making these investigations and for the purpose of doing justice both to the Government and the pensioner. There may be some amendments necessary, but that the whole system must be changed is entirely unnecessary. The proof proposed is an entire change of the system, for the proposition made by the Senator from Virginia is to repeal every section that gives any authority of examinations, any authority of testing the pensioner, any authority for examining pensioners, and substitutes a new and dissimilar mode for that purpose. In reference to Navy pensions of 1812 we find this to be the law:

> SEC. 4739. Before the name of any person is placed upon the pension-roll under the three preceding sections, proof shall be made, under such regulations as the Secretary of the Interior may prescribe, that the applicant is entitled to a pension under the provisions of the sections herein cited; and the Secretary of the Interior

shall cause to be stricken from the pension-roll the name of any person whenever it appears, by proof satisfactory, that such name was put upon such roll through false or fraudulent representations.

There the Secretary of the Interior has ample power to investigate every case known as the case of a pensioner of the war of 1812, and to strike any one from the roll. There it is not necessary to prove disease, it is not necessary to prove wound or disability, but merely the fact that the party was either a survivor of that war, having been a soldier in that war, or that the applicant was the widow of such a soldier. These facts being established, the law entitles the party to go upon the pension-roll; but the Secretary of the Interior has power under this law at any time to strike from the roll any person that has been put there either fraudulently or by mistake.

Now, what more power is desired in reference to pensioners of the war of 1812? The least suspicion would authorize an investigation. The least investigation would prove the fact as to whether the man was a soldier or not, and if he was not he would be stricken from the roll. There, then, is full power in that case. Now let us follow the subject up in reference to pensioners who served in the Union Army during the late war, or rebellion, as it is commonly called. Let us see now whether or not the Commissioner has ample power to investigate fraud. Section 4744 of the Revised Statutes provides:

The Commissioner of Pensions is authorized to detail from time to time clerks in his office to investigate suspected attempts at fraud on the Government through and by virtue of the provisions of the pension laws, and to aid in prosecuting any person so offending, with such additional compensation as is customary in cases of special service; and any person so detailed shall have the power to administer oaths and take affidavits in the course of any such investigation.

Now, I should like to ask what more power is desired, what more power is given in this new bill that is proposed for investigating frauds than this? He may detail any clerks, as many clerks as he pleases, and now, as I understand—whether correct or not I do not know, but it was stated in the speech of the Senator from Indiana the other day—there are some forty detailed at the present moment; but I should like to know what more power you can give to the Commissioner of Pensions to investigate fraud than to authorize him by law to send out and examine any pensioner on the roll at any place, at any time, whenever he chooses, and strike him from the roll or reduce his pension.

If I were engaged in deciding these cases, and the law gave me power to send anybody to investigate a claimant, to call any witness I desired, to swear that witness and examine him thoroughly, and then to decide whether the pensioner was on the roll fraudulently or not, and to dismiss him from the roll or reduce his pension, what more authority could any one demand?

Now, let me read again section 4746:

Every person who knowingly or willfully in any wise procures the making or presentation of any false or fraudulent affidavit concerning any claim for pension, or payment thereof, or pertaining to any other matter within the jurisdiction of the Commissioner of Pensions, or who knowingly or willfully presents, or causes to be presented at any pension agency any power of attorney or other paper required as a voucher in drawing a pension, which paper bears a date subsequent to that on which it was actually signed or executed, shall be punished by a fine not exceeding $500, or by imprisonment for a term not exceeding three years, or by both.

Every person, whether attorney or claimant, who knowingly and willfully presents any fraudulent paper or any fraudulent affidavit connected with an application of a party for a pension or connected with his application for drawing the pension after the pension has been granted, is subject to a fine of $500 and imprisonment for three years, or both. That power is given to the Commissioner of Pensions to prosecute and to have indicted all such persons, to send out his clerks, to send out his special agents to ferret out such cases and go before a court and have the guilty parties tried and punished. How much broader could you make that law? If the punishment is not ample, amend it. Certainly the power is ample. The power to detect and the power to punish is ample. If the punishment is not ample make it more. What else can be wanted?

Mr. BURNSIDE. I ask the Senator from Illinois if he will not elaborate that point a little more as to the power to detect?

Mr. LOGAN. The power to detect under the law as it now exists is this: the Commissioner may call a clerk into requisition; he may call a surgeon into requisition; he may call a board of surgeons into requisition; he may compel the man to come and be examined; he can read and sift the evidence; he can call any witnesses he chooses; he can call as witnesses all the man's neighbors if he desires and swear them, and the power is given to the special agent to administer oaths.

Mr. BURNSIDE. Now, as to the power to detect originally, not to prevent frauds, but to detect who is a fraudulent pensioner when fraud has taken place, what power is in the possession of the Commissioner of Pensions now to ascertain that?

Mr. LOGAN. To do what?

Mr. BURNSIDE. If the Commissioner suspects there is anything wrong, of course he can send a man to investigate it.

Mr. LOGAN. Do you mean the case of persons already on the rolls?

Mr. BURNSIDE. A person on the rolls or a person trying to get on the rolls, either one.

Mr. LOGAN. I will give my view of it, at least. The power to detect a person improperly on the roll is this: if a pensioner is to-day drawing $8 a month or $100 a month—it is immaterial so far as the amount of pension is concerned—for any cause, it is not necessary, under this law, that the Commissioner shall even suspect the man. He may get up a suspicion of his own, without any arising from evidence; but the power is ample, full, and complete in the Commissioner of Pensions to send and have that man examined by a surgeon or by a board of surgeons, to see whether he is improperly on the rolls on account of disease or wounds. In the next place, he has power to send and have the witnesses re-examined before the special agent on a mere suspicion, to reswear them, to call all his neighbors and swear them, to swear any witness the agent pleases in order to offset the evidence in the Pension Office. All the power that could be asked to be conferred on a man for the purpose of detecting fraud is conferred on the Commissioner of Pensions now. There is hardly any power you can conceive of to detect frauds which he does not possess. You may change the mode and manner of exercising it, but it is ample now.

Mr. BURNSIDE. I do not think the Senator from Illinois understands my question. I want to know how suspicion can be raised in the mind of the Commissioner of Pensions. If the Senator will allow me to say a few words, probably he will understand what I mean.

There is a great aversion on the part of every fair man to giving information. I have had my attention called, and the Senator no doubt has had his attention called, to people who were "dead-beats," who were not entitled to pensions. I never write to the Commissioner of Pensions about such a case; but on two or three occasions I told the people to write the Commissioner. There is great aversion to giving information of that kind. If the Commissioner of Pensions had men identified with these communities who felt it to be their duty to see that honest soldiers were protected by the punishment of dishonest ones, there would be much more probability of the Commissioner of Pensions being able to do his duty by seeking out the fraudulent pensioners. I agree with the Senator from Illinois in the belief that there are very few dishonest pensioners; but I do not mean to say that is the only reason why I am in favor of this bill. There are other points I shall endeavor to talk about hereafter, but I desire to know how the original suspicion can come to the Commissioner of Pensions under the present law?

Mr. LOGAN. I will try to state to the Senator, if I can, how a suspicion can arise about an original application for a pension; but first let me state that when a man is on the pension-roll, the presumption of law is that he is rightfully there.

Mr. BURNSIDE. I agree with the Senator there perfectly.

Mr. LOGAN. Now, if the Commissioner of Pensions for any reason whatever suspects that a man is improperly on the pension-roll and ever desires an examination, he has all the power that law can give him to order it.

Mr. BURNSIDE. But we must assume that the Commissioner does not so desire, unless there is some reason for creating suspicion in his mind. How can that suspicion arise in his mind?

Mr. LOGAN. I will answer that. If there is no reason for having a suspicion in his mind, he ought not to have the suspicion. That is all.

Mr. BURNSIDE. Now how does the Senator answer this question? We all know that there are fraudulent pensions——

Mr. LOGAN. You may know it.

Mr. BURNSIDE. Under the present system it is the duty of nobody where these men exist to inform on them. No one will do it; it is not the duty of anybody to do it.

Mr. LOGAN. If there is nobody to inform the Commissioner, and he does not know anything about it himself, and if you do not know anything about it and I do not know anything about it, what right have we to suspect a man where nobody knows anything?

Mr. BURNSIDE. The Government of the United States is suffering to that extent. We all know, I know, so does the Senator, that there are fraudulent pensions. I know that I have had to go to the Commissioner of Pensions when I have doubted the evidence, and have seen that things were regular where I knew they were trying to manufacture evidence.

Mr. LOGAN. So far as a knowledge of fraudulent pensions is concerned, I am perfectly willing that the Senator should speak for himself, but I am not willing that he shall speak for me. If the Senator knows of a fraudulent pensioner it is his duty to tell the Commissioner of Pensions and have the matter examined. I do not know of any, but if I did I should tell him. If we are honest in our desire to protect the Government, if we know of a fraudulent pensioner, we ought to give the information; if we do not know of it, we ought not to have suspicion.

Mr. BURNSIDE. If I knew it I would tell it, but I would not tell the Commissioner to examine a pensioner if somebody merely came and told me he was improperly on the roll, and the Senator would not do it either.

Mr. LOGAN. Why does the Senator say he and I know there are fraudulent pensioners? I do not know any such thing. There may be thousands of them; I do not pretend to say there are not; but to say that I know it is not the fact, for I do not know it. I do not know of any man who is a fraudulent pensioner.

Mr. BURNSIDE. I beg the pardon of the Senator from Illinois for saying that he knew there were fraudulent pensioners. I did not mean to say that; but he knows that there are fraudulent claims.

Mr. LOGAN. Oh, very likely; but I know nothing about them.

Mr. BURNSIDE. Have you never gone far enough in pension papers in your own experience to know that there was a fraud?

Mr. LOGAN. I never have gone into pension papers. I merely refer them to the Commissioner of Pensions. I never applied for a pension for anybody, and have had nothing to do with it except to send the papers of applicants to the Pension Office.

Mr. BURNSIDE. I do not engage in that kind of business either, but I have gone over hundreds of pension papers to tell people whether they were entitled to pensions or not.

Mr. LOGAN. Did you present them?

Mr. BURNSIDE. I sent them to the Commissioner of Pensions.

Mr. LOGAN. Did you try to get a pension when you did not believe it was right? That would be a very strange thing.

Mr. BURNSIDE. No; I never did.

Mr. LOGAN. I am not going to dispute with the Senator from Rhode Island about what he knows. I have nothing to say about that; but I do say in reply to what he has said that I do not know the fact of there being a pensioner who is on the rolls fraudulently. There may be thousands; I do not question the statement; but to say that I know it cannot be said.

Mr. BURNSIDE. I did not mean to say the Senator knew it. If I said that, it was under a misapprehension. I said the Senator no doubt knew of fraudulent claims being presented. I have not said that I supposed he knew there were fraudulent pensioners, because I do not know anything about what he knows. At any rate, if I said that, I desire to correct myself in that respect, because I did not mean to say it.

Mr. LOGAN. I know, however, and I know the Senator will agree with me, that there are many men who are to-day walking around and apparently as healthy as the Senator who are not able to perform manual labor.

Mr. BURNSIDE. I agree with the Senator fully in that.

Mr. LOGAN. There is not one of those men to-day, as unfortunate as such a man may be, with his scars covered, but what is suspected because he is walking around the streets, and people point at him and say "that is a pensioner." There is where much of this suspicion arises; there is much of it arises in the mind of the Commissioner of Pensions. That man never slept in the open air when the rain was pouring down in his face and slept on on account of the burdens of the day he had borne; that man never marched under the scorching and burning sun for the protection of his Government; that man never went through and across the streams, through swamps, and slept in marshes where disease was contracted, and for that reason he may readily invite suspicion of any man who apparently is not unsound.

Mr. BURNSIDE. Will the Senator allow me to say just one word in the way of explanation?

Mr. LOGAN. Certainly.

Mr. BURNSIDE. The Senator and I, I am satisfied, are traveling in precisely the same channel. I am for the amendment for a reason which I will not give now, but will after awhile. If it costs the Government $500,000 a year to establish a system by which these men can be placed above suspicion and separated from men who really deserve suspicion, I believe in spending that money.

Mr. LOGAN. So do I. But I am trying, and I think I will succeed before I get through, to demonstrate the fact that this proposition the Senator is going to vote for will do no such thing.

Mr. BURNSIDE. Then I shall not vote for it.

Mr. LOGAN. I will try to prove it at any rate. We were talking about suspicions. I know men who have been right here in this Senate Chamber, who served with us in this body, whose disease did not show itself, whom the Senator knows and so do I, were not competent to perform manual labor; and he knows and so do I that there are many thousands of just that kind of men in this country. People who see them ordinarily would think they were not entitled to pensions; but they really are broken down and diseased from their efforts during the war. These are the men who bring suspicion on themselves, because their appearance does not indicate that they are unsound or disabled.

Mr. CONKLING. Will the Senator from Illinois let me ask him a question?

Mr. LOGAN. Certainly.

Mr. CONKLING. I am listening to the Senator from Illinois because I am aware that this is a subject of which he understands much and of which I understand little; and I would like him if he will to enlighten me upon this argument which I hear made. It is said that the Commissioner of Pensions and the Senator from Illinois and everybody else acquainted with the subject believe that there is a certain percentage, unfixed of course, of fraudulent claims and allowances in respect of pensions, that widows' claims and orphans' claims and other things are fictitiously conjured up and have succeeded, and that the claimants are borne on the pension-roll—who they are in the main nobody professes to know, but there is a belief that here is a large percentage of what I may call fraud. Now it is said that if that goes on, and there be no mode of ascertaining its truth or its falsehood, and of ascertaining if it be true who the fraudulent parties are, that will continue indefinitely and perpetually.

If the Senator will allow me to point my question to him by an illustration I will resort to this illustration: Here is a bank from which it is supposed bills are in circulation which are counterfeit and false bills. Nobody knows who holds those bills; nobody knows who has passed them; but information satisfies the board of directors that counterfeits on that bank are out. It is said that unless the bank takes some measures to trace these counterfeits and find out where they are, find out whether they exist, and if so to what extent and in what number, they will float perpetually, and cheat the public if they do not defraud the bank, and that therefore the bank ought to take pains, as the Senator from Rhode Island has said, not to rely upon some chance person who may come in and give information, but to employ agents to ascertain the fact. So now, coming back to this case, the argument is that Government should set in motion some sort of agency to find out, first, whether there is a fraudulent percentage of claims in the Department, and second, if so, who these claimants are. If the honorable Senator will do me the favor to tell me, as no doubt he can if it exists, how the present law supplies that need, and provides for that difficulty, I shall be very glad to hear it in this connection, as he is on that point.

Mr. LOGAN. I will state it if I can. As I was stating, the Commissioner of Pensions has power—I do not know whether the Senator from New York was listening to me or not——

Mr. CONKLING. Every word.

Mr. LOGAN. He has power to send an agent to examine everybody, to take testimony. Another power exists that I have not mentioned. The Commissioner of Pensions has authority under the law to establish a board of surgeons in every district, to order any or every pensioner before that board for examination, and he may at the same time send his special agent to re-examine a pensioner and reswear the witnesses. There is the power; not only may he appoint a surgeon in such county or town, but he may organize a board of three surgeons, and order every pensioner in that community before them for examination. There is the power.

Mr. CAMERON, of Wisconsin. Those surgeons could simply pass on the physical condition of the pensioner at the time he appeared before the board?

Mr. LOGAN. Certainly.

Mr. CAMERON, of Wisconsin. They could not pass upon the question whether or not the disability was received in the line of his duty as a soldier, or whether or not his disability was occasioned by anything that occurred when he was a soldier, or whether or not he ever was a soldier at all.

Mr. LOGAN. I will answer the Senator very readily on that point. Will he please inform me how the board of surgeons that he proposes will know anything about the contracting of the disability?

Mr. CAMERON, of Wisconsin. They can call witnesses for the purpose.

Mr. LOGAN. Exactly, and so can this board of surgeons under the present law.

Mr. CAMERON, of Wisconsin. I do not so understand.

Mr. LOGAN. Yes, sir; the special agent, a clerk from the Department, can swear every neighbor the pensioner has got and every soldier.

Mr. CAMERON, of Wisconsin. But we are talking about the board of surgeons now, not about the special agent.

Mr. LOGAN. How will your board of surgeons determine?

Mr. CAMERON, of Wisconsin. It is not a board of surgeons.

Mr. LOGAN. How will the surgeons determine?

Mr. CAMERON, of Wisconsin. It is a board composed of one lawyer and one surgeon.

Mr. LOGAN. Very well; how will they determine?

Mr. CAMERON, of Wisconsin. They will determine it, if they determine it all, not by *ex parte* evidence, but by examining and cross-examining witnesses that may be brought before them.

Mr. LOGAN. Very well. The agent has a perfect right to do that now under the law as it exists.

Mr. CAMERON, of Wisconsin. I was not discussing the powers of the agent, but the powers of the board of surgeons.

Mr. LOGAN. Very well; the agent may appear before the board of surgeons at the time they sit, and call every pensioner in the county, and re-examine all the witnesses.

Mr. CAMERON, of Wisconsin. That is true.

Mr. LOGAN. That is the power. What more power do you give?

Mr. BURNSIDE. Now, let me ask the Senator from Illinois this question: Suppose this board of surgeons, as the law now exists, has the same capacity for examining witnesses that this lawyer and surgeon would have; suppose that the Commissioner of Pensions were to order in every district the board of surgeons to call before it every pensioner and make an examination of him, how much more would their expenses be under the present law than under the system proposed by the amendment?

Mr. LOGAN. I will discuss that system under the amendment when I come to it; but I will now say that the new system proposed will be very much more expensive.

Mr. BURNSIDE. It will be more expensive, I grant; but suppose it was necessary under the old law to do just what the Senator from Illinois has said could be done, then I would like to have him say, when he comes to that point, what the expense would be.

Mr. LOGAN. Will the Senator pretend to say that the system he is trying to get established is not more expensive than the present one?

Mr. BURNSIDE. It is much more expensive.

Mr. LOGAN. Certainly, it is much more expensive.

Mr. BURNSIDE. But it would not be more expensive than the present system would be if the present system was conducted as the Senator from Illinois suggests in order to detect frauds.

Mr. LOGAN. I beg pardon. The system that you are trying to get up—and I think I shall demonstrate it before I get through—is very much more expensive than the present system, if carried out as stated——

Mr. BLAIR. Will the Senator allow me to ask to whom is it more expensive—to the pensioner or to the public?

Mr. LOGAN. To both; to the pensioner and to the public.

Mr. BLAIR. To both?

Mr. LOGAN. Yes, sir; because under the present amendment you give the members of all these boards $3 a day, and I will venture the assertion that you cannot get the surgeon you describe in this amendment and the lawyer you describe with ten years' practice who is worth anything to examine witnesses before any court for less than $3,000 a year.

Mr. BLAIR. Has the Senator read the amendment?

Mr. LOGAN. I have.

Mr. BLAIR. Does it not provide that the compensation of both the lawyer and surgeon shall be in the form of fees?

Mr. LOGAN. I know it does; but I say you cannot get them. If you are trying to employ the character of men that you mention in the bill, you cannot do it for less than $3,000 a year. No man will undertake it for less than that. You give him $3 a day and fees, and those fees are paid partly by the pensioner and partly by the Government.

Mr. BURNSIDE. Does the Senator say these fees are to be paid by the pensioner?

Mr. LOGAN. Some expenses will have to be paid by the pensioner.

Mr. BURNSIDE. The bill provides distinctly that they are to be paid out of the Treasury.

Mr. LOGAN. I have read the bill. The bill provides that so much shall be paid for taking an affidavit, fifty cents. Now, then, who is to pay the man for going to the place where the affidavit is to be administered?

Mr. BURNSIDE. The bill provides for it to be paid.

Mr. LOGAN. How does it provide for it to be paid?

Mr. BURNSIDE. I have it not before me.

Mr. LOGAN. The bill does not provide for expense of procuring witnesses on behalf of pensioners, or for their expenses while in attendance on the board.

But that is immaterial at present. We will get to that point before we get through. I ask you to tell me how is a poor soldier to get his witnesses to go before this little court that you are trying to establish? How is the old bowed-down woman, and how are the dependent children, and how is the old crippled pensioned soldier to get his witnesses before the board to swear in his case, unless he can pay them for going to its place of session?

Mr. BURNSIDE. That bill provides distinctly that the court shall go to them.

Mr. LOGAN. I beg the Senator's pardon.

Mr. BURNSIDE. But, let me state another point. The Senator asked a question and I should like to finish the answer to it.

Mr. LOGAN. I am not asking the Senator a question.

Mr. BURNSIDE. I thought the Senator would like to be informed on this point.

Mr. LOGAN. No, sir. I do not desire any information at present. Your bill provides that when a pensioner is so sick that he cannot go himself, the board or one member of it may go to his house if it is deemed desirable to do so.

Mr. BURNSIDE. That will do now.

Mr. LOGAN. You are very generous in that. I tell you, Mr. President, the earnestness with which some gentlemen fly at me every time that I talk about this bill shows their great interest in it. I will say that much for them; and I am glad they are interested in it if it is a good bill.

Mr. BURNSIDE. I am very much interested in it.

Mr. LOGAN. I am glad they have become so in the last few days.

Mr. BURNSIDE. I have always been.

Mr. LOGAN. I will not say the Senator has not been. But, sir, if you poke a pole into a fresh hornets' nest the hornets will swarm. [Laughter.]

Mr. BURNSIDE. That accounts for the pension agents sending out their circulars for petitions to come here.

Mr. LOGAN. Let me say to the Senator that it is not manly in any man to insinuate that because I am defending these men, I am induced to do so by pension agents.

Mr. BURNSIDE. I have not insinuated that of the Senator; but he must not attack me. That is all I have to say.

Mr. LOGAN. I have not attacked the Senator.

Mr. BURNSIDE. I hope you will not.

Mr. LOGAN. What have I said? If the Senator is attacked by his own argument it is not my fault.

Mr. BURNSIDE. My argument will take care of itself.

Mr. LOGAN. I have no doubt of that; but the Senator ought to remain in a good humor.

Mr. BURNSIDE. I am in perfectly good humor.

Mr. LOGAN. It is not the best evidence of good argument for a man to lose his temper.

Mr. BURNSIDE. I have not lost mine.

Mr. LOGAN. To come back to the detection of fraud. The Senator says, how will you detect fraud when the soldier makes his application. He has to prove by the records of the Army that he was a soldier. If he claims to have been wounded, he must show by the record where he received his wound; he has to prove it either by the roll upon which he was mustered showing his disability, or by a certificate of a hospital surgeon, or by the certificate of the Surgeon-General that he is borne upon the Surgeon's roll as a wounded man. Not only that, but if his application is on the ground of disease contracted in the service, the roll must show that he was in a hospital, that he was treated by a surgeon in the Army; he must have the certificate of a surgeon, or his discharge must show that he was discharged for disability incurred in the service. If it fails in having that proof, what must he prove? He must prove by two of his comrades who were with him who know the fact that he was sick at a certain time and disabled at a certain time.

What more can the board that you propose do than that? If he can prove by two comrades that he was disabled or diseased at a certain time, and the other evidence furnished by him is sufficient, then he must prove by his family physician, who has attended him since the war, that the disease has continued from the time of its contraction up to the time of the application for the pension. All these facts have to be stated. All this proof has to be made. I ask how much more strict can you make it than it is under the present law? I propose to follow this by showing that the bill offered will not be better in this particular.

Mr. BLAIR. I do not care to interrupt the Senator on a question of that kind, nor do I mean to be understood that I am strongly in favor of the provisions of this bill without essential amendments, for I am not; but certainly the Senator would not mislead any one in regard to the force and effect of this bill. It does nowhere in any way undertake to keep in motion both sets of machinery, that now existing and the new one.

Mr. LOGAN. I have not said it does.

Mr. BLAIR. But it is merely to substitute for the existing machinery another law and another form or method of performing precisely the same thing.

Mr. LOGAN. Of course.

Mr. BLAIR. For the examining surgeon, as now appointed, it is proposed merely to substitute another who will discharge the same functions and in accordance with the existing law. That surgeon is to be one of the board in the future. He will make the same examinations; he will make them with the same frequency under the direct orders of the bureau as under existing law. The same things will be performed and by a surgeon in precisely the same way as now. The Senator talks all the while as though this bill undertook to confer additional power in some way. It does not assume to do any such thing.

Mr. LOGAN. The Senator is very much mistaken. I have assumed no such thing. I assume that all the power that is necessary is in the old law. That is what I assume.

Mr. BLAIR. And the new one proposes to in no way increase that power.

Mr. LOGAN. Very well, then, what do you want with it?

Mr. BLAIR. The Commissioner thinks it is a better way of exercising the power.

Mr. LOGAN. He can change this any way he chooses.

Mr. BLAIR. That we propose to do in this bill.

Mr. LOGAN. The Senator will understand that I have insisted that there is ample power in the law as it exists, and that you merely desire to change the machinery. I have said that all the time; but in the change of the machinery you do not better it; you only make it more expensive and cumbersome. That is what I say, and I insist on it. You make the same examination by the same character of surgeons and make it more expensive. That is your proposition.

Mr. BLAIR. Not at all. That is not the proposition; nor is that the force and effect of what the Senator is saying, if I can understand it. If this machinery is expensive, I am at a loss to see how it can be a burden to the pensioner, because the Government pays the expense in each case, proposes to pay the expense of these examinations under this bill. It pays the expense of the examinations under the existing law; and the Senator should remember that the provisions of this bill are with reference to the allowance of new cases rather than the re-examination of those which already exist, and the main object of this bill is by no manner of means the detection of frauds in cases which now are on the files of the Pension Office or in certificates which have been allowed, but solely or almost wholly with reference to the examination and proper allowance of pending cases.

Mr. LOGAN. I would not commit myself to it now, if I were the Senator from New Hampshire.

Mr. BLAIR. I shall or shall not precisely in accordance with my own judgment.

Mr. LOGAN. Of course.

Mr. BLAIR. It is certain to my mind, having read this bill, that very much of what the Senator says is entirely wide of the mark, scope, and purpose of the bill.

Mr. LOGAN. That is a criticism that the Senator can make in a

speech that he makes himself when he is entitled to the floor. But the Senator said that he could not understand me. I will only say that is not my fault. I have tried to make myself clear. Now when he says that what I said is wide of the mark, I tell him that he is mistaken. I have read the law just as it is and stated the facts just as they are. My statement in reference to the examination by surgeons and by special agents is exactly in accordance with the law as it now exists; and if any Senator says that I have not stated it correctly that Senator has misread the law, and that is not my fault.

Mr. BLAIR. If any Senator has done so, I have not done that. I have said this——

Mr. LOGAN. Then we will not discuss it.

Mr. BLAIR. I have said the Senator misapprehends the nature of the bill he is discussing, not the force of the law which he reads.

Mr. LOGAN. Very well. I am not discussing the bill at all. I have not touched it yet. I will show the Senator before I get through whether I misapprehend the bill he proposes or not. I have been discussing the present law. I think I have been very good-natured to my friends. I have let them make much more of my speech than I have made myself, and I propose to allow them to continue to do so, for if my side of this question is not sufficient to answer every argument as I go along that is presented to me, I do not want to be sustained. I say to them now that they can have an opportunity during my speech to stop me at any point and discuss this proposition. I give ample room and open the door to every Senator here to do it, for I want it understood before we get through who is right. I was just saying——

Mr. BURNSIDE. Will the Senator from Illinois yield for a motion to adjourn?

Mr. LOGAN. I certainly will.

Mr. BURNSIDE. I move that the Senate adjourn.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) Before putting that motion the Chair will lay before the Senate a message from the President of the United States.

JEANNETTE POLAR EXPEDITION.

The Secretary read the message of the President of the United States, transmitting a communication from the Secretary of the Navy recommending the dispatch of a vessel for the relief of the Jeannette polar expedition; which was ordered to lie on the table and be printed.

LANDS IN SEVERALTY TO INDIANS.

The PRESIDING OFFICER. The unfinished business is the Indian severalty bill, being Senate bill No. 1773, which will be reported by the Secretary.

The Chief Clerk read the title of the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes.

The PRESIDING OFFICER. This bill being before the Senate, the Senator from Rhode Island moves——

Mr. BURNSIDE. Now I modify my motion, and move that the Senate adjourn until Monday.

Mr. DAVIS, of Illinois. I move that the Senate adjourn.

Mr. CONKLING. The first motion in order by the rules is that the Senate adjourn until Monday.

Mr. DAVIS, of Illinois. My colleague wants to go on to-morrow. I shall call for the yeas and nays on the motion to adjourn to Monday if it is insisted on.

The PRESIDING OFFICER. The Senator from Rhode Island moves that the Senate do adjourn until Monday.

Mr. HARRIS. Pending that motion, I move that the Senate do now adjourn.

Mr. CONKLING. I rise to a question of order. The Senator from Rhode Island proceeding strictly under the rule did not move that when the Senate adjourn it be to Monday next, but he moved that the Senate do now adjourn till Monday next. That motion is in order and no other motion can supersede it, I think.

The PRESIDING OFFICER. The Senator from Rhode Island states that that was his motion. The Senator from Rhode Island moves that the Senate do now adjourn until Monday.

Mr. DAVIS, of Illinois. I move that the Senate do now adjourn.

Mr. INGALLS. I call for the reading of the forty-third rule.

Mr. DAVIS, of West Virginia. I understand that a motion to adjourn has precedence of a motion to adjourn to a certain day. I should be glad to have the rule read.

The PRESIDING OFFICER. Rule 43 will be read.

The Secretary read as follows:

43. When a question is pending, no motion shall be received but—
To adjourn,
To adjourn to a day certain, or that, when the Senate adjourn, it shall be to a day certain——

Mr. INGALLS. Now read the conclusion—about the order of voting.

The SECRETARY. "Which several motions shall have precedence in the order in which they stand arranged, and the motions relating to adjournment, to take a recess, to proceed to executive business, and to lay on the table, shall be decided without debate."

The PRESIDING OFFICER. Under that rule the motion to adjourn takes precedence.

Mr. DAVIS, of Illinois. I made that motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois that the Senate do now adjourn.

The motion was agreed to; there being on a division—ayes 30, noes 12; and (at four o'clock and fifty minutes p. m.) the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 4, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

J. HALE SYPHER.

Mr. SAWYER, from the Committee on Elections, submitted a report on the memorial and claim of J. Hale Sypher; which was ordered to be printed, and referred to the Committee on Appropriations.

STATEN ISLAND RAPID TRANSIT RAILROAD COMPANY.

Mr. KETCHAM. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 6229, to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York, and that the same be now considered in the House.

Mr. DUNN. I object and call for the regular order.

The SPEAKER. The regular order is the morning hour for reports from committees.

Mr. CONVERSE. I hope the gentleman from Arkansas [Mr. DUNN] will withdraw his objection to the request of the gentleman from New York, [Mr. KETCHAM.]

Mr. DUNN. I will withdraw my objection in this case.

The SPEAKER. The bill will be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the right of way, not exceeding one hundred feet in width, through the lands of the United States now occupied by the United States Light-House Establishment in the village of New Brighton, county of Richmond, and State of New York, is hereby granted to the Staten Island Rapid Transit Railroad Company for the purpose of constructing a railroad: *Provided*, That the said right of way, and the width and location thereof, through said lands, and the regulations for operating said railroad within the limits of the same so as to prevent all danger to public property, shall be submitted to and approved by the Secretary of the Treasury prior to any entry upon said lands or the commencement of the construction of said works.

SEC. 2. That the right of way, not exceeding one hundred feet in width, through the lands of the United States now occupied by certain fortifications known as Fort Richmond and Fort Wadsworth, and the inclosure or reservation surrounding said fortifications, in the town of Southfield, county of Richmond, and State of New York, is hereby granted to the Staten Island Rapid Transit Railroad Company for the purpose of constructing a railroad: *Provided*, That the said right of way, and the width and location thereof, through said lands, and the regulations for operating the said railroad within the same so as to prevent danger to public property, shall be submitted to and approved by the Secretary of War prior to any entry upon said lands or the commencement of the construction of said works.

SEC. 3. That whenever said rights of way shall cease to be used for the purposes aforesaid, the same shall revert to the United States; and that the right to repeal, alter, or amend this act is reserved to Congress.

The SPEAKER. The Chair is advised that this bill is reported from the Committee on the Public Lands with certain amendments.

Mr. CONVERSE. I will state briefly the amendments. One is to strike out section 2 of the bill, relating to grounds now occupied for military purposes; and the other is to require a tunnel to be built through the lands of the United States occupied by the Light-House Establishment, and reducing the right of way from one hundred feet to thirty feet. The bill still leaves the matter subject to the approval of the Secretary of the Treasury before anything can be done.

Mr. TOWNSHEND, of Illinois. Is the right reserved to Congress to repeal or amend this act?

Mr. CONVERSE. It is.

Mr. CONGER. The gentleman says that this requires the approval of the Secretary of the Treasury. As I heard it read it seemed to require only that the plan should be submitted to him, but does not require his approval.

Mr. CONVERSE. My recollection is that it requires the approval of the Secretary of the Treasury.

The SPEAKER. That portion of the bill will be again read.

The Clerk read as follows:

*Provided*, That the said right of way, and the width and location thereof, through said lands, and the regulations for operating said railroad within the limits of the same so as to prevent all danger to public property, shall be submitted to and approved by the Secretary of the Treasury prior to any entry upon said lands or the commencement of the construction of said works.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and the same was brought before the House.

The question was taken upon the amendments reported from the Committee on the Public Lands, and they were severally agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. KETCHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. O'NEILL. I would like to ascertain from the Chair whether it is the design that members shall be recognized all round, and every one given an opportunity to take a bill from the Calendar.

The SPEAKER. The Chair will recognize as many gentlemen as the House by unanimous consent will permit; and he is recognizing gentlemen first on one side and then on the other.

GEORGE W. HENDERLITE.

Mr. RICHMOND. I ask unanimous consent to have taken from the Calendar of the Committee of the Whole House for present consideration the bill (H. R. No. 6034) for the relief of the personal representative of George W. Henderlite, deceased.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to make such an allowance to George W. Henderlite, deceased, late collector of internal revenue for the eighth collection district of Virginia, as will make his net compensation equal to $2,500 per annum for the time he held the office of collector as aforesaid; and a sum sufficient to make payment of such allowance is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the personal representative of said George W. Henderlite, deceased.

Mr. COBB. I would like the gentleman in charge of this bill to state to the House its object.

Mr. DUNN. I call for the regular order.

The SPEAKER. The regular order is demanded.

Mr. HARRIS, of Virginia. As I understood, the gentleman from Arkansas [Mr. DUNN] only desired information in regard to this bill.

Mr. ROBINSON. I call for the regular order without any condition and without reference to any particular bill.

ORDER OF BUSINESS.

The SPEAKER. The morning hour now begins, and the committees will be called for reports.

Mr. COX. I move that the call of the committees for to-day be dispensed with.

The question being taken on the motion of Mr. COX, there were—ayes 56, noes 39.

So (two-thirds not voting in the affirmative) the motion was not agreed to.

COSTS IN JUDICIAL PROCEEDINGS.

Mr. CULBERSON, from the Committee on the Judiciary, reported back the bill (H. R. No. 7071) to provide for the adjustment of costs and expenses in certain judicial proceedings, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Accounts.

The motion was agreed to.

SUITS BY STATES IN SUPREME COURT.

Mr. NEW, from the Committee on the Judiciary, reported back without amendment the bill (H. R. No. 6710) to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States; which was referred to the House Calendar, and the accompanying report ordered to be printed.

JOHN GRAHAM.

Mr. HURD, from the Committee on the Judiciary, reported a bill (H. R. No. 7107) for the relief of John Graham; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARIAN F. HAYNIE.

Mr. HARMER, from the Committee on Naval Affairs, reported a bill (H. R. No. 7108) for the relief of Marian F. Haynie, widow of H. H. Haynie; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PROTECTION OF PUBLIC BUILDINGS FROM FIRE.

Mr. YOUNG, of Tennessee, from the Committee on Public Buildings and Grounds, presented a report (which was ordered to be printed and recommitted) to accompany a joint resolution and bills of the following titles:

A joint resolution (H. R. No. 221) authorizing the Architect of the Capitol to purchase such number of fire-extinguishing machines as may in his judgment be necessary to protect the Capitol buildings from damage by fire;

A bill (H. R. No. 1473) for more effectually protecting the public buildings, property, and records from destruction by fire;

A bill (H. R. No. 3985) to reduce the expenditures of the Government in lighting the public buildings of the United States; and

A bill (H. R. No. 4965) to provide for greater economy in the public expenditures of gas.

ANN LITTLE.

Mr. FIELD, from the Committee on Invalid Pensions, reported a bill (H. R. No. 7109) granting a pension to Ann Little; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MAXIM DRINKWATER.

Mr. FIELD also, from the same committee, reported back adversely the petition of citizens of Bangor, Maine, for an increased pension to Maxim Drinkwater; which was laid on the table, and the accompanying report ordered to be printed.

BENJAMIN TUTT.

Mr. RAY, from the Committee on Invalid Pensions, reported back with a favorable recommendation the bill (H. R. No. 6208) for the relief of Benjamin Tutt; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LUCY C. RAYMOND.

Mr. RAY also, from the same committee, reported back adversely the bill (H. R. No. 4932) to place on the pension rolls the name of Lucy C. Raymond; which was laid on the table, and the accompanying report ordered to be printed.

PETER GRATTAN.

Mr. RAY also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 1830) granting a pension to Peter Grattan, father of John L. Grattan, late second lieutenant Company G, Sixth Regiment United States Infantry; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOHN SCOTT.

Mr. RAY also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 5407) granting an increase of pension to John Scott; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MRS. SPEDIE B. EGGLESTON.

Mr. RAY also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 6177) granting a pension to Mrs. Spedie B. Eggleston; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

HARRIET E. EDWARDS.

Mr. RAY also, from the same committee, reported a bill (H. R. No. 7110) granting a pension to Harriet E. Edwards, widow of David S. Edwards, late surgeon in the United States Navy; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

STEPHEN GARDNER.

Mr. RAY also, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 3554) granting a pension to Stephen Gardner; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MARGARET BEYMER.

Mr. DAVIS, of Illinois, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 873) granting a pension to Margaret Beymer, of Chicago, Illinois; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM R. ROGERS.

Mr. DAVIS, of Illinois, also, from the same committee, reported back favorably the bill (H. R. No. 895) granting a pension to William R. Rogers; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

LIEUTENANT WILLIAM F. KENAGA.

Mr. DAVIS, of Illinois, also, from the same committee, reported back favorably the bill (H. R. No. 3415) granting a pension to Lieutenant William F. Kenaga; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN NAIL.

Mr. DAVIS, of Illinois, also, from the same committee, reported back favorably the bill (H. R. No. 5217) granting a pension to John Nail; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOSEPH H. HAMMOCK.

Mr. DAVIS, of Illinois, also, from the same committee, reported back favorably the bill (H. R. No. 5796) granting a pension to Joseph H. Hammock; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompaning report, ordered to be printed.

ANDREW J. PENNEL.

Mr. COFFROTH, from the Committee on Invalid Pensions, reported as a substitute for House bill No. 5483, a bill (H. R. No. 7111) restoring the name of Andrew J. Pennel to the pension rolls; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JULIA A. CHAMBERS.

Mr. COFFROTH also, from the same committee, reported a bill (H. R. No. 7112) increasing the pension of Julia A. Chambers; which was

read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. COFFROTH also, from the same committee, by unanimous consent, reported back favorably the bill (H. R. No. 7055) to amend section 4706 of the Revised Statutes of the United States; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

GEORGE W. BELT.

On motion of Mr. UPDEGRAFF, of Ohio, the Committee on Invalid Pensions was discharged from the further consideration of the petition of George W. Belt for relief; and the same was referred to the Committee on Military Affairs.

HENRY MAHLER.

Mr. UPDEGRAFF, of Ohio, also, from the same committee, reported back favorably the bill (H. R. No. 1766) granting a pension to Henry Mahler; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

GEORGE GOULD.

Mr. UPDEGRAFF, of Ohio, also, from the same committee, reported back favorably the bill (H. R. No. 2680) granting a pension to George Gould, of Stephenson, Menominee County, Michigan; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

E. R. HUSTED.

Mr. UPDEGRAFF, of Ohio, also, from the same committee, reported back favorably the bill (H. R. No. 1549) granting a pension to E. R. Husted; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MRS. HANNAH S. COMMAGER.

Mr. CALDWELL, from the Committee on Invalid Pensions, reported, as a substitute for House bill No. 3939, a bill (H. R. No. 7113) granting a pension to Mrs. Hannah S. Commager; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM L. DAY.

Mr. HOSTETLER, from the Committee on Invalid Pensions, reported, as a substitute for House bill No. 6756, a bill (H. R. No. 7114) granting a pension to William L. Day; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SARAH J. RANEY.

Mr. UPSON, from the Committee on Invalid Pensions, reported back adversely the bill (H. R. No. 4371) granting a pension to Sarah J. Raney; which was laid on the table, and the accompanying report ordered to be printed.

ELIZABETH J. ELLIS.

Mr. UPSON also, from the same committee, reported back adversely the bill (H. R. No. 6154) granting a pension to Elizabeth J. Ellis; which was laid on the table, and the accompanying report ordered to be printed.

ANDREW J. WELCH.

Mr. HAZELTON, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 1104) granting a pension to Andrew J. Welch; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

NOAH WING.

Mr. HAZELTON also, from the same committee, reported back favorably the bill (H. R. No. 2191) granting a pension to Noah Wing; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES V. M'KENNA.

Mr. HAZELTON also, from the same committee, reported back favorably the bill (H. R. No. 1088) granting a pension to James V. McKenna; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

HENRY S. MORGAN.

Mr. HAZELTON also, from the same committee, reported back favorably the bill (H. R. No. 3977) granting a pension to Henry S. Morgan; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES A. BAKER.

Mr. HAZELTON also, from the same committee, reported a bill (H. R. No. 7115) granting a pension to James A. Baker; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ARCHIBALD A. CAREY.

Mr. HAZELTON also, from the same committee, reported back favorably the bill (H. R. No. 1086) granting a pension to Archibald A. Carey; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM E. AYRES.

Mr. MASON, from the Committee on Invalid Pensions, reported back, with an adverse recommendation, the bill (H. R. No. 5450) granting a pension to William E. Ayres; which was ordered to be laid on the table, and the accompanying report ordered to be printed.

ANNA VOSHAGE.

Mr. MASON also, from the same committee, reported back adversely the bill (H. R. No. 133) granting a pension to Anna Voshage; which was ordered to lie on the table, and the accompanying report ordered ordered to be printed.

SARAH H. BRADFORD.

Mr. MASON also, from the same committee, reported back favorably the bill (H. R. No. 1880) granting additional pension to Sarah H. Bradford; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

LYDIA A. DRAKE.

Mr. MASON also, from the same committee, reported back favorably the bill (H. R. No. 7001) to restore to the pension-roll the name of Lydia A. Drake; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

POLLY MORFORD.

Mr. MASON also, from the same committee, reported a bill (H. R. No. 7116) granting a pension to Polly Morford; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM A. REID.

Mr. LINDSEY, from the Committee on Claims, reported back favorably the bill (H. R. No. 1996) for the relief of William A. Reid; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

CLAIMS AGAINST THE UNITED STATES.

Mr. BRAGG, from the Committee on War Claims, reported back, with a favorable recommendation, with amendments, the bill (H. R. No. 6717) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department; which, with the amendments and accompanying report, were ordered to be printed, and referred to the Committee of the Whole on the Private Calendar.

ADVERSE REPORTS.

Mr. ATHERTON, from the Committee on War Claims, reported back adversely the bill (H. R. No. 1509) for the relief of Thomas K. Feogan; and also the petition of Elizabeth B. Higgins and others; which were ordered to lie on the table, and the accompanying report ordered to be printed.

WASHINGTON AND CHESAPEAKE RAILROAD COMPANY.

Mr. ALDRICH of Rhode Island, by unanimous consent, from the Committee on the District of Columbia, reported, as a substitute for House bill No. 6955, a bill (H. R. No. 7117) authorizing the Washington and Chesapeake Railroad Company to extend its railroad into and within the District of Columbia; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

INAUGURATION DAY.

Mr. SLEMONS, from the Committee on the District of Columbia, by unanimous consent, reported a bill (H. R. No. 7118) declaring inauguration day a legal holiday in the District of Columbia; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

ADULTERATION OF FOOD.

Mr. YOUNG, of Tennessee, by unanimous consent, from the Committee on Epidemic Diseases, reported back, with a favorable recommendation, the bill (H. R. No. 7005) authorizing the President to appoint a commission to examine and report upon the adulteration of food, with amendments; which, with the accompanying report, was ordered to be printed, and placed upon the House Calendar.

BOARD FOR TRIAL OF INCOMPETENT ARMY OFFICERS.

Mr. SPARKS, by unanimous consent, from the Committee on Military Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 6957) to organize a board of Army officers for the trial of incompetent officers, with amendments; which, with the accompanying report, was ordered to be printed, and referred to the House Calendar.

GOVERNMENT BUILDING, DETROIT, MICHIGAN.

Mr. NEWBERN, by unanimous consent, introduced a bill (H. R.

No. 7119) to authorize the Secretary of the Treasury to purchase a site and to enlarge the present Government building in the city of Detroit, Michigan, or for the purchase of a site and the erection of a Government building in said city; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BRIGHT. Mr. Speaker——

Mr. COX. I call up the unfinished business of yesterday, which is the apportionment bill. I presume the gentleman from Tennessee desires to go on with the Private Calendar.

Mr. BRIGHT. I move that the House now resolve itself into Committee of the Whole for the consideration of the Private Calendar.

Mr. COX. And I raise the question of consideration on the unfinished business coming over from yesterday.

The SPEAKER. To dispense on to-day with private business will require a two-thirds vote.

Mr. HASKELL. I rise to a point of order.

Mr. COX. The motion to dispense with private business to-day would require a two-thirds vote?

Mr. SPRINGER. I rise to a point of order.

The SPEAKER. The gentleman from Kansas has risen to a question of order. The gentleman from New York can move to dispense with the consideration of private business to-day, which would require a vote of two-thirds to sustain.

Mr. COX. I make that motion.

The SPEAKER. The first question would be on the motion to dispense with the private business to-day. The motion of the gentleman from Tennessee would require only a majority vote.

Mr. BLAND. The gentleman from New York having raised the question of consideration, would not that be properly before the House for action?

The SPEAKER. The Chair would have to recognize the motion to dispense with the private business first, which requires a vote of two-thirds. The motion of the gentleman from Tennessee, as the Chair has stated, would require only a majority vote and is not subject to a question of consideration. It can be voted down—an equivalent result.

Mr. BLAND. Suppose the House refuses to go to the Private Calendar?

The SPEAKER. The Chair thinks the first motion that should be submitted under present circumstances would be the motion of the gentleman from New York, [Mr. COX,] to dispense with the consideration of private business.

Mr. COX. I withdraw that motion.

The SPEAKER. The gentlemen from Kansas [Mr. HASKELL] rose to make a point of order.

Mr. HASKELL. I withdraw the point of order until after the vote is taken on the motion to dispense with private business.

The SPEAKER. The gentleman from New York has withdrawn that motion, and the Chair recognizes the gentleman from Tennessee, [Mr. BRIGHT.]

Mr. HASKELL. If the gentleman from New York has withdrawn the motion to dispense with the consideration of private business, I raise the point of order that there is coming over from the Fridays that have preceded this certain unfinished business. The Committee of the Whole upon those days considered certain bills and reported them to the House. Pending the consideration of one of those bills in the House, the House adjourned, making it unfinished business. I submit now, Mr. Speaker, that the consideration of the unfinished business on that Friday takes precedence to-day of a motion to go into Committee of the Whole for the consideration of new business; and I ask that the conclusion of unfinished business be first had this morning, at the end of which I would be very glad to support the motion of the gentleman from Tennessee, that the House resolve itself into Committee of the Whole for the consideration of private business on the Calendar. But those bills reported from the Committee of the Whole during the past three weeks lie unacted upon, and they ought to be sent to the Senate for their consideration.

The SPEAKER. One of the bills referred to by the gentleman from Kansas technically comes over under the rules regulating unfinished business. The Chair is unwilling at this time to express an opinion as to the other bills alluded to by the gentleman from Kansas, [Mr. HASKELL.]

Mr. HASKELL. Would they not come under the same category as the unfinished business of that day?

The SPEAKER. There can be but one bill pending as unfinished business coming over from that day.

Mr. HASKELL. I desire to say for the information of the House that I do not propose to debate the bill coming over as unfinished business. I only ask for a vote, and an early conclusion of it.

The SPEAKER. The Chair is of the opinion that under the new rule unfinished business coming over from a former Friday comes up for consideration after the morning hour to-day.

Mr. COX. Then could I raise the question of consideration on the first of those bills?

Mr. BRIGHT. I wish to state that it was my intention to move the consideration of unfinished business preliminary to the House resolving itself into Committee of the Whole on the Private Calendar to-day.

Mr. HASKELL. If the gentleman will make that motion I will be glad to withdraw the point of order, if there is any doubt about that.

The SPEAKER. The practice of the House as to the other bills alluded to and reported from the Committee of the Whole has been different from what is suggested by the gentleman from Kansas. The practice in regard to bills reported from the Committee of the Whole on a Friday and not acted upon by the House on that day has been uniform during the experience of the present occupant of the chair to take them up after the Committee of the Whole rose the following Friday and reported other bills, precedence being given to bills and reports coming over from the previous Friday. But the gentleman from Kansas having raised the point of order that the bill the consideration of which had been entered upon on a former Friday is unfinished business, the Chair recognizes such bill as unfinished business, and decides that the bill is now in order after morning hour for reports. The Chair does not at present make a decision as to the other bills which have been reported from the Committee of the Whole.

Mr. BRIGHT. I renew my motion that the House proceed now to the consideration of unfinished business reported from the Committee of the Whole on last private-bill day.

Mr. SPARKS. Is that motion in order?

The SPEAKER. The gentleman from Tennessee in effect calls the regular order; and the regular order would practically bring that unfinished business before the House.

Mr. SPARKS. It would bring before the House the one bill which was pending; but the gentleman's motion covers the others.

The SPEAKER. The Chair has not decided as yet as to the others, and will not until occasion requires.

Mr. ATKINS. If the motion of the gentleman from Tennessee fails, would it then be in order for the gentleman from New York [Mr. COX] to submit his proposition?

The SPEAKER. It is in order for the gentleman from New York to raise the question of consideration on the bill which comes over as unfinished business.

Mr. COX. I do raise the question of consideration on that bill.

The SPEAKER. That would not dispense with the consideration of private business to-day, but would be merely a refusal to consider this bill.

Mr. PRICE. Would it not take a two-thirds vote to set aside the bill pending as unfinished business, this being private bill day?

The SPEAKER. The Chair thinks not.

Mr. PRICE. Rule XXVI provides that the consideration of private business shall not be set aside on Friday unless so determined by a two-thirds vote.

The SPEAKER. The Chair is adhering to that rule, and has adhered to it in all he has stated. But the gentleman from Iowa will observe there is this difference: this bill comes up as unfinished business, and the House may say it will not consider that particular private bill at this time, and yet be willing to consider other private bills.

Mr. PRICE. Of course.

Mr. HOUSE. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HOUSE. What is the regular order?

The SPEAKER. The unfinished business.

Mr. HOUSE. What is the unfinished business?

The SPEAKER. The Chair will cause the title of the bill to be read.

Mr. HOUSE. Does the unfinished business include more than one bill?

The SPEAKER. It does not. The title of the bill will be read.

The Clerk read as follows:

A bill (H. R. No. 356) to provide for the sale of certain New York Indian lands in Kansas.

The SPEAKER. Upon this bill the gentleman from New York raises the question of consideration.

Mr. TALBOTT. If the House refuses to consider this bill, would the motion of the gentleman from Tennessee, [Mr. BRIGHT,] that the House resolve itself into Committee of the Whole, then have precedence?

The SPEAKER. The gentleman from Tennessee [Mr. BRIGHT] demanded the regular order, and the Chair understands the gentleman is not resisting the consideration of the unfinished business.

Mr. TALBOTT. If the House refuses to consider this bill, what then?

The SPEAKER. Then the Chair will recognize the gentleman from Tennessee to make the motion that the House resolve itself into the Committee of the Whole.

Mr. HASKELL. I desire to make a parliamentary inquiry. The Chair has ruled that the unfinished business, the bill, the title of which has been read, is now in order. The gentleman from New York raises the question of consideration on that particular bill.

The SPEAKER. He does.

Mr. HASKELL. Now, if the gentleman shall prevail in his motion he will not succeed by that, will he, in dispensing with the consideration of the rest of the private business of this day?

The SPEAKER. He will not without further action.

Mr. HASKELL. Then I ask the gentleman from New York [Mr. COX] to not invidiously cut out one of these private bills, since he

will gain nothing by that, but allow the whole batch of them to come up and be acted upon.

Mr. COX. I have nothing invidious about it.

Mr. HASKELL. I hope he will withdraw his motion, since he will gain nothing by it except to defeat action on one particular bill.

Mr. ATKINS. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. The House was proceeding to vote upon the question of consideration, and the affirmative side of the vote had been taken. I submit that this debate is out of order.

The SPEAKER. The point of order is well taken. The Chair will again submit the question to the House, which is, Will the House now proceed to consider the bill (H. R. No. 356) to provide for the sale of certain New York Indian lands in Kansas, reported from the Committee of the Whole on the Private Calendar, with amendments?

The question was taken; and upon a division there were—ayes 94, noes 57.

Before the result of this vote was announced—

Mr. ATKINS said: I call for tellers. It will do no good to consider this bill now, for it is not likely it will pass this Congress.

The question was taken upon ordering tellers, and there were 13 in the affirmative.

So (the affirmative not being one-fifth of a quorum) tellers were not ordered.

The result of the vote was announced as above stated.

### NEW YORK INDIAN LANDS IN KANSAS.

The SPEAKER. The House having decided to proceed with the consideration of the bill (H. R. No. 356) to provide for the sale of certain New York Indian lands in Kansas, it will now be read.

The bill was read, as follows:

*Be it enacted, &c.*, That those persons, being heads of families or single persons over twenty-one years of age, who have made settlement and improvement upon, and are *bona fide* claimants and occupants of, either in person or by tenant, the lands in Kansas which were allotted to certain New York Indians and for which certificates of allotment, dated the 14th day of September, 1860, for three hundred and twenty acres of land each, were issued to thirty-two of said Indians, shall be, and hereby are, authorized and permitted to enter and purchase at the proper land office, at any time within one year from the passage of this act, said lands so occupied by them, in tracts not exceeding one hundred and sixty acres, according to the Government surveys, at not less than the appraised value of the said tracts, as heretofore ascertained by the Secretary of the Interior, in accordance with the provisions of the act of February 19, 1873, entitled "An act to provide for the sale of certain New York Indian lands in Kansas," payment to be made in three annual installments, one-third at date of entry, one-third at the end of one year from date of entry, and the balance in two years from date of entry, with interest on said amounts respectively from date of entry at 6 per cent. per annum; and the moneys arising from such sales shall be paid into the Treasury of the United States, in trust for, and to be paid to, said Indians respectively to whom said certificates were issued, or to their heirs, upon satisfactory proof of their identity to the Secretary of the Interior, at any time within three years from the passage of this act; and in case such proof is not made within the time specified, then the proceeds of such sale, or so much thereof as shall not have been paid under the provisions of this act, shall become a part of the public moneys of the United States.

SEC. 2. That any lands not entered by such settlers, at the expiration of one year from the passage of this act, shall be offered, at public sale, in the usual manner, at not less than the appraised value, notice of said sale to be given by public advertisement of not less than thirty days, and any tract or tracts not then sold, together with such tracts as have heretofore been, or may hereafter be, entered, and wherein default has been made in the payment of any portion of the purchase money, or the interest thereon, as herein or heretofore provided, shall be thereafter subject to private entry at the appraised value of said tracts.

The first amendment reported from the Committee of the Whole was as follows:

In section 1 strike out the words "the appraised value of the said tracts, as heretofore ascertained by the Secretary of the Interior, in accordance with the provisions of the act of February 19, 1873, entitled 'An act to provide for the sale of certain New York Indian lands in Kansas,'" and insert in lieu thereof the words "three dollars per acre;" so that it will read "at not less than three dollars per acre."

The next amendment was, in the same section, to strike out the word "three" and insert the word "five" before the words "years from the passage of this act."

The third amendment was, in section 2, to strike out the words "the appraised value" and to insert in lieu thereof the words "three dollars per acre;" so that it would read "at not less than three dollars per acre."

Mr. SCALES. The House was dividing on these amendments when the bill was under consideration last. I would like to inquire—if I can now have the privilege of explaining why the bill should not pass—I do not wish to violate any of the rules of the House——

The SPEAKER. Debate had not been closed on the bill; the previous question was not operating.

Mr. HASKELL. Debate was closed by common consent, and the House was dividing.

The SPEAKER. The previous question was not prevailing.

Mr. HASKELL. But the House was in the act of dividing at the time. If there is any doubt about it, I, having charge of the bill from the Committee on Indian Affairs, will now move the previous question on the bill and amendments.

The SPEAKER. The gentleman from Kansas, [Mr. HASKELL,] having charge of the bill, indicates his purpose to move the previous question upon it.

Mr. SCALES. I simply desire to say——

Mr. HASKELL. I must object to debate. The bill was very thoroughly discussed the other day. I move the previous question on the bill and amendments, so that it may be voted up or down, and the House be permitted to proceed with other business.

The SPEAKER. The tellers will resume their places.

Mr. SCALES. Then I am not allowed to tell the House why this bill should not pass.

The SPEAKER. The gentleman from Kansas, having charge of the bill, objects to debate.

Mr. ATKINS. I trust the gentleman from Kansas will not insist upon the previous question at this time. There are gentlemen present who did not hear the discussion the other day. I think it is due to the House that the bill should be explained before we are called upon to vote upon it.

Mr. HASKELL. I do not call the previous question from any desire of my own to cut off debate, but out of deference to the House that it may proceed with other business. For myself, I will agree that the gentleman from North Carolina [Mr. SCALES] be allowed fifteen minutes, and I will take fifteen minutes in reply.

Mr. ATKINS. I hope that will be acceded to.

Mr. SCALES. I do not think I shall want more than ten minutes.

Mr. BRAGG. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BRAGG. If a gentleman who has charge of a bill omits to move the previous question upon it, and another gentleman obtains the floor, as the gentleman from North Carolina [Mr. SCALES] did in this case, can the gentleman having charge of the bill then correct his error and move the previous question, so as to take the other gentleman off the floor?

The SPEAKER. The Chair does not consider that the gentleman from North Carolina [Mr. SCALES] was taken off the floor in that way. He was taken off the floor because the House had to resume the exact condition it occupied at the time the bill was last under consideration.

Mr. BRAGG. Then why did the Speaker hold that the gentleman from Kansas [Mr. HASKELL] had the right to move the previous question at this time?

The SPEAKER. The Chair stated that the gentleman from Kansas having charge of the bill desired to move the previous question upon it, which he had the right to do when he obtained the floor. The Chair did not recognize the gentleman from North Carolina [Mr. SCALES] as entitled to the floor when the gentleman from Kansas [Mr. HASKELL] stated that the House was dividing upon the bill when it was last under consideration, and that he therefore objected to debate at this time. The gentleman from North Carolina will now be recognized by the Chair as entitled to the floor for fifteen minutes.

Mr. SCALES. If I can get the attention of the House I desire to state the facts of this case. I have no feeling on the subject; I have no prejudice to gratify. I desire to state the facts frankly and fairly, in order that justice may be done to the Indians as well as to the citizens of Kansas who seek the passage of this bill.

In the outset I will state that it comes here recommended by the majority of the Committee on Indian Affairs of this House. But it is opposed by a respectable minority of that committee, by the Secretary of the Interior, and by the Commissioner of Indian Affairs. I think that when I make a statement of the case, the House will conclude, as I have done, that this bill ought not to pass.

These citizens in Kansas have had possession of these New York Indian lands in that State for twenty years. They have paid no tax on those lands; they have not paid a dollar for them in any shape or form; and the Secretary of the Interior in a report to this House says that they have driven the Indians from the land. Scarcely an Indian can now be found in the State of Kansas; these Indians have been driven by the hostility of the whites from the lands given to them by the Government.

Under these circumstances these citizens went on to improve these lands to some extent. In order that full justice might be done to these settlers and the Indians, this Government sent out a commission to appraise the land that it might be sold at the appraised value and that the Indians might get what it is worth, and the citizen pay no more than this value.

Now this bill as it came from the committee proposes that the land be sold at the appraised value. My friend from Kansas [Mr. HASKELL] offered in Committee of the Whole an amendment, which was adopted, fixing the valuation at $3 per acre.

A MEMBER. What is the appraised value?

Mr. SCALES. The appraised value is about five dollars an acre. These lands, as I understand from the Commissioner of Indian Affairs, are situated in the richest county in the State of Kansas, in the neighborhood of Fort Scott.

Mr. BRIGHT. Has the Indian title ever been extinguished in any way?

Mr. SCALES. No, sir; it belongs to the Indians. As I have just stated the land is in one of the richest regions of the State; railroads now pass through it, and every acre, as we are informed, is worth at least five dollars.

Now, Mr. Speaker, I am here simply to speak in behalf of the Indian who has no one else to speak for him. I am here to speak for him to-day against the wrong sought to be done by the white settler. I am here to ask this House to give the Indian what his land is worth, and not to sell it at an insufficient valuation to men who have gone on the land in their own wrong; who have occupied and cultivated it for twenty years, never paying a dollar of rent to the Indians, nor

a dollar of taxes to the Government. The gentleman from Kansas comes here, and without any proof to support him, asks that the valuation of this land be reduced to $3 an acre, contrary to the action of the appraisers who fixed the value at $5 an acre.

This is all I have to say. I do think that under the circumstances of the case, the bill as reported by the committee should be sustained.

Mr. ATKINS. I desire to ask the gentleman one question. Did the Indians leave there twenty years ago voluntarily or not?

Mr. SCALES. No, sir; the Secretary of the Interior and the Commissioner of Indian Affairs concur in the statement that the Indians were driven from those lands by hostilities.

Mr. ATKINS. Twenty years ago?

Mr. SCALES. Some twenty years ago, and some since—all along during that time.

Mr. HASKELL. Only in a few cases.

Mr. SCALES. That is what the Secretary of the Interior and the Commissioner of Indian Affairs report.

Mr. HASKELL. There is not one of the men on the land now who was there then.

Mr. VALENTINE. If the lands were unimproved would they be worth $5 an acre?

Mr. SCALES. I do not know how that may be. I know the officers of the Government give that as the valuation. I know that sworn appraisers have gone there and they decide that the lands are worth that price. If they be not worth so much, then I am willing in the interest of justice between the parties (if these settlers have any claim to justice under such circumstances) that this bill shall be voted down and other appraisers sent there to appraise the land.

Mr. SPARKS. These appraisers did not take into account the improvements?

Mr. SCALES. No, sir; just the land.

Mr. DAVIS, of North Carolina. How was this appraisement made?

Mr. SCALES. By appraisers appointed by the Government.

Mr. DAVIS, of North Carolina. Then I understand it is proposed that the Government shall not give these Indians what the officers of the Government valued the lands at.

Mr. SCALES. That is the valuation made by Government appraisers; and now gentlemen here are not willing to pay the Indians this valuation, although as is known to every one who has had any experience in the settlement of these Indian matters such valuations are always made in the interest of the settler.

Mr. HASKELL. Mr. Speaker, I hope I may have the ear of the House for a few moments, because I have to make a statement of facts differing so radically from the statement of the gentleman from North Carolina [Mr. SCALES] that I am very frank to say if his statements were absolutely true, were absolutely matters of record, as he doubtless thinks they are, I like him would not consent to have these lands sold for less than the appraised value.

What are the facts in the case? Twenty-six years ago, by a treaty with the New York Indians, it was provided that an immense reservation in the State of Kansas should be set apart for their use and ownership, provided they would go upon the lands and occupy them. They utterly failed to go upon the lands; not a single tribe of those Indians went upon the lands.

A few straggling Indians from Michigan, Wisconsin, and New York, said to number thirty-two souls, went upon the lands and made selections or locations there. The tribes did not go. They did not avail themselves of the new reservation, and refused to leave the old. The Government declined to force them to go.

Now, Mr. Speaker, of these thirty-two isolated Indians who went upon the land no officer of this Government has ever been able to find fifteen of them. It was charged and proved that many of these locations said to be on file in the Indian Department were made by speculative white men for Indians who never existed.

Behind the question of title to these thirty-two selections lie an infinite number of questions which I am frank to say if they were carried into court would result in ousting the Indians from the claimed selections of these lands entirely. That was understood by the Indians themselves, and it was understood by white men, too.

This proceeding here, Mr. Speaker, is to avoid a long litigation in court. I say the Indians hold no title to those lands. All they hold are certificates of allotment. Nowhere in the statutes, nowhere in the treaty, is there any provision the Government should patent the lands. All they hold is the certificate of the Interior Department of these thirty-two allotments. They have no title whatever to them. That question has never been settled. I believe and the settlers believe that if the questions were taken into court for determination, whatever title they claim would be decided to be worthless.

Mr. STEVENSON. What were the conditions of the allotments?

Mr. HASKELL. That these tribes were to go upon this reservation and live there and make it their home.

Mr. ATKINS. How long were these lands to remain in their possession?

Mr. HASKELL. The treaty is silent on that point. They were to possess them and to make them their home. It is a large reservation; but they utterly failed to comply with that condition to live on the lands, and did not occupy them.

Mr. ATKINS. Do not the certificates amount to a perpetual possession if they remained on the land?

Mr. HASKELL. Yes, if they remained upon the land.

Mr. ATKINS. Have they been driven from the land by force?

Mr. HASKELL. Now to come to the question of force. They were never driven from those lands by force. There was no uprising against them. In the conflicts which always exist upon the border even among white men, there was an occasional squatter and an occasional Indian who came into conflict. Some of them were driven from the land. I have no doubt about that. This was twenty-six years ago. Quite a number of them staid there, and under the provisions of a law passed years ago every Indian who staid there was given the right to take his land and to own it and sell it.

Mr. ATKINS. Why were some of these Indians driven from the land?

Mr. HASKELL. I have just told you that occasionally a squatter would come into conflict with the Indian occupant, and in these struggles, which oftentimes occur between whites themselves, the Indians sometimes were driven off. I have no doubt about that.

But that, Mr. Speaker, was twenty-six years ago. Of all the original squatters upon these lands, if they did injustice to the Indians, not one of them remains there now. Every man upon the lands to-day is a man who has gone there and bought the lands from the occupants. One writes to me that he paid $4,000 for the improvements put upon those lands.

The Secretary of the Interior opposes this bill because he and the entire genius of the Department assume that western lands are worth a great deal more than they really are. Every western man will bear me out in that assertion. I sold a farm myself in one of the thickly settled counties of Kansas for $4.50 an acre; and some of these Indian lands are appraised as high as $10 an acre, high prairie land, which in my State can be bought for $2.50 an acre.

Again, there are about ten of these Indian allottees who banded together and hired an attorney, an ex-member of Congress who preceded me in my district, Stephen A. Cobb, of Wyandotte, sent him to Washington and asked him to secure the sale of these lands just as is provided for in this bill at $2.50 an acre. I saw their signatures to the paper, authorizing him as their attorney to come here and secure that sale if possible. They said the title is in doubt, and settlers will not buy at a high appraisement a doubtful title, and to compromise and settle the business they would take $2.50 an acre for the land.

Mr. BRIGHT. Will the gentleman permit me to ask him a question?

Mr. HASKELL. Certainly.

Mr. BRIGHT. What disposition is proposed to be made of the proceeds of the sales of these lands? I wish to know whether they go into the Treasury of the United States or inure to the benefit of the Indians.

Mr. HASKELL. The funds derived from the sale under this bill go to the Indians themselves. They are to be paid to the Indian representatives of the piece of land. More than this. The gentleman from North Carolina says that these lands pay no taxes. Why, under the laws of our State every furrow upon the prairies can be taxed as personal property; and the taxation upon this land, while not technically taxed upon the realty, is derived from a tax levied upon the personal property, upon the buildings, the barns, the fences, and other improvements on the lands, and aggregates about as much as a tax would be if levied upon the land itself. They are taxed just as heavily for the support of the local government as if the tax was laid upon the lands, and in fact heavier. It is said, Mr. Speaker, that this is a rich country; that these lands are very valuable; that this is a gigantic scheme to get possession of rich lands at very low prices, and that is alleged as the secret of this whole scheme.

Why, sir, I have been all over these lands myself, and I can say to this House that much of the land is high prairie land, which, all over my State, I can buy anywhere at $3 per acre.

There is no fraud whatever in it. When I came before the committee I came to present a bill that as many of the Indians as could be got together agreed to as well as the white settlers upon the lands. It was a compromise measure mutually acceptable to all parties. Now, the great difficulty is to get at the root of the question, to know how to dispose of the lands. They cannot be sold in open market at public auction, and why? Because they have to protect the holders of the improvements upon these lands to the same extent. When you sell the lands you sell the houses, and the hay-stacks, and the fences, and all of the improvements which these men for twenty-six years have been putting upon lands. Of course the Government will not go to work and oust a large number of settlers, and throw them out or force them to pay prices which would drive them out upon the prairies, prices which they could never pay, and virtually dispossess them in that manner. Some bill was therefore absolutely necessary to be devised in which all parties should be secured—the settler on the homestead, and the Indian—by paying to the Indian a fair price for his allotment. Now, the appraisement of these lands has been very unequal, but the average appraisement is only $5 per acre. I do not object so much to the appraisement myself as to the fact that the land is unequally appraised.

Mr. McMILLIN. Will the gentleman permit me to ask him if by his proposition to pay the Indians for these lands he does not virtually acknowledge their title thereto?

Mr. HASKELL. No, sir, I do not. I deny most emphatically their title.

Mr. McMILLIN. If they have no title, then why do you propose to pay them for the land?

Mr. HASKELL. Because there is a dispute about the title. Because there is no other way of settling it except by expensive litigation, and we believe it is better for all parties to compromise these suits than to get into a quarrel or fight the case in the courts, and by this method they can get $3 an acre without a dollar of costs, but if they go into the courts they may lose all. It is a liberal and fair transaction for all parties and there can be no possible objection to it, because the only persons who have a right to object to it have given their sanction to it and are anxious that this disposition shall be made of them.

I hold, Mr. Speaker, a letter in my hand from a Presbyterian clergyman from a little town in the district in which I live in which he states that a recent meeting of these men has been held, and that in his judgment the settlers will condemn me if I secure the passage of a bill allowing more than $2.50 an acre. I wrote back that according to my judgment these land questions ought to be settled in some way; the difference between $2.50 and $3 an acre was not great; and that I believed Congress would agree to pass a bill allowing $3, and I am here urging this bill not in the interest of any political work, not in the interest of any job, but merely to settle an old question that has been unsettled for the last twenty-six years. I ask this House to support me in a bill in which all of these parties have united and which is supported by nine members of the committee.

Now, referring to that letter of the Secretary of the Interior to which reference has been made here, in many of its assertions the gentleman from North Carolina ought to recollect that that letter was written not about this bill, but another one not now before the House. There is where the letter of the Secretary of the Interior misleads the House to a great extent. That letter was written, as I have stated, concerning a totally different bill, while this bill as the committee have reported it has never been before the Secretary of the Interior at all. I never made an argument before him on the basis of the committee report.

Mr. WILSON. Is the Commissioner of Indian Affairs opposed to this bill?

Mr. HASKELL. The old Commissioner of Indian Affairs, Mr. Hayt, was opposed to it, because, I am sorry to say, he was opposed to everything that looked to the settlement of anything.

Mr. PRESCOTT. Will the gentleman allow me to ask him a question?

Mr. HASKELL. I have only a moment, but I will yield for a question.

Mr. PRESCOTT. I find by the report of the committee that the lands were appraised at from $3.75 to $10 per acre. I find by the report of the Secretary that a portion of these settlers have already settled their claims at the appraised value of the lands, and under the report of the commissioners it appears that at least eight of these divisions of thirty-two have been so settled, and some at the highest price of the appraisement. The bill as now presented makes no exception in regard to those persons. The question I desire to ask the gentleman from Kansas is, if the bill is passed in its present form, will not these parties have the right to come in and get paid for their lands at $3 per acre, who have already settled at $6 or $6.50, and thus have the Government to refund the difference or have it taken from the Indians?

Mr. HASKELL. Not at all. Those allotments were bought and paid for under law, and to those settlers that was concluded; the whole question was *res adjudicata*. They have the patent to their lands, and the allottee, the man bought of, has his money. It is not in the hands of the Government to give back. It is not a governmental question. The white man has his land under patent from the Government and by quitclaim deed from the Indian, or has his money; and so far as these parties are concerned it is not in contemplation to do anything.

Mr. PRESCOTT. The bill says:

That those persons, being heads of families or single persons over twenty-one years of age, who have made settlement and improvement upon, and are *bona fide* claimants and occupants of, either in person or by tenant, the lands in Kansas which were allotted to certain New York Indians, and for which certificates of allotment, dated the 14th day of September, 1860, for three hundred and twenty acres of land each, were issued to thirty-two of said Indians, &c.

That covers the whole land. There should be an amendment added as to those who have not heretofore settled for the lands at their appraised value under the acts of Congress.

The SPEAKER. The time of the gentleman from Kansas [Mr. HASKELL] has expired. The gentleman from North Carolina is entitled to the floor.

Mr. SCALES. I yield to the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. I desire the Clerk to read the paragraphs I have marked in article 2 of the treaty made with the New York Indians.

The Clerk read as follows:

To have and to hold the same in fee-simple to the said tribes or nations of Indians, by patent from the President of the United States, issued in conformity with the provisions of the third section of the act entitled "An act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi," approved on the 28th day of May, 1830, with full power and authority in the said Indians to divide said lands among the different tribes, nations, or bands in severalty, with the right to sell and convey to and from each other, under such laws and regulations as may be adopted by the respective tribes, acting by themselves, or by a general council of the said New York Indians acting for all the tribes collectively. It is understood and agreed that the above-described country is intended as a future home for the following tribes, to wit: the Senecas, Onondagas, Cayugas, Tuscaroras, Oneidas, Saint Regis, Stockbridges, Munsees, and Brothertowns residing in the State of New York, and the same is to be divided equally among them according to their respective numbers, as mentioned in a schedule hereunto annexed.

Mr. SCALES. How much time have I remaining?

The SPEAKER. Nine minutes.

Mr. SCALES. I yield three minutes to the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. I only desire to say a word or two. If the statement of my friend from Kansas be correct, that the Indians hold no title to this land, and that the subject-matter of title is a question which the courts might determine, why the necessity for this bill?

Mr. HASKELL. As a compromise.

Mr. HOOKER. If they hold no title, then they do not hold the land. If they do hold the land, they hold it by virtue of the second clause of the treaty which I have caused to be read, which not only gives it to them by solemn treaty, but by the patent of the Government.

Mr. HASKELL. Will the gentleman allow me to ask him one question?

Mr. HOOKER. Yes, sir.

Mr. HASKELL. The gentleman will notice, as the House does, that that treaty speaks of tribes, and not of Indians at all All the powers and title go to tribes. Now, there was not a single tribe out there at all.

Mr. HOOKER. The gentleman will allow me to say that he is mistaken; because it will be observed that those of the tribes that failed to go and avail themselves of this grant of land in Kansas have forfeited their right, and those who did go there did not forfeit, whether they were sent by tribes or portions of tribes. It stands, so far as interpretation is concerned, precisely as the Choctaw treaty of 1832 in Mississippi stood, where those who remained in Mississippi were to have certain reservations. In other words, these Indians refused to concede their lands in New York and did not go to Kansas, but those who did concede their lands in New York and went to Kansas got the title of the Government according to the solemn treaties of the Government, which should not be broken; and more than that, they got title to the land by solemn patent of the Government.

Mr. SCALES. I desire to say only a few words in answer to the gentleman from Kansas, and I will occupy the short time I have in reading what the Secretary of the Interior has said, in order to settle the issues between myself and the gentleman from Kansas:

As early as 1842 members of certain tribes in the State of New York and elsewhere, who thought themselves entitled to the lands under the provisions of the treaty, removed to the country west of the State of Missouri and settled therein; and from time to time others followed them until a considerable number of Indians, as will be seen from census lists on file in the Indian Bureau, were found to be occupying these lands.

Now, listen to this:

From death and the hostility of the settlers who were drawn in that direction by the fertility of the soil and other advantages, all of the Indians gradually relinquished their selections until of the Indians who had removed thither from the State of New York only thirty-two remained in 1860.

Those are the Indian lands we are discussing, the lands that belong to the thirty-two Indians who went there and remained there until 1860. Then the Commissioner of Indian Affairs says:

Under these provisions thirty-two New York Indians removed to and remained in the Territory now embraced in the State of Kansas prior to June 16, 1860.

My friend from Kansas says the Commissioner of Indian Affairs and the Secretary of the Interior wrote these letters in regard to another bill. My friend is mistaken. It was the same bill identically, with this exception, that the gentleman from Kansas had then in the committee carried an amendment reducing the price of those lands to $2.50 per acre; and that was the bill submitted to the Department.

Mr. HASKELL. This bill bears the name of the gentleman from North Carolina, [Mr. SCALES,] and is not the bill I wrote. I did, however, send my bill to the Secretary.

Mr. SCALES. That bill bears my name, and it is the identical bill that went before the committee. I introduced the bill at the instance of the Department, and the only difference is in the amendment introduced by the gentleman from Kansas. Here is what the Commissioner says:

The bill under consideration proposes to reduce the aggregate value of the unsold lands over one-half, or to $23,339.68, and if the lands are not sold at the diminished rate of $2.50 per acre within one year that patents shall issue in the names of the original allottees for the balance unsold.

The only issue between us to-day is as to the price of these lands. I am contending for the appraised value made by a commission sent there by the Government. The gentleman from Kansas [Mr. HASKELL] is contending for the value set upon these lands by the settlers themselves, a value which has not been proved by anybody, and which is not sustained by one particle of evidence ever brought before the committee. We have nothing but the assertion of the gentleman from Kansas; and while I am disposed to pay much respect to what he says, yet he relies upon what these settlers say. Now, in

regard to the value of these lands, this is what the Commissioner says:

The lands are in Bourbon County, one of the richest and most fertile counties in the State. They are within a few miles of Fort Scott, and near the line of the Missouri, Kansas and Texas Railroad—the Missouri River, Fort Scott and Gulf Railroad running nearly through the center of the body of lands, which lie in close proximity to the corner of townships twenty-three and twenty-four in ranges twenty-four and twenty-five east. The records of the General Land Office show that there is scarcely a vacant forty-acre tract of land in or near the townships named. With these facts in view, it is safe to assume that the several tracts were, in 1873, worth the full amount at which they were appraised, and that, in view of the rapid development of the country, and the present price of uncultivated lands in that vicinity, there has at least been no depreciation of their value.

All the lands about these have been settled, and I stand here to-day asking only that these Indians may have what this Government has said through its appraisers this land is worth. It is insisted that the appraised value of these lands shall not be given, because there is no one here urging it, except the Indians themselves.

Mr. GODSHALK. Has not the time for debate expired?

The SPEAKER. There is one minute left.

Mr. SCALES. The Commissioner further says:

The settlers have been in possession of these lands for years, to the exclusion of the Indians, and have had every advantage and opportunity to pay for the lands from the products of the same.

This appraisal was made in 1873, and these settlers have had from that time to this to take these lands at their appraised value, and they have refused to do it. It is proposed now that another opportunity be given to them to take the lands at their appraised value, and the gentleman from Kansas [Mr. HASKELL] insists that the land shall be sold at $3 per acre. Under these circumstances, I do not consider it necessary to occupy the attention of the House for a longer time.

The SPEAKER. The time for debate has expired.

Mr. PRESCOTT. In order to meet a contingency which I suggested with reference to persons who have already settled upon these lands, I ask permission to offer an amendment to the bill.

The SPEAKER. The House was dividing upon an amendment reported from the Committee of the Whole. Does the gentleman from Kansas [Mr. HASKELL] agree to the amendment of the gentleman from New York, [Mr. PRESCOTT?]

Mr. HASKELL. I will if it is what I think it is.

Mr. BLAND. I object to any further debate or amendment.

The SPEAKER. If objection is made, the Chair cannot entertain the amendment. The tellers will resume their places.

Mr. SPRINGER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. What is the pending question?

The SPEAKER. The House is dividing on an amendment reported from the Committee of the Whole.

Mr. SPRINGER. If the House shall vote down the amendment, will the bill be left in a shape to be properly amended?

Mr. SCALES. If we vote down all the amendments reported from the Committee of the Whole, the bill will be right.

Mr. HASKELL. The gentleman does not mean to vote down his own amendment, fixing the time at five years instead of three years for the operation of this act?

Mr. SCALES. No, not that amendment.

The SPEAKER. The first amendment upon which the House is dividing will be read.

The amendment was read, as follows:

In section 1 strike out the words, "the appraised value of the said tracts, as heretofore ascertained by the Secretary of the Interior, in accordance with the provisions of the act of February 19, 1873, entitled 'An act to provide for the sale of certain New York Indian lands in Kansas,'" and in lieu thereof insert the words "three dollars per acre;" so that the section will read:

"That those persons, being heads of families or single persons over twenty-one years of age, who have made settlement and improvement upon and are *bona fide* claimants and occupants of, either in person or by tenant, the lands in Kansas which were allotted to certain New York Indians and for which certificates of allotment, dated the 14th day of September, 1860, for three hundred and twenty acres of land each, were issued to thirty-two of said Indians, shall be, and hereby are, authorized and permitted to enter and purchase at the proper land office, at any time within one year from the passage of this act, said lands so occupied by them, in tracts not exceeding one hundred and sixty acres, according to the Government surveys, at not less than $3 per acre," &c.

The SPEAKER. The Chair is advised that this amendment is recommended by the Committee on Indian Affairs, and was agreed to by the Committee of the Whole House.

Mr. SCALES. That is right.

Mr. HASKELL. And an affirmative vote by the House at this time is simply a vote to sustain the committee.

The SPEAKER. To sustain both committees, the Committee on Indian Affairs and the Committee of the Whole House.

Mr. SCALES. That is correct. It will be an indorsement of the action of both committees.

The SPEAKER. The tellers, the gentleman from Kansas, Mr. HASKELL, and the gentleman from North Carolina, Mr. SCALES, will again resume their places, and the House will again vote upon agreeing to the amendment just read, reported from the Committee of the Whole.

The House again divided; and the tellers reported that there were—ayes 95, noes 67,

Before the result of this vote was announced,

Mr. SCALES called for the yeas and nays.

The yeas and nays were ordered, there being 33 in the affirmative; one-fifth of the last vote.

The question was taken; and there were—yeas 119, nays 98, not voting 75; as follows:

YEAS—119.

| | | | |
|---|---|---|---|
| Aldrich, William | Deering, | Killinger, | Scoville, |
| Bailey, | De La Matyr, | King, | Shallenberger, |
| Ballou, | Dick, | Le Fevre, | Sherwin, |
| Bisbee, | Dunnell, | Loring, | Smith, A. Herr |
| Blake, | Dwight, | Marsh, | Starin, |
| Bland, | Einstein, | McCoid, | Stone, |
| Bowman, | Ferdon, | McGowan, | Taylor, Ezra B. |
| Boyd, | Fisher, | McKinley, | Thomas, |
| Brewer, | Forsythe, | Miller, | Thompson, Wm. G. |
| Briggs, | Frye, | Mills, | Townsend, Amos |
| Brigham, | Gunter, | Monroe, | Tyler, |
| Browne, | Hall, | Morton, | Updegraff, J. T. |
| Butterworth, | Hammond, John | Newberry, | Updegraff, Thomas |
| Calkins, | Harmer, | Norcross, | Upson, |
| Camp, | Harris, Benj. W. | O'Neill, | Urner, |
| Cannon, | Haskell, | Orth, | Valentine, |
| Carpenter, | Hawk, | Osmer, | Van Voorhis, |
| Caswell, | Hawley, | Poehler, | Voorhis, |
| Chittenden, | Hayes, | Pound, | Waddill, |
| Claflin, | Hazelton, | Prescott, | Wait, |
| Conger, | Heilman, | Price, | Ward, |
| Converse, | Henderson, | Ray, | Warner, |
| Cowgill, | Hiscock, | Reagan, | Weaver, |
| Crapo, | Horr, | Reed, | Wellborn, |
| Cravens, | Hostetler, | Rice, | Wells, |
| Crowley, | Houk, | Richardson, D. P. | Whiteaker, |
| Culberson, | Hubbell, | Richmond, | Williams, C. G. |
| Daggett, | Jorgensen, | Robeson, | Wise, |
| Davis, George R. | Joyce, | Robinson, | Yocum. |
| Davis, Horace | Keifer, | Ryan, Thomas | |

NAYS—98.

| | | | |
|---|---|---|---|
| Acklen, | Covert, | Johnston, | Richardson, J. S. |
| Aiken, | Cox, | Jones, | Rothwell, |
| Atherton, | Davidson, | Kelley, | Ryon, John W. |
| Atkins, | Davis, Joseph J. | Kenna, | Samford, |
| Baker, | Davis, Lowndes H. | Kitchin, | Sawyer, |
| Beale, | Deuster, | Ladd, | Shelley, |
| Berry, | Dibrell, | Lounsbery, | Singleton, O. R. |
| Bicknell, | Dickey, | Manning, | Smith, William E. |
| Blackburn, | Ellis, | Martin, Edward L. | Speer, |
| Bliss, | Evins, | McKenzie, | Springer, |
| Blount, | Felton, | McLane, | Steele, |
| Bouck, | Finley, | McMahon, | Talbott, |
| Bragg, | Forney, | McMillin, | Thompson, P. B. |
| Bright, | Frost, | Money, | Tillman, |
| Buckner, | Geddes, | Morrison, | Turner, Thomas |
| Caldwell, | Godshalk, | Muldrow, | Vance, |
| Chalmers, | Goode, | Myers, | Whitthorne, |
| Clardy, | Hammond, N. J. | New, | Williams, Thomas |
| Clark, John B. | Harris, John T. | Nicholls, | Willis, |
| Clements, | Hatch, | O'Connor, | Wilson, |
| Clymer, | Herbert, | O'Reilly, | Wood, Walter A. |
| Cobb, | Hooker, | Persons, | Wright, |
| Coffroth, | House, | Phelps, | Yeates. |
| Colerick, | Humphrey, | Philips, | |
| Cook, | Hurd, | Phister, | |

NOT VOTING—75.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Ford, | Mason, | Singleton, J. W. |
| Anderson, | Fort, | McCook, | Slemons, |
| Armfield, | Gibson, | Miles, | Smith, Hezekiah B. |
| Bachman, | Gillette, | Mitchell, | Sparks, |
| Barber, | Henkle, | Morse, | Stephens, |
| Barlow, | Henry, | Muller, | Stevenson, |
| Bayne, | Herndon, | Murch, | Taylor, Robert L. |
| Belford, | Hill, | Neal, | Townshend, R. W. |
| Beltzhoover, | Hunton, | O'Brien, | Tucker, |
| Bingham, | Hutchins, | Overton, | Turner, Oscar |
| Burrows, | James, | Pacheco, | Van Aernam, |
| Cabell, | Ketcham, | Page, | Washburn, |
| Carlisle, | Kimmel, | Robertson, | White, |
| Clark, Alvah A. | Klotz, | Ross, | Wilber, |
| Dunn, | Knott, | Russell, Daniel L. | Willits, |
| Elam, | Lapham, | Russell, W. A. | Wood, Fernando |
| Errett, | Lindsey, | Sapp, | Young, Casey |
| Ewing, | Lowe, | Scales, | Young, Thomas L. |
| Field, | Martin, Benj. F. | Simonton, | |

So the amendment was agreed to.

Mr. SPARKS. I agreed to pair with General WHITE, of Pennsylvania, who is absent. It was understood that I should vote on Private Calendar bills. But impressed with the belief that he would vote for this bill, and I having voted against it, I withdraw my vote.

The following pairs were announced from the Clerk's desk:

Mr. SMITH, of Georgia, with Mr. WILBER, on political questions.

Mr. TOWNSHEND, of Illinois, with Mr. BARBER.

Mr. WHITE with Mr. SPARKS, on political questions.

Mr. ANDERSON with Mr. SMITH of New Jersey, for this day.

Mr. STEVENSON with Mr. MITCHELL.

Mr. HUTCHINS with Mr. KETCHAM.

Mr. JAMES with Mr. O'BRIEN.

Mr. HERNDON with Mr. SAPP.

Mr. COWGILL with Mr. BACHMAN, on political questions.

Mr. MCCOOK with Mr. MULLER, on political questions.

Mr. MILES with Mr. SINGLETON of Illinois.

Mr. ROSS with Mr. RUSSELL of Massachusetts.

Mr. OVERTON with Mr. TAYLOR of Tennessee.

Mr. ERRETT with Mr. SCALES.

Mr. WASHBURN with Mr. FERNANDO WOOD.

Mr. DIBRELL. My colleague, Mr. SIMONTON, is confined to his room by illness. He is paired, as I understand, for this day and until further notice, with the gentleman from Pennsylvania, [Mr. WHITE.]

The SPEAKER. The gentleman from Pennsylvania [Mr. WHITE] is paired with the gentleman from Illinois, [Mr. SPARKS,] as announced a few moments ago.

Mr. DIBRELL. Then I withdraw the statement as to the pair.

Mr. HAZELTON subsequently said: Mr. Speaker, a pair has been arranged, until further notice, between the gentleman from Tennessee [Mr. SIMONTON] and the gentleman from California, [Mr. PAGE,] who is absent on account of the dangerous sickness of his father.

The result of the vote was announced as above stated.

Mr. HASKELL. I now demand the previous question on the remaining amendments and on the bill.

The previous question was seconded and the main question ordered.

The next amendment reported from the Committee of the Whole was read, as follows:

In line 30 of section 1 strike out "three" and insert "five;" so that the clause will read:

"And the moneys arising from such sales shall be paid into the Treasury of the United States, in trust for, and to be paid to, said Indians respectively to whom said certificates were issued, or to their heirs, upon satisfactory proof of their identity to the Secretary of the Interior, at any time within five years from the passage of this act."

The amendment was agreed to.

The next and last amendment reported from the Committee of the Whole was read, as follows:

In line 4 of section 2 strike out "the appraised value" and insert "$3 per acre;" so that the clause will read:

"That any lands not entered by such settlers, at the expiration of one year from the passage of this act, shall be offered at public sale, in the usual manner, at not less than $3 per acre," &c.

The amendment was agreed to, there being—ayes 66, noes 39.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, was accordingly read the third time.

The question being taken on the passage of the bill, it was decided in the affirmative; there being—ayes 79, noes 30.

So the bill was passed.

Mr. HASKELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ABANDONMENT OF CAMP SHERIDAN.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, in relation to the abandonment of Camp Sheridan; which was referred to the Committee on Military Affairs.

RESTORATION OF CAPTAINS WINDER AND RANSOM.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, against the restoration of Captains Winder and Ransom; which was referred to the Committee on Military Affairs.

MILITIA FORCE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, relative to the militia force of the United States; which was referred to the Committee on the Militia, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. VAN AERNAM, by unanimous consent, was granted leave of absence for one week on account of important business.

CHARLES H. WILTBERGER, DECEASED.

On motion of Mr. FORD, by unanimous consent, leave was granted to the executor of the will of Charles H. Wiltberger, late of the District of Columbia, to withdraw the papers in his claim for pay for logs and wood cut upon his land in said District during the late war by the Union Army to build forts and for fuel; provided that no adverse report has been made on said claim, and that copies of said papers be left with the Clerk of the House.

PRIVATE CALENDAR.

Mr. BRIGHT. I move the House resolve itself into the Committee of the Whole for the purpose of going to the Private Calendar.

Mr. O'NEILL. Before the House goes into the Committee of the Whole House on the Private Calendar I hope we will dispose of the unfinished bills now lying upon the Speaker's table coming over from last Friday.

Mr. COX. I raise the question of consideration.

The SPEAKER. The gentleman cannot raise the question of consideration on the motion to go into committee, for if the House does not desire to go into Committee on the Private Calendar it can vote the motion down.

Mr. COX. I give notice, then, that if this motion is voted down I shall then move to proceed to the consideration of the apportionment bill, which is the unfinished business of yesterday.

The question recurred on Mr. BRIGHT's motion.

The House divided; and there were—ayes 86, noes 49.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the Private Calenndar, Mr. HATCH in the chair.

The CHAIRMAN. The Private Calendar will be resumed; and the Clerk will report the first bill in order.

The Clerk read as follows:

A bill (H. R. No. 3784) to compensate Asa Weeks for his labor and expenses in perfecting torpedoes, torpedo machinery, and the art of torpedo warfare for the sole and exclusive benefit of the United States, and for other purposes.

Mr. HARRIS, of Massachusetts. I move that the bill be passed over.

Mr. FINLEY. I did not hear the gentleman's motion.

Mr. HARRIS, of Massachusetts. I have said several times before the reason why that bill should not be called up for action. I move it be passed over.

Mr. FINLEY. I do not object to that.

The motion was agreed to.

JOHN S. CUNNINGHAM.

The next bill on the Private Calendar was the bill (H. R. No. 4605) for the relief of John S. Cunningham.

The bill, which was read, authorizes the proper accounting officers of the United States Treasury to place to the credit of John S. Cunningham the sum of $1,284.19, being the amount embezzled by his late clerk while stationed at the San Francisco Navy pay office, in the year 1878.

The report was read, as follows:

The Committee on Naval Affairs, to whom was referred the petition of John S. Cunningham, a pay-director in the Navy of the United States, having considered the same, respectfully report:

This case was considered by the Committee on Naval Affairs of the Senate during the third session of the Forth-fifth Congress, and a favorable report made thereon. From that report, which your committee adopts and makes a part of this report, it appears as follows: That—

"The memoralist is a pay-director in the Navy. He has been many years in the service, and has disbursed many millions of dollars, and his accounts, as appears by the certificates of the accounting officers of the Treasury, have been kept with remarkable clearness and accuracy, and have been rendered with unvarying promptness, having been always settled promptly to a cent.

"He was stationed at the Navy pay-office, San Francisco, California, where he made it a rule not to permit any money to be drawn from the Treasury for the use of his office, but paid every bill, however small in amount, by check on the sub-Treasury. He had invented a system of recording a history of bills and payments in a book, which is highly commended by the Fourth Auditor as a security against fraud. He was accustomed to draw his checks payable to order, but the assistant treasurer at San Francisco refused payment of them, and required him to make them payable to bearer. In accordance with this requirement he drew three checks, one for $720, to pay a bill of the California Cracker Company; one for $361.72, to pay a bill of Whittier, Fuller & Co.; and one for $202.47, to pay a bill of James E. Jordan; in all, $1,284.19, which were intrusted to Franklin Philp, his clerk, a sworn officer, approved by the Navy Department, and who embezzled them and applied the proceeds to his own use. Immediately on discovering the embezzlement Captain Cunningham deposited of his own funds the amount of the checks in the United States Treasury, and obtained therefor transfer drafts on San Francisco, which he at once forwarded to the parties for whom the embezzled checks were intended. The clerk absconded, and is wholly irresponsible.

"Whatever are the objections to indemnifying disbursing officers for losses inflicted upon them by their subordinates, they can hardly apply when the loss is occasioned by a compulsory mode of drawing the checks against which the officer protested, and when, if he had been permitted to draw them in the mode which he attempted for the greater security of the Government, the loss would not have occurred. It appears that the loss was caused by no fault or neglect of the memorialist, but by the requirement of the Treasury officers that the checks should be made payable to bearer."

Your committee is of the opinion that relief should be granted to the memorialist, and therefore recommend the passage of the accompanying bill.

Mr. DAVIDSON. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

Mr. PRICE. Was there any testimony to prove that an assistant treasurer of the United States refused to pay a check payable to order?

Mr. DAVIDSON. I will read it, and I am glad the gentleman has asked the question.

Mr. PRICE. It is a most singular proceeding, then.

Mr. DAVIDSON. I will state, as further evidence of the justice of the claim, that it has passed the Senate.

Mr. PRICE. I do not object, but only want to know that one thing.

Mr. DAVIDSON. Here is the testimony:

"Must be drawn to bearer."

OFFICE OF THE UNITED STATES ASSISTANT TREASURER,
*San Francisco, October* 28, 1875.

SIR: Checks on this office must be drawn payable to bearer, and only in exceptional cases, when drawn payable to order and coming through some bank or well-known business firm, will such checks be paid.

Respectfully,

WILLIAM SHERMAN,
*Assistant Treasurer United States.*

To Captain J. S. CUNNINGHAM,
*Pay Director, United States Navy.*

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Protest against "bearer" checks.

UNITED STATES NAVY PAY OFFICE, 434 CALIFORNIA STREET,
*San Francisco, California, July* 19, 1876.

SIR: The inclosed official check of this Navy pay office, No. 1666, dated June 30, 1876, payable to the order of Catherine Kennedy, for $20, (allotment,) was this day refused payment by the assistant treasurer in San Francisco, on the plea that the Navy pay office must draw checks to bearer.

This check is taken from the book of checks furnished to me by the Assistant Treasurer at San Francisco. I inclose also the circular of the Assistant Treasurer at San Francisco of October 28, 1875. You can readily see how this office is con-

stantly embarrassed by the conduct of the Assistant Treasurer at San Francisco, and I must earnestly and respectfully ask for some relief at your hands.

Is it fair to ask this office to trust checks payable to bearer in the hazard of the post-office?

Very respectfully, your obedient servant,

JOHN S. CUNNINGHAM,
*Pay Director, United States Navy.*

To Hon. A. U. WYMAN,
*Treasurer of United States, Washington, D. C.*

—

Navy. No. 1666.] PAY DIRECTOR,
*San Francisco, 30th June, 1876.*

Vignette by the Treasury Department. Farragut. } 1 B. *Assistant Treasurer of the United States, San Francisco, California.*

Pay to the order of Catherine Kennedy, twenty dollars.

State objects for which drawn.
For two allotments in her favor, $20.

JOHN S. CUNNINGHAM,
*Pay Director, United States Navy.*

Mr. Cunningham did all he could do to correct this. Whatever loss occurred arose from no fault or negligence on the part of Mr. Cunningham. I can add, further, that he is a most efficient officer, and in years past has disbursed $9,000,000 of Government funds and settled his accounts to the last cent.

Mr. PRICE. I am not calling in question that fact; but I merely asked whether there was any testimony conclusive of the point that an assistant treasurer refused to pay a check payable to order?

Mr. HOUSE. There is. The letter has been read.

Mr. PRICE. Who was it?

Mr. DAVIDSON. William Sherman, assistant treasurer United States.

Mr. DAVIDSON moved the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

LANGLEY B. CULLEY.

The next business on the Private Calendar was the bill (H. R. No. 3826) for the relief of the heirs of the late Langley B. Culley.

The bill is as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he hereby is, directed to pay to the heirs of the late Langley B. Culley, a naval constructor in the Navy of the United States, the sum of $2,300, out of any money in the Treasury not otherwise appropriated, in payment for all services now due the heirs of said Culley from the United States.

The report was read, as follows:

The Committee on Naval Affairs, to whom was referred the memorial of the heirs of Langley B. Culley, a naval constructor in the Navy of the United States, having had the same under consideration, respectfully submit the following report:

It appears by the records of the Navy Department that Langley B. Culley was appointed a naval constructor by the late John Y. Mason, Secretary of the Navy, February 26, 1845, at a salary, as stated in his letter of appointment, of $2,300 per annum; and that said appointment was revoked by George Bancroft, who succeeded Mr. Mason as Secretary of the Navy, April 17, 1845, Mr. Culley having accepted the appointment in a letter dated February 26, 1845. It also appears that at the time of his appointment and acceptance of the office he owned and occupied a ship-yard in Baltimore, Maryland, where he was doing a successful business in the line of his profession; and in order to enter on the discharge of the duties of the office to which he had been appointed by the Secretary of the Navy, he sold out his ship-yard, and sacrificed a flourishing business; and after holding himself in readiness for fifty days to obey the orders of the Navy Department, he was informed by the Secretary of the Navy that in consequence of the failure of Congress to make an appropriation for the pay of the office to which he had been appointed, said appointment was revoked. In the mean time his business arrangements had been broken up, and his ship-yard had passed into other hands.

From the numerous statements which the committee have examined, all of which bear testimony to the high moral, intellectual, and professional abilities of Mr. Culley, and of his eminent fitness for the position to which he had been appointed, and taking into consideration the sacrifices which he made in accepting said appointment, and for which neither he nor his heirs have received any compensation, the committee are unanimously of the opinion that his heirs are justly and equitably entitled to at least one year's pay, at the rate named in his letter of appointment, and herewith report the accompanying bill.

Mr. TALBOTT. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

PASSED ASSISTANT ENGINEER ABSALOM KIRBY.

The next business on the Private Calendar was the bill (H. R. No. 4607) for the relief of Passed Assistant Engineer Absalom Kirby, of the Navy.

The bill is as follows:

*Be it enacted, &c.*, That the act of March 3, 1873, restoring Passed Assistant Engineer Absalom Kirby to the active list of the Navy, be so construed as to allow him the pay of his present grade from the 11th of October, 1866, the date from which he takes rank, and a sum sufficient to pay him the amount found to be due is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

The report was read, as follows:

The facts in the case of Absalom Kirby, passed assistant engineer, United States Navy, show that he was placed on the retired list as a second assistant engineer January 22, 1866, under a misapprehension, having been on sick leave but twenty-eight days, and was ordered on duty six weeks afterward and kept on duty nearly the whole time that he was on the retired list, four years and six months of which time he served at sea. On the 3d of March, 1873, an act was passed, upon the recommendation of the Navy Department, restoring him to his original position on the active list. Upon application at the Treasury Department for difference of pay, after promotion in the usual form, he was informed that he was debarred from payment because he was on the retired list at the date of his commission, notwithstanding he was at sea performing the same duty as other officers; and it is shown in the last Navy Register that under his present commission he has had more sea service, with one exception, than any officer in the United States Navy.

The Secretary of the Navy, in reply to an inquiry addressed to his Department as aforesaid, says:

"NAVY DEPARTMENT,
"*Washington, March 6, 1878.*

"SIR: I have the honor to return herewith the petition of Passed Assistant Engineer Absalom Kirby to be allowed the pay of his present grade from October 11, 1866, the time from which his commission as such dates, regarding which request such information as the Department can afford, as well as its views as to the propriety of granting the relief asked.

"Mr. Kirby, then a second assistant engineer, was regularly retired January 22, 1866, for supposed physical disability. He subsequently performed active duty, the law prohibiting retired officers from being ordered on active duty not having been passed until March 3, 1873. The performance of this duty, and the merits of the case according to the views of the Engineer-in-Chief of the Navy, are stated in his report on the petition as follows:

"'BUREAU OF STEAM ENGINEERING,
"'*Washington, March 5, 1878.*

"'The allegations and statements in regard to service and dates made in this paper by Passed Assistant Engineer Absalom Kirby are found to be correct, after careful comparison with the records in this bureau, and it is believed that the retirement of Mr. Kirby was caused by a misapprehension of his physical condition at the time, as he was ordered to active duty shortly after the date of his retirement, and performed it to the entire satisfaction of his superior officers. Part of this duty came under my personal observation, and I can testify to the zeal and ability of Mr. Kirby in performing sea duty in the winter months on the coast of the United States. Believing the application of Mr. Kirby equitable and just in every respect, I most respectfully recommend it to the favorable consideration of Congress.'

"An act was passed March 3, 1873, (17 Stats., 581,) which authorized Mr. Kirby's restoration to his original position on the active list as a second assistant engineer, but the act contained no provision as to the difference of pay between active and retired pay for the time he was on the retired list. His restoration to his original position by special act seems to have been a recognition of his claims to it and an indication that he should suffer no injury by the act of retirement, although the intention of Congress is not known, viewing the restoration as such recognition.

"I see no objection to granting the relief he asks, but if granted there should be provision made for the payment of the difference of pay to which entitled, as there are no appropriations which can be used for the purpose.

"Respectfully,

"R. W. THOMPSON,
"*Secretary of the Navy.*"

The reason application was not made to Congress at an earlier period for relief grew out of the fact that immediately after his restoration he was ordered to a foreign station.

The committee are satisfied and believe this to be a meritorious case, and therefore recommend the passage of the accompanying bill.

Mr. HARMER. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

LOUIS P. DI CESNOLA.

The next business on the Private Calendar was the bill (H. R. No. 1359) for the relief of Louis P. Di Cesnola, late consul at Cyprus.

The bill is as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he is hereby, authorized to pay to Louis P. Di Cesnola the sum of $5,500, the amount paid by him for the official expenses of his consulate while consul at Cyprus, which said sum is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

The report was read, as follows:

The petition states that General Cesnola was appointed United States consul at Cyprus in the year 1865, and served until June, 1876, a period of eleven years; that during this time the duties of his office compelled him to employ an interpreter at a salary of $30 per month in gold and a consular guard at a salary of $12 per month in gold, which he regularly paid out of his own private funds, amounting to the total sum of over five thousand five hundred dollars, for which he prays to be reimbursed.

It appears that all the other consulates in Turkey receive $500 each per annum as appropriated by Congress, for interpreter and guard hire, with the exception of Cyprus, and which was also allowed General Cesnola's predecessor, Mr. J. Judson Barclay, by Congress passing a special act for his relief.

The petition is accompanied by copies of duly authenticated vouchers, and certificates of payment by General Cesnola, on file in the Department of State, and also by a letter from Hon. William M. Evarts, Secretary of State, to Hon. SAMUEL J. RANDALL, Speaker of the House of Representatives, confirming the statements of General Cesnola, and recommending that the relief prayed for be granted accordingly, and which is made part of this report.

The committee are of opinion that the petitioner's claim is not only just and equitable, but indisputable, and therefore report the accompanying bill and recommend its passage.

Mr. DUNNELL. I would like to ask the gentleman from New York who reported this bill from the Committee on Foreign Affairs if there is any evidence that during these eleven years when General Di Cesnola was incurring this personal expense that he asked for payment from the State Department. It would seem from this bill that no such demand had been made. It would, in my judgment, establish a bad precedent to thus allow consuls to incur unusual expenses and let them run on from year to year and then after the lapse of a long period to come in and ask Congress for relief. In the present case it would seem that if he was entitled to the amount of these expenses, he should have made his claim to the State Department from year to year in his reports. This does not appear to have been done.

Mr. COX. I understand that was done. The account was rendered but there was no provision made to pay such expenses. He relied, however, on the precedents and the promise of the Department that he should be reimbursed. I went myself to the State Department and had the sanction of Mr. Evarts to the validity of the claim.

General Di Cesnola is a gentleman well known to many of the military men and to every one in New York City as an excellent gentleman of high scientific attainments, and his duties in connection with that consulate compelled him to have this interpreter and guard to carry out his instructions from the Department. Supposing that he

would be reimbursed, he paid it out of his own pocket. The Committee on Foreign Affairs have unanimously reported in favor of it, and I move that it be reported to the House with a favorable recommendation.

Mr. DUNNELL. One word more, Mr. Chairman. It would seem as if the State Department should have recommended that some time during these eleven years——

The CHAIRMAN. Will the gentleman from Minnesota yield to receive a message from the President?

Mr. DUNNELL. Certainly.

MESSAGE FROM THE PRESIDENT.

The committee informally rose; and Mr. CARLISLE having taken the chair as Speaker *pro tempore*, a message in writing from the President was received, by Mr. PRUDEN, one of his secretaries.

LOUIS P. DI CESNOLA.

The committee resumed its session.

Mr. DUNNELL. I was remarking, Mr. Chairman, that it would seem as if the State Department should have asked Congress at some time during these eleven years to supply this officer with this needed assistance. The necessity for this assistance of which the gentleman from New York speaks seems to have existed all along during the eleven years. The precedent that this would establish, which I regard as a dangerous one, is, that if a consul of his own motion may see proper to hire a doorkeeper or watchman he can do so and bring in a bill thereafter for payment in the aggregate by Congress. He ought to be required to inform the Department of the necessity of these officers, and be supplied, rather than pay out the amount and then bring in a bill to be reimbursed.

There is a case here upon the Calendar, of which I know personally, where a consul, many years ago, paid out money without any authority. If he does so he must do so at his own peril; and I imagine this will be a bad and dangerous precedent, if Congress shall establish it. I know nothing, of course, of the merits of the case, except what has been stated here in the report of the committee, but I object to it on the grounds that I have stated.

Mr. COX. The gentleman from Minnesota will observe by looking at a portion of the report which has not been read by the Clerk, on page 3, that this is only following another precedent. If he will read the letter from Mr. Seward, when he was at the head of the State Department, in the Barclay case, he will find that a precedent has been established for this same condition of things. The letter to which I refer is as follows:

STATE DEPARTMENT, *Washington, April* 10, 1866.

SIR: In reply to your letter of the 12th ultimo, inclosing a certificate of J. Judson Barclay, esq., late United States consul at Cyprus, relative to his account for dragoman and guard hire, inquiring as to its correctness, I have the honor to inform you that the statements which he makes agree with the funds and vouchers recorded in this Department, and inasmuch as appropriations for interpreters, guards, and other expenses are made for all other consulates in the Turkish Dominions, namely, Constantinople, Smyrna, Alexandria, Jerusalem, Beirût, the Department knows of no reason why a discrimination should be made against Cyprus, and therefore recommend that it be placed in this respect upon the same footing as the other consulates in that country.

W. H. SEWARD.

Hon. W. A. NEWELL, *House of Representatives.*

That was in 1866. General Cesnola acted on that precedent. And it was an omission on the part of Congress when it failed to reimburse him.

Mr. DUNNELL. But it seems to have been a continuing omission.

Mr. COX. It was.

Mr. DUNNELL. And it seems Congress acted intelligently.

Mr. COX. Mr. Barclay stood in exactly the same position.

Mr. DUNNELL. I have no wish to offer any opposition to this bill; but it seems to me to be establishing a dangerous precedent.

Mr. COX. We have the recommendation of the Department; the recommendations of Secretary Seward and Secretary Evarts. We have the necessary vouchers. It is shown that these expenses are necessary for the protection of consuls in that island, and in all Turkish countries. It is a case based on equity and precedent.

Mr. PRICE. Do I understand the gentleman to say the payment of this bill is recommended by the Secretary of State?

Mr. COX. Yes, sir.

Mr. PRICE. That would go far to allay my objections. But I must say that it is a most singular, and if the gentleman from New York had not said there were precedents for it, I would say an unprecedented proceeding.

This gentleman is appointed a consul. At the end of a year he finds himself minus $500 because he had to employ an interpreter and guard. Now if a business man—and the presumption is he is a business man, or he would not be there although the presumption may be a violent one—he would apply at the end of the year to the State Department and say "I am out $500 for these necessary expenditures." Then they either say he is entitled to that or they say he is not entitled to it. But he lets it run another year and says he has incurred $500 more of expenditure. And so on it goes from year to year until eleven years have elapsed, and all that time he has not been paid any $500 a year by the Government. All that time he has not learned the language of the country in which he is stationed, and keeps up his interpreter and guard, continues that expense and pays the money out of his own pocket; and then five years afterward he comes to Congress and asks to be reimbursed for the money he has expended.

If this thing is done—and I presume it will be, for I never knew a case where it was not done, in this Congress—then the next claimant will plead not only the precedents that already exist but this also as an additional precedent. And so we go on year after year piling up precedents.

Hills peep o'er hills
And Alps on Alps arise.

Mr. COX. I desire to say one word in reply. I think my friend will take the judgment of the present Secretary of State as well as of Mr. Seward on this matter. If General Cesnola had been a very strict business man he would not have acted in the way he did.

Mr. PRICE. Exactly; but he ought to have acted as a business man.

Mr. COX. He being a soldier, having been appointed to this consulate after he had gone through the war, and perhaps being a little loose about business matters, knowing he would get this when he came home, did not pursue it with that strictness which he should have exhibited. But he sent in his vouchers; and when he came here the Secretary of State said Congress would certainly pay him. Here is what the Secretary says:

The same considerations—

As in Barclay's case—

exist with equal force in the case of General Di Cesnola, and I therefore recommend that the petitioner's appeal be favorably acted upon by the proper committee, and that relief be accorded to him for the period during which he held the post of consul at Cyprus.

Mr. PRICE. Then it follows, and is admitted by the gentleman from New York, that General Cesnola is a loose business man; and it would follow also, as an inference from his remark, that the having gone into the Army made him a loose business man. I was not in the Army myself, and am unable to say what effect that would have in giving a man loose business habits.

Mr. COX. I have seen a great many loose business men that were not in the Army, and *vice versa* I have seen many that were in the Army.

Mr. PRICE. Men of that kind should not be appointed to consulates.

Mr. COX. We have to reward our soldiers in various ways.

Mr. HAWLEY. There is one precedent that will be established if we pass this bill that cannot be easily established again. General Cesnola served well in the Army. That has nothing to do with the justice of this case here, of course. But as he incurred this expenditure under a reasonable hope that he would be paid, and in consideration of the extraordinary services he has rendered to science during his consulate in Cyprus, I am willing to pay him. And if any consul hereafter shall confer so great honor on his country and render so extraordinary a service to the arts and to students of history I would be willing to deal very liberally with him. I am not disposed to draw the lines so closely with a man who has done so much honor to his country as General Cesnola has done.

Mr. PRICE. I desire to ask the gentleman from Connecticut one question. If he had been consul at Cyprus and the Government had owed him $500 for a year's expenses and had failed to pay him—I do not say refused to pay him—and if the gentleman had gone on another year and expended another $500 and the Government failed to pay him, would he have continued going on in that way for eleven years, and not till five years afterward come in with a claim for payment?

Mr. HAWLEY. The case is quite impossible; for I could not have gone on for two years unless the Government had paid me the $500. [Laughter.]

Mr. COX. One word more, in answer to the gentleman from Iowa, [Mr. PRICE.] If there is any lack of business quality about this matter at all, that lack of business quality belongs to Congress. Let the people send better men here. The State Department has again and again asked that this appropriation be made and pay the consul to Cyprus along with the other consuls in Turkey.

Mr. PRICE. Before the expiration of the eleven years?

Mr. COX. I suppose so, because Mr. Barclay got it and it was understood it would be received by his successor, and the office was taken with that understanding.

Mr. PRICE. Well, on consideration of his being "a loose business man," I suppose we must pay it.

The bill was laid aside to be reported favorably to the House.

MARY W. JONES.

The next business on the Private Calendar was the bill (H. R. No. 2572) granting a pension to Mary W. Jones, introduced by Mr. HUNTON, and reported from the Committee on Pensions by Mr. RYON, of Pennsylvania.

The bill was read as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary W. Jones, widow of Thomas Ap Catesby Jones, late commodore in the United States Navy, and pay her a pension of $50 per month, in lieu of the pension she now receives, from and after the passage of this act.

The report was read as follows:

The Committee on Revolutionary Pensions and the War of 1812, to whom was referred the petition of Mary W. Jones, praying for an increase of pension from $30 to $50 per month, having had the same under consideration, respectfully submit the following report:

It is in evidence that the petitioner is the widow of Commodore Thomas Ap C. Jones, who, for fifty-three years, was a distinguished officer of the United States Navy. While in the discharge of his duty as commander of the United States flotilla at the battle of New Orleans he received a wound from which he never fully recovered. He died in the year 1858.

It is also in evidence that the son of the petitioner, Lieutenant Commander M. Patterson Jones, was also for twenty-five years in the United States Navy, serving with fidelity during the late war of the rebellion, and that he died suddenly in 1866 while on duty at the navy-yard at Washington, District of Columbia. The loyalty of the petitioner is clearly shown by evidence filed with the petition.

It is also in evidence that the petitioner received a pension from July 1, 1858, to January 1, 1870, at $50 per month, at which time it was reduced, in common with others, to $30 per month.

The committee are of the opinion that, in view of the eminent services of both her husband and son, the high rank of these officers, and the now destitute condition of the petitioner, she is entitled to the relief prayed for, and should receive the original pension that was granted her at the rate of $50 per month, and therefore recommend that she be restored to the pension-rolls at that rate, to take effect from the passage of the accompanying bill.

The bill was laid aside to be reported favorably to the House.

SARAH M. BIRDSALL.

The next business on the Private Calendar was the bill (H. R. No. 3732) granting a pension to Sarah M. Birdsall, introduced by Mr. BAILEY, and reported from the Committee on Invalid Pensions by Mr. DIBRELL.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah M. Birdsall, the only surviving heir of Major Benjamin Birdsall, of the war of 1812, at the rate of $8 per month.

The report was read, as follows:

The Committee on Revolutionary Pensions, to whom was referred the bill (H. R. No. 3732), having had the same under consideration, respectfully submit the following report:

Sarah M. Birdsall is the only surviving heir of Major Ben Birdsall, a gallant officer and soldier of the war of 1812, who served through that war and retained his command until he was assassinated in his camp by one of his own soldiers in July, 1818, leaving a widow and three young children in very limited circumstances, all of whom are dead except the petitioner, Sarah M. Birdsall, who is an invalid, walking upon crutches.

The petitioner states that no bounty-land warrant or pension was ever received by any of the family of said deceased, or any other recognition made of the gallant services of the officer in the war of 1812.

Your committee therefore, in consideration of the services rendered by the said Major Birdsall, and the fact that none of his heirs have ever received a pension or land warrant for his services, and that this his only living heir is a cripple and destitute, recommend that the bill be amended so as to allow her $8 per month, and as amended that it do pass.

Mr. BAILEY. I desire to offer a verbal amendment. By a mistake in the original draught of the bill an incorrect name is inserted. It should be "Martha," instead of "Sarah." I therefore move that the name "Sarah," both in the body of the bill and in the title, be stricken out and the name "Martha" inserted.

The amendments were agreed to.

The bill, as amended, was laid aside to be reported favorably to the House.

BETSEY ELWELL.

The next business on the Private Calendar was the bill (H. R. No. 4608) granting a pension to Betsey Elwell, reported from the Committee on Revolutionary Pensions by Mr. FARR.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Betsey Elwell, formerly Betsey Butler, widow of Jeremiah Elwell, a private in the Twenty-first Regiment United States Infantry, war of 1812, at the rate of $8 per month, to date from the passage of the act of March 9, 1878, "granting pensions to the soldiers and sailors of the war of 1812, and their widows, and for other purposes."

The report was read, as follows:

The Committee on Revolutionary Pensions, to whom was referred the petition of Betsey Elwell for pension, as widow of Jeremiah Elwell, a private, &c., having had the same under consideration, respectfully submit the following report:

The committee find that the said Jeremiah Elwell was a soldier of the war of 1812, and was in receipt of a pension at the time of his death. The petitioner, Betsey Elwell, was living with him at that time as his wife; had lived with him as such, and been so regarded, for upward of fifty years; that, in fact, she was married to said Elwell upon March 2, 1827, as is shown by the records of the clerk's office of the town of Gorham, county of Cumberland, State of Maine; but that said marriage was illegal for the reason that said Elwell then had another wife living from whom he had not been divorced according to law, but who had deserted him and was living with another man as his wife, and by whom she has had eight children, never having had any by said Elwell; that she is long since dead, and thus no claim can be presented by her.

In view of these facts, and for the reason that the petitioner was to all intents and purposes the only wife of Elwell for the greater portion of his life, your committee are of the opinion that her prayer should be granted, and that she should be allowed the same pension which the law would have entitled her to if this question of legality had not arisen; therefore, in order to overcome this technicality, they beg to submit the accompanying bill and recommend that it be passed.

Mr. ATKINS. I would like for the gentleman who has charge of this bill to explain to the House why this applicant could not have obtained her pension at the Pension Bureau.

Mr. BREWER. I would suggest to the gentleman from Tennessee [Mr. ATKINS] that the gentleman who reported this bill, Mr. Farr, of New Hampshire, is now dead.

Mr. DWIGHT. And I will state further that I heard Mr. Farr say that after a careful examination of all the facts in the case, he had no doubt that this bill should be passed.

Mr. BRIGGS. I suppose the reason why this pension was not allowed at the Pension Office was because the applicant was not technically the widow of this soldier, although she was married to him and lived with him for forty or fifty years as his wife. The report which has been read sets forth the facts of the case. The reason she did not obtain her pension from the Pension Bureau was that, legally, she was not the wife of this soldier.

Mr. ATKINS. I know it is a very ungracious thing for any gentleman to show any opposition to a bill granting a pension to any person whatever. But when I reflect that we will be called upon this year to appropriate nearly seventy million dollars for pensions, outside of the special cases acted upon by Congress, it seems to me it is time that we should call a halt.

I do not desire to object to this particular bill, and will not do so, for the reason, in the first place, that I know nothing about it; in the second place, I will not object because the applicant is a lady, and, in the third place, I will not object because the member who reported this bill has passed to the hereafter.

But I do think, if I may be allowed to say so, coming from the section of the country I do, if there are any sections—I had thought they were all abolished—coming from the State I do and with the antecedents I have, and occupying upon the floor of this House the official position I do, I feel it to be my duty to throw out this little warning to members here. We will not get off this year with much less than $70,000,000 for pensions.

I would sooner to-day undertake to liquidate the entire public debt of this country than to liquidate the debt which has been imposed upon the country by our pension laws. The arrearages act which passed last Congress has imposed an obligation upon this country which cannot be liquidated with less than $750,000,000, although it was stated at the time the bill was under consideration that the outside figure would be $20,000,000 or $25,000,000. I doubt not, considering the rate at which the claims have been and are now being presented, th ateventually it will amount to a thousand million dollars.

Mr. BRIGGS. I knew nothing about this case until my attention was called to it by the report just read by the Clerk. I have no doubt the facts are truly set forth in that report. The reason the applicant comes here is that, technically, although she lived with this soldier for forty years as his wife, she was not legally his wife, and therefore could not obtain her pension.

I must say that it seems to me this is rather a small matter for the gentleman from Tennessee [Mr. ATKINS] to make the occasion of complaining of the vast amount expended for pensions to the soldiers of this country. I recognize that it is a vast amount. But when we compare the sums that are contributed to these men with the valuable services which they have rendered the country, they are not to be considered for a single moment. But for these men we would have had no country, we would have had no Congress of the United States to grant them pensions.

Mr. ATKINS. I hope the gentleman from New Hampshire [Mr. BRIGGS] does not intend to go into a sectional discussion and to rake up the embers of the war because I made the remarks I did. I did so from a pure business stand-point, without any kind of prejudice. If that gentleman thinks I have any prejudices on account of my antecedents, I believe he stands alone in this House in entertaining that opinion of me.

Mr. BRIGGS. I do not propose to rake up the embers of the war. I do not propose to reopen a discussion of sectional questions. I never have done that in any single instance since I have been a member of this House. But I tell the gentleman from Tennessee that when he rises in his place and attempts to prevent the payment of pensions to the men who have preserved the life of the nation, I propose to stand here in defense of those men, and to insist that full, ample, and complete justice shall be done them. [Applause.]

Mr. BUCKNER. Mr. Chairman, while this question is up, I wish to say a few words upon it. I have heretofore opposed, not the granting of pensions, but the granting of them in a mode in which no other department of this Government acts. The action of Congress in reference to persons presenting claims under the pension laws is conducted in nine cases out of ten in an entirely different manner from our action with regard to other matters which have been passed upon by various Departments of the Government. When we have passed general laws giving jurisdiction to the Commissioner of Pensions, and have provided all sorts of clerks and legal appliances so as to insure the benefit of the pension laws to those entitled to them, no man ought to say there is any opposition here to the granting of pensions.

These pensions are, gentlemen may say, a matter of debt; I say they are a matter of grace and favor on the part of the Government; but upon whatever grounds you put these claims, the Government says in effect, "We have established laws by which the applicant, on complying with proper requirements, can obtain his pension." The character of evidence required is prescribed, as well as rules and regulations by which the officers of the Government are to be controlled. Ought not this to satisfy any gentleman, from whatever section he may come? Ought not the decision of the Pension Office for or against the applicant to be final, so far as the case may come within the provisions of general law? But, sir, three-fourths of the pension

cases passed on in this House are nothing but appeals from the action of the Department to which we have by law intrusted the examination of such cases. I say that the gentleman from Tennessee, [Mr. ATKINS,] without reference to the question whether this is a revolutionary pension, or a pension of the late war, or a pension of the war of 1812, does right to warn the country——

Mr. ATKINS. I want to say that I did not know what war this claim had reference to.

Mr. BUCKNER. The gentleman from Tennessee, I say, does right to warn the country as to the effect of congressional action on this subject. When we have by our laws provided means for the hearing and determination of applications for pensions, with the implied understanding that the applicant shall go to that tribunal for the decision of his case, I say it is time that the public mind should be aroused to the possible effect of further action by Congress, and that Congress should stop in this work.

Why, sir, notwithstanding the vast number of the questions judicially decided by the Patent Office, how very rarely does Congress interfere in such cases, except under extraordinary circumstances? The same may be said as to the action of the Land Office, the different branches of the Treasury Department, and the other Departments of this Government. The decisions of these various Departments are in general accepted by Congress as final and conclusive. They ought to be; and especially ought this to be the case in reference to pensions.

When a party makes application for a pension the Pension Office decides between the people on the one hand and the claimant on the other. That judgment, except where there is fraud, is binding on the Government; but it is not binding upon the pensioner, who in numerous cases comes here and asks that a committee of Congress shall review the action of the Commissioner. I say that the jurisdiction of Congress in pension cases should be confined to cases of which the Pension Office has no jurisdiction. This is the true principle, and it should be established as governing the action of Congress.

Mr. COFFROTH and Mr. SPARKS addressed the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania, [Mr. COFFROTH.]

Mr. REED. I sincerely hope that a general discussion will not arise on this bill, though I should like to have it arise on the next one.

Mr. COFFROTH. Mr. Chairman, when the declaration is made here and goes to the country that the arrears of pensions will cost this Government $700,000,000, I cannot permit that statement to pass uncontradicted.

Mr. ATKINS. Will the gentleman allow me one word?

Mr. COFFROTH. Yes, sir.

Mr. ATKINS. When I made the statement a moment ago that it would in my opinion cost $700,000,000 to liquidate the debt that had been imposed on the Government in consequence of the passage of the arrearage act, I made the statement upon the authority of the Commissioner of Pensions, who had fixed the amount at $710,000,000. I intimated that in my judgment it would reach $750,000,000, or even $1,000,000,000, if the Commissioner should continue to increase his estimate for the year to come as he has within a year past.

Mr. COFFROTH. Mr. Chairman, I do not say the gentleman from Tennessee made this declaration on his own authority, but it has been stated in the newspapers and published throughout the country on the authority of the Commissioner of Pensions that the arrears of pensions will cost this Government $710,000,000. I propose to refute that statement with figures which cannot be mistaken. There are pending now in the Pensions Department 307,697 applications. Two hundred and thirty-six thousand and sixty-six are by original invalid applicants, the balance, 71,631, by widows, minor children, and dependent fathers and mothers. From a statement made from data furnished by competent persons who are familiar with the average paid to pension applicants where their pensions are granted, it appears the average paid to widows is $991.03; upon original invalid claims, $733.59. Now, take the 236,066 applications. If every one of them be granted it will amount to $173,175,656.94. To widows, dependent mothers, fathers, and to minors it will amount to $70,988,469.83. If every person who has applied up to the 1st day of July, 1880, when the arrears bill terminated, be put upon the pension-roll on the average already paid, it will amount to $244,164,126.77. The full table is as follows:

TABLE I.—*Number of pensions allowed and increased during the year, with their annual value, together with the yearly value of all pensions on the roll, and the amount paid for pensions during the year.*

| Pension roll. | Pensions allowed and increased during the year. | | | | | | Dropped from the roll. | | Reduction in rate. | | Whole number of pensioners on the roll June 30, 1880. | Yearly value of pensions as shown by the roll June 30, 1880. | Total amount paid for pensions during the year ending June 30, 1880. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Original. | | Increase. | | Restoration. | | | | | | | | |
| | Number. | Yearly value. | Number. | Yearly value. | Number. | Yearly value. | Number. | Yearly value. | Number. | Yearly value. | | | |
| Army: | | | | | | | | | | | | | |
| Invalids | 9,865 | $696,666 18 | 8,917 | $419,099 00 | 1,146 | $57,265 00 | 2,940 | $355,030 00 | 149 | $8,065 68 | 133,212 | $13,486,961 22 | $20,524,839 46 |
| Widows, &c | 4,254 | 523,449 05 | 280 | 12,992 00 | 172 | 17,796 00 | 6,828 | 702,824 00 | 2,554 | 64,211 64 | 78,772 | 8,515,585 20 | 12,319,805 93 |
| Navy: | | | | | | | | | | | | | |
| Invalids | 311 | 27,062 20 | 74 | 4,810 00 | 21 | 1,365 00 | 116 | 11,232 00 | ..... | ..... | 2,060 | 247,232 18 | 352,101 18 |
| Widows, &c | 201 | 27,252 00 | 15 | 540 00 | 2 | 312 00 | 105 | 13,689 00 | 48 | 1,368 00 | 1,870 | 318,880 00 | 400,670 79 |
| War of 1812: | | | | | | | | | | | | | |
| Survivors | 284 | 27,264 00 | ..... | ..... | 34 | 3,264 00 | 1,801 | 177,296 00 | ..... | ..... | 10,138 | 973,248 00 | 790,710 39 |
| Widows of, &c | 4,630 | 444,480 00 | ..... | ..... | 2 | 192 00 | 1,076 | 103,296 00 | ..... | ..... | 24,750 | 2,376,000 00 | 2,658,058 14 |
| Total | 19,545 | 1,746,173 43 | 9,286 | 437,441 00 | 1,377 | 80,194 00 | 12,875 | 1,423,967 00 | 2,751 | 73,645 32 | 250,802 | 25,917,906 60 | 37,046,185 89 |

One hundred and ninety-one claims for bounty land and 29,662 claims for arrears of pensions were allowed during the year.

Total amount paid during the year to new pensioners, upon first payments, is to—

| | |
|---|---|
| Army invalids | $7,236,959 69 |
| Army widows, &c | 4,215,871 78 |
| Navy invalids | 159,159 41 |
| Navy widows, &c | 135,201 62 |
| War of 1812, survivors | 54,816 70 |
| War of 1812, widows of, &c | 666,182 10 |
| | 12,468,191 20 |

The above table will be found in the report of the Commissioner of Pensions, page 17. It will be observed that 9,865 invalid pensioners were placed on the pension-roll during the year 1880, with a total cost for their arrears of $7,236,959.69, or an average to each individual pensioner of $733.59+. There were also placed upon the pension-roll during the said year 4,254 widows and other heirs, to whom were paid as arrears $4,215,871.78, or an average each of $991.03+.

On page 23 of the same report the Commissioner states that there were pending June 30, 1880, 236,066 original invalid claims. Multiplying this gross number by the average in each case allowed during the year 1880, namely, $733.59, the amount would be $173,175,656.94. On the same page (23) of said report the Commissioner states that there were pending June 30, 1880, 71,631 widows and other heirs' claims. Multiplying this gross number by the average amount allowed each of this class of claimants during the year 1880, namely, $991.03, it amounts to $70,988,469.93. Adding these two amounts together, that is, the invalid claims and the widows and other heirs, there were pending 307,697, to which would be paid the sum of $244,164,126.87, or an average of $793.52+; this supposing that every one of the 307,697 were allowed. These figures are taken from Mr. Bentley's report, and thus show conclusively that in no event would they amount to more than the sum stated.

The Commissioner admits in his letter of January 20, 1881, to Secretary Schurz, by whom it was transmitted to Hon. H. G. DAVIS, chairman of the Committee on Appropriations, that there should be deducted 30 per cent. on account of claims which will not be allowed. A more proper reduction would be to reduce at once this total of 307,697 by eliminating one-third, or 102,565+, as cases already rejected or abandoned, and improperly in the files of "pending cases," he having consolidated the rejected files with the pending files, and reporting to Congress only two classes of claims, "admitted" and "pending;" and under the head of "pending" including all claims which have been rejected or abandoned during the whole period since the commencement of the war of 1861-'65. Mr. Bentley himself, in his report of 1878, admits 80,000 of these as "rejected," "settled," "disposed of." They were once borne separately as "rejected," and are now falsely entered as "pending" or "live" cases.

A further additional reduction of 20 per cent. should be made from the 205,132 remaining cases, which will for various reasons be rejected in the future or abandoned, making 143,591 to be deducted from 307,697, leaving only 164,106 to be added to the rolls. Multiplying this 164,106 by the average above indicated, $793.52+, it would require but $130,221,393.12 as the total amount required to pay the arrears to all claimants who will be entitled to future benefits under the arrears law.

These figures are based upon the presumption that the pensions hereafter granted would be made at as high a grade as were those allowed during the year 1880.

The Commissioner of Pensions states in his testimony before the select committee of the House of Representatives, on page 11: "These and other like influences conspired to keep those having slight wounds and light diseases, and were in comfortable circumstances, from filing claims for pension. Some of them, too, did not think it worth while, feeling that a pension of two or four dollars a month would

not amount to anything," &c. This fact, stated by the Commissioner, together with the additional fact that thousands of claims filed under the arrears law were from widows who remarried within one, two, or three years, or soon after the death of the soldier; thus they would be entitled to but one, two, or three hundred dollars. The average to each would therefore be less than the average to each pensioner during the year 1880, during which period it was $793.52+.

Six hundred dollars is a liberal average for arrears to those who are to be hereafter added—that is, to the 164,106; but at this rate the total arrears would amount to but $98,463,600; but if the great number of 200,000 should be added to the roll, at this average it would amount to but $120,000,000, instead of $510,000,000, or thereabout, as reported by the Commissioner of Pensions.

It has been reported by the Commissioner of Pensions and others that the yearly value of the roll would amount for many years to $50,000,000 or thereabout. This is exceedingly erroneous. It will be found by referring to this same table that there were dropped from the rolls, during the year 1880, 12,875 pensioners, with the yearly value of their pensions amounting to $1,423,967; that there were 2,751 pensioners reduced in rate to the amount of $73,645.32 per annum, making a total reduction in the yearly value of $1,497,612.32. It will also be found, by this same table, that there were 19,545 added to the roll during the year 1880, at a yearly value of $1,746,173.43; that there were 9,286 pensioners increased in rating to the yearly amount of $437,441, and that there were restored to the rolls 1,377 pensioners at a total cost of $80,194, making the total additional cost of the pension-roll, by the addition thereto of 19,545 pensioners, increasing the rates of 9,286, and restoring to the rolls 1,377—$2,263,808.43. Deducting from this additional cost the reduction before referred to, the yearly additional cost of the entire roll, notwithstanding that there have been 19,545 added thereto, is but $766,196.11, or an average additional cost of only $39.20+.

This table, therefore, demonstrates that, after deducting losses, it costs but $39.20+ of annual payments on the average to place a pensioner upon the roll. Applying this average to the probable additions to the pension rolls, viz, 164,106, it will cost annually but $6,432,955.20; add to this the present yearly value of pensions as appears from this table, to wit, $25,917,906.60, it makes a total of $32,350,861.80. If the rolls be increased by the addition of a total number of 200,000, it would cost but $7,840,000 in addition to the present yearly value, making for the total 200,000 so added a gross yearly value of only $33,757,906.60, the highest amount that the yearly value of the pension-roll can ever reach under existing law, instead of $50,000,000, or thereabout, reported by the Commissioner of Pensions.

It will be observed that in these figures no reduction has been made in the yearly value of the addition on account of the claims being from soldiers slightly wounded or diseased. The additions to the pension-roll will not average more than grade of one-half total—$4 per month or $48 per year. During the last year original invalids received on an average $70.62+.

The fact that those to be added to the rolls are for "slight wounds and light diseases," as appears from the testimony of Commissioner Bentley, (page 11, select committee, H. R.,) will make the average rates lower than heretofore and prevent the yearly value of the pension-roll ever exceeding $32,500,000.

*Table showing total number of pensioners added to and dropped from the roll, &c., during year ending June 30, 1880.*

| Pensioners. | Number of original claims. | Number of increase claims. | Number of restoration claims. | Yearly value. | Number of claims. | Yearly value. | Net actual increase of yearly cost of adding 19,545 to the rolls. | Net actual average increase yearly cost of each pensioner added to the roll. |
|---|---|---|---|---|---|---|---|---|
| Original | 19,545 | | | $1,746,173 43 | | | | |
| Increase | | 9,286 | | 437,441 00 | | | | |
| Restoration | | | 1,377 | 80,194 00 | | | | |
| Dropped from roll | | | | | 12,875 | $1,423,967 00 | | |
| Reduction in rate | | | | | 2,751 | 73,645 32 | | |
| Total | | | | 2,263,808 43 | 15,626 | 1,497,612 32 | $766,196 11 | $39 20+ |

*Total number and yearly value of original invalid pensions on roll June 30, 1880.*

| | |
|---|---|
| Whole number of pensioners on roll June 30, 1880 | 133,212 |
| Yearly value of pensions, as shown by roll June 30, 1880 | $13,486,961 22 |
| Average yearly value pension to each original invalid pensioner on roll June 30, 1880 | $101 24+ |

*Total number and yearly value of all original invalid claims allowed during year.*

| | |
|---|---|
| Whole number of original invalid pensions allowed during the year to June 30, 1880 | 9,865 |
| Yearly value of pensions allowed during the year | $696,666 18 |
| Average yearly value of pension to each original invalid pensioner whose claim was allowed during year | $70 62+ |

*Unsettled Army pension claims for service since 1861.*

[Report Commissioner of Pensions, 1880, page 23.]

| Pension roll. | Number of claims pending, rejected, and abandoned June 30, 1880. | Average amount paid each new army pensioner on first payment during year 1880. | Amount required to make the first payment on all army pension claims now on file, supposing same to be allowed. | Average amount each pensioner would receive on first payment. |
|---|---|---|---|---|
| Invalids | 236,066 | $733 59+ | $173,175,656 94 | |
| Widows, &c | 71,631 | 991 03+ | 70,988,469 93 | |
| Aggregate | 307,697 | | 244,164,126 87 | $793 52+ |

*Amount required to make first payments under arrears law—*

| | |
|---|---|
| Should there be 150,000 claims allowed | $119,028,000 00 |
| Should there be 160,000 claims allowed | 126,963,200 00 |
| Should there be 164,106 claims allowed | 130,221,393 12 |
| Should there be 175,000 claims allowed | 138,866,000 00 |
| Should there be 200,000 claims allowed | 158,704,000 00 |

Mr. ATKINS. Let me ask the gentleman from Pennsylvania a question.

Mr. COFFROTH. Certainly.

Mr. ATKINS. How, then, is it the Commissioner of Pensions came to make such a blunder?

Mr. COFFROTH. Why, sir, here is his own report which I hold in my hand, and why he made this blunder is not for me to say, unless he wants to force the bill now pending in the Senate through the Senate and through this House, creating examining boards consisting of one attorney and one surgeon in each congressional district, substantially under his control, thus putting unlimited power into his hands.

Mr. ATKINS. I desire to ask this further question. I do not myself believe the Commissioner of Pensions has intentionally misinformed the country. There have been different estimates as to what would be required to pay the arrearages of pensions ever since that bill was introduced into Congress. I well remember the gentleman from Ohio, (Mr. Rice,) not now a member of this House, who had charge of the bill, believed when he first introduced the bill that $15,000,000 would cover the entire sum that would have to be paid under it. Before the bill got through he advanced to $20,000,000. The Commissioner of Pensions at that time thought it would take $25,000,000. Then it got to the astounding sum of $50,000,000. After a little while another estimate was made and it went up to $100,000,000. And so it has been going on and going on, not in arithmetical progression, but in geometrical progression, until the Commissioner told me the other day that it would cost $710,000,000.

Mr. HAYES. I hope the gentleman will permit me to ask him a question.

Mr. ATKINS. I am not the defender of Mr. Bentley. I think he is a worthy officer. I believe he has tried to do his duty. I know nothing of his antecedents, and I care nothing about them. I think he has endeavored to do his duty. So far as I have had any official connection with him he seems to be an intelligent and reasonable gentleman. I cannot, however, give you the reasons why these various sums have been estimated. I simply give you the facts in order that they may go to the country.

Mr. HAYES. I hope the gentleman will permit me to ask him a question.

Mr. ATKINS. I do it without a particle of malice.

And now, sir, I wish to say one word more. I did not know when I made the remarks whether this was a revolutionary pension claim, or one growing out of the war of 1812, or out of the late war. I knew not what it related to, and I made the remarks I have not for the purpose of prejudicing the just claim of any man. I think the Government ought to fail that would refuse to pension its maimed defenders. I think the Government that would not do it ought not to live. Therefore I have uniformly voted for every one, for every measure, for every bill looking to the protection of the disabled and the maimed of the late war. And I shall continue to do so while I am a member. I have no prejudice on the subject. If I cannot, however, be allowed to allude to the enormous sums that are to be appropriated out of the public Treasury without having my motives smirched, as I understood the gentleman from New Hampshire a moment ago, then, sir, I will leave the question to the country and never open my mouth on it again.

Mr. HAYES. What authority have you for making the statement that this will cost $710,000,000? I ask this in justice to the Commissioner of Pensions. I ask the gentleman from Tennessee on what authority he makes that statement.

Mr. ATKINS. I make it on the authority of the Commissioner himself. He told me with his own mouth, in the room of the Committee on Appropriations, that it would cost $710,000,000.

Mr. HAYES. I saw the statement going the rounds of the papers, and did not know on what authority it was made.

Mr. ATKINS. Yes, sir.

Mr. FRYE. Is this the Betsey Elwell case?

The CHAIRMAN. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 4608) granting a pension to Betsey Elwell.

Mr. FRYE. Well, now, Betsey Elwell is my old lady. [Laughter.] I am very sorry that the gentleman from Tennessee should have seen fit to make a fight over this bill. She is a very worthy and venerable old lady, and has a good claim.

Mr. ATKINS. The gentleman from Maine is mistaken. I have made no fight on this bill. I have no objection to it.

Mr. FRYE. All right, then. I am glad to hear it. I have nothing to say except that I hope the bill will pass. [Cries of "Vote!" "Vote!"]

Mr. COFFROTH. I do not know how those extreme calculations are footed up. It is true that the arrears of pensions has cost about twenty-six million dollars. When the bill was passed it was stated that it would require twenty-five or twenty-six million dollars to cover the arrears due the soldiers at that time. But I do not know of any estimate being made that would cover what pensions were yet to be granted. As I said before, you take the 307,000 cases that are pending in the department and grant them pensions at the average rate of the sixty or seventy thousand that have been already allowed, and the total will not amount to over $244,000,000. I will tell my friend from Tennessee who says this large estimate is made, that the Commissioner of Pensions includes in his calculation an estimate of the amount that would be paid if the pensioners would live, I believe, twenty-two years, and he therefore multiplies the annual roll by the number of years and puts that in as arrears. Now I submit to this House that this is not arrears; because, if so, every pensioner who is put upon the rolls and gets his pension can be charged to arrears, and thus continue to swell the estimates in that way. It is a fact also, as developed by our investigations, that the pension-roll does not materially increase. About as many die and are dropped from the roll as are annually added to it, and the annual appropriations for pensions are not any larger now than they were six or eight years ago.

I say, therefore, that $244,000,000 will cover all arrears if every pension applicant gets his pension granted.

Mr. ATKINS. That differs very widely from what the chairman of the Committee on Invalid Pensions estimated two years ago. He estimated that $15,000,000 would cover it all. Now you say it will take $244,000,000.

Mr. UPDEGRAFF, of Ohio. Mr. Chairman, in reply to what has been said by the gentleman from Tennessee, [Mr. ATKINS,] chairman of the Committee on Appropriations, that it will require no less than $750,000,000 to pay arrearages of pensions only to soldiers, and claiming the Commissioner of Pensions as authority for the statement, I ask the attention of the House for a few moments to a plain statement of facts. I hold in my hand a very careful computation based on the report of the Commissioner of Pensions, which refutes utterly the fabulous estimate of the gentleman. The Commissioner states, on page 23 of his report, recently published, that there were pending, June 30, 1880, 233,066 original invalid claims. Multiplying this whole number by the average in each case allowed during the year 1880, namely, $733.59, the amount would be just $173,175,656.94. The Commissioner states that there were also pending at the same time, June 30, 1880, 71,631 widows and other heirs' claims. Now, multiply this gross number by the average amount allowed each of this class of claimants during the year 1880, namely, $991.03, it amounts to $70,998,469.93, which, added to the amount for original invalid claims, makes a total of $244,164,126.87, for the whole 307,697 claims, or an average of $793.52, and this is admitting that every one of the 307,697 claims are allowed, though a large number of these cases have been already rejected and a large per cent. more will be if the past is any guide. In his report of 1878 the Commissioner admits that 80,000 of these very cases now counted have been "rejected," "settled," or "disposed of." Besides this, thousands of claims filed under the arrears law were from widows who remarried within one or two years of the death of the soldier, and who would therefore be entitled to only one or two hundred dollars. Thus, unless we trust an excited imagination for our statistics, it is demonstrable that it will require not half nor one-third of the real sum named by the gentleman to meet the requirements of this law; and I desired to place these facts before the House at this time.

Mr. Chairman, I have been surprised ever since I have been a member of this House that when a pension claim comes up it is seldom opposed on the ground that the particular claim before the House is unjust or fraudulent and should not therefore be allowed. Nobody has said that to-day in reference to this claim; but the argument of to-day, as the opposition generally, is based on the ground that it will take a vast amount of money out of the Treasury to pay these just and long-deferred debts of the Government. Yes, it does take a vast amount of treasure to pay the cost of that great and guilty rebellion. But our Government stands so honored and so high to-day among the nations because it has recognized all its obligations to the very spirit as well as the letter of its promise. It holds sacred its debt to the bondholder, which is a just obligation, and its public credit is higher than that of any nation on earth. Our public debt is a vast aggregate, but only reckless repudiators have dared to suggest that it is not to be paid because it is so great. The people of this country are justly proud of their national financial honor.

Now, if there is one debt more than another that is due not only in business honesty but in good faith and honor, it is the debt due to the brave men without whose heroic sacrifices we should to-day have no *Congress of the United States, no national Treasury,* NO NATION.

The attempt is being constantly made both in Congress and out of it to magnify and exaggerate the amount necessary to pay the pensions due the soldiers of the country. The vast amounts that will be required to carry these pensions for *sixty years to come* are paraded as the awful burden that the tax-payers of the present have to deal with. At our present rate of growth another half century will give us 140,000,000 of people and it is scarcely necessary for us to go so far into the future to meet trouble.

Mr. Chairman, it is but fair that every pension claim, like every other claim coming before Congress, shall be investigated on its merits. If it is fraudulent or excessive, let it be rejected. If it is just, any plea of inability or pretext of delay is a dishonor to a great government like ours, whose good faith is more than her treasure. Year after year thousands of soldiers broken in health, or maimed, or needy, or suffering, await not the bounty, not the alms, but the honesty, the justice of the Government they served in the hour of its direst need, and year after year they are told that it will make too big a sum to pay them. In the mean time powerful claimants receive their millions, and great corporations grow colossal by the gratuities of guilty legislation. The Government that neglects its needy soldiers adds infamy to peril and represses alike valor and patriotism.

Mr. SPARKS. I am glad that the claim now pending before the committee is one that the gentleman from Tennessee [Mr. ATKINS] by all rule and all propriety can speak to as well as the gentleman from Ohio, [Mr. UPDEGRAFF,] or the gentleman from New Hampshire, [Mr. BRIGGS.] It chances to be a pension claim growing out of the war of 1812, and not out of the rebellion. It is eminently just that the relief sought in this bill should be granted. I take pleasure on all occasions in supporting claims like this. It is one which the Commissioner of Pensions cannot well act favorably upon, and that is the point to which I wish to direct my remarks.

Wherever the Pension Office can under existing law pass upon these claims they ought, in my judgment, to remain there and abide its decisions and be kept out of this House. But wherever cases occur in which it cannot do so, then we ought in all meritorious cases to take them up and pass them, regardless of cost. This claim, as I have said, grows out of the war of 1812. The claimant is a very old lady, represented on this floor by the gentleman from Maine, [Mr. FRYE.] As the report presents it, it is a case like this. This woman was really the wife of this soldier for a half century, and yet technically according to law was not his wife. The Commissioner of Pensions, as a matter of course, would first require proof of marriage. That could not be furnished in this case. And yet, as regards all the essential elements of a marriage so far as God's law and the spirit of all just human laws are concerned, she was the wife of this man, and as such entitled not only to this pension but to all else due to a wife. Therefore, being a case the Commissioner of Pensions could not act upon and being meritorious, it is one which ought properly and justly to be acted upon here.

But the trouble is that the great body of the cases that come here for relief come as *appeals* from the Pension Office. This does injustice to the executive administration, and especially to the Pension Office, and I think ought not to be encouraged. On the other hand, in my opinion all cases like this can find adequate relief only by special act of Congress, and hence legitimately belong here.

Now, touching the question of cost of this arrears-of-pensions act, I had much to do with that act. I reported and managed to get through the bill appropriating the money to pay those arrears. They were estimated at that time by the Commissioner of Pensions at $26,800,000, which was the appropriation made. That sum was to cover the arrears of pensions then due, together with an estimate for the coming fiscal year. Now, gentlemen speak of seven hundred or ten hundred millions of dollars incurred by the passage of this act. Mr. Chairman, these figures frighten men, and well they might, if correct; but there is certainly no well-founded basis for them. I do not care what the Commissioner of Pensions may now say on the subject. He evidently has in his mind that the arrears act has prompted a number of persons to apply for pensions who never would have done so without the passage of this law, and bases some wild speculations upon that. Now, I do not suppose that makes any difference. It certainly gives no good foundation for these speculations as to the amount incurred on account of the passage of this act, if it be true. The rule for the Commissioner to act upon is to grant pensions to worthy, meritorious parties; and only to such. And if he will act critically up to that rule it will not cost the Government the sum which has been named or a tithe of the sum to pay them. But however that may be, Mr. Chairman, in my judgment, that arrears act was and is simply an act of justice and honesty to the soldier, whatever it may cost.

I am led to believe from my association with the Pension Office, and from such information as I have derived by consulting with the Commissioner and otherwise, that there are perhaps 15 per cent. or more of fraudulent claims allowed and now on the rolls on which pensions are regularly paid. It is very difficult to detect and prevent these fraudulent claims by any means or system that can be devised.

Of course the Commissioner and every good man in the Republic ought to exert all efforts in the direction of preventing them. Every good soldier feels himself degraded if made to stand on a level with a common cheat who is getting a like pension with himself through fraud and villainy. But in our efforts to prevent fraud we must not neglect to do full and complete justice to the honest, meritorious soldiers, their widows and orphans, even though the sum of money required for that purpose strikes us as a large one.

Mr. FRYE. I move that the bill be laid aside and reported to the House with a favorable recommendation.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. BRIGHT. As there are a number of cases reported to the House from the Committee of the Whole at its former sittings, with a view of disposing of them together with the business acted on by the Committee of the Whole to-day, I move that the committee do now rise.

Mr. BLAND. I hope the gentleman from Tennessee before making that motion will yield to me that I may ask consent for the consideration of Senate bill No. 1133, which is upon the Calendar.

The CHAIRMAN. Is there objection to taking up the bill indicated by the gentleman from Missouri?

There was no objection.

MICHAEL HAYNE.

Mr. BLAND. I ask the Clerk to read the bill.

The Clerk read as follows:

A bill (S. No. 1133) granting a pension to Michael Hayne.

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Michael Hayne, a sailor on board of the United States ship Brandywine.

The Clerk proceeded to read the report.

Mr. BLAND. The report is by the Committee on Pensions of the Senate, and is favorable to the application. I ask that the reading of the report be dispensed with.

There was no objection.

Mr. BLAND. I move that the bill be laid aside to be reported favorably to the House.

The motion was agreed to.

ORDER OF BUSINESS.

The CHAIRMAN. The question is on the motion of the gentleman from Tennessee, [Mr. BRIGHT,] that the committee do now rise.

Mr. HOOKER. I desire to make a single remark. I suggest to the gentleman from Tennessee that if the committee does not sit longer we will never get through the Private Calendar.

The CHAIRMAN. The Chair will suggest to the gentleman from Mississippi that it is in the power of the committee to vote down the motion of the gentleman from Tennessee if it is so disposed.

Mr. BRIGHT. It was in the interest of facilitating business that I moved the committee should rise. So far as I am concerned, I have no objection to the committee sitting as long as it chooses.

The CHAIRMAN. Does the gentleman withdraw his motion?

Mr. BRIGHT. I do for the present.

Mr. KELLEY. Would it be in order to ask the committee in a very peculiar case to lay aside for favorable report the Senate bill granting a pension to the widow of Rear-Admiral Paulding?

The CHAIRMAN. That can only be done by unanimous consent.

Mr. KELLEY. I ask unanimous consent that this be done, in view of the peculiar circumstances of the case.

Mr. HOSTETLER. I object to this irregularity. There are cases of merit all around. Let the Calendar be proceeded with in its regular order.

The CHAIRMAN. The Clerk will report the next bill.

SOPHIA A. MELSON.

The next business on the Private Calendar was the bill (H. R. No. 4255) granting a pension to Sophia A. Melson, introduced by Mr. HENRY, and reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Sophia A. Melson, mother of Minos J. Melson, late private of Company E, First Regiment Delaware Volunteers, and to pay her a pension at the rate of $8 per month from the date of the death of her son, the said Minos J. Melson.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 4255) granting a pension to Sophia A. Melson, mother of Minos J. Melson, late a private in Company E, First Regiment of Delaware Volunteers, have had the case under consideration, and respectfully submit the following report:

The records of the Adjutant-General's Office disclose that the deceased soldier was enlisted on the 4th day of October, 1861, at Georgetown, in the State of Delaware, in Company E, First Regiment of Delaware Volunteers, to serve three years or during the war, and that he died of wounds received at the battle of Antietam on the 17th day of September, 1862, having lived only about ten hours after being wounded.

The claim of his widowed mother for a pension in consequence of his death has been pending before the Commissioner of Pensions for a number of years, and has been finally rejected on the ground that the deceased did not, while living, contribute to her support. As to this, there is competent proof that the deceased was bound to service for a term of years prior to his enlistment, and consequently could not, during that time, contribute to the support of his mother; that when that service ended he did promise to provide a home for her, and entered the Army with a view to supporting her out of his wages, but that he was mortally wounded at Antietam before he became able to furnish any material assistance to anybody.

The committee further find from the evidence in the case that the claimant is feeble, old, and very poor, unable to earn a living for herself, and without friends to provide for her. They therefore report back the bill, and recommend its passage.

Mr. COFFROTH. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

JACOB GELWICKS.

The next business on the Private Calendar was the bill (H. R. No. 205) granting a pension to Jacob Gelwicks, introduced by Mr. FISHER, and reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob Gelwicks, late of Company L, Eleventh Regiment Missouri Militia.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 205) granting a pension to Jacob Gelwicks, serving in Company L, Eleventh Missouri State Militia, having had the same under consideration, respectfully report

That Jacob Gelwicks made application for a pension September 21, 1878, as No. 260604, on account of disability from wound of left leg received at Newark Mouth, August 1, 1862, at which date he was employed as cook for Company L, of Eleventh Missouri State Militia. The camp was surrounded by confederates; he took a musket and was wounded in the fight. David R. Downing and B. F. Snyder, reputable citizens of Knox County, Missouri, testify that they were members of Company L aforesaid; that they gave ammunition to said Gelwicks during the fight; saw him load his gun, and that he was wounded in that battle.

Surgeon I. M. McKin testifies that he was contract surgeon in the employ of a detachment of Union forces, comprising several companies of the Missouri State Militia, during the engagement that occurred August 1, 1862, and in line of his duty was called to attend Jacob Gelwicks, whom he found suffering from severe gun-shot wounds inflicted in the leg and foot, which wounds were of so grave a character as to wholly disqualify him from further use of his limb.

The applicant is indorsed as a truthful man by William McClintock and Jacob S. Nixon, prominent citizens of Franklin County, Pennsylvania, and testifies that the wounds have never healed, causing running sores, discharging most of the time. Being a miller by trade he was totally unfitted to follow his business, and on account of said wound is able to do only light work when sitting down.

The committee, believing that this claim is just, report back the bill with the recommendation that it be passed.

Mr. WARNER. As I understand from the report, this case is not one of an enlisted soldier whose claims come within the purview of the general law; but is one of those cases which must come to Congress for relief, if relief is had; and, as I have before said, in my judgment it is only this class of cases that should come here at all. I agree with my friend from Missouri [Mr. BUCKNER] and my friend from Illinois [Mr. SPARKS] in that respect.

While on the floor, however, I desire to refer to statements made here to-day as to the probable cost of pensions arising under the arrearages act and in consequence of that act. I think the estimate of the Commissioner of Pensions has been misunderstood. I understand him to estimate that the cost for arrearages arising out of that act will be $245,000,000, or at most $250,000,000; that is, the first payment for arrears accruing at the time the pensions under that act are granted will probably amount to this sum. He then adds to that the annual payments afterward to be made, and I doubt not assumes that many of the applications that have been made are made in consequence of the arrearages act. But in making up the sum of $500,000,000 or $700,000,000, as stated by the gentleman from Tennessee, [Mr. ATKINS,] the Commissioner of Pensions of course includes the annual payments to be made after the pensions are granted. How far the Commissioner is justified in assuming that the large increase in the number of new claims filed is in consequence of arrearages allowed under the act of 1878 may perhaps be inferred from the fact that the number of claims filed has increased from less than 17,000 in 1878 to over 140,000 in 1880.

Nevertheless, I agree with my colleague [Mr. UPDEGRAFF] that so far as these claims are meritorious and just there should be no question about their payment; and I must say for gentlemen on this side of the House, whether from the North or the South, that I have never yet heard an objection raised against the allowance of any just and meritorious pension claim. All recognize the fact that these pensions constitute a debt, and that all the people of this country, north and south, who in the future are to reap the benefits of this Union, preserved as it was by the patriotism and the sacrifices of the Union soldiers, must discharge that debt in accordance with the contract. But, on the other hand, all are alike concerned in protecting the Government against false and fraudulent claims.

Now, to what extent claims without merit or false and fraudulent are presented and sustained is a question constantly presented to the minds of gentlemen who desire both to do justice to meritorious claimants and at the same time protect the Government. The Commissioner of Pensions, I understand, estimates that 10 or 15 per cent. of pension claims are fraudulent, or at least not deserving. I assume that there are as many as that; I doubt not there is as large a proportion as that of fraudulent and undeserving claims. We know that in almost every community there are those drawing pensions whom the people believe never sustained any disability whatever in the service in the line of duty.

We must come down to the only true grounds on which claims for pensions can be sustained, and that is compensation for actual disa-

bility incurred in the service in line of duty. I do not believe that there is a gentleman on this side of the House who will ever question a claim of that kind. Meritorious claims have never been questioned; they have not been questioned to-day. And if we limit the pension-roll to those who have suffered actual disability, in my judgment, the amount for pensions will fall far within the estimate of the Commissioner of Pensions.

Mr. FISHER. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

JAMES POLK KEGERRIES.

The next business on the Private Calendar was the bill (H. R. No. 203) for the increase of pension of James Polk Kegerries, introduced by Mr. FISHER, and reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted, &c.*, That the pension of James Polk Kegerries, late a private in Company B, Second Pennsylvania (One hundred and twelfth Pennsylvania Volunteers) Heavy Artillery, shall be $24 per month, instead of $18 per month, at which amount he is now pensioned under certificate numbered 47237.

SEC. 2. That this act shall take effect from and after the 4th day of June, 1874.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 203) granting an increase of pension to James Polk Kegerries, late a private in Company B, Second Pennsylvania Heavy Artillery, having had the same under consideration, respectfully submit the following report:

Claimant was wounded in front of Petersburgh, Virginia, while in line of his duty, on the 17th June, 1864.

First. Gunshot wound of right arm; fracture of humerus at upper third, requiring resection of five inches of the bone; a number of adherent cicatrices; arm shortened three inches and atrophy of muscles; elbow flexed and partially anchylosed.

Second. Gunshot wound of throat; ball entered one inch above the sternoclavicular articulation, passing transversely to right, emerging two and a half inches from point of entrance. The surgeon says, in an extract, of this remarkable case:

"SURGEON-GENERAL'S OFFICE,
"*Army Medical Museum.*

"Photograph No. 289. A case of recovery after excision of the humerus for gunshot injury, involving the trachea, clavicle, and shoulder-joint.

"James P. Kegerries, a private of Battery B, Second Pennsylvania Heavy Artillery, aged nineteen years, a robust, healthy man, was wounded at the battle in front of Petersburgh, Virginia, June 17, 1864, by a conoidal ball, which entered three-fourths of an inch below the thysoid cartilage, just to the left of the trachea; passed a little downwards and to the right under the jugular vein, carrying away one of the wings of the trachea, and emerging half an inch above the clavicle three inches from point of entrance; was deflected in its course by hitting the butt of the musket, and again entered in front of the right clavicle two inches from the acromial end, passing through the surgical neck of the humerus, and emerging near the center of the deltoid muscle. He was taken to the field hospital, and marked for an amputation on the following day, but, tearing off the label, he crawled away among the "slightly wounded," and was sent to City Point, where the wound was first dressed three days after the reception, at which time it was found to be filled with vermin; several pieces of bone were extracted. Air passed through the wound in the trachea, and he spat up considerable blood. This wound, however, did well, and healed in about four weeks. In July, 1864, he was admitted to the third division hospital, Alexandria, Virginia, where a number of spiculæ of bone were removed. On January 17, 1865, Surgeon Edwin Bentley, United States Volunteers, excised the head and three inches of the shaft of the right humerus through an incision five inches in length from acromion through the deltoid muscle. Several abscesses formed in the arm, and one on the side two inches below the axilla, and on the posterior boundary of the space, all of which healed readily. He was discharged the service May 29, 1865, the wound of exit being still open. He states that about one year afterward nine fistulous openings discharged, the arm from shoulder to elbow becoming greatly enlarged, and his general health failing rapidly. On December 17, 1867, a sequestrum six inches long was removed by enlarging the orifice through which it pointed. The incision extended from the point of resection to the elbow, the patient being under the influence of nitrous oxide gas. The excised head with a sequestrum of the shaft is numbered 5711, Section I, Army Medical Museum. The specimen and the particulars of the case were contributed by H. W. Sawtelle, M. D.

"Photographed at the Army Medical Museum by order of the Surgeon-General.

"GEORGE A. OTIS,
"*Assistant Surgeon, U. S. A., Curator A. M. M.*"

This soldier has been receiving a pension of $18 per month, and on the 15th of January, 1878, made application for increase of pension on account of increase of disability from said wounds, rendering him unable to perform manual labor, asking for a pension of the second grade. Claim was rejected February 20, 1878, on account of right arm not being amputated at or above the elbow. But the fact that the entire bone has been severed from the arm from the elbow-joint to the shoulder-joint renders this arm totally useless.

Claimant, suffering from constant and severe neuralgic pains in arm and shoulder and increasing disability and failing health, asks that a pension of the second grade be allowed.

The committee recommend the passage of the bill.

Mr. FISHER. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. BRIGHT. I now renew my motion that the committee rise.

Mr. HAYES. That is right.

Mr. SINGLETON, of Illinois. I ask the gentleman from Tennessee [Mr. BRIGHT] to withdraw his motion for a moment.

Mr. BRIGHT. I will state to the gentleman from Illinois [Mr. SINGLETON] that I understand there are three weeks' business of the Committee of the Whole on the Private Calendar unacted upon in the House. It is necessary that that business be worked off so that it may go to the Senate. Under the circumstances, I cannot withdraw my motion.

Mr. SINGLETON, of Illinois. I have a little bill of about three lines I desire to have acted upon now.

Mr. BRIGHT. I would like to accommodate the gentleman if I could; but I cannot yield to him without being equally obligated to yield to others. I must insist upon my motion.

The question was taken; and upon a division there were—ayes 75, noes 21.

No further count being called for, the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HATCH reported that the Committee of the Whole had had under consideration the business on the Private Calendar, and had directed him to report sundry bills to the House with the various recommendations.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes, asked a conference with the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. WINDOM, Mr. DAVIS of West Virginia, and Mr. WITHERS.

The message also announced that the Senate insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1882, and for other purposes, asked a conference with the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. WALLACE, Mr. BECK, and Mr. WINDOM.

The message further announced that the Senate had passed without amendment joint resolution and bill of the following titles:

Joint resolution (H. R. No. 388) to provide for publishing an edition of Hayden's Atlas of Colorado; and

An act (H. R. No. 7098) making an appropriation for the flooring of the National Museum.

The message also announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 2131) appropriating money to be used under the direction of the Navy Department to prosecute a search for the steamer Jeannette, of the arctic exploring expedition.

ORDER OF BUSINESS.

The SPEAKER. The Chair will first lay before the House the bills heretofore reported from the Committee of the Whole on the Private Calendar. If there be no objection, the Clerk will now report the first bill reported from the Committee of the Whole with amendments.

The Clerk read as follows:

House bill No. 3477, for the relief of Carlile Boyd.

Mr. WELLBORN. Mr. Speaker, there are some bills in advance of that.

The SPEAKER. In strict conformity to the rules, these bills should be taken up in the order in which they were reported from the Committee of the Whole; but it has been the practice to consider first those reported with amendments, and afterward those reported without amendment.

Mr. UPSON. I insist that these bills shall be taken up in their order as reported from the Committee of the Whole.

The SPEAKER. That course will be pursued.

JOSEPH CLYMER.

The first bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last, being the bill (H. R. No. 2705) for the relief of Joseph Clymer, of Texas, was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. WELLBORN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. MARTHA BRIDGES.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last, being the bill (H. R. No. 4434) for the relief of Mrs. Martha Bridges, was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. BRAGG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM E. GERE.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last, being the bill (H. R. No. 4436) for the relief of William E. Gere, was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

PIERRE JOSEPH MAIS.

The next bill reported from the Committee of the Whole on the

Private Calendar on the 14th of January last, being the bill (H. R. No. 4437) for the relief of the heirs and legal representatives of Pierre Joseph Mais, was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. GUNTER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM REDUS.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last, being the bill (H. R. No. 4438) for the relief of William Redus, was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. UPSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DAVID W. STOCKSTILL.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last, being the bill (H. R. No. 554) for the relief of David W. Stockstill, was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. FISHER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES E. MONTELL.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last, being the bill (H. R. No. 2844) for the relief of James E. Montell, was ordered to be engrossed for a third reading, read the third time, and passed.

CARLILE BOYD.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last was the bill (H. R. No. 3477) for the relief of Carlile Boyd.

The amendment reported from the Committee of the Whole was concurred in, the bill, as amended, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BRAGG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARTIN L. BUNDY.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last was the bill (H. R. No. 3273) for the relief of Martin L. Bundy.

The amendment reported from the Committee of the Whole was concurred in, the bill, as amended, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HARMER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY WARREN.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last was the bill (H. R. No. 1047) for the relief of Henry Warren.

The SPEAKER. This bill has been reported from the Committee of the Whole with a recommendation that it be laid on the table.

The bill was laid on the table.

TITLE TO AN ISLAND.

The next bill reported from the Committee of the Whole on the Private Calendar on the 14th of January last was the bill (H. R. No. 936) relinquishing the right of the United States to an island therein named.

The SPEAKER. The question is on ordering this bill to be engrossed and read the third time.

Mr. THOMAS. Mr. Speaker, I desire to call the attention of the House to this matter. The island to which this bill refers is in the Mississippi River, and is overflowed at various seasons of the year. It belongs to that class of public lands granted by the United States to the several States under the swamp and overflowed land act. This island was transferred by the State of Illinois to the county of Randolph, in my district, under and by authority of the act of Congress to which I have referred. This bill is brought forward in the interest, as I understand, of some citizens of the State of Missouri, and it provides, I believe, in terms that the United States shall relinquish all claim to the island. In other words, it is assumed that the Government of the United States has title to this property, when, in fact, all title to it has long since been granted away. With the view of strengthening in some way, directly or indirectly, the alleged title of the present occupant the passage of this bill is sought.

Now, I protest most earnestly against this legislation. The island, as I have intimated, belongs, under an act of Congress, made effective by the Legislature and Governor of the State of Illinois, to the county of Randolph, in that State; and the Congress of the United States has no right to come in now and attempt, either by direction or indirection, to grant that which it does not possess. By the passage of this bill the title to this island will be affected only to the extent of casting a cloud upon it. I have not the authorities at hand at this moment, or I would be able in a few minutes to show that this property has been granted away under existing law. And therefore, Mr. Speaker, I move, if I may be allowed to do so, that this bill be passed over until next Friday, so that I may be able to present to this House a full exposition of the facts in the case. I feel confident Congress will be doing an unjust act by the passage of this bill.

The SPEAKER. The gentleman asks unanimous consent that this bill be laid over until next Friday.

Mr. CLARDY. Mr. Speaker, I do not know that I shall interpose any objection to the request of the gentleman from Illinois, and if I consent to the postponement of this bill, I presume it is unnecessary to reply to the speech he has made. I will say, however, that it has been determined by the Commissioner of the General Land Office and by actual survey that this island is west of the main channel of the Mississippi River and, therefore, located in the State of Missouri. If that be true, then the Government of the United States never undertook to convey this island to the county of Randolph, in the State of Illinois. At most, it could only be urged that this legislation would be a work of supererogation, because the Supreme Court of the United States has in divers cases, and particularly in the case of Jones vs. Soulard, which arose in the city of Saint Louis, determined that proprietorship, when bounded by a navigable stream above tide-water, extends to the middle of the main channel.

The gentleman seems to insinuate that there is an effort on the part of the claimant here to procure the passage of this bill without sufficient examination of it. I say to him that this question has been passed upon by at least two committees of this House, and I say further to him that the riparian proprietors on the Illinois side have conveyed all their supposed title to the present claimant, Mr. John R. Boas.

I say further to the House that we seek this legislation because the Government of the United States has through its officials, the engineer corps, taken charge of the island and converted the property of an individual to its own use. It has had such occupation of the island as to create at least a sort of color of title and prevent the alienation of it on the part of the real owner, Mr. Boas.

But, as I said before, I have no disposition to insist upon the present passage of this bill, and am willing that the gentleman from Illinois may take his time, so that he does not delay too long, to procure any testimony, if any he can find, why this bill should not be passed.

The SPEAKER. By unanimous consent, the bill will go over until next Friday.

Mr. THOMAS. I thank the gentleman for his courtesy, and I think I will be able by next Friday to show that this bill ought not to be passed.

There was no objection, and the bill was laid over.

MARK WALKER.

The next bill reported from the Committee of the Whole House on the Private Calendar was the bill (H. R. No. 249) for the relief of Mark Walker.

Mr. O'NEILL. I move to substitute Senate bill No. 2, a bill which has passed the Senate unanimously, and is in exactly the same words and language as this bill reported from the Committee of the Whole House on the Private Calendar with the recommendation that it do pass.

Mr. McMILLIN. What is the purport of the proposition?

The SPEAKER. The gentleman from Pennsylvania makes a request requiring unanimous consent.

Mr. McMILLIN. But what is it in reference to?

Mr. O'NEILL. The pending bill is the one discussed last Friday in the Committee of the Whole House, and was reported to the House. I ask the Senate bill passed last February, one year ago, shall be substituted for the House bill.

Mr. WILSON. Both bills being of precisely the same import?

Mr. McMILLIN. What is the import of it?

The SPEAKER. The gentleman from Pennsylvania states that the Senate bill and the House bill are exactly in the same words.

Mr. O'NEILL. Yes, sir; from beginning to end.

The SPEAKER. The Clerk will read the Senate bill.

The Clerk read as follows:

That the provisions of law regulating appointments in the Army are hereby suspended for the purpose of this act, and only so far as they affect Mark Walker, late first lieutenant Nineteenth United States Infantry; and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate and, by and with the advice and consent of the Senate, appoint said Mark Walker, late first lieutenant Nineteenth United States Infantry, to the same grade and rank of first lieutenant held by him on May 13, 1878; and that the said Walker shall thereupon be placed upon the retired list of the Army, provided the same shall be recommended by the retiring board.

The SPEAKER. Is there objection to taking up and passing the Senate bill instead of the House bill?

Mr. McMILLIN. Mr. Speaker, this provides for an increase of the retired list which I think ought not to be done. Therefore I object. The House may agree to do it, but it cannot do it by unanimous consent.

The SPEAKER. Objection being made, the question is on the engrossment and third reading of the House bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. The question recurs on the passage of the bill.

The House divided; and there were—ayes 81, noes 19.

So (no further count being demanded) the bill was passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FANNY S. CONWAY.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 1583) for the relief of Mrs. Fanny S. Conway, of Louisville, Kentucky.

Mr. WILLIS. Mr. Speaker, I ask to postpone the consideration of this bill until next Friday. I am satisfied the amount is incorrect.

The SPEAKER. That requires unanimous consent. Is there objection?

There was no objection, and the bill was passed over.

MRS. ELIZABETH P. PAGE.

The next bill reported from the Committee of the Whole on the Private Calendar with a favorable recommendation was the bill (H. R. No. 1902) for the relief of Mrs. Elizabeth P. Page.

Mr. GOODE rose.

Mr. CONGER. Mr. Speaker, I move to recommit that bill——

Mr. GOODE. I have charge of the bill, and I rose to make a motion in reference to it.

The SPEAKER. The Chair is bound by parliamentary practice to recognize the gentleman in charge of the bill.

Mr. CONGER. But the Chair had already recognized me to make a motion to recommit the bill with instructions.

The SPEAKER. The Chair retraces his recognition, then. Under parliamentary law the gentleman will recognize the fact that the Chair should recognize the gentleman from Virginia in charge of the bill.

Mr. CONGER. This comes here reported back from the Committee of the Whole House. I do not know who had any special charge of it.

The SPEAKER. Well, the Chair knows who had charge of it. The Chair recognizes the gentleman from Virginia, because the Chair was present during a portion of the debate on this bill.

Mr. CONGER. But the Chair will remember that I took some charge of this bill myself in Committee of the Whole, [laughter,] if that gives any right in the House.

The SPEAKER. The Chair thinks the uniform practice is to allow the gentleman having charge of a bill to be recognized to make a motion until the House shall reverse his motion; then it passes to the other side, of course.

Mr. GOODE. Mr. Speaker, I think I can relieve the gentleman from Michigan if he hears me for a moment.

Mr. CONGER. If the gentleman will yield to me to make a motion——

Mr. GOODE. I intend to make a motion myself in reference to this bill. Since the discussion in Committee of the Whole on last Friday I have received a letter from the widow of Captain H. N. Page, in which she instructs me imperatively——

Mr. CONGER. I object to any discussion. If I have the floor, as I think I have a right to it——

The SPEAKER. If the gentleman from Virginia will make a motion, the Chair will recognize him in his own right.

Mr. GOODE. Then I make a motion to indefinitely postpone the consideration of the bill. I wish to withdraw the bill, and I want to accompany it with a few words of explanation.

Mr. CONGER. I object to any remarks.

Mr. GOODE. Then I move to recommit the bill to the committee. On that I believe I have a right to be heard.

Now, Mr. Speaker, since the discussion of this bill on last Friday I have received a letter from the widow of Captain Page, in which she instructs me peremptorily to withdraw her petition. If I felt at liberty to consult my own feelings or be guided by my own judgment in this matter I would without hesitation press this bill to a final vote in this House, because I believe her claim to be a perfectly valid one, and the Government is bound to recognize it by every consideration of justice and fair dealing. But I feel constrained, as I have stated, to obey the instructions I have received from this petitioner. The House will readily understand and fully appreciate the motives which have impelled her to this step. Her feelings have been so wounded by the fierce assault made upon the memory of her dead husband that she is no longer willing to furnish any pretext for a renewal of that assault. Her petition would never have been presented here if she could possibly have foreseen the result. She had not the remotest idea that the simple presentation of an humble petition for payment of a just debt by this Government would be seized upon and made a pretext for a rude and violent attack upon the cherished memory of the honored dead or harsh and uncharitable comments upon the character of the southern people. She prefers to relinquish that claim forever and allow the Government to hold in its coffers money fairly and honorably earned by her husband rather than afford any excuse for an attack upon his good name, which she holds more precious than money or even life itself.

Now, sir, with the permission of the House, I want to make a single remark with reference to myself. Since the debate of last Friday it has been charged by republican newspapers throughout the country, and it was intimated in that debate upon the floor of this House, that my object in presenting this petition was insidiously to establish a precedent for the payment of southern war claims.

I want to say to this House and the country that no charge could have been more unjust and more destitute of any foundation whatever. I presented that petition because it was my representative duty to do so after it had been sent to me for presentation. I presented it because I believed the country justly owed the amount of money named to the estate of Captain Page. I presented it because I believed section 3480 of the Revised Statutes to be clearly unconstitutional and void so far as claims of this character are concerned. I presented it because I utterly deny the power of the American Congress to pass any *ex post facto* law or bill of attainder. I presented it because I did not suppose that a single representative of the American people could be found who would be willing to withhold from this lady money honestly earned by her husband in the service of his country, especially as by that service he had illustrated American prowess and shed additional luster on the American name.

A MEMBER. This is not a southern war claim.

Mr. GOODE. No; as my friend suggests, this is not a southern war claim in any sense. I want to say, since I have occupied a seat on this floor I have never advocated the payment of a southern war claim, properly so called. I advocated a bill to reimburse the College of William and Mary for the destruction of its buildings by Federal troops during the war. I advocated a bill to compensate the trustees of the Protestant Episcopal Seminary in Virginia for the use and occupation of their buildings for hospital purposes during the war; and I am willing to submit it to the candid judgment of all fair-minded men that these two bills could not by any proper construction be placed in the category of southern war claims. Why? Because among all civilized and Christian nations, from time immemorial, works of art, temples of religion, public edifices dedicated to science and learning, have been held too sacred to be subjected to the casualties of war. This custom, so honorable to humanity, so responsive to the higher instincts of our nature, has been so long recognized that it has almost acquired the force of positive law.

I have never advocated the payment of any claim which could properly be called a rebel war claim. I will only repeat on that subject what I have said more than once on this floor, and then dismiss this case so far as I am concerned. I want to repeat what I have said more than once, and I want the House and the country to hear it: The people of the South never did expect and do not now expect that losses incurred by individuals as necessary incidents of the war will ever be reimbursed to them. They went into that war with their eyes wide open, with a full knowledge of all the consequences of failure. They staked everything they had upon the issue of the gigantic struggle. They lost, and they are prepared manfully to accept it as the fate of war. Such is the universal sentiment among the southern people, so far as I understand it.

And now, Mr. Speaker, in view of this declaration, which I make with a full sense of the responsibility resting upon me, I trust that our northern fellow-citizens of all political parties will dismiss their apprehensions on this much-mooted question, and that they will not permit this "gorgon, hydra, chimera dire" of rebel war claims to disturb any longer their dreams or their waking thoughts. I move the previous question. I will withdraw the bill if I am allowed to do so.

Mr. CONGER. I object to withdrawal. I desire to speak to the motion to recommit.

Mr. Speaker, I have nothing to reply to the remarks of the gentleman from Virginia if he says that he never has in this House presented or advocated the payment of war losses or war claims so called, with this statement that he excepts from that, because he does not consider them war claims, two cases he has advocated here, one of them the William and Mary College claim which we all remember, which the country remembers, which was thundered through this land from north to south exciting apprehension and fear in every hamlet in the North of the consequence of passing such a law, and exciting hope and expectation in the hearts of ten thousand men in the South who had war claims in which they were interested. I say I have nothing to say in reply to the remark of the gentleman from Virginia that he has never advocated war claims. Of course we look upon the name of these war claims and war losses differently, and I give the gentleman the full credit for his avowal upon that subject according to his own construction.

But, sir, when the gentleman stands there as the representative and mouth-piece of all southern Representatives on the floor, when he assumes to rise in his place and claims to speak for all southern men here and all through the South, and says that they do not now press, and they never have pressed, war claims properly so called—that they have not done so in every possible combination of language and words, by bills and memorials and petitions, that the human mind can conceive—the gentleman must allow me to question whether he does represent the people of the South, whether he does represent other Representatives of the South on this floor, whether he does rep-

resent the millions of people of the South interested in the passage of war claims. If it can be possible that that is a true representation of southern feeling, of the feeling of southern Representatives and the southern people, then, sir, I call upon him and his colleagues of the South to march down to the room of the Committee on War Claims, to gather carts, express-wagons, and wheelbarrows and all the means of transportation——

Mr. GOODE. If the gentleman will allow me——

Mr. CONGER. I decline to be interrupted now. And I call upon them to bring laborers, porters, broad-shouldered men, there that can bear great burdens and bring out of the Committee on War Claims the thousands and tens of thousands of papers filed there awaiting the action of this House, begging——

Mr. ATHERTON. Will the gentleman allow me to ask him one question?

Mr. CONGER. I will not allow it.

Mr. ATHERTON. Then do not make any misstatements.

Mr. CONGER. Well, that is kindly advice and undoubtedly well meant. [Laughter.]

Mr. ATHERTON. It is true, every word of it.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] declines to be interrupted.

Mr. CONGER. I say that the time has come, if these statements are correct, and if the gentleman does speak for the whole South, that the wagons and the carts and the wheelbarrows should be brought here, and this accumulation of petitions, memorials, bills, and affidavits, and proofs that now fill the pigeon-holes in the room of the Committee on War Claims should be taken away. Yes, sir, I would like to see the procession formed. [Laughter.] I would like to see the Representatives of the South who have presented petitions and memorials and bills favoring the passage of war claims and the payment of war losses take their bundles of papers and march with them away from that committee-room and away from the Capitol. And who would be left out of that grand and solemn procession? [Laughter.] I can myself imagine the whole democratic side of this House in marching order, carrying back to their constituents the petitions and the memorials and the bills and the proofs, marching off to Long Bridge to the music of "Carry me back to old Virginia, to old Virginia shore." [Great laughter.]

Now, Mr. Speaker, the people of the United States have believed, all the people of the North without respect to party do believe and have believed, and in the elections of the past have acted as if they believed, that there were gathered petitions and memorials and proofs of claims representing millions and millions and perhaps hundreds of millions of dollars; and that bills have been introduced asking the favorable action of Congress upon them. Sir, "Goode's Book of Nature" revealed a beautiful world, sky, and earth, and air, and flowers, and sea, and all the beautiful creations spread out before the reader. But GOODE'S proclamation here to-day, if it be believed, will relieve the hearts of millions of people in the Northern States from the fear of the future action of Congress, which has hung over them for years, and which I fear will not be dissipated by Goode's beautiful picture of the yielding and the submission of the southern men to the will of the people, as shown by the withdrawing of these claims.

I want to dwell upon that a little. The exultant feelings of my fellow-members here to-day, if they can only think that my friend from Virginia does represent his brethren on that side of the House, and the ten thousand claim agents who have looked forward to the prospective thousands they would reap from the passage of those claims; their exultant feelings, if they could believe that he represented the views of the southern people, could hardly be imagined.

Now I do not question the sincerity of the gentleman from Virginia. He is impulsive, he is generous; his feelings were so wrought up with the compulsion that was laid upon him to withdraw this favorite case forever from the consideration of Congress, that he was led to consider all other claims of such infinitely minor importance that he felt he could sweep them all away with one wave of his hand. Let that pass.

Let it pass with this request, that every southern Representative here shall rise in his place and say that he too will never more present a war claim from the South, that he too will never advocate the payment of the war losses proper of the South. Sir, there would be a feeling of relief in the minds of the American people that they have hardly experienced since the close of the war, if all the southern Representatives here will assert, as the gentleman from Virginia has asserted, that by the consent of all the southern people all these claims shall be withdrawn once and forever from the consideration of Congress.

Mr. BUCKNER. Will the gentleman allow me to ask him a question?

Mr. CONGER. Not now.

Mr. BUCKNER. I just want to know——

Mr. CONGER. I might forget what I want to say about the illustrious leader of the gentleman who seeks to interrupt me just as I am coming to that. If the southern Representatives will only do that, there never will again be an occasion for that venerable man who, though going slowly and gradually down to his grave, has of late days been resurrected and held forth as a sound, well, vigorous, hale old man for the coming Presidential contest of 1884, the venerable Samuel J. Tilden—there never will be occasion for him, in the midst of his coming campaign, to again write that terrible letter which he once sent down to his brethren of the South regarding the payment of war claims, and which was received with clenched teeth and frowning brow, and the silence of despair.

More than republicans would be gratified to have each one of these Representatives of the South rise in his place and say with uplifted hand, "I agree to the declaration of Representative GOODE, of Virginia, in regard to war claims." We may long to see that exhibition, but no other man will rise. Solitary and alone the gentleman from Virginia has made this assertion for the people of the South, and no other man will stand by his side this day and repeat that assertion.

Not even a democrat from the North, leaving out my true friend from Wisconsin, [Mr. BRAGG,] who has written his views upon the press of the country and sounded them forth to the ears of a thankful people, not even a democrat from the North will rise and say that. I would be willing to give opportunity for any and all of them to come forward and drop one parting tear over the grave of their buried war claims if I thought one of them would. [Laughter.]

The solitary mourner over that grave of one case alone is my friend from Virginia.

Now, sir, one word on the subject of recommittal, for I had not intended to talk about this other matter. The eloquence of the gentleman from Virginia carried me away, as his eloquence frequently does, to say things I had not intended otherwise to say. In reply to him, and in reply to the beautiful commentary upon my conduct in a paper published in his district, which uses strong terms that some of my friends foolishly thought were not very complimentary to me, let me say that if he will keep these bills away, if he and his friends will not thrust before us continually these bills for the payment of some of the war claims or claims resulting from the rebellion, we shall be as mild and peaceable on this side of the House as it is possible for us to be. But he stirs up the commotion; he brings in a bill which stings the sentiment of Northern men; and when we rebuke him for it in a gentle, gentlemanly, kind, loving way, he turns round and declares we are rude. He assails me for the remarks I made about Mr. Page when he became a traitor—not when he was a valiant sailor and soldier of his country.

I want this bill recommitted. I want the facts of history made good. The gentleman from Virginia said the other day that he had made a mistake in the report which he stated he had prepared. Yet that statement is left in print. The gentleman says that although the report declares Captain Page to have gone into the confederate navy, he did not enter that navy, and the statement is a mistake. I am informed that he went into the Virginia navy after Virginia had seceded, Virginia having a navy of her own. I am informed that he did enter that service—not the confederate service, because Virginia then stood, perhaps, alone in her glory. I am informed that when Virginia turned over her navy and her army to the confederate government, the confederate government did not recognize the worth and the services of Captain Page, and did not make him an officer in the confederate navy. I am informed that the then governor of Virginia, in a message, publicly noticed the slight passed upon the State of Virginia in refusing to recognize Captain Page, one of Virginia's own officers in her own navy, and in declining to give him promotion. I want to know whether these reports are true. I want to know what the facts are about these matters; and it is for this reason I have asked that the bill be recommitted, that the committee may report the facts in this case.

Now, Mr. Speaker, I yield to my colleague [Mr. BURROWS] the remainder of my hour.

The SPEAKER. The Chair understood the gentleman from Virginia [Mr. GOODE] to move originally to postpone indefinitely. Subsequently he modified that to a motion for recommittal, and then demanded the previous question, which the Chair recognized, but which the gentleman from Virginia withdrew to enable the gentleman from Michigan to address the House. If this be a correct understanding of the facts, the Chair does not recognize the gentleman from Michigan as entitled to a full hour.

Mr. CONGER. The gentleman from Virginia took his seat and I took the floor. The Chair will remember I made the first motion to recommit.

The SPEAKER. But the Chair also remembers that the gentleman from Virginia had a right to control the bill under parliamentary practice.

Mr. CONGER. So long as he chose to exercise it. But he took his seat, and I took the floor in my own right.

The SPEAKER. The gentleman from Virginia withdrew the demand for the previous question to enable the gentleman from Michigan to speak.

Mr. CONGER. That could not have been pending.

The SPEAKER. The Chair recognized the gentleman from Virginia who, on concluding his remarks, stated that he demanded the previous question; but he withdrew it in the interest of fair play, to allow the gentleman from Michigan to have the opportunity to reply.

Mr. GOODE. The Chair is entirely correct in his statement. I simply withdrew the demand for the time being, to enable the gentleman from Michigan to make such reply as he deemed was called for by my remarks. I did not intend to yield the floor for any other purpose. The Speaker is correct in saying that I moved the previous question upon my motion. I insist upon the demand.

The SPEAKER. The House can vote down the demand for the previous question if it is the desire of the majority to have more debate.

Mr. CONGER. Well, Mr. Speaker—[cries of "Regular order!"]

The SPEAKER. The Chair will hear the gentleman from Michigan.

Mr. CONGER. It will not facilitate business to attempt to hurry it. [Laughter.]

The SPEAKER. The gentleman from Michigan will perceive at once——

Mr. CONGER. The Chair will perceive at once that without a remark the gentleman from Virginia withdrew. The Chair will see at once that when I had made the first motion and by courtesy permitted the gentleman from Virginia to make the motion——

The SPEAKER. The Chair recognizes that the practice of the House gave the gentleman from Virginia the right to control the bill.

Mr. CONGER. There was not a word said about withdrawing the previous question to hear what I wished to say. It was withdrawn; and I took the floor.

Mr. BURROWS. Mr. Speaker—[cries of "Regular order!"]

Mr. DAVIS, of North Carolina. I wish to make a parliamentary inquiry. Did not the Chair rule that the gentleman from Virginia had moved the previous question?

The SPEAKER. So far as the recollection of the Chair goes, the gentleman from Virginia, when this question came up, was on his feet, but the voice of the gentleman from Michigan was heard first by the Chair. The attention of the Chair being called, however, by the gentleman from Virginia to the fact that he had the control of the bill so long as the House might sustain him, the Chair recognized him in the exercise of that right. The gentleman then submitted his motion so as to make it recommittal instead of an indefinite postponement. He proceeded to address the House, and at the end of his remarks demanded the previous question; but on the part of those about the gentleman he withdrew the demand for the previous question in order to allow the gentleman from Michigan [Mr. CONGER] to take the floor to reply. It was done in the interest, as the Chair supposes, of fair discussion, so that each side might be heard. But the gentleman did not yield the hour to which he was entitled; nor did he yield the control of the bill. [Cries of "Regular order!"] The Chair thinks that is a correct and truthful statement. But the House has its remedy. If the House wants to hear further debate on this subject, all the House has to do is by a majority vote to refuse the demand for the previous question. [Cries of "Regular order!"]

Mr. CONGER. I gained the floor by moving to recommit with instructions.

The SPEAKER. That motion the Chair will entertain, but the demand for the previous question must first be submitted to the House.

Mr. CONGER. Then I could not make the motion.

The SPEAKER. That motion is allowed under the rules before or after the demand for the previous question. The Chair, at the proper time, will recognize that motion on the part of the gentleman from Michigan.

Mr. CONGER. I ask the gentleman to withdraw the demand for the previous question, and allow my colleague to make some remarks.

Mr. GOODE. I have given the gentleman from Michigan ample opportunity to represent his well-known views on this subject. The object I had in view in making this motion in obedience to the request of Mrs. Page was to withdraw this case from further discussion. I have done what fair-play required. I have given the gentleman an opportunity to be heard; and I insist the whole object I had in view would be defeated by throwing wide open now the gates for bitter, sectional discussion. We do not want it; we want to avoid it.

The SPEAKER. Does the gentleman insist on his demand for the previous question?

Mr. GOODE. I do.

The previous question was seconded and the main question ordered.

Mr. GOODE moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The Chair now recognizes the motion of the gentleman from Michigan.

Mr. CONGER. I move the bill be recommitted with instructions. I ask to what committee is it proposed by the gentleman from Virginia to recommit it?

Mr. GOODE. To the Committee on Naval Affairs.

Mr. ATKINS. I rise to a question of order. There is so much confusion in the Hall that gentlemen cannot be heard.

Mr. CONGER. I hope the gentleman will inform me to what rule he refers?

The SPEAKER. To Rule XVII.

Mr. CONGER. Where does the motion to recommit carry this?

The SPEAKER. To the Committee on Naval Affairs, which previously had charge of it. The motion is to recommit, and that is back to the committee from which the bill came before the House.

Mr. CONGER. I move, then, it be recommitted with instructions to report exactly the facts in the case, and if necessary to report any misstatement made.

Mr. COX. I rise to a question of order. Would it be in order to move to lay it upon the table?

Mr. GOODE. I make that motion, to lay it upon the table.

The SPEAKER. The Chair will cause the rule to be read.

Mr. CONGER. The Chair does not mean to cut me off while I am making my motion?

The SPEAKER. The Chair did not intend to cut the gentleman off, and will now hear the gentleman to make his motion. The rules allow that motion to be made after the previous question has been ordered.

Mr. CONGER. But I was stating the motion which the Chair permitted me to make.

The SPEAKER. The Chair did not know he was cutting the gentleman off.

The Clerk read as follows:

It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

Mr. GOODE. I move to lay the whole subject upon the table. I think that ought to be satisfactory.

The SPEAKER. The Chair desires to state that the main question has been ordered. Under the rules a motion to commit with or without instructions is in order before or after the previous question. A motion to lay upon the table is also in order. The motion to lay upon the table has precedence of the other motions under another rule.

Mr. COX. That carries everything with it.

Mr. CONGER. I wish now to be put aright on the record in regard to my motion to recommit with instructions. [Cries of "Regular order!"]

The SPEAKER. The gentleman is in order.

Mr. COX. The motion to lay upon the table cannot be interrupted.

The SPEAKER. The gentleman from Michigan is stating his motion.

Mr. COX. I want the rules observed.

The SPEAKER. They will be observed.

Mr. COX. I hope so.

Mr. CONGER. I hope there will be no repetition of the charges of Snarleyow. [Laughter.]

The SPEAKER. Debate is not in order.

Mr. COX. If the gentleman from Michigan will only buy a liver pad I will be happy. [Laughter.]

Mr. CONGER. I can wear the gentleman without any inconvenience to myself. [Laughter.]

The SPEAKER. The gentleman from Michigan will state his proposition. [Cries of "Vote!" "Vote!"] The gentleman has asked to state a proposition, which the Chair will entertain.

Mr. CONGER. I had stated part of my proposition when the Chair interrupted me. I will repeat it again. My motion is to recommit, with instructions to the committee to report the actual facts in regard to the resignation of Captain Page; whether or not he joined the confederate navy; and also to report whether he joined the navy, so called, of the State of Virginia.

The SPEAKER. The Chair is not certain that he can follow the whole text of that motion in its exact verbiage. The gentleman had better put it in writing.

Mr. CONGER. The reporter has the motion in the exact form in which I made it. My motion is to recommit, with instructions to the committee to report all the actual facts. To report whether he entered the confederate navy, and also whether he entered the so-called navy of Virginia after that State had seceded.

Mr. CALDWELL. I move that the House do now adjourn. [Cries of "Oh, no!"]

The SPEAKER. The question will be taken on the motion to lay on the table.

The motion was agreed to.

Mr. GOODE moved to reconsider the vote by which the subject was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed a resolution in relation to the counting of the electoral votes for President and Vice-President, in which concurrence of the House of Representatives was requested.

Mr. CALDWELL. I renew the motion that the House do now adjourn.

The House divided; and there were—ayes 50, noes 88.

Mr. CALDWELL. I demand the yeas and nays.

The yeas and nays were not ordered.

Tellers on the yeas and nays were demanded.

The House refused to order tellers.

So the motion to adjourn was not agreed to.

### JOHN S. CUNNINGHAM.

The next bill reported from the Committee of the Whole on the Private Calendar, with favorable recommendation, was the bill (H. R. No. 4605) for the relief of John S. Cunningham.

Mr. DAVIDSON. Mr. Speaker, I move to take up and pass Senate bill No. 286, which is substantially the same as the House bill. It passed the Senate, and is now on the Private Calendar of the House.

The SPEAKER. That will require unanimous consent.

There was no objection.

Mr. DAVIDSON. My impression is that the Senate bill is identical with the House bill.

The SPEAKER. The Senate bill will be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the proper accounting officers of the United States Treasury be, and they are hereby, authorized and directed to place to the credit of John Scott Cunningham the sum of $1,284.19, being the amount embezzled by his late clerk while at the San Francisco Navy pay office.

Mr. DAVIDSON. It is in substance the same as the House bill. The only difference, I believe, is in the substitution of the full middle name for the initial in the House bill.

The SPEAKER. Without objection, the question will be on the third reading of the Senate bill.

The bill was ordered to be read a third time, and being read the third time, was passed.

The SPEAKER. The House bill will be laid upon the table.

Mr. DAVIDSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LANGLEY B. CULLEY.

The next bill reported from the Committee of the Whole on the Private Calendar was the bill (H. R. No. 3826) for the relief of the heirs of the late Langley B. Culley.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TALBOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ABSALOM KIRBY, UNITED STATES NAVY.

The next bill reported from the Committee of the Whole on the Private Calendar was the bill (H. R. No. 4607) for the relief of Passed Assistant Engineer Absalom Kirby of the Navy.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

GENERAL LOUIS P. DI CESNOLA.

The next bill reported from the Committee of the Whole on the Private Calendar, with a favorable recommendation, was the bill (H. R. No. 1359) for the relief of Louis P. Di Cesnola, late consul at Cyprus, with an amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

In line 4 strike out the words "and directed;" so that, if amended, it will read: "That the Secretary of the Treasury be, and he is hereby, authorized to pay," &c.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY W. JONES.

The next bill reported from the Committee of the Whole on the Private Calendar with a favorable recommendation was the bill (H. R. No. 2572) granting a pension to Mary W. Jones.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

SARAH [MARTHA] M. BIRDSALL.

The next bill reported from the Committee of the Whole was the bill (H. R. No. 3732) granting a pension to Sarah M. Birdsall. The bill was reported with an amendment.

The SPEAKER. The amendment is to correct a clerical error in the name of the person to whom the pension is granted.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DIBRELL. I ask that the same amendment be made in the title as in the body of the bill.

There was no objection, and it was so ordered.

Mr. DIBRELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BETSEY ELWELL.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 4608) granting a pension to Betsey Elwell.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FRYE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MICHAEL HAYNE.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (S. No. 1133) granting a pension to Michael Hayne.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

SOPHIA A. MELSON.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 4255) granting a pension to Sophia A. Melson.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

ORDER OF BUSINESS.

Mr. HOUSE. I move that the House do now adjourn.

The SPEAKER. There are but two more bills reported from the Committee of the Whole to be acted on.

The motion that the House adjourn was not agreed to.

JACOB GELWICKS.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 205) granting a pension to Jacob Gelwicks.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

JAMES POLK KEGERREIS.

The last bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 203) granting an increase of pension to James Polk Kegerreis.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

RECONSIDERATION.

Mr. COFFROTH moved to reconsider the several votes by which pension bills were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. ATKINS. I move that the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes, with amendments by the Senate, be taken from the Speaker's table, and that the House insist on its disagreement to the amendments of the Senate non-concurred in by the House, and agree to the committee of conference asked by the Senate.

The motion was agreed to.

The SPEAKER. The Chair appoints as the managers of the conference on the part of the House Mr. ATKINS of Tennessee, Mr. COBB of Indiana, and Mr. HISCOCK of New York.

INDIAN APPROPRIATION BILL.

Mr. WELLS. I move that the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1882, and for other purposes, be taken from the Speaker's table, and that the House insist on its disagreement to the Senate amendments non-concurred in by the House and agree to the committee of conference asked by the Senate.

The motion was agreed to.

The SPEAKER. The Chair names as the conferees on the part of the House, Mr. WELLS of Missouri, Mr. SINGLETON of Mississippi, and Mr. HUBBELL of Michigan.

ENROLLED BILLS SIGNED.

Mr. COFFROTH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bills of the following titles; when the Speaker signed the same:

A joint resolution (S. R. No. 146) to provide for printing and distributing the index of the CONGRESSIONAL RECORD semi-monthly;

A bill (S. No. 1573) to provide for the furnishing of certain public documents to soldiers' homes; and

A bill (S. No. 1805) relative to the revolutionary battle-field of Bennington.

RELIEF OF JEANNETTE EXPEDITION.

The SPEAKER. The Chair lays before the House a message from the President.

The Clerk read as follows:

*To the Senate and House of Representatives:*

I herewith transmit a communication from the Secretary of the Navy with reference to the dispatch of a vessel for the relief of the Jeannette polar expedition, and commend the recommendations of the Secretary to the prompt and favorable action of Congress.

RUTHERFORD B. HAYES.

EXECUTIVE MANSION, *February* 4, 1881.

The message was referred to the Committee on Naval Affairs, and ordered to be printed.

LEAVE TO PRINT.

Mr. SINGLETON, of Illinois, by unanimous consent, obtained leave to have printed in the RECORD remarks on the interstate-commerce bill. [See Appendix.]

Mr. ACKLEN, by unanimous consent, obtained leave to have printed in the RECORD remarks on the bill (H. R. No. 6094) in relation to customs duties on sugar. [See Appendix.]

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. BUTTERWORTH until next Wednesday, on account of important business.

NICARAGUA CLAIMS.

Mr. WILSON. I ask unanimous consent to call up for present consideration the Senate bill in relation to the Nicaragua claims. It is recommended by the President and Secretary of State.

Objection was made.

C. THEODOR BURCHARDT.

The SPEAKER. The gentleman from New York, [Mr. DWIGHT,] who was not in his place this morning when the Committee on Patents was called, desires to make a report.

There was no objection.

Mr. DWIGHT, from the Committee on Patents, reported back, with a favorable recommendation, the bill (H. R. No. 6917) for the relief of C. Theodor Burchardt; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Mr. SAMFORD. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and twenty-five minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following petitions were laid on the Clerk's desk, under the rule, and referred as follows, namely:

By Mr. BALLOU: The petition of D. W. Bushyhead, chief of the Cherokee Nation, and the delegates from the Cherokee, Creek, and Seminole Indians, for protection in their rights under their treaties with the United States—to the Committee on Indian Affairs.

Also, the petition of the presidents of the wool-growers' associations of thirteen States, for the passage of the Eaton tariff-commission bill—to the Committee on Ways and Means.

By Mr. BUCKNER: The petition of citizens of Missouri, cigar-makers, for a reduction of the tax on cigars—to the same committee.

By Mr. BURROWS: The petition of citizens of Michigan, for the passage of an income-tax law—to the same committee.

Also, the petition of citizens of Michigan, for the amendment of the patent laws—to the Committee on Patents.

By Mr. CARLISLE: The petition of John E. Kelly, for compensation for services rendered as messenger and doorkeeper to the Committee on Ways and Means during the Forty-sixth Congress—to the Committee on Accounts.

By Mr. CARPENTER: The petition of Richard L. Rowe, John V. Smith, and 42 others, citizens of Rock Valley, Iowa, for the passage of a law to supply the want of fractional currency—to the Committee on Banking and Currency.

By Mr. COBB: The petition of presidents of various wool-growers' associations of the several States, for the passage of the Eaton tariff-commission bill—to the Committee on Ways and Means.

By Mr. COLERICK: The petition of E. W. Brown and 15 others, citizens of Whitley County, Indiana, that the Commissioner of Agriculture be made a member of the President's Cabinet—to the Committee on Agriculture.

Also, the petition of E. R. Beeson and 16 others, of Whitley County, Indiana, for legislation to protect innocent purchasers and users of patented articles—to the Committee on Patents.

By Mr. DICKEY: The petition of John D. Brooks and 15 others, ex-soldiers of Adams County, Ohio, for the passage of the Geddes bill to create a court of pensions—to the Committee on Invalid Pensions.

By Mr. HARMER: The petition of wool-growers of the United States, for the passage of the Eaton tariff-commission bill—to the Committee on Ways and Means.

By Mr. HAYES: The petition of certain manufacturers of cigars at Peru, Illinois, for a reduction of the tax on cigars—to the same committee.

By Mr. MORTON: The petition of citizens of New York, that a pension be granted Major Alvin Walker—to the Committee on Invalid Pensions.

Also, the petition of W. P. Catlin, Sarah C. Catlin, and others, that the descendants of Curtis and Peter Grubb be paid for cannon, shot, and powder supplied the United States during the war of 1780—to the Committee on Pensions.

By Mr. NEAL: The petition of F. H. Burton and 35 others, citizens of Lawrence County, Ohio, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of J. M. Warren and 39 others, citizens of Lawrence County, Ohio, for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of C. W. Davisson and 30 others, citizens of Lawrence County, Ohio, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of F. M. Boldman and 38 others, citizens of Lawrence County, Ohio, for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. POEHLER: The petition of Emery Dibble and others, of Minnesota, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. ROTHWELL: The petition of A. C. Pratt and 32 others, citizens of Missouri, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of D. B. Hill and 31 others, for the passage of a law to regulate interstate commerce—to the Committee on Commerce.

Also, the petition of W. C. Haines and 27 others, citizens of Missouri, that the Commissioner of Agriculture be made a member of the President's Cabinet—to the Committee on Agriculture.

Also, the petition of E. B. Pratt and 30 others, citizens of Missouri, for the amendment of the patent laws—to the Committee on Patents.

By Mr. STEVENSON: The petition of citizens of Illinois, for the appointment of a national railroad commission—to the Committee on Ways and Means.

By Mr. STONE: The petition of William Walter and 6 others, citizens of Michigan, against the passage of the Withers pension bill—to the Committee on Invalid Pensions.

By Mr. THOMAS: The petition of J. C. Baker and 20 others, business men of Golconda, for an appropriation of $10,000 for the improvement of the harbor at that place—to the Committee on Commerce.

By Mr. AMOS TOWNSEND: The petition of soldiers of the late war, against the passage of Senate bill No. 496, known as the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. TYLER: The petition of various wool-growers' associations of the United States, for the passage of the Eaton tariff bill—to the Committee on Ways and Means.

By Mr. WARD: The petition of numerous wool-growers of the United States, for the passage of the Eaton tariff-commission bill—to the same committee.

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## IN SENATE.

SATURDAY, *February* 5, 1881.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. ANTHONY presented resolutions of the Board of Trade of Providence, Rhode Island, favoring the enactment of suitable legislation for the distribution of the balance of the Geneva award to the persons who lost vessels and cargoes by the depredations of the confederate cruisers during the war of the rebellion, and to those who paid extra insurance premiums to underwriters, to protect their property against risk of capture and destruction, or in such other manner as they may think right and equitable; which were ordered to lie on the table.

Mr. DAVIS, of Illinois, presented resolutions of the Board of Agriculture of the State of Illinois, urging Congress to pass a law on the subject of infectious diseases among meat animals in the United States; which were ordered to lie on the table.

Mr. ALLISON presented statements of Watt Webb of Boone County, George H. Gardner and John Brown of Polk County, James B. Williams and Robert O. Grayson of Webster County, in the State of Iowa, showing what conveyances have been made in those counties of Des Moines River lands, granted under the act of August 8, 1846, and the present state of the title, who are occupying the lands, the incumbrances thereon, &c.; which were referred to the Committee on the Judiciary.

He also presented the petition of William A. Sharp and others, citizens of Wayne County, Iowa, praying for the passage of a law to prevent the sale of any patented article without there being stamped on it in plain letters "patented;" which was referred to the Committee on Patents.

Mr. WITHERS presented resolutions of the common council of Petersburgh, Virginia, asking that a portion of the money appropriated for the improvement of the Appomattox River at Petersburgh may be appropriated to the improvement of the harbor at Petersburgh; which were referred to the Committee on Commerce.

Mr. BECK presented the memorial of John F. Teller and others, of Boyd County, Kentucky, and the memorial of Jeremiah Robey and others, of Scott County, Kentucky, soldiers in the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and all amendments thereto; which were ordered to lie on the table.

Mr. WALKER presented the petition of the Chamber of Commerce and business men of the city of Helena, Arkansas, praying that that city be made and declared a port of delivery within the jurisdiction of the New Orleans collection district; which was referred to the Committee on Commerce.

Mr. JONAS presented the petition of Joseph A. Shakspeare, mayor of the city of New Orleans, praying that that city be granted the use of the marine hospital for the reasons mentioned therein; which was referred to the Committee on Finance.

Mr. PENDLETON presented the memorial of David Downing and others, of Montgomery County, Ohio, remonstrating against the pas-

sage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and all amendments thereto; which was ordered to lie on the table.

Mr. WILLIAMS presented the memorial of B. F. Hall and others, of Louisville, Kentucky, remonstating against the passage of the bill (S. No. 496) providing for the examination and ajudication of pension claims, and all amendments thereto; which was ordered to lie on the table.

He also presented the petition of John W. Rodman and 423 others, citizens of Frankfort, Kentucky, praying for the erection of a public building in that city for the use of the post-office and other Government offices; which was referred to the Committee on Public Buildings and Grounds.

Mr. GARLAND presented the petition of the Chamber of Commerce and business men of the city of Helena, Arkansas, praying that that city be made and declared a port of delivery within the jurisdiction of the New Orleans collection district; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. GARLAND, from the Committee on Territories, to whom was referred the bill (S. No. 2144) to vacate, annul, and set aside an act of the Legislative Assembly of the Territory of Arizona, reported it with an amendment.

Mr. McPHERSON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1953) for the relief of Henry C. Groomes, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

PRINTING OF EDUCATIONAL BILL.

Mr. ANTHONY. The Committee on Printing, to which was referred a resolution to print 1,000 copies of Senate bill No. 133, being the so-called educational bill, has instructed me to report it back without amendment, and to recommend its passage. This printing will cost about six dollars. I ask for the present consideration of the resolution.

The resolution was considered, by unanimous consent, and agreed to, as follows:

*Resolved*, That 1,000 copies of Senate bill No. 133, it being the so-called educational bill, be printed.

BILLS INTRODUCED.

Mr. KERNAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2154) granting an increase of pension to Joel C. Lathrop; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McPHERSON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2155) to define the duties of assistant inspectors of steam-vessels; which was read twice by its title, and referred to the Committee on Commerce.

Mr. HEREFORD asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2156) to incorporate the United States Fidelity and Guarantee Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

AMENDMENTS TO BILLS.

Mr. BUTLER submitted an amendment intended to be proposed by him to the bill (H. R. No. 7104) making appropriations for rivers and harbors for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. RANSOM, Mr. HARRIS, and Mr. MORGAN submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

MRS. ELIZABETH STONE.

Mr. McPHERSON. A few days since the bill (S. No. 2049) granting a pension to Mrs. Elizabeth Stone was reported adversely from the Committee on Pensions. I desire the unanimous consent of the Senate to reconsider the vote by which the bill was postponed indefinitely for the purpose of recommitting it to the committee.

The VICE-PRESIDENT. Is there objection? The Chair hears none, and an order will be entered to that effect.

ENGINEER REPORTS.

Mr. RANSOM. I ask for the adoption of the following order:

*Ordered*, That the reports of the Secretary of War made at this session of Congress communicating the reports of the Chief of Engineers in reference to the improvement of rivers and harbors be printed.

Mr. COCKRELL. Have those reports not been printed?

The VICE-PRESIDENT. The Chair supposes these to be reports of surveys ordered last year and not included in the annual report.

Mr. RANSOM. Yes, sir. After consultation I thought the language used in the resolution was broad enough to cover all of them. I believe that the principal report has been printed, or is now in process of being printed, but there is a very large number of reports which have come in since that should be included. The purpose of the resolution is to cover the whole subject, so that every member of the Senate and every member of the House may see in print the reports of the engineers and the opinion of the engineers upon all these questions.

Mr. DAVIS, of West Virginia. I presume the resolution refers to the special reports which have come in, and they will be printed in one volume for the convenience of Senators.

Mr. RANSOM. I did not mean to include them all in one volume, because that may now be very inconvenient.

The VICE-PRESIDENT. The Chair will suggest to the Senator from West Virginia that they will be included in the annual report of next year anyway.

Mr. DAVIS, of West Virginia. I have not made myself understood to the Senate. The general reports are in print, as I understand, but now there are sundry special reports made which have been called for by the members of the House and the members of the Senate, and it is to those that I refer. I presume the Senate desires to have those special reports printed in one pamphlet, and not each one separately.

Mr. HEREFORD. It is indifferent whether they are printed together or not.

Mr. RANSOM. My idea has been to consult the convenience of the Printer and the Senate in reference to that matter. I only desire that the reports may be printed in a convenient form for the use of the Senate.

Mr. COCKRELL. I understand the Chief Engineer submits at a certain time all the reports that are prepared, and they are published in one volume. Then there are reports which are made late in the fall on work which was not completed until after the meeting of Congress and the submission of the regular report of the year's operations, and these reports come in just as they are completed, sometimes three or four surveys in one. Each engineer officer generally sends in a report of the special work done by him, and these reports are printed as they come in. They ought not to be held back in order to be printed in one volume. Some of those reports are not here now. They ought to be printed just as they come in, and not be kept for one volume.

Mr. RANSOM. It is just for the reason assigned by the Senator from Missouri that I drew the resolution in the form in which it is. I hope there will be no objection to it.

The VICE-PRESIDENT. The Chair hears no objection, and the order is agreed to.

YORKTOWN CENTENNIAL CELEBRATION.

Mr. EATON. The joint resolution that I introduced yesterday in relation to the withholding the payment of certain Mexican awards I should like to call up.

Mr. JOHNSTON. There is a joint resolution on the Calendar that I should like to call up. I imagine the resolution of the Senator will cause some debate.

Mr. COCKRELL. If the morning business is through, I ask for the regular order.

The VICE-PRESIDENT. The regular order is demanded. If there is no further business for the morning hour——

Mr. JOHNSTON. The Senator from Connecticut gives me permission to ask the Senate to lay aside temporarily the regular order, in order that I may ask the Senate to consider the joint resolution (H. R. No. 337) authorizing and requesting the President to extend to the Government and people of France an invitation to join the Government and people of the United States in the observance of the centennial anniversary of the surrender of Lord Cornwallis at Yorktown, Virginia.

The VICE-PRESIDENT. The Senator from Missouri [Mr COCKRELL] has demanded the regular order.

Mr. JOHNSTON. I ask that the regular order be laid aside temporarily to consider that joint resolution.

The VICE-PRESIDENT. It cannot be laid aside temporarily without unanimous consent.

Mr. JOHNSTON. Then I ask unanimous consent.

The VICE-PRESIDENT. Shall the regular order be laid aside for the purpose indicated by the Senator from Virginia? The Chair hears no objection.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. ALLISON. There ought to be an appropriation accompanying the resolution.

Mr. JOHNSTON. The Senator from Massachusetts [Mr. DAWES] will offer an amendment.

Mr. DAWES. I offer from the Select Committee on the Yorktown Centennial Celebration an amendment to the joint resolution.

Mr. COCKRELL. If there is to be an appropriation I shall object to the consideration of the joint resolution. We have expended about one hundred thousand dollars for that celebration, and I think that is quite enough to be thrown away on any such object.

The VICE-PRESIDENT. The Chair thinks it is too late now to object to the consideration of the joint resolution. It must be disposed of in some way. The consideration of the joint resolution was entertained by unanimous consent. The Senator from Massachusetts, in behalf of the committee reporting the joint resolution, proposes an amendment, which will be read.

The CHIEF CLERK. At the end of the joint resolution it is proposed to add:

And for the purpose of carrying out the provisions of this resolution, the sum of $20,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, the same, or so much thereof as may be necessary, to be expended under the direction of the Secretary of State.

Mr. DAWES. It is hardly necessary to detain the Senate with any remarks to enable the amendment to be understood. It is proposed to authorize the Secretary of State to invite the French nation to appear here and take part in this centennial celebration, and it is supposed if they accept the invitation they will send officials here. No one would desire to invite them and then let them pay their own expenses. No Secretary of State would be willing to put himself in the position of having invited them unless he knew he would have the money to expend for their entertainment. It seems highly proper that they should be invited, and if they are invited there is no one, I think, who will question the propriety of furnishing the Secretary with the means of defraying their expenses if they accept the invitation. The propriety of the invitation is so apparent to everybody that the whole thing seems to be carried by the character of the original resolution.

Mr. COCKRELL. Will the Senator from Massachusetts please advise us how much was appropriated last year in the last bill for this purpose?

Mr. DAWES. There was no sum appropriated for this purpose.

Mr. COCKRELL. I mean for this celebration.

Mr. DAWES. There was $100,000 appropriated for the erection of a monument and $20,000 for the general expenses.

Mr. COCKRELL. No, not for general expenses, but the expenses of the celebration.

And this $20,000 makes $140,000. This is, I suppose, to go in the way of furnishing refreshments and for a general jollification.

Mr. DAWES. I do not think that any Secretary of State would put himself in the position of extending an invitation to a foreign nation to be represented on such an occasion as that, without any means of entertaining its representatives when they come. He would not care to inform them in his letter of invitation that they must take care of themselves, and could get quarters at the Riggs House or the Arlington on reasonable terms if they applied early.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Massachusetts, [Mr. DAWES.]

Mr. COCKRELL. I desire that my name be recorded as voting against the amendment and the joint resolution. I am opposed to the whole principle and policy involved in it.

Mr. ANTHONY. As the amendment comes from the committee, I do not wish to interpose any objection to it, but it seems to me that the sum is altogether too small.

Mr. INGALLS. They can ask for more hereafter, if it is found to be necessary.

The amendment was agreed to.

Mr. HOAR. I move to insert after the words "people of France," in the fourth line of the joint resolution, the words, "and the family of General La Fayette." I do not include by name the descendants of the other distinguished French officers who were in that action, because they were here as French officers; they were under the command of their sovereign, at the head of French troops or French vessels, in the performance of their duty in a war which France was waging against Great Britain, and however distinguished their service, or however entitled they may be to the gratitude of the American people, that gratitude is exhibited to them when it is exhibited to the French nation, of which they were the representatives. But La Fayette came over here before the consent of the sovereign of France was obtained; he came as a volunteer in our service, animated by love of liberty, by his regard for the American people. He was an American general, not a French general, during a great part of the revolution, and his high rank, his great ability, his great public virtue render his case an exceptional one as compared with all the other foreigners who came either as volunteers in our Army or for any other purpose during the revolutionary war.

I believe that the monument ordered by the Continental Congress after the close of the war to General La Fayette has never been built; if I am not mistaken no measures have yet been taken toward its construction. Very early after the inauguration of the present Constitution attention was called to the failure to carry out that vote, and it was answered by an economical member that the vote was itself a monument. That is all the monument so far that has been erected.

I hope that the country will at least manifest its gratitude to La Fayette by extending to his descendants this special invitation in commemoration of his great service.

The VICE-PRESIDENT. The Chair hears no objection to the amendment proposed by the Senator from Massachusetts, and it is agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The title was amended so as to read: "A joint resolution authorizing and requesting the President to extend to the Government and people of France, and the family of General La Fayette, an invitation to join the Government and people of the United States in the observance of the centennial anniversary of the surrender of Lord Cornwallis at Yorktown, Virginia."

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House insisted on its disagreement to the amendments of the Senate, insisted on by the Senate, to the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1882, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. ERASTUS WELLS of Missouri, Mr. OTHO R. SINGLETON of Mississippi, and Mr. JAY A. HUBBELL of Michigan, managers at the conference on the part of the House.

The message also announced that the House insisted on its disagreement to the amendments of the Senate, insisted on by the Senate, to the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. THOMAS R. COBB of Indiana, and Mr. FRANK HISCOCK of New York, managers at the conference on the part of the House.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 203) for the increase of pension of James Polk Kegerries;

A bill (H. R. No. 205) granting a pension to Jacob Gelwicks;

A bill (H. R. No. 249) for the relief of Mark Walker;

A bill (H. R. No. 356) to provide for the sale of certain New York Indian lands in Kansas;

A bill (H. R. No. 1359) for the relief of Louis P. Di Cesnola, late consul at Cyprus;

A bill (H. R. No. 2572) granting a pension to Mary W. Jones;

A bill (H. R. No. 2705) for the relief of Joseph Clymer, of Texas;

A bill (H. R. No. 3273) for the relief of Martin L. Bundy;

A bill (H. R. No. 3732) granting a pension to Sarah M. Birdsall;

A bill (H. R. No. 3826) for the relief of the heirs of the late Langley B. Culley;

A bill (H. R. No. 4255) granting a pension to Sophia A. Melson;

A bill (H. R. No. 4436) for the relief of William E. Gere;

A bill (H. R. No. 4607) for the relief of Passed Assistant Engineer Absalom Kirby, of the Navy;

A bill (H. R. No. 4608) granting a pension to Betsey Elwell;

A bill (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York; and

A bill (H. R. No. 3477) for the relief of Carlile Boyd.

The message also announced that the House had passed the following bills:

A bill (S. No. 286) for the relief of John S. Cunningham; and

A bill (S. No. 1133) granting a pension to Michael Hayne.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

A bill (S. No. 1573) to provide for the furnishing of certain public documents to soldiers' homes;

A bill (S. No. 1805) relative to the revolutionary battle-field at Bennington; and

A joint resolution (S. R. No. 146) to provide for printing and distributing the index of the CONGRESSIONAL RECORD semi-monthly.

## MEXICAN AWARDS.

Mr. EATON. I ask that the regular order be laid aside for the purpose of considering Senate joint resolution No. 151.

The VICE-PRESIDENT. Shall the regular order be laid aside for the purpose of considering the joint resolution named by the Senator from Connecticut without prejudice to its resumption at the close? The Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 151) directing the Secretary of State to withhold payment of certain Mexican awards.

Mr. EATON. Mr. President, I am very well aware that the matter of the two claims here named, or pretended claims, of citizens of the United States against the Government of Mexico has been before the Senate on previous occasions. Information, however, has been brought to me, so that further than a jury are required to be satisfied, beyond a reasonable doubt, I am satisfied that there was gross fraud in those two claims upon the government of Mexico, and I believe it to be the duty of the United States to permit the Government of Mexico to have those claims thoroughly and properly re-examined.

I should not ask the passage or the consideration of the joint resolution to-day but for the reason that there have been already three or four installments distributed by the Secretary of State, and there will be as I understand, unless action is taken, another installment distributed on Monday, or Tuesday, or Wednesday of next week. Therefore, with my view, with my belief that the Government of

Mexico has been defrauded, absolutely defrauded by the men having these claims in charge—I do not mean by the attorneys having these claims in charge, but by the men making the claims—it strikes me that it is the duty of the United States to stop the distribution of this money upon these two claims.

I go further and say, that could I have been assured this morning that the distribution would be withheld upon these two claims for two weeks, or until a thorough examination could be made, I should not have called up the joint resolution to-day, but I could receive no assurance even of that character. Therefore I owe it to myself, to my position, to ask the Senate to consider the joint resolution to-day. If the claims are just claims, no injury can result; if the claims are just claims, they will be in the hands of the Secretary of State in bonds of the United States to be distributed hereafter, and no harm and no injury, nothing but a delay in the distribution of these installments, is asked for. I hope the joint resolution will be passed.

Mr. BECK. Who is asking for the passage of the joint resolution?

Mr. EATON. Justice to the Government of Mexico requires it. I have introduced the resolution on my own responsibility as a member of the Senate, believing that gross injustice has been done to a sister government, and believing it to be the duty of the Government of the United States to see to it that her own honor is vindicated in protecting the rights of a sister republic.

Mr. HAMLIN. Mr. President, I am reluctant to disagree with my friend, the Senator from Connecticut, and yet I am compelled to do so. I think I shall join with him and do all that we can be properly asked to do in order to vindicate the honor and the integrity of our Government and mete out to the Republic of Mexico justice in the fullest degree; but I think the passage of the joint resolution at this time is not well advised and would be hasty. I am not going to express an opinion upon its merits; I do not say that I shall not finally agree in the precise action which the Senator from Connecticut suggests; but I would not do it without affording all the parties the opportunity of being heard, as they certainly have not been.

My recollection is not very distinct, but I am pretty sure that this matter was once referred to the Committee on Foreign Relations of this body, and that committee gave to it a very careful consideration. While there is justice due to Mexico, justice is equally due to our own citizens. If I am right in my recollection, and I rather believe I am, in the investigation of the subject at that time it was proved that these awards had been transferred beyond all doubt to innocent purchasers; that persons innocent of any offense were the parties to whom the payments would be made at the State Department, and not the persons to whom the awards were originally made. I think that was the condition of the case as it then presented itself to the Committee on Foreign Relations. If I am right in my recollection, the committee reported; I do not recollect whether it was by resolution or by bill; for this subject has come upon me by surprise so that I have no opportunity to investigate it, and I am only stating now from my recollection. The committee reported in favor of leaving to the discretion of the Secretary of State what should be done. Whether a resolution to that effect was passed or not, that was the substance of the action of the committee. So it stood.

I have an impression also that the subject was also referred at one time to the Judiciary Committee of this body, who examined it with considerable care, and I believe reported adversely to any action by Congress.

Mr. McDONALD. If the Senator will allow me, the first action of the Judiciary Committee was embraced in section 5 of the act of June 18, 1878, which I will send to the desk to be read.

The Chief Clerk read as follows:

SEC. 5. And whereas the government of Mexico has called the attention of the Government of the United States to the claims hereinafter named with a view to a rehearing: Therefore, be it enacted, that the President of the United States be and he is hereby requested to investigate any charges of fraud presented by the Mexican Government as to the cases hereinafter named, and if he shall be of the opinion that the honor of the United States, the principles of public law, or considerations of justice and equity require that the awards in the cases of Benjamin Weil and La Abra Silver Mining Company, or either of them, should be opened and the cases retried, it shall be lawful for him to withhold payment of said awards, or either of them, until such case or cases shall be retried and decided in such manner as the Governments of the United States and Mexico may agree, or until Congress shall otherwise direct. And in case of such retrial and decision, any moneys paid or to be paid by the Republic of Mexico in respect of said awards respectively, shall be held to abide the event, and shall be disposed of accordingly; and the said present awards shall be set aside, modified, or affirmed as may be determined on such retrial: *Provided*, That nothing herein shall be construed as an expression of any opinion of Congress in respect to the character of said claims, or either of them.

Mr. HAMLIN. That expresses, Mr. President, clearly and distinctly what was not only the action of the Judiciary Committee at that time, but the action of the two Houses of Congress. That action was accompanied by a full report from the Judiciary Committee, as my friend from Indiana courteously informs me. It seems to me this section has vested in the Government full and ample powers to investigate this matter and to take such steps as the rights of Mexico may demand and the honor of this country may require. It also provides a proper and just protection to the American citizen who may be the innocent holder of these awards.

If anything further be necessary, I would suggest to my friend from Connecticut that the power is in the Department under the existing law to propose to the Mexican Government a re-examination. If further legislation is required, I think it would be wiser to pass a simple resolution requesting the Department of State to withhold further payment until that investigation can be made, and we can satisfy our minds whether or not further legislation is required. As at present advised I do not see that any is necessary; on a re-examination I might think otherwise. I do not mean to express my opinion upon it now. I simply mean to say that while I hope I shall defend the honor of my country and deal justly by Mexico, I think this measure is rather hasty, and we had better make haste a little more slowly.

Mr. INGALLS. I should like to inquire when these claims were allowed by the commission—the claims of Weil and the La Abra Mining Company?

Mr. VOORHEES. Five years ago.

Mr. McDONALD. I made no objection to the resolution being considered at this time, although I do not expect to vote for its adoption. I should be very strongly inclined to favor the suggestion made by the Senator from Maine if any action is taken at this time, and that is that the resolution be referred to some proper committee, as the Committee on Foreign Relations, of which the mover of this resolution is chairman, and that in the mean time the State Department be requested to take no steps until further action shall be taken by Congress; but before even that is done, it seems to me we should understand the situation of this case.

The convention entered into between the United States and Mexico in 1868, for the settlement of claims by citizens of the United States against the Government of Mexico, and by citizens of Mexico against the United States, provided for a commission and also provided for an umpire in case of a disagreement between the members of that commission. That commission was to consist of one person representing the Government of the United States and another representing the Government of Mexico, and the minister accredited to the United States from Great Britain, Sir Edward Thornton, was chosen the umpire to determine questions of disagreement between these commissioners.

The treaty contained the ordinary stipulations in such cases, providing that the final determination of these claims before the commission thus constituted should be binding upon both governments, absolutely binding. The two claims now involved in this resolution are some of a large number. They were claims on the part of citizens of the United States against the Government of Mexico. There were others and many claims presented that were disallowed. There were claims presented on the part of citizens of Mexico against the United States that were allowed and operated as a set-off between the two governments for the amounts allowed. The disallowed claims of citizens of the United States have never had a further hearing, although many of them were claims which it was alleged had been improperly disallowed. Attacks have been made on these two claims, and I believe they are the only claims among those allowed that have been directly attacked.

When the act came before Congress to provide for the distribution of the installments of the Mexican indemnity then coming in, the fifth section of that act which has been read by the Secretary accompanying the remarks of the Senator from Maine made an exception as to these two cases. Although the terms of the treaty made the awards final upon the Government of Mexico, yet inasmuch as it was alleged that these two claims had been fraudulently obtained, that they were fabrications, Congress thought it was right to relieve the Governments of the United States and Mexico from the absolute obligation of this convention so far as these claims were concerned, and to empower the administrative branch of the Government to take up and examine them, that being the branch that directly transacts our business with foreign nations, and take such steps as equity and justice, or the honor of the country might require with reference to them.

That act went into force in 1878, and at the last session of Congress the action of the executive department, through the Secretary of State, was laid before Congress, and by this House referred to the Committee on the Judiciary. There was also a bill introduced providing for instituting some kind of legal proceedings with respect to these claims in the Court of Claims, and it also was referred to the Committee on the Judiciary. The subject of that bill, together with the report of the proceedings of the State Department under the fifth section of the act of 1878, was examined by the Judiciary Committee, and they made their report. I have that report before me.

Mr. DAVIS, of Illinois. The Judiciary Committee had the whole subject before them the year before. They believed these two claims ought to be re-examined and retried, at the request of the Mexican Government.

Mr. McDONALD. The fifth section has been read.

Mr. DAVIS, of Illinois. That government believed they were fraudulent and unjust and asked that certain things be done. The committee thought so; at least, I believed so for one.

Mr. McDONALD. The Judiciary Committee, so far as I remember, did not investigate into the questions of fact any further than to determine that it was proper to relieve the governments concerned, in the way I have stated.

Mr. DAVIS, of Illinois. They had to make an investigation so as to show that there was a *prima facie* case. The Mexican Government had requested that they investigate far enough to show a *prima facie* case, otherwise they would not have reported as they did.

Mr. McDONALD. But they embodied the purpose and force of

that investigation in the proviso that is attached to the fifth section of the act of 1878:

*Provided*, That nothing herein shall be construed as an expression of any opinion of Congress in respect to the character of said claims, or either of them.

Mr. DAVIS, of Illinois. I would say, if the Senator from Indiana will allow me, that the bill came from the House, was referred to the Committee on the Judiciary of the Senate, and I reported the bill. When it came back we adopted that proviso to save any trouble in getting the bill passed.

Mr. McDONALD. That proviso was in the section as agreed to by the Judiciary Committee, and for this very plain and palpable reason: that we determined that this was not a legislative question; that it belonged properly to the executive department of the Government which transacts business with foreign nations, because it had relation to the foreign affairs of this Government in its relations with the Government of Mexico. Of course the Senate, as part of the treaty-making power, would have to pass upon any treaty that might be made; but the executive department initiates treaties. It was held that so far as the Congress of the United States was concerned, it was not a legislative question; and therefore at that time, upon the application that was made to us and the charges preferred, we concluded that it was right and proper to exercise the legislative power so far as to relieve the Government of Mexico from the binding force and effect of the awards and to empower the treaty-making branch of this Government, or that part which inaugurates the negotiation of treaties, to enter into a new convention in respect to these claims if on investigation of the charges it should be thought right and proper to do so. That was the precise case in 1878.

At the last session, as I have already stated, the proceedings of the State Department, as representing the executive branch of the Government in that respect, were laid before the two Houses of Congress, and the bill that I have alluded to was referred to the Judiciary Committee, who again took up and examined these proceedings and made their report upon them, the report which I now hold in my hand. The Secretary of State, in his report to the President, states emphatically that he does not find, whatever the charges of fraud may be in regard to these claims, that the honor of the United States requires them to be reopened as a diplomatic question, as a question for further negotiation and settlement between the two Governments. The Secretary of State says:

I conclude, therefore—

After going on and stating the facts—

that neither the principles of public law nor considerations of justice or equity require or permit, as between the United States and Mexico, that the awards in these cases should be opened and the cases retried before a new international tribunal, or under any new convention or negotiation respecting the same between the United States and Mexico.

With respect to the La Abra Silver mining claim, the Secretary finds that the extent of the charge made by those who profess to represent the Government of Mexico on that subject is that there was an exaggeration of damages, and so all that could be obtained under any circumstances would be a reduction; that is that the commission had found more damages than the facts in the case warranted, and therefore it was in the nature of an application to set aside the award for excessive damages. In the judgment of the Secretary of State that reduction could not be carried to the point of absorbing what was already due on that claim according to the installments then payable, but that enough would remain out of the installments unpaid by the Mexican Government, and therefore no harm could come from distributing that which was already in hand. In regard to the claim of Benjamin Weil, the charge was that it was a fabrication; but the facts set forth by the Secretary of State and presented in his report did not show that it was not in the power of the Mexican Government at the time the investigation was going forward before the commission to have brought forward all the proofs of its allegation. They did not come forward under any claim of newly-discovered testimony. They did not come forward and make the claim that any testimony proper to be considered had been excluded. They made no claim at all except that they insisted that the evidence before the commissioners was not sufficient to justify the award, and that so believing they had introduced no evidence on the other side. They made the same claim before Sir Edward Thornton, but he said he had no right to introduce new testimony; that if they had the testimony in hand when the case was undergoing investigation before the commission it was their duty to have presented it, and they could not come to him with it; that he had nothing to do but to act on the papers certified to him by the commissioners and to the facts that had been placed before the commissioners. Acting upon them, he affirmed the decision of the American commissioner in favor of the claim and against the Mexican commissioner.

After reviewing this report of the Secretary of State, the Judiciary Committee said:

It will be seen from this report, with respect to La Abra mining claim, the principal ground of complaint is exaggeration of damages, and upon that question it does not appear that any fault whatever attaches to the commission before whom it was examined, nor to the referee by whom it was affirmed. It also appears that the Department of State so far passed upon the question of excessive damages as to determine the claimants to be entitled to the installments already paid in, and that the Executive had directed the amounts to which the claimants were thus entitled to be paid over; and while the remaining installments not yet received may be regarded as subject to retention to meet the question of a reduction of damages, it virtually determines the question submitted to the executive department by the said fifth section, so far as that claim is involved.

In regard to the Weil claim, the case presents one of greater difficulty. It appears from the report of the Secretary that this claim is charged by the Mexican Government to be a complete fabrication; that this charge was made before the commissioners at the time it was undergoing investigation. The representative of Mexico claimed to be in possession of evidence then to establish the charge, but declined to introduce it, preferring to rest the case on the evidence introduced by the claimant, but sought afterward to introduce such impeaching testimony before Sir Edward Thornton, the referee, who declined to receive it, holding, and correctly, that no new evidence could be introduced on the hearing before him, and that upon the evidence submitted to the commissioners he could not do otherwise than to affirm the claim.

In the investigation that has taken place in the State Department, under the authority of the fifth section above quoted, no suggestion appears in the report of the Secretary "that the honor of the United States, the principles of public law, or the considerations of justice and equity require that this case should be retried," but, on the contrary, after stating considerations of public policy which would seem to forbid the reopening of the case, the questions of honor, principles of public law, and considerations of justice and equity are referred to Congress to decide. This would involve an investigation by Congress of facts of an international character which, in the opinion of the committee, properly belongs to the executive department, and which it was the intention of the fifth section of the act of June 18, 1878, to leave with the department.

The bill under consideration proposes to withdraw these two claims from the dominion of international jurisdiction and place them before a tribunal organized and existing solely by virtue of the laws of this country, and in this way it would seem designed to avoid the opening up of other questions of complaint that are known to exist on behalf of citizens of the United States whose claims, for various causes, fail to receive favorable consideration by said commission under the treaty creating the commission.

The second article of that treaty bound the two governments absolutely and conclusively by the final awards of the commission and umpire in all cases coming within its provisions; and it would seem right that if it is to be set aside as to any of the claims it ought to be by a new convention, in which provision should be made for doing justice to all claimants.

The reasoning of the Secretary of State against the propriety of such a course as this would seem to be unsatisfactory; but, in the aspect these cases are presented to us, we feel constrained to report back said bill adversely, and recommend its indefinite postponement.

That was the action of the Judiciary Committee, at the last session, upon this question. If further investigation can establish the fact that either of these claims is a fabrication, and can point out a way by which justice may be done to the Government of Mexico, and at the same time guard the rights of our own citizens, very well. These are not the only parties that were involved in this convention. Our citizens whose claims against Mexico were rejected desire a re-examination; and if because Mexico sets up that these claims are fraudulent, we give her an opportunity to prove that, if there can be any way found by which we can possibly set wrong right, in case there is wrong here, I am as willing as any person to do it. But, as far as I am able to judge this case, it is simply a case of a party who stood by claiming to have proof in his hand by which he could disprove a claim set up against him, took the judgment of the court upon the plaintiff's case, lets it go to a final judgment, and then seeks to come in and set it aside.

Mr. MORGAN. Mr. President, I introduced the bill into the Senate, by request, to which the Senator from Indiana has just referred, and it was reported back from the Committee on the Judiciary, and being reported adversely it was, under a rule of the Senate, indefinitely postponed. There was neither debate nor a vote taken upon it. At that time I was not satisfied with the action of the Senate taken on that subject. At the same time, I was forced to admit to myself that the bill which had been brought forward and which I had, by request, introduced, was not a sufficient measure for the support of the rights that the Government of Mexico claimed in this case, for that was a bill which referred the adjudication of the question to our Court of Claims. The Government of Mexico had a right to sue a citizen of the United States in the courts of the United States. We have never denied that right to any government. Various suits have been brought and decided in the Supreme Court of the United States where a foreign government has sued our own citizens in our own courts. I understand that the Government of Mexico now desires to bring suit in our courts for the purpose of testing the question whether this award by the Mexican commission ought to be binding upon her, whether she ought to be made to pay into the Treasury of the United States for distribution a sum of money which is predicated entirely upon a fabricated claim against the Government of Mexico, predicated, as the Government of Mexico insists, upon fraud and perjury.

The honorable Senator from Maine says we ought to go slowly in this matter. I grant that, but we ought to go slowly and with sufficient deliberation to arrive at truth and justice; and while one branch of the Government is going slowly, the other branch of the Government ought not to go too fast. We have a law which provides for the distribution of these claims; we have this subject now referred by the President of the United States to the Senate, and by the Senate to the Committee on Foreign Relations, and the matter is under consideration now in this body. I am aware of the fact that the Government of Mexico prepared a bill in equity to be filed in the supreme court of the District of Columbia against the claimants, under these awards, setting out that they were void for fraud, that they were void, because they were predicated upon perjury and fraud on the part of the claimants and those interested in the claims at the time of their allowance; but the Government of Mexico would have no advantage under that lawsuit; it could not afford to file the bill, and why? Because the Secretary of State, under what he supposed to be either the authority or the compulsion of the law, has been, and is still paying out this money to the claimants. No judge in the Dis-

trict of Columbia can issue a writ of injunction against the Secretary of State to prohibit him from making the payments; and if the Government of the United States goes on and makes these payments into the hands of irresponsible people, or into the hands of assignees under the idea that they have got a title by *bona fide* purchase after the award was made, then it is very clear that the Government of Mexico would be engaging only in fruitless litigation if it came into the courts of this country.

Now, what I understand the honorable Senator from Connecticut to desire is, that the Government of the United States shall withhold the further payment and distribution of the funds under these awards until such time as the Government of Mexico shall have a fair opportunity to come into our courts and have it determined whether or not these awards have been based upon fraud and perjury.

I have seen a very full statement of what I understand to be this case as presented by the Government of Mexico, and I think we ought to look at it as it is presented by the Government of Mexico, because that involves a question of national comity, of good faith, if not of honor. The Government of Mexico entered into a convention with the United States, under which two commissioners were appointed and an umpire; these claims were presented along with many other claims against the Government of Mexico; they were decided by the commissioners and by the umpire; and thereupon they became final and conclusive as between the two Governments. Honor, treaty stipulations, good faith require that both Governments should adhere to the adjudication. It was as much our duty to adhere to the adjudication as it was the duty of Mexico to adhere to it, and that makes it a finality so far as diplomatic relations are concerned—makes it a finality so far as concerns the application of the right of the La Abra Silver Mining Company and of Weil against the Government of Mexico. But the Government of Mexico comes in and says, "We understand now, we have discovered, we are able to prove"——

Mr. JONES, of Florida. On that point will the Senator permit me to ask him a question?

Mr. MORGAN. Yes.

Mr. JONES, of Florida. When was the discovery made of the evidence showing fraud?

Mr. MORGAN. The Government of Mexico went before the umpire after the commissioners had disagreed, as I remember the facts, and then sought to bring before him the testimony; but the umpire ruled, very correctly, that he could only try the case, as far as he was concerned, on the record made and could not reopen it for any purpose at all. They commenced upon this state of facts which I now suggest, and which they suggested, before the time of the final adjudication. They were prevented from having it considered by reason of the fact that the commissioners had decided the question and the jurisdiction had passed into the hands of the umpire, and he was bound by the record then made up and was compelled to decide on such facts as that presented to him.

Mr. BUTLER. May I ask a question?

Mr. MORGAN. Certainly.

Mr. BUTLER. How long is it since the award was made?

Mr. MORGAN. I do not remember; but I think as much as five years ago.

Mr. VOORHEES. The award was made by the commissioners in 1875, and the final decision by the umpire in 1876.

Mr. MORGAN. But the Government of Mexico from the date of the final award, and from that time up to the present, has been urging on the United States Government that that government should have some opportunity afforded it of proving that these claims were entirely founded upon falsehood and fraud and perjury; that they had actually no substantial basis at all. From that time the Government of Mexico has been diligent in her efforts to obtain a hearing in one way or another from the Government of the United States. It was in pursuance of that urgent request of the Government of Mexico that the act of June, 1878, was passed. There was a dispute between the Executive Department of the Government and Congress. I do not mean an actual quarrel, but a difference of opinion as to which was the proper policy to settle this question. The Executive Department said that all diplomatic intercourse on this subject was concluded, and therefore they could not consent that diplomacy should be resorted to between the two governments for the purpose of opening that which had been settled. They said the awards were final; that it was due to the umpire, due to both governments, that we should uphold and maintain the conclusiveness of the awards; that the awards should not be attacked for fraud on the part of the commissioners or any dereliction of duty. They considered, and therefore we are bound to consider, so far as diplomatic relations between the two countries are concerned, the awards as final. But, said the President of the United States, "I refer this matter to Congress;" and it came before Congress, and Congress provided in the fifth section of that act a means by which there might be a suspension. In that provision, instead of giving to the Government of Mexico a right to prosecute her suit in our courts in a substantial way, Congress merely referred the question back to the diplomatic authorities again, and here it has been battledoor and shuttlecock between Congress and the diplomatic authorities of this Government as to which was the proper tribunal to settle the matter.

When the bill which I introduced was reported back from the Judiciary Committee that committee did not undertake to decide the question whether Mexico did not have a just claim. That committee never ventured an assertion of that sort; but, on the contrary, they argued that the Court of Claims was not the proper court to try the case, and that was very proper indeed; and they further argued that if the case was opened for further diplomatic correspondence between the two governments, then the citizens of the United States, whose claims had been rejected, perhaps without a hearing before the commission, because they had not been brought in within the proper time fixed for the hearing of such claims, should be also allowed to come in and have a further hearing. That is the condition in which the matter has been left.

Now I will read from the remarks of the committee on this subject:

> The bill under consideration proposes to withdraw these two claims from the dominion of international jurisdiction and place them before a tribunal organized and existing solely by virtue of the laws of this country, and in this way it would seem designed to avoid the opening up of other questions of complaint that are known to exist on behalf of citizens of the United States whose claims, for various causes, fail to receive favorable consideration by said commission under the treaty creating the commission.

That is an objection to the form of proceeding prescribed in the bill.

> The second article of that treaty bound the two governments absolutely and conclusively by the final awards of the commission and umpire in all cases coming within its provisions; and it would seem right that if it is to be set aside as to any of the claims it ought to be by a new convention, in which provision should be made for doing justice to all claimants.
>
> The reasoning of the Secretary of State against the propriety of such a course as this would seem to be unsatisfactory; but, in the aspect these cases are presented to us, we feel constrained to report back said bill adversely, and recommend its indefinite postponement.

The Secretary of State says:

> While these considerations led to the conclusion that these cases ought not to be made the subject of a new international commission, I was yet of opinion that "the honor of the United States" was concerned to inquire whether in these cases submitted by this Government to the commission, its confidence had been seriously abused, and the Government of Mexico, acting in good faith in accepting a friendly arbitration, had been subjected to heavy pecuniary imposition by fraud and perjury in the maintenance of these claims, or either of them, before the commission.

If the honor of the United States has ever been thus concerned, as the Secretary of State admits in his letter to the President, it is still concerned because we have not discharged that duty. The facts laid before the Secretary of State were so impressive that he could not resist the admission that the honor of the United States was concerned in giving a fair and open hearing in our courts to the Government of Mexico about this business. Sir, he had in his mind no doubt the case of a celebrated dentist who went out to Mexico and robbed that government under exactly similar circumstances of about four hundred thousand dollars. The Congress of the United States did not hesitate, nor did the courts of the United States hesitate after a convention had been concluded, and the award made, and while we were paying out the money as we had assumed to do to Dr. Gardiner on a judgment affirmed by the commission, to set aside the whole fraudulent effort and convince the Government of Mexico and the world that the Congress of the United States was not to be trapped into an outrage by fraud and perjury.

Now, that question which was stated by the Secretary of State, is open to-day, and I insist that the Secretary of State ought to be permitted and authorized, if not compelled, to withhold the payment of any more of this money until the Government of Mexico can come into our courts like any other suitor, and attack the judgment for fraud and set it aside. Her relations with our Government are getting to be, and I am very glad of it, of a very friendly and intimate character, and I hope they will have no reason to believe that any Department of this Government will hesitate for one moment to give them full and ample justice and consideration in our courts when the Secretary of State comes out and in his letter to the President says he is so impressed by these facts that he is obliged to admit that the Government of Mexico ought to have some sort of a show in regard to it.

Mr. VOORHEES. Mr. President, I desire to place this matter before the Senate exactly as it is. Some five years ago an award was made in the cases under discussion——

Mr. HOAR. Mr. President, before the Senator from Indiana begins, as the hour of half past one has arrived, I suggest that there be unanimous consent to proceed with this debate.

Mr. VOORHEES. I shall occupy but a few minutes.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The Chair will within half a minute lay before the Senate the unfinished business. The Chair lays before the Senate its unfinished business, which is Senate bill No. 1773.

Mr. BOOTH. Now, Mr. President, I ask that the pending order be laid aside informally, and that the Senate proceed to the consideration of the pension appropriation bill.

The PRESIDING OFFICER. Unanimous consent is asked that the Senator from Indiana be allowed to conclude his remarks on the measure pending during the morning hour. Is there any objection? The Chair hears none.

Mr. VOORHEES. On the suggestion of friends I am perfectly willing to let this matter go over and let the business of the Senate proceed regularly. I can make the remarks I desire to make hereafter.

Mr. MORGAN. I desire to say this before the matter is disposed of, from my place in the Senate: I am bound to say that I think it

would be an exceedingly improper thing for the Government, while the debate is pending upon this resolution, to pay out any more of this money.

Mr. VOORHEES. Well, Mr. President, I desire to say in my place in the Senate—I do not know any other place where I would be expected to say it—that I can demonstrate that we have done all that the honor of this Government calls on us to do, and all there is in the world in this matter is the unwillingness of some people about Washington to let this money be paid in the channel marked out by law. When the proper time comes I shall be able to demonstrate that.

The PRESIDING OFFICER. The Senator from California [Mr. BOOTH] asks that the regular order be temporarily laid aside in order to consider the pension appropriation bill. Is there any objection to that? The Chair hears none.

Mr. EATON. I would prefer the Senate should finish the joint resolution we have been discussing.

The PRESIDING OFFICER. There is no motion of that kind pending.

Mr. EATON. I make it, and will give the reason in one moment. A certain amount of money will be paid on Monday or Tuesday which ought not to be paid, in my judgment; and therefore I think that this resolution is the proper business of the Senate to-day, rather than any other.

Mr. VOORHEES. Mr. President, by law these claims were given to the Executive Department of this Government, where they pended more than two years under a searching investigation, with all the power that was desired or that could possibly have been used, and at the end of that time the money was ordered to be paid by the President of the United States. If in those two years Mexico and the people who are interested for her around here could make no more case than they did in the State Department, I see no reason for such haste as is proposed here, and no reason why the business of the Senate should be set aside to consider that which has been considered for the last five years, during two years of which time full power was given by Congress to the Executive Department to find any reasons against the claims if they could possibly be found, but none were found.

Mr. LOGAN. Mr. President——

The PRESIDING OFFICER. Is there objection to the regular order, to the bill to allot to Indians lands in severalty, being temporarily laid aside to consider the pension appropriation bill? The Chair hears no objection.

## PENSION APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, the pending question being on the question of order raised by Mr. TELLER to the reception of the amendment of Mr. WITHERS, which was submitted by the Chair for the decision of the Senate.

Mr. LOGAN. Mr. President——

Mr. EATON. With deference to the Chair I suppose I have right to say that after my friend from Illinois [Mr. LOGAN] shall have concluded his remarks on this bill I shall again ask that this joint resolution be considered.

Mr. BUTLER. The Senator from Illinois kindly yields that I may give notice that on Monday next, after the morning business, I will ask the Senate to take up a report made by the Secretary of the Interior in response to a resolution I have offered as to alleged census frauds in South Carolina. I shall ask the Senate to take that up with a view of submitting some remarks on it, which will not occupy longer than thirty minutes, I think.

Mr. WITHERS. If the Senator from Illinois will yield to me, I ask to have reported an amendment which I offer to the amendment now pending, to come in just before the amendment already offered.

The PRESIDING OFFICER. The Senator from Virginia offers an amendment to his amendment, which will be read.

The SECRETARY. At the end of section 2, immediately preceding the amendment, it is proposed to insert:

> All payments of pensions under this act, of persons not on the pension rolls at the time of the passage of this act, shall be made, as far as may be practicable, under the provisions hereinafter contained.

Mr. WITHERS. And then will follow the amendment I have already offered, the object being simply to relieve as far as possible the amendment which I have offered from being obnoxious to the point of order that it is general legislation, the effect of this amendment being to restrict it to this bill.

Mr. HOAR. Before the Senator from Illinois proceeds I desire to put to him a question—I suppose it will be more agreeable to him to have it put now than after he has begun his remarks—which he will answer or not at his discretion and at such time as he pleases. What I am chiefly interested in in connection with this matter is the great delay which is now taking place in the dealing with applications of persons who I am sure, from my own neighborhood, are honest applicants, who wait many months, sometimes years, without hearing anything from the Pension Office, or without hearing anything but the simple acknowledgment of the receipt of their claim, and then they apply to their Senator or Representative to get the next step taken, and the next, and the next. What I desire to ask the honorable Senator from Illinois is whether he has in his mind any scheme or plan, either by increasing the number of clerks or otherwise, to remove that crying evil? I do not ask him to answer that question now unless he chooses.

Mr. LOGAN. I will answer the question of the Senator from Massachusetts. I have in my mind, and I will develop it before I get through, a very short amendment to the present pension law. I will state it now, however. The remedy for facilitating the business is an increase of the force with able and competent men or examiners, with an increased salary. I think I can demonstrate before I get through that with this improvement the law is ample as it now exists.

Mr. President, I must apologize to the Senate—though it certainly is not my fault that this bill is so long delayed, for the reason that I commenced what little I had to say several days ago, and have not insisted upon being heard nor upon this order being before the Senate, allowing the Senate to take its own course and at the proper time permit me to conclude what I had to say. But before I proceed with the line of argument that I was on yesterday, I must, again, if I can have the ear of the Senate, call their attention to the subject. Some of our friends have warmed up a little on one or two occasions when I have said that I thought one of the great faults was the want of ability. I may have emphasized probably a little stronger than I should have done in reference to the person who administered the law; I merely wished to give my judgment in reference to the law, and whether a new Commissioner with the old law would not be better than the old Commissioner with a new law. The argument I made may have run in that direction. Certainly it is in the direction that the law is sufficient if it is properly administered.

I now desire to call the attention of the Senate to a very contradictory set of statements made. I asked the Senator from West Virginia yesterday in reference to his tables and he said he based them upon the statements of the Commissioner of Pensions. The Commissioner of Pensions first said it would take $25,000,000 to pay the arrears of pensions under the act of 1879. He then said it would take $50,000,000, and afterward it was reported that he said $100,000,000, and now the Senator insists upon the authority of the Commissioner of Pensions that it will take $510,000,000. Since the Senator from West Virginia sought to demonstrate that it would take $510,000,000 another increase has been stated by a member of the Committee on Appropriations in the House of Representatives. I have a right to read from the RECORD, and I will read it:

> I desire to ask this further question. I do not myself believe the Commissioner of Pensions has intentionally misinformed the country. There have been different estimates as to what would be required to pay the arrearages of pensions ever since that bill was introduced into Congress. I well remember the gentleman from Ohio, (Mr. RICE,) not now a member of this House, who had charge of the bill, believed when he first introduced the bill that $15,000,000 would cover the entire sum that would have to be paid under it. Before the bill got through he advanced to $20,000,000. The Commissioner of Pensions at that time thought it would take $25,000,000. Then it got to the astounding sum of $50,000,000. After a little while another estimate was made and it went up to $100,000,000. And so it has been going on and going on, not in arithmetical progression, but in geometrical progression, until the Commissioner told me the other day that it would cost $710,000,000.

The Senator from West Virginia made his statement that it would cost $510,000,000, which was based upon mere imagination as to what pensioners would be on the roll hereafter and how long they would live. At least that was my understanding of it; but it went to the country differently. Since that statement the Commissioner of Pensions says it will cost $710,000,000. These statements are brought before the Senate every day, changing every day, for what purpose I cannot divine, but it does seem to me that there is a kind of insanity on this subject of the amount of money that is to be paid to pensioners. The only way to estimate it is according to the amount that is allowed, not on imagination as to what may be allowed. As has been well said in the Senate heretofore, you might just as well accuse one member of the Senate of having violated law and then for that reason estimate that one-third of the remainder would do the same thing. It is not a fair statement to say that because one man or any number of men have committed frauds against the Government, therefore the same number will commit them hereafter. That is to estimate crime according to the number of people that you have already convicted of crime.

Mr. DAVIS, of West Virginia. Will the Senator permit an interruption?

Mr. LOGAN. Certainly.

Mr. DAVIS, of West Virginia. The Senator from Illinois has several times referred to the Senator from West Virginia as giving figures that had no foundation. That was the substance of what he said; I do not say he used those words. Before reading the tables which I submitted the other day to the Senate I said:

> I have some figures, taken principally from the official reports of the Commissioner of Pensions, to which I will call the attention of the Senate.

I think the Senator must have overlooked that fact or he would not have said that the Senator from West Virginia made figures upon his own imagination. They were taken from tables furnished by the Commissioner of Pensions in letters forwarded by the Secretary of the Interior.

The Senator again says that we must not estimate, but we must take the pensions as they have been allowed. The Senator knows that we have appropriated for the expenditures of the Government

on estimates, and we are now appropriating for the expenditures for the fiscal year 1882, and so we must estimate. This Government pays all its claims by estimates. We have to estimate in advance and are obliged to do that; and pensions are not alone in that respect.

I call the Senator's attention to the fact that last year we paid about twenty-six or twenty-seven millions in round numbers, and this year it is fifty millions to be paid to those on the regular roll. That is the way it goes.

Mr. LOGAN. Then I am correct. If we pay fifty millions for this year and paid twenty-six millions last year, and you have a certain number of pension claims on file and if you allow every one that is on file the total would not amount to $510,000,000 per annum, as the intimation went before the country. It would amount to no such sum.

Mr. DAVIS, of West Virginia. I did not say annually.

Mr. LOGAN. I am speaking of what the country was led to believe. The country was led to believe, and is now led to believe, from the statements that these enormous amounts are to be paid annually. The Senator shakes his head. I saw a paragraph in a newspaper that called the attention of tax-payers to the fact that they are to pay so much money. It is the estimate that was made running the pensions along, as the Senator said the other day, for sixty years to come. Another fact seems to be strange, that he does not understand altogether, and that is when the arrears of pensions are paid once they are never to be repeated.

Mr. SAULSBURY. Will the Senator allow me just there to ask him to take into consideration one item in the estimate as to what is the cost of that bill? The passage of that bill has led to the application by a large number of persons to be placed on the pension-roll who otherwise would not have made such application, who had not made application and would not in all probability have made it but for that bill.

Mr. LOGAN. What bill?

Mr. SAULSBURY. The passage of the arrears-of-pensions bill giving arrears of pension is said to have caused a very large increase of applications to be placed on the pension-roll. I call the attention of the Senator to that fact as one of the items properly entering into the estimate of what will be the ultimate cost of the arrears-of-pensions bill.

Mr. LOGAN. There is no doubt that it caused an increase of the number of applications. Nobody has ever questioned that; but that is not the point. The point I was making is that the part of the money which we paid for arrears of pensions last year we never have to pay again. That is the end of it. The part of the money we pay this year on arrears of pensions is not estimated in the next year; you do not pay it over again. After the arrears of pensions have been paid for ten years the ten years' arrears have passed and are not repeated.

Mr. DAVIS, of West Virginia. The Senator will recollect that a pensioner put on the roll this year continues as long as he lives.

Mr. LOGAN. Of course.

Mr. DAVIS, of West Virginia. And that has increased the regular roll from $26,000,000 to $50,000,000 this year.

Mr. LOGAN. Very well. You put a certain number of pensioners on the roll last year who were entitled to arrears of pensions. You pay those arrears of pensions this year. Now, when you pay the arrears of pensions this year they are never paid again. That terminates it.

Mr. DAVIS, of West Virginia. So far as arrears are concerned.

Mr. LOGAN. Certainly, that is what I am discussing at this point. Then why is it that a Senator will stand up in this Chamber when the passing of the bill and the paying of pension arrears ends one year forever and still aggregate it in the amount that is to come hereafter and make it $510,000,000?

Mr. DAVIS, of West Virginia. Take, for instance, the year before the arrears-of-pensions bill was passed; it was passed in March, 1879; take the preceding year, and the regular roll was $27,000,000 in round numbers, and it was decreasing annually, but to-day it is about fifty million dollars.

Mr. LOGAN. What pension-roll is about fifty million dollars?

Mr. DAVIS, of West Virginia. The regular pension-roll.

Mr. LOGAN. That is not the arrears; it is the roll including arrears.

Mr. DAVIS, of West Virginia. The arrears have caused it, and nothing else caused it, to jump up from $27,000,000 to $50,000,000 in a single year.

Mr. LOGAN. No matter what the cause was, that has been done; that is past. I am not talking about whether the arrears-of-pensions bill should have passed or should not have passed. That is not the question. It has passed; it is the law. The question is how that law shall be administered, and not whether the law is correct or not. Of course the arrears-of-pensions bill increased the amount that was to be paid, because prior to the passage of that bill a pension dated from the time of the application or allowance, but after its passage the pension began from the time of the contraction of the disease or the wound, and that was the reason for the increase.

Those who have been allowed pensions and have received the arrears will get them no more; the arrears are wiped out and do not have to be estimated for any more in those cases. The amount to be estimated for is the pension-roll, including the pensioners who claim without arrears and those with arrears, not estimating that which has been already paid as arrears. Is not that so? Every year as pensions are allowed and the arrears of pensions are paid, that much is cut out of the amount of the estimate. So the Senator will see that in the estimates made they estimate all these pension claims as though the arrears of pensions were to be paid over again. Now, let me go a little further. In the report you have before you it is said there are so many claims pending. What do you call "pending?" Every claim that is there on file is called "pending," is it not?

Mr. DAVIS, of West Virginia. Those not examined.

Mr. LOGAN. But whether they have been examined or not.

Mr. DAVIS, of West Virginia. I understand if a claim has been examined and disallowed it is not called a live claim or a pending claim. After it has been disallowed it is laid aside. That is the way I understand it; but all the pending claims, the live claims, are what are estimated for. The Senate will recollect that the year previous to the pension-arrears act the applications were, in round numbers, 16,000, and the year after that passed the new applications amounted to 141,000, an increase of tenfold almost in a single year.

Mr. LOGAN. The amount involved in the payment of pensions has been placed before the country in excessive figures, for what purpose I do not know. Whether the purpose is to alarm the people of this country, or to bring derision upon the pensioners, I cannot say, and will not say, as I have no information about it. I only say that I think it is a mistake to make these tables and present them to the country when they are not based on anything except the mere imagination of somebody.

I was saying that I thought there was an attempt to cast suspicion upon the pensioners. I tried yesterday to demonstrate by the letter of the Commissioner of Pensions that that was true, because he said in so many words that certain men acting in a semi-judicial capacity could not bring themselves to believe that these statements were true, and this assertion was made without an exception being made in the letter, and therefore I came to the conclusion that the attempt was to cast suspicion upon the pension-roll, including every pensioner who was upon it.

Mr. CAMERON, of Wisconsin. Will the Senator yield to me for a moment?

Mr. LOGAN. Certainly.

Mr. CAMERON, of Wisconsin. The Senate and the country are desirous of knowing as nearly as they can know what amount of money will be necessary to pay the pensioners already on the roll, to pay the pending claims of pensioners and to pay those claims that will probably hereafter be made. The Senator has criticised the estimates made by the Commissioner of Pensions and the statements made by the chairman of the Committee on Appropriations. Now, I do not know whether those statements are correct or not; but I would ask the Senator from Illinois, for the benefit of the Senate and of the country, that after he concludes his criticism of the estimates, he would inform the Senate what amount, in his opinion, will be necessary to pay the pension-roll, those already on the roll, and those that in all probability hereafter will be placed upon it.

Mr. LOGAN. The Senator would like to know that.

Mr. CAMERON, of Wisconsin. I would very much, and the country would like to know it.

Mr. LOGAN. Inasmuch as I am not the Commissioner of Pensions my word might not be taken, inasmuch as he is the Commissioner of Pensions and his word is taken, and that word is not, in my judgment, so far as his estimate is concerned, any more worthy of belief than is his idea about the belief of the men who testify in these cases. I will give you a computation that I find in the RECORD of to-day, which I have examined very carefully, which makes the amount very much less than has been stated here, and I will read it for the benefit of the Senate. This estimate has been carefully made by a committee of the House of Representatives, based on the supposed number of claims to be allowed, and has been presented to the House. I cannot vouch for its correctness, but certainly it is nearer the mark than the wild statements being made by others:

| Amount required to make first payments under arrears laws— | |
|---|---|
| Should there be 150,000 claims allowed | $119,028,000 00 |
| Should there be 160,000 claims allowed | 126,963,200 00 |
| Should there be 164,106 claims allowed | 130,221,393 12 |
| Should there be 175,000 claims allowed | 138,866,000 00 |
| Should there be 200,000 claims allowed | 158,704,000 00 |

Now you have it just as I have it, and if there should be 200,000 claims allowed, which is more, so far as the number of claims probably to be allowed, according to the judgment of the Commissioner as to the number that ought to be allowed, the amount would then be $158,704,000. This would be first payment, including arrears; afterward it would be greatly reduced.

Mr. CAMERON, of Wisconsin. The average annual pension now paid is a little over one hundred dollars—one hundred and five dollars and some cents. If that be so, the estimate which the Senator has just read is not correct. He can find that out by simple multiplication.

Mr. LOGAN. If it is not correct, we shall be obliged to the Senator to make up some figures to correct it.

Mr. CAMERON, of Wisconsin. No, I will not make any figures. If the average of the annual pension is one hundred and five dollars and some cents, the Senator can satisfy himself that the estimate is not correct by an operation in arithmetic. That is all that is necessary.

Mr. LOGAN. I do not know the basis upon which we must all make calculations. I see very different ones are used even by some of our lightning calculators in the Senate and by one great mathematician.

Mr. CAMERON, of Wisconsin. Unfortunately you do not seem to agree with him.

Mr. LOGAN. No, I do not. Now, Mr. President, I desire to carry out what I was saying. These figures are not mine; they are the estimates of men who have made the calculations. I have not made them; I have only examined them to satisfy myself whether a mistake had been made in the computation.

Mr. DAVIS, of West Virginia. Allow me to ask if that includes anything but arrears? It does not include what is hereafter to be paid, I understand.

Mr. LOGAN. The very thing we are talking about is the arrears of pensions.

Mr. DAVIS, of West Virginia. The Senator will admit——

Mr. LOGAN. I beg the Senator's pardon. This includes the amount to be paid on first payment.

Mr. DAVIS, of West Virginia. The after amount?

Mr. LOGAN. The entire amount on first payment.

Mr. DAVIS, of West Virginia. I thought the Senator said the estimate included the arrears and not what hereafter is to be paid.

Mr. LOGAN. That is a matter the Senator can examine for himself and see and discuss. I was called from the line of my argument in reference to these figures for the purpose of trying, at least, to show that, as was said by the Senator from California [Mr. BOOTH] yesterday, a misapprehension had gone before the country in reference to this amount. So far as the amount to be paid or not to be paid is concerned, it cuts but little or no figure in the discussion as to whether the bill now proposed is better for examining frauds than the law which at present exists. I only alluded to it for the purpose of trying to have the country understand that there had been a mistake made in this computation.

Now, in reference to what I was saying about the suspicion that is being spread over the country against every pensioner and everybody who has anything to do with allowing pensions, I desire to read again from the report of the Commissioner of Pensions, from which it will appear that he characterizes every claim in his office as suspicious, and every man who has anything to do with its examination as unqualified, and yet he appoints them. I read from the Commissioner's report made in 1879, on page 6:

> The large sum of money which the claimant will receive upon the allowance of his claim and the ease with which a fraudulent claim may be manufactured constitute a powerful inducement to dishonest persons to present fraudulent claims, and these occupy the attention of the office in attempting to determine their merits, which ought to be given to the meritorious claims, and thus, by the encouragement of fraudulent claims, the system operates to delay the others to such a degree that in many cases it results in a practical denial of justice. And the pursuit of the necessary medical inquiries is *little better than a farce*. There are about seventeen hundred surgeons, for the most part neighborhood practitioners, who make the examinations of the claimants in their respective neighborhoods, and report their condition to the Commissioner of Pensions, for which service they are paid by the Government a fee of $1 (formerly $2) for each examination.

Why does he say the medical examinations are little better than a farce? Why does he say they are "mainly neighborhood physicians?" Why does he use that term to make a contrast between those people who have to live in the country and make these examinations and another class of physicians? Is that the reason for it? He attempts here to cast suspicion on the men he has himself appointed. Seventeen hundred surgeons he has appointed to make these examinations, and yet he says these examinations, because made by neighborhood physicians, are not entitled to respect, and are little better than a farce. What did he appoint those physicians for? I say to you, as was well said by the Senator from Ohio when this question was being discussed before, the very thing that this Commissioner advocates is to put your court, if you may call it a court, close to the pensioner to examine him. If that is the reason why fraud should be avoided, the very fact that you have a physician who lives close to the pensioner, who knows his wants, who knows his condition, who knows his character and his habits, is more likely to know the truth about that pensioner than a stranger who knows nothing about his habits or his condition.

Wherever you find this Commissioner speaking of these claims, he casts derision upon the very man whom he appoints himself to make the examination. Why is this? It is done for the purpose, in my judgment, of delaying the pensioner in getting his claim; for I think I can demonstrate, and I will before I am through, that this law which you propose is calculated to delay instead of facilitate the settlement of pension claims.

Then let us see what he proposes in lieu of this. He wants to appoint five hundred and forty more persons, perhaps, at a salary of $3 per day, and then fees to be given to them; and then in the same measure it is provided that he may appoint other surgeons, that he may appoint other boards of surgeons, that he may still increase and multiply the number. Where will he appoint them? Will he appoint them in Washington City and send them out West? Certainly not. Where, then, will he appoint them? He must appoint the neighborhood surgeon or physician, if he does his duty under the law. If so, will not that same appointment that he makes of the neighborhood physician fall under the same charge that he makes here against them now? The neighborhood physicians are not competent, he intimates, to make the examination, and yet he provides for the very same thing being re-enacted into law, and they are to be reappointed by himself.

Let us go a little further with this examination. My friend from Massachusetts [Mr. HOAR] asked me a question about facilitating the examination of these cases. I desire to take up that part of the law that I was examining last night, and make an examination of it, and see whether or not it affords sufficient facilities now for the purpose of examining the claims of pensioners, that are now before the Pension Bureau. Yesterday it was stated that one of the objections was that *ex parte* testimony was taken in these cases. Why is it taken? The *ex parte* testimony that is taken under cover of secrecy is not the *ex parte* affidavit of the pensioner and his neighbor. Instead of *ex parte* evidence in favor of the pensioner, a great part of his evidence must be on record in the War Department, in the Surgeon-General's Office; the evidence of his comrades, the evidence of his family physician, the evidence of his immediate neighbors who know of his habits, of his character, and of his disease are only the *ex parte* statements.

Mr. CAMERON, of Wisconsin. All that evidence, except the evidence on record in the War Department, is evidence in the form of *ex parte* affidavits.

Mr. LOGAN. Certainly it is, all except that, but there is the basis for the claim. The basis is the record of this Government, and the other is merely cumulative testimony to support the record, except in cases where the record fails to show a fact that is to be proven by other testimony; but when you talk about *ex parte* testimony I tell you where the secret, covert, *ex parte* testimony comes in, instead of being in favor of the pensioner it is that character of testimony which is taken by the special agent in secret against the pensioner; it is where the special agent slips around in the neighborhood and finds some enemy of the pensioner and takes his affidavit, without notice to the pensioner, and files it in the Pension Office. That is the character of the evidence resorted to on the part of the Government against the poor, diseased soldier, and that is filed here without notice to him or without his knowledge in any way whatever.

Mr. CAMERON, of Wisconsin. This amendment proposes to do away with that which the Senator is now denouncing.

Mr. LOGAN. It proposes to do away with it, but while Senators denounce the *ex parte* statements in favor of the soldier that are based on the records of the country where he shed his blood or contracted disease for the benefit of this great Republic, and these people tell the tale on both sides, that secret testimony is collected against the soldier and not in his favor. If there have ever been hardships and embarrassments thrown in the way of men it has been in the way of these men in reference to obtaining what they believe is their just due from this Government by having everything thrown in their way. If your Pension Office cannot do the work give them clerks enough to do it. It is the fault of Congress that there is not a sufficient number there employed to do the work as it is required to be done, and it is not the fault of the poor soldier.

Mr. CAMERON, of Wisconsin. No one is blaming the poor soldier.

Mr. LOGAN. Then if no one is blaming the soldier let the suspicions that have been cast on the record of the soldier by your officers be blotted out. Senators claim that there is no power under the law to take testimony except by taking it *ex parte*.

Mr. CAMERON, of Wisconsin. I have heard no such claim.

Mr. LOGAN. Can the evidence now under the law be taken otherwise than *ex parte*? It certainly can. I hold in my hand two sections of the Revised Statutes, one of which provides that—

> Any head of a Department or bureau in which a claim against the United States is properly pending may apply to any judge or clerk of any court of the United States in any State, District, or Territory—

in the United States, and require witnesses to appear before them and take, not their affidavits, but bring them up and have them examined, have their evidence taken as it would in a chancery case, have it taken by a commissioner, by a court, by a clerk, where both sides may be heard.

Mr. CAMERON, of Wisconsin. To what section does the Senator refer?

Mr. LOGAN. Section 184 of the Revised Statutes. It applies to claims, and gives authority to any bureau in the Government to do it. A claim for a pension is a claim against the Government, and there is ample power and ample authority to take your testimony before a commissioner, before a court, before a clerk, and take it where both sides can be heard. What more, then, does the laws require than that?

Let me go a little further. If this system that is to be inaugurated is such a grand improvement on the present system why has not the Commissioner of Pensions established this under the law here already in the District of Columbia? Under this very section of the statutes he might have had every pensioner sworn in the District of Columbia before a court; he might have had every witness sworn before a court or before a clerk; he might have instituted cross examinations; he might have brought them before the board of surgeons that are in his office for examination. Why did he not do that, if he suspected any of these cases, for the purpose of demonstrating to the country that the system which he now proposes is one that will be beneficial to the country?

I call the attention of the Senate to section 4775 of the Revised Statutes, which is the law as it now stands:

Examining surgeons duly appointed by the Commissioner of Pensions, and such other qualified surgeons as may be employed in the Pension Office, may be required by him, from time to time, as he deems for the interests of the Government, to make special examinations of pensioners—

Not to make special examinations of applicants for pensions, but of pensioners who are now on the roll; and not only that—

or applicants for pensions—

It includes now both the applicant for a pension and the pensioner—

and such examinations shall have precedence over previous examinations, whether special or biennial; but when injustice is alleged to have been done by an examination so ordered, the Commissioner of Pensions may, at his discretion, select a board of three duly appointed examining surgeons, who shall meet at a place to be designated by him, and shall review such cases as may be ordered before them on appeal from any special examination, and the decision of such board shall be final on the question so submitted thereto, provided the Commissioner approve the same.

What do you propose by your substitute? You propose by your substitute that a lawyer and a surgeon shall be appointed in each congressional district; that these pensioners may be brought before them for the purpose of being examined; and that when they are brought before them the evidence shall be heard. You also propose by your substitute to appoint three surgeons in any district at any time the Commissioner of Pensions may deem it important. The law now authorizes him to do the same thing The law now authorizes every pensioner to go before a board that the Commissioner of Pensions shall suggest, in order that the surgeon shall examine him; that they shall hear evidence; that they shall decide the case, either of the applicant or the pensioner; and when they have decided the case it shall be final, unless the Commissioner of Pensions shall reverse it. That is all you propose by your board. By your board of judges, when the case shall be examined, it shall be submitted to the Commissioner of Pensions, and he may agree to it or disagree to it as his mind may incline him. Then sectin 4776 provides—

The Secretary of the Interior is authorized to appoint a duly qualified surgeon as medical referee, who, under the control and direction of the Commissioner of Pensions, shall have charge of the examination and revision of the reports of examining surgeons, and such other duties touching medical and surgical questions in the Pension Office as the interests of the service may demand; and his salary shall be $2,500 per annum. And the Secretary of the Interior is further authorized to appoint such qualified surgeons (not exceeding four) as the exigencies of the service may require, who may perform the duties of examining surgeons when so required, and who shall be borne upon the rolls as clerks of the fourth class; but such appointments shall not increase the clerical force of said bureau.

There again, beside the board of surgeons that your Commissioner of Pensions has a right to appoint in every district in the United States under the present law, to call pensioners before them and examine them, try them, test them in every possible way, you have other surgeons who may be appointed by the Secretary of the Interior, who shall revise and review the decision of these surgeons, and this surgeon is to be a part of the Bureau of the Commissioner of Pensions. The same thing occurs in your substitute. You do not provide for any final action, except by the Commissioner. He must finally decide whether a pension is allowed or not, but after your board has examined him, after your lawyer has questioned him, after your surgeon has decided his case, it then goes through these men and goes to the Commissioner of Pensions for final action, just as the law is now.

Section 4777 provides that—

The Commissioner of Pensions is empowered to appoint, at his discretion, civil surgeons to make the periodical examination of pensioners which are or may be required by law, and to examine applicants for pensions where he deems an examination by a surgeon appointed by him necessary; and the fee for such examinations and the requisite certificates thereof, in duplicate, including postage on such as are transmitted to pension agents, shall be $2, which shall be paid by the agent for paying pensions in the district within which the pensioner or claimant resides out of any money appropriated for the payment of pensions, under such regulations as the Commissioner of Pensions may prescribe.

Besides the board of surgeons, besides the special agents that he may detail from his office, besides all these he has a right still to appoint special persons for the purpose of going where he desires, and making examinations of these pensioners and of the applicants. What more, let me ask, must the pensioners undergo? What more critical examination do you desire? What is there now that is wanting? If you can appoint boards of surgeons, special surgeons, special agents, and examine witnesses, call the courts in, the clerk of the court and commissioner, all of these things, for the purpose of giving proper information, what more, in God's name, is the poor pensioner required to go through than is in this law if it is complied with by the Commissioner of Pensions?

I do not wish to be over-tedious in this matter, but I do feel somewhat in reference to it, not for the reasons attempted to be attributed to Senators generally who do not agree with the committee, or with the Senator who proposes the amendment, but because I believe it to be in the interest of the Government, as well as of the pensioners, to have the law executed as it stands without trying new machinery before we know anything about how it will work.

Mr. President, I desire to examine this proposed amendment now in detail. I presume they have all read it very carefully; I presume they understand it very thoroughly; they may understand it better than I, but I desire to give it a fair examination and see what it does propose. I especially call the attention of two Senators who were so desirous of assisting me yesterday to the provisions of this proposed amendment. I ask the Clerk to read the first section of the amendment commencing at line 3, and to read so that Senators can understand it.

The Chief Clerk read as follows:

SEC. 3. That there shall be appointed by the Secretary of the Interior, in each of the congressional districts, a pension examiner, who shall be a person learned in the law, and of not less than five years' experience in the practice of his profession. He shall also appoint, in each of said districts, a pension surgeon, who shall have had not less than ten years' experience in the practice of his profession: *Provided*, That the examiner and surgeon in each district shall be adherents of different political parties: *And provided further*, That when two or more contiguous districts are situated in a city or other densely populated locality, or when the number of pensioners and pension claimants in contiguous districts is comparatively small, and the Commissioner of Pensions shall be of opinion that a less number of examiners and surgeons than one of each for each congressional district is required, the number of such examiners and surgeons may be reduced by appointing one of each to perform the duties hereinafter prescribed for two or more districts. The examiners and surgeons provided for by this act, before performing any duties thereunder, shall take and subscribe the oath prescribed by section 1756 or by section 1757 of the Revised States, as the circumstances of each person so to be appointed shall render proper for his case. Said examiners and surgeons shall hold their offices at the pleasure of the Secretary of the Interior.

Mr. LOGAN. I now ask the Secretary to read the next section of the amendment of the Senator from Virginia.

The Chief Clerk read as follows:

SEC. 4. That the pension examiners and pension surgeons to be appointed under this act shall be authorized to administer oaths to pension claimants and witnesses in any matters pertaining to the prosecution and settlement of claims for pension and bounty-land warrants, or in any inquiry in relation thereto, and, under instructions and regulations to be prescribed by the Commissioner of Pensions, shall take the declarations and testimony of pensioners and claimants and of witnesses in such claims. The pension surgeon shall make a medical and surgical examination of such pensioners and pension claimants as he may be required by the Commissioner of Pensions to examine, and make report thereon. The testimony taken by the examiners and surgeons shall be reduced to writing, as nearly as may be in the language employed by the deponents, and shall be subscribed and sworn to by the witnesses. The examiners and surgeons shall together visit each county seat in their respective districts, as often as three times in each year, unless otherwise directed by the Commissioner of Pensions, for the purpose of performing the duties prescribed by this act, and shall also, for the same purpose, visit such other places in their respective districts, from time to time, as they shall be directed by the Commissioner of Pensions to visit; and whenever any pensioner, claimant, or witness, whose presence before the examiner or surgeon is necessary to the proper determination of a matter pending before the Commissioner of Pensions, shall, because of illness or disability, be unable to travel to an appointed place to appear before the examiner and surgeon, the Commissioner of Pensions may direct one or both, as the necessities of the case may seem to require, to visit such pensioner, claimant or witness, as the case may be, and take such disabled person's testimony, or make the required medical examination, and the Commissioner of Pensions is authorized to detail from time to time clerks in his office to aid the examiner and surgeon in any district in the performance of their duties under this act when, in his judgment, the exigencies of the service require such aid, and the person so detailed shall have power to administer oaths and examine witnesses.

Mr. LOGAN. Yesterday the Senator from Rhode Island said he would like to know why this would be more expensive than the manner in which we proceed now, and the difficulties that would be met in the execution of this law. I should like to call his attention now to these two sections. First, you appoint a lawyer who has had five years' experience, and you pay him $3 a day, and he is to visit each county seat in a congressional district three times or more annually. One of the congressional districts in my State has ten counties in it. Three dollars per day is what you propose to pay him, except the costs. You cannot find any lawyer who would perform this duty for $3 a day, taking him from his practice and traveling to each county seat. I do not think you can find lawyers in the State who would perform that duty who are known and recognized as lawyers of any eminence in the profession. How are you going to pay them a sufficient salary? Why, we are going to pay them fees. What kind of fees? You are going to pay them fifty cents for every oath that is administered; you are going to pay them fifty cents for every affidavit.

So with the surgeons. You are going to have a surgeon who has had ten years' practice, and you are going to pay him $3 a day. Then you are going to pay him fees also. What these fees will amount to I do not know, neither will the man whom you appoint know, neither can any one tell. What are these two men to do? One is to be a democrat, and the other is to be a republican. I suppose it is for the purpose of getting up the politics of the district on either side. I cannot see any other reason that there is for the passage of this amendment.

Mr. CAMERON, of Wisconsin. One might be a greenbacker and the other a socialist, and as the socialistic party is pretty strong in Illinois, quite likely the Senator might be favored with the appointment of one belonging to that party.

Mr. LOGAN. I have nothing to say about who shall appoint. That is not the point. Nor am I discussing their politics; but I only mentioned that fact. Then what else? They are to hold a court three times or more in each county seat. For what purpose? For the purpose of examining pensioners and witnesses, and if a witness is sick they must go to his house. If he lives off thirty miles, it makes no difference, they are to travel to his house. All of these things are to be performed by these two men. They are entitled to employ a clerk, the second section says, who is authorized to swear witnesses and to take down the proceedings. Will any man say that any two persons, a judge or a lawyer and a medical officer, can visit each county seat and examine the pensioners in a State where there are twenty, twenty-two, or twenty-three thousand pensioners? And they may examine all, because the law authorizes it to be done if required.

Mr. CAMERON, of Wisconsin. There is nothing in the proposed amendment limiting the time to three days. They would be authorized under it to sit as long as necessary.

Mr. KIRKWOOD. I was about to ask the Senator from Illinois if he understood that these physicians were confined to one day on each occasion in their visits to county seats?

Mr. LOGAN. No; three days, I understand.

Mr. KIRKWOOD. No; they are to go three times in the course of the year, and they may sit a month or six weeks or two months each time, if necessity requires, as I understand.

Mr. LOGAN. Very well.

Mr. KIRKWOOD. They are to go three times in the course of a year.

Mr. LOGAN. As they shall be directed by the Commissioner. Suppose they go there and sit a whole year in a congressional district at $3 dollars a day, that is what you propose to pay them, I believe, do you believe you can get a good lawyer to do that?

Mr. KIRKWOOD. I will answer after awhile.

Mr. LOGAN. I am sorry the Senator is disinclined to answer, but that makes no difference. This is the proposition that you have made. You authorize the Commissioner of Pensions to establish a board of surgeons, besides those in the district, if he desires. Not only that, but you provide that all the authority which these men are to have is to be given hereafter. Do you know what authority the Commissioner of Pensions will give? The Senator from Iowa says he will answer after awhile. I desire him to answer, when he proposes to answer, what authority is given here for the subpœnaing of witnesses? What authority is given here for the bringing of witnesses before this court? What authority is given here for punishing witnesses if they fail to attend? What officer do you provide who shall go and subpœna and summon witnesses? How do you provide for it? How is a poor pensioner to get his witnesses? Do you provide for bringing his witnesses up before this court that they may be sworn? Do you provide for paying his witnesses? Do you provide for any expense on his part? You provide no such thing. Not only that, but with the amendment that was offered this morning every case in the Pension Office that has not been decided will be referred by the Commissioner of Pensions back to the congressional district to be examined by this court that you propose to organize if the Commissioner desires so to do. Is not that true?

Mr. KIRKWOOD. I do not know what amendment the gentleman alludes to. That is not the bill.

Mr. LOGAN. That is the bill, and an amendment was proposed this morning that this money should not be paid except under this provision.

Mr. KIRKWOOD. I do not know anything about an amendment offered this morning. I am speaking of the bill.

Mr. LOGAN. I am speaking of it as it stands now, with an amendment offered by the Senator from Virginia, that every case that is now in the Pension Office may be sent before this board by the Commissioner of Pensions.

Mr. KIRKWOOD. I do not know anything about the amendment offered.

Mr. LOGAN. Even your own bill will allow that.

Mr. KIRKWOOD. No.

Mr. LOGAN. Yes, sir.

Mr. KIRKWOOD. It is no more contemplated that that shall be done than that a decision of the Supreme Court of the United States shall be overruled.

Mr. LOGAN. It is contemplated that they are to act under instructions from the Commissioner of Pensions, and the Commissioner of Pensions may make any set of instructions he pleases under this measure, and you give him the authority to do it, and when he casts a suspicion by his report over every claim in the Pension Bureau why will he not send them before this tribunal that you propose to erect for the purpose of trying these pensioners who have served their country and whose claims are pending?

Mr. KIRKWOOD. I will answer in time.

Mr. LOGAN. Very well; I hope the Senator will.

Whenever any pensioner, claimant, or witness, whose presence before the examiner or surgeon is necessary to the proper determination of a matter pending before the Commissioner of Pensions shall, because of illness or disability, be unable to travel to an appointed place to appear before the examiner and surgeon, the Commissioner of Pensions may direct one or both, as the necessities of the case may seem to require, to visit such pensioner, claimant, or witness, as the case may be, and take such disabled person's testimony, or make the required medical examination.

Does not that contemplate the claims which are before the Pension Office now? That is what it says. Yet the Senator says that it does not mean any such thing. You establish a court without providing for the expense of the pensioner, without providing for the manner of obtaining his testimony, without providing for subpœna, for attachment, for power to bring witnesses, for the hotel expenses, for the expense of the witnesses in any way whatever on the side of the pensioner, and you expect this court to proceed to his examination.

Mr. CAMERON, of Wisconsin. The present law in relation to pensions, which the Senator commends so highly, does not provide for any of those things.

Mr. LOGAN. But this substitute is to be better than the law as it now exists, according to the Senator's theory.

Mr. CAMERON, of Wisconsin. I think it is.

Mr. LOGAN. I think it is not. Under the provision as it now exists the pensioner at his home takes his testimony before a neighboring justice of the peace, as he and you have no power to bring him, but you have power if they come voluntarily to examine them and no other power except as your Commissioner may instruct them. I will say to my friend, the Senator from Wisconsin, it will be a gala day when this court, established by Congress for the trial of the pensioner in this country, shall meet in some county seat, and when the clerk whom you provide as one of the court to administer oaths shall go to the door of the court-house and announce, "Oh, yes! Oh, yes! Oh, yes! The pension court is now open for the purpose of examining pensioners to see if they are frauds and are not stealing money from the Government!" Then I should like to see the soldier with one crutch, the soldier with two crutches, the no-legged soldier, the one-armed soldier, the one-eyed soldier, the bowed-down soldier, the poor widow and the poor orphan, all struggling for the door of that court that they might appear to show that they were not frauds upon this mighty Government of ours. Oh, it will be a grand scene. There they will sit on the bench and there they will say to the one-legged soldier, "Did you get your leg shot off in a battle or in a brawl in some saloon?" as my friend from Wisconsin suggested the other day, if it should occur that way.

Mr. HAMLIN. Will the Senator from Illinois allow me a single moment?

Mr. LOGAN. Certainly.

Mr. HAMLIN. I want to vote understandingly, and it seems to me that the Senator in discussing this point has omitted to state one thing that impresses itself upon my mind. By the present law, if I am right, the applicant for a pension takes the evidence of his witness at his home, it is sworn to before a justice of the peace, and the proper certificate is annexed, and it is forwarded here. By this bill the witness is to appear before this proposed court. The county in which I live is two or three hundred miles long. That court will sit at Bangor, the most southerly town in the county save one. The witnesses and the parties live one hundred and fifty miles away. Under the present law the applicant could have his evidence taken at home. Now, I ask the Senator if there is no provision made in the bill, how is the soldier to get his witness that one hundred and fifty miles in the same county?

Mr. LOGAN. Just as I was stating a few moments ago, I will say to the Senator——

Mr. HAMLIN. I did not hear the Senator.

Mr. LOGAN. There is no provision whatever for him to get his witnesses there unless they are willing to go.

Mr. HAMLIN. This bill, then, is just so much worse for the applicant?

Mr. LOGAN. There is no provision in this bill at all to bring the witnesses of the poor soldier before this court unless he brings them there himself at his own expense. So it is in the State where I live, in some counties, where they would have to travel twenty-five or thirty miles and take their witnesses with them if they could get them to go; but under the law as it stands now, as I said, they may be examined by a surgeon, appointed by the Commissioner of Pensions, who lives in the neighborhood, and he has to be a surgeon of good qualification. The Commissioner of Pensions refuses to appoint surgeons to examine pensioners unless they are surgeons with a good reputation; and in fact there are hardly any of them but what are graduates of a medical college. This is the class usually appointed. He can be examined at home, his evidence can be taken at his home, and it was so provided in the tenderness of the law at the time when the law was passed, when Congress was looking somewhat to the pensioner and not hunting something against him, and they passed a law to accommodate him in the manner of getting his evidence. Why is that right, and why is it just? The majority of the soldiers, as is well known, are poor.

Mr. KIRKWOOD. Will the Senator allow me to ask him a question in regard to the question put to him by the Senator from Maine?

Mr. LOGAN. If the Senator would have answered me I should have been much obliged.

Mr. KIRKWOOD. The question of the Senator from Maine has not been answered, and I thought——

Mr. LOGAN. I will try to answer it if I can. My ability may not be sufficient, but I will try to do it. I was speaking of the convenience of the soldier at the time when people thought there was something in making it convenient for soldiers, but since we have been treated to so many doses of suspicion here lately about soldiers we try to find some way how not to do it instead of some way how to do it. We try to find some way how not to allow a pensioner his claim instead of finding some way to allow it if he is entitled to it.

As I was stating about the convenience of soldiers, the soldiers generally are poor men. This country was not entirely saved by the wealthy men of the country. The majority of the men who carried their muskets, and whom I stand here to defend to-day, were poor men. The majority of them to-day are not men as well qualified in business matters and in law as some Senators here. They are not the character of men to be dragged thirty or forty or fifty miles at the mere whim or caprice of the Commissioner of Pensions or the surgeon or the lawyer. They are not the men who can afford it; they cannot afford the time. The great majority of them are laboring-men; and yet every inconvenience that can be placed in the road

of the soldier in obtaining a pension is tried in this amendment, proposed by the Senator from Virginia at the suggestion of the Commissioner of Pensions.

Mr. WITHERS. I beg the Senator's pardon, it is reported at the suggestion of the Committee on Pensions.

Mr. LOGAN. Well, the Committee on Pensions. I will only change the statement so as to apply to the Committee on Pensions. That is a much higher authority than the Commissioner of Pensions.

Mr. WITHERS. It is to me, sir.

Mr. LOGAN. Certainly; I agree to that. It will be found, as I stated, after the pensioner has been told by the passage of this law that he is to be examined, that his old, crippled leg is to be looked at again, that his wounds are to be re-examined, that his disease has got to come under a critical examination again to see if he is not a fraud, after he has been alarmed, then the evidence is taken. What is done with it? Is that a finality? No, sir. When the evidence is taken by this board, or this judge or lawyer, or this surgeon, or this court—I do not know what you call it, therefore I will give it all the chances of a name—it is then to be submitted to these surgeons in the Pension Department, and then to the Commissioner of Pensions again to be re-proved. It goes through all these different processes before it becomes a finality, and before the pensioner can understand whether he is to be allowed to remain on the pension-roll or whether his claim is to be allowed or rejected.

Now, in reference to the evidence, and the Senator from Iowa was going to respond in this particular about witnesses whose evidence could not be obtained. I was speaking of the soldier being required to give his testimony. Why? Because he could obtain it; but where the evidence cannot be obtained then the Commissioner may provide means. If the man is sick or if he is unable to appear, then the Commissioner may provide some other mode. I ask the Senator from Iowa and all Senators who wish this bill to be passed, why not provide it in the bill? Why not put it in your bill that these witnesses shall go at the expense of the Government? It is not so found in the bill. The Commissioner of Pensions is—

Required to make convenient rules and regulations for the making of such medical examinations and for the obtaining of such testimony, and to that end may designate any surgeon convenient to the pensioner or claimant, to make the medical examination, and any officer authorized to administer oaths convenient to the proposed witnesses to take such testimony.

Who may do that? The Commissioner of Pensions. Who knows what rules he may make, or how convenient or inconvenient he may make them for the pensioner, or how expensive?

Sir, by the law now, he can take his evidence at his home or have his examination at his home; let it so remain, and if that is the correct mode of doing it, why change it? If it is not the correct mode of doing it, why put it in this bill that the Commissioner may make rules, &c., for this purpose?

The amendment provides further:

That the Commissioner of Pensions is hereby authorized and required to provide by suitable regulations for organizing and convening boards of three pension surgeons in each pension district, to which appeals may be taken by any pensioner or pension claimant who may feel himself aggrieved by the examination of a single surgeon.

Why do you provide that? If you provide a court for the purpose of deciding these questions and then if it passed from that decision to the Commissioner of Pensions why do you provide another board? Here, after providing for your lawyer and for your surgeon you provide that the Commissioner of Pensions can appoint another board of three surgeons, for what? To appeal to, and then from them to appeal to the surgeons here, then to the Commissioner of Pensions. All these things are provided. Sir, this only smacks of delay. If the soldier fails to take all these steps he may be told that he ought to have appealed to the board of surgeons. Further the amendment provides—

That if any invalid pensioner shall think his pension is not commensurate with the degree of his disability, either because it has been improperly rated by the Commissioner of Pensions, or because the disability for which he was pensioned has increased, or because he has another disability incurred in the service for which he is not pensioned, he may apply to the Commissioner of Pensions for an increase of his pension.

That he can do now. Then it goes on and provides about the rates, &c. Further the amendment provides—

That if, after a pension has been allowed, the Commissioner of Pensions shall have good cause to believe that the same has been procured through fraud or misrepresentation, or for any other reason is of opinion that it ought not to continue, he shall cause the case to be investigated by the examiner or surgeon, or by both acting together, of the district where the claimant or witnesses reside.

That is the law now. He has the power to examine this now by one of his clerks, by a special agent, by a surgeon, by a board of surgeons. He has all that power by the present law.

Mr. WITHERS. The Senator is satisfied, then, with that feature?

Mr. LOGAN. I say it is in the present law. Is it not?

Mr. WITHERS. Substantially it is, and many other of the provisions of the amendment are in the present law.

Mr. LOGAN. If there are many other provisions of the law in the amendment, why do you change it? Why not leave the law with these provisions; or is it done merely to make a change? Is it merely to make the country think that you have made entirely a new law when you are copying much of the old one into this amendment in order to carry it through? Is that the object? Then the amendment provides—

That section 4776 of the Revised Statutes is hereby amended so as to read as follows: "The Secretary of the Interior is authorized to appoint a duly qualified surgeon as medical referee, who shall have been in the active practice of medicine and surgery for at least ten years, who shall perform such duties in the adjustment of pension claims as shall be prescribed by the Commissioner of Pensions."

You have the medical referee now.

Mr. WITHERS. The Senator is satisfied with that feature?

Mr. LOGAN. You have it now; then why put it in here?

Mr. WITHERS. Because we wanted it in.

Mr. LOGAN. The amendment further provides—

That the following fees shall be paid to pension examiners, pension surgeons, and other surgeons and magistrates for services rendered under the provisions of this act in pursuance of the directions of the Commissioner of Pensions:

Taking a declaration in a pension or bounty-land claim, including preparation of the same when required, fifty cents.

For examining any witness, and reducing the testimony to writing, fifty cents.

Making a medical examination of a pensioner or pension claimant, including the taking of such statement from the person examined as shall be required by the Commissioner of Pensions, $2.50.

Actual traveling expenses, and an amount in addition, to be fixed by the Commissioner of Pensions, not exceeding $3, for visiting disabled pension claimants or witnesses as provided in section 2.

To members of boards, organized under the provisions of section 4, their actual traveling expenses and $3 per day each for the time actually in attendance upon such boards.

Such of the above fees as the Commissioner of Pensions may allow shall be paid by the Secretary of the Interior: *Provided*, That the Commissioner of Pensions shall approve no bills for fees except upon the receipt by him at his office of the testimony and reports showing the performance of the services, accompanied by triplicate bills showing in detail each service for which charge is made.

The Secretary of the Interior shall embody in his annual report a detailed statement of the expenditures under this act during the fiscal year, which shall contain:

First. The names and residences of all persons to whom any money has been paid for services rendered within the year, and for what service.

Second. The names and residences of examiners and surgeons appointed, or who resigned or were dismissed within the year.

Third. The number of meetings and the places thereof of boards of surgeons and the number of examinations made by them.

Fourth. The whole number of pensioners and claimants respectively, examined by the pension surgeons and by other surgeons.

Fifth. The whole number of pension claims settled by admission and rejection respectively.

Sixth. Such other matter as he may deem necessary for a full understanding of the operations of the Pension Office under this act.

Then the last section provides for the repeal of all of these sections of the pension law which I have read that exist now in the old law:

Sections 4744, 4771, 4772, 4773, 4774, 4775, and 4777 of the Revised Statutes are hereby repealed, to take effect June 30, 1880.

Finally, then, they repeal all these sections in which all of these propositions are included which I have stated in the examination of pensioners and in the review of claims.

Mr. President, I said yesterday evening my judgment is that you can find no person to perform this duty who is eligible under this proposed law, a good lawyer with five years' practice, a good surgeon with ten years' practice; that none of these persons will perform this duty for less than $3,000 a year. You make it a burdensome machinery, you make it an expensive system; not only expensive to the Government but inconvenient to the soldier; and in fact by this court starting through the country as you propose to do, it is entirely a change of all the machinery in reference to pensions in this Government from the time the Government began up to the present time.

Why is this change required? Because of frauds outside. If you desire to ferret out frauds, and if that is the object of this amendment, let me suggest that if you will take the class of men that you desire for surgeons and for lawyers under this proposed measure, and give them a fair salary, and put them at the head of your divisions in the Pension Office, and give them a sufficient number of clerks to do the work in that office, you will accomplish exactly what you desire without establishing this kind of cumbersome machinery for the purpose of making a court all over the country to alarm and scare all the pensioners in the country. Why not ferret out frauds as they do in the Internal Revenue Bureau? The way frauds are ferreted out in the Internal Revenue Bureau is by special agents, by examining particular cases, by examining certain persons, by taking a certain character of evidence, and having certain powers vested in the Commissioner of Internal Revenue—the same powers the law as it now exists gives to Commissioners of Pensions; give them the force, all that any one who is competent to perform the duties of that office should require for the purpose of ferreting out frauds in pension claims the same as any other claim.

Mr. President, one word in reply to what was said yesterday about frauds. I do not believe there are so many frauds as are charged. That there are frauds I cannot doubt, although I know of none myself, as there are frauds in all kinds of business. There is no character of business connected with this Government, or any other government, in which there are not frauds perpetrated. Of course there ought to be as few as possible. I will go as far as any man in the Senate Chamber to ferret out frauds, and my desire is that they may be detected. But your machinery will not do it. You have got to ferret out frauds in a different way. You have got to ferret out frauds by making your examinations by agents, and by having qualified agents for that purpose, and by examining the neighbors and people, and you can find them much more readily by examining them by agents than you can by bringing them up before a court. You will

find very few men who will go before a court to denounce their neighbor who draws a pension, but the man might quietly tell you of it if you go to him, and let the Commissioner of Pensions be notified, so that he may send his surgeon to examine him or his agent to take testimony.

I believe there are fewer frauds than a great many people imagine. I believe it for the reason I stated yesterday. I believe it because at least two-thirds of the soldiers who went into the field that are alive to-day are suffering under some kind of disability, and the only trouble is that as years pass away and the veil is drawn between the smoke of battle and time we find less consideration for the poor man than we found in the days gone by. It is not so well for a Senator to stand and defend the soldier to-day as it was in years gone by. Even soldiers have got so that they suspect the other soldiers. I am sorry to say it. No public sentiment, however loud it may appeal against the misfortunes of this class of people, will ever cause me to shrink from my duty in their defense when they are assaulted as they have been in reports and in speeches all over the country. In some of the public speeches they have been denounced; in some of the public papers and prints they have been denounced as tramps and mendicants, and it is caught up and considered the public sentiment of the country. Therefore it has got to be that the cry of fraud is against all applicants as the hand of Ishmael was against his fellows.

I remember a case (and I am not stating it by way of criticism of the Pension Office) in a little town where I once resided. A poor soldier, less than a year ago, was on his bed from disease contracted in the Army, and he had not been out of his bed for five years. His neighbors all believed his disease was contracted in the Army. He did not have a dollar in the world. I was sent for by him and I went to his house. He had but a few old pieces of quilts on boards to lie on, and his little daughter only about twelve years old, the only remaining one of his family to stay with him and wait upon him. With all his neighbors believing that he contracted disease in the service, that it came from the measles, because that man did not go to a hospital and did not have the certificate of a hospital surgeon, he was denied a pension. There are plenty of cases of that kind. Suspicion is cast upon that man, and why? Because he staid in his tent and suffered with that disease rather than go to a hospital, and because his comrades or messmates were either dead or where he could not find them, and he has suffered on as he does there in his agony to-day. There are thousands of cases of that kind. There may be some pension claims which are fradulent, but with that man suffering after passing through the war as he did, and believing as I do that he is entitled to a pension, I should have granted him a pension whether there were a surgeon's certificate to prove that he was in a hospital or not. Do those who sympathize with men in that condition want to defraud the Government out of a penny? No, sir, it is not that. It is when you receive six and seven letters from the Pension Office in one solitary case, telling you the same thing every time, without the change of a letter or a word, stereotyped phrases, that the case will be examined by and by—in the sweet by and by we will come to this case and then we will consider it. It is these things that cause men to think that the soldiers are not fairly treated.

More than that, if the Senator from Virginia will inquire as to how many pensions have been granted in the last twelve months, if he will go to the Pension Office and see how many were granted this month and how many the next month, and so on, and see how many cases were examined in January, how many in February, and then how many in October, he may form a correct opinion as to how many could be examined if they would try. When an office can examine so many more claims in one month than it can in any other month, I only suspect that they do not examine them any faster than they are required to.

It has been the attempt for the last two or three years to find some way to prevent the honest pensioner from getting his pension. This way is for the purpose of suspending everything. Organize a little court with a lawyer and a doctor; start them passing around the country; have it placarded as they go, "All pensioners are notified that we are coming; we are on our way to examine them." Herald it through the country that the Senate of the United States and the House of Representatives have found a way by which persons cannot get a pension except by passing the severest ordeal, and that will delay them until many shall pass away.

In your very bill you provide no machinery whatever except a doctor and a lawyer and a clerk. You leave all else to the Commissioner of Pensions. He may make rules; he may make instructions; he may make regulations; he may make your law for you. You do not make it, but give him the opportunity. That is, you say to him, "Mr. Commissioner of Pensions, do as you please; go where you please; act as you have a mind to; declare what you want, and have it carried out." That is your proposition, and that is all you propose.

My judgment is just as I stated it this morning, that the old law with a new Commissioner of Pensions would be better than a new law with the old Commissioner of Pensions. Get a man who will execute the law as it stands. Give him enough clerks to do the work, and it is the fault of Congress that he has not got them. Give him that. If he wants men of more capacity for examjners than he has, increase their salary, and then you will have done all that is necessary for the purpose of accomplishing that which you say you propose to do. That is all it wants; that is all it lacks.

I think the Commissioner of Pensions has become morbid on this subject. I will not say that he is insane on this question. He believes every man is a thief who either swears for a claimant or is a claimant. As I stated this morning, his change from $25,000,000 to $710,000,000 shows that there is something wrong in the man; he is either a poor calculator or his mind is troubled on this subject. His figures are increasing a little too fast.

I have no doubt the committee have been led to believe what they say, that this proposed law ought to be enacted. I do not believe it ought to be. I believe it will do harm, and for that reason I oppose it; but as I said I would at a proper time offer to increase the service so far as the clerical force is desired; and if the Commissioner desires others with higher salaries as examiners, I should be willing to do that for the purpose of ferreting out frauds; but to give him this machinery that is asked here, merely for the purpose of an experiment, which will suspend every claim in the Pension Bureau almost until the machinery gets into operation, I am opposed to honestly, because I think it will not be suited to the condition of things, or in any way an improvement, but a hinderance and delay.

One word more and I am done. This measure was attempted to be passed through the Congress of the United States by a kind of outside statement that claim agents were opposed to it. I do not doubt but what they are. I do not know that they are or are not, except what I have heard. I have never spoken to one. I know but one or two of them, and I have not seen those at this session, nor have I for years that I know of; but I should like to ask a question. What difference does it make to the Government whether a soldier employs a man in Washington City to get his claim or whether he employs a man who lives in his neighborhood to get his claim? If the soldier thinks that the man in Washington City can urge his claim stronger than a man who lives at home, he has a right to employ him. Does that employment prove that the man is dishonest? Does that employment prove that the man is acting fraudulently or trying to steal from the Government?

The very machinery that you establish now forces the soldier to employ a lawyer. He will employ one at home, perhaps, when he employs a lawyer there to get up his papers and present them to this court, and they are sent then to the Commissioner of Pensions to be revised, and it will necessitate him to employ another one here to urge his claim forward as fast as possible, for that is about all the duty they perform here. So I cannot understand what figure that cuts in this case. Senators say that claim agents want this, claim agents want that. Has it come to this, that men of intellect, men of mind, men of honor, men of nerve are so afraid of a claim agent that they must cry claim agent every time anything comes up? If a claim agent is for a thing that is right, why should you not vote for it? If a claim agent is against a thing because it is wrong, why should you not vote against it? I cannot understand that kind of argument. I never could understand the argument that is forced into cases, where a reason is given against a bill or for a bill that somebody else is for it or somebody else is against it. I never could understand that process of reasoning. I cannot understand, I know there is nobody in the Senate Chamber who is so contracted in his views as to be guided and governed by a thing of that kind. I say they only throw it in as a kind of make-weight. That must be it, because no man occupying a seat as a Senator would be affected in the least degree by what some individual would say for or against a bill, unless the reason he gave was a good one, no matter what his occupation might be.

Now, sir, having said this much, I apologize to the Senate for having detained it so long. I have stated my views and my reasons for being against this amendment. I do it, as I have said, in the interest of the poor soldier. It certainly is no difference to me, so far as I am individually concerned. Whether you have a thousand surgeons and a thousand lawyers it will cut no figure whatever for me. I presume probably under the proposed system it would be less annoyance to me than under the present one, but what little annoyance it is to me to accommodate the poor men whom I represent by referring their papers is a pleasure. I am willing to do it for them, and I shall be found standing for them whenever I believe there is an attempt made to strike them down by trying to cast reflections upon them. I shall always remember while God lets me live the time when they marched under the banner of this great country, when they were seen in the smoke of battle, in the blaze of day, and in the darkness of night, wending their way along for your peace and safety and for mine.

Mr. KIRKWOOD. Mr. President——

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Chair will state that the question submitted to the Senate was whether or not the amendment offered by the Senator from Virginia [Mr. WITHERS] some days since was in order under Rule 29. The question of order was raised by the Senator from Colorado, [Mr. TELLER.] This morning the Senator from Virginia modified the amendment before offered. Does the Chair understand the Senator from Colorado as still insisting upon or presenting the question of order?

Mr. TELLER. The modification cannot, under any possible view of the case, affect the question of order. This is as much legislation with the modification as it was without. That is the question.

The PRESIDING OFFICER. The Chair desired to know whether the question of order was still pending after the modification.

Mr. TELLER. The question of order is still pending. I do not know whether this discussion is in order. I do not wish to object to

it. At the proper time I shall call the attention of the Senate to the fact that that is not the question to be voted on, and I shall be satisfied.

Mr. KIRKWOOD. I desire to detain the Senate a short time if it be their pleasure to remain——

Mr. HOAR. I desire, if the Senator from Iowa will permit me, to say that this bill has been discussed on its merits, although the only question before the Senate is the question of order. Having been so fully discussed on one side, it would be ungracious to make a question of order upon a Senator who addresses the Senate in reply; but in order that no personal complaint may be made, I give notice that after the Senator from Iowa has concluded his remarks I shall raise the point.

Mr. TELLER. I would have raised the question at once, but I understood that two Senators desired to speak upon the measure, the Senator from Virginia and the Senator from West Virginia. Therefore I did not raise the question. Now we have gone into it, and of course it is right the discussion should go on till everybody that wants to say his say has got through.

Mr. HOAR. I do not think that all the business of the country which is pressing on our attention ought to be delayed, and many useful measures killed, by an indefinite discussion of this matter, which discussion itself proceeds by unanimous consent; but at the same time I certainly do not wish to raise the question at the present moment; I do not think it would be just.

Mr. ANTHONY. I should like to ask the Senator from Massachusetts under what rule he raised the point of order.

Mr. PLUMB. I wish to offer an amendment to the pending bill.

The PRESIDING OFFICER. The amendment will be received and printed.

Mr. WALLACE. I submit an amendment as a substitute for the proposition of the Senator from Virginia.

The PRESIDING OFFICER. The amendment will be received and printed.

Mr. KIRKWOOD. Mr. President——

Mr. ALLISON. My colleague has the floor, I believe. I desire to ask my colleague if it would be as agreeable to him to go on on Monday morning. If so I would move that the Senate go into executive session.

Mr. KIRKWOOD. If it would not be trespassing on the patience of the Senate, I would prefer going on a little while this evening.

Mr. ALLISON. Very well.

Mr. KIRKWOOD. But of course I am entirely in submission to the wishes of the Senate in that regard. Something has been said in regard to stopping this discussion. I am not very familiar with the rules of the Senate, but I do not very well see how that can be done. If the question of order should be decided and it should be ruled that under the rules of order that question could not be discussed, the bill remains before the Senate, and I do not really know any way—my four years' experience here has not taught me any way—in which the Senate can dictate to a Senator when discussing any bill what line of argument he shall pursue. So if the motion suggested by the Senator from Massachusetts should be offered and it should be ruled that on the question of order the merits of the bill cannot be discussed, yet the pension bill itself remaining is open to discussion, and I suppose we can discuss anything on that bill from this amendment to the state of affairs in Ireland. That is my judgment about it. Now I submit to the Senate whether we ought to go on further to-day or not.

Mr. TELLER rose.

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Colorado?

Mr. KIRKWOOD. Yes.

Mr. TELLER. I do not think the Senator cares about going on to-night. I want to call up a bill that will only take the time to read it. It is the bill (H. R. No. 6062) donating certain lands in Lake County, State of Colorado, to the Veteran Union Association of Leadville, for hospital and burial purposes. I ask the Senate to take it up. It has passed the House, but it requires an amendment here, and it ought to be passed at once.

The PRESIDING OFFICER. The Clerk will report the bill mentioned by the Senator from Colorado by its title.

The Chief Clerk read the title of the bill.

Mr. COKE. I desire to say that I consent to nothing that shall displace the unfinished business.

The PRESIDING OFFICER. If a motion were made and carried it would displace the unfinished business; but unanimous consent to consider another bill would not displace it.

Mr. TELLER. I did not ask to make any motion; I only asked unanimous consent. I do not wish to displace the regular order.

The PRESIDING OFFICER. Is there unanimous consent to lay aside the pending order for the purpose of considering the bill, the title of which has been read?

Mr. WALLACE. I shall not object to this bill, but I give notice that just as soon as the pension appropriation bill shall be got out of the road, I propose to take up the Post-Office appropriation bill, which is now awaiting the action of the Senate, and I shall not yield the floor when that time comes to anything else.

The PRESIDING OFFICER. The Chair hears no objection to the present consideration of the bill called for by the Senator from Colorado.

### HOSPITAL AND BURIAL GROUND AT LEADVILLE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6062) donating certain lands in Lake County, State of Colorado, to the Veteran Union Association of Leadville, for hospital and burial purposes.

The bill was reported from the Committee on Public Lands with an amendment, in line 5, after the word "Leadville," to insert "its successors and assigns;" so as to read:

That the following-described tract of land, situated in Lake County and State of Colorado, be donated to the Veteran Union Association of Leadville, its successors and assigns, in said State, for the use and purpose of locating thereon a hospital and cemetery.

Mr. McDONALD. The Committee on Public Lands reported the bill back recommending its passage; but I should like the Senator from Colorado to explain to the Senate, if he can, why there is a necessity for so large a grave-yard at Leadville as this would indicate. That was the only objection I had to the bill. It seems to me disproportioned to the size of the place.

Mr. TELLER. One hundred and thirty acres is the amount. I would say that the people of Leadville, by means of a voluntary association for the purpose of raising money by contribution, have erected a building on this ground, which they call the "Veteran Hospital." It is a free public hospital. There are hundreds of people in that country who have to have the privileges of the hospital. There are a great many people going to that country, especially young men, who go there without means, and the moment they are taken sick they are objects of charity. The public charities of that city keep up this hospital. It occupies about thirty acres of this ground. Then a contract has been made with a burial association, that when they get the title they will deed to the burial association for burial purposes the rest of it, and the people there have by contributions fenced it and put paths through the small pine timber, and roads through the land, and built a house on it for the putting of the dead in as they are brought there. It is to be used exclusively for that and nothing else. It is two and half miles from the town. It is out of the way of anybody, and there is nothing in it but the very purpose stated in the bill. The value of the property was absolutely nothing when they took it up, for it was vacant land and could have been taken by anybody. The Senator from Kansas [Mr. PLUMB] knows about it.

Mr. PLUMB. There is no disproportion between the size of the burial ground and the size of the town. There are thirty thousand people there, and the proportion of deaths out there is very considerable. The death rate there is high from various causes. Besides that, there is a very considerable portion of this ground laid off in the shape of small parks, streets, avenues, and so on, that take up a considerable portion of the ground. The ground lies about two and a half miles below Leadville. The land is of no value to anybody, so far as known, except for this purpose; it is of no known value for pasture, no known value for mining, no known value for timber purposes; and while the amount of land may seem to some persons a little large, at the same time I think there is no objection to making a grant of it for the purpose indicated.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred to the Committee on Pensions:

A bill (H. R. No. 203) for the increase of pension of James Polk Kegerries;

A bill (H. R. No. 205) granting a pension to Jacob Gelwicks;

A bill (H. R. No. 2572) granting a pension to Mary W. Jones;

A bill (H. R. No. 3732) granting a pension to Sarah M. Birdsall;

A bill (H. R. No. 4255) granting a pension to Sophia A. Melson; and

A bill (H. R. No. 4608) granting a pension to Betsey Elwell.

The following bills were severally read twice by their titles and referred to the Committee on Military Affairs:

A bill (H. R. No. 3273) for the relief of Martin L. Bundy; and

A bill (H. R. No. 3477) for the relief of Carlile Boyd.

The bill (H. R. No. 249) for the relief of Mark Walker was read twice by its title.

The PRESIDING OFFICER. The bill will be referred to the Committee on Military Affairs.

Mr. PLUMB. Before that reference is made, I desire to say that that bill is precisely the same as one which has passed the Senate. I therefore move that it be read the third time.

Mr. CAMERON, of Wisconsin. Let it lie on the table without reference.

The PRESIDING OFFICER. The bill will be referred to the committee, objection being made to present action.

The following bills were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (H. R. No. 3826) for the relief of the heirs of the late Langley B. Culley; and

A bill (H. R. No. 4607) for the relief of Passed Assistant Engineer Absalom Kirby, of the Navy.

The following bills were severally read twice by their titles, and referred to the Committee on Claims:

A bill (H. R. No. 2705) for the relief of Joseph Clymer, of Texas; and

A bill (H. R. No. 4436) for the relief of William E. Gere.

The bill (H. R. No. 1359) for the relief of Louis P. Di Cesnola, late consul at Cyprus, was read twice by its title, and referred to the Committee on Foreign Relations.

The bill (H. R. No. 356) to provide for the sale of certain New York Indian lands in Kansas was read twice by its title, and referred to the Committee on Indian Affairs.

The bill (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York, was read twice by its title, and referred to the Committee on Railroads.

### AMENDMENTS TO BILLS.

Mr. SLATER submitted an amendment intended to be proposed by him to the bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes; which was ordered to lie on the table and be printed.

Mr. HILL of Georgia and Mr. HILL of Colorado submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

### PUBLIC BUILDING AT QUINCY.

Mr. DAVIS, of Illinois. There is a bill here that I am very anxious to take up, and I ask the permission of the Senate to call it up. It is to provide for the erection of a public building in the city of Quincy, in the State of Illinois. If it is passed now, I am satisfied it can be taken up in the House. It is a correlative bill to one that was passed last winter unanimously by the Senate, and it has been reported here favorably by the Committee on Public Buildings and Grounds.

By unanimous consent, the bill (S. No. 1874) to provide for the erection of a public building in the city of Quincy, in the State of Illinois, was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

### DR. JOHN BLANKENSHIP.

Mr. BAILEY. I ask leave of the Senate to take up and dispose of House bill No. 735.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 735) for the relief of Dr. John Blankenship. It is a direction to the proper accounting officers of the War Department to change the date of muster-out and discharge of Dr. John Blankenship, late assistant surgeon of the Third Regiment Tennessee Volunteers, so as to make it bear date April 24, 1863, the date of his discharge.

Mr. COCKRELL. Let the report be read.

The Chief Clerk read the following report, submitted by Mr. CAMERON, of Pennsylvania, January 11, 1881:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 735) for the relief of Dr. John Blankenship, have duly considered the same, and beg leave to submit the following report:

The bill as it passed the House directs the proper accounting officers of the War Department to change the date of muster-out and discharge of Dr. John Blankenship, late assistant surgeon of the Third Regiment Tennessee Volunteers, so as to make it bear date April 24, 1863, the date of his discharge; and that the said John Blankenship be paid the balance of his salary due him for such service up to April 24, 1863, deducting former payments.

It appears from the data furnished by the Adjutant-General that Dr. Blankenship was appointed an assistant surgeon to the Third Tennessee Volunteers on the 25th of February, 1862. On the 26th of June, 1862, he was sent to obtain medicine for his regiment in Kentucky, and while on this mission he was taken sick with pneumonia, and remained very sick for a long time.

On the 8th of March, 1863, he presented himself to the medical director of his division, after an absence of more than eight months, and was by him ordered to rejoin his regiment for duty. After his arrival there, a field board of examiners was ordered to examine and report upon his efficiency, &c., but instead of appearing before that board and undergoing the required examination, he tendered his unconditional and immediate resignation, which was approved by the medical director, and accepted on the 24th of April, 1863. He had not been regularly mustered into the service; but on the 23d of April, 1869, he was mustered in as assistant surgeon Third Tennessee Volunteers, to date from February 28, 1862, and on May 4, 1869, his discharge of April 24, 1863, was revoked, and he was mustered out and discharged, to date 26th June, 1862, and paid to that date.

Without expressing an opinion as to Dr. Blankenship's qualifications and fitness for the position which he held, your committee deem it but an act of justice to pay him his full salary up to April 24, 1863, the date at which his resignation was accepted, for the reason that his sickness was contracted in the discharge of his official duties, that he returned to his regiment pursuant to the orders of his superior officer, and was borne on the rolls of his regiment as an assistant surgeon until his resignation was accepted. Your committee therefore beg leave to report the bill back to the Senate without amendment, and recommend its passage.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

### LANDS IN CRAWFORD COUNTY, WISCONSIN.

Mr. CAMERON, of Wisconsin. I ask unanimous consent to take up House bill No. 4596.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor.

Mr. COCKRELL. Let the report be read.

The Chief Clerk read the following report, submitted by Mr. HILL, of Colorado, on January 19, 1881:

The Committee on Public Lands, to whom was referred the bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making appropriation therefor, have considered the same, and report thereon as follows:

On the 17th of March, 1880, the Committee on the Public Lands of the House of Representatives made the following report on said bill:

"It was shown to your committee that the lands described were never surveyed by the Government. It also appears that in like cases which have heretofore occurred the surveys have been made by and at the expense of the Government. Your committee refer to the letter of the Acting Commissioner of the General Land Office, ask that the same be printed as a part of this report, and recommend that the bill do pass.

"DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
"*Washington, D. C., February 9*, 1880.

"SIR: I am in receipt, by your reference, of a petition of 46 residents in townships 9 and 10 north, range 4 west of the fourth principal meridian, in the county of Crawford, Wisconsin, for the resurvey of that part of said townships which lies east of the Kickapoo River, the same not having been actually surveyed in the field by United States deputy surveyor in the year 1843.

"Upon examining the records and file pertaining to the survey of the townships in question I find the following status thereof: On the 12th December, 1850, the register at Mineral Point advised this office of reported frauds in the survey of the townships, whereupon the then surveyor-general was directed to examine into the matter. The inspection of the survey in the field satisfied the surveyor-general of the fraudulent work lying east of the Kickapoo River, in that it had never been subdivided, the field notes being wholly imaginary.

"Accordingly, instructions were given by this office to the surveyor-general, under date of September, 1852, to cause a resurvey of the township to be made to the extent proved to have been fraudulently represented as surveyed.

"The records in this office fail to show that any steps have been taken by several surveyors-general in carrying out the instructions of the 11th September, 1852.

"From the evidence adduced by various county surveyors showing the fraudulent survey of those parts of townships 9 and 10 north, range 4 west, which lie east of the Kickapoo River, in the State of Wisconsin, and corroborated by actual examination in the field under the supervision of the former surveyor-general in 1851, it is manifest that the petition of the residents of Crawford County, Wisconsin, should be granted. Inasmuch as the public surveys have long since been closed in the State, and also the office of the surveyor-general, the resurvey can be made under the direction of the Commissioner of the Land Office, provided he is authorized by Congress to do so, and make the necessary appropriation to defray the expenses of the resurvey, as had been the case in an analogous instance, *vide* act of February 16, 1877, (United States Statutes, volume 19, page 231,) which authorized the survey of certain townships in Michigan and made an appropriation therefor.

"The cost of the resurvey of said townships is estimated at $750.

"I am, very respectfully, your obedient servant,
"J. M. ARMSTRONG,
"*Acting Commissioner.*

"Hon. GEO. C. HAZELTON,
"*House of Representatives.*"

Your committee adopt said House report, and recommend that said bill do pass.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

### STATEN ISLAND RAPID TRANSIT RAILROAD COMPANY.

Mr. CONKLING. I ask the attention of the Senate to House bill No. 6229, to allow a local railway to cross a reservation on Staten Island which was referred by the presiding officer to the Committee on Railroads within a few moments. I call attention to it and state that the same bill was considered some time ago by the Committee on Commerce to which it was referred and reported favorably to the Senate and is now on the Calendar of the Senate. Whenever I can reach that bill, my motion will be to substitute the House bill which is I am told in the same words as the bill carefully considered by the Committee on Commerce, referred to the proper Department, and acted upon by that committee. I ask the consent of the Senate now to reconsider this reference in order that the bill may lie on the table to the end that when the other bill is reached, if it be in the same words, it may be moved as a substitute for the Senate bill so as not to duplicate proceedings between the two Houses.

The PRESIDING OFFICER. If there be no objection, the vote by which the bill referred to by the Senator from New York was sent to the Committee on Railroads will be reconsidered. The Chair hears no objection, and it is so ordered. The bill will lie on the table.

Mr. CONKLING. I now ask to be allowed to call up Senate bill No. 1744, reported from the Committee on Commerce; and while the Clerk finds the bill I will inform the Senate that it is a bill permitting a local railway for the convenience of the county of Richmond, which is Staten Island, to go across the corner of a reservation in the control of the Light-House Board. The people of Staten Island, both democrats and republicans, wish an opportunity to run a little railroad across the island by which they can get from place to place, and the committee has reported this bill, permitting the public authorities to allow the company to lay its track across this corner. That is all there is in it. I think no Senator will object to it.

The PRESIDING OFFICER. If there be no objection, the bill (S. No. 1744) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York, will be considered as before the Senate.

Mr. CONKLING. I move to substitute for that bill the same bill which has been passed by the House of Representatives.

The PRESIDING OFFICER. The Chair would suggest to the Senator from New York that the House bill was ordered a few moments ago to lie on the table, and he can now move to take it from the table.

Mr. CONKLING. I am very much obliged to the Chair for the information. I move to take up the House bill.

The PRESIDING OFFICER. If there be no objection, the bill mentioned by the Senator from New York will be considered at this time.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. The Chair calls the attention of the Senator from New York to the Senate bill on the same subject. What shall be done with it?

Mr. CONKLING. I move to postpone it indefinitely.

The motion was agreed to.

LAKE NEAR COUNCIL BLUFFS.

Mr. ALLISON. I ask unanimous consent to take up House bill No. 6527. It will take but a moment to consider it. I am not in the habit of troubling the Senate.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6527) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake known as Carr Lake, situated near said city.

Mr. COCKRELL. I should like to have a short explanation from the Senator having the bill in charge.

Mr. ALLISON. There is a brief report, No. 818, which can be read.

The Chief Clerk read the following report, submitted by Mr. HILL, of Colorado, February 1, 1881:

The Committee on the Public Lands, to which was referred the bill (H. R. No. 6527) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake known as Carr Lake, situated near said city, has had the same under consideration and reports the same back recommending its passage, and adopts the report of the House committee, which is as follows:

"The Committee on the Public Lands, to whom was referred the bill H. R. No. 6527, have had the same under consideration, and make the following report thereon:

"The lake in question is situated near the corporate limits of the city of Council Bluffs, in the State of Iowa. It is a meandered lake, and lies within the limits described in the bill; it is about eighty-five rods in length, and has an average width of about forty-six rods. There is sufficient depth of water in this lake for small sail-boats and like water-crafts.

"The purpose of the bill is to give this lake to the city of Council Bluffs, to enable the lawfully constituted authorities of said city to have control, to improve and beautify the same, and make it a place of pleasant resort for its citizens. As it is now, the title is in the General Government, enabling persons to use the same much as they choose, without reference to public health or comfort.

"There has not been any perceptible change in this lake in any respect within the recollection of the first settlers of this part of the State.

"It is not now, and for aught that can be seen never will be, of any value to the United States, which is referred to only for the purpose of showing that the Government can have no such interest in this lake as to make the bill objectionable, or to cause any one to oppose its passage on that ground. This character of legislation has been repeatedly recommended by the Commissioner of the General Land Office, and in this connection attention is called to the recommendations of that officer transmitted to Congress by the Secretary of the Interior for the years 1877 and 1878, to be found in the reports of that officer to the Forty-fifth Congress, second session, Executive Document 1, part 5, pages 11 and 12, and to the third session, same Congress, on page 140. In the last of these recommendations the Commissioner, among other things, says:

"'I would therefore reiterate my recommendation that any title the United States may possess to the unsurveyed islands and beds of meandered lakes and sloughs (not navigable) be conveyed by act of Congress to the respective States in which they are situated, and such lands thus subjected to the operation of State laws.'

"The bill conveys the title of the United States to the lake to the corporate authorities of the city of Council Bluffs, upon the express condition that the same shall be held for public use, resort, and recreation, and provides that the same shall be inalienable for all time, thereby securing the same to the public use, without limit.

"Your committee would therefore recommend that the bill do pass."

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DR. A. SIDNEY TEBBS.

Mr. McDONALD. I ask for the present consideration of Senate bill No. 1599, for the relief of Dr. A. Sidney Tebbs.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1599) for the relief of Dr. A. Sidney Tebbs. It proposes to relieve Dr. A. Sidney Tebbs, of Leesburgh, Virginia, from the operation of section 1218 of the Revised Statutes of the United States.

Mr. INGALLS. I should like to hear read the section referred to in the bill.

The PRESIDING OFFICER. The Senator from Kansas calls for the reading of the section of the statute referred to.

Mr. McDONALD. I can state to the Senator from Kansas that it is the section that prohibits persons from being appointed into the military service of the United States who served in the late rebellion.

Mr. INGALLS. Is there a report in this case?

Mr. McDONALD. Yes, sir.

Mr. INGALLS. Let us hear it read.

Mr. McDONALD. I have not the section here, but that is the section which it is proposed to relieve this gentleman from.

Several SENATORS. Read the report.

Mr. McDONALD. Here is the report, all that there is of it.

The Chief Clerk read the following report, submitted by Mr. HAMPTON January 27, 1881:

The Committee on Military Affairs, to whom was referred the bill for the relief of Dr. A. Sidney Tebbs, beg leave to report:

That Dr. Tebbs has been an applicant for appointment in the Army for several years past, but by reason of the restriction contained in section 1218, Revised Statutes, against the appointment of persons who were in the confederate service, his application cannot be considered. It appears that he entered the confederate service as a private at the age of fifteen, and that he is a native of Virginia. Your committee recommend the passage of the bill without amendment.

Mr. CONKLING. May I inquire from what committee this bill is reported?

Mr. McDONALD. The Committee on Military Affairs.

Mr. CONKLING. Will the honorable Senator be kind enough to state to me in a word what it is?

Mr. McDONALD. It is a bill to relieve the party named in it, Dr. Tebbs, from the disabilities of the act of Congress that prohibits persons who served in the late rebellion from being appointed into the Army or Navy of the United States. It is to make him capable of being appointed. That is all. The fact in regard to this case is that he was in the military service of the rebellion as a private. He entered at the age of fifteen. How long he served I do not know, but he was only a boy when he went in and he could not have been a man when he came out. That is all there is of it. I have but very little acquaintance with him.

Mr. LOGAN. What is he to be appointed to?

Mr. McDONALD. That you will have to ask some other person besides myself. I do not think there can be any objection to relieving him from this disability.

Mr. HAMPTON. In looking at this bill I find that I had the honor of reporting it, and it was by the unanimous recommendation of the Committee on Military Affairs I looked into the case. This boy entered the confederate service as a private, and he has now made application to enter the United States Army and he is debarred by this statute. The bill is simply to remove that so that his application may be considered.

Mr. TELLER. In what capacity does he desire to enter the Army?

Mr. HAMPTON. I really do not know.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WYANDOT MISSION MONUMENT.

Mr. JONES, of Florida. I ask the Senate to proceed to the consideration of Senate joint resolution No. 142.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 142) relative to the erection of a monument at the Wyandot Mission, Upper Sandusky, Ohio.

Mr. COCKRELL. I understand there are amendments to be offered. I have no objection if those amendments are offered.

Mr. JONES, of Florida. Yes, sir. I am directed by the Committee on Public Buildings to propose the following as a substitute for the resolution:

Whereas by the treaty with the Wyandot Indians of October 5, 1842, the stone meeting-house and burying-grounds at Upper Sandusky, Ohio, were reserved to remain forever open and free for the purpose of interment and house of worship, and said building and burying-grounds are now rapidly going to decay: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and is hereby, directed and authorized to take all necessary measures to rescue said church and graveyard at Upper Sandusky, Ohio, from decay; and that the sum of $2,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated for that purpose out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MORRILL. I suggest to the chairman of the Committee on Public Buildings and Grounds that the title of this resolution needs to be changed.

Mr. JONES, of Florida. The title should be amended according to the body of the resolution.

The PRESIDING OFFICER. That change will be made if there be no objection.

A. B. ROWDEN.

Mr. BURNSIDE. I ask consent to call up House bill No. 706. I am quite sure there will be no objection to this. There is a report accompanying it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 706) for the relief of A. B. Rowden. It proposes to direct the proper accounting officers in the Treasury Department to pay to A. B. Rowden, of Meigs County, Tennessee, the pay due him as a second lieutenant of cavalry from the 31st of August, 1863, to the 7th of January, 1865, deducting all payments heretofore made to him as first sergeant in that regiment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LAND DISTRICT IN KANSAS.

Mr. PLUMB. I ask the Senate now to proceed to the consideration of House bill No. 4411.

There being no objection, the Senate, as in Committee of the Whole,

proceeded to consider the bill (H. R. No. 4411) to establish an additional land district in the State of Kansas.

The Committee on Public Lands reported the bill with amendments: in line 5, after the word "range," to strike out "twenty-seven" and insert "thirty-one;" in line 9, before the word "standard," to strike out "third" and insert "fourth;" in line 11, before the word "south," to strike out "sixteen" and insert "twenty-one;" and in the same line, before the word "west," to strike out "twenty-seven" and insert "thirty-one;" so as to make the first section read:

That the following described territory in the State of Kansas, to wit, commencing at the southeast corner of township thirty-five south, range thirty-one west of the sixth principal meridian, on the south boundary of the State of Kansas; thence west on said southern boundary to the western boundary of said State; thence north on said western boundary to the fourth standard parallel south; thence east along said parallel to the northeast corner of township twenty-one south, range thirty-one west, and thence south to the place of beginning, in the State of Kansas, shall constitute an additional land district, to be called the southwestern land district, the location for the office of which shall be designated by the President of the United States, and shall by him from time to time be changed, as the public interest may seem to require.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time, and passed.

JOHN THORNLEY.

Mr. ANTHONY. I ask the Senate to take up the bill (S. No. 1206) for the relief of Medical Director John Thornley, United States Navy.

Mr. COCKRELL. I simply say to the Senator from Rhode Island that he will not be apt to get this bill through this evening at this late hour. It will take more than half an hour to consider it. I am not objecting to it, but I am simply stating that I shall consume more than half an hour in discussing the merits of the bill.

Mr. ANTHONY. I appeal to my friend from Missouri. I should think his heart, surrounded as he is by infantile loveliness now, would soften toward this poor old man tottering on the verge of the grave, who appeals to the Senate, not for liberality, not for magnanimity, not for generosity, but for simple, bald, naked justice. I hope he will allow this bill to come up and that he will allow it to pass.

Mr. COCKRELL. I recognize the warm, sympathetic appeals of my friend from Rhode Island, but they are not sufficient to induce me to voluntarily and willingly open the doors of the Treasury and let out $6,000 to a man who is not entitled to one particle nor a cent of it in any shape, manner, or form, without a full and fair discussion of the question by the Senate. I am not delaying action on it. I simply said to avoid the consumption of time without accomplishing anything, that the bill would not pass in thirty minutes.

Mr. ANTHONY. Then I cannot ask to have the bill taken up under such circumstances if the Senator is determined to defeat it by talking upon it.

The PRESIDING OFFICER. Is the request of the Senator from Rhode Island withdrawn?

Mr. ANTHONY. I withdraw it.

RESTORATION OF NAVAL OFFICERS.

Mr. FARLEY. I ask unanimous consent to take up the bill (S. No. 1210) for the relief of certain officers of the Navy.

The PRESIDING OFFICER. Is there objection?

Mr. ROLLINS. I desire to notify the Senate that this bill will undoubtedly take up more than half an hour of our valuable time this afternoon. Let me add that I shall take some time to discuss this measure. I believe it is wrong, and I desire to enter a very earnest protest against its passage, and I shall occupy some portion of the time of the Senate.

Mr. FARLEY. I am satisfied that the Senator from New Hampshire intends to oppose this bill, but the bill has been considered by the Committee on Naval Affairs on two or three occasions, and a unanimous report has been made to the Senate. The bill passed the Senate at the last session and was kept over on the motion of the honorable Senator from Illinois, [Mr. LOGAN,] and it has been reconsidered again by the committee and reported, and it is a matter that it is important to the parties interested to have passed.

Mr. ROLLINS. I reserve my right to object.

Mr. FARLEY. If I have the floor, the Senator can speak when I get through.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. FARLEY. I desire to have this matter acted upon to-day if possible, and when we come to a controversy over it then the Senate may determine as between the committee and the Senator from New Hampshire. I ask now that the bill be taken up. There is no objection to taking it up, but he says it will take time. We cannot devote time better than to the consideration of this measure. It is a matter that has been passed by this body before when no objection was raised except by the Senator from Illinois, and I understand that honorable Senator has withdrawn the objection that he then made. I am satisfied that the bill is a meritorious one and ought to receive consideration at this time.

The PRESIDING OFFICER. The Senator from California asks unanimous consent that the Senate proceed to the consideration at this time of the bill that has just been read by its title. Is there objection?

Mr. ROLLINS. I object, Mr. President.

The PRESIDING OFFICER. Objection is made.

Mr. BECK. Mr. President——

Mr. FARLEY. I move, then, to take the bill from the Calendar and proceed to its consideration.

The PRESIDING OFFICER. The Chair has recognized the Senator from Kentucky.

Mr. BECK. I will yield for the purpose of enabling the Senator from California to test the motion he has now made, because I think he ought to have a chance.

The PRESIDING OFFICER. The Senator from California moves that the Senate do now proceed to the consideration of the bill mentioned by him.

Mr. INGALLS. Can that be done without disposing in some way of the pending order?

The PRESIDING OFFICER. The proper motion would be to postpone the consideration of the pending and all prior orders.

Mr. FARLEY. I modify the motion so as to use that language.

Mr. HOAR. What is the pending order?

The PRESIDING OFFICER. The Chair supposes it is the Indian severalty bill.

Mr. HOAR. Does that lose its place if this motion passes?

The PRESIDING OFFICER. The Senate has been for an hour or more proceeding by unanimous consent to the consideration of a large number of bills. The Senator from California moves that the pending and all prior orders be postponed, giving notice that he will then move to take up for consideration the bill mentioned by him. Is the Senate ready for the question?

Mr. HOAR. I rise to a question of order, Mr. President. It is that there is no such motion, while a matter is pending, known to the rules of the Senate, as that the pending and all prior orders be postponed. The motion must either be to postpone the pending order indefinitely, or to a day certain.

The PRESIDING OFFICER. Technically the Chair thinks the point of order raised by the Senator from Massachusetts is well taken, while the custom of the Senate almost invariably has been to put the question in the form the Chair stated it. The Chair supposes it would be proper for any Senator to move to postpone the pending order to a day certain or indefinitely, to bring it technically within the rule.

Mr. FARLEY. Then I will put my motion in this shape, that the standing and all prior orders be postponed until Monday next to enable me to call up this bill.

The PRESIDING OFFICER. Is the Senate ready for the question on the motion of the Senator from California, that the pending and all prior orders be postponed until Monday next?

The motion was agreed to.

The PRESIDING OFFICER. All the orders are postponed. The Senator from California now moves that the Senate proceed to the consideration of the bill (S. No. 1210) for the relief of certain officers of the Navy.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1210) for the relief of certain officers of the Navy.

The bill was reported from the Committee on Naval Affairs with amendments.

The first amendment was, in section 1, line 9, after the word "authorize" to insert "to nominate and;" so as to make the section read:

That in conformity with, and to carry into effect the recommendations and conclusions of the board of officers organized in pursuance of a joint resolution entitled "Joint resolution for the relief of Bushrod B. Taylor and other naval officers," approved February 5, 1879, the President of the United States be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, to promote, &c.

Mr. ROLLINS. Is there a report accompanying this bill? If so let it be read before action is had on the amendment.

The Chief Clerk read the following report, submitted by Mr. FARLEY January 12, 1881:

The Committee on Naval Affairs, to whom was referred the bill (S. No. 1210) for the relief of certain officers of the Navy, having duly considered the same, respectfully submit the following report:

This bill embodies the relief recommended by the board of admirals, organized and acting in pursuance of a joint resolution of Congress entitled "Joint resolution for the relief of Bushrod B. Taylor and other naval officers," approved February 5, 1879.

Your committee find, after careful examination, the following to be the facts upon which the report of the board is based:

Under the act of July 25, 1866, authorizing promotions to be made of "officers who have rendered the most faithful and efficient service during the recent war, and who possess the highest professional qualifications and attainments," certain promotions were made by selection by the Secretary of the Navy.

The selections so made were the cause of numerous and repeated complaints of injustice done thereby; and, at the suggestion of the Secretary of the Navy, in his report for 1869, a joint resolution was passed on July 1, 1870, authorizing him to convene a board of admirals to examine into the cases of all who deemed themselves unjustly passed over in the promotions made under the act of July 25, 1866.

That board, on the 21st December, 1871, (Senate Mis. Doc. No. 64, second session Forty-second Congress,) reported that they had "brought to bear an earnest and impartial desire to do their whole duty to the officers and to the naval service" in arriving at their conclusions, and that of the forty-four cases submitted to them they recommended only sixteen for advancement.

The Senate promptly passed a bill (No. 854 of that session) adopting without change the recommendation of the board; but in the House an amendment was adopted omitting the names of Lieutenant-Commanders Sands and Sigsbee, on an allegation that nobody was promoted over them, and that they were not injured, although the report of the board showed the contrary.

Those officers were absent on sea duty at the time, but soon after their return,

upon ascertaining the cause of this adverse action, they petitioned Congress for relief, declaring the incorrectness in every respect of the allegation upon which that adverse action was based; and at the last session of Congress (second session Forty-fifth Congress) a bill (No. 1132) was reported for their relief, the Committee on Naval Affairs, in its report made by Senator JONES, (Report No. 282, second session Forty-fifth Congress,) saying that, after careful investigation into the facts, it was satisfied these officers had been wronged and were entitled to that relief.

Pending action on this bill, the joint resolution for the relief of Bushrod B. Taylor and other officers was passed, and approved February 5, 1879, to provide for the cases of all officers who had not had an opportunity to appear in person before the first board of admirals; and as neither Mr. Sands nor Mr. Sigsbee had been able to appear in person before the first board, it was suggested to them by the Naval Committee of the House that they could obtain the relief they desired, and have justice done them, by going before the second board of admirals. As this gave them an opportunity to present more fully their cause of grievance, those officers did, with twenty-one others whose cause of grievance was similar, and who also came within the provisions of the joint resolution, submit their complaints for consideration to this last board; which duly and fully considered the same, and submitted their report to Congress in Executive Document No. 42, second session Forty-sixth Congress.

From this report it appears that this board of admirals, after examination into twenty-three cases submitted to them, recommend for restoration only the five officers whose names are given in the bill now reported; and one of these officers, Commodore Hunt, is on the retired list, and the other four, Messrs. Erben, Glass, Sands, and Sigsbee, on the active list of the Navy.

In organizing these boards of admirals, Congress has sought to avoid favoritism by submitting the claims of all alike to experienced and superior officers, by their rank and great distinction above the temptation of personal interest; and it is submitted that Congress should not disregard the intelligent and impartial action of the special tribunals it has authorized to pass upon these matters.

Therefore, with an amendment inserting the word "relative" after the word "original," in the nineteenth and twenty-second lines of the bill, simply to make it conform literally to the recommendations of the board, which clearly desired thus to indicate the positions to which the officers named should be restored relatively to those who had been promoted over them in 1866 unjustly, your committee, convinced of the propriety of the recommendations of this board of admirals, as being in the best interests of the service and as doing simple justice to the officers named, report the bill with a recommendation that it be passed.

Mr. ROLLINS. Mr. President, this is one of several attempts to correct alleged errors of the Navy Department. In the past there have been several attempts, ostensibly to correct errors that were made in regard to officers, but really to "jump" men who at times have been thought to be unjustly treated, and this, in my judgment, is one of the baldest and worst attempts that have been made.

Now, Mr. President, what are the facts? Under the act of 1866 the Secretary of the Navy was authorized to advance certain officers of a lower grade, to put them in a higher grade. He was authorized to make selections for that purpose. He did make the selections in accordance with his best judgment. The law was fulfilled; it was accomplished. Subsequently there were parties who thought they had been unjustly treated. Two of those gentlemen, Messrs. Sigsbee and Sands, are named in this bill. They thought they had been unjustly passed over by the Secretary of the Navy. He was familiar with all that had transpired during the war; he understood very well the merits of the various officers of the Navy; he sought the advice of an advisory board, and with all the information that he could get he made these promotions, and he did not promote Mr. Sigsbee and Mr. Sands. I will read the provisions of the act of 1866:

That the increase in the grades authorized by this act shall be made by selection from the grade next below of officers who have rendered the most efficient and faithful service during the recent war, and who possess the highest professional qualifications and attainments.

Now, these parties say that the Secretary acted unjustly, that the promotions he made were unjust, and they want a correction made; they want an increase in the higher grade, so that they may be promoted. What are the facts? Under that act three masters were promoted in 1866 by Secretary Welles, namely, George W. Coffin, R. D. Evans, and D. R. Cassell, over the rest of their class. Mr. Sands, one of the parties interested in this bill, stood at that time No. 19 upon the list, Mr. Sigsbee 41, Mr. Cassell 28, Mr. Coffin 48, and Mr. Evans 32. Mr. Cassell is now dead, leaving but two in the service who were then promoted over Messrs. Sands and Sigsbee, so that as the Navy Register now stands there is but one officer promoted over Sigsbee and two over Sands. Sigsbee, therefore, stands only one number lower and Sands but two numbers lower than they would have stood had there been no promotions under the act of 1866.

I have the printed list here from the Navy Register to show that one of these men stands only one number lower than he would have done, and the other but two numbers lower than he would have done if these promotions under the act of 1866 had not taken place. Now, what is it proposed to do? You take Mr. Sands from No. 19 and make him No. 3 on the list.

Mr. JONES, of Florida. May I ask a question?

Mr. ROLLINS. Certainly.

Mr. JONES, of Florida. Is not that what the board of admirals recommended in the case?

Mr. ROLLINS. I think not. I will come to that by and by. You propose to take Mr. Sands from No. 19. Sands has lost but two numbers on the Register by reason of these promotions, and you propose to take him from No. 19 and make him No. 3, and that will be a promotion of sixteen points. I want the Senate to understand when they pass this bill just what is being done and the injustice that is being done to men who have never stood below these men, who have always stood above them.

Now, let us take the case of Sigsbee, who has lost one number. You propose to take him from No. 40, and make him stand upon the list No. 5, jumping him thirty-five numbers. You propose now to do injustice to all these men, and advance him thirty-five numbers on the list, and that, you say in your bill, is "the same original relative rank." I should like to ask the gentlemen who have reported this bill to explain what "original relative rank" means in their bill. When did they (Sands and Sigsbee) stand in such relation to these parties? Never. It is an act of gross injustice.

The joint resolution of 1870 authorized the appointment of a board to hear the complaints of such officers as deemed themselves unjustly passed over by the promotions made in conformity with the act of Congress approved July 25, 1866. The resolution reads as follows:

That the Secretary of the Navy is hereby authorized to organize a board of three officers, not below the grade of rear-admiral, who shall examine into the cases of such officers as may deem themselves unjustly passed over by promotions made in conformity with the act of Congress approved July 25, 1866. This board shall report their conclusions to the Secretary of the Navy, who shall report the same to Congress.

This board did make an examination, and they recommended that these parties be advanced a few points, some eight or ten. I have the exact number here but cannot put my hand on it at this moment. They did recommend some slight promotion to these parties, and they appealed to Congress. They came here, and in the Congress of the United States their names were stricken from the bill and Congress disapproved of the recommendation of that board, and they were not promoted. What next happened? The Congress of the United States in the joint resolution of February 5, 1879, provided—

That the Secretary of the Navy is hereby authorized to organize a board of three officers not below the grade of rear admiral, who shall examine into the case of Commander Bushrod B. Taylor and such other officers of the Navy—

Now mark the language of the statute—

as did not have opportunity from any cause whatever to appear before the board created by virtue of the joint resolution of July 1, 1870, as may deem themselves unjustly passed over by the promotions made in conformity with the act of Congress approved July 25, 1866.

This act of 1879 provided what? Simply that those officers who did not go before the previous board might go before the board of 1879. Both Sigsbee and Sands had gone before the board of 1870, and that board acted upon their cases, and made its recommendations to Congress, and the Congress of the United States refused to approve of the action of the board. Then what? These men, without any authority of law whatever, appeared before the board of 1879, and that board having reported to Congress, their report is construed by the Committee on Naval Affairs as authorizing the taking of these men, who have lost one of them one point, and the other only two points, and advancing one of them thirty-five numbers, and the other from No. 19 to No. 3, sixteen numbers; and they say that is the same original relative position they would have occupied. Mr. President, I should like to have somebody explain this.

To show that I am right in the figures I have stated, let me present lists taken from the Navy Register:

*From the Navy Register prior to the promotions of 1866.*

ENSIGNS.

| | |
|---|---|
| 1. **Henry Glass.** | 26. D. R. Cassell. |
| 2. E. J. Dickman. | 27. W. B. Hoff. |
| 3. Chas. McGregor. | 28. William K. Wheeler. |
| 4. Ira Harris. | 29. W. S. Dana. |
| 5. W. W. Maclay. | 30. R. D. Evans. |
| 6. Philip H. Cooper. | 31. Nicoll Ludlow. |
| 7. Henry Taylor. | 32. F. A. Cook. |
| 8. Allen D. Brown. | 33. Colby M. Chester. |
| 9. Marston Niles. | 34. A. H. Wright. |
| 10. George H. Wadleigh. | 35. C. E. Clark. |
| 11. John D. Clark. | 36. C. J. Barclay. |
| 12. A. S. Crowninshield. | 37. C. V. Gridley. |
| 13. John C. Pegram. | 38. Francis Morris. |
| 14. Charles H. Craven. | 39. **Chas. D. Sigsbee.** |
| 15. Frank Wildes. | 40. Richard P. Leary. |
| 16. W. W. Hendrickson. | 41. William A. Van Vleck. |
| 17. A. G. Kellogg. | 42. C. H. Pendleton. |
| 18. J. B. Coghlan. | 43. William H. Whiting. |
| 19. **Jas. H. Sands.** | 44. George M. McClure. |
| 20. Yates Stirling. | 45. D. W. Mullan. |
| 21. William C. Wise. | 46. George W. Coffin. |
| 22. Lewis Clark. | 47. George T. Davis. |
| 23. P. F. Harrington. | 48. Roland C. Irvin. |
| 24. Williamson Dunn. | 49. George D. B. Glidden. |
| 25. Clarence Rathbone. | |

*From the Navy Register, after the promotions of 1866.*

LIEUTENANTS.

| | |
|---|---|
| 1. (3) Chas. McGregor. | 26. (23) P. F. Harrington. |
| 2. (4) Ira Harris. | 27. (24) Williamson Dunn. |
| 3. (26) D. R. Cassell. | 28. (25) Clarence Rathbone. |
| 4. (30) R. D. Evans. | 29. (27) Wm. B. Hoff. |
| 5. (46) Geo. W. Coffin. | 30. (28) Wm. K. Wheeler. |
| 6. (1) **Henry Glass.** | 31. (29) Wm. S. Dana. |
| 7. (2) E. J. Dickman. | 32. (31) Nicoll Ludlow. |
| 8. (5) W. W. Maclay. | 33. (32) F. A. Cook. |
| 9. (6) Philip H. Cooper. | 34. (33) Colby M. Chester. |
| 10. (7) Henry Taylor. | 35. (34) A. H. Wright. |
| 11. (8) Allan D. Brown. | 36. (35) Chas. E. Clark. |
| 12. (9) Marston Niles. | 37. (36) C. J. Barclay. |
| 13. (10) Geo. H. Wadleigh. | 38. (37) C. V. Gridley. |
| 14. (11) John D. Clark. | 39. (38) Francis Morris. |
| 15. (12) A. S. Crowninshield. | 40. (39) **Chas. D. Sigsbee.** |
| 16. (13) John C. Pegram. | 41. (40) Richard P. Leary. |
| 17. (14) Chas. H. Craven. | 42. (41) Wm. A. Van Vleck. |
| 18. (15) Frank Wildes. | 43. (42) Chas. A. Pendleton. |
| 19. (16) W. W. Hendrickson. | 44. (43) Wm. H. Whiting. |
| 20. (17) A. G. Kellogg. | 45. (44) Geo. M. McClure. |
| 21. (18) J. B. Coghlan. | 46. (45) Dennis W. Mullan. |
| 22. (19) **James H. Sands.** | 47. (46) Geo. T. Davis. |
| 23. (20) Yates Stirling. | 48. (47) Roland C. Irvin. |
| 24. (21) Wm. C. Wise. | 49. (48) Geo. D. B. Glidden. |
| 25. (22) Lewis Clark. | |

*Relative standing of officers, if recommendations of Board of 1870—to wit, ten numbers advancement for Sands and Sigsbee—had been carried out.*

LIEUTENANT COMMANDERS.

| | | |
|---|---|---|
| 1. (3) Charles McGregor. | 21. (20) Yates Stirling. |
| 2. (4) Ira Harris. | 22. (21) W. C. Wise. |
| 3. (26) D. R. Cassell. | 23. (22) Lewis Clark. |
| 4. (30) R. D. Evans. | 24. (23) P. F. Harrington. |
| 5. (46) George W. Coffin. | 25. (27) W. B. Hoff. |
| 6. (1) **Henry Glass.** | 26. (39) **Chas. D. Sigsbee.** |
| 7. (2) E. J. Dickman. | 27. (28) W. K. Wheeler. |
| 8. (5) W. W. Maclay. | 28. (29) Wm. S. Dana. |
| 9. (6) P. H. Cooper. | 29. (31) Nicoll Ludlow. |
| 10. (19) **James H. Sands.** | 30. (32) F. A. Cook. |
| 11. (7) Henry Taylor. | 31. (33) C. M. Chester. |
| 12. (8) Allan D. Brown. | 32. (34) A. H. Wright. |
| 13. (9) Marston Niles. | 33. (35) C. E. Clark. |
| 14. (10) George H. Wadleigh. | 34. (36) C. J. Barclay. |
| 15. (12) A. S. Crowninshield. | 35. (37) C. V. Gridley. |
| 16. (14) Charles H. Craven. | 36. (38) Francis Morris. |
| 17. (15) Frank Wildes. | 37. (43) W. H. Whiting. |
| 18. (16) W. W. Hendrickson. | 38. (45) George Mullan. |
| 19. (17) A. G. Kellogg. | 39. (47) George T. Davis. |
| 20. (18) J. B. Coghlan. | 40. (49) George D. B. Glidden. |

*Relative standing of officers, if recommendations of board of 1879 should be carried out.*

COMMANDERS.

| | |
|---|---|
| 1. (1) **Henry Glass.** | 6. (46) Geo. W. Coffin. |
| 2. (3) Chas. McGregor. | 7. — ——— Gibson. |
| 3. (19) **Jas. H. Sands.** | 8. (6) P. H. Cooper. |
| 4. (30) R. D. Evans. | 9. (7) Henry Taylor. |
| 5. (39) **Chas. D. Sigsbee.** | 10. (8) A. D. Brown. |

LIEUTENANT-COMMANDERS.

| | |
|---|---|
| 11. (10) Geo. H. Wadleigh. | 24. (33) C. M. Chester. |
| 12. (12) A. S. Crowninshield. | 25. (34) A. H. Wright. |
| 13. (14) Chas. H. Craven. | 26. (35) C. E. Clark. |
| 14. (15) Frank Wildes. | 27. (36) C. J. Barclay. |
| 15. (17) A. G. Kellogg. | 28. (18) J. B. Coghlan. |
| 16. (20) Yates Stirling. | 29. (37) C. V. Gridley. |
| 17. (21) W. C. Wise. | 30. (38) Francis Morris. |
| 18. (22) Lewis Clark. | 31. (40) R. P. Leary. |
| 19. (23) P. F. Harrington. | 32. (42) C. H. Pendleton. |
| 20. (27) W. B. Hoff. | 33. (43) Wm. H. Whiting. |
| 21. (29) W. S. Dana. | 34. (45) D. W. Mullan. |
| 22. (31) Nicoll Ludlow. | 35. (47) Geo. T. Davis. |
| 23. (32) F. A. Cook. | 36. (49) Geo. D. B. Glidden. |

The proposition of the bill is—

To promote Lieutenant-Commander James H. Sands to be commander, and restore him to his original relative position on the active list of the Navy next below Commander Charles McGregor.

Will not some member of the Committee on Naval Affairs show me when and where this officer, Sands, was ever next below Charles McGregor? Take the case of Mr. Sigsbee:

To promote Lieutenant-Commander Charles D. Sigsbee to be commander, and restore him to his original relative position on the active list of the Navy next below Commander Robley D. Evans.

When did he stand next below Robley D. Evans?

Now let us look and see where these two gentlemen did stand. On the Navy Register before the promotion under the act of 1866 Sands was No. 19, next to J. B. Coghlan; Charles D. Sigsbee No. 39, next below Francis Morris. After the promotions they stood in position next to the same parties. Now we propose to take Sands, as I said before, from No. 19, where he stands next below J. B. Coghlan, and place him so that he will be No. 3 on the Register, next below Charles McGregor, and they call this "the same original relative position."

Mr. ALLISON. I desire to inquire of the Senator from New Hampshire if he has examined the bill and the Navy Register to see that the statement he makes is correct?

Mr. ROLLINS. I have.

Mr. ALLISON. Because I understand the Senator from Florida to dispute that statement. I think that is a very important statement.

Mr. ROLLINS. Any Senator has access to the Navy Register, and he will find that what I say about these matters is absolutely true; that in this attempt to restore these men, to give them, the one one point and the other two points, which I admit they lost by the act of 1866, it simply jumps them over all those officers who graduated above them from the Naval Academy, have always stood above them on the list, and have seen as much or more service, as their records will show. Can this with any justice be called their original relative position on the list? By reference to the last printed Navy list it will be seen that there are nine lieutenant commanders who are and always have been above Sands, and twenty-five who are and always have been above Sigsbee; and yet to give them the two numbers which they lost fifteen years ago this great injustice is proposed by the Committee on Naval Affairs, that is, to jump one thirty-five points and the other sixteen, and put them as the bill says next below officers that they have never stood next to before and ought not to now.

Mr. BURNSIDE. I would suggest to the Senator from New Hampshire and to the Senate that this is almost too important a bill to be acted on in the manner in which it has been acted on this afternoon, and I suggest that the Senator give way for a motion to adjourn.

Mr. ROLLINS. Certainly. I would say in justice to myself that I gave notice to the Senate this bill would undoubtedly create quite a lengthy discussion and it will. There is much more to be said upon it. I will now give way to the motion of the Senator from Rhode Island.

Mr. JONES, of Florida. I ask the Senator not to press that motion now.

Mr. BURNSIDE. I do not desire to cut off debate on this bill, or the Senator from Florida from being heard, but only to suggest that the bill cannot be passed just now in this confusion.

Mr. JONES, of Florida. Has the Senator from New Hampshire concluded?

Mr. ROLLINS. No, sir.

Mr. JONES, of Florida. Does the Senator hold the floor?

Mr. ROLLINS. I hold the floor. I am willing to yield for a motion to adjourn.

Mr. BURNSIDE. Now I move that the Senate adjourn.

The motion was agreed to; and (at four o'clock and fifty-two minutes p. m.) the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 5, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

### COUNT OF ELECTORAL VOTES.

Mr. BICKNELL. I rise to a question of the highest privilege.

The SPEAKER. The gentleman will state it.

Mr. BICKNELL. I call up from the Speaker's table the Senate concurrent resolution in reference to the meeting of the two Houses on Wednesday next to count the votes for President and Vice-President.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved, by the Senate, (the House of Representatives concurring,)* First. That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881, at twelve o'clock meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be the presiding officer; that two persons be appointed tellers on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States; and, together with a list of votes, be entered on the Journals of the two Houses.

Second. That if it shall appear that any votes of electors for President or Vice-President of the United States have been given on a day other than that fixed for casting such votes by act of Congress, in pursuance of the Constitution of the United States, if the counting or omitting to count such votes shall not essentially change the result of the election, they shall be reported by the President of the Senate in the following manner: Were the votes of electors cast on the —— day of ——, 1880, to be counted, the result would be for A B for President of the United States —— votes, and for C D for President of the United States —— votes; if not counted, the result would be for A B for President of the United States —— votes, and for C D for President of the United States —— votes; but in either event —— is elected President of the United States. And in the same manner for Vice-President.

Mr. ROBESON. Is the question divisible? There are two resolutions.

The SPEAKER. There are two resolutions.

Mr. ROBESON. Then I call for a division of the question.

The SPEAKER. A division of the question being called for, the first question will be upon the first resolution just reported.

Mr. ROBESON. Is it competent for me to state now in a few words why I ask for a division of the question?

The SPEAKER. The resolution is before the House. The gentleman from Indiana [Mr. BICKNELL] has charge of it.

Mr. BICKNELL. I will make a few remarks, after which I will yield to the gentleman from New Jersey, [Mr. ROBESON.]

It is alleged that the electors of one of the States cast their votes on a day not prescribed by law. The question will be raised whether or not the votes of that State shall be counted. That is a difficult and doubtful question, and the Constitution has not declared by whom the question shall be decided.

A like difficulty has arisen several times heretofore: once in 1821, in relation to the State of Missouri; once in 1837, in relation to the State of Michigan; and once in 1857, in relation to the State of Wisconsin. In all those cases the votes of those States were disputed. In the first two of those cases a resolution was adopted identical with the one now before the House; in the third of those cases no such resolution was adopted, and the result was an angry and bitter debate, a dangerous debate, ending in no practical result.

The object of this resolution is to avoid any such difficulty. Whether the vote of the State in question be counted or not counted will make no difference in the result. Everybody admits that General Garfield has been elected President of the United States, and will be so declared. But in order to avoid the difficulty that arose in the case of Wisconsin this resolution is proposed, and I trust it will be passed unanimously. I now yield——

Mr. STEVENSON. Before the gentleman from Indiana [Mr. BICKNELL] takes his seat, as he has given this matter much study and investigation, and as it is an important question, I would like to have him state his own views in regard to the counting of the votes of such States.

Mr. BICKNELL. I do not think it is necessary to make any declaration on that subject now. The object of this resolution is to avoid any discussion in regard to the question whether that vote shall be counted or not counted. The resolution provides for the same hypothetical counting which tided us over the difficulty once before, and I hope it will do so again.

I now yield to the gentleman from New Jersey [Mr. ROBESON] for ten minutes.

Mr. CARLISLE. Before the gentleman yields, allow me to call attention to what may be termed the enacting clause of this resolution. The printed copies laid upon our desks a few moments ago seem to indicate that it is a simple Senate resolution. According to that printed copy it simply provides "resolved, that the two Houses of Congress shall assemble," &c.

The SPEAKER. The Clerk will read so much of the resolution as will answer the inquiry of the gentleman from Kentucky.

The Clerk read as follows:

*Resolved by the Senate, (the House of Representatives concurring,)* That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881——

Mr. CARLISLE. That is sufficient to answer my question. The copy laid upon our tables does not contain those words.

Mr. BICKNELL. I now yield ten minutes to the gentleman from New Jersey, [Mr. ROBESON.]

Mr. ROBESON. I certainly shall make no factious opposition to these resolutions as presented to-day. I am in favor of the first resolution, since it is the identical one, if I mistake not, which was presented by myself before the holiday recess for the acceptance of the other side of this House.

In regard to the second resolution, it would not become me, and I think under the circumstances of this case it would hardly become any of us, to do more at this time in opposition to its passage than record our votes according to our own opinions upon the question of principle involved. But I must take time to congratulate the gentlemen on the other side of the Chamber on their return to the principles of the old democracy. It was rather a singular circumstance, I confess, that in a discussion involving so much of principle as was involved in that on the Morgan resolution, no man on the so-called democratic side of the Chamber was willing to stand up and take his position on the side of constitutional State rights. For myself I opposed the original resolution known as the Morgan-Bicknell resolution reported by the gentleman from Indiana, because I thought it was an assumption on the part of the two Houses of Congress of powers given by the Constitution to the States; because I thought that the electors were State officers discharging their duty under State sanction and producing before the two Houses State authentication as their ample authority. I found in that resolution principles and provisions which would have permitted the two Houses of Congress to go behind the returns of the States, to canvass the votes there cast for the electors by them appointed, and, at the will of one House alone, to overthrow and destroy State constitutional action in direct and flagrant violation of the Constitution of our fathers and of the principles of government which they gave to us.

I am not, I suppose, considered a special advocate of State rights; but I am an advocate of the Constitution of the United States, and I will stand on the border-line of the State rights there guaranteed with the gentleman from Indiana, and whenever they are attacked will repel with my voice and by my vote any such insolent invasion from any source. And in this spirit I congratulate my friends on the other side of the House that they have returned to the old principle of State rights which was the shibboleth of the old but which is the byword of the modern democracy. And out of the fullness of my heart I congratulate the gentleman from Illinois also—I mean my friend who sits before me with a smile upon his lips and the white rose upon his breast, [Mr. SPRINGER]—that we shall have the honor and the pleasure of his company and countenance next Wednesday when we are here to witness the declaration of the votes and action of the people of this great country. I should be sad, indeed, if he were absent, I should have been sorry if any individual member or officer of this House should have felt called upon next Wednesday, to interpose any either formal or actual obstruction to the formal declaration of the will of the people of the United States. But I must say to him and to all others that after the people had acted, after the States had appointed their electors in accordance with the Constitution, after those electors had voted, as there prescribed, and their votes had come here, authenticated according to law, the result of such constitutional action of the people of this great country would have been declared and would have taken effect even though the gentleman from Illinois had felt himself constrained to be absent. [Laughter.] He might have withdrawn himself from this Chamber and his countenance from the action which here took place, but the votes of the people would have still been counted, the progress of civil government would not have been abruptly checked, and the world itself would still have rolled on without a shock and still remained, a monument of the abounding mercy as of the power of God.

Mr. BICKNELL. I now yield to the gentleman from Texas [Mr. REAGAN] for three minutes.

Mr. REAGAN. I do not want three minutes. I wish simply to say a word by way of supplement to the gushing congratulations of our friend from New Jersey, [Mr. ROBESON,] who finds so much upon which now to congratulate the democratic party and the democratic members of this House. I wish to say that while I am not now prepared to congratulate him and the republican party upon the vote on this subject, I expect when the vote is taken to be able to congratulate him and them that they have abandoned the methods of revolution and at last consented to lawfully count the vote for President of the United States.

Mr. BICKNELL. I now yield five minutes to the gentleman from Georgia, [Mr. FELTON.]

Mr. ROBESON. One moment before the gentleman from Georgia proceeds. I only want, in acknowledgment of what the gentleman from Texas [Mr. REAGAN] has said——[Cries of "Order!"]

The SPEAKER. The gentleman from New Jersey will observe the rules.

Mr. ROBESON. Undoubtedly; I thought I had the floor. Will my friend from Indiana indulge me one moment? [Cries of "No!" "No!"]

Mr. FELTON. Mr Speaker, I think this the most favorable time for Congress to determine certain questions connected with the count of the electoral vote; favorable because the final result will not be changed by any conclusion the two Houses of Congress may definitely reach. If the result was doubtful, or if it was poised tremblingly upon the counting or rejection of the vote of any one State, we might fear the influence of partisan prejudice, of sectional preferences, or of personal ambitions in the settlement of those questions.

But all parties, all sections of the country, and every citizen of the United States acknowledges the election, according to law, of James A. Garfield to the Presidency. No man of intelligence or lover of this country questions his title to the highest office in the gift of the American people.

I believe that questions which may arise when the two Houses of Congress are in joint session for the purpose of counting and announcing the result of the electoral vote should be decided then and there by that joint assembly.

I know of no authority in the Constitution authorizing the two Houses to separate for the purpose of investigating and deciding questions connected with this count in their respective Chambers.

The resolution now pending seems upon the whole unobjectionable. It is freed from the principal difficulty which attached to the electoral-count resolutions which we have been considering for some time during this Congress, known as the Morgan-Bicknell resolutions, namely, it does not give one House of Congress the right and power to disfranchise one of the States of this Union, to throw out its vote for President and Vice-President when that vote has been cast according to law.

I have one very serious objection to the resolution now under consideration, (though I shall vote for it.) Indeed I think the entire second section should be stricken out and something definite inserted. The object of the section is to avoid the decision of a very important question. It postpones a settlement which some day in its settlement might involve the peace and the very existence of this Republic. I allude to the manner in which the concurrent resolution proposes to treat the returns from a State which through the ignorance or perversity of State authorities cast its electoral vote on a day unknown to the law. This question must be decided definitely some day. Whenever its decision will affect the final result the whole country will demand a final solution of the difficulty, and its decision at such a critical juncture in the affairs of the nation would, I repeat, hazard the peace and existence of the Government. Parties would be excited, political passion uncurbed by reason or law would madly demand the counting or rejection of such a vote as either course might affect its favorite candidate. Compromises might be forgotten, the inestimable value of the Government lost sight of, and the sword invoked as the only arbiter in such a controversy. Cases in which votes were rejected have occurred several times. That is, votes of doubtful validity were simply laid aside, as this joint rule proposes to do. Fortunately, the result then, as now, was unaffected by this indefinite action. On the occasions referred to there were some apologies for the failure to elect according to law. Reconstruction, new State constitutions, and other causes afforded some excuse for the failure. But now there is no reason saving the ignorance or perversity of State officials for this great wrong against the people of Georgia. For I assert that the failure of the electors to meet on the day prescribed by the Federal law to cast their votes in accordance with the popular vote of the State is an unpardonable outrage upon the right of suffrage. It sets aside the votes of all its citizens. It disfranchises the State of Georgia.

Mark you, it is not the law that disfranchises; for that makes provision whereby every man's vote in that popular election might have been effective in making up the result in the State. It was the action of Georgia's officials that is now about to set aside Georgia's vote. It was the ignorance or perversity of Georgia's executive that is now disfranchising our State. In the name of the people of Georgia, I protest that they were not and are not responsible for this failure to comply with the supreme law of the United States fixing the day on which the vote should be cast.

The people of Georgia are, and have been since the late civil war ended, perfectly loyal to the Government. And I assert most positively that where there are Federal and State laws conflicting in regard to Federal elections, the Federal law is supreme. [Applause.]

The great mass of our people desire full and perfect conformity to all the laws of this Federal Union. This failure to cast their vote on the day required by the Federal law is not the act or wish of the people of Georgia. They are prepared to announce to all the world that the old idea of "State sovereignty" overriding Federal laws touching Federal elections is an exploded doctrine. [Applause.] I am opposed to counting the vote of Georgia, and at the same time I protest against the ignorance or perversity by which the people of my State have been deprived of their vote. [Renewed applause.]

Now I ask, Mr. Speaker, as my time is out, the privilege to print just a few more remarks.

The SPEAKER. The gentleman from Georgia asks unanimous consent to print further remarks.

Mr. CARLISLE. Before that consent is granted, I desire to ask the gentleman from Georgia a question.

Mr. FELTON. Certainly.

Mr. CARLISLE. Whether he means to convey to this House the idea that it was the intention of the Legislature of Georgia by the passage of the law under which this electoral vote was cast to defy the authority of the General Government, or whether it was a mere mistake or oversight?

Mr. FELTON. It was not——

Mr. CARLISLE. Very well, then.

Mr. FELTON. It was not, but the Legislature of Georgia was in session nearly a month from the day of the election until the vote was cast, and there was time sufficient to have had all this thing righted and conformed to the Federal law; the whole of it.

Mr. HOUSE. Was the attention of the Legislature directed to it?

Mr. FELTON. It was not. The newspapers told us that the attention of the executive of Georgia—and I have nothing but respect for that executive—was called to it and the newspaper interview represents him as saying that if he had known otherwise he would still have done as he did.

Mr. CARLISLE. Mr. Speaker, if that be the gentleman's understanding as to the motives which actuated the State of Georgia, I fail to see the relevancy of the remarks which he has made this morning.

Mr. FELTON. I tell you the people of Georgia have no desire to violate the Federal law, none whatever. When this act was passed there was no intention or purpose on the part of our Legislature to conflict with the Federal law.

Mr. HAMMOND, of Georgia. I ask whether that law was not put into our code of 1862, when we were under a president of the Confederate States, and got into the code by carelessness, and by carelessness was copied into our present compilation? That is the fact.

Mr. FELTON rose.

Mr. BICKNELL. I yield two minutes to the gentleman from Georgia. [Mr. SPEER.]

Mr. FELTON. Let me beg a few minutes more. I ask consent for a few moments.

The SPEAKER. The gentleman declines to yield further.

Mr. VALENTINE. I hope the gentleman from Georgia will be allowed to answer that question as it is a very important one.

The SPEAKER. The Chair is quite willing, but the gentleman from Indiana declines.

Mr. BICKNELL. I now yield to the gentleman from Georgia, [Mr. SPEER.]

Mr. VALENTINE. I hope the gentleman from Indiana will allow that question to be answered.

Mr. BICKNELL. I yield for two minutes to the gentleman from Georgia, [Mr. SPEER.]

Mr. O'NEILL. The difficulty is we cannot all have an opportunity to say a word. I want a vote by yeas and nays.

Mr. SPEER. Mr. Speaker, I believe I will make a remark supplementary to that which has just been made by my colleague. He says that henceforth the people of Georgia will be loyal to the Federal power. Sir, I say that the people of Georgia have been loyal to the Federal power since we laid down our arms in good faith in 1865, and that when we accepted the amendments to the Constitution we accepted them in good faith, and we have abided by them.

In that remark I do not intend offensively to reflect in any sense on the remark which has just fallen from the gentleman from Georgia, and which I have quoted, but make that declaration for myself.

The gentleman from New Jersey [Mr. ROBESON] did some of us injustice when he said that none on this side dared to stand forth and speak for what we understood to be true democracy against this Morgan joint resolution. There were three of us over here who did that thing, and our votes are found recorded against it. And I congratulate my brethren of the democratic party that we have reached a solution of this question upon which we can agree, and which will not do violence to those grand rights of the sovereign States for which I thought I was speaking when I voted against that joint resolution which took the power from the States and vested it in Congress. This resolution now to be adopted by Congress has speedily justified that vote.

I have, sir, been criticised, together with my colleagues who voted against that resolution, by the ultra partisan press. But those criticisms were not due solely to the fact that we voted against the resolution, but also perhaps to the fact that we had antagonized ultra partisan methods in the Empire State of the South. We were right, and I stand to that vote, and I find now, if I mistake not, that all the democracy here are standing shoulder to shoulder with us, and upon the same line on which we then stood.

Mr. YOUNG, of Tennessee. I ask the gentleman from Indiana to allow me to ask the gentleman from Georgia a question.

Mr. BICKNELL. I now yield five minutes to the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. Mr. Speaker——

The SPEAKER. The Chair would suggest to the gentleman from Indiana that in the distribution of the time he yield alternately to each side of the House.

Mr. REED. Well, the gentleman from Illinois ought to have a chance to come in.

Mr. BICKNELL. I yield, then, to the gentleman from Connecticut [Mr. HAWLEY] for five minutes.

Mr. HAWLEY. Mr. Speaker, I shall need less time than that. I only desire to say, in behalf of my own vote, I wish that nothing against the right of the State of Georgia to be counted shall be inferred from the terms of the second resolution.

It is a principle usually held, or professedly at least, that the will of the people of a State if clearly asserted shall be allowed to have its due weight notwithstanding the negligence or errors of its mere servants or delegates. I will venture to say that if it depended upon my vote, I should vote to accept the vote of Georgia in this case, because the error was not the fault of the people of the State, but of their servants.

I do not care, sir, to argue the case, but only affirm, as I do again, that I shall favor the passage of this second resolution, and that it shall be construed as not prejudicing the right of the State of Georgia to be counted if it shall be essential.

Mr. BICKNELL. I now yield to the gentleman from Illinois [Mr. SPRINGER] five minutes.

Mr. SPRINGER. Mr. Speaker, the gentleman from New Jersey [Mr. ROBESON] very kindly referred to the fact that there will be no obstacle now, after the passage of this resolution, to my personal attendance at the count of the electoral votes on Wednesday next. I am grateful to the gentleman for calling my attention to that fact. If there is a duty which is imposed upon me as a member of Congress that I do not desire to shrink from it is the duty of participating as a member of the House of Representatives in the counting of the electoral votes.

I have always believed, Mr. Speaker, and still believe, that it is the right and duty of the two Houses to count these votes. And as a member of one of the Houses whose duty it is under the Constitution to count them, I am gratified to know that I shall be permitted by the kind courtesy of the gentleman on the other side to attend on Wednesday next as a member of this House and participate in that duty. But the doctrine of gentlemen upon the other side that we were to participate here, not in the capacity of members of this House in the performance of a high constitutional duty, but simply to look on as idle spectators—that we were to go through the mere farce of counting by sitting here and witnessing the count of the Vice-President or the President of the Senate, has been repudiated by gentlemen on the other side. In such a revolutionary and unconstitutional proceeding I did not desire to be a spectator. And I am glad that this House will not now be invited to attend such an unauthorized and revolutionary proceeding as that. It would have been under such circumstances as my friend from Kentucky [Mr. OSCAR TURNER] has said a mere mockery and not a count of the votes under the Constitution. You might just as well direct the Sergeant-at-Arms to count them, as the Senator from New York [Mr. CONKLING] said in his speech in the Senate, or have it done by the Doorkeeper or the pages, if it is a mere clerical labor of that kind. For if it is a mere matter of counting, anybody can perform that unofficial and clerical duty.

This side of the House has clung tenaciously to the precedents established from the foundation of the Government down to the present time as to the right and duty of the two Houses, under the Constitution, to count the electoral votes. And the duty of the Vice-President, or President of the Senate, to preside simply, and act as the official organ of the two Houses in declaring such a result as the tellers—the agents of the two Houses—may report to him for declaration, has always been maintained as a logical deduction from the language of the Constitution itself. That is all he has to do. This resolution recognizes that duty as the limit of his powers under the Constitution. He is our organ merely—our mouth-piece to declare the result which the two Houses, through their agents, have found. That doctrine is recognized in this resolution. That is the old democratic doctrine; the doctrine maintained through all these years, and I congratulate the other side of the House that they have at last abandoned the revolutionary [derisive laughter upon the republican side] idea that the Vice-President is to count the electoral votes.

Mr. BICKNELL. I yield five minutes to the gentleman from Ohio, [Mr. KEIFER.]

The SPEAKER. The gentleman from Pennsylvania [Mr. O'NEILL] has been on the floor desiring recognition.

Mr. BICKNELL. I yield to the gentleman from Pennsylvania one minute.

Mr. O'NEILL. I simply desire to congratulate the people of the country that the Senate of the United States has passed in a patriotic and sensible way this concurrent resolution, and that it will pass the House, so that it will have passed both Houses of Congress prior

to the count of the electoral vote on Wednesday next. The people ought to be congratulated on this, and I for one want the vote taken without any delay so that we may place on the record our names by an aye-and-no vote as another precedent that we are patriotic enough to carry out the intention of the Constitution and the laws; so that we may count the vote on the day specified and inaugurate on the 4th day of March, as determined by the election and in the usual way, the distinguished men who have been elected President and Vice-President of the United States. [Cries of "Vote!" "Vote!"]

Mr. BICKNELL. I yield to the gentleman from Ohio [Mr. KEIFER] five minutes.

Mr. KEIFER. I do not rise for the purpose of specially opposing these resolutions. The first resolution is in the usual form, and it is wholly unobjectionable. The second resolution provides the alternative of not counting the vote of any State about which there may be a question. Of course that is directed, in this particular case, against the State of Georgia. It is seemingly an innocent expedient. It has precedent for it; but it is objectionable because it assumes a direction by Congress in the counting of the electoral votes. It undertakes to direct by a mere resolution of the two Houses what the President of the Senate shall do in the performance of a constitutional duty specially cast on him.

I deny that any power, whether the Vice-President or the Congress of the United States, has the right to say the counting of the vote of any State shall not take place, and I deny that there is any power anywhere to reject the vote of any State after it has been cast and properly certified and returned. I believe the election of President and Vice-President took place, in effect, at least, in November last. I believe that on the first Wednesday in December last the voice of the people was recorded through the electoral colleges over this country, and that the President and Vice-President of the United States were then elected, and that the forms we are about to go through here are mere forms provided and fixed by the Constitution. I believe that our action in the matter of counting electoral votes does not make or unmake the President or Vice-President.

In the presence of the two Houses the Constitution requires certain things to be done, which amounts only to a public declaration of an election of President and Vice-President which has already taken place.

After electoral votes are ascertained to have been cast, it would be high usurpation in any person, official, or body to reject them.

I wish to say a single word in reference to Georgia. If the question were presented here now, with the light I have upon that subject, I should, if I were to participate in determining it—and I do not see how that could possibly be under the Constitution—I should be in favor of counting the vote of Georgia, because I believe the people voted in November for electors for President and Vice-President. They then elected the electors of the State; and while those electors did not meet on the precise day fixed by the laws of the United States, still they seem to have in good faith met and cast their votes in accordance with the instructions and directions, so to speak, of the people of the State of Georgia. There was no fraud or intention to commit fraud or wrong. I do not hold that time can be the essence of that vote, although I admit if any fraud or any wrong were thereby committed, the State might be disfranchised for that reason.

Mr. COOK. I desire to ask the gentleman a question.

Mr. KEIFER. I will hear it.

Mr. COOK. Suppose the vote of Georgia changed the result of the presidential election, would you then vote for counting it?

Mr. CALKINS. I would if there were no fraud.

Mr. KEIFER. I do not admit, in the first place, that I would have or could have, under the Constitution and laws of the United States, any right to decide that question; but if I had, as I now understand it, I should vote under such state of case to admit the votes of that State in the count.

Mr. BICKNELL. I yield two minutes to the gentleman from Illinois, [Mr. STEVENSON.]

Mr. STEVENSON. Mr. Speaker, while I shall vote for the pending joint resolution, I regret that it is not so framed as to squarely meet the question as to whether the electoral vote of the State of Georgia shall be counted or rejected upon next Wednesday. Knowing that the distinguished gentleman from Indiana [Mr. BICKNELL] had given much thought and investigation to this subject, I called his attention to this matter a few moments ago and asked what conclusion he had reached in regard to this important question. But I regret to see that the temper of this House seems now to be in favor of evading rather than settling this question. For myself I agree with the gentleman from Connecticut, [Mr. HAWLEY,] that the people of the State of Georgia should not be deprived of the right to have their vote counted because of the ignorance or mistake of the officials of that State. A mere technicality cannot deprive the people of the right to be heard upon the most momentous question upon which they are ever called to act.

This identical question arose in 1857 in regard to counting the electoral vote of the State of Wisconsin. The electors failed to meet and cast the vote for President and Vice-President upon the day prescribed, having been delayed by a snow-storm. The question as to counting the vote of Wisconsin was raised in the joint session in February, 1857, but was soon settled, as the result did not depend upon that State.

Mr. Speaker, for the reason that the vote of the State of Georgia is not decisive of the presidential election, I urge that a precedent be now established. Let this question be now met and settled, so that the decision reached after a non-partisan discussion, and when the result will be unchanged by that determination, may stand as a precedent in our legislative history. Had this question arisen four years ago, the question of future party supremacy might have depended upon its settlement. In the temper the public mind then was, with such issues at stake, with the Senate and House under different party control, how utterly futile would have been any attempt to fairly determine this question. Possibly, sir, this question may come up at some future period of our history, when its decision shall be literally the determination of who shall be the President and Vice-President of the United States. Should such an exigency arise, it will be well for the country if a precedent has been established, assented to, and concurred in by all parties.

While I believe the vote of Georgia should be counted, yet, sir, I deem it far more important that a wise precedent be now established, to which we may confidently appeal amidst the turmoil of political excitement, and when the peace of the country is trembling in the balance.

Mr. BICKNELL. I yield one minute to the gentleman from Georgia, [Mr. COOK.]

Mr. COOK. My colleague [Mr. FELTON] has made something of an attack on the loyalty of the State of Georgia. In November, 1865, with two of my colleagues, I was in the constitutional convention of that State. In that convention the State of Georgia recognized the thirteenth amendment; and from that hour to this no act has ever been placed upon her statute-book in contravention of the power and authority of this Government. There is but one disloyal man in my State who denies the authority of this Government, and he is the strongest and ablest advocate whom the gentleman representing the seventh district [Mr. FELTON] has. He is the only Bourbon democrat in the State. He denounces this Government and everybody who does not kneel down and support the honorable gentleman, my colleague from the seventh district.

The people of Georgia are loyal to this Government. They recognize fully the power of Government under the Constitution, and there has been no act of the Legislature in opposition to it; and no party of the State of Georgia, no man except one, a special advocate and friend of my colleague, [Mr. FELTON,] defies in any manner whatever the power and authority of this Government.

As regards the time when the electoral college met, our governor made the same mistake as the President did when he appointed the Secretary of War to act as Secretary of the Navy for ten days, and again for ten days, until he found, when his attention was called to it by the Attorney-General, that he was exceeding his authority.

Mr. VALENTINE. Will the gentleman inform the House when the law under which the electoral college met was passed?

Mr. BICKNELL. I yield five minutes to the gentleman from Georgia, [Mr. HAMMOND.]

Mr. CONGER. I submit that in a fair distribution of time the floor should not be allotted to three or four on one side and then to one on another. Several gentlemen on this side have attempted to get the eye of the gentleman from Indiana, [Mr. BICKNELL,] but either because he wants to punish us for past conduct, or for some other reason, they have failed to obtain his recognition.

The SPEAKER. The gentleman from Indiana [Mr. BICKNELL] is in charge of the resolution and has control of the first hour for debate. During that hour the Chair has nothing whatever to do with assigning the floor to gentlemen. The Chair will state, however, that he thinks the gentleman from Indiana has shown a disposition to yield the floor to gentlemen on both sides of the House. On the side of the House where the gentleman from Michigan sits four gentlemen have spoken, the gentleman from New Jersey, [Mr. ROBESON,] the gentleman from Pennsylvania, [Mr. O'NEILL,] the gentleman from Connecticut, [Mr. HAWLEY,] and the gentleman from Ohio, [Mr. KEIFER.] The Chair thinks that upon examination it will be found that the time has been fairly divided.

Mr. HAMMOND, of Georgia. I desire simply to verify a statement which I made from memory while my colleague [Mr. FELTON] was upon the floor. I will read from the code of Georgia of 1861, which by law took effect on the 1st day of January, 1862. Section 1252 of that code is in these words:

On the twentieth day after said election shall have taken place it is the duty of the governor to consolidate the several returns and immediately notify those persons of their election who have received a vote amounting to a majority, and to require their attendance at the capitol on the first Monday in December thereafter to cast the vote of the State on the Wednesday following, at twelve o'clock m.

By a careless compilation that got into the code of 1862, and by oversight it also got into the code of 1868, and in that way misled the parties. I wish now to make one other quotation from every constitution of Georgia except that which she had during the war, to show her loyalty to the laws of the Union. (I quote from memory, but am correct as to the fact:)

The laws of force in this State shall be as follows: The Constitution of the United States as the supreme law; as next in order, treaties and statutes of the United States made and enacted pursuant to said Constitution; as next in order, the constitution of the State, and under that the statutes of said State of Georgia.

Allow me to make another remark. I reget that my colleague from Georgia [Mr. SPEER] should arraign the rest of us, both of his State

and of his party, for an alleged dereliction in duty, in order to justify what some have thought to be his violation of party allegiance and fealty. It may be a subject of congratulation to him that in his estimation now the tail wags the dog. Let it be so.

I desire, however, as I am in the line of quoting authorities, in reply to the suggestion of the gentleman that the independent is always right and everybody else is wrong, to quote a declaration from Coke's Institutes, made many years ago of course.

Lord Coke in the Fourth Institute draws a parallel between a useful member of Parliament—one possessed of all "properties a Parliament man should have"—and the Solomon of the bestial world, to wit, the elephant. "Every member of the House," he says, "being a counselor, should have three properties of the elephant: first, that he hath no gall; secondly, that he is inflexible and cannot bow; thirdly, that he is of a most ripe and perfect memory. * * * We will add two other properties of the elephant—the one that the elephant is *philanthropos, homini erranti viam ostendit*, (a philanthropist who showed the wanderer his road.) The other, that though they be *maximæ virtutis et maximi intellectus*, of greatest strength and understanding, *tamen gregatim semper incedunt*, yet they are sociable, and go in companies. Sociable creatures that go in flocks or herds are not hurtful, as deer, sheep, &c., but beasts that walk solely or singularly, as bears, foxes, &c., are dangerous and hurtful. [Great laughter.] And these properties ought every Parliament man to have." (Heard's Curiosities of the Law Reporters, page 183.)

Mr. BICKNELL. I now yield five minutes to the gentleman from Indiana, [Mr. CALKINS.]

Mr. CALKINS. I will not require five minutes to express my judgment, first upon the rule which has been brought here from the Senate, and next with reference to counting the vote of the State of Georgia, which has been incidentally referred to in this debate.

In the first place, I desire to say that it is well known to many of my colleagues that I do not agree that there is any power under the Constitution in the Vice-President to count the electoral votes of the States, in the sense of determining any question of fact. It certainly follows that if a man is to perform judicial functions in determining any question of fact, he must hear evidence to determine it. I do not agree that the Vice-President under the Constitution has any power to hear testimony or to decide any controverted question of fact.

Neither do I agree that the two Houses of Congress, acting separately or in joint convention, have any such power. My judgment is that in all instances which have arisen or which may arise hereafter relative to any disputed vote, the matter should be referred to some tribunal to be decided, and that all such cases are omitted cases in the Constitution.

Now, as to the vote of the State of Georgia, I want to say with my friend from Ohio, [Mr. KEIFER,] who was asked the question whether he would vote to count the vote of the State of Georgia if it decided a presidential contest—I want to be frank in all my political actions as I have tried to be in all other acts of my life—I believe that, although the law of Congress provides that the votes of the States shall be cast on a certain day, that cannot deprive and it ought not to deprive the people of any State of the choice they have honestly made at the polls.

If the people of Georgia, as I believe they did, honestly went to the polls and voted in November last, and that vote was counted and electors were chosen by a majority of the votes so deposited in the ballot-box, then the electoral vote of Georgia should be counted, and neither this Congress nor any other can afford to throw out the vote of any State upon any such mere technicality. That would make the chaff and the husks that cover the kernel greater than the kernel itself. These are but forms in order to ascertain and declare a given result. The great result was declared by the action of the voters themselves without fraud, and it ought to be counted. And if the vote of Georgia were necessary to be counted in order to decide the contest—if that vote were free from all fraud and we had the power to say whether it should be counted or not—I would vote to count it, though the result might be against my party.

Mr. BICKNELL. I now yield seven minutes to the gentleman from Ohio, [Mr. MCMAHON.]

Mr. MCMAHON. Mr. Speaker, the resolution now submitted to the House is construed by my distinguished friend from New Jersey [Mr. ROBESON] as the abandonment of the democratic position on this subject. Allow me to correct him. If the resolution contains anything whatever, it contains the assertion that the two Houses maintain their right to declare what may be counted, or how it may be counted; because it was as competent for them to pass a resolution that the vote of Georgia should or should not be counted as to declare that it should be counted in a particular way. The pending resolution says to the President of the Senate in terms that he has no control over the subject.

It is true that in providing for counting the vote we have failed to provide for other matters that are contained in the Morgan resolution. Why? Because they were unnecessary. Because the pressing business in hand is the declaration of the election of a President of the United States.

We all agree that one man has been elected. We desire to do no more than to settle the one proposition in this House, as it has been settled in the other, which necessarily protruded itself. We have for the present abandoned, as not a practical question at this time, the proposition whether the vote of a State may be rejected by the vote of one House or only upon the concurrent vote of two Houses. That is a question which is left open for the future. Whether the vote of the State of Georgia shall be counted or not, by reason of a failure to vote on the day fixed by law, is a question of no concern in this particular instance, however important as an abstract question, because either way the result will not be changed. Therefore we do not pass upon the question definitely. I am happy to see my friends on the other side so magnanimous as they now seem to be toward the State of Georgia, when her vote makes no difference in the result. We all smile on this side when we think of the situation in case Georgia's vote would have elected General Hancock. I am glad to hear those gentlemen say that the vote of the people as cast upon election day should prevail without reference to subsequent proceedings. But I remember four years ago when the sun went down on election day a majority of the people in Louisiana and Florida had voted for Samuel J. Tilden for President; and we thought then the election was settled. But when that vote had passed through the machinery of a returning board, the result turned out to be different. The certificates of the governors of those States were against us. We then thought we would look to the certificates of the other governors. When they came in we were not only deprived of the votes of the States of Florida and Louisiana, where the vote of the people had been for us, but we received no benefit from the certificate of the governor of Oregon, where the vote of the people had been against us. Thus in the State of Oregon the vote of the people prevailed, but in the States of Louisiana and Florida it did not. Only republicans can produce such glaring inconsistencies.

Mr. ROBESON. Was not the vote of the State of Oregon counted by the unanimous action of the electoral commission, including democrats and republicans alike?

Mr. MCMAHON. According to the original intention of the Constitution of our Government the election of President was not intended to be decided when the voters cast their votes for electors. The electors, it was supposed, would be chosen without any pledge to vote for any particular candidate. Indeed the idea of such pledge was distinctly repudiated. The presidential election, under that theory, did not take place upon the day when the people voted. But according to our modern practice every elector is chosen under a supposed pledge to vote for a particular person. Yet in 1876 neither the vote of the people as cast on election day nor the vote of the electors as certified by the governors of the respective States decided the presidential election; but that question was settled by some other power. A count intervened; and the declaration was made pursuant to the count and not the vote. Without expressing now any opinion upon this question, it seems, according to some of the precedents of the past, never to be determined who has been elected President until the two Houses have made the final declaration. That question, however, we now remit to the future. "Sufficient unto the day is the evil thereof." Let me suggest to gentlemen: Suppose the electors meet and decline to vote, or vote for another person. Are they prepared to say, under the Constitution as it now stands, that such action may be reversed by an appeal to the actual vote of the people? If so, by whom?

But we will pass over all these questions. The claim that the President of the Senate has any right to count the votes in the sense of settling any disputed question, is a heresy which is to-day stamped out forever, I think, by the action of the Senate, and our probable action to-day, not only in the passage of this resolution, but of an additional one declaring the intent and meaning of the one under consideration. It is thus made apparent that this one question is to be regarded as settled in our future politics now and forever. I want to say in the hearing of gentlemen on either side, (and if I misstate the position of any gentleman within the sound of my voice I hope he will take the liberty to interrupt me and make the necessary correction,)—I believe I speak also for the independent men from Georgia who have spoken on this occasion, (if I do not express their view I hope they will interrupt me,)—I think I speak the voice of the majority on this floor, certainly of every man on this side of the House, when I say that whatever may have been their views about the Morgan resolution, they are united upon the proposition that the President of the Senate has no right to count the votes for President and Vice-President; and with this declaration of the majority of both Houses, I hope this heresy is buried now and forever.

Mr. ROBESON. Before the gentleman takes his seat will he allow me one minute?

Mr. MCMAHON. Yes, sir.

Mr. ROBESON. I have called for a division of this question because the first resolution commits nobody on principle——

Mr. MCMAHON. I yielded to the gentleman for a question only.

Mr. ROBESON. The gentleman yielded to me one minute.

Mr. MCMAHON. For a question.

Mr. ROBESON. Very well. I have called for a division because the second proposition, although in terms it implies what the gentleman says, is an old proposition which has been upon the records of the country's history for more than thirty years, and has been held to bind nobody. If it were a new proposition, I might oppose some of its words and some of its inferences; but as it is old, I am willing to let it pass with the simple record of my opinion against it.

Mr. MCMAHON. The gentleman certainly has not asked me any

question. I want to say to the gentleman that there is no precedent upon record where the Vice-President of the United States has declared a man elected except as the mere organ of the two Houses. On the contrary, these old precedents, which the gentleman says settle nothing, settle what we settle here to-day; and that is that the Vice-President has not that right. And we shall vote upon this resolution intelligently, as the division called for will enable gentlemen to vote upon the second section by itself. It contains, as I have said, an absolute negation of the right of the Vice-President. Hence, many gentlemen on the other side will vote against it.

Mr. ROBESON. The gentleman does not expect me to answer?

[Here the hammer fell.]

Mr. BICKNELL. How much time have I left?

The SPEAKER. Two minutes.

Mr. BICKNELL. I yield for one minute to the gentleman from Pennsylvania, [Mr. BAYNE.]

Mr. BAYNE. Mr. Speaker, I have only one word to say. The first resolution I accede to because it follows the precedents adopted by the Government of the United States from the beginning of the Government down to the year 1865.

The second branch I object to for two reasons. First, I do not believe the will of a State should be overthrown on a technicality, but that the vote of Georgia should be counted if that vote were properly cast. My second reason for objecting to it is that the second branch of the proposition implies the right of the two Houses to consider whether or not the vote of Georgia shall or shall not be counted. I dissent from that right on the part of the two Houses and aver that the right under existing laws and under the Constitution resides in the Vice-President of the United States, in the President of the Senate, and that no action on the part of Congress can take from him that right.

The SPEAKER. The gentleman's time has expired.

Mr. BAYNE. I should like to have a minute more.

A MEMBER. Print.

The SPEAKER. Does the gentleman desire leave to print?

Mr. BAYNE. No, sir; I do not desire to print. [Laughter.]

The SPEAKER. Somebody suggested to print and the Chair supposed it was the gentleman's request.

Mr. BAYNE. No, sir.

Mr. BICKNELL. I now demand the previous question.

The previous question was seconded and the main question was ordered.

Mr. BICKNELL moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ROBESON. I demand a separate vote on each branch of the resolution.

The SPEAKER. A division being demanded the vote will first be on the first branch of the resolution which will be read.

The Clerk read as follows:

First. That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881, at twelve o'clock meridian, pursuant to the requirement of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be the presiding officer; that two persons shall be appointed tellers on the part of the Senate and two on the part of the House of Representatives to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected, to the two Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States; and, together with a list of votes, be entered on the journals of the two Houses.

Mr. O'NEILL. I should like to have the yeas and nays on the passage of the resolution.

Mr. ROBESON. Not on this branch?

Mr. O'NEILL. No; not on this branch.

The first branch of the resolution was agreed to.

The question recurred on the second branch, as follows:

Second. That if it shall appear that any votes of electors for President or Vice-President of the United States has been given on a day other than that fixed for casting such votes by act of Congress, in pursuance of the Constitution of the United States, if the counting, or omitting to count, such votes shall not essentially change the result of the election, they shall be reported by the President of the Senate in the following manner: Were the votes of electors cast on the —— day of ——, 1880, to be counted, the result would be for A B for President of the United States —— votes, and for C D for President of the United States —— votes; if not counted, the result would be for A B for President of the United States —— votes, and for C D for President of the United States —— votes; but in either event —— is elected President of the United States. And in the same manner for Vice-President.

Mr. CONGER and Mr. O'NEILL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 160, nays 77, not voting 55; as follows:

YEAS—160.

| | | | |
|---|---|---|---|
| Aiken, | Blackburn, | Cabell, | Clark, John B. |
| Atherton, | Bland, | Caldwell, | Clements, |
| Atkins, | Blount, | Calkins, | Clymer, |
| Baker, | Bouck, | Cannon, | Cobb, |
| Beale, | Bowman, | Carlisle, | Coffroth, |
| Belford, | Bragg, | Carpenter, | Colerick, |
| Beltzhoover, | Bright, | Chalmers, | Cook, |
| Bicknell, | Buckner, | Chittenden, | Covert, |
| Bisbee, | Burrows, | Clardy, | Cox, |
| Crapo, | Hawley, | McLane, | Simonton, |
| Cravens, | Hayes, | McMahon, | Singleton, J. W. |
| Daggett, | Hazelton, | McMillin, | Singleton, O. R. |
| Davidson, | Heilman, | Mills, | Smith, William E. |
| Davis, Joseph J. | Henkle, | Money, | Speer, |
| Davis, Lowndes H. | Herbert, | Morrison, | Springer, |
| De La Matyr, | Hill, | Morse, | Steele, |
| Deuster, | Hiscock, | Morton, | Stephens, |
| Dibrell, | Hooker, | Myers, | Stone, |
| Dick, | Horr, | New, | Talbott, |
| Dickey, | Hostetler, | Nicholls, | Taylor, Ezra B. |
| Dunn, | House, | O'Connor, | Thompson, P. B. |
| Dunnell, | Hunton, | O'Neill, | Tillman, |
| Elam, | Johnston, | O'Reilly, | Townshend, R. W. |
| Ellis, | Jones, | Persons, | Tucker, |
| Evins, | Kelley, | Phelps, | Turner, Oscar |
| Ewing, | Kenna, | Philips, | Turner, Thomas |
| Felton, | Killinger, | Phister, | Upson, |
| Ferdon, | Kimmel, | Poehler, | Vance, |
| Field, | King, | Prescott, | Waddill, |
| Finley, | Kitchin, | Reagan, | Warner, |
| Fisher, | Klotz, | Rice, | Wellborn, |
| Forney, | Ladd, | Richardson, J. S. | Wells, |
| Frost, | Le Fevre, | Robinson, | Whiteaker, |
| Geddes, | Lindsey, | Rothwell, | Whitthorne, |
| Goode, | Lounsbery, | Ryon, John W. | Williams, Thomas |
| Gunter, | Manning, | Samford, | Willis, |
| Hall, | Martin, Benj. F. | Sawyer, | Wilson, |
| Hammond, N. J. | Martin, Edward L. | Scales, | Wise, |
| Harris, John T. | McGowan, | Scoville, | Wright, |
| Hatch, | McKenzie, | Shelley, | Yeates. |

NAYS—77.

| | | | |
|---|---|---|---|
| Acklen, | Deering, | Marsh, | Smith, A. Herr |
| Aldrich, William | Dwight, | Mason, | Thomas, |
| Anderson, | Ford, | McCoid, | Thompson, W. G. |
| Bailey, | Forsythe, | McKinley, | Townsend, Amos |
| Ballou, | Fort, | Miller, | Tyler, |
| Bayne, | Frye, | Monroe, | Updegraff, J. T. |
| Blake, | Godshalk, | Neal, | Updegraff, Thomas |
| Boyd, | Harmer, | Orth, | Urner, |
| Brewer, | Harris, Benj. W. | Osmer, | Valentine, |
| Briggs, | Haskell, | Pacheco, | Van Voorhis, |
| Brigham, | Hawk, | Pound, | Wait, |
| Browne, | Henderson, | Price, | Ward, |
| Camp, | Houk, | Ray, | Weaver, |
| Conger, | Hubbell, | Reed, | Willits, |
| Converse, | Hurd, | Richardson, D. P. | Wood, Walter A. |
| Cowgill, | Joyce, | Robeson, | Young, Casey |
| Crowley, | Keifer, | Ryon, Thomas | Young, Thomas L. |
| Culberson, | Lapham, | Shallenberger, | |
| Davis, George R. | Loring, | Sherwin, | |
| Davis, Horace | Lowe, | Slemons, | |

NOT VOTING—55.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Gibson, | Muldrow, | Smith, Hezekiah B. |
| Armfield, | Gillette, | Muller, | Sparks, |
| Bachman, | Hammond, John | Murch, | Starin, |
| Barber, | Henry, | Newberry, | Stevenson, |
| Barlow, | Herndon, | Norcross, | Taylor, Robert L. |
| Berry, | Humphrey, | O'Brien, | Van Aernam, |
| Bingham, | Hutchins, | Overton, | Voorhis, |
| Bliss, | James, | Page, | Washburn, |
| Butterworth, | Jorgensen, | Richmond, | White, |
| Caswell, | Ketcham, | Robertson, | Wilber, |
| Claflin, | Knott, | Ross, | Williams, C. G. |
| Clark, Alvah A. | McCook, | Russell, Daniel L. | Wood, Fernando |
| Einstein, | Miles, | Russell, W. A. | Yocum. |
| Errett, | Mitchell, | Sapp, | |

So the second branch of the resolution was agreed to.

During the roll-call,

Mr. DAVIS, of Illinois, said: My colleague, Mr. BARBER, is detained at his room on account of illness. I endeavored to obtain a pair for him, but have not succeeded.

Mr. HUTCHINS. I am paired with Mr. KETCHAM; if not, I should have voted in the affirmative.

Mr. SCALES. I am paired with Mr. ERRETT except when necessary to make a quorum. As this does not seem to be a political question, I have voted.

The following pairs were announced from the Clerk's desk:

Mr. ERRETT with Mr. SCALES, until Monday next.

Mr. SMITH, of Georgia, with Mr. WILBER, on political questions.

Mr. STEVENSON with Mr. MITCHELL. If Mr. MITCHELL were present, Mr. STEVENSON would vote in the affirmative.

Mr. RICHMOND with Mr. JORGENSEN, on political questions, after Saturday, the 5th instant, till further notice.

Mr. BLISS with Mr. CLAFLIN.

Mr. BINGHAM with Mr. FERNANDO WOOD.

Mr. HURD with Mr. BUTTERWORTH.

Mr. HERNDON with Mr. SAPP.

Mr. HUTCHINS with Mr. KETCHAM.

Mr. JAMES with Mr. O'BRIEN.

Mr. CASWELL with Mr. BACHMAN, on political questions.

Mr. MCCOOK with Mr. MULLER, on political questions.

Mr. SINGLETON, of Illinois, with Mr. MILES.

Mr. OVERTON with Mr. TAYLOR of Tennessee.

Mr. ROSS with Mr. RUSSELL of Massachusetts.

Mr. HAMMOND, of New York, absent on account of sickness, with Mr. SMITH, of New Jersey.

Mr. SPARKS. I sent a written notice of a pair on yesterday which has not been read.

The SPEAKER. If it refers to the present vote it will be read.

Mr. SPARKS. On yesterday I sent a continuous pair for a certain

time. I desire to state that I am paired with the gentleman from Pennsylvania, Mr. WHITE.

The result of the vote was then announced as above recorded.

Mr. BICKNELL moved to reconsider the vote by which the concurrent resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE TO PRINT.

Mr. HOOKER. Mr. Speaker, before leaving this subject, I desire to do what I have seldom or never done since I have been a member of this House, and that is, as I had no opportunity to discuss the question presented by this concurrent resolution, I ask leave to print some remarks in connection with it.

There was no objection. [See Appendix.]

ARCTIC EXPLORING EXPEDITION.

Mr. WHITTHORNE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table and put upon its passage Senate bill No. 2131, providing for a search for the missing steamer Jeannette of the arctic exploring expedition.

The SPEAKER. The title of the bill will be read, after which the Chair will ask for objections.

The Clerk read as follows:

A bill (S. No. 2131) appropriating money, to be used under the direction of the Navy Department, to prosecute a search for the steamer Jeannette of the arctic exploring expedition.

The SPEAKER. Is there objection to the present consideration of the bill? The Chair hears none. The bill will go to the Committee of the Whole House on the state of the Union for consideration.

Mr. KEIFER. Why not put it upon its passage at once?

The SPEAKER. It might be done by consent.

Mr. WHITTHORNE. Then I ask unanimous consent to put it upon its passage.

The SPEAKER. Without objection the bill will be read, after which the Chair will again ask for objection.

The Clerk read as follows:

*Be it enacted, &c.*, That the sum of $175,000, or so much thereof as may be necessary, be and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be applied under the direction of the Secretary of the Navy to the immediate charter or purchase, equipment, and supply of a vessel in the prosecution of a search for the steamer Jeannette, of the arctic exploring expedition, and such other vessels as may be found to need assistance during said cruise.

Mr. MILLS. I make the point of order that this bill, which makes an appropriation, originated in the Senate instead of in the House where it should have originated.

The SPEAKER. The bill is now before the House by unanimous consent, and the Chair inclines to think it is too late to make objection to its consideration.

Mr. MILLS. The point of order I make is that the bill under the Constitution should have originated in the House of Representatives.

The SPEAKER. In view of the fact that unanimous consent was given for the present consideration of the bill, the Chair inclines to think the objection too late.

Mr. MILLS. The bill has just been read. I could not have objected sooner.

Mr. CHALMERS. The gentleman should have made objection before consent was given to the consideration of the bill and before it was read.

Mr. MILLS. I could not tell what the bill contained or know that it made an appropriation until after the bill was read.

The SPEAKER. The title of the bill discloses the fact that it makes an appropriation, but the Chair will not in haste take advantage.

Mr. KEIFER. I demand the regular order.

Mr. WHITTHORNE. I trust my friend from Texas will withhold his objection just at this time. Every motive of humanity should prompt us to pass this at once. The lives of our seamen and the crew of that vessel are imperiled, and steps should promptly be taken to liberate them if they can be found. I hope, therefore, he will withdraw his objection.

Mr. MILLS. If this matter was so urgent, why did not the House originate it?

The SPEAKER. The Chair recognized the gentleman from Tennessee to make the motion because of the fact that the subject relates to the lives of American seamen and citizens now in jeopardy, and prompt action, the Chair thinks, should be taken.

Mr. MILLS. What did the Chair do with my point of order?

The SPEAKER. The Chair has not made any decision on the point of order made by the gentleman from Texas.

Mr. ATKINS. Mr. Speaker, I sympathize most heartily with the object of this bill. I am as much in sympathy with suffering humanity as my colleague from Tennessee can possibly be. But there is another and an important question involved in this, one that may establish a dangerous precedent as to the right of the Senate to originate appropriation bills. I believe, sir, that no more important question can present itself for our consideration. I believe that this right, existing in the popular branch of our system of government, is the foundation and bulwark of our civil liberty. Break down that barrier, and you destroy the bulwark of civil liberty in this country. I believe there is no more centralizing doctrine that the enemies of free government could advance than the claim that the Senate shall exercise this right. It is at war with the whole history of constitutional government in this country and of civil liberty everywhere. I object to establishing such a precedent here. I hope the bill will be allowed to take the usual course.

The SPEAKER. The Chair desires to say that he has allowed this bill to be presented here for reasons of humanity. He is unwilling to make a decision upon this point, for the reason that the same point has been made upon another bill, which was referred to the Committee on the Judiciary; and the Chair is advised that they have fully considered the questions involved and have prepared a report——

Mr. ALDRICH, of Rhode Island. They have already made a report.

The SPEAKER. They have reported, and the report has been recommitted for review, or with the intention of bringing it up on a question of privilege.

Mr. WHITTHORNE. I was just going to state that this is a question in which I sympathize with my colleague from Tennessee, and also with the gentleman from Texas, who makes the point of order. I agree with them. It is an important question, a judicial question, a constitutional question, which has been referred to the Judiciary Committee, which has undergone their consideration, which has been reported upon and the report recommitted, and which will come before the House in an appropriate manner to be determined. Now, sir, in view of all the facts and circumstances concerning this question, I trust my friend from Texas [Mr. MILLS] and my colleague from Tennessee [Mr. ATKINS] will waive pressing the question of order. And besides, I consider they are rather late in making the suggestion.

Mr. ATKINS. I could not consent, so far as I am concerned, because it would be giving away the position taken by this House. I object to the consideration of the bill.

Mr. SPRINGER. I submit it is not a parliamentary question to be addressed to the Chair for his decision, whether any bill is or is not unconstitutional, and therefore to be suppressed by the Speaker as out of order. That is a question to be addressed to the House. We must decide whether a bill before us is constitutional or not. The only question in regard to a bill to be submitted to the Chair is whether or not it is in order under our rules.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] now states that he objects to the consideration of the bill.

Mr. SPRINGER. That is another question.

The SPEAKER. That is done under the rule, and the gentleman from Tennessee, the Chair supposes, takes the same ground as the gentleman from Texas, that he could not exercise his right to object until he knew what was in the body of the bill.

Mr. ATKINS. I might reply to my colleague, [Mr. WHITTHORNE,] who, I believe, sympathizes with me in principle on this question, that the Committee on Appropriations could prepare a bill, as far as that is concerned, for this purpose, and send it to the Senate, and it would become a law just as soon as this.

The SPEAKER. The Chair would suggest that the bill had better be referred to the Committee on Appropriations.

Mr. ATKINS. I think it should take that course.

Mr. McLANE. I desire to have the rule read to which the gentleman from Tennessee [Mr. ATKINS] refers.

The SPEAKER. What is asked in this case is unanimous consent to take up the bill for consideration out of the order provided by the rules.

Mr. ATKINS. My point is that this bill is in violation of the order prescribed by the Constitution of the country for the origination of bills.

Mr. McLANE. I do not agree with the gentleman as to that.

Mr. ATKINS. You cannot by any possibility dissever a revenue bill from an appropriation bill.

Mr. McLANE. A revenue bill and an appropriation bill are not one and the same thing. I think the Senate has a perfect right to originate that bill.

The SPEAKER. The Chair has not attempted to decide, in view of the question being before the House for its determination, on a report from the Judiciary Committee, as to the constitutional right of the Senate to originate such a bill, no matter what his own individual judgment and opinion may be thereon. But the Chair does recognize the right of the gentleman from Tennessee [Mr. ATKINS] to raise the question against its consideration, unanimous consent being required, the gentleman from Tennessee stating that he availed himself of the opportunity, when presented after the reading of the bill, to make objection to unanimous consent.

Mr. HARRIS, of Virginia. Why not vote upon the question of consideration?

The SPEAKER. Because to consider the bill requires unanimous consent, and the gentleman from Tennessee practically objects, which he has right and privilege to do under the rules of the House.

ORDER OF BUSINESS.

Mr. ATKINS. Would it be in order to move now to take up the apportionment bill?

The SPEAKER. The Chair has recognized the gentleman from New York [Mr. COX] for that purpose.

Mr. ATKINS. I think we will get through with the appropriation bill more quickly if we get this bill disposed of in the first instance.

Mr. COX. I move to dispense with the morning hour.

The SPEAKER. That requires a two-thirds vote.

The question being taken the morning hour was dispensed with, (two-thirds voting in favor thereof.)

Mr. KELLEY. I ask the gentleman from New York to yield to me for a moment.

Mr. COX. I must insist on the regular order.

APPORTIONMENT OF REPRESENTATION.

The SPEAKER. The regular order being demanded, the House resumes the consideration of the unfinished business, being the bill (H. R. No. 7026) making an apportionment of Representatives in Congress among the several States under the tenth census. The gentleman from New York in charge of the bill will please indicate who desires the floor at this time.

Mr. COX. The gentleman from Indiana [Mr. COLERICK] was on the floor when the House adjourned pending the consideration of this bill. He had yielded half of his time to the gentleman from Pennsylvania, [Mr. RYON.]

The SPEAKER. The Chair is advised that the gentleman from Indiana [Mr. COLERICK] has thirty minutes of his hour remaining.

Mr. O'NEILL. I desire at this time to ask the gentleman from New York how long this debate is to go on?

Mr. COX. In answer to the gentleman's inquiry, I will say Monday is given away to the District of Columbia Committee——

A MEMBER. Not next Monday.

Mr. COX. Well, Monday is suspension day and will be otherwise occupied. Wednesday is the day for the electoral count. On Tuesday, as I understand, the Appropriations Committee desire the legislative appropriation bill to be taken up. In order, therefore, to have a vote on this bill, I propose to call the previous question on it about five o'clock this afternoon.

Mr. HARRIS, of Virginia. Say four o'clock.

Mr. COX. And I will say that I will agree to divide the hour to which I will be entitled as chairman of the committee to gentlemen on both sides fairly, for amendments and for speaking.

Mr. ATKINS. I suggest to the gentleman from New York that he fix the limit of debate at half past four or four o'clock. I suggest it would be utterly impossible for all the gentlemen who desire to speak on this bill to do so between this and five o'clock. He had therefore better fix it at four o'clock. When so many have to be denied, two or three more may as well be denied. Let an opportunity be then afforded for offering an amendment, and let the vote be taken some day next week.

The gentleman from New Hampshire has intimated to me that he proposes a portion of Tuesday next shall be devoted to the funeral obsequies of his deceased colleague. I shall ask the House to take up the legislative bill during the portion of that day not so occupied. After that we will not be able to proceed with the legislative bill before Thursday, at best. I hope, therefore, the debate on the apportionment bill will be concluded to-day, and all the amendments offered so that the vote may be taken some day early next week, that we may then proceed without interruption with the appropriation bills.

Mr. CALKINS. There are many gentlemen on this side of the House, or some at least, who desire to discuss this question. I desire to say that it will, in my opinion, not advance the bill, nor will it be very likely to facilitate action upon it should the previous question be called at the hour suggested by the gentleman from New York. I hope that debate on this bill may be extended for such time as will allow members to be heard upon it. For my part, I am utterly opposed to having the previous question called to-day at all.

Mr. FINLEY. I want to say to the gentleman from New York that there are three or four members of the Select Committee on the Census who have not yet had an opportunity to speak upon this measure. Instead of now fixing the time at which the previous question shall be called, I suggest to the gentleman that the debate be permitted to continue until five or half past five o'clock this evening, and if the House is then in a temper to have the previous question ordered it will be time enough to call it then.

The SPEAKER *pro tempore*. This discussion is entirely by unanimous consent.

Mr. COX. I will let the debate run on until the temper of the House can be ascertained upon the subject of calling the previous question.

Mr. FINLEY. That is better.

Mr. CONGER. I desire the gentleman to consent that amendments may be offered and voted upon.

Mr. COX. I do not desire to shut out any amendments.

Mr. CONGER. Let amendments be offered and voted upon before the previous question is called.

Mr. COX. I apprehend there will be no difficulty on that point. I have no desire to cut off any amendment, and if there was time I would not shut out any debate.

Mr. CONGER. When general debate is closed the five-minute rule might be applied to amendments.

Mr. COX. We can arrange that by consent.

Mr. HOOKER. I call for the regular order.

Mr. O'NEILL. The gentleman from New York [Mr. COX] has not answered my question, whether he is going to insist upon a vote to-day.

The SPEAKER. The regular order is called for, and the gentleman from Indiana [Mr. COLERICK] is entitled to the floor.

Mr. COLERICK addressed the House. [See Appendix.]

Mr. DAGGETT. I take the floor and yield my time to the gentleman from Connecticut.

Mr. HAWLEY. Mr. Speaker, I shall take but a few minutes of the hour which my friend from Nevada has so kindly given me. I fear the House is not deeply interested in any further detailed discussion of this bill; but there are one or two matters which I wish to lay before it by way of suggestion. The number of Representatives is already considerably large, and I am individually of the opinion it is large enough. But I do not quite agree with those gentlemen who find fault with its size and desire a reduction. There is an advantage in a large House, and as that is a relative term, I would say a large House of three hundred members. There is a greater variety of talent in it. There are more men to be found capable of being profitably devoted to specialties. There is a large aggregate mass of intelligence. On every subject of legislation there will be some men found well informed. It is a larger jury, not bound as the ordinary jury to absolute unanimity, but on the whole, after fair argument, coming to just decisions.

There is safety up to certain limits in the multitude of counselors, in the multitude of jurors. Again, a House of good size is less liable to corrupting influences; less liable to the undue influence of corporations or special interests.

I do not criticise unfavorably, but we in Connecticut, with a lower house of some two hundred and fifty members, have, in my judgment, a decided advantage over the Empire State with one hundred and twenty-eight members in its lower house. I am quite sure I would rather trust the majority of questions coming up to modern legislative bodies, the questions coming now before them for consideration, to a large body coming directly from the masses of the people than to a small body. I think we are safer with our two hundred and fifty freemen coming from the masses of our people as judges than that large State with its gigantic pecuniary interests and only one hundred and twenty-eight members. In a district which is limited in extent, where there can be exercised over the Representative that personal power and influence which arise from proximity, which arise from personal acquaintance and neighborhood, that influence is a larger factor in the total than where the constituency is 300,000 or 400,000. With a very large constituency there are comparatively few whom a Representative can call personal friends and neighbors. It is of their good opinion that he will frequently think, and it is their influence that will to a large degree control his actions.

Therefore a reasonably small constituency is an advantage. The House is now, in my judgment, at a proper figure. I would not consent to reduce it very greatly, neither would I willingly consent to a material increase. I am inclined to favor the bill proposed by the gentleman from New York, [Mr. COX,] which contemplates fixing the number at three hundred and one members. There are some other objections to an increase that I have not referred to.

I believe, Mr. Speaker, this is the only popular national assembly in the world that permits itself to be encumbered by desks. Certainly the French Assembly does not, neither does the House of Commons permit their use. It is in one sense a great hinderance to the public business as well as an inconvenience of a deliberative body. I suppose, however, that it would be practically impossible to induce this House to abandon the desks; but we could more easily get along with an assembly of five hundred members, if we were to do so, than we can get along with three hundred by retaining them.

But that induces me to consider another point. We have the desks here. Now, the necessity for them results from the fact that in a majority of cases we are overwhelmed with a class of private business that ought never come before this body; and I say to the younger men who may hope to have many years of public life before them, that the greatest reform to come into the National Congress is the unloading of this illimitable mass of private business. We are, sir, the only deliberative assembly in the world of any magnitude that permits this—that makes this a justice's court, so to speak—the only one. I have in my desk here an "order of business" of the House of Commons. There is no such private calendar upon that as we have in ours. There is nothing of the kind in the French Assembly. This private business consumes the larger part of our time. It is not only an incumbrance to public business, but it is a shame that Congress should permit it. A fraction only of the claims presented get through. I believe that nine-tenths of them are perhaps founded in justice; but no matter whether they are or not, I suppose the parties who present them believe them to be just, or they would not haunt the Halls of Congress year after year, and they are entitled to a hearing and a decision somewhere. I believe also that the great majority of the private claims that pass through the House are correct and just, but they constitute a very small fraction of the mass that are presented; claims that we do not see; claims that after having been for years and years thrust upon the committees of the House are abandoned, heard of no more, the claimants giving them up in utter despair. It is a moderate calculation that the consideration of these claims takes up one-half of the time of the House.

We devote one day to the consideration of nominally private claims, which is practically about one-fifth of the time of the House, but they are brought before us in one way or another from all committees dur-

ing every legislative session. It would, perhaps, be speaking within bounds to say that when one-half of our time, in session, in committee, and in our correspondence, is consumed by matters that should never come before us at all, there is a great reform to be reached in this direction. I see no reason why this Government, as it chooses its own judges, as it appoints its own attorneys, should not open its courts to the great masses of these private claimants and give these citizens such an opportunity for a fair hearing as they can never have before Congress. There might be a broad but judicious enactment to refer such demands to several tribunals like the Court of Claims, or to some special officers with duties similar to those of masters in chancery, to examine and audit and report them to Congress for appropriations. And we could from time to time lay down by general laws the limitations and instructions to such courts or officers. In short we could remove this business from these committees and give it to the regularly established courts. The present method is grossly insufficient. The hearing is purely *ex parte*. A member comes into his committee-room and the chairman gives him a large mass of papers such as he would not as a lawyer undertake to study thoroughly and report upon but for a large fee. He calls no witnesses; he has to proceed on affidavits made up with no opportunity on the part of the Government to cross-question; the evidence is altogether *ex parte;* he is expected to study it, night after night, and bring in an elaborate report, and, if the sum be at all considerable, he lays himself open, for the slightest negligence or oversight, for which he may not be at all in fault, to be made the subject of national scandal.

All this is wrong. The British Government disposes of the matter otherwise, by a certain petition of right which is referred to the proper tribunals. And that we must and can do. Then we shall be freed from a large share of the correspondence that requires these desks, and from anxieties and labors that render it impossible for members to give due study to great and serious public business.

Then, if you choose, you can enlarge your House; but I do not know if I would do that even under those circumstances. This House, whether it be composed of one hundred or a thousand members, is sitting here in this Hall a unit. That unit has less effective legislative power when you make it a thousand than it has when you make it fifty, because of the multitude of interruptions and appeals and points of order and divisions, &c. Fifty men could work to greater advantage, could get rid of a much greater amount of business than the five hundred under any possible circumstances. We lose in the effectiveness and rapid dispatch of business by large numbers.

As this nation grows in population the number and importance of the claims very greatly increase. But as you enlarge the House the effectiveness of the tribunal that disposes of them is rather diminished. If this is to be merely a court of claims, it would be better if it were composed of nine or fifteen gentlemen, sitting constantly as a court with fifty or sixty others sitting as masters in chancery to take evidence and report. And we shall degenerate into something of that sort. We have done so already to a very large extent. I say "we shall"—no, sir. As time goes on, unless we reform this House, we shall be utterly overwhelmed by this amount of business until national scandals and the voice of the people compel its reform. This is the only Government which permits itself to be tormented in that way.

Now, sir, one other point. The fourteenth amendment, so far as I have been able to observe, does not come into question in this apportionment. That is my individual opinion. I am aware that there are practical evasions of that amendment. I am compelled to believe that in portions of the country men are denied their equal rights largely by reason of race, color, and previous condition of servitude, by reason of accidents of humanity which it is not within their power to overcome. But this denial, so far as I have observed, does not come in the form of any constitutional provision or statute. If so, we should be at liberty and should be bound to take notice of it and reduce the representation of the offending State accordingly. But I believe every constitutional provision or statute on the subject of the suffrage is on the face of it just, or at least apparently impartial, so that there is nothing left for us to do; and the denial of free suffrage and evasion of the Constitution are effected outside of law, by local sentiment and unlawful combinations and processes which it is the duty of the local courts to remedy, which they can and should remedy, and will remedy when the public opinion of the localities shall have become sound. I fear the evils are beyond the reach of congressional action, save so far as they can be reached in the case of individual members or applicants for seats claiming an election in the face of gross frauds and outrages. Then the public sentiment of the nation can be manifested through prompt rebuffs of the unjust claimant until it shall be seen that elections conducted with fraud and violence are useless. Sir, it is the absolute and irrevocable determination of the American people that there shall be a fair, free ballot throughout the country; and those men are the great enemies, the dangerous foes of State rights who, under that pretense, shelter themselves in inflicting wrongs and making exclusions of any character whatever; for the time may come when the great prevailing demand, the great overwhelming sense of justice of the American people will say that if justice cannot be done under these old limitations of State rights, we must break them down and assume for a national government a wider and a greater power. I shall regret to see that day, but it can be made to come by a persistent outrage and denial of justice.

I hold that the regulations, the qualifications required by my State, for example, are not such as to bring it under the fourteenth amendment at all. We exact no qualification of consequence beyond the usual limitations of citizenship and residence except that it is required that the applicant for suffrage shall be able to read. Every man before he is registered and sworn as a voter is required to take the statute-book in his hand at a page which may be opened by any one of the board that admits him and show that he can read from it. And any member of the board—and we have minority representation upon it, so that there are always republican and democratic members on the board of selectmen—any member of the board can take the book and open it at another place, from which the applicant is required to read, in order to detect fraudulent preparations for the test.

Mr. HARRIS, of Massachusetts. And that is done sometimes by democratic members?

Mr. HAWLEY. There are always republican members and always democratic members on the board; both parties are represented.

Now, I hold that to be a perfectly just and proper requirement in the case of a State that ever since the Rev. Thomas Hooker with his congregation came through the wilderness from Boston and founded the colony of Connecticut, bringing the church and the school with him, has maintained a system of public schools. Such a State has a right to say that a man twenty-one years of age who cannot read ought to have learned to read. And even if he be an adopted citizen, certainly during his five years of probation he could have learned to read if he had common sense and the slightest power of application. With our New England traditions we hold that to be a fair and just requirement.

Of a similar character, so far as the fourteenth amendment is concerned, though to be defended on other grounds—I do not undertake to defend it at all—is the small property qualification in some States, not in mine. That qualification, and the reading qualification, and the one that requires a certain term of residence are all such that a man may overcome them. They are not fatal bars to his right to vote, not imposed by reason of his foreign birth, his race, color, religion, or previous condition of servitude. They are qualifications and limitations applied to all men alike and which any man can himself overcome. Therefore they do not come within the fourteenth amendment.

I have stated that from a large House the States would derive no increase of power. Let me illustrate: In a House of 10,000 members the States would be no better off proportionately than they are now. The delegations of the States would increase in due ratio; the fractions would be finer, it is true; but you can never overcome all fractions until you make a House of more than forty-nine millions of members; that is, until you call every man, woman, and child of this nation to assemble in grand convention.

You cannot escape fractions in any way. The only question is, what is a fair number for this legislative body? What number can you take and what can you fairly give where there are very large fractions? You are not bound to give any for fractions; it is a matter of equity. You may arbitrarily divide the population and leave the matter there, and in a long series of years the injustice to the various States would be equalized. The individual member grows less and less in importance as the body grows larger in numbers. His State has no more power from her increased number of Representatives and he himself has less. The body, the legislative unit itself, becomes less effective, both the body and the individual member, as the number increases. You gain nothing in the average by increasing the whole number. As you run along up the numbers from two hundred and ninety-three to three hundred and one, three hundred and seven, three hundred and eleven, three hundred and nineteen, three hundred and twenty-five, and three hundred and twenty-nine, there are States all the way up which obtain certain advantages, but they are obtained at the expense of other States.

I care very little whether at a certain station the republicans gain four or the democrats gain four. In the end the gains amount to very little in comparison with the whole, looking over the ten years to come. The gains are small, are temporary, are mere accidents of the elections. The next election may give twenty-five republican majority here (I hope it will give at least fifteen) or it may give a small democratic majority. But in laying down rules for the good of the whole nation I do not care to regard that matter, unless I find a disposition to adopt a particular number for the sake of gaining some advantage of that sort. In that case I might feel driven to meet that disposition with an attempt to adopt another number which would give no State any advantage. For example, between the numbers two hundred and ninety-three and three hundred and eleven I would take three hundred and nine. But I am content to stop at three hundred and one, with the gentleman from New York, [Mr. COX,] whom I thank for his statesmanlike speech.

Gentlemen forget sometimes that running along up in the numbers their States lose largely. So long as the number of the Representatives of your State remains fixed you lose power by the increase of the total of the House. Take my own State of Connecticut. Fortunately, in one sense, we retain our four members by a very heavy fraction. There is no change in the representation of Connecticut at any point in raising the total from two hundred and ninety-three to three hundred and twenty-nine.

I called upon my friend, Mr. Elliott, the statistician of the Treasury

Department, to verify and accurately extend certain calculations. I find that as we go from two hundred and ninety-three to three hundred and twenty-nine, Connecticut loses 10.94, substantially 11, per cent. of her proportionate power, because the total increases while her delegation remains unchanged. I call attention to a table, prepared by Mr. Elliott, which I will print with my remarks, because it may be interesting to some gentlemen. It shows proportionate losses during the successive stages of an increase of the total. We study long in order to ascertain how we may gain a member in this State or that State, forgetting that in order to reach that gain we proportionately rob some other State.

*Table showing the States with reference to which the number of Representatives in Congress remains unchanged, while the entire number of Representatives in Congress is increased from one of the smaller to a larger of the following numbers, namely: 293, 301, 307, 311, 319, 325, and 329; also, showing the proportion in which the relative influence or weight of the State in Congress is diminished by such increase in the aggregate number, its own number of Representatives remaining unchanged; and the percentage of loss in each stage.*

| States. | The number of Representatives assigned to a State remaining unchanged, while entire number of Representatives in Congress is increased— | | The relative influence of the State is diminished— | |
|---|---|---|---|---|
| | From— | To— | Ratio of 100 to— | Per cent. |
| Alabama | 301 | 329 | 91.49 | 8.51 |
| Arkansas | 293 | 329 | 89.06 | 10.94 |
| California | 293 | 311 | 94.21 | 5.79 |
| California | 319 | 329 | 96.05 | 3.95+ |
| Colorado | 293 | 329 | 89.06 | 10.94 |
| Connecticut | 293 | 329 | 89.06 | 10.94 |
| Delaware | 293 | 329 | 89.06 | 10.94 |
| Florida | 293 | 307 | 95.44 | 4.56 |
| Florida | 311 | 329 | 94.53 | 5.47 |
| Georgia | 293 | 307 | 95.44 | 4.56 |
| Georgia | 311 | 329 | 94.53 | 5.47 |
| Illinois | 301 | 311 | 96.78 | 3.22 |
| Illinois | 319 | 325 | 98.15— | 1.85— |
| Indiana | 293 | 307 | 95.44 | 4.56 |
| Indiana | 311 | 329 | 94.53 | 5.47 |
| Iowa | 293 | 319 | 91.85 | 8.15 |
| Iowa | 325 | 329 | 98.78 | 1.22 |
| Kansas | 293 | 319 | 91.85— | 8.15+ |
| Kansas | 325 | 329 | 98.78 | 1.22 |
| Kentucky | 293 | 311 | 94.21 | 5.97 |
| Kentucky | 319 | 329 | 96.05— | 3.95+ |
| Louisiana | 301 | 329 | 91.49 | 8.51 |
| Maine | 293 | 329 | 89.06 | 10.94 |
| Maryland | 301 | 329 | 91.49 | 8.51 |
| Massachusetts | 301 | 311 | 96.78 | 3.22 |
| Massachusetts | 319 | 329 | 96.05— | 3.95+ |
| Michigan | 293 | 311 | 94.21 | 5.79 |
| Michigan | 319 | 329 | 96.05— | 3.95+ |
| Minnesota | 293 | 329 | 89.06 | 10.94 |
| Mississippi | 293 | 325 | 90.15+ | 9.85— |
| Missouri | 293 | 307 | 95.44 | 4.56 |
| Missouri | 311 | 329 | 94.53 | 5.47 |
| Nebraska | 293 | 329 | 89.06 | 10.94 |
| Nevada | 293 | 329 | 89.06 | 10.94 |
| New Hampshire | 293 | 329 | 89.06 | 10.94 |
| New Jersey | 293 | 325 | 90.15+ | 9.85— |
| New York | 307 | 311 | 98.71 | 1.29 |
| North Carolina | 293 | 301 | 97.34 | 2.66 |
| North Carolina | 307 | 329 | 93.31 | 6.69 |
| Ohio | 293 | 301 | 97.34 | 2.66 |
| Ohio | 307 | 311 | 98.71 | 1.29 |
| Ohio | 319 | 329 | 96.05 | 3.95 |
| Oregon | 293 | 329 | 89.06 | 10.94 |
| Pennsylvania | 307 | 311 | 98.71 | 1.29 |
| Pennsylvania | 319 | 325 | 98.15+ | 1.85— |
| Rhode Island | 293 | 329 | 89.06 | 10.94 |
| South Carolina | 293 | 319 | 91.85— | 8.15+ |
| South Carolina | 325 | 329 | 98.78 | 1.22 |
| Tennessee | 293 | 301 | 97.34 | 2.66 |
| Tennessee | 307 | 329 | 93.31 | 6.69 |
| Texas | 301 | 319 | 94.36 | 5.64 |
| Texas | 325 | 329 | 98.78 | 1.22 |
| Vermont | 293 | 329 | 89.06 | 10.94 |
| Virginia | 293 | 307 | 95.44 | 4.56 |
| Virginia | 311 | 329 | 94.53 | 5.47 |
| West Virginia | 293 | 329 | 89.06 | 10.94 |
| Wisconsin | 293 | 319 | 91.85— | 8.15+ |
| Wisconsin | 325 | 329 | 98.78 | 1.22 |

In going from three hundred and one to three hundred and twenty-nine Alabama loses 8.51 per cent. of her relative power. In going from two hundred and ninety-three to three hundred and twenty-nine Arkansas would lose 10.94 per cent. of her relative power; that is to say, substantially 11 per cent. In going from two hundred and ninety-three to three hundred and eleven California would lose 5.79 per cent. of her relative power, and in going from three hundred and nineteen to three hundred and twenty-nine she would lose 3.95 per cent.

Colorado by going from two hundred and ninety-three to three hundred and twenty-nine loses about 11 per cent. of her relative power, and is in the same category with Connecticut. Delaware is also in the same category. Going from two hundred and ninety-three to three hundred and seven Florida loses 4.56 per cent., and from three hundred and eleven to three hundred and twenty-nine she loses 5.47 per cent. Georgia loses the same in each case. And there also is the State of Louisiana, which from three hundred and one to three hundred and twenty-nine loses 8.51 per cent. of her proportionate power.

Kansas in going from two hundred and ninety-three to three hundred and nineteen loses 8.15 per cent.; so that the number had better remain at two hundred and ninety-three, so far as her proportion of power in the Government is concerned. Maine in going from two hundred and ninety-three to three hundred and twenty-nine loses 10.94. She certainly has no motive to make the House larger unless you run away up to where she would gain another member. Minnesota in going from two hundred and ninety-three to three hundred and twenty-nine loses 10.94 per cent.; Nebraska the same; Nevada the same; and so of course with most of the small States, but not all. New Jersey going from two hundred and ninety-three to three hundred and twenty-five loses 9.85.

Mr. COX. Who absorbs what is lost?

Mr. HAWLEY. A few States. I have not taken the trouble to ascertain that. Perhaps the gentleman who proposed the committee's proposition for three hundred and eleven, by which the Southern States gain six, can tell us more about that. I do not know just where the figures of gain are. I am showing that a very large number of States—more than a quarter of this House—lose by an increase. I think there are eighteen States that lose by a growth up to three hundred and twenty-five or three hundred and twenty-nine.

Mr. CANNON, of Illinois. Can the gentleman say it is not fair that those States should lose? Has he gone into that calculation?

Mr. COX. That is a moral question.

Mr. CANNON, of Illinois. No; I am speaking upon the figures.

Mr. HAWLEY. I understand the gentleman's point. If you double two hundred and ninety-three, the present number of members, we should all be where we are now, relatively; but I hold that we should have a loss in effectiveness as a legislative body. On the way up from two hundred and ninety-three to twice two hundred and ninety-three there are stations where some States gain and some lose; so that one State would be suited at one station and one at another, and the House is divided into five or six different parties according to the different steps on the way up where it seems particular States would get the advantage at the expense of others. I am showing the advantages and disadvantages at particular figures. These advantages and disadvantages may equalize on the whole; but between two hundred and ninety-three and three hundred and twenty-nine there are at any particular point losses to a very considerable fraction of the States, and some totals are much more unjust than others.

South Carolina on an increase from two hundred and ninety-three to three hundred and nineteen loses 8.15. Now, take, for example, the State of New York. At three hundred and one, if Mr. Elliott is correct as usual, she would have thirty-one members, or 10⅓ per cent. of the aggregate membership. At a total of three hundred and twenty-five the membership of New York would be thirty-four, making 10.46 per cent. of the aggregate membership. In passing from three hundred and one to three hundred and twenty-five she has a gain on her relative membership of .16 of 1 per cent. of the aggregate, which is a gain of only 1.6 per cent. on her own relative influence. These remarks indicate the general line of the criticisms I have to make on these bills.

Mr. THOMPSON, of Kentucky. Will the gentleman state whether that gain is or is not exactly what New York ought to gain in proportion to her share of the aggregate increase of population throughout the Union?

Mr. HAWLEY. There are stages in this increase that work injustice; there are stages that approximate justice; but, on the whole, there is no place that justifies us in so largely increasing the total membership. The increase in the case of New York runs from 10.3 of the total to 10.45 per cent.—a gain of a little over 1 per cent. of her actual number. At a total of three hundred and twenty-five she just gains her thirty-fourth member, through a fraction of 70,912, while at two hundred and ninety-three she has thirty members, with a resulting fraction of only 28,900 unrepresented. The gain of New York in population is not up to the average of the gain of the whole Union. But I was only showing that New York has no sufficient motive for a large increase of the total representation.

I say for the effectiveness of this House and for the benefit of the power of the several States we ought rather to let the number remain at the reasonable figure of about three hundred and one. As we increase the House we largely detract from its value as a unit; and there is no corresponding advantage. To this I add the suggestion that if this House is not to break down utterly as a national legislative body, it must initiate and put into effect the great reform of providing other and better tribunals for the adjustment of private claims.

I now yield the floor to the gentleman from Massachusetts, [Mr. ROBINSON.]

Mr. ROBINSON. In the portion of the hour remaining to me I may not have time to conclude what I have to say. I hope the House will give me a little more time if I need it.

The SPEAKER *pro tempore*, (Mr. CLYMER.) There are thirty-five minutes of the hour remaining.

Mr. ROBINSON: I will not make any extended remarks upon the question of the number of members of this House, because so many gentlemen have already discussed it. I will merely say that I sub-

stantially agree with the view of the gentleman from Connecticut, [Mr. HAWLEY,] that there should be only as little increase above the present number of the House as is absolutely necessary under the circumstances. I will not enlarge upon that topic.

I hold that the Congress of the United States should proceed to make this apportionment of Representatives among the several States of this Union, without regard to sectionalism, without regard to party. For myself (and I speak for none other) I do not care to stop to inquire whether a certain number will give the East more than the West, or the South more than the West, because I say that the apportionment should be made among the several States according to their respective numbers. This is a nation of the States and of the people in the States; and if prosperity has gone over this country, beginning on the narrow fringe of the Atlantic shore, increasing our population from 3,000,000 to 50,000,000 in the first century of our existence, and if that population has clustered in the West and is now gathering in the South, we ought not to refuse on any narrow principle to accord to the increasing and increased communities the representation that is their right under the Constitution.

But I desire to submit some considerations upon the statements and arguments that have been made with reference to the construction of the fourteenth article of the amendments to the Constitution. The second section of that article provides:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Representatives shall be apportioned according to number; not according to voters; not according to anything but numbers—nothing is plainer—not taking into account voters who may for any cause remain away from the polls.

When was this amendment adopted, and why? The Constitution and its first twelve amendments were passed and adopted long before the war. The war grew out of slavery and the complications of that institution. Slavery went down and the Union wrote in its great charter the thirteenth amendment, that thereafter neither slavery nor involuntary servitude should exist in the United States. The black man was a free man, and yet that was not deemed enough for his protection. It was feared that in the Southern States which had lately been in rebellion there would be measures adopted which would deprive the black man of his equal rights under the law. The House will bear in mind at that time the process of reconstruction was under consideration, and the determination of the grounds upon which the different States lately in rebellion should be admitted to representation in the Congress of the United States, and hence to a full restoration to their former place in the Federal Union. To prevent a denial of the rights of the black man, the fourteenth amendment to the Constitution was adopted. States were waiting to find restoration to the Union. Read the history on every page and you will find confirmation of this view that I give you. Read the debates in the two branches of Congress on the consideration of this proposition to amend the Constitution, and you find but one idea pervading the whole. Why, the resolution of the Thirty-ninth Congress that inaugurated the fourteenth amendment was this:

That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called Confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress.

What did that joint committee report? This, as an amendment to the Constitution:

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

That was the proposition as first introduced into Congress from this joint committee of fifteen. Does it aim at anything except the one idea that has been stated?

In the course of the discussion Senator Henderson, of Missouri, offered the following substitute:

No State, in prescribing the qualifications requisite for electors therein, shall discriminate against any person on account of color or race.

The Senate did not adopt that substitute, and Senator Henderson said to them within five years that would be written into the Constitution of the United States; the country will not remain with this bare statement that is proposed as the fourteenth article of amendment.

In the House of Representatives it passed as recommended by the committee without amendment; but in the Senate, after a long discussion, in which the most noted Senators of that time took part—Senators Fessenden, Sumner, Wilson, Howard, Reverdy Johnson, and others—this whole matter went through a most exhaustive and able discussion. Read it all and you will not find any ground to believe that the wise statesmen of that time were doing anything by that amendment except to provide for the protection of suffrage and other rights of the black man.

But the history of the time that immediately followed proves all that. Following the adoption of the fourteenth article of amendment in the two Houses of Congress, the desire was that that amendment should be ratified in the States. The lately rebellious States were waiting to be received into the Union again and admitted to representation in Congress. The purpose of Congress was to present to them this fourteenth article of amendment and say by the adoption of that amendment to the Constitution of the United States, or expressing ratification of it on their part, we will consent to your representation in Congress. The States then had prepared and adopted on their own part constitutions for their respective States which they were ready then to submit to Congress. Congress had received these constitutions, had considered them and said they were satisfactory provided that these States shall at the same time accept the fourteenth article of amendment to the Constitution.

Now turn to one of the reconstruction acts, and as significant in comment on the history of this time all this legislation by bill, report, and argument is called the reconstruction legislation of the time. Reconstruction of what? Of the States that had never wanted or needed reconstruction? No, indeed. But of the States that had attempted to get out of the Union and were in such condition that neither they nor the rest of the Union knew where they were.

Look at the reconstruction act passed to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida on the 25th of June, 1868:

Whereas the people of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, framed constitutions of State government which are republican, and have adopted such constitutions by large majorities of the votes cast at the election held for the ratification or the rejection of the same: Therefore,

*Be it enacted*, &c., That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida shall be entitled and admitted to representation in Congress as a State of the Union when the Legislature of said State shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress, and known as article 14, upon the following fundamental conditions: that the constitution of neither of said States shall ever be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State who are entitled to vote by the constitution thereof, except as punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted, under laws equally applicable to all the inhabitants of said State.

This bill passed the Senate—yeas 31, nays 5; and the House—yeas 110, nays 35. It was vetoed by President Johnson, and passed over the veto.

Now let us look at the constitutions of these States that came under that amendment and that were pronounced republican.

The constitution of North Carolina required that the male person entitled to vote shall be twenty-one years of age and a citizen; that he shall have resided in that State for twelve months next preceding the election, and for thirty days in the county in which he offered to vote, and that he should take a certain oath therein prescribed.

The constitution of South Carolina provided that the male citizen offering to vote shall have been a resident of the State at the time of the adoption of this constitution, and that he shall have resided therein for one year, and in the county in which he offers to vote for sixty days.

The constitution of Louisiana provides that all male persons twenty-one years of age and upward, already naturalized in the United States, resident of this State for one year next preceding the election, and not less than ten days within the parish in which he offers to vote, except those disfranchised under this constitution and persons under interdiction.

That is the constitution of Louisiana at the present day. Persons under interdiction are persons under prohibition, known technically as persons that are denied their rights otherwise given them, denied by the probate court of the State. In other words, the probate court of the State of Louisiana exercises the power of determining that a man is insane—*non compos mentis*—and not a proper person to have the management of his property, and excluding persons that are in terms excluded in many other constitutions.

The constitution of Georgia, the Empire State of the South, I heard to-day, provides twenty-one years of age; shall have resided in the State six months; shall have resided thirty days in the county, and shall have paid all taxes required which he may have had the opportunity of paying agreeably to the law for the year next preceding the election.

I do not understand, Mr. Speaker, "opportunity" to have such narrow meaning as ability to pay——

Mr. COOK. Will the gentleman permit me to explain that provision of the constitution?

Mr. ROBINSON. I presume that there is no difference between us as to the terms of the constitution.

Mr. COOK. I wish to state that our taxes become delinquent at the end of the year. For instance, the tax due in 1881 becomes delinquent if not paid until the end of the year. The taxes for 1880 must have been paid to entitle the person to vote. If a pauper, he pays no tax. If sixty years of age, he does not pay a poll tax. The poll tax goes into the school fund, and that has been the case in our State for many years.

Mr. ROBINSON. The State of Alabama required that the voter

should reside in the State for six months, and for three months in the county; and certain provisions were made for soldiers, sailors, marines, &c.

Florida, and I ask the gentlemen here to take due notice of this.

Mr. LOWE. I would like to interrupt the gentleman for a moment.

Mr. ROBINSON. I beg the gentleman not to interrupt me, unless he wishes to correct a statement. If I have made an erroneous statement I shall be very glad to be interrupted.

Mr. LOWE. Alabama prohibits any property or educational qualification whatever; that is under the democratic constitution of the State, which is the only true democratic constitution that any State possesses. We have the best constitution and the worst election laws of any State in the Union.

Mr. ROBINSON. I am only speaking now of the requirements of the constitution at the time that the reconstruction measures were proposed, and I have stated Alabama correctly, as I understand it. If I have not stated it correctly, as it was at that time, then I shall be glad if the gentleman will correct me.

Florida, to which I was about to refer, required a residence there of one year in the State, and six months in the county, &c., and this, further, I find under that constitution that was declared to be republican in form, and satisfactory at that time to be accepted by the Congress of the United States. I read this clause:

The Legislature shall enact laws requiring educational qualifications for electors after the year 1880; but no such laws shall be made applicable to any elector who may have registered or voted at any elections previous thereto.

Think you, Mr. Speaker, the then Congress of the United States believed that the fourteenth article of the amendment they presented to the State of Florida was violated when they declared to that State that constitution you bring here is republican in form, and we say you may come and be represented in Congress if you will adopt that fourteenth amendment? Think you Congress believed that when it was written in the constitution of the State of Florida that she should enact laws in 1880 prescribing educational qualifications, thereby the fourteenth amendment was to be violated? And the fact is that in the Legislature now sitting in Florida a bill has been introduced to give force and effect to that provision——

Mr. DAVIDSON. Will the gentleman allow me to ask a question?

Mr. ROBINSON. I prefer not to be interrupted.

Mr. DAVIDSON. I wish simply to ask you what party adopted that constitution?

Mr. ROBINSON. Mr. Speaker, I do not want to talk about party in this connection. I was in hopes that in this discussion we would be able to rise above the questions of party. If there is any gentleman here that will not hear me unless I talk about party, then I will prefer that he should not listen. If gentlemen upon this floor desire me not to proceed unless I enter into the arena of party politics, then I will cease. I only want to talk about the substance of this matter.

Then, at that time that this amendment was adopted, if you will examine the reconstruction acts applying to other States, I suppose you will find the same thing or the same provisions in other constitutions, to which I have already referred in the constitution of these States.

But at that time, with those different States presenting constitutions having these qualifications expressed, or these discriminations, if you use that word, or these prerequisites, presenting them in a Congress that was made up of the representatives of the other States in this country, and all of them without exception having various prerequisites in their own constitutions, that fourteenth amendment was adopted, it cannot be claimed for one minute that there was any other view than as stated, that it was for the protection of the black man in the lately rebellious States. Then came the statutes.

Mr. LOWE. Will the gentleman let me ask him a question?

Mr. ROBINSON. Not at present. I will say that I do not like to be discourteous, of course, and if I yield to questions on all sides my time will be all gone, and the House will weary with me certainly; but if the House will give me time I will submit to all the questions that may be asked, and will answer as many as I can, and what I cannot answer I will say are beyond my comprehension.

I said that certain statutes were adopted by Congress following the adoption of the fourteenth amendment, and they are now found in sections under title 26 of the Revised Statutes. Read section 2004, which provides that—

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

That seems to assume that the States could make certain constitutional provisions or provisions by law in regard to the qualifications of suffrage. Then again section 2005, section 2006, and section 2007 all refer to certain prerequisites to the exercise of the right of suffrage; and they go to this extent, gentlemen will remember, that they provide that when, under the laws of a State, certain prerequisites are declared or required, if a person offers to perform them and the officer before whom that performance should be made refuses to allow him to perform them, then he shall have the full benefit of his proffer, and shall be just as much entitled to vote as if he had performed.

Now, certainly, that could not apply, unless there were certain prerequisites set up in the States under the constitution and laws of those States. Well, we have had adjudications on this point. In the sixteenth Wallace, the twenty-first Wallace, the ninety-second of the United States Reports, and in the recent volume, the one hundredth of the United States Reports, we have had the expression of the Supreme Court of the United States, clearly and unmistakably, that the fourteenth amendment was adopted for the purpose of protecting the rights of the black man. I will not take the time of the House to read all of these. I have simply named them. Gentlemen will find them for themselves; but I will read from the case of Strauder *vs.* West Virginia, decided in 1879, in which the court say of the fourteenth amendment:

This is one of a series of constitutional provisions having a common purpose, namely, securing to a race recently emancipated, a race that through many generations had been held in slavery, all the civil rights that the superior race enjoy. The true spirit and meaning of the amendments, as we said in the Slaughter-House cases, (16 Wall., 36,) cannot be understood without keeping in view the history of the times when they were adopted and the general objects they plainly sought to accomplish. At the time when they were incorporated into the Constitution it required little knowledge of human nature to anticipate that those who had long been regarded as an inferior and subject race would, when suddenly raised to the rank of citizenship, be looked upon with jealousy and positive dislike, and that State laws might be enacted or enforced to perpetuate the distinctions that had before existed. Discriminations against them had been habitual. It was well known that in some States laws making such discriminations then existed, and others might well be expected. The colored race, as a race, was abject and ignorant, and in that condition was unfitted to command the respect of those who had superior intelligence. Their training had left them mere children, and as such they needed the protection which a wise government extends to those who are unable to protect themselves. They especially needed protection against unfriendly action in the States where they were resident. It was in view of these considerations the fourteenth amendment was framed and adopted. It was designed to assure to the colored race the enjoyment of all the civil rights that under the law are enjoyed by white persons, and to give to that race the protection of the General Government in that enjoyment whenever it should be denied by the States. It not only gave citizenship and the privileges of citizenship to persons of color, but it denied to any State the power to withhold from them the equal protection of the laws, and authorized Congress to enforce its provisions by appropriate legislation. To quote the language used by us in the Slaughter-House cases: "No one can fail to be impressed with the one pervading purpose found in all the amendments lying at the foundation of each, and without which none of them would have been suggested—we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the oppressions of those who had formerly exercised unlimited dominion over them." So again: "The existence of laws in the States where the newly emancipated negroes resided, which discriminated with gross injustice and hardship against them as a class, was the evil to be remedied, and by it (the fourteenth amendment) such laws were forbidden. If, however, the States did not conform their laws to its requirements, then by the fifth section of the article of amendment Congress was authorized to enforce it by suitable legislation." And it was added: "We doubt very much whether any action of a State, not directed by way of discrimination against the negroes as a class, will ever be held to come within the purview of this provision."

So stood the fourteenth amendment, adopted under the circumstances that have been stated. And yet, in less than the five years, as Senator Henderson predicted, the Congress of the United States presented the fifteenth amendment that was ratified in due form and is now a part as much as any of the great charter of the liberties of the American freemen:

The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. Congress shall have the power to enforce this article by appropriate legislation.

What I say is, the fifteenth amendment supersedes, overruns the provisions substantially of the fourteenth amendment. It is broader. The fourteenth amendment tolerated the idea that a State could deprive the black man of the right to vote if the State was only willing to have its representation reduced. But the Congress saw that that was not safe. Congress said the black man shall have the right to vote, and it shall be protected to him in the Constitution of the United States. We will not leave it to any temporary expedient of party control, it may be, in the Houses of Congress; but we will write it down permanently in the Constitution.

And so I say that there it stands now as the final declaration, and it is not in the power of any State to deny or abridge the right to vote to any person because of his race, color, or previous condition of servitude. The Constitution of the United States and the laws in pursuance thereof are the supreme law of the land, and an attempted enactment of any State in violation of it would, in my humble opinion, be as void as the blank paper upon which it may be written, powerless, utterly so.

What would be the remedy provided under the second article? Congress may enforce it by appropriate legislation. I pass beyond that because that is not material to the present discussion. If gentlemen will consult the case United States *vs.* Reese, 92 United States Reports, they will find a confirmation of this view in regard to the fifteenth amendment.

When did the House of Representatives, when did Congress next consider this question? When the apportionment act under which we now hold our seats was before Congress in 1872 these same questions were then exhaustively considered by many gentlemen. I commend to the study of any one interested in the subject the very able argument presented by the late Speaker of this House, now deceased, the honorable Mr. Kerr, of Indiana, in which he declared that the

purpose of the fourteenth amendment was the protection of the black man in the Southern States, and that it applied only to cases of disqualification that could be made because of some inherent quality or characteristic that might be in the person himself, not something extrinsic, not something that was under his own control. And after a discussion of the power of Congress to exclude Representatives from any of the States because of the various qualifications required by them for the exercise of the right of suffrage, Congress took no action but then said that if after the passage of that act any State should violate the fourteenth article of amendment to the Constitution, its representation should be proportionately decreased.

The SPEAKER *pro tempore*. The time of the gentleman from Massachusetts has expired.

Mr. COX. I hope the gentleman will be allowed to conclude his remarks. I understand that he is nearly through.

The SPEAKER *pro tempore*. Is there objection to the gentleman from Massachusetts proceeding?

There was no objection.

Mr. ROBINSON. I thank the House for its courtesy, and will try not to weary the patience of members.

The fourteenth amendment requires that to be entitled to vote a person shall be a citizen of full age and shall not have participated in rebellion or other crime. Now, I say that except as to race, color, or previous condition of servitude, it is now within the power of the States to prescribe the qualifications of the voter as much as it was before the adoption of that amendment.

There may be certain requirements of the States, and there are all over the country, such as residence, prepayment of a tax, registration, good behavior, good character, educational qualifications, freedom from idiocy, insanity, or pauperism—that is public support as a pauper—and also convicts are excluded.

Now, what does the fourteenth amendment provide, if gentlemen desire to give it a literal construction? It provides that when the right to vote shall be denied to any of the male inhabitants of a State, &c. Inhabitants! There is not a lawyer who does not know that a man may become an inhabitant of a State by settling in it in one-half day, if he goes there with the intention of making it his home. It is intention that determines inhabitancy.

Mr. KEIFER. Intention determines residence.

Mr. ROBINSON. That is correct. He may go there to dwell; he may settle there; and if you provide that he shall have the right to vote without any previous term of residence, down go all your registry laws, all your requirements depending upon a previous residence in the State; and therefore in that way it would be very convenient in some States, when it was desired they should go republican and they could not quite carry it, to have 25,000 voters come across the borders from a very strong republican State; or it might perhaps assist the democrats under similar circumstances with the conditions reversed. But nobody wants that.

As the gentleman from Georgia said lately, in regard to the qualifications of residents and tax-payers, there has been no change since the foundation of the Government. It is safe and best that this matter should be left to the policy of the different States to determine for themselves. We have gone on in safety from the foundation of the Government to the present time, without disturbance or violence, only as to the lately enslaved race, and we have never sought to make any alteration in the power of the Legislatures of the States to determine the qualifications for voting. And I submit that now is not the time to do it. I am glad that the time is fast receding when in my judgment it will ever be deemed necessary to do it. I will pass on and talk about the State of Massachusetts.

Mr. FINLEY. Before the gentleman leaves this point of his argument, may I ask him a question without interrupting his line of argument?

Mr. ROBINSON. Certainly.

Mr. FINLEY. It is whether in his view the State of South Carolina or the State of North Carolina, reconstructed States, may or may not require under the Constitution a property qualification or an educational qualification, as well as the State of Massachusetts?

Mr. ROBINSON. I am not here to give opinions——

Mr. FINLEY. I want your views.

Mr. BRIGGS. I thought that was what you were giving.

Mr. ROBINSON. I was about to say that I was not here to give opinions on supposed cases; but I am ready to state what I believe about it, for all that, if the House will bear with me.

Mr. REAGAN rose.

Mr. ROBINSON. One at a time. I will leave that question with the States, to be determined by them in their wisdom, according to their judgment of a proper policy. As I read the Constitution and its amendments as they stand to-day, I believe it is in the power of the States to prescribe the qualifications of the voters and the prerequisites of the exercise of the right of suffrage, so only that they do not deprive their States of a republican form of government, and so only that they do not deprive any person of the right to vote because of race, color, or previous condition of servitude.

Mr. FINLEY. Take the case I put, of a property qualification or an educational qualification.

Mr. ROBINSON. I submit in reply to the gentleman that to my apprehension I have answered his question.

Mr. REAGAN. If the gentleman will allow me—I do not know that I have followed his argument very closely—I desire to know whether he means to be understood as arguing that the phrase "citizens of the United States," in the first clause of the fourteenth amendment, applies only to black people, and does not apply to white people?

Mr. ROBINSON. Oh, no, sir. I have not made any such statement. I have not said anything about the first section of the fourteenth article of the constitutional amendments. I have not alluded to that, because there is so much to be said about it. Some gentlemen claim that under the first section, giving certain privileges and immunities to citizens of the United States, citizens can do almost anything as against any possible rights of the State authorities. That question has been fully discussed by the Supreme Court of the United States, in the Slaughter House cases, to which I commend the attention of the gentleman. As to the latitude of construction put upon that provision, we have an illustration from the State of Iowa. A man in that State claimed that it was his right to sell intoxicating liquor contrary to the laws of the State, because, as he alleged, it was one of his privileges and immunities as a citizen of the United States. He brought the question up to the Supreme Court of the United States, and I will only add that the Supreme Court said he was wrong.

Mr. REAGAN. I did not put any question that called for such a response as that. I simply wanted to know whether in the general scope of the gentleman's argument it was not his purpose to show that the words "citizen of the United States" as used in the fourteenth amendment apply merely to colored people, and not to citizens of the United States in general.

Mr. ROBINSON. The gentleman says he has not heard my argument. I beg he will not ask me to repeat it, because the fatigue which I should thereby inflict upon many other gentlemen would not be compensated by any possible gratification I might afford the gentleman.

Mr. REAGAN. I supposed the gentleman would answer my question without evasions of that kind.

Mr. ROBINSON. I evade nothing.

Now I pass on to speak of the requirements for the exercise of suffrage in the State of Massachusetts. I know that in this House there is no hostility to the old Bay State. I know that the people of the Union regard that as a well-governed and well-ordered State. I know that they rejoice in her prosperity and in her history. Her own sons may be pardoned, perhaps, if they have a little pride in her renown and her success. Massachusetts requires that a person in order to vote shall have attained the age of twenty-one years; that he shall not be a pauper—in other words, shall not be supported as a public charge, and shall not be under guardianship; that he shall have resided in the State a year and in the town or city in which he offers to vote six months next preceding; that he shall have paid a State or county tax within two years next preceding, (which I may say parenthetically does not, as the law now is, require him to pay more than $1 in two years;) that he shall be able to read the constitution of the Commonwealth in the English language and to write his name. With the exception of the educational qualification, those requirements in all essential particulars have been the law of that Commonwealth for more than sixty years. During the years of the war and the era of reconstruction every one of them, including the educational qualification, was a part of our constitution. Let me read the educational qualification as defined in the amendments of our constitution:

No person shall have the right to vote or be eligible to office under the constitution of this Commonwealth who shall not be able to read the constitution in the English language and write his name: *Provided, however,* That the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requirements, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upward at the time this amendment shall take effect.

That amendment was adopted in 1857, and stands as a part of the State constitution to-day. The act of the Legislature, if one was needed to enforce it, was recommended in 1859, was passed in 1860, and has remained unchanged in this particular to this day. So that from 1857 to 1881 that provision has stood in the constitution of our State. No man can vote there who is not enrolled upon the lists of voters prior to the election. I presume that this is the law in most of the States. Lists of voters are carefully made.

Now, I ask attention to this matter, because my distinguished friend from New York [Mr. COX] used in his speech the following language:

The report of the minority in the Massachusetts election case claimed that of the 376,332 citizens of the United States 136,859 were disfranchised from other causes than criminality, idiocy, and insanity, the causes being illiteracy and failure to pay tax and pauperism. This is indeed startling, if true. It would be more so if the other disfranchised, idiots, &c., were added, as by parity of reasoning they should be. Leaving out those above excepted and adding aliens, it was claimed that 105,109 citizens had their immunities abridged and could not vote.

My friend from New York was very careful and prudent, as I submit he always is, not to give his personal indorsement to that statement. He said those figures were "startling, if true." That would have been a very proper comment after reading the story of "Sinbad, the Sailor," or "Gulliver's Travels," or the "Adventures of Baron Munchausen." "Startling, if true!" Are these statements true? The gentleman refers to the report of the minority of the Committee on Elections in the case of Boynton *vs.* Loring. Now, with the permission of the gentleman from Iowa, [Mr. WEAVER,] the author of that report, who sits before me, I want to examine the foundation for

this statement of the gentleman from New York; and I do it with the more pleasure because I know that no gentleman in this House will more readily than the gentleman from Iowa rise when he finds it necessary to make a correction in justice to the good old State of Massachusetts. He will allow me to say that in this report, signed with his own name, I find more misstatements, more absurdities, more want of information of the facts in regard to the voting power in the State of Massachusetts, than it would seem possible for anybody to put into a report. That is a pretty strong statement to make, as a gentleman near me suggests; but I make it advisedly. I want to say, however, that I do not hold the gentleman from Iowa responsible for these statements, because I find they are copied, line for line and word for word, from the brief of the counsel for the contestant.

Mr. WEAVER. And the report so states.

Mr. ROBINSON. The gentleman says that he so stated in the report, and so he did, adding that he made them his own. I do not, as I said, hold him responsible; but I go further back to the fountain-head of all these statements. I am surprised that any gentleman living in Massachusetts would make these statements and overpersuade my learned and vigilant friend from Iowa to adopt them.

I read from that report. After giving the provision of the constitution prescribing the educational qualification for suffrage, the report proceeds:

Under it the most learned professors of Europe coming here and taking upon themselves the duties and privileges of citizens could not vote unless they were able to read English.

The trouble is not about learned professors. Everybody knows that a learned professor coming from abroad is not naturalized until after five years' residence; and my observation is that the learned professor understands the English language by that time.

Then I read on:

It attracted no attention and has not been enforced by statute until since 1874, when the dominant party in Massachusetts began to fear for their majority.

It was adopted in 1857. It was enacted into a law to enforce it in 1860, and has been in every volume of the statutes, on every lawyer's table, in every town-clerk's law library, and in many private citizens' hands by thousands, this same law unchanged, and every select-man of every town and every election officer of the State has had it placed before him by special instruction of the State department to observe it in judging the qualification of voters in that State at each election.

Not brought under attention until 1874! Well, let us see. That is the statement made by the learned counsel for the contestant. So says my friend from Iowa.

Mr. HAMMOND, of Georgia. Who was that?

Mr. ROBINSON. It is stated here a gentleman by the name of Butler. [Laughter.]

Mr. HAMMOND, of Georgia. A distinguished citizen of your State.

Mr. REED. The late democratic candidate for Senator. [Laughter.]

Mr. ROBINSON. I propose to show this matter was understood before 1874. Turn to the debates in the Congressional Globe, volume 75, and in 1869 in this House, and within these walls, General Benjamin F. Butler made this speech in reply to an inquiry made by the gentleman from New York, the chairman of this Census Committee. He says:

Everybody in Massachusetts can vote irrespective of color who can read and write.

Mr. HAMMOND, of Georgia. When was that?

Mr. ROBINSON. Eighteen hundred and sixty-nine.

The qualification is equal in its justice, and an ignorant white man cannot vote there and a learned negro be excluded; but in the Georgia Legislature there was a white man who could hardly read and write, if at all, voted in because he was white, while a negro who spoke and read two languages was voted out solely because he was black. It is well that Massachusetts requires her citizens should read and write before being permitted to vote. Almost everybody votes there under that rule, certainly every native-born person of proper age and sex votes there, and there are hundreds and thousands in this country who would thank God continually on their bended knees if it could be provided that voters in the city of New York should be required to read and write. They would then believe republican government in form and fact far more safe than now.

That speech was delivered, so says the Globe, by the same gentleman who was the counsel of the contestant, and who said in that argument it had never attracted attention until 1874. That speech was made in 1869 in this House.

Mr. HAMMOND, of Georgia. Will the gentleman permit me a question now?

Mr. ROBINSON. Certainly.

Mr. HAMMOND, of Georgia. The argument you are making, as I understand it, is to prove the author of the speech is unworthy of belief, is it not?

Mr. ROBINSON. Certainly not. I make no such comment at all, and I hope the gentleman will not.

Mr. HAMMOND, of Georgia. You are contradicting his brief.

Mr. ROBINSON. I am merely showing the gentleman from New York was quite wise in saying these figures are startling if true. They should have printed the word "if true" in capitals.

Now I will read on:

Now, the population of Massachusetts in 1870 was 1,457,352 by the United States census. The whole population by the census of 1875 was 1,651,652, making an increase of 194,300, or 13.33 percentage of gain.

Then the gentleman goes on further:

Assuming that the percentage of increase of the population from May, 1875, to November 1878, was the same as it was from 1870 to 1875, (in the proportion of the lengths of the two periods of time covered by these dates,) although in fact the gain would be considerably greater.

Now, there is a statement of fact. "Although it would be considerably greater." Let us see about that. The census of 1880 makes the population of the State of Massachusetts 1,783,012. Then from 1870 to 1875 she gained 194,300; from 1875 to 1880 she gained 131,360. So in the whole of the second five years of the decade she did not gain as much as the gentleman says in fact she gained in the first three years and six months.

Well, let that pass. Going down on the same page of the report I find two tables, which I wish gentlemen would take home and read. "May, 1875, table," showing the whole number of illiterates, voters, &c., taken from census tables of the census of the State of Massachusetts. Then we have an assumed table for 1878. On the calculation which has been made you will see how uncertain this must be. I take them as they are given. Let us see what the result is. Take first the statement as the gentleman himself gives it. He says there are 490,150 ratable polls of voters in the Commonwealth who pay poll-tax. That is in 1878, according to his calculation. Now, he says:

Applying the same percentage to the illiterate native-born, aliens, paupers, convicts, idiotic, and insane, we should deduct from said ratable polls 113,657, leaving 376,501 ratable polls November, 1878. Allowing 4 per cent. for stay-at-homes, 15,060, leaves 361,441, of whom but 256,332, being but 67 per cent., voted, one-third of the voting population being disfranchised.

Now, there is a very pregnant suggestion. "Allowing 4 per cent. for stay-at-homes!" How did he get that? I do not think there has been an election in the State of Massachusetts when in almost every town and city there has not been from 10 to 25 per cent. who have staid at home, men who had the right to vote, and they do it constantly. Why, in my own town, the town in which I live, at the election of last November in that contest for the election of national and State officers and for representation in Congress, that town in which both of the candidates for Congress resided, with its 1,429 voters, about one-sixth of them did not vote at all; and so it is all over the State. Now, the gentleman in his report says 256,332 persons voted in 1878. So they did. But he goes on to say that all of the rest were disfranchised. Now, I look at his own list of figures contained in that report and I find that he declares the number of voters native-born and naturalized are 382,713. Is that much of a disfranchisement? He says there should be 376,501 that ought to vote according to the provisions of the fourteenth amendment and to his own figures, for I give his own arithmetic, and I turn back to the preceding page and he shows that there were in 1878 382,713 voters, from which he deduces the remarkable calculation that 136,859 were disfranchised, when he just asserted on the same page that—and I ask gentlemen to notice it—he says 105,009 are disfranchised. Then he goes on in his eloquent speech, and he says, "What we demand is that Massachusetts shall take her foot off the Constitution and off the necks of 105,000 disfranchised citizens of that Commonwealth." That of course is very eloquent, but ought he not also to have asked that she shall take her foot off the necks of the other thirty thousand which he says, according to his own figures, are disfranchised?

I take only his own statement of it. Take the ratable polls assumed, and here you will observe that every male person above twenty years, not twenty-one, pays a poll tax, and his figures are 490,158. Deduct from this the number of voters, 382,713, because all of those that you have on that list of voters can vote. There is no trouble in reference to their right to vote. They are on the list, and of course no man on that list is deprived of his right. What does the gentleman mean, then, when he says that 382,713 of these are on the voting list out of 490,158, and then goes on to state that there are 136,000 disfranchised? Why, according to his own figures, there will be only 107,445 to be accounted for.

He says that there are 86,258 aliens not citizens of the United States. This number, of course, must be taken from the 107,445, the remainder just found. And so we take them out. That would leave, according to his own statement or the figures that he has given us, only 21,187. Then take out from this the paupers, those persons who are in almshouses and supported at the expense of the community, the convicts who are in the prisons and are not allowed to vote, and the idiots and insane, (persons who do not vote,) and you will have 9,271 persons more to take from his list, which reduces it still further to 11,916. Then you deduct from this the number of persons who are above twenty and under twenty-one who do not vote, which he says amounts to 6,212, and his great aggregate of disfranchised persons is reduced down to 5,704 persons.

But, Mr. Speaker, a great many of these persons may have changed their residence. They may have moved from one district into another and not resided therein for a length of time which would entitle them to vote, and it is safe to assume that a considerable number of them have not voted. We know, for the facts seem to be clearly ascertained, that about 25 per cent. do not care to take the trouble of going to vote. We know that large numbers of them do not care to take the trouble of registering. It is fair to presume that when so many will not take the trouble to vote, many will not register. Probably some of them have not paid their poll-tax, so that the vast num-

ber of disfranchised is considerably reduced beyond even the small figures which we have succeeded, according to his own calculations, in reducing them to. Taking out, then, all these possible errors and allowing for all of these things, it leaves but a very small showing indeed for his claim of disfranchised.

That is all there is of it. Why should it not be so. For twenty-three years it has been written before the people of that State that to entitle them to vote and hold office they shall first learn to read and write. Near to every man's dwelling stands a public free school. Education is brought to the door of every man. These school-houses are supported with almost unbounded munificence. Children have been born in that time and have attended school at the public expense, and the general education of the people has been advanced. And that residuum of the people who all the time are not able to read and write is constantly diminishing and disappearing; so that now the exception is to find one who does not read or write.

I state that I know, and I know very well the people of that State. I know the native portion and the naturalized and the aliens. And I say here that many a man who has come into that State an alien and has sought to be naturalized and become a citizen and a voter there, has at once proceeded to educate himself, and has learned to read and to write and has qualified himself as a voter in that Commonwealth. There are hundreds of such cases. It is not that the education is shared by the native-born alone. No; its blessings have gone over all without regard to the place of their nativity.

I will not take any time in talking about the policy of the law. There are some and many people in the State who do not think it wise to require the prepayment of a poll tax. People differ about that. Some time or other that may be changed; but for sixty years it has been the law, and it so remains. Looking into the constitution and the laws of the sister States of Virginia and Georgia and Delaware and Pennsylvania we find similar provisions of the same antiquity justified by the communities that have adopted such legislation. And we say to all the States we leave to you those questions of policy, and we commend them to your judgment and careful consideration. Does any one claim that representation should be reduced because of insanity or idiocy, or because of convicts? Does any one claim that all laws requiring residence and registration should be done away? And yet they are on the same line, on the same principle. There is not one of these prerequisites on which I have commented that it is not in the power of the person who desires to get suffrage to overcome and control and conquer so that he may become a voter. But if he be a black man he cannot put off his color. He cannot, if he were born a member of a particular race, strip himself of that quality; nor can he, if he has been in servitude; nor can he if he has been in rebellion, take out that taint; nor can he, if he has been convicted of other crimes, remove his record of criminality. These are an inherent, inseparable, indissoluble part of that man. But his education, his registration, his residence, his payment of a portion of the burdens of the State and the other matters are in his power and his control. I find it to be in accord with the wisdom of the people of the country that it is the true policy to let the States govern those matters for themselves. The Constitution of the United States touches those things that are out of the man's control. I am very grateful indeed to the House for its attention.

Mr. WEAVER rose.

The SPEAKER *pro tempore*. The gentleman from Mississippi [Mr. HOOKER] has been recognized, and is entitled to the floor for one hour.

Mr. WEAVER. I ask the gentleman from Mississippi to yield to me a short time.

Mr. HOOKER. I would like to yield to the gentleman if in my power, but all the time at my disposal which I am not to occupy I have already given away. I yield ten minutes to the gentleman from Mississippi, [Mr. CHALMERS.]

Mr. CHALMERS. I am glad this discussion has risen to the high plane of statesmanship which has been exhibited in the two speeches of this morning on the other side of the House. I was afraid from the declarations and threats made by some of the gentlemen on that side, when this subject was last under discussion, that unless they could have such an apportionment as suited themselves they would treat us to all that parliamentary tactics would enable them to do in the way of obstruction; in other words, that they would filibuster against any apportionment. I was afraid that those States which are now entitled to an increase of representation would be made to wait beyond the necessary time by reason of such tactics upon the part of these gentlemen. I was in hopes, however, that gentlemen on that side would remember that in the next House of Representatives the difference between parties would be less than it is now; and if filibustering now is justifiable to prevent the majority from passing a bill in accordance with its own views of right and justice, filibustering might become necessary in the estimation of the minority in the next House, and so those States which are entitled to increased representation would be greatly postponed if not entirely debarred of their rights. I repeat, then, that I thank the gentleman from Massachusetts [Mr. ROBINSON] and the gentleman from Connecticut, [Mr. HAWLEY,] who have spoken this morning, for having stepped from the low platform of party politics to the loftier plane of statesmanship and patriotism.

In the few minutes allowed me I want to call the attention of gentlemen to the very strange position occupied by those who propose to postpone the passage of an apportionment bill till they could ascertain by investigating committees or otherwise whether any voters in the United States have been deprived of the right of suffrage by fraud, intimidation, or violence.

Gentlemen assert that these things have been done. They ask that committees be sent out to investigate the fact and report it if true. Then they tell us they propose to reduce the representation of such States. I say, then, that gentlemen who propose to do this propose to do something that will be in direct violation of the fifteenth amendment of the Constitution. They propose, in other words, indirectly, under pretense of following the fourteenth amendment, to disfranchise the negro race in the South by a law of Congress in violation of the fifteenth amendment.

It was said by the gentleman from Massachusetts [Mr. ROBINSON] that the fourteenth amendment was only intended to confer the right of suffrage on the colored race. Upon this I take issue with him, and to this I shall reply if I have time. But now I desire to say if this is true, then the fourteenth amendment was superseded, if not repealed, by the fifteenth.

The fourteenth amendment, as he admitted, recognized the right of a State to exclude negroes from voting, and gave to Congress the power to reduce the representation of any State which denied to the negro the right to vote in the proportion that the number of voters so excluded bore to the whole number of males over twenty-one years of age in the State.

But the fifteenth amendment took away from the State the right to exclude negroes as such from voting, and the power of exclusion being taken away, the power to reduce representation on account of such exclusion was necessarily taken away.

Hence the fifteenth amendment has rendered useless, if it has not repealed, the fourteenth entirely. Under my construction it has repealed the fourteenth so far as any power was given to Congress to reduce the representation of a State for any abridgment of negro suffrage; for the right of the State to make such abridgment is taken away, and any such act of a State is absolutely null and void. But the reduction of representation may still be made when any State denies or in any way abridges the right of a white man to vote, or even of a negro, if not on account of race or color.

But under the construction given to the fourteenth amendment by the gentleman from Massachusetts, it is entirely repealed by the fifteenth.

If any State, then, by any means, by law, by force, or by fraud, has disfranchised any portion of the negro race as such, and that fact is ascertained by the report of your committee to Congress, what do you propose to do? Why you simply propose to legalize it. You ascertain that negroes have been prevented from voting by bulldozing, and you simply say to those people, "Go on with your bulldozing as much as you please, provided you allow us to cut down your representation." This is the only meaning of the argument the gentlemen make when they say the representation must be reduced in those States where negroes are prevented from voting by intimidation, violence, and fraud. They propose to acquiesce in the fraud and legalize the disfranchisement.

Mr. LOWE. Will the gentleman from Mississippi allow me to ask him a question?

Mr. CHALMERS. Yes, sir.

Mr. LOWE. I wish to ask the gentleman if he would regard the punishment of violence and bulldozing by Congress as legalizing that offense?

Mr. CHALMERS. Yes, sir; it would in fact be a recognition that these voters were excluded rightfully under the fourteenth amendment if you apply the remedy provided in that amendment of a reduction of representation. I maintain that this is no time for such an investigation. It has nothing to do with the question of apportionment. If Congress has any power to prevent this thing, it should be done at another time and in another way. But we should not delay the apportionment bill in order to investigate something which has nothing whatever to do with the question of apportionment. That point was so clearly made by the gentleman from Massachusetts who last spoke that I am relieved of any argument upon it. He showed clearly that the apportionment even under the fourteenth amendment must be made upon numbers, and upon numbers alone.

After the apportionment is made, if any State shall be found to have violated the provisions of that fourteenth amendment, that State is to be reduced in its representation in proportion to the number of its citizens so excluded from voting. But we are not to stop here in fixing the apportionment to ascertain these facts. They are to be ascertained afterward if necessary.

I propose now to differ a little from the gentleman from Massachusetts in regard to the history of this fourteenth amendment. After the thirteenth amendment had set free the slaves of this country, then according to the old Constitution every State was entitled to be represented in Congress according to the whole number of its inhabitants excluding only Indians not taxed. This would have given an increased representation to the former slave States, but the whites in these States would alone have been entitled to vote, as the whites in Northern States did where there were free negroes, and as the whites in California now do where there are Chinamen.

The fourteenth amendment was then devised and adopted, but I

differ with the gentleman from Massachusetts as to its object. It was, in my judgment, intended not to confer suffrage on the negroes, but to cut off the power of the southern whites. But in framing that amendment they made it broader perhaps than its authors intended. They said in plain language that no State should be entitled to enumeration for representation for any males over twenty-one years of age whose right to vote was denied or in any manner abridged. This clause is now coming home to gentlemen to trouble them; according to the old Spanish proverb, "their chickens are coming home to roost."

As I have said, the fifteenth amendment has settled the whole question as to the negro race; they can no longer be excluded on account of race from suffrage by State authority. Now, gentlemen must remember that the white race are also citizens, and if their right to vote is denied or in any manner abridged by any State for any cause save crime or rebellion, the language of that amendment stares them in the face and says that such State must suffer a reduction of its representation in proportion to the number of citizens so excluded. It will not do now to attempt to refine away that portion of the Constitution. It seems to be applied, and should be applied to white men excluded in Northern States, as was shown by the report made by the Census Bureau to the Congress that made the last apportionment——

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, a joint resolution of the following title:

A joint resolution (H. R. No. 337) authorizing and requesting the President to extend to the Government and people of France an invitation to join the Government and people of the United States in the observance of the centennial anniversary of the surrender of Lord Cornwallis at Yorktown, Virginia.

APPORTIONMENT OF REPRESENTATION.

The House resumed the consideration of the bill making an apportionment under the tenth census.

The SPEAKER *pro tempore*. The gentleman from Mississippi [Mr. HOOKER] is entitled to the floor for forty minutes.

Mr. HOOKER addressed the House. [See Appendix.]

Mr. CALKINS. Mr. Speaker, no apportionment bill which is not fair, just, and right ought to be presented to this House, much less passed, and no one that is unjust or inequitable can pass. The time has gone by when any one section of this country will submit to the domination of another. We, as Representatives, are all equal. Whether from the East, West, North, or South, whether our credentials bear the *imprimatur* of a State whose star makes up the southern cross or the northern constellation, no Representative overpeers his fellow in this national council, and this without reference to where he was born or what his color is.

Now, if this bill is right and just and proper it ought to pass without unnecessary delay or factious opposition. If it is wrong, unequal, and unjust, it ought not to pass, and no fair minded man ought to hazard his reputation in advancing a bill of such a character. Legislation of this character is purely political. Apportionment bills, whether brought forward in the Legislatures of the States or the national council are purely political in character. They go to the maintenance of power in certain integral parts which make up the State or nation. If there were no State lines it would be a very easy matter to apportion representation according to numbers, but when you have these ugly fractions which remain over after full numbers are ascertained, it becomes a difficult task to frame an apportionment bill that will be at the same time just and equal to all.

I will quote a sentence here from the very able speech of the gentleman from Illinois, [Mr. SHERWIN,] which I assert has not been controverted by any gentleman who advocates a lower ratio as a basis of representation than that advocated by him. I say, therefore, the statement he made must be taken as confessed and true. What is that statement? I have it here, and I will read it in the presence of the House:

> Upon the basis of three hundred and one the certainly democratic States have a gain of six and the other States a gain of two. Upon a basis of three hundred and eleven the democratic States have a net gain of twelve and the other States have a net gain of six. On a basis of three hundred and nineteen the certainly democratic States have a net gain of thirteen and the other States have a net gain of thirteen.

Now, if you will read that to any fair-minded man and ask him which of these ratios are right, he would not hesitate long to decide in favor of the basis of three hundred and nineteen.

Taking into consideration the slight difference that exists between three hundred and eleven and three hundred and nineteen members, opposition to the latter number cannot securely rest on a discrepancy so slight. There must be some lurking advantage in the mystic number three hundred and eleven that is not found in three hundred and nineteen, else compromise on the one basis could be as easily reached in the one case as the other. The difference between the two numbers is too small to justify vigorous opposition if the advantages growing out of either were equal.

A House of three hundred and nineteen members would not be any more turbulent or unwieldy than a House of three hundred and eleven members, and all of you know it, every one of you.

Now, if any gentleman, I do not care with what party regalia he is now or in the past might have been clothed, whether he were a democrat, a republican, or a greenbacker, had suggested to me a month ago that the democratic party of the North would have allowed such a thing I would have said no. I would have said I know that the democratic party has always been cringing the knee at the behest of the South. They made the compromise of 1820, and afterward, when the South demanded that it should be repealed, repealed it. When the South demanded that they should be allowed to take their slaves into free territory a very large part of the democratic party of the North immediately uncovered itself in the presence of its southern masters and said "yes;" and so it was and has been all along down for fifty years. But in this era and in this day if you had told me that the democratic party of the North would have said to the democrats of the South, "We will consent that our people shall be cut off and that these fractions shall be allowed to inure to your exclusive advantage," I would have said that they would do nothing of the kind. But I am now convinced to the contrary.

It is the old story over again. The South demand the basis of three hundred and eleven. I do not blame you for demanding it, as power always seeks to enlarge its volume. Of course, if you can get power, keep it. There never was a petty tyrant intoxicated by the glamour of the scepter that did not when his power was assaulted struggle for its continuance. There never was a political party in power who did not fight with equal vigor to maintain it.

But what would you gentlemen think of us at the North if we should sit here silently and allow you to fasten these shackles upon our people? You would have a right to spurn us with contempt, to vomit us out of your mouths, if we consented to any such thing. But we will never consent to it. If you want a fair and just apportionment bill, you can have it; but on no other condition.

I incline to the belief that the number of Representatives in this body ought to be curtailed rather than enlarged. As stated by the gentleman from Mississippi [Mr. HOOKER] a few moments ago, we have thirty-eight legislative bodies in the United States. This body does not legislate upon all subjects; many matters are left entirely to the Legislatures of the various States. But even if this were not so, we have quite enough members for legislative purposes. I incline to the opinion that wise statesmanship, far-seeing wisdom, looking to the wants of the country, would decrease the number of Representatives rather than increase it. If I should decrease it, I would go to the point where the decrease would reach the same equitable basis that the increase does in the bill proposed by the minority of the committee. But that is not very material. Three hundred and nineteen is not a very large body as compared with the present, and such a number has the advantage of securing justice to all the States.

Mr. COX. Would the gentleman like to fix this increase on the basis of population only?

Mr. CALKINS. I am coming to that in a moment.

The SPEAKER *pro tempore*. The time of the gentleman from Indiana has expired.

Mr. COX. If the gentleman fixes it on the basis of population, he has not rightly given the gain of the South on the numbers proposed by me.

Mr. CANNON, of Illinois. I ask unanimous consent that the time of the gentleman from Indiana [Mr. CALKINS] be extended, as a similar courtesy has been accorded to other gentlemen.

Mr. HAMMOND, of Georgia. I must object, unless the time be limited.

The SPEAKER *pro tempore*. How much more time does the gentleman from Indiana desire?

Mr. CALKINS. Fifteen minutes more.

The SPEAKER *pro tempore*. The Chair hears no objection to the gentleman proceeding for fifteen minutes longer.

Mr. CALKINS. Mr. Speaker, I was considering some of the objections made to a large House, and was speaking with reference to what I thought would be beneficial to the country, decreasing rather than increasing this body. On this point I will take the liberty of printing what I do not wish to detain the House in saying.

My own view of the number of Representatives in this House is that it ought not to exceed two hundred and fifty. As it is now composed it is simply one vast body of committees. All subjects which can be grouped together under a common head are sent to committees consisting of from seven to fifteen members. They alone have time to investigate and consider the facts surrounding the bills committed to them. The residue of the House have not only no time to investigate the subjects but can receive only a hasty and imperfect idea from the discussion allowed to the members of such committees. This certainly cannot be said to be considerate and deliberate legislation. In the very nature of things legislation thus adopted must be hasty and crude.

In the next place, larger constituencies will tend to give us able men in this body, and add dignity and gravity to its proceedings. On the other hand, it is urged that a large body is less likely to be corrupted, and by its turbulence and unwieldy character will act as a check on legislation; that it must always act through its committees and can never be properly styled a deliberative body in the sense of cool deliberation and dignified equanimity. However this may be,

I am still of the opinion a number not in excess of two hundred and fifty would approach nearer to a model legislative body than to increase it beyond that number. It certainly would not be as turbulent and unwieldy as it now is, and the bustle, noise, and confusion which now exists would be largely decreased, members would be able to hear what is taking place in their presence, and render such assistance in current legislation as is expected at the hands of all Representatives.

I come now, Mr. Speaker, to examine another question which has been much discussed during this debate—the construction of the fourteenth article of the amendments to the Constitution. I do not care to confine myself to the narrow limits within which, as I thought, the gentleman from Massachusetts [Mr. ROBINSON] restricted himself in discussing this question. He spoke of the purposes of the fourteenth amendment; so did the gentleman from New York, [Mr. COX.] But, Mr. Speaker, the general principle on which that amendment was bottomed and upon which it stands was not adverted to by either of them. What is it? It was intended to overturn and tear up by the roots that doctrine which was promulgated in the Dred Scott decision by Chief-Justice Taney; it was to declare a national citizenship; that was the object of the amendment. I do not care what may have been the narrow, the selfish, or the grand purposes of any party, that was what the amendment did; it established a national citizenship, and made it as broad as the nation. The purpose was to declare that every man, native-born or naturalized, whether among the pine trees of Maine or on the golden shores of the Pacific, whether residing among the frozen lakes of the Northwest or among the orange blossoms of Florida, was a citizen, clothed in the panoply of American citizenship.

A MEMBER. It established "manhood suffrage."

Mr. CALKINS. Yes; the fourteenth amendment had for its main object the establishment of "manhood suffrage." However lawyers may quibble or within whatsoever narrow limits try to confine it, this is the broad principle that must forever obtain in construing it. I do not care whether it is the State of Massachusetts or Rhode Island that says a man shall not vote unless he owns a certain amount of property, or whether it is the State of Mississippi or Louisiana that by a general system of fraud and intimidation prevents voters from voting, each of these communities ought to be curtailed in their representation as a punishment for curtailing this manhood suffrage. [Applause.]

On this subject I read from a speech delivered in this House by General Garfield on the 6th day of September, 1871, during the debate on the apportionment bill under the census of 1870:

> In the State of Massachusetts people are deprived of suffrage on account of inability to read and write. All such persons, under the constitutional amendments which I have indicated, must be subtracted from the total population of Massachusetts before we can know what is her representative population. If in the Southern States men are still denied the right to vote in consequence of race or color or for lack of property qualification, their total must be reduced accordingly. I do not know how large the sum to be subtracted is in any State. I am aware that the facts were very difficult to ascertain, and perhaps the result may not change the number of Representatives in any State; but it is clear that we ought to have all the facts before we proceed to fix the relative number of Representatives of the States.

Upon this same question, Judge Shellabarger, of Ohio, on the 12th day of December, speaking of the fourteenth amendment, said:

> Now I say it was the design of this constitutional amendment, and it was a beneficent one, that wherever a State may choose to do that thing—and the State may do it—the fourteenth amendment does not take away the power of the State to do it. You in Massachusetts may establish your qualification of intelligence, or you in New York and Rhode Island may establish your property qualifications as you may please, but you take the consequences in their effect upon your power in this House; you have your choice. The design of this constitutional amendment was that the poor man, the ignorant man, the colored man, should be secured, should be guaranteed his right to vote; that the States should not deprive him of his right of representation except by taking the consequences of not having in this Hall representation for those of his class.

I now read an extract from the able brief of counsel in the Slaughter-house cases, reported in 16 Wallace, at page 51 *et seq.* The argument is sound and the logic unanswerable. Speaking of the fourteenth amendment, it is said:

> That amendment was a development of the thirteenth and is a more comprehensive exposition of the principles which lie at the foundation of the thirteenth.
>
> Slavery had been abolished as the issue of the civil war. More than three millions of a population lately servile were liberated without preparation for any political or civil duty. Besides this population of emancipated slaves there was a large and growing population who came to this country without education in the laws and Constitution of the country, and who had begun to exert a perceptible influence over our Government. There were also a large number of unsettled and difficult questions of State and national right that had no other settlement or solution but what the war had afforded. It had been maintained from the origin of the Constitution, by one political party, men of a high order of ability and who exerted a great influence, that the *State* was the highest political organization in the United States; that through the consent of the separate States the Union had been formed for limited purposes; that there was no social union except by and through the States, and that in extreme cases the several States might cancel the obligations to the Federal Government and reclaim the allegiance and fidelity of its members. Such were the doctrines of Mr. Calhoun and of others, both those who preceded and those who have followed him. It is nowhere declared in the Constitution what "a citizen" is or what constitutes citizenship; and what ideas were entertained of citizenship by one class of our country may be seen in the South Carolina case of Hunt *vs.* The State, where Harper, J., referring to the arguments of Messrs. Pettigru, Blanding, McWillie, and Williams, men eminent in the South as jurists, who were opposing nullification, says:
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> "It has been admitted in argument by all the counsel except one that in case of secession by the State from the Union the citizens and constituted authorities would be bound to obey and give effect to the act."
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> But the fourteenth amendment does define citizenship and the relations of citizens to the State and Federal Government. It ordains that "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State where they reside." Citizenship in a State is made by residence and without reference to the consent of the State. Yet by the same amendment where it exists no State can abridge its privileges or immunities. The doctrine of the State-rights party, led in modern times by Mr. Calhoun, was that there was no citizenship in the whole United States except *sub modo* and by the permission of the States. According to their theory the United States had no integral existence except as an incomplete combination among several integers. The fourteenth amendment struck at and forever destroyed all such doctrines. It seems to have been made under an apprehension of a destructive faculty in the State governments. It consolidated the several integers into a consistent whole.
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> By it the national principle has received an indefinite enlargement. The tie between the United States and every citizen in every part of its own jurisdiction has been made intimate and familiar. To the same extent the confederate features of the Government have been obliterated. The States, in their closest connection with the members of the State, have been placed under the oversight and restraining and enforcing hand of Congress. The purpose is manifest to establish through the whole jurisdiction of the United States one people, and that every member of the empire shall understand and appreciate the fact that his privileges and immunities cannot be abridged by State authority; that the State laws must be so framed as to secure life, liberty, property from arbitrary violation, and secure protection of law to all.
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> * * * * * * *
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> Under it the fact of citizenship does not depend upon parentage, family, nor upon the historical division of the land into separate States, some of whom had a glorious history, of which its members were justly proud. Citizenship is assigned to nativity in any portion of the United States, and every person so born is a citizen.

These extracts bear me out largely in the view which I have taken and expressed relative to the construction of the fourteenth amendment. This amendment did more than to simply establish national citizenship. It opened the mouths of witnesses theretofore dumb in the presence of courts of justice. It forced unwilling and prejudiced ears to hear the simple story of injustice from the lips of the oppressed, and bade them relate their wrongs in the presence of the blinded goddess. It opened up a path to the governing potency of universal manhood suffrage. It gave all an equal chance in the race of life. It held out the glorious inducement to all men to become the peer of every other man. It is a fitting supplement to *Magna Charta* and the bill of rights found in the original Declaration of Independence, and I thank God that it is an emanation from the brain of the republican party, who wrote it down indelibly in the organic law of the land.

DEPRIVATION OF SUFFRAGE.

There is a distinction in law between the deprivation of suffrage and a reasonable regulation protecting the ballot-box—between disfranchisement and the prescribing of a qualification for voters. All laws which look to the protection of the ballot-box by prescribing qualifications of age, residence, and the like, are reasonable regulations thrown around the ballot-box to protect its purity; but all laws which add additional tests to a citizen's qualification to vote are in derogation of this great fundamental right upon which our governmental fabric rests. Laws must be construed liberally when they affect the rights of the people, and strictly when they are in derogation of those rights.

Mr. Speaker, I do not believe we ought to pass an apportionment bill this session at all. I said on the stump (and I would be an arrant coward if I did not say the same thing here in the presence of the representatives of 50,000,000 people) that I am not satisfied the last census is correct. Take for example the State of South Carolina; I select it only by way of illustration. The population of South Carolina as returned by this census is 995,622. In 1870 it was 705,606, making an increase in round numbers of 290,000.

Now, it is said that the census of 1870 was not correct. Well, test the matter by the four preceding censuses. South Carolina was then as jealous of her power as any other State in the Union; yet if we take the average increase of the four censuses preceding 1870 it is but 48,000 in round numbers.

Give to South Carolina the 50,000 she was deprived of in 1870 and it makes 755,000. Give to her, then, the increase she would have between that time and this, and still it would not much exceed 800,000. She has 190,000 more people by these returns than the figures show she should have by applying this test.

Mr. COX. Which return does the gentleman read from? There have been three returns. The two last confirmed the first, and they are by republican officials.

Mr. CALKINS. The gentleman knows I cannot yield to him, as I have not time.

Mr. TILLMAN. But your time has been extended, and why not yield for a correction?

Mr. CAKLINS. I have only fifteen minutes, otherwise I would be glad to yield.

Mr. EVINS. I do not wish the gentleman to misrepresent the facts, and we will give him all the time he wants if he will yield so that corrections can be made.

Mr. COX. The men who complain took the last censuses, and those two last returns confirm the former one.

Mr. CALKINS. I am not challenging the census of South Carolina, except to say that the people of the North are not satisfied with it.

Mr. COX. Have you read the last two returns?

Mr. CALKINS. Yes; I have looked over them.

Mr. COX. The last two, I mean.

Mr. CALKINS. I do not know what you mean.

Mr. COX. There have been two made which confirm the first one.

Mr. CALKINS. I have the one here in this pamphlet.

Mr. COX. Then you are not fitted to speak on the subject. [Laughter.]

Mr. CALKINS. If I have not looked at the right return, and have misstated it, I want the gentleman to correct me now. Let me say I was using this merely by way of illustration. I say now no State can afford to ask an apportionment founded on any census which is not satisfactory to the great body of the people of the other States. They cannot afford it. This is one reason why I am not in favor of an apportionment bill at this session of Congress.

But to pass from that. Another reason is, that I am not satisfied with reference to the representation under the fourteenth amendment. I say when the law was passed by which the census was taken it ought to have provided some means by which we could have ascertained the facts as provided under the fourteenth amendment. This it omitted to do. It is nothing more than right it should have been done.

Now I come to another proposition in answer to the gentleman from Maryland [Mr. McLANE] whom I regret not to see in his seat. It is in answer to what he said the other day that the South was under the domination of troops for ten years after the war. I desire to call attention to a great fact which these gentlemen all seem to have overlooked. There are two periods of war; one is during the period of awful conflict, while contending armies are hurling thunderbolts of death and destruction at each other, and then comes another period between complete restoration of peace and the war period. That was the condition of the South for many years after the war closed. I have carefully looked up this question of the domination of troops complained of, and during no time after 1868 was there half a soldier on the average to a precinct in the whole Southern States; and to say that this number of soldiers overawed and put in fear these men whom I met on the battle-field is to say that which I know is not true. We know the power of each other; these troops never overawed these men; never, sir.

During that time troops were stationed there to prevent outbreaks. I have no doubt, sir, in certain instances the power of the troops in the way they were used was carried to an extreme. That was natural. But I defend the acts in a general way of the troops in the South. But I am glad to announce now that I believe the time is passed when there should be any further use of troops there.

Now, as to carpet-baggers. What is a carpet-bagger? In the strict sense of the term, I am a carpet-bagger in the State where I now live. I was born in Ohio. [Laughter.] Yes, some men are born lucky, and some rich, and some in Ohio. I was one of those who were born in Ohio. I believed when the war closed I had conquered the right to go anywhere I wanted to in America, and live there and breathe the free air and say what I chose, so I did not trangress the law. I believe it yet.

There is no such thing as aliens to the territory within States if a man is a citizen of the United States. There is no such thing as alien to the soil in any State in the Union if a man is an American citizen. No matter where he goes, wherever the flag floats every citizen is entitled to all the rights any other man has, be he imported or to the manor born.

It is said that these men in the South called carpet-baggers plundered and stole and all that. All I have to say, if this be true, is that the white people of the South were responsible and nobody else. Why, Mr. Speaker, although they talk of the proscription of the republican party, I challenge to-day a parallel where in history any government ever extended such terms to a fallen foe as the republican party extended to the people of the South. It was one line of grand and magnificent magnanimity. Gentlemen from the South who stand here are themselves monuments of that fact. Not a single one of them was ever tried for the overt act of treason which they committed. I am glad of it; and I am glad in this nineteenth century all these crimes were wiped out by the men to whom they surrendered and they were clothed again in the panoply of citizenship, although to-day they are acting solidly against us. This fact I deplore. I do say from my heart that I am sorry this section is still arrayed solidly against that party.

You say that we talk about the bloody shirt. Why, gentlemen, if only twenty of your number on that side of the House would step across the line and come over here you could stop it forever. You know this to be true; you keep it alive and when we refer to it you complain. And yet you stand there solidly, stand there as a menace to what we believe is the true doctrine of governmental policy. [An interruption.] Oh, no! I do not call you traitors now. I do say you committed treason in making war on the United States Government; but now by our act you are reclothed and rehabilitated in the royal purple of full citizenship. All political crimes have been freely and ungrudgingly wiped out. And each of you is the equal of any other citizen in the whole land. And to every brave man in the South I say I will meet you half way, ay, more than half way, to help bind up forever the gaping wounds of the war. I will rejoice with "exceeding great joy" when we can meet on all questions, looking alone to the good of all irrespective of the past. I say further, to all of the soldiers of the South, with a heartiness equaled only by the Scottish chief, you are welcome back—

> Come, share
> A soldier's bed, a soldier's fare.

More can you ask? More do you require? All I ask is that you shall remain peaceable citizens of this great and good and magnificent Government.

Mr. Speaker, I had intended to discuss some questions more or less abstruse, some of which have been somewhat entered upon by those who have preceded me, but the time allotted is too short. I see the moment is fast approaching when the inexorable gavel of the Speaker will give its significant announcement of the expiration of my time. I must hasten on, leaving these questions for another occasion.

I see before me the honorable gentleman from Massachusetts [Mr. LORING] and the honorable gentleman from Virginia, [Mr. TUCKER.] These gentlemen are magnificent monuments and true types of the old Commonwealths which they in part represent. I do not blame them for the love and devotion which they continually show for these ancient States. Around and about them cluster memories of heroic deeds. Their history is familiar to all. The repetition of these glorious epochs never fall on unwilling ears. With them I glory in these grand old reminiscences and the characters whose lives furnish the warp and woof of our country's magnificent achievements. While you revel amid these past glories I claim for my section—the magnificent West—a share in all you say. It is true we have no such monuments as Bunker Hill, no hallowed spot like Yorktown, located on our soil to which we may point with ancestral pride. But while they happen to be located on your soil, are they not ours as well? Did not the Huguenot and the Cavalier, the Quaker from the city of Brotherly Love, and the Puritan furnish us our early settlers in the Far West? Ay, Mr. Speaker, it was the brave, adventurous men of those early colonies that pushed their way westward, far to the sunset side of the Alleghanies, where they erected their cabins amid the unbroken forests, subdued them into fertile fields, and made them gardens of beauty and happiness. Here they erected their first school-houses—temples of learning—and reared their children side by side. The Cavalier led to the altar the Puritan girl, and their childrens' veins were tinged with the blood of the early colonists from the rivulets flowing from close springs. Thus the hot blood of the Cavalier and the conscientious character of the Puritan intermingled and brought forth the splendid characteristics of the true Westerner.

Our code of laws was liberalized, and the good of diverse systems was extracted and compiled into enactments at once just, liberal, and generous. Habits formed in childhood were softened by contact with the hospitality which hardship produces. All these diverse circumstances served to melt down old ideas into a consistent and happy union, and to give to our western people that liberality, generosity, activity, and enterprise which characterizes them. Our homes are welcome to the stranger. Our hearthstones are models of domestic happiness. Our school-houses are temples of learning for all. The masses of our people are educated, and believe in religious and personal liberty. Our grand prairies and magnificent forests, our rich valleys and fertile plains, yearly furnish a mine of wealth unknown to other lands and unheard of in any other equal area of territory in the world.

While I am proud of my people and my section, while I love them to an extent equal to that felt by any member from any other section, I trust, Mr. Speaker, that I am not so narrow and selfish as to love it better than my whole country. This country, now reunited and bound by ties indissoluble, all of it, is "my own, my native land." [Applause.]

[Here the hammer fell.]

Mr. FINLEY. Mr. Speaker, if it be the desire of gentlemen that this debate shall continue, I will go on; otherwise, I will yield to a motion to adjourn. [Cries of "No!" "No!" "Finish the discussion!"] Then I yield five minutes to the gentleman from South Carolina, [Mr. AIKEN.]

Mr. AIKEN. Mr. Speaker——

Mr. DUNNELL. I ask the gentleman from South Carolina if he will not yield for a motion to adjourn? [Cries of "No!" "No!"]

Mr. AIKEN. I have but few words to say, Mr. Speaker, and would like to have that privilege now. [Cries of "Go on!" "Go on!"]

After the admirable speeches made to-day by the gentleman from Connecticut [Mr. HAWLEY] and the gentleman from Massachusetts, [Mr. ROBINSON,] I had hoped that this discussion might have been continued upon that plane of statesmanship which they had inaugurated, and that partisan prejudices would no more be heard in this debate. But my good friend from Indiana, [Mr. CALKINS,] whose attention I now invoke, has thought proper to present some very pertinent questions, which I propose directly to answer.

From the remarks of my friend, Mr. Speaker, and of some of those who preceded him on that side of the House, I am impressed that if there is any pharisaical righteousness on earth it is to be found in the republican party whenever questions pertaining to the South are discussed by them. To-day they seem to be solicitous whether or not a large proportion of the people of the South are permitted to vote, and the question is raised by them whether it is not the duty of Congress to appoint a committee of investigation upon this subject.

I ask my friend from Indiana [Mr. CALKINS] and his colleagues why is this a latter-day thought with them? Why did they not desire to investigate this subject when republican rascality and extravagance were running riot over the South and none but republican votes were cast? I hold in my hand, sir, a Congressional Directory for 1874, of the first session of the Forty-third Congress, and in turn-

ing to my own State I find that J. H. Rainey received in the first district 19,765 votes as a republican, "being all the votes that were cast," as the Directory states. From the same source I learn that A. Y. Ransier was elected as a republican from another district, receiving 20,061 votes against 6,549 votes cast for W. Gurney, independent republican, not a single democratic vote being cast in the district. In the third district, which I have the honor to represent, R. B. Elliott, the candidate for the republican party, received 21,627 votes, while only 1,094 votes were cast for W. H. McCaw, democrat. One year later I find L. C. Carpenter, republican, was elected to fill an unexpired term, Elliott having resigned, and received 23,185 votes, as is recorded in the Directory, "there being no organized opposition."

Why is it, Mr. Speaker, that this party of great moral ideas, which then controlled the executive and legislative branches of our Government, did not think it incumbent upon them to have congressional investigation of this one-sided condition of things?

But let us come a little nearer to the present time. In the Directory of 1876 I find that at the election of 1874 E. W. M. Mackey, a republican, received 16,742 votes, and that C. W. Butts, also a republican, received at the same time 14,204 votes; no record to be found of a democratic vote being cast in the district. Is it not strange, Mr. Speaker, that this party whose representatives on this floor are so clamorous for fair and free elections did not consider it their duty to investigate at that time these anomalous elections?

But, sir, this same republican party, to-day so just, so fair, so moral, at that time so callous, so insensible to the rights of southern voters, are now demanding that all election districts shall be composed of contiguous counties. Sir, allow me to instance but a single case of republican gerrymandering during their revelry, extravagance, and prodigality in South Carolina. The third congressional district was composed of the counties of Abbeville, Anderson, Laurens, Newberry, Oconee, Pickens, and Richland, and no portion of Richland County is within perhaps fifteen miles of any point of either of the remaining counties which constitute the district, Lexington County, which has a democratic majority of about 1,000, intervening between Richland and Newberry.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. AIKEN. I ask unanimous consent to proceed for five minutes more. I have not often wearied the attention of this House and do not desire to do so now.

The SPEAKER *pro tempore*. Is there objection to the gentleman's proceeding? The Chair hears none.

Mr. AIKEN. My friend from Indiana [Mr. CALKINS] says that as long ago as 1868 there were no more troops in South Carolina than would have allowed a half soldier to each one of the precincts.

Mr. CALKINS. If the gentleman will allow me to interrupt him, I wish to say that I spoke of the whole South.

Mr. AIKEN. I accept the correction, and acknowledge that his remark was true as applied to South Carolina. The gentleman must not misunderstand me as saying that it was the number of troops that overran South Carolina during the six years to which I have alluded, and during which time I have shown there were no democratic votes cast. We refrained from voting not because we were afraid of the military force present, but because we protested against that usurpation of power that authorized the presence of the military at the ballot-box. We believed then, as now, that we were again in the Union and had the right to cast a free ballot, which could not be done in the presence of the suzerainty of the bayonet. Sir, we were subserviently obedient to the Federal authorities. General Ruger was then in command in South Carolina, and had he hung up his old boots in the capitol and written above them "he who shall dare these boots displace, must meet the United States face to face," the order would have been implicitly obeyed by every citizen of the State and those old boots would have been as potent in executing the commands of the Government as ten times the number of soldiers as were then in the State. It was not the power, sir, but the presence of the bayonet that drove democratic voters from the polls during those six long years of anarchy and oppression. Sir, in 1873 I myself told a soldier at the polls, "I will not vote under duress; the Constitution entitles me to the privilege of voting as a freeman, and there is no freedom under that bayonet." For that reason, and for that reason alone, sir, I refrained from voting, and so did the democrats of the State.

But, Mr. Speaker, the republican party claim that the negroes of the South must of necessity vote the republican ticket. Possibly there was an ostensible reason for this thought some years ago; but to-day there exists potential causes for a reduction of the republican negro vote at every election. The intellectuality of the race is improving; the more thrifty of them are acquiring property and becoming tax-payers, and find a democratic incomparably less burdensome to the tax-payers than a republican government, and thousands of the more ignorant and timid have been rescued by their humane employers from the oppression of their Union leagues and other jesuitical organizations of their race. [Laughter and groans on the republican side.] Gentlemen may grunt and laugh sardonically at this remark, but it is literally true. I have myself accompanied colored men to the ballot-box who, with fear and trembling, asked and received protection while they voted the democratic ticket. You men of the North know nothing about the colored race in the South. You are ignorant of their manners, customs, traits of character, and their wants; and the gentleman from Michigan, a thousand miles away from any portion of the South, and of all men most ignorant of the people of that section, presuming to read us a lesson as to how we should deal with the colored man——

[Here the hammer fell.]

Many MEMBERS. Go on! Go on!

Mr. AIKEN. No, Mr. Speaker, I will not impose further upon the indulgence of the House, but will ask leave to print what I had intending saying at this time.

Mr. TILLMAN. Mr. Speaker, the time of the gentleman [Mr. CALKINS] from Indiana was extended for fifteen minutes. My own State is entitled to be heard, and the gentleman now on the floor ought to have an equal extension of time.

Mr. CALKINS. I hope the time of the gentleman will be extended.

Mr. KEIFER. There will be no objection.

Mr. AIKEN. Mr. Speaker, I do not desire to obtrude my remarks upon the House unless by unanimous consent.

The SPEAKER *pro tempore*. Is there objection to the time of the gentleman from South Carolina being extended? The Chair hears none.

Mr. AIKEN. Mr. Speaker, if the threats and warnings elicited by the proceedings of this House from the stalwart portion of the republican party are to be credited, we may anticipate but few more free elections in the South. As a Southern farmer I have a greater interest in the welfare of the colored people of the South than all the gentlemen on that side of this Chamber, because upon them and their labor I and mine are, and always expect to be, dependent for our support. But, sir, identified from birth with the people of the South and actuated by the instincts of honesty and candor, I declare it as my conviction that further and continued congressional interference with our elections will result in arraying race against race to the detriment of the negro. For whatever fate may befall the South the white people of that section, prompted by the first law of nature, will never again quietly submit to negro domination. Eight long years' subjection to an oppression unknown to modern civilization is not to be forgotten in a generation. In South Carolina, and I believe a similar sentiment pervades the South, we desire to see the negro elevated. But, sir, a consummation of that desire will never be attained by a second degradation of the white man. You may draw your party lines upon color; we will meet you there and extinguish them. Our destiny is to live in the South with the negro, and we expect to work out that destiny peacefully, difficult as the problem may seem. But if political legislation denies us, or subverts our rights upon the presumption that we have in any wise curtailed the rights of the colored man, just then and there we will have reached that time in the South anticipated by the honorable gentleman from Michigan, when he expressed a fear lest civil liberty would be destroyed unless election results could be changed in that section. But if the American people will only repose confidence in the southern whites and grant them the opportunities circumstances present, I have little doubt but that this problem will be solved satisfactorily to both races, and ultimately result in the elevation of the negro and the continued and, I pray God, the everlasting political quiet between the two sections on his account.

A few more words, Mr. Speaker, and I have done. Allusion has been frequently made during this debate to the small republican vote throughout the South in the recent presidential election, and it has been reiterated that it could not be accounted for upon just grounds. For the first time since I have been a member of Congress have I heard the South censured and South Carolina escape more than the lion's share of the abuse. But it seems the recent vote in that State has given satisfaction to those who, for the purpose of this debate, have bewildered themselves with arithmetical calculations. Perhaps these gentlemen are not aware that during the last campaign South Carolina had no republican State ticket in nomination, and in only a few instances a county ticket to represent the republican party in the campaign of 1880. The ghost of intimidation doubtless presents itself to the mind of every republican within the sound of my voice at the very announcement of such a fact. But that such a thought is a mere phantom let me prove by printing as a portion of my remarks a letter received this morning from a resident lawyer of this city, who is perhaps the brightest intellect that South Carolina ever gave to the republican party. He has lately settled in this city, and yesterday afternoon I addressed him a note asking whether he was not a member of the republican State convention of South Carolina, and if he did not publish a letter advising against placing a republican ticket in the field. I have his reply, and will print it.

Many MEMBERS. Read it!

Mr. AIKEN. I will.

WASHINGTON, D. C., *February* 5, 1881.

DEAR SIR: I have your favor of yesterday, and, in reply, would say that I did publish such a letter as you inquire about. The national republican party had been injured and that of the State broken down and ruined by our running unfit men for office. I knew we had not the material for a State ticket in South Carolina, and I felt confident that if we forebore to nominate one the democrats would be more likely to divide, run "independents," and thus sooner contribute the material needed to build up a respectable and strong republican party; one not in name merely, but in principle and usefulness. Entertaining these views, I declined most pressing solicitations to allow my name used before the convention.

I am, very truly, yours,

WM. E. EARLE.

Hon. D. WYATT AIKEN, *House of Representatives*.

Now, Mr. Speaker, this is a letter from an intelligent South Carolinian, born and reared upon her soil, who is a republican from principle; and it contains two incontrovertible truths: first, that the republican party in South Carolina had not material enough in it from which to select a State ticket; and, secondly, that the only hope of securing that material is to dissever the democratic party. Think you, Mr. Speaker, does any gentleman on this floor suppose, that this end will be attained by arraying every two or four years in deadly political strife that party which so lacks material against the party alone that possesses it at the South? As well may you or they expect to break the "solid South" by continually heaping abuses upon those who compose it.

Mr. Speaker, my friend from Indiana, [Mr. CALKINS,] with much fervor and great emphasis, asks, What is a carpet-bagger? In reply I say he is a political legalized burglar: that is just what a carpet-bagger is, [laughter and applause on the democratic side;] and I say to my friend if he will come to South Carolina with a view of identifying himself with the State, intending to become a citizen, claiming the protection of that flag that floats over our Speaker's chair, and demanding the right to be recognized as a citizen, at the same time lending a helping hand toward developing the resources of that beautiful country, he will be received with open arms from the mountains to the sea-shore, and no questions will be asked as to his politics. But, sir, no such motives ever impelled the carpet-bagger to settle in South Carolina or any other Southern State. His was the visitation of a political adventurer, who, through the ignorance of the blacks, foisted himself upon the oppressed whites, whom he proceeded at once to tax to impoverishment, while he squandered in luxurious living every dollar poured into the treasury by the tax-gatherer. And yet my friend thinks it cruel to call such creatures "aliens." Why, sir, it is an honor to them to be recognized at all. I beg gentlemen to recall the history of my State during the carpet-bag *régime* and ask what has become of those tyrannical spendthrifts. Some of them doubtless have been hung, as I believe all of them should have been; some of them are to-day, I know, in the jails of the country, and others of them have had in more ways than one retributive justice meted out to them by an offended Providence. If there is one remaining in my State, I am not aware of it. And if they had all gone to that other estate, Heaven knows I would not have had a tear to shed at their demise.

Mr. Speaker, I need not reply to my friend's thrusts at the census of South Carolina further than to express a regret that he has thus publicly acknowledged his lack of information upon the subject. I suppose no gentleman on the other side of this Hall will question the integrity of character, the honesty of purpose, and the efficiency of the Superintendent of Census, General F. A. Walker. When the returns were made by the supervisors of South Carolina they were so far in excess of the population expected to be found in that State that at once the cry of fraud ran through the North from Maine to California. General Walker was compelled to yield to this pressure, and, himself startled at the supervisors' returns, he had no hesitation in at once resorting to the only method of disproving, if possible, their correctness. Indeed, he was instructed by the President "to send a staff of special agents from his office to South Carolina to conduct a re-enumeration, by a house-to-house canvass, of a certain number of townships, with a view to a further test of the results of the June enumeration." In his report, submitted on the 17th January last, which my friend had certainly never seen or he would not have manifested that fanaticism I so much regretted to see, General Walker says: "In compliance with these instructions, I detailed the late supervisor of census of the State of Vermont to conduct the proposed re-enumeration;" and he detailed as his assistants an enumerator from each of the following States: New York, Massachusetts, Maryland, and Michigan, all of whom were doubtless republicans. In speaking of these gentlemen General Walker says:

> They were selected for their known ability and proved integrity, and with reference to the fact that each of them had been accustomed to mounted service in rugged and difficult country, all of them having been in the Army of the United States.

I may say in passing, Mr. Speaker, that I fail to comprehend the peculiar adaptation of such qualifications in enumerators as are here mentioned to such service in South Carolina, for generally the country is neither "rugged" nor "difficult," and I am sure the United States will find no enemies to herself now lurking within the bounds of that State that ex-soldiers of the Army should have been employed to do this work. However, these several agents came to South Carolina and reported to the United States marshal, a republican of the stalwart type. The chief agent made his headquarters in Columbia and assigned the duty of re-enumerating to his assistants in eight different counties of the State, selected at will and without the least premonition to the people. The schedules of inhabitants as returned by the local enumerators in June, 1880, were committed to the special agent, but inspection was denied to each of his assistants, who were required to do their work thoroughly without reference to the first enumeration. The re-enumeration was made; noses were counted by these agents and their republican assistants tendered them in South Carolina by the United States marshal, and in almost every instance the re-enumeration exceeded the enumeration in June, 1880. And in submitting his report to the Secretary of the Interior General Walker closes with this paragraph:

> I cannot but believe that the result which I have now the honor to announce will be accepted as conclusive in favor of the integrity of the work done in June under the authority of the several supervisors of South Carolina.

From these official statements of facts, Mr. Speaker, I submit it to the magnanimity of the gentleman from Indiana [Mr. CALKINS] whether it is not my duty to ask and should be his pleasure to grant a retraction of the unwarranted allegations he has made against the people and State of South Carolina?

Mr. Speaker, I am indebted to the House for their indulgence, and have only to regret that I could not have anticipated this discussion and prepared, as I could have done, a complete refutation of all the charges made against the freedom and fairness of southern elections.

Mr. BURROWS. One question before the gentleman takes his seat. [Cries of "Regular order!"]

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 706) for the relief of A. B. Rowden;

A bill (H. R. No. 735) for the relief of Dr. John Blankenship;

A bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making appropriation therefor;

A bill (H. R. No. 6527) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses a certain lake known as Carr Lake, situate near said city; and

A bill (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York.

The message further announced that the Senate had passed, with an amendment in which the concurrence of the House was requested, a bill of the following title:

A bill (H. R. No. 6062) donating certain lands in Lake County, in the State of Colorado, to the Veteran Union Association of Leadville, for hospital and burial purposes.

The message also announced that the Senate had passed bills, in which the concurrence of the House was requested, of the following titles:

A bill (S. No. 1599) for the relief of Dr. A. Sidney Tebbs; and

A bill (S. No. 1874) to provide for the erection of a public building in the city of Quincy, in the State of Illinois.

## APPORTIONMENT OF REPRESENTATION.

The House resumed the consideration of the bill making an apportionment under the tenth census.

The SPEAKER *pro tempore*. The gentleman from Ohio [Mr. FINLEY] is entitled to the floor.

Mr. FINLEY. I yield two minutes to the gentleman from Pennsylvania, [Mr. COFFROTH.]

Mr. TILLMAN. As the time allotted to my colleague [Mr. AIKEN] has not been exhausted, I ask him to yield to me for two minutes.

The SPEAKER *pro tempore*. As the gentleman from South Carolina [Mr. AIKEN] took his seat without claiming any further time, the Chair is obliged to recognize the gentleman from Ohio [Mr. FINLEY] as entitled to the floor.

Mr. DAVIDSON. I move that the House now adjourn.

The SPEAKER *pro tempore*. Does the gentleman from Ohio yield for that purpose?

Mr. FINLEY. I have yielded two minutes of my time to the gentleman from Pennsylvania, [Mr. COFFROTH.]

Mr. COFFROTH. Mr. Speaker, through the kindness of the gentleman from Ohio [Mr. FINLEY] I am permitted to submit the following bill, which at the proper time I will offer as an amendment to the bill now pending:

> A bill making an apportionment of Representatives in Congress among the several States under the tenth census.
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That after the 3d of March, 1883, the House of Representatives shall be composed of two hundred and forty-five members, to be apportioned among the several States as follows: Alabama, six; Arkansas, four; California, four; Colorado, one; Connecticut, three; Delaware, one; Florida, one; Georgia, seven; Illinois, fifteen; Indiana, ten; Iowa, eight; Kansas, five; Kentucky, eight; Louisiana, five; Maine, three; Maryland, five; Massachusetts, nine; Michigan, eight; Minnesota, four; Mississippi, six; Missouri, eleven; Nebraska, two; Nevada, one; New Hampshire, two; New Jersey, six; New York, twenty-five; North Carolina, seven; Ohio, sixteen; Oregon, one; Pennsylvania, twenty-one; Rhode Island, one; South Carolina, five; Tennessee, eight; Texas, eight; Vermont, two; Virginia, seven; West Virginia, three; Wisconsin, six.
>
> SEC. 2. That whenever a new State shall be admitted into the Union the Representative or Representatives assigned to it shall be additional to the number two hundred and forty-five herein provided for.
>
> SEC. 3. That in each State entitled under this apportionment the number to which such State may be entitled in the Forty-eighth and each subsequent Congress shall be elected by districts composed of contiguous territory and containing as nearly as practicable an equal number of inhabitants, and equal in number to the Representatives to which each State may be entitled in Congress, no one district electing more than one Representative.

Mr. Speaker, I will not now detain the House by offering any remarks on my amendment, but will content myself with submitting

the following table showing the ratio for each member, hoping that before this discussion is over I will have an opportunity to submit my views:

*Ratio* 1: 205,607.

| States. | Number of Representatives on even division. | Fraction resulting. | Final number of Representatives. |
|---|---|---|---|
| United States | 227 | 4,231,134 | 245 |
| Alabama | 6 | 29,152 | 6 |
| Arkansas | 3 | 185,743 | 4 |
| California | 4 | 32,258 | 4 |
| Colorado | ..... | 194,649 | 1 |
| Connecticut | 3 | 5,862 | 3 |
| Delaware | ..... | 146,654 | 1 |
| Florida | 1 | 61,744 | 1 |
| Georgia | 7 | 99,799 | 7 |
| Illinois | 14 | 190,271 | 15 |
| Indiana | 9 | 127,899 | 10 |
| Iowa | 7 | 185,371 | 8 |
| Kansas | 4 | 173,738 | 5 |
| Kentucky | 8 | 3,852 | 8 |
| Louisiana | 4 | 117,875 | 5 |
| Maine | 3 | 32,124 | 3 |
| Maryland | 4 | 112,404 | 5 |
| Massachusetts | 8 | 158,156 | 9 |
| Michigan | 7 | 197,082 | 8 |
| Minnesota | 3 | 164,085 | 4 |
| Mississippi | 5 | 103,557 | 6 |
| Missouri | 10 | 112,734 | 11 |
| Nebraska | 2 | 41,219 | 2 |
| Nevada | ..... | 62,265 | 1 |
| New Hampshire | 1 | 141,377 | 2 |
| New Jersey | 5 | 102,948 | 6 |
| New York | 24 | 149,442 | 25 |
| North Carolina | 6 | 166,405 | 7 |
| Ohio | 16 | 18,527 | 16 |
| Oregon | ..... | 174,767 | 1 |
| Pennsylvania | 20 | 170,646 | 21 |
| Rhode Island | 1 | 70,911 | 1 |
| South Carolina | 4 | 173,394 | 5 |
| Tennessee | 7 | 103,214 | 8 |
| Texas | 7 | 153,325 | 8 |
| Vermont | 1 | 126,679 | 2 |
| Virginia | 7 | 73,557 | 7 |
| West Virginia | 3 | 1,612 | 3 |
| Wisconsin | 6 | 81,838 | 6 |

Mr. FINLEY. I yield to the gentleman from Alabama [Mr. SAMFORD] to make a motion that the House adjourn.

Mr. SAMFORD. I move that the House adjourn.

Mr. COX. I hope we shall not adjourn now. Other members desire to speak. No vote is to be taken to-night.

Mr. FINLEY. I am willing either to go on now or to yield for the motion to adjourn, as may suit the temper of the House.

The question being taken on the motion of Mr. SAMFORD, there were—ayes 62, noes 63.

Mr. CONGER. I call for tellers.

The SPEAKER *pro tempore*. No quorum having voted, the Chair is bound to order tellers; and appoints the gentleman from Maine, Mr. REED, and the gentleman from New York, Mr. COX.

Mr. SPARKS. No quorum is needed on a question of adjournment.

The SPEAKER *pro tempore*. But a further count is insisted upon; and when no quorum has voted the Chair is bound to appoint tellers if they be demanded.

Mr. SAMFORD. Have I the right to withdraw the motion to adjourn?

The SPEAKER *pro tempore*. The gentleman has that right.

Mr. SAMFORD. I withdraw it.

The SPEAKER *pro tempore*. The gentleman from Ohio [Mr. FINLEY] will proceed.

Mr. FINLEY. I will go on as soon as order is restored.

Mr. CONGER. I object to the withdrawal of the motion to adjourn. The House was dividing upon it.

The SPEAKER *pro tempore*. If the House will come to order, the Chair will state the position of the question. The gentleman from Ohio [Mr. FINLEY] yielded that the gentleman from Alabama [Mr. SAMFORD] might make a motion to adjourn. On that question the ayes were 62 and the noes 63.

Mr. CONGER. And I had demanded tellers; and the Chair ordered them.

The SPEAKER *pro tempore*. The gentleman from Alabama thereupon withdrew his motion.

Mr. CONGER. He could not withdraw it while the House was dividing.

The SPEAKER *pro tempore*. The Clerk will read the rule on the subject.

The Clerk read as follows:

A motion may be withdrawn at any time before a decision or amendment.

The SPEAKER *pro tempore*. The motion to adjourn having been withdrawn, the gentleman from Ohio [Mr. FINLEY] resumes the floor and will proceed.

Mr. CONGER. I appeal from the decision of the Chair.

The SPEAKER *pro tempore*. The gentleman will reduce his appeal to writing.

Mr. COX. I suppose we might as well adjourn if time is to be taken up in this way. As no vote is to be taken to-night, I supposed there would be no objection to members occupying the time awhile longer. We mean business now in this short session.

Mr. TOWNSHEND, of Illinois. If gentlemen on the other side want to filibuster on such a frivolous pretext, they may do so. We can stay here all night. I demand the regular order.

The SPEAKER *pro tempore*. The regular order is the appeal which has been taken from the decision of the Chair.

Mr. TOWNSHEND, of Illinois. Why does not the Chair put the question to the House? We cannot wait here until the gentleman from Michigan prepares his motions.

The SPEAKER *pro tempore*. The gentleman from Michigan has the right, and under the rules is obliged, to reduce his appeal to writing.

Mr. TOWNSHEND, of Illinois. How long are we to wait?

The SPEAKER *pro tempore*. That is not for the Chair to decide.

Mr. ATKINS. Did the gentleman take the appeal in time?

Mr. SPRINGER. I move to lay the appeal on the table.

Mr. REED. That motion is not in order now.

The SPEAKER *pro tempore*. The Chair will entertain the motion of the gentleman from Illinois [Mr. SPRINGER] after the appeal has been read. The appeal as reduced to writing will now be read.

The Clerk read as follows:

I appeal from the decision of the Chair that a motion to adjourn may be withdrawn while the House is dividing, and after the *viva voce* vote has been taken and announced.

Mr. SPRINGER. I now move to lay the appeal on the table.

The SPEAKER *pro tempore*. The question recurs upon the motion that the appeal from the decision of the Chair be laid on the table.

Mr. CONGER demanded the yeas and nays.

The yeas and nays were not ordered.

The appeal from the decision of the Chair was then laid upon the table.

Mr. ATHERTON. I move the House adjourn.

The SPEAKER *pro tempore*. The gentleman's colleague [Mr. FINLEY] is entitled to the floor.

Mr. FINLEY. I feel somewhat embarrassed in attempting to speak at this late hour of the evening, especially with the feeling which seems to be manifested in the House against the continuance of this debate; but I will at the solicitation of gentlemen sitting about me proceed if I can have the attention of members.

Mr. CULBERSON. Will the gentleman yield to a motion to adjourn?

Mr. ATHERTON. I hope the gentleman will.

Mr. BLOUNT. I hope he will not after the House has just determined not to adjourn.

Mr. FINLEY. I will yield to the gentleman from Texas.

Mr. CULBERSON. I move the House adjourn.

The House divided; and there were—ayes 69, noes 45.

Mr. TOWNSHEND, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 39, not voting 181; as follows:

YEAS—72.

| | | | |
|---|---|---|---|
| Aiken, | Davis, Joseph J. | Herbert, | Richardson, D. P. |
| Aldrich, William | De La Matyr, | Horr, | Richardson, J. S. |
| Atherton, | Deuster, | Houk, | Robeson, |
| Bailey, | Dickey, | Humphrey, | Robinson, |
| Beale, | Dunnell, | Ladd, | Rothwell, |
| Blake, | Dwight, | Lapham, | Russell, Daniel L. |
| Blount, | Einstein, | Lowe, | Scales, |
| Briggs, | Evins, | Mason, | Shallenberger, |
| Brigham, | Ewing, | McGowan, | Sherwin, |
| Bright, | Felton, | Mills, | Simonton, |
| Calkins, | Field, | Morrison, | Smith, William E. |
| Carpenter, | Finley, | Myers, | Tillman, |
| Cobb, | Ford, | New, | Updegraff, Thomas |
| Conger, | Forney, | Osmer, | Valentine, |
| Converse, | Frye, | Ray, | Voorhis, |
| Culberson, | Geddes, | Reagan, | Weaver, |
| Davis, George R. | Godshalk, | Reed, | Wellborn, |
| Davis, Horace | Hawk, | Rice, | Whitaker. |

NAYS—39.

| | | | |
|---|---|---|---|
| Anderson, | Clark, John B. | Hammond, N. J. | Prescott, |
| Atkins, | Clements, | Hatch, | Samford, |
| Bicknell, | Clymer, | Hill, | Scoville, |
| Bouck, | Coffroth, | Hooker, | Singleton, J. W. |
| Bowman, | Colerick, | Hostetler, | Springer, |
| Bragg, | Covert, | House, | Townshend, R. W. |
| Burrows, | Cox, | Kimmel, | Tucker, |
| Cabell, | Dibrell, | Le Fevre, | Turner, Oscar |
| Chalmers, | Elam, | McMahon, | Van Voorhis. |
| Chittenden, | Goode, | Muldrow, | |

NOT VOTING—181.

| | | | |
|---|---|---|---|
| Acklen, | Ballou, | Beltzhoover, | Bland, |
| Aldrich, N. W. | Barber, | Berry, | Bliss, |
| Armfield, | Barlow, | Bingham, | Boyd, |
| Bachman, | Bayne, | Bisbee, | Brewer, |
| Baker, | Belford, | Blackburn, | Browne, |

| | | | |
|---|---|---|---|
| Buckner, | Henderson | Morse, | Stevenson, |
| Butterworth, | Henkle, | Morton, | Stone, |
| Caldwell, | Henry, | Muller, | Talbott, |
| Camp, | Herndon, | Murch, | Taylor, Ezra B. |
| Cannon, | Hiscock, | Neal, | Taylor, Robert L. |
| Carlisle, | Hubbell, | Newberry, | Thomas, |
| Caswell, | Hunton, | Nicholls, | Thompson, P. B. |
| Claflin, | Hurd, | Norcross, | Thompson, W. G. |
| Clardy, | Hutchins, | O'Brien, | Townsend, Amos |
| Clark, Alvah A. | James, | O'Connor, | Turner, Thomas |
| Cook, | Johnston, | O'Neill, | Tyler, |
| Cowgill, | Jones, | O'Reilly, | Updegraff, J. T. |
| Crapo, | Jorgensen, | Orth, | Upson, |
| Cravens, | Joyce, | Overton, | Urner, |
| Crowley, | Keifer, | Pacheco, | Van Aernam, |
| Daggett, | Kelley, | Page, | Vance, |
| Davidson, | Kenna, | Persons, | Waddill, |
| Davis, Lowndes H. | Ketcham, | Phelps, | Wait, |
| Deering, | Killinger, | Philips, | Ward, |
| Dick, | King, | Phister, | Warner, |
| Dunn, | Kitchin, | Pochler, | Washburn, |
| Ellis, | Klotz, | Pound, | Wells, |
| Errett, | Knott, | Price, | White, |
| Ferdon, | Lindsey, | Richmond, | Whitthorne, |
| Fisher, | Loring, | Robertson, | Wilber, |
| Forsythe, | Lounsbery, | Ross, | Williams, C. G. |
| Fort, | Manning, | Russell, W. A. | Williams, Thomas |
| Frost, | Marsh, | Ryan, Thomas | Willis, |
| Gibson, | Martin, Benj. F. | Ryon, John W. | Willits, |
| Gillette, | Martin, Edward L. | Sapp, | Wilson, |
| Gunter, | McCold, | Sawyer, | Wise, |
| Hall, | McCook, | Shelley, | Wood, Fernando |
| Hammond, John | McKenzie, | Singleton, O. R. | Wood, Walter A. |
| Harmer, | McKinley, | Slemons, | Wright, |
| Harris, Benj. W. | McLane, | Smith, A. Herr | Yeates, |
| Harris, John T. | McMillin, | Smith, Hezekiah B. | Yocum, |
| Haskell, | Miles, | Sparks, | Young, Casey |
| Hawley, | Miller, | Speer, | Young, Thomas L. |
| Hayes, | Mitchell, | Starin, | |
| Hazelton, | Money, | Steele, | |
| Heilman, | Monroe, | Stephens, | |

So the motion was agreed to.

During the roll-call the following additional pairs were announced from the Clerk's desk:

Mr. WARNER with Mr. MCKINLEY.
Mr. SPARKS with Mr. WHITE.
Mr. POEHLER with Mr. THOMAS.
Mr. WILLIAMS, of Alabama, with Mr. TYLER, for this day.
Mr. MARSH with Mr. KENNA for this evening.
Mr. WARD with Mr. VANCE.
Mr. PRICE with Mr. WISE.
Mr. O'NEILL with Mr. TALBOTT.
Mr. MCLANE with Mr. MORTON.
Mr. KING with Mr. WAIT.
Mr. WASHBURN with Mr. HURD.

Pending the announcement of the adjournment the following business was allowed by unanimous consent.

ENROLLED BILLS.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 286) for the relief John S. Cunningham; and
A bill (S. No. 1133) granting a pension to Michael Hayne.

ABANDONED RESERVATIONS.

The SPEAKER *pro tempore* laid before the House a letter from the Secretary of War, relative to the disposition of abandoned reservations and relative to the land-title division of the War Department; which was referred to the Committee on Military Affairs.

LEAVE TO PRINT.

Mr. HAWK was granted leave to print in the RECORD remarks on the apportionment bill. [See Appendix.]

The vote was then announced as above recorded.

And then (at five o'clock and thirteen minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ATHERTON: The petition of J. S. Johnson, of Birmingham, Ohio, for the repeal of the stamp tax on proprietary medicines—to the Committee on Ways and Means.

By Mr. BLISS: The petition of Patrick Smith, for increase of pension—to the Committee on Invalid Pensions.

By Mr. CALKINS: The petition of C. P. Post and others, for legislation upon the subject of interstate commerce—to the Committee on Commerce.

Also, the petition of Henry Dickinson and others, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of C. P. Post and others, for the amendment of the patent laws—to the Committee on Patents.

By Mr. COBB: The petition of 44 soldiers of Knox County, Indiana, against the passage of the sixty-surgeons bill and for the passage of the Geddes bill—to the Committee on Invalid Pensions.

By Mr. COFFROTH: The petitions of the members of Colonel William G. Murray Post, No. 39, Grand Army of the Republic, and of citizens of Pennsylvania, that Mary E. Murray be granted a pension—to the same committee.

Also, the petition of J. L. Keagg and 18 others, soldiers of the late war from Pennsylvania, against the passage of Senate bill No. 496—to the same committee.

By Mr. DEERING: The petition of ex-soldiers of La Porte City, Iowa, of similar import—to the same committee.

Also, the petition of citizens of Stacyville, Iowa, for legislation to prevent the spread of pleuro-pneumonia—to the Committee on Agriculture.

By Mr. DUNN: The petition of the Chamber of Commerce and citizens of Helena, Arkansas, that that city be made a port of entry—to the Committee on Commerce.

By Mr. KLOTZ: The petition of 98 merchants and business men of Danville, Pennsylvania, for an increase of pensions to all soldiers who have lost a limb during the late war—to the Committee on Invalid Pensions.

By Mr. LAPHAM: The petition of C. J. Legg, for an extension of a patent for a corn husker, sheller, cleaner, separator, and bagger—to the Committee on Patents.

By Mr. MCGOWAN: The petition of William M. Beverly and 30 others, soldiers, of Jackson, Michigan, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. MCMAHON: The petition of David Downing, John Gorden, and 130 others, inmates of the National Home for Disabled Volunteer Soldiers at Dayton, Ohio, of similar import—to the same committee.

By Mr. MORSE: The petition of Mrs. Ann E. Plimpton and others, that she be granted an increase of pension—to the same committee.

By Mr. NEW: The petition of citizens of Indiana, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of citizens of Indiana, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of citizens of Indiana, for legislation on the subject of interstate commerce—to the Committee on Commerce.

By Mr. REAGAN: The petition of George B. N. Tower, supervising inspector of the second district of Texas, for a revision of the law as to assistant inspectors and clerical force—to the same committee.

Also, resolution of the Chamber of Commerce of New York City, for legislation to prevent the adulteration of food and drugs—to the same committee.

By Mr. REED: The petition of the members of the Board of Trade of Portland, Maine, of similar import—to the same committee.

Also, the petition of members of the Board of Trade of Portland, Maine, for a reciprocity treaty with Canada—to the Committee on Foreign Affairs.

By Mr. SHERWIN: The petition of the leading wool growers of the United States, for the passage of the Eaton tariff-commission bill—to the Committee on Ways and Means.

Also, resolutions of the Illinois State Board of Agriculture in favor of Mr. Keifer's bill in relation to the suppression of contagious diseases of cattle and suggesting amendments thereto—to the Committee on Agriculture.

Also, resolutions of the Chicago Union Veteran Club, that pensions be granted the survivors of Andersonville—to the Committee on Invalid Pensions.

By Mr. EZRA B. TAYLOR: The petition of citizens of Ohio, for the amendment of the pension laws—to the same committee.

Also, two petitions of citizens of Ohio, for legislation on the subject of interstate commerce—to the Committee on Commerce.

Also, the petition of citizens of Ohio, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of citizens of Ohio, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

By Mr. RICHARD W. TOWNSHEND: The petition of citizens of White County, Illinois, for the passage of the Mexican pension bill—to the Committee on Pensions.

By Mr. WARD: The petition of citizens of Chester County, Pennsylvania, against the passage of the militia bill—to the Committee on the Militia.

By Mr. WEAVER: The petition of G. W. Fleming and others, of the sixth district of Iowa, for legislation to protect innocent purchasers against fraudulent vendors of patents—to the Committee on Patents.

Also, the petition of Ellis Smalley, of Council Grove, Kansas, that the public domain may be held and preserved exclusively for actual settlers—to the Committee on the Public Lands.

Also, the petition of Reubin Coomes and others, of Lacey, Iowa, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of R. H. Green and 14 others, of Bay City, Michigan, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

Also, the petition of A. L. Richards and 15 others, of Michigan, and of Jacob Rowe and others, for legislation to regulate interstate commerce—to the Committee on Commerce.

Also, the petitions of Frank Kline and 74 others, of Clinton, New Jersey; of J. K. Richard and 60 others, of Henry County, Illinois; of S. T. Adams and others, of Davis County, Iowa; of A. P. Fairbank and

50 others, of Vermont; of B. D. Bartlett and 60 others, of Massachusetts; of C. W. Humphreys and 75 others, of Cascade, and Charles O. Page and 34 others, of Dodge County, Wisconsin; of Uriah Mills and 42 others, of Marion County, and of T. R. Ballard and 40 others, of Millersville, Illinois; of G. Taylor and 177 others; of Arthur Maguire and 33 others; of Patrick Rogan and 81 others, and of Allen Foote and 20 others, that Congress shall not fund the national debt, but pay the same—to the Committee on Ways and Means.

Also, the petition of William H. Mathews and 90 others, citizens of Iowa, for the passage of the Keifer pleuro-pneumonia bill—to the Committee on Agriculture.

Also, the petition of A. J. Guile and others, citizens of Davis County, Iowa, that the Commissioner of Agriculture be made a member of the President's Cabinet—to the same committee.

By Mr. WILLIS: The petition of B. F. Hall and others, soldiers of Kentucky, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

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## IN SENATE.

### MONDAY, *February* 7, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Saturday last was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting a communication from the Chief of Ordnance, recommending that the pay of the master armorer at the National Armory, Springfield, Massachusetts, be increased; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented resolutions of the Merchants' Exchange of Saint Louis, favoring the abolishment of the special taxes levied on the capital and deposits of banks and bankers, and also the tax on bank checks; which were ordered to lie on the table.

Mr. WITHERS presented the petition of Mrs. Nancy Hale, of Virginia, widow of Isaac Hale, deceased, a soldier of the war of 1812, praying for a pension for services rendered by her husband; which was referred to the Committee on Pensions.

He also presented the petition of Benjamin Blankenship, of Virginia, praying for a pension for services rendered in the war of 1812; which was referred to the Committee on Pensions.

He also presented the petition of John Dunkin, of Virginia, praying for a pension for services rendered in the war of 1812; which was referred to the Committee on Pensions.

Mr. KERNAN presented the petition of William P. Hawkins and several others, citizens of Fairport, New York, praying for the passage of a law providing for appointments to subordinate executive offices by competitive examination, and that removals shall be made for legitimate cause only; which was referred to the Select Committee to examine the several branches of the Civil Service.

He also presented the memorial of Benjamin F. Page and others, citizens of Moriah, New York, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

He also presented the petition of the board of trustees of the Washington City Orphan Asylum, praying for the passage of a law authorizing the commissioners of the District of Columbia to exempt the asylum from the payment of taxes assessed against the same and remaining unpaid; which was referred to the Committee on the District of Columbia.

Mr. THURMAN presented the petition of M. W. Wright and others, citizens of Kingsville, Ohio, late soldiers of the Union Army, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

He also presented the memorial of J. H. Palmer and others, citizens of Yelverton, Ohio, late soldiers of the Union Army, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

Mr. FARLEY presented the petition of a committee of citizens of Benicia, California, appointed to examine the United States arsenal at that place, praying that it be made a manufacturing and construction arsenal; which was referred to the Committee on Commerce.

Mr. BALDWIN presented the memorial of Charles H. Allen and 30 others, citizens of Jackson County, Michigan, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

Mr. DAWES presented a resolution of the Legislature of Massachusetts, in favor of an appropriation for the improvement of the Connecticut River from Hartford, Connecticut, to Holyoke, Massachusetts; which was read, and referred to the Committee on Commerce, as follows:

COMMONWEALTH OF MASSACHUSETTS,
*In the year* 1881.

Resolution relating to the improvement to navigation of the Connecticut River.

Whereas a petition has been presented from Massachusetts to the United States Congress assembled, for the removal of obstruction to navigation in the Connecticut River from Hartford, Connecticut, to Holyoke, Massashusetts:

*Resolved by the senate and house of representatives of the Commonwealth of Massachusetts in general court assembled*, That the removal of such obstructions will be of great benefit to the people of this Commonwealth, and their Legislature desires that Congress may provide an appropriation sufficient to improve the navigation of the Connecticut River in accordance with the plans of the United States Engineer Department already transmitted to Congress.

And his excellency the governor is hereby requested to transmit a copy of this resolution to each of our Senators and Representatives in Congress for their earnest consideration.

HOUSE OF REPRESENTATIVES,
*January* 25, 1881.

Adopted: Sent up for concurrence.

GEO. A. MARDEN, *Clerk*.

JANUARY 28, 1881.

Senate: Adopted, in concurrence.

S. N. GIFFORD, *Clerk*.

Mr. CAMERON, of Pennsylvania, presented a memorial passed by the Association of National Banks of Eastern Pennsylvania, remonstrating against the passage of the bill (H. R. No. 4592) to facilitate the refunding of the national debt; which was ordered to lie on the table.

He also presented the petition of D. F. Moore and 77 others, business men of Phœnixville, Pennsylvania, praying for an increase in the amount of pension allowed to soldiers of the late war who have lost the use of a limb; which was referred to the Committee on Pensions.

He also presented the petition of W. P. Arnold and 33 others, citizens of Rome, Bradford County, Pennsylvania, praying for such changes in the patent laws as will protect innocent purchasers against the imposition of fraudulent vendors of patents and patent rights; which was referred to the Committee on Patents.

He also presented resolutions of the Philadelphia Association of Manufacturers of Textile Fabrics, in favor of the passage of an interstate-commerce law, and favoring the Reagan bill; which were referred to the Committee on Commerce.

He also presented resolutions of the Board of Trade of Erie, Pennsylvania, favoring an appropriation for the construction of a breakwater for a harbor of refuge in Milwaukee Bay; which were referred to the Committee on Commerce.

He also presented the memorial of Lewis Marks and others, citizens of Collomsville, Pennsylvania; the memorial of J. W. Abraham and others, citizens of Smithfield, Pennsylvania; the memorial of H. B. Kilborn and others, citizens of Franklindale, Pennsylvania; and the memorial of John H. Sortmar and others, citizens of Williamsport, Pennsylvania, all surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which were ordered to lie on the table.

He also presented resolutions of the councils of the city of Pittsburgh, Pennsylvania, in favor of the passage of an act allowing a street to be opened through the Allegheny arsenal grounds to connect South street with North street in that city; which were referred to the Committee on Public Buildings and Grounds.

He also presented a petition of the officers and members of the State Society of the Cincinnati of the State of Pennsylvania, praying for the remission of duties upon portions of the monument to Washington about to be erected in Philadelphia, already contracted for, from time to time, as they may be finished and come into the United States; which was referred to the Committee on Finance.

Mr. KIRKWOOD presented the memorial of Charles H. Mitchell and 45 others, citizens of La Porte City, Iowa, and the memorial of John Standley and 17 others, citizens of Grant City, Iowa, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which were ordered to lie on the table.

He also presented the petition of Carez R. Smith and others, citizens of Iowa City, Iowa, praying for the enactment of a law preventing the spread of pleuro-pneumonia among cattle; which was ordered to lie on the table.

Mr. LOGAN presented a resolution of the Legislature of Illinois; which was read, and ordered to lie on the table, as follows:

*Resolved*, That we recognize the bill introduced into the House of Representatives at its last session as embodying the essential features necessary to an intelligent and efficient supervision of contagious and infectious diseases of live stock generally on the part of the Federal Government, and that we heartily recommend the passage of some such law, with an additional provision, which shall clothe the commission with authority to prescribe rules and regulations under which the live stock of any infected State, Territory, or district may be transported, or taken therefrom, and under which live stock may be transported through such infected State, Territory, or district, or in their discretion to prohibit absolutely the transportation of live stock from or through such infected district when, in their opinion, the same shall be essential to the general safety.

Mr. LOGAN presented the memorial of John W. Hall and others, citizens of Charleston, Illinois; the memorial of William Wood and others, citizens of Sheldon, Illinois; and the memorial of John Judge and others, of New York City, all soldiers in the late war for the Union,

remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which were ordered to lie on the table.

Mr. FERRY presented the memorial of William Poynter and 10 others and the memorial of William Howard and 21 others, ex-soldiers of the late war, citizens of the State of Michigan, remonstrating against the passage of the bill known as the sixty-surgeons bill; which were ordered to lie on the table.

Mr. BOOTH presented the petition of the First Battalion of Mountaineers, California Volunteers, praying that the benefits of the bounty act of July 28, 1866, may be extended to them; which was referred to the Committee on Military Affairs.

Mr. VEST presented the memorial of W. M. Jones and others, of Missouri, soldiers in different regiments during the war, remonstrating against the passage of the sixty-surgeons bill; which was ordered to lie on the table.

He also presented resolutions of the Merchants' Exchange, of Saint Louis, Missouri, in favor of the repeal of the law levying a tax on bank checks and of the passage of a law abolishing the special taxes on the deposits of banks and bankers; which were referred to the Committee on Finance.

He also presented a resolution of the executive committee of the Civil Service Reform Association, of Brooklyn, New York, in favor of the passage of the pending bills to regulate and improve the civil service of the United States and to prevent extortion from persons in the civil service; which was referred to the Select Committee to examine the several branches of the Civil Service.

Mr. WILLIAMS presented a memorial of the Louisville Board of Trade, of Louisville, Kentucky, remonstrating against the passage of a bankrupt law; which was referred to the Committee on the Judiciary.

Mr. CONKLING. I present a number of petitions signed together by a great many soldiers of the State of New York, petitioning some for and some against the so-called pension-surgeon bill. I move that they lie on the table.

The motion was agreed to.

Mr. EDMUNDS presented the memorial of Wesley M. Mitchell and others, of Mount Holly, Vermont, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims and all the amendments thereto; which was ordered to lie on the table.

Mr. PLUMB presented resolutions of the Legislature of Kansas, in favor of the construction of a double-track Government freight railroad from the sea-coast on the east to the Missouri River on the west, so as to make the main line accessible for commercial purposes to the people of all the States of the Mississippi Valley; which were referred to the Committee on Commerce.

Mr. SAUNDERS presented the memorial of S. H. Davis and 24 others, citizens of Wilber, Nebraska, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

## REPORTS OF COMMITTEES.

Mr. McMILLAN, from the Committee on Commerce, to whom was referred the bill (S. No. 2080) to change the name of the steamboat Annie, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 2081) to change the name of the steamboat Tidal Wave, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 2082) to change the name of the steamboat Savannah, reported it without amendment.

Mr. WITHERS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 4590) to provide for the sale of certain property owned by the United States in the District of Columbia, reported it without amendment.

Mr. SAUNDERS, from the Committee on Railroads, to whom was referred the bill (H. R. No. 4874) in relation to the Utah and Northern Railway Company, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1954) in relation to the Utah and Northern Railway Company, moved its indefinite postponement, it being covered by the House bill upon the same subject; which was agreed to

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1657) for the relief of Marcus A. Renno, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. WHYTE, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 2064) to reorganize and incorporate anew the Baltimore and Potomac Railroad Company, reported it with amendments.

## COURTS IN VIRGINIA.

Mr. LAMAR. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 6599) to change the time for holding circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia, to report it with amendments, and I ask unanimous consent to have the bill considered at once.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, at the end of the first section, to add "instead of the times now fixed by law;" so as to make the section read:

That the United States circuit and district courts of the United States for the western district of Virginia, held at Danville, in the State of Virginia, shall hereafter be held at said city of Danville, commencing on Tuesday after the third Monday in June and on Tuesday after the third Monday in November of each year, instead of the times now fixed by law.

The amendment was agreed to.

The next amendment was, in section 2, line 2, to strike out the words "its passage" and insert "the first of May, 1881;" so as to make the section read:

All laws and parts of laws in conflict with this act are hereby repealed. This act shall be in force from the first of May, 1881.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

It was ordered that the amendments be engrossed and that the bill be read a third time.

The bill was read the third time, and passed.

## BILLS INTRODUCED.

Mr. BECK asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2157) for the purchase of suitable grounds in the city of Owensborough, in the State of Kentucky, and the erection thereon of a public building for post-office, United States collector's office, United States commissioner's office, and for the use of other United States officers in said city; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. VOORHEES asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2158) to authorize the preparation of a catalogue of Government publications from 1870 to date; which was read twice by its title, and referred to the Committee on Printing.

Mr. EDMUNDS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2159) granting an increase of pension to Edward G. Quincy; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. KERNAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2160) for the relief of the Washington City Orphan Asylum in the city of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. FERRY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2161) to incorporate The United States Railway Mail Service Mutual Benefit Association; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

## AMENDMENTS TO THE POST-ROUTE BILL.

Mr. HILL, of Colorado, and Mr. COCKRELL submitted amendments intended to be proposed by them to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the resolution of the Senate of February 2, 1881, providing for the counting of the electoral votes for President and Vice-President of the United States on Wednesday, February 9, 1881.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 554) for the relief of David W. Stockstill;

A bill (H. R. No. 4434) for the relief of Mrs. Martha Bridges, of Bartow County, Georgia;

A bill (H. R. No. 2844) for the relief of James E. Montell;

A bill (H. R. No. 4437) for the relief of the heirs and legal representatives of Pierre Joseph Mais;

A bill (H. R. No. 4438) for the relief of William Redus; and

A bill (H. R. No. 7036) to establish post-routes.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (S. No. 286) for the relief of John S. Cunningham; and

A bill (S. No. 1133) granting a pension to Michael Hayne.

## TELLERS OF ELECTORAL COUNT.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That Mr. HAMLIN, of Maine, and Mr. THURMAN, of Ohio, be appointed tellers on the part of the Senate, in pursuance of the concurrent resolution of the Senate and House of Representatives respecting the counting the votes of electors for President and Vice-President of the United States.

## DISTRICT MUNICIPAL CODE.

Mr. HARRIS. I am instructed by the Committee on the District of Columbia to ask the unanimous consent of the Senate to take a recess to-morrow evening at such hour as may suit its convenience, and reassemble at the hour of seven or such other hour as may suit the convenience of the Senate, for the purpose of taking up at the

evening session and having read the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia. I desire to say that this being a bill of three hundred and thirty-five pages, having involved a large amount of labor at both ends of the Capitol, unless it can be acted upon finally in the Senate within the next eight or ten days it will be impossible for it to be enrolled and become a law at this session of Congress.

It is important that the bill should pass in some form, for the reason that in order to ascertain what the municipal laws of the District are to-day you have to look to the various acts of Congress, to the ordinances of the old corporations of Washington and Georgetown, to the ordinances of the levy court of the county, to the acts of the Legislative Assembly of the District of Columbia, and perhaps to the laws of Maryland at the date of the cession. If the bill is to be acted upon at all in the present condition of the business of the Senate, I am sure that the Senate will have to grant to the committee a night session or two in order that it may be considered. I therefore ask the unanimous consent of the Senate that it take a recess to-morrow and assemble, say, at seven o'clock to-morrow evening for the purpose of taking the bill up.

Mr. ALLISON. I suggest half past seven.

Mr. HARRIS. The Senator from Iowa suggests half past seven. I will adopt his suggestion and say half past seven o'clock to-morrow night, for the purpose of taking the bill up and proceeding with its consideration, with the understanding, if it is desirable, that no final action shall be taken upon the bill or any amendment at that night session, but that it may be formally read.

Mr. THURMAN. I beg leave to say one word. As the Senator from Tennessee has said, this is a very important bill indeed. It is a bill about some of the provisions of which the greatest difference of opinion exists. It codifies, as I understand, the ordinances that have the effect of law in the District, and creates a multitude of offenses, or puts them in the form of a code, where heretofore they have existed in the various means stated by the Senator. In addition to that, the bill regulates taxation in the District. There are remonstrances against portions of the bill, there is a great difference of opinion about it, and the bill ought to receive the most careful consideration by the Senate, as it no doubt has by the committee.

I dislike very much to suggest that we ought not to meet to-morrow night for the sole purpose of reading the bill, because we perfectly well know that if we make that order and nothing is to be done but reading the bill the probabilities are that not a dozen Senators will be in their seats, and therefore the reading will be a mere matter of form, without instruction to a single human being. I would insist on that but for the fact that my experience has taught me that if the bill is read with a full Senate there will not be a dozen Senators who will listen to it. So that really there is very little difference between reading a bill without anybody in the Chamber and reading it with the full Senate when it is a bill as long as that.

Therefore, if the Senator insists upon asking leave, I will not, against the unanimous wish of his committee, object; but I do say that nothing ought to be done beyond the reading of it, and that I do hope Senators will not take it for granted that this bill is a thing that, having been once passed by the Committee on the District of Columbia, ought *ex necessitate*, or as a matter of course, to pass the Senate. There are some provisions in the bill to which I am, I think, opposed, and must be opposed, and never can be otherwise than opposed, and there are some provisions in it in regard to taxation to which other Senators are strongly opposed, and which give rise to a great diversity of sentiment among the people of this District. Whenever the bill shall be taken up I hope the Senate will be full, and that the bill will be carefully scrutinized and considered, and not passed *sub silentio*.

Mr. CONKLING. I have sometimes heard in the Senate and sometimes in the House a motion to waive the reading of a bill, or, as stated, to dispense with the reading of a bill. This motion in another form is that motion, and it is no part of my purpose to object to it; but I suggest to the honorable Senator from Tennessee whether he might not as well put it in that form and move to dispense with the formal reading of the bill. As the Senator from Ohio has said, nobody will come here at a night session to hear the bill read. It is merely a mode of satisfying the rule which requires the reading *in extenso;* and I think the Senator will very likely comply more fully with his own wish and equally conserve everything which belongs to the reading of the bill if he will make that motion.

After hearing the honorable Senator from Ohio I wish to add a word for myself to what he has said so well. I have received for some time, now quite recently, from several very respectable sources, from men of thought and integrity as I know them, urgent remonstrances against various provisions of the bill, and it contains perhaps beyond the indication made by its length a great variety of matters. Although the District of Columbia is small geographically, and although it is dealt with here sometimes in rather a casual way, I must think not from any fault of the very vigilant and able Committee on the District but because of the fault of the rest of us, with a little less consideration than would be given to the concerns of a State were they involved, the District of Columbia contains a good many people and people who have specially beyond anybody else a right to expect that the two Houses of Congress, having complete control over their affairs, will be circumspect in exercising that control.

I trust that this bill, certainly some of its provisions, will never become a law until after the Senate has given a patient and serious consideration to those provisions.

I think the Senator from Tennessee could very likely get unanimous consent to dispense with the formal reading of his bill, and thus avoid the night session that he moves. I do not object to that; I do not think anything is to be gained by reading it; but I only say this word in the hope that when the bill comes to be considered we shall all of us feel it to be our duty to give such attention to it as its importance demands.

Mr. HARRIS. My object is to secure for the bill consideration in the Senate. It would be preferable to me if a day could be given, and I would desire the attention and the earnest attention of every Senator to each and all of its provisions. The committee does not claim for either the bill or itself perfection; nor perhaps is the bill in all of its provisions satisfactory to every member of the committee; but it is the result of the conclusion of the House of Representatives and a majority of the Senate Committee on the District of Columbia. It is important that the laws of the District should be codified and put into convenient shape.

In answer to the suggestion of the Senator from Ohio, I will say that, with the exception of the subject of taxation, the bill is substantially the laws as they now exist in the District of Columbia, however wise or unwise they may be in many of their provisions; but I do not see the remote probability if indeed there is a possibility of securing for the bill such consideration as will result in the final action of the Senate upon it, unless the Senate will grant to the committee a session for a night or two for its consideration. I would greatly prefer, if the Senate would consent to it, to fix an early day when the bill may be taken up and dispense with the formal reading, if it suits the views of a majority of the Senate or of the whole Senate so to do; but the thing I desire is consideration and action upon the bill according to whatever may be the judgment of the Senate in respect to it.

Mr. INGALLS. The rules require that every bill shall have three readings, and that those readings shall be on separate days, unless the Senate shall otherwise direct. I have known since I have been in the Senate but one instance where a bill has passed without being read at all, and that was in the case of the adoption of the Revised Statutes, and I believe that we have not yet quite got through with the errors that resulted from that method of legislation. In the interest of what seems to me to be absolutely essential to the due consideration of public business, I should object to dispensing with the reading of this bill at least once, inasmuch as three readings are required, and two of course would be by title.

Mr. CONKLING. It has been read twice, has it not?

Mr. INGALLS. By its title.

Mr. CONKLING. Already?

Mr. INGALLS. It was read twice before it was referred to the committee. I hope the suggestion made by the Senator from Tennessee will be agreed to, because it is establishing an exceedingly vicious, dangerous, and detrimental precedent to say that any bill may be passed here without being once at least read at length.

Mr. THURMAN. Will the Senator allow me to make a suggestion there?

Mr. INGALLS. Certainly.

Mr. THURMAN. I quite concur with what the Senator says, and I know very well that there could not be a more perfect illustration than that which he cites of the Revised Statutes, which were tied up and passed without the strings ever being cut; but I suggest to the Senator from Kansas, and to the Senator from Tennessee too, suppose the Senate agree to take the bill up next Thursday and read it section by section and act on each section as it is read. There will then be a thorough and an intelligent reading of the bill. The only difference will be that, instead of reading it right straight through, you read it section by section and act upon it as the sections are read. It fulfills the rule.

Mr. WHYTE. Acting upon the amendments at the same time?

Mr. THURMAN. Acting upon the amendments to a section after you take it up. That fully complies with the rule, and it is a full and complete reading of the bill.

Mr. INGALLS. The only reason why that course should not be adopted in my mind is this: there are but three points in the bill upon which in my judgment any considerable debate is likely to arise. Those are, first, the question of compulsory education; second, the question of taxation; and third, the question of issuing licenses for the sale of intoxicating liquors as a beverage. I believe, with those three exceptions, the bill is substantially in a shape at the present time to command the assent of the Senate; but the reason why the course suggested by the Senator from Ohio could not be pursued is this: as has been frequently suggested by him, if we consider the bill in open Senate on Thursday next there will not be ten Senators in their places to hear it read.

Mr. THURMAN. If it is read section by section, and each section is acted on as it is read, the whole Senate will be here.

Mr. INGALLS. We have been discussing the pension bill for the last week; we discussed the Indian severalty bill for ten days previously; and during the greater portion of that time there were not enough here to constitute even a majority of a quorum.

Mr. THURMAN. But does not the Senator think that when the

question comes up about stopping the license for the sale of grog in the District there will be a full Senate?

Mr. INGALLS. There will undoubtedly be a full attendance of the democratic side of the Senate. So far as this side is concerned, I am not able to speak with so much certainty. Still I think the course suggested by the Senator from Tennessee is right, that the bill should be once read formally in open Senate; and I hope he will continue to ask unanimous consent for that, with the understanding that the bill shall be read formally on the evening session and that there is to be no action taken on the bill or any of its amendments. That seems to me to be the best course that can be pursued.

Mr. CONKLING. I am not willing to let this pass by without correcting an impression which I seem to have made.

Mr. INGALLS. Before the Senator from New York proceeds, the Senator from Massachusetts [Mr. DAWES] has asked me a question, and with his permission I should like to answer it. He inquired how long it would take to read the bill. There are three hundred and thirty-five pages, and my judgment is that it will require four or five hours of continuous labor on the part of the Clerk to read the bill.

Mr. CONKLING. Mr. President, if the honorable Senator should state how long it would take him to listen to its reading, that would have been a much more curious answer than the one he has given.

The Senator from Kansas fell into the understanding—doubtless it was my fault—that I advocated the passage of this bill, or some other bill, without complying with the rule for reading it. Never. I agree with the Senator it ought not to be done. The suggestion I made to the Senator from Tennessee was this; and I repeat it: to fix an hour to-morrow night or any other night when a bill is to be read, particularly a bill applicable to the District, a local bill, with the notice that nothing is to be done save only the reading of that bill, is to bring nobody here. The Senator from Ohio said there would not be a dozen Senators to listen to it. I undertake to say that not one Senator will listen to it unless it be some member of the committee who feels bound to attend to see that the reading takes place. I repeat that that is virtually dispensing with the reading of the bill; it is a mere circumlocution motion to effect that result, that the reading of the bill *in extenso* shall be dispensed with. If that is to be done, if the bill is not to be read effectively and really for the information of anybody, it makes no difference whether you come to that by saying it shall be read by the Secretary in the absence of the Senate, at a night session, when nobody will come for that purpose, or by saying that it shall be dispensed with altogether. So I concur entirely with my friend as to the improvidence of passing bills which are not formally read.

I begin now, after hearing him, to have more hopes of the attention of the Senate, because I see that he and the Senator from Ohio have found a party question in the bill, a question relating to the freedom with which there shall be dispensed in this District that beverage which is supposed to be so warming and agreeable to the democratic stomach, and which is supposed to furnish so much of the political inspiration of one of the two great organizations of the country. Pinning my faith upon that, I hope now that this whole bill, knowing that that part of it will receive consideration not only from the minority of the Senate having little interest as they may have in the particular point, but also from that majority which has in hands not only the other interests of the Republic but most especially and tenderly that great industrial interest.

Mr. THURMAN. Mr. President, I am anxious that that question should come up. I want to see how far our friends on the other side of the Chamber will fulfill their promises to the temperance people. I am extremely anxious to see that. I want to know whether they are to get the temperance vote from year to year by holding out a promise that is never fulfilled. I want the yeas and nays on that, and I want every man who votes in favor of the prohibitory clause to give evidence that he will immediately go and join the temperance society and become a Son of Jonadab, or some such name as that, or a Knight of Temperance, or something of that kind. I want Senators on the other side of the Chamber to show their hands fully and fairly on that great question of temperance reform. No doubt they will do it; no doubt they will vote for a prohibitory law. There is no question about that. Every man of them will no doubt do it, or if they will not do that, they will vote for a local-option law, or some kind of a contrivance by which they can still hold the temperance vote at the same time that they are not bound by any temperance obligation.

Mr. President, when the time comes I shall vote, I will say frankly and squarely, for license, for I have seen the effects of not granting license. The constitution of the State of Ohio of 1851 prohibited licenses being granted for the sale of spirituous liquors, and for one drinking place that was in Ohio when that constitutional prohibition was adopted there have been at least two ever since; and it will be so wherever it is tried. I therefore am willing to stand up, not only in vindication of my own rights, but as a moral reformer, as a man who believes as much as any one does in the evil that results from intemperance; but the system of no licenses, wherever it has been tried, has resulted in injury to public morals and public health.

This is a bill, according to the statement made by the Senator from Kansas, which I think is likely to occupy very considerable time. To say nothing about this spiritual question which interests us all so much, the other question of compulsory education, the claim that you shall compel a father to send his children to a school that he is utterly opposed to as a means of his children's education, that you shall violate his right of conscience and his parental power in that way, is another thing upon which some few observations will be made whenever this bill is brought up. And then there is the question of taxation, which is so interesting in this District, and which has undergone so much discussion within the last few years here and elsewhere.

But, sir, I am out of order in discussing the merits of the bill now. I think that the only way in which the bill ever will be considered, and considered carefully, is that which I have suggested, to take it up on some day when we can agree to take it up and read it section by section, and consider it section by section, and thus comply with the rule and thus secure a careful consideration of the bill. I do not believe myself that the bill can be put through under a ten days' debate.

The VICE-PRESIDENT. The Chair understands the Senator from Tennessee to ask the Senate to consent that an order be entered that a session of the Senate be held to-morrow evening, commencing at half past seven, for a simple reading of the bill establishing a municipal code for the District of Columbia. Is there objection?

Mr. THURMAN. I object.

The VICE-PRESIDENT. Objection is made.

Mr. HARRIS. I am instructed by the Committee on the District of Columbia to present the following resolution, and ask for its present consideration:

*Resolved*, That on and after Tuesday, the 8th of February, 1881, the Senate will take a recess at —— o'clock p. m., and meet at seven o'clock p. m., for the purpose of considering House bill No. 5541, entitled "An act to establish a municipal code for the District of Columbia," and will continue so to meet each day until the same shall have been finally acted upon by the Senate.

Mr. THURMAN. Let that go over.

Mr. HOAR. Is that an amendment to the rules?

Mr. EDMUNDS. No, it is a special order really.

Mr. CONKLING. Whatever it is, it cannot be considered now.

Mr. HARRIS. One objection carries it over of course.

The VICE-PRESIDENT. The resolution goes over.

## ORDER OF BUSINESS.

Mr. CAMERON, of Pennsylvania. I ask the Senate to proceed to the consideration of the bill (S. No. 543) for the relief of Jabez Burchard.

Mr. INGALLS. I ask for the regular order.

The VICE-PRESIDENT. The regular order is demanded, which is the consideration of the Calendar of General Orders.

Mr. BUTLER. Mr. President, I ask that the Senate proceed to the consideration of the report of the Secretary of the Interior in reply to the resolution I had the honor to offer.

The VICE-PRESIDENT. The regular order having been demanded——

Mr. CAMERON, of Pennsylvania. I move to set aside the regular order for the present.

Mr. HARRIS. I understand the Senator from South Carolina desires to call up a report for the purpose of submitting some remarks on it. I suppose, of course, the Senate will consent to that.

Mr. BUTLER. I announced on Saturday that I would call it up.

Mr. CAMERON, of Pennsylvania. Will not the Senator from South Carolina yield to me for a moment?

Mr. BUTLER. I will yield to the Senator from Pennsylvania if I can get the floor afterwards.

The VICE-PRESIDENT. The Senator from Pennsylvania had the floor, and yielded to the Senator from South Carolina.

Mr. CAMERON, of Pennsylvania. Yes, sir.

Mr. JONES, of Florida. I wish to ask a question of the Chair. I ask what is the regular order?

The VICE-PRESIDENT. The regular order is the consideration of the Calendar of General Orders under the standing order of the day, the Anthony rule, until half past one.

Mr. JONES, of Florida. When the Senate adjourned on Saturday evening it had under consideration a bill known as a bill for the relief of Messrs. Sigsbee and Sands. The Senator from New Hampshire [Mr. ROLLINS] persisted in holding the floor, and the Senator from Rhode Island [Mr. BURNSIDE] moved an adjournment pending the consideration of that measure, and I wished to know at the time whether the Senator from New Hampshire intended to permit the other side of that question to be heard, or whether he simply intended to hold the floor to force an adjournment so that the mouths of other Senators on that subject should be shut, and if that kind of tactics is to be tolerated here I wish to know it.

Mr. ROLLINS. Mr. President, I am very much surprised to hear the remarks of the honorable Senator from Florida. I was upon the floor addressing the Senate with reference to the bill reported from the Committee on Naval Affairs, and Senators will bear witness that I very seldom trouble the Senate in that way. I had occupied some ten or fifteen minutes of the Senate's valuable time, and I had not concluded my remarks when the Senator from Rhode Island [Mr. BURNSIDE] addressed the Chair and appealed to me to yield the floor for that purpose. All I ask of the Senate is that I may have an opportunity of finishing my remarks, and then there will be ample opportunity, of course, for any other Senator to address the Senate. It is not my purpose, and was not my purpose, to stop the mouth of any Sen-

ator, much more that of my friend from the State of Florida, a Senator whom I respect so much. I would be the last man to stop him from speaking.

Mr. BUTLER. Mr. President, so much has been said about the census frauds in South Carolina that I feel——

Mr. CAMERON, of Pennsylvania. Will the Senator give way now for a moment?

Mr. BUTLER. Certainly.

Mr. CAMERON, of Pennsylvania. I ask for the consideration of Senate bill No. 543.

Mr. COCKRELL. I ask for the regular order.

Mr. INGALLS. Regular order.

Mr. CAMERON, of Pennsylvania. I move that the regular order be set aside.

Mr. INGALLS. The Senator from South Carolina is on the floor.

Mr. CAMERON, of Pennsylvania. He yielded the floor to me.

Mr. BUTLER. I will say to my honorable friend from Pennsylvania that I shall not occupy much time, and after I get through I will assist him in getting up his bill.

Mr. CAMERON, of Pennsylvania. It does not require any assistance; its merits will pass the bill.

Mr. BUTLER. Then I yield to the Senator.

Mr. CONKLING. Mr. President, what is before the Senate now?

The VICE-PRESIDENT. The Chair is endeavoring to find out. The Senator from South Carolina [Mr. BUTLER] is before the Senate.

Mr. CONKLING. Is there a resolution before the Senate?

The VICE-PRESIDENT. The Senator from South Carolina, the Chair understands, desires to address the Senate on the report of the Secretary of the Interior in reply to a resolution submitted by him.

Mr. BUTLER. I desire to address the Senate on the report from the Secretary of the Interior made in response to a resolution which I offered in reference to the alleged census frauds in South Carolina. That report I have asked the Senate to consider.

### ALLEGED FRAUDS IN SOUTH CAROLINA'S CENSUS.

The VICE-PRESIDENT. Is there objection to the Senator from South Carolina proceeding? The Chair hears none.

Mr. BUTLER. Mr. President, so much has been said about census frauds in South Carolina that I beg to call the especial attention of the Senate to the letter of the honorable Secretary of the Interior of January 17, 1881, communicating the letter of General Francis A. Walker, Superintendent of the Census, of the 15th January.

This letter is written in response to a resolution of the Senate which I had the honor to offer, "requesting and directing the Secretary of the Interior to forward for the information of the Senate the report of the Superintendent of the Census touching the alleged frauds of the enumeration of the inhabitants of South Carolina under the law providing for taking the tenth census." It answers so completely the charges made from time to time by partisan stump-orators and subsidized organs that I shall ask the Clerk to read it for the information of the Senate and the country.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
*Washington, D. C., January 15, 1881.*

SIR: I have the honor to be in receipt of Department letter of the 7th instant, inclosing a resolution of the Senate requesting and directing the Secretary of the Interior to forward, for the information of the Senate, the report of the Superintendent of the Census touching the alleged frauds of the enumeration of the inhabitants of South Carolina under the law providing for taking the tenth census.

In compliance with the instructions of the Department, I have the honor to transmit herewith a printed copy of the report in question.

The investigation, the results of which are set forth in this report, was conducted by Mr. Henry Gannett, special agent of this office, between the 7th and the 21st of September.

The method adopted was the verification of names appearing upon the schedules of eighteen enumeration districts, in six different counties, through personal inquiry of prominent citizens familiar with the residents of their respective localities and of undoubted probity.

During the month of November I received oral instructions from the President to send a staff of special agents from this office to South Carolina to conduct a re-enumeration, by a house-to-house canvass, of a certain number of townships, with a view to a further test of the results of the June enumeration.

In compliance with these instructions I detailed F. G. Butterfield, esq., late supervisor of census for the State of Vermont, and now of this office, as chief special agent to conduct the proposed re-enumeration. The following persons were detailed as assistants to perform the actual work of enumeration:

Timothy Quinn, of New York; John B. Burt, of Massachusetts; John B. Isler, of Maryland; O. P. D. Stone, of Michigan.

These gentlemen were selected for their known ability and proved integrity, and with reference also to the fact that each of them had been accustomed to mounted service in rugged and difficult country; all of them having been in the Army of the United States.

Eight townships, situated in as many different counties, were, upon the recommendation of Colonel R. M. Wallace, marshal, taken for re-enumeration.

Two townships were assigned to each of the four assistant special agents. The schedules of inhabitants returned in the June enumeration were placed in the hands of the chief special agent. The several assistant special agents assigned to the actual enumeration of the townships were not shown these schedules, but were required to perform their work *ab initio*, without reference to the first enumeration. Their note-books, containing the description of every house in the township, as to location, material of construction, and general character, together with the name of each member of the family resident therein, were to be submitted to the chief special agent, having his headquarters at Columbia, who was instructed to make a careful comparison, name by name, of the results of the two enumerations.

The enumeration of seven of the townships in question was completed a week or two since, but owing to the large extent and considerable population of Waterloo Township, I was not advised until yesterday of the completion of the work in that district.

The following table gives the population of each township as ascertained in the re-enumeration just described:

| County. | Township. | Reported at June enumeration. | Reported in December and January. |
|---|---|---|---|
| Abbeville | Due West | 2,457 | 2,576 |
| Barnwell | Williston | 2,669 | 2,723 |
| Chesterfield | Steerpen | 2,080 | 2,090 |
| Fairfield | Township No. 8 | 2,559 | 2,685 |
| Laurens | Waterloo | 4,018 | 4,150 |
| Lexington | Broad River | 2,426 | 2,441 |
| Marion | Cains | 2,405 | 2,480 |
| Williamsburgh | Johnson | 2,397 | 2,463 |
| Total | | 21,011 | 21,608 |

It will be seen that in every township on this list an increase appears in the December and January enumeration over the June enumeration. This increase is due partly to the normal increase of population, which might easily be, in seven months, 1½ per cent.; partly to changes in population, such as frequently occur in rural communities, as between summer and winter; which changes, had a hundred townships been taken, would probably have offset each other, but which in so few as eight might easily leave an appreciable balance, to the gain or the loss, according to circumstances of the particular group of townships taken, and partly also, it is probable, to the greater care and thoroughness with which the last enumeration has been conducted.

It was not to be expected that the average of the four hundred and eighty-seven enumerators of South Carolina should be equal to that of a corps of selected officers, each of whom had had far more than the usual experience of life and of public service, all excellent scouts and horsemen, provided with guides, maps, &c., without regard to expense. It is not improbable, therefore, that the final result may show a score or two of families in these eight townships who were omitted by the June enumerators, either through inadvertency or on account of some peculiar difficulty arising from the location of their dwellings.

The ordinary enumerator, canvassing a territory of fifty, sixty, or eighty square miles, might, without any great fault of his own, omit two or three cabins hidden away in ravines, sheltered by trees, and occupied by families having but very little of business or of social connection with the rest of the community.

I may, perhaps, be excused for remarking that in discussions relating to the census of the Southern States it needs always to be borne in mind that the most characteristic difference in the matter of residence, as between the Northern and the Southern States, is found in the location of dwelling-houses. As a rule in the Northern States houses are placed upon highways; as a rule in the Southern States houses are not so placed. In the Northern States families are habitually supplied with water from wells; in the Southern States they are habitually supplied with water from springs or running streams, and hence it is proximity to a natural water supply which determines the location of houses. Any one who has traveled throughout that region will not fail to acknowledge the truth of this general remark.

Time has not been given for a full comparison of the names upon the lists furnished by the two enumerations, which work will be completed upon special agent Butterfield's return to Washington.

In general he has advised this office that the results of the comparison, so far as it has been carried out, have been such as to corroborate the original enumeration.

I cannot but believe, however, that the result which I have now the honor to announce will be accepted as conclusive in favor of the integrity of the work done in June under the authority of the several supervisors of South Carolina.

I have the honor to be, very respectfully, your obedient servant,

FRANCIS A. WALKER,
*Superintendent of Census.*

Hon. CARL SCHURZ, *Secretary of the Interior.*

Mr. BUTLER. This full and complete reply to the imputations of unfairness and fraud ought to satisfy the minds of all men and put to shame the authors of the baseless calumnies; but I am not content to stop here. A certain republican stump orator on a certain occasion in New York City, where there was evidently an uncontrollable desire to "fire the hearts" of his audience, concluded that a just and honest recital of the truth would fail of that purpose, and therefore chose the following language of insult and misrepresentation as a more potent appliance for the occasion:

Perhaps this point will seem to you to challenge some attention. For the population of Southern States we must go back to the census of 1870. That count of the people was made by enumerators not selected by Southern Senators and members of the House as "non-partisans" and professional reformers. It was made by the regular marshals and their deputies, and the compensation was so adjusted as to induce thorough visitation and at the same time to guard against exaggeration of numbers. No imputation of fraud was ever cast upon the work. Such a thing as a plot to fabricate a monstrous increase of population in one section in order to baffle the course of nature and the logic of events in another—a plot to change the balance of power and population in order to aggrandize one section by establishing a false basis of representation and apportionment, thus robbing other sections of their share in governing the country, in levying taxes and appropriating money, had not at that time occurred to the conservative foes of radicalism. That particular spoke in the wheel of deviltry had not turned up to the shifty patriot of that day. Now such schemes seem to wax apace. We read of producing false heirs to thrones and estates, but to multiply false heirs without any one to personate them on a scale so grand as seems now in process, would stupefy the ingenuity of a French novelist, or anybody else except a thoroughgoing, non-partisan conservative disciple of the democratic persuasion, wanting nothing for himself, but ready to do and suffer for a white man's government with "reform" and "a change."

The same orator makes also the following gratuitous fling:

This is the ordinance of higher power than a South Carolina census-taker.

And in the course of the harangue of the aforesaid stump-orator broadside after broadside of figures, problem after problem in arithmetic, ingeniously ciphered out, were hurled at the South; plausible and delusive, calculated to deceive, but as disingenuous and unfair as the intellect that fabricated them and malignant in their purpose as the heart that inspired their utterance.

In a letter dated October 5, 1880, General Walker, the able and

accomplished Superintendent of the Census, submits to the acting Secretary of the Interior, Hon. Alonzo Bell, some tables and observations which I shall take leave to notice. He says:

The following table exhibits the population of each of the counties of the State of South Carolina at the ninth and at the tenth census, respectively. The figures for 1880 are subject to possible slight changes by reason of the discovery of the duplication or omission of individuals or families.

TABLE A.

| County. | 1880. | 1870. |
|---|---|---|
| Abbeville | 40,822 | 31,129 |
| Aiken | 28,122 | ..... |
| Anderson | 33,613 | 24,049 |
| Barnwell | 39,858 | 35,724 |
| Beaufort | 30,190 | 34,359 |
| Charleston | 102,825 | 88,863 |
| Chester | 24,153 | 18,805 |
| Chesterfield | 16,345 | 10,584 |
| Clarendon | 19,190 | 14,038 |
| Colleton | 36,390 | 25,410 |
| Darlington | 34,485 | 26,243 |
| Edgefield | 45,846 | 42,486 |
| Fairfield | 27,766 | 19,888 |
| Georgetown | 19,613 | 16,161 |
| Greenville | 37,494 | 22,262 |
| Hampton* | 18,767 | ..... |
| Horry | 15,574 | 10,721 |
| Kershaw | 21,538 | 11,754 |
| Lancaster | 16,903 | 12,087 |
| Laurens | 29,444 | 22,536 |
| Lexington | 18,590 | 12,988 |
| Marion | 34,107 | 22,160 |
| Marlborough | 20,598 | 11,814 |
| Newberry | 26,497 | 20,775 |
| Oconee | 16,256 | 10,536 |
| Orangeburgh | 40,995 | 16,865 |
| Pickens | 14,391 | 10,269 |
| Richland | 28,585 | 23,025 |
| Spartanburgh | 40,408 | 25,784 |
| Sumter | 37,037 | 25,268 |
| Union | 24,081 | 19,248 |
| Williamsburgh | 24,110 | 15,489 |
| York | 30,713 | 24,286 |
| Total | 995,306 | 705,606 |

*Formed since 1870.

If we distribute the population of Aiken and Hampton Counties, formed since 1870, among the counties to which this territory belonged in 1870, we shall have the following result:

TABLE B.

| County. | Total population. | | Actual increase. | Per cent. of increase. |
|---|---|---|---|---|
| | 1880. | 1870. | | |
| Abbeville | 40,822 | 31,129 | 9,693 | 31.14 |
| Anderson | 33,613 | 24,049 | 9,564 | 39.77 |
| Barnwell | 50,749 | 35,724 | 15,025 | 42.06 |
| Beaufort | 48,937 | 34,359 | 14,598 | 42.49 |
| Charleston | 102,825 | 88,863 | 13,962 | 15.71 |
| Chester | 24,153 | 18,805 | 5,348 | 28.44 |
| Chesterfield | 16,345 | 10,584 | 5,761 | 54.43 |
| Clarendon | 19,190 | 14,038 | 5,152 | 36.70 |
| Colleton | 36,390 | 25,410 | 10,980 | 43.21 |
| Darlington | 34,485 | 26,243 | 8,242 | 31.41 |
| Edgefield | 58,994 | 42,486 | 16,508 | 38.86 |
| Fairfield | 27,766 | 19,888 | 7,878 | 39.61 |
| Georgetown | 19,613 | 16,161 | 3,452 | 21.36 |
| Greenville | 37,494 | 22,262 | 15,232 | 68.42 |
| Horry | 15,574 | 10,721 | 4,853 | 45.27 |
| Kershaw | 21,538 | 11,754 | 9,784 | 83.24 |
| Lancaster | 16,903 | 12,087 | 4,816 | 39.84 |
| Laurens | 29,444 | 22,536 | 6,908 | 30.65 |
| Lexington | 20,253 | 12,988 | 7,265 | 55.94 |
| Marion | 34,107 | 22,160 | 11,947 | 53.91 |
| Marlborough | 20,598 | 11,814 | 8,784 | 74.35 |
| Newberry | 26,497 | 20,775 | 5,722 | 27.54 |
| Oconee | 16,256 | 10,536 | 5,720 | 54.29 |
| Orangeburgh | 43,415 | 16,865 | 26,550 | 157.43 |
| Pickens | 14,391 | 10,269 | 4,122 | 40.14 |
| Richland | 28,585 | 23,025 | 5,560 | 24.15 |
| Spartanburgh | 40,408 | 25,784 | 14,624 | 56.72 |
| Sumter | 37,037 | 25,268 | 11,769 | 46.58 |
| Union | 24,081 | 19,248 | 4,833 | 25.11 |
| Williamsburgh | 24,110 | 15,489 | 8,621 | 55.66 |
| York | 30,713 | 24,286 | 6,427 | 26.46 |
| Total | 995,506 | 705,606 | 289,700 | 41.06 |

In the above table there has been added to the population, in 1880, of Barnwell County, 10,891, a part of the population of Aiken County; to the population of Edgefield, 13,148, on the same account; to the population of Lexington County, 1,663, on the same account; to the population of Orangeburgh County, 2,420, on the same account; and to the population of Beaufort County, 18,767, being the population of Hampton County in 1880, the latter county having been taken entire from Lexington since 1870.

These tables show the population of South Carolina to have been, according to the census of 1870, 705,606, and of 1880, 995,306, an increase in ten years of 289,700—41.06 per cent.

The enumeration of 1870 was made under republican auspices, "by republican marshals and their deputies," not "by enumerators selected by Southern Senators and members of the House as non-partisans and professional reformers." Never! The bitterest enemies and most accomplished slanderers of "Southern Senators and members of the House" cannot charge them with such a puerile abortion.

Some at least of the republican "Senators and members of the House" of that day of corruption and partisanship are entitled to, and shall have, the credit of the paternity of that deformed offspring. It is of a piece with almost all else that was done in the halcyon days of republican domination in this Capitol. Let us see what the present Superintendent of the Census says about it—a republican and a gentleman of ability, culture, and honesty, whose confirmation Southern Senators are quite willing to be responsible for, and who, I believe, does not share the distinction with his present accusers of many things done in 1870. The following extracts from his letter of October 5, 1880, will vindicate his own work and the work of his subordinates in South Carolina against the unjust aspersions of those who can see no good outside of the radical junta.

The following table shows the population of certain enumeration districts in 1880 as compared with the figures of 1870:

TABLE G.—*Aggregate population of certain minor civil divisions.*

| County. | Civil division. | 1870. | 1880. | Per cent. |
|---|---|---|---|---|
| Edgefield | Pickens Township | 1,559 | 3,939 | 153 |
| | Norris Township | 1,485 | 2,958 | 100 |
| Greenville | Grove Township | 1,089 | 2,361 | 117 |
| | Gantt Township | 844 | 1,731 | 105 |
| | Greenville Township (outside the village) | 378 | 2,152 | 469 |
| Kershaw | De Kalb Township | 1,571 | 6,088 | 288 |
| Orangeburgh | Orange Township | 997 | 3,906 | 292 |
| | Hebron Township | 311 | 960 | 209 |
| | Liberty Township | 408 | 1,215 | 198 |
| | Orangeburgh Court House | 246 | 2,140 | 770 |
| Spartanburgh | Spartanburgh Court House | 1,080 | 3,253 | 201 |

This last table presents a most remarkable commentary upon the census of 1870, against which, we are told, "no imputation of fraud was ever cast."

At Orangeburgh Court House the census of 1870 gave a population of 246, that of 1880 of 2,140, an increase of 770 per cent. The enumeration of 1870 is so ridiculously absurd, that a stranger who had never seen the town, upon the most casual observation, would pronounce it false. And so of Greenville Township in Greenville County, and of De Kalb Township in Kershaw County, and of all the "minor civil divisions" in which comparisons have been made.

And, I think, we have much greater right to assume that there was in 1870 a plot to fabricate a monstrous decrease of population in one section, "a plot to change the balance of power and population in order to aggrandize one section by establishing a false basis of representation and apportionment" in the South. Such "a particular spoke in the wheel of deviltry" of that day would have fitted so aptly with other "spokes of deviltry" of the radical wheel and have been so easily adjustable, that no great stretch of the imagination would be required to fasten the charge of fraud upon the ninth census and those who then "plotted" against the South in more ways than one. But let us have General Walker's version of the controversy. After some preliminary observations, he says:

The error lying between the two censuses indicated, it would at the first glance appear, that a strong presumption existed that it was the census of 1880 which was at fault, the census of 1870 being a census taken and completed, a census accepted by the proper Department at Washington, and incorporated into its reports to Congress, and made the basis of a redistribution of representation by the act of 1872. Unfortunately, however, the authority of the census of 1870 in some sections of the country was not such as to create a very powerful presumption against the subsequent census by reason of marked discrepancies appearing therein.

The census of 1870 was taken under the act of 1850, an act by the provisions of which the control of the Census Office over the enumeration was reduced to a minimum, the authority attaching to the office being altogether insufficient, to any considerable degree of responsibility, for the results reported.

In his report of November 1, 1872, the Superintendent of Census characterized this act in the following terms, to which, after the further experience of eight years, he would, if possible, add emphasis rather than subtract from the force of the condemnation expressed:

"It is not possible for one who has had such painful occasion as the present Superintendent to observe the workings of the census law of 1850 to characterize it otherwise than as clumsy, antiquated, and barbarous.

"The machinery it provides is as unfit for use in the census of the United States in this day of advanced statistical science as the smooth-bore, muzzle-loading Queen's arm of the Revolution would be for service against the repeating rifle of the present time. It ought not to be possible that another census should be taken under this law; such a thing ought not to be seriously proposed.

"The country has suffered more than enough already of discredit and of loss on account of the wretched insufficiency and inappropriateness of the provisions of this ill-constructed and outgrown statute."

By the act thus characterized the charge of the enumeration in the several judicial districts was committed to the United States marshals, officers appointed with reference to altogether different services, and already burdened with a great variety and extent of duties in connection with the courts. These officers were, moreover, not appointed, and were not removable, at the instance of the Census Office or of the Department of the Interior, but belonged to another Department of the Government, to which they were responsible. In the formation of the subdivisions of their districts for census purposes, the marshals were subject to no control whatever on the part of the Census Office, while they were, by law, permitted to constitute districts, in their own discretion, not exceeding 20,000 inhabitants.

But even worse in its effects upon the integrity and completeness of the enumera-

tion was the provision of the act of 1850, by which the United States marshals were left to appoint their assistants—the actual enumerators—without any check or control on the part of the Census Office. Whatever the vices of any individual appointment, or however low the general tone of appointments in any district might be, the Census Office had no power except that of a barren protest, its right to make such a protest even being seriously a subject of question. The Census Office had not even authority or appropriation to send an agent to inspect the office of the United States marshal during the progress of the enumeration.

The absence as above indicated of any power in the Census Office, first over the appointment of marshals themselves—the supervisors of enumerations; secondly, over the subdivision of the territory for the purposes of enumeration; and thirdly, over the appointment of assistant marshals—the actual enumerators—will be seen to justify the statement made above, that, under the act of 1850, the authority attached to the Census Office was insufficient to any considerable degree of responsibility for the results reported. In this condition the question whether the census of any judicial district should be a good one or a bad one became a question simply whether the United States marshal, appointed with reference to altogether different considerations, was himself competent to conduct the delicate and difficult work of supervising the census; whether he would give to the subject sufficient time and attention, in spite of other and pressing duties, and whether he would show good judgment and integrity in the subdivision of his district and in the appointment of his assistants. I have always been free in attributing to the United States marshals of 1870, as a body, a high sense of their duty in this respect and great zeal and vigilance. In preparing for and supervising the enumeration the marshals for 1870, as a body, did far more and better than was to have been expected of them in respect to this onerous duty imposed upon them, in addition to the regular work of their office. Moreover, the assistant marshals of 1870 were generally of good clerical abilities and good character, who labored faithfully in their calling, and made, as a rule, neat and intelligent returns.

While the foregoing remarks respecting the deficiencies of the system in use at the ninth census apply indifferently to all the districts of the country, North and South, peculiar difficulties attended the enumeration at the South in 1870. The disturbed state of society in the States lately in rebellion and the supposed necessity of appointing the assistant marshals wholly from the dominant political party, the members of which, in some sections, were drawn almost exclusively from the race lately emancipated by the effects of war, combined to reduce to a very low point the assurance which the country could have of a good census being taken under such a thoroughly bad organization as that provided by the act of 1850. It is not necessary for me to recite facts of record showing the manner in which the State governments of more than one State were at that time administered to prove that there was no very strong probability that the appointments made to the office of assistant marshal in those States would be uniformly good.

There was, moreover, lacking in 1870, throughout this general region, one very important safeguard of enumeration, namely, public interest in the result and general intelligence as to the population likely to be shown by the canvass. The interest generally manifested throughout the United States in the ninth census was far below that which has been shown the present year; but nowhere did the interest in the work of the census fall as low as in the States referred to, in which political activity under the Constitution of the United States had scarcely revived, and some of which had only just been restored to their representation in Congress and in the electoral college. Public interest in the result of the enumeration is oftentimes very troublesome to the officers of the census; but it is as wholesome as troublesome, since, while it frequently leads to unreasonable complaints, it almost certainly calls attention to any actual omissions from the enumeration and to any negligence on the part of the agents of the census.

Moreover, there could, in 1870, be no intelligent expectation at the South as to the population which should be shown by the census. No statistician could, at that time, claim to be able to make even an approximate estimate of the population of any Southern State. What would be found to be the effects upon population of four years of devastating civil war, involving vast loss of life, with diminution of vitality on the part of the survivors, the separation of husbands and wives, and the procrastination of marriage on the part of the young, throughout a population of which all able-bodied adult males were declared by law to be soldiers, subject to be called to arms at any moment? What would be the effects upon the distribution of the colored population, as between States and counties, of their recent emancipation, leaving them for the first time free to place themselves according to their interest or their fancy? These were questions which the best-informed student of population could not have presumed in 1870 to answer. There was, consequently, on the eve of the ninth census, no intelligent estimate possible on the part of any southern community as to the population which would be found to exist; and hence there could be no intelligent criticism of the results of the census as announced by the marshals of the several judicial districts. Scarcely any result as to population was incredible in a region over which armies had been passing for four years, to the destruction of crops, of houses, of fences, and of agricultural implements, and in which one-third, one-half, or, as in the so-called "Black Belt," two-thirds, four-fifths, and even seven-eighths of the population were, for the first time in their lives, as the result of the war, left free to choose their own location and mode of living.

INVESTIGATION OF THE RESULTS REPORTED IN 1880.

From the above considerations this office was not disposed, on the first announcement of the extraordinary apparent gain of population from 1870 to 1880, to conclude that it was necessarily the census of 1880 which was in fault, and therenpon to charge upon the 10,000 officers engaged in the service throughout the Southern States the perpetration of a monstrous political crime through a gigantic conspiracy to falsify the census. Knowing that the provisions of law at the tenth census were infinitely better suited to accomplish the purposes of a correct enumeration than in 1870; knowing that in South Carolina the work of supervision had not, as in 1870, been intrusted to a single officer already overworked in the performance of the regular duties of the marshal's office, but to three officers, each of whom gave many months of arduous labor to the work of preparation and supervision; knowing that in place of one hundred and twenty-one enumeration districts, as in 1870, covering an average area of two hundred and eighty square miles, there had been, at the recent count, four hundred and eighty-seven districts, each covering an average area of only sixty-nine square miles, securing, as a necessary result, a far higher degree of local and personal knowledge on the part of the enumerators of the districts to be canvassed by them respectively; knowing that the enumerators were no longer chosen from a single party, but were taken from the mass of citizens without any restriction on account of supposed partisan necessities; knowing all these things, I felt that the question, whether the census of 1870 or that of 1880 were in fault, should be approached and investigated without any strong presumption in favor of the former enumeration. The result of this investigation I have now the honor to state.

The method chosen for dealing with the question of the accuracy of the recent enumeration was a direct test of the count in certain districts. The districts taken for the purpose were, of course, among those situated in the counties respecting which the apparent gain from the ninth to the tenth census was the most extraordinary. They were also, in general, the districts which exhibited the largest gains within their respective counties, though considerations of convenience in reaching such districts by public conveyance, and in testing the count with the assistance of officials and citizens of undoubted probity, were admitted in the selection of the districts to be so canvassed. For the purpose of this investigation I detailed Mr. Henry Gannett, special agent. The honorable Attorney-General, at the request of this office, instructed the United States marshal of South Carolina to cooperate with Mr. Gannett in the work of investigation. Similar instructions were issued by the Internal Revenue Department to the collector of internal revenue of the State of South Carolina, Mr. Brayton, and a general letter of introduction was addressed from the Post-Office Department to the route agents of that Department.

Mr. Gannett left Washington on the 7th of September, accompanied by Mr. R. M. Barnitz, one of the most capable clerks of this office, and returned to the city on the 21st of September. I inclose a copy of his report, showing his proceedings under this commission.

It appears that Mr. Gannett visited six counties of South Carolina, being counties which showed extraordinary gains since 1870, and in those counties visited in all eighteen enumeration districts. In each of these enumeration districts the list of inhabitants returned to this office were subjected to examination by United States officials or by citizens. In general, these citizens were introduced and vouched for by the United States marshal of the judicial district, or by the United States collector of internal revenue, as not only men of reputation, but, with two exceptions only, as also recognized members of the republican party. In each of the eighteen districts in succession the names of inhabitants were so far identified as put it beyond a doubt, first, that the census of 1870 in each of these districts was grossly defective, and secondly, that the census of 1880 was substantially well taken. In no instance did anything appear which bore the semblance of fraud in the returns made to this office by the enumerators of 1880. In some districts nearly every family was identified as resident in the township, notwithstanding the great extent of the South Carolina townships, some of which embrace one hundred and even two hundred square miles. In all cases the identification was carried far enough to put it beyond a doubt that the fault of the impossible gains reported over the census of 1870 lay with the preceding enumeration.

It appears to me that the report of Mr. Gannett satisfactorily settles the question as to the fairness of the tenth census in South Carolina. It must be remembered that no reason existed for suspecting that enumeration beyond the fact of the extraordinary gain over the reported population of 1870. The supervisors of South Carolina are men of unimpeached character. Two of them are republicans who were appointed upon the strong and urgent recommendation of United States officials resident within that State, and of other persons highly connected in the past with the republican party. Of one of them, (Colonel Pride,) Hon. D. H. Chamberlain, late governor of South Carolina, wrote:

"He is a man of great energy, thoroughly acquainted with all parts of the State, apt and experienced in business affairs, with habits of accuracy and method which are of great value. He is a sincere southern republican, a member of that party in adversity as well as in prosperity. He is a good citizen, a good republican, and a good business man."

The third supervisor, a moderate democrat, is a man of the highest social connections and standing; a man of culture and of learning.

Not one complaint has ever reached this office respecting the general character of the enumerators appointed in any of the three supervisors' districts of South Carolina, or impeaching the fitness of a single enumerator appointed in that State. No specific allegation of fraud in the enumeration of South Carolina has ever been made to this office. The entire ground for impeaching the integrity of the recent census was found in the reported gain of population between 1870 and 1880. The results of the investigation hereinbefore detailed place beyond possible question by any fair-minded man the entire fault upon the census of 1870. I know of no reason, therefore, why any further charge should be made against the enumeration recently brought to a conclusion by the commissioned and sworn officers of the Government in South Carolina.

The presumption which existed against their work has been completely overthrown, and a strong counter-presumption has been created by the verification upon the ground of the schedules of inhabitants in the case of eighteen enumeration districts successively taken for special investigation on account of their exceptionally questionable character.

COMPARISON OF 1820–'60 WITH 1860–'80.

One further objection which has been brought against the reasonableness of the result of the census of 1880 in South Carolina deserves a brief notice.

That objection is derived from a comparison of the ratio of increase between 1820 and 1860 and that between 1860 and 1880. The population of South Carolina increased from 502,741 in 1820 to 703,708 in 1860, a gain of 40 per cent. in forty years. Between 1860 and 1880 the increase was from 703,708 to 995,006, a gain of 41 per cent. in twenty years. Such a comparison, however, is not fair, without reference to certain general causes operating during the two periods.

From 1820 to 1860 South Carolina was a bee-hive, from which swarms were continually going forth to populate the newer cotton-growing States of the Southwest. Between 1820 and 1830 immense tracts of fertile lands belonging to the Creeks and Cherokees in Georgia were ceded to the United States, and were largely occupied by South Carolinians. Later in the period an active emigration of whites from South Carolina sprang up and was maintained in favor of Alabama, Mississippi, and Louisiana, while South Carolina negroes were sold in great numbers to cultivate the cotton, rice, and sugar fields of those States. Still later the annexation of Texas made further drafts upon the population of South Carolina.

The effect of these movements is seen in the following figures:

| | |
|---|---|
| Number of persons born in South Carolina living in that State in 1870 | 678,708 |
| Number of persons born in South Carolina, but living in other States of the Union in 1870 | 246,066 |

From which it appears that South Carolina had given to other States nearly 27 per cent. of her entire native stock.

| | |
|---|---|
| Of these there were living in Georgia | 54,937 |
| In Mississippi | 35,956 |
| In Florida | 22,116 |
| In Texas | 17,717 |
| In Arkansas | 13,807 |

It is probable that these figures underrate the facts so far as the negro element is concerned, since it seems most likely that many negroes who were born in South Carolina, but who had been sent ten, twenty, or thirty years before 1870 to other States, would be returned as born in the States in which they were then found, the tradition of their origin being lost.

We do not know fully what effects the destruction of slavery and the vast change resulting in the conditions of labor have produced upon the emigrating propensities of the people of South Carolina. We do know that negroes are no longer sold South to cultivate the lands of the Yazoo, the Red River, and the Brazos. It is reasonable to suppose that concurring causes may have checked in an equal degree the outward movement of the white population. A comparison of the "free" natives of South Carolina living in other States in 1860 with the white natives of South Carolina living in such States in 1870 shows their numbers to have been respectively 193,389 and 148,574, a reduction of 45,000 in the ten years between 1860 and 1870.

Very respectfully, your obedient servant,

FRANCIS A. WALKER,
*Superintendent of Census.*

Hon. ALONZO BELL, *Acting Secretary of the Interior.*

It will be observed, Mr. President, that General Walker states his side of the case in the best possible temper, and with entire impar-

tiality, giving to every ground of suspicion the fullest consideration.

To any fair-minded, honorable man it would seem that this candid explanation should have disarmed adverse criticism and deserved an honorable withdrawal of every charge of fraud against his work; but such is not the case, and the Government has been subjected to the expense and General Walker to the trouble and annoyance of dispatching Colonel Butterfield for further investigation and report, and I shall attach his report as an appendix to my remarks. It will be found to be confirmatory of what appears in the foregoing letter.

In regard to the census of 1870 and the machinery under which it was taken General Walker is not content with his own testimony, but brings his predecessor to court and he characterizes the whole business "as clumsy, antiquated, and barbarous," that "the machinery it provides is as unfit for use in the census of the United States in this day of advanced statistical science, as the smooth-bore, muzzle-loading Queen's arm of the Revolution, would be for service against the repeating-rifle of the present time." It answered its purpose at the time it was put in operation, as did the "smooth bore," but it belongs to a by-gone age. The world has moved, and had moved in 1870, and yet some of the republican Senators and stump orators of that time permitted a fraud to be perpetrated upon the country under "its clumsy, antiquated, barbarous," "machinery," and now in advance, and without investigation or a hearing denounce the work of the tenth census because forsooth, "southern Senators and members of the House selected the enumerators." I am prepared to take my share of the responsibility for the selections. The Superintendent of the Census will bear me out in the assertion that as far as I could control it I would consent to the confirmation of no man, democrat or republican, whose character was not a guarantee to a faithful, honest performance of his duty. I asked for the appointment of no friend or partisan because he was a friend or partisan. I tried to secure the appointment of those only who would do their duty irrespective of party or party interests, and I believe I know only such were appointed and confirmed for South Carolina. And, Mr. President, it will require something more than the sneers and snarls of charlatans, and carpings of disappointed malcontents, to drive me from the good opinion I have of the work on the tenth census in that State. Those intrusted with the work do not belong to that breed of cormorants foisted upon her and sustained by the malevolence and hatred of some of those republican patriots of 1870 who now challenge the efforts and misrepresent the motives of those of us who strive to rescue her from the palsying, paralyzing touch of their vulgar henchman.

No, Mr. President, there has been no fraud in the enumeration of the inhabitants of South Carolina. The census has been taken with fidelity, and the proof is conclusive, overwhelming, and yet the author of the charge has not the sense of justice to withdraw it, to make honorable amends for a gross misrepresentation. A presidential election was pending, and perversion, prejudice, and injustice were more efficacious for the purposes in hand than truth and justice, and right recklessly were they wielded. They served their purpose, but the traducer of my State and her people shall not escape exposure. The result of that enumeration has converted many confidant predictions of partisan politicians as to the drift of political power into dismal fallacies. It has baffled the calculations and clouded the hopes of so many who hate the South and foretold her decadence that perhaps some allowances should be made for their bad temper and reckless accusations. Not content with criminal participation in despoiling the South by commissioning for that special service a band of greedy vampires, and sustaining them while they plied their insatiate avocation, after she is plundered and bled to depletion, the chief rallier of that band of spoliators depreciates her because of her poverty, and upbraids her for her humiliated attitude. Why, Mr. President, when the professional highwayman or outlaw overcomes and robs the helpless wayfarer he, even, is too magnanimous to insult his victim by hurling at him vulgar anathemas and bitter curses.

Let this political highwayman go learn humanity and magnanimity from the reckless outcast, and shelter his ignominy from the hissing storm of scorn and contumely. The lesson, Mr. President, which this last census teaches is an instructive one. It deserves to be prayerfully studied by those who have spent anxious hours "arguing out" the "steady decline" and "stagnation" of the South.

The little State which I have the honor in part to represent, of 34,000 square miles, has lost within the last two decades not less and perhaps more than three hundred and fifty million dollars, actual cash values, lost to her as completely and effectually as if sunk to the bottom of mid-ocean. Within that time she has also had reconstruction, the ninth census, the reign of the carpet-bagger, and missionaries from the Northern Methodist Church and her own mistakes, blessings enough to have translated her to the happy confines of elysian fields or to the sublimated heights of Plymouth Rock self-complacency, or curses enough, as these visitations may be regarded from the different stand-points, to have consigned her to the ninth circle of Dante's Inferno. Whether they have been blessings or curses, she has bravely survived them, and, as best she may, is wrestling with the grave problem of race issues and social incongruities, hoping to master them upon principles of a broad humanity and with a triumph of law and social order.

She has no complaint to utter save against those who traduce and vilify her, and to those she returns the salutation of scornful contempt.

Four years ago, when she rescued her government from the hands of the spoliator, she gathered up her credit, being hawked about and spit upon in the market places, a by-word and a reproach, and to-day her securities are commanding from 6 to 10 per cent. premium on their par value.

She has the frame-work of a public-school system that, under the encouragement of a wise and judicious management, is being annually and steadily developed into an educational asylum for all her children, and needs only time and money and judgment to be made equal to any in the American Union. The improvement in her homestead laws is fixing her population permanently upon her soil, and she is no longer a nursery for her younger sisters of the West and Northwest. Under the operation and protection of equal laws, justly executed, a system of land tenantry is being changed to one of land tenure, and life and property are safely guarded. She has increased the product of her principal staple 130 per cent. in ten years, namely, in the last five and this year it is estimated at 516,000 bales against 226,000 in 1870. Her manufactories have more than doubled in capacity, as the following table will show:

| Items. | 1880. | 1870. | Percent. increase. |
|---|---|---|---|
| Looms | 1,776 | 745 | 138 |
| Spindles | 92,788 | 34,940 | 166 |
| Bales used | 33,099 | 9,514 | 248 |
| Hands employed | 2,195 | 1,123 | 96 |

And within the last thirty days the capital stock of one cotton-mill of $400,000 has been subscribed in home capital at Charleston, and another is being rapidly organized at the same place in the same way. She exempts from taxation for ten years all new manufacturing establishments, and of the property of immigrants she exempts for three years $1,500, the amount of her homestead exemption. Her mineral resources have quadrupled in development, and yet are comparatively untouched. Her people are still poor, but they have $100 in cash now, saved under the benign influences of honest government and home rule, where they had $10 under the harrowing perplexities and legalized robbery of misrule and dishonest government. Her population has steadily increased—greatly increased. Just how much, thanks to the *faultless* census of 1870, "taken by republican marshals and their deputies," nobody can tell with accuracy.

These are some things, Mr. President, that do not indicate "stagnation" or a "steady decline," and I have adverted to them to show to the country how entirely unreliable are the statements of partisan non-reformers, who recklessly resort to calumny against whole communities and peoples to effectuate an unholy purpose. As I have said, the people of the South are poor—comparatively poor—but it is no disgrace, and they are not ashamed of it; but it ill becomes the criminal receiver of their stolen goods, one who has waxed fat upon their misfortunes, to chide them with their poverty.

Rebellion, revolution, war, have their lessons as well as revenges. They are merciless, they are cruel, they are destructive, and the Southern people know what they mean. Their wounds are cicatrizing, and the graves of the dead past are sodded with a respectful oblivion, and would rest in peace on through the ages but for the political hyenas who dig into those graves and munch the bones and growl over the dead forms of the passions that are buried.

The South, Mr. President, is deeply interested in whatever concerns the people of the whole country; deeply interested in the development of the resources of the country, and in maintaining the honor and credit and dignity of the Government.

I believe the forthcoming report of the Superintendent of the Census will contain the most valuable and complete repository of information that has ever been collected in this country, and will illustrate a proficiency and advancement in statistical science by the distinguished and accomplished head of the bureau that will place him abreast of the leading scientists of the world.

His work will show some curious facts—I might almost say caprices—in the movements of populations and the drift of political power. The center of population has moved westwardly from New York since 1800, along the thirty-ninth parallel of latitude, deflecting north or south as the population would drift north or south, and in 1870 it lodged about forty-two miles northeast of Cincinnati, Ohio. The census of 1880 will draw the center south of Cincinnati and south of the Ohio River. Such at least are the indications at the present stage of information.

The following geographical grouping of States, showing the difference in population in 1870 and 1880, and the per cent. of increase in each group, is suggestive as to the tendency of political power in this country, and I shall insert it here for consideration:

*Group* 1—Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania.

| | |
|---|---|
| Population in 1870 | 12,298,730 |
| Population in 1880 | 14,508,017 |
| Increase during decade | 2,209,287=15¼ per cent. |

*Group 2*—Maryland, Delaware, Virginia, North Carolina, South Carolina, West Virginia, Tennessee, Kentucky, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Missouri.

| | |
|---|---|
| Population in 1870 | 13,877,615 |
| Population in 1880 | 18,504,205 |
| Increase during decade | 4,626,590=25 per cent. |

*Group 3*—Louisiana, Mississippi, Kentucky, Tennessee, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Arkansas.

| | |
|---|---|
| Population in 1870 | 11,568,421 |
| Population in 1880 | 15,033,909 |
| Increase during decade | 3,465,488=23.1 per cent. |

*Group 4*—Ohio, Indiana, Illinois, Michigan, Wisconsin.

| | |
|---|---|
| Population in 1870 | 9,124,517 |
| Population in 1880 | 11,207,181 |
| Increase during decade | 2,082,664=18.6 per cent. |

*Group 5*—Nebraska, Kansas, Colorado, Nevada, Oregon, California.

| | |
|---|---|
| Population in 1870 | 1,220,917 |
| Population in 1880 | 2,744,766 |
| Increase during decade | 1,523,849=55.1 per cent. |

*Group of "Cotton States," showing the increase of population and percentage of increase during the decade* 1870-1880—North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas, Arkansas, Tennessee.

| | |
|---|---|
| Population in 1870 | 8,074,475 |
| Population in 1880 | 11,206,807 |
| Increase during decade | 3,132,332=27.95 per cent. |

The first group is composed of the New England States and of the States of New York, New Jersey, and Pennsylvania, and they show an increase of population in the decade of only 15¼ per cent.

The second is composed of the former slave States, and they show an increase of 25 per cent. It would be difficult to judge accurately of the increase in these States as the census of 1870, in at least one of them, has been shown to have been unreliable, but perhaps a deduction of 1 per cent. on the whole would equalize the actual increase.

The third group is composed of the States lying on both sides the Mississippi River from its mouth to its source, and is the Mississippi Valley proper. They show an increase of 23.1 per cent.

The fourth group is composed of the five great States of Ohio, Indiana, Illinois, Michigan, and Wisconsin, and show an increase of only 18.6 per cent.

The fifth group are the Western States proper, exclusive of Texas, and they show the immense increase of 55.1 per cent.

And the sixth group is composed of the cotton States, showing an increase of 27.95 per cent.—nearly 28.

These several groups are merely arbitrary, but they show that "the scepter hath departed from Judah;" and the poetic expression that "Westward the course of empire takes its way" is not a flight of fancy but a stern reality.

The "star of the South" has been shrouded by the cloud of slavery for two centuries, but as it rises and warms with the effulgence of freedom, it will mingle its rays brightly among the brightest in the constellation of States. The growing confidence of the people of the South in their ability to keep step to the music of free institutions in this Republic will vitalize their energies and give point to their efforts in the race for power.

This whole country is beginning an era of unrivaled prosperity and development, and if the powers of Government and forces of society are held with a steady, considerate hand, the eleventh census will reveal a degree of healthful progress never dreamed of by the most ardent believer in the capacity of republican institutions for the promotion of human happiness.

Relieved of the incubus of slavery, that *bête noir* of the past, and left free to rehabilitate herself upon terms of equality with other States of the Union and regulate her domestic concerns in her own way so as to secure and maintain law and order, and the peace and happiness of her whole people, the South will realize a marvelous increase in wealth and prosperity.

And, Mr. President, I believe all good men of all parties and sections will sincerely rejoice if this prediction shall prove true. The jaundiced partisan who nurses "envy, hatred, and malice," and practices "all uncharitableness," will find himself the gloomy, isolated apostle of hate, breathing harmless and helpless discords into the grand harmonies of the Republic, reunited in heart and purpose as well as in form.

## APPENDIX.

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
*Washington, D. C., January 25, 1881.*

SIR: I have the honor to submit the following report of the results of the re-enumeration of certain townships in the State of South Carolina, made by special agents under my charge, for the purpose of testing the accuracy of the census of that State taken in the month of June, 1880.

In compliance with your instructions, I left Washington for Columbia, South Carolina, on the 19th of November, 1880. Previous to my departure, Messrs. J. B. Burt, O. P. D. Stone, J. B. Isler, and T. Quinn reported to me for duty, and accompanied me to South Carolina.

I reached Columbia on the evening of the 20th, and at once put myself in communication with Mr. E. W. Brayton, collector of internal revenue, and Colonel R. M. Wallace, United States marshal of South Carolina. Collector Brayton very kindly furnished me with an office in the United States court-house, and promptly volunteered everything in the way of information, accommodation, and assistance which I might require.

On the following day Colonel Wallace arrived from Charleston.

Under your instructions eight townships were to be selected for re-enumeration by Colonel Wallace. On his recommendation the following were chosen for that purpose: Due West, Abbeville County; No. 8, Fairfield County; Waterloo, Laurens County; Williston, Barnwell County; Broad River, Lexington County; Steerpen, Chesterfield County; Cains, Marion County; Johnson, Williamsburgh County.

In the selection of these townships several points were taken into consideration:

1. The extraordinary gains reported in them during the last decade.

2. By those best acquainted with the townships in question, no satisfactory theory accounting for such gains could be devised.

3. These townships were widely scattered throughout the State, and only one taken from a county; and lastly they were all in other counties than those examined during a previous investigation, conducted by Mr. Gannett, of your office.

It will also be observed that these townships compose a portion of each of the three supervisors' districts of South Carolina.

The following table shows the population of these townships in 1870 and 1880, and the extraordinary gains reported in them:

| Townships. | 1870. | 1880. | Increase. | Per cent. |
|---|---|---|---|---|
| First supervisor's district: | | | | |
| Due West, Abbeville County | 1,030 | 2,457 | 1,427 | 139 |
| No. 8, Fairfield County | 1,562 | 2,559 | 997 | 64 |
| Waterloo, Laurens County | 2,158 | 4,018 | 1,860 | 86 |
| Second supervisor's district: | | | | |
| Williston, Barnwell County | 1,379 | 2,669 | 1,290 | 94 |
| Broad River, Lexington County | 1,116 | 2,426 | 1,310 | 117 |
| Third supervisor's district: | | | | |
| Steerpen, Chesterfield County | 545 | 2,080 | 1,535 | 282 |
| Cains, Marion County | 1,007 | 2,405 | 1,398 | 139 |
| Johnson, Williamsburgh County | 1,218 | 2,397 | 1,179 | 97 |
| Total | 10,015 | 21,011 | 10,996 | |
| Average per cent. of increase | | | | 127 |

The designation of these townships being made, the force under my charge were at once sent to their respective places of operation.

I assigned to Major J. B. Burt, Broad River and No. 8; to Mr. O. P. D. Stone, Steerpen and Cains; to Captain J. B. Isler, Williston and Johnson; and to Colonel Timothy Quinn, Due West and Waterloo.

Instructions were given to each one of these gentlemen to collect the following data:

First. Description and location of house.
Second. Names of the inhabitants.
Third. Color.
Fourth. Sex.
Fifth. Age (and in case of children less than one year old the number of months to be given.)
Sixth. Avocation of heads of families.
The re-enumeration to be of present date.

They were particularly enjoined to find and visit every house in the townships canvassed. To this end they were instructed, whenever necessary, to provide themselves with horses and guides well acquainted with the localities, as in the country the houses are very much scattered, being away from the main roads, in the woods, and on bridle-paths. Also, as the boundaries of townships are in many cases merely arbitrary lines, to exercise the greatest care in following them.

Immediately on my arrival in Columbia, I had communicated with the three supervisors of census, asking them to fix a time and place at which I might meet each of them. In response to a telegram from Major Harry Hammond, supervisor of the second district, I met him on the 28th of November at Augusta, Georgia, which is near his place of residence. Major Hammond met me with the greatest courtesy, and at once proffered me every assistance in his power to facilitate my investigations. By letters to the enumerators and leading men in the township, he rendered efficient aid to the special agents assigned to his district.

Receiving a telegram from Hon. J. L. Breeden, supervisor of the third district, offering to meet me at any point I might designate, and tendering his services in any way which I desired, I took the liberty to ask him to meet Mr. Stone at Cheraw, near Mr. Breeden's home, and give him such information and assistance as he might require, to which he cheerfully responded, and rendered valuable assistance to the gentlemen sent to his district.

Soon after my return from Augusta, Colonel Pride, supervisor of the first district, called upon me in Columbia, remaining in the city several days. Colonel Pride placed at my disposal all the records in his supervisor's office, and very kindly did everything in his power to facilitate the work in his district.

On the 8th of December the canvass of the first township was completed, others following at intervals, the last being finished on the 7th of January.

Upon the receipt of the results of the field-work, I proceeded in private to make the necessary comparisons between the re-enumeration and the June schedules, which, in the mean time, I had received from your office.

The following table will show the aggregates of the two enumerations, and an increase since June, 1880:

| Locality. | June enumeration. | Re-enumeration. | Increase since June. |
|---|---|---|---|
| Due West | 2,457 | 2,576 | 119 |
| No. 8 | 2,559 | 2,685 | 126 |
| Waterloo | 4,018 | 4,150 | 132 |
| Williston | 2,669 | 2,723 | 54 |
| Broad River | 2,426 | 2,441 | 15 |
| Steerpen | 2,080 | 2,090 | 10 |
| Cains | 2,405 | 2,480 | 75 |
| Johnson | 2,397 | 2,463 | 66 |
| Total | 21,011 | 21,608 | 597 |

The following table will show the results of the comparisons:

| Locality. | June enumeration. | Re-enumeration. | Increase since June. | Names common to both schedules. | Names on June schedule not found by re-enumeration. | Names found by re-enumeration not on June schedule. |
|---|---|---|---|---|---|---|
| Due West | 2,457 | 2,576 | 119 | 2,215 | 242 | 361 |
| No. 8 | 2,559 | 2,685 | 126 | 2,320 | 239 | 365 |
| Waterloo | 4,018 | 4,150 | 132 | 3,673 | 345 | 477 |
| Williston | 2,669 | 2,723 | 54 | 2,394 | 275 | 329 |
| Broad River | 2,426 | 2,441 | 15 | 2,158 | 268 | 283 |
| Steerpen | 2,080 | 2,090 | 10 | 1,942 | 138 | 148 |
| Cains | 2,465 | 2,480 | 75 | 2,232 | 173 | 248 |
| Johnson | 2,397 | 2,463 | 66 | 2,152 | 245 | 311 |
| Total | 21,011 | 21,608 | 597 | 19,086 | 1,925 | 2,522 |

It follows from an examination of these tables the gain since June is 597, or nearly 2¾ per cent.; also nearly 91 per cent. of the names on the June schedules were found by the special agents still living in their respective townships. I think I am justified in accounting for the large gain since June from two causes:

First. The legitimate increase from natural causes, that is, excess of births over deaths. It appears from the schedules of re-enumeration that the births since June, 1880, are 436, which is something over 2 per cent. of the population reported in June, and this for the six months intervening between the two enumerations. This is somewhat above the percentage usually conceded to be an average by compilers of statistics on this subject.

Second. It is to be expected that special agents, selected for their known capacity and experience in census work, would make a more thorough and exhaustive enumeration than gentlemen to whom the work was entirely new, no matter how strict their integrity and honest their intentions.

Especially would this be true since the special agents were instructed to procure the best attainable guides, maps, and all the available helps to make their work complete; furthermore, in most cases in the work of recanvassing the townships, by the courtesy of the officers connected with the June enumeration, the enumerators accompanied the special agents, who thus had the advantage of their own experience and that of the enumerators.

It must therefore be plainly probable that a considerable number of persons are included in the re-enumeration who were overlooked in June.

As above stated, nearly 91 per cent. of the names are common to both schedules, leaving a fraction over 9 per cent., or 1,925 names, which I was unable to verify. This number is divided among the white and colored population as follows:

| Locality. | White. | Colored. | Total. |
|---|---|---|---|
| Due West | 109 | 133 | 242 |
| No. 8 | 80 | 159 | 239 |
| Waterloo | 109 | 236 | 345 |
| Williston | 82 | 193 | 275 |
| Broad River | 93 | 175 | 268 |
| Steerpen | 80 | 58 | 138 |
| Cains | 90 | 83 | 173 |
| Johnson | 82 | 163 | 245 |
| Total | 725 | 1,200 | 1,925 |

The failure to verify this number may be attributed to the ordinary movement of population in part, but largely to the well-known custom among the colored population of a frequent change of name. As regards the movement of population, several circumstances unite to form an explanation why in this case it should be large.

In several of these townships are turpentine distilleries, the laborers in which are mainly composed of what may be termed "floating population."

Between the two enumerations occurred the season of cotton-picking, which in a cotton-growing locality invariably occasions considerable changing about of laborers and their families.

In one of the townships, Due West, are located three quite extensive educational institutions, the students in which were included in each enumeration.

In that township I find on the June schedules the names of 43 students, all white, which could not be verified. It is a well-known fact that in all such institutions, to a certain degree, changes are continually taking place.

By reference to the foregoing table it will be seen that this number comprises nearly one-half the white population not verified in that township.

Near another of the townships is a cotton factory, which the special agent assigned to that locality assures me had no inconsiderable influence in producing movement of population.

How materially the frequent change of names among the colored race increased the difficulty of the verification is strikingly illustrated by a subsequent critical examination made in the township of Johnson, where, by the aid of the June schedules, one hundred and fifty-one additional names were verified, of which one hundred and thirty were of colored people.

Taking all the facts into consideration, I feel justified in saying that 91 per cent. is a very close verification.

Having arrived at the above results, acting under your instructions, I selected the township of Johnson, in which to make a still more searching test of the correctness of the previous enumeration.

Accordingly I prepared a transcript of the names appearing on the June schedules for that township, not verified, and dispatched Captain J. B. Isler to that place with directions to institute a strict inquiry for the parties bearing those names to verify their existence or non-existence on the 1st day of June, 1880, by sworn testimony from respectable citizens.

In this matter I was very materially aided by Major Harry Noah, of the internal revenue service, who is secretary of the State republican committee, who kindly gave Captain Isler letters to the chairman of the county republican committee and other leading republicans in the county. I also communicated with Colonel Wallace in regard to the matter, and am able to say that the parties making the affidavits which accompany this report are fully indorsed as being honorable men and entitled to the fullest confidence.

The result of Captain Isler's efforts fully justified my expectations. By the aid of the transcript from the June schedules, he was able, out of a list of two hundred and forty-five, to verify one hundred and fifty-one additional names, leaving ninety-four still to be accounted for.

Herewith you will find affidavits, in proper and legal form, showing that of the ninety-four not found by the re-enumeration, eighty have removed from the township and thirteen have died since June 1, 1880. This leaves a discrepancy of one, in explanation of which I have to say that one name is duplicated on the June schedule, so that in the township of Johnson every name which appears on the June schedule is exactly accounted for.

I believe if time would have permitted, the same result could have been reached in each of the other seven townships.

Having completed the work assigned me, I returned to Washington, arriving on the evening of January 16.

My investigation of the census of South Carolina has led me to the conclusion that it was correctly taken. I have discovered no trace or indication of fraud whatever, and far from being a corrupt census, I firmly believe it to have been taken carefully and honestly.

In conclusion, I desire to say that I was received and treated with uniform courtesy and kindness by the people of South Carolina. Every facility was afforded me for the prosecution of the investigation. Particularly did those connected with the June enumeration cheerfully render their assistance, both to myself and the special agents associated with me, whenever circumstances made it possible to do so.

From Colonel R. M. Wallace, United States marshal; Mr. E. W. Brayton, collector of internal revenue; and Major Harry Noah, secretary State republican committee, my force and myself received many favors and valuable assistance.

The gentlemen detailed to assist in this work as special agents have done their duty with promptitude and fidelity, and merit my hearty commendation.

Trusting that this work may prove to have been satisfactorily done, I am,

Very respectfully, your obedient servant,

F. G. BUTTERFIELD,
*Special Agent, Tenth Census.*

Hon. FRANCIS A. WALKER, *Superintendent of Census.*

Official copy.

JNO. W. RAWLINGS,
*Assistant Chief Clerk.*

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THE STATE OF SOUTH CAROLINA, *Williamsburgh County:*

I hereby certify that Joseph W. Kimball is a duly commissioned trial justice for the county of Williamsburgh, State aforesaid.

[SEAL.]

J. H. KEELS,
*C. C. P. and G. S.*

Official copy.

JNO. W. RAWLINGS,
*Assistant Chief Clerk.*

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STATE OF SOUTH CAROLINA,
*Williamsburgh County, Johnson's Township:*

At Johnsonville, in said county, on this 10th day of January, 1881, personally appeared before me Joseph W. Kimball, a trial justice within and for said county, R. H. Kimball, whom I certify to be of good repute, who being duly sworn, deposes and says that—

| Name. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Falker, H. M | W. | F. | 25 | Wife of I. E. Falker. |
| Falker, C. H | W. | M. | 3 | Son of H. M. Falker. |
| Falker, O. E | W. | M. | 1 | Son of H. M. Falker. |
| Smith, W. G | W. | M. | 30 | Laborer. |
| Smith, M. E | W. | F. | 18 | Wife. |
| Smith, W. D | W. | M. | 1 | Son. |
| Scott, Amelia | W. | F. | 42 | Wife of W. H. Scott. |
| Scott, I. G | W. | F. | 1 | Daughter of Amelia Scott. |
| White, Legrand, jr | W. | M. | 19 | Son of Amelia Scott. |
| Keffl, Allen | W. | F. | 18 | Daughter of Amelia Scott. |
| White, S. I | W. | F. | 18 | Wife of Legrand W. White. |
| White, Lilly | W. | F. | 1 | Daughter of Legrand W. White. |
| Hazleton, S. N | W. | M. | 28 | Farmer. |
| Hazleton, E. A | W. | F. | 25 | Wife. |
| Hazleton, I. L | W. | M. | ½ | Son. |
| Crosby, Frank | B. | M. | 25 | Laborer. |
| Crosby, B | B. | F. | 25 | Wife. |
| Woodberry, James | B. | M. | 17 | Son of Brinus Woodberry. |

were living in said township on the 1st day of June, 1880, but have since removed therefrom.

R. H. KIMBALL.

Witness:
JOHN B. ISLER, *Special Agent Census.*

---

Sworn and subscribed before me this 10th day of January, 1881.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice.*

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STATE OF SOUTH CAROLINA, *Williamsburgh County:*

At Rome, Johnson's Township, in said county, on this 12th day of January, 1881, personally appeared before me, Joseph W. Kimball, a trial justice within and for said county, W. C. Hemmingway, whom I certify to be of good repute, and who, being duly sworn, deposes and says that—

| Name. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Ehrey, P | W. | M. | 37 | Boat captain. |
| Ehrey, A. E | W. | F. | 34 | Wife. |
| Ehrey, L. F | W. | M. | 9 | Son. |
| Ehrey, S. E | W. | F. | C | |
| Ehrey, J. D | W. | M. | 4 | |
| Ehrey, T. A | W. | M. | 2 | |
| Hough, G. G | W. | M. | 24 | Clerk in store. |
| Hough, C. M | W. | F. | 19 | Wife. |
| Hough, H. L | W. | M. | 2 | Son. |
| Hough, W. E | W. | M. | ½ | Son. |
| Buhawson, C | Mu. | M. | 30 | Engineer. |
| Buhawson, Mallisa | B. | F. | 26 | Wife. |
| Buhawson, J. R | B. | F. | 8 | Daughter. |
| Buhawson, A. E | B. | F. | 7 | Daughter. |
| Rodgers, M. W | W. | M. | 21 | Cooper. |
| McBride, S | B. | M. | 11 | |
| Rodgers, Lee | B. | M. | 14 | |

were living in said township on the 1st day of June, 1880, but have since removed therefrom.

W. C. HEMMINGWAY.

Witness:
JOHN B. ISLER, *Special Agent United States Census.*

Sworn and subscribed.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice.*

STATE OF SOUTH CAROLINA, *Williamsburgh County:*

Near Smith's Mills, in Johnson's Township, in said county, on the 10th day of January, 1881, personally appeared before me, Joseph W. Kimball, a trial justice within and for said county, David R. Smith, whom I certify to be of good repute, who, being duly sworn, deposes and says that—

| Name. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Harmakerett, H. R. | W. | M. | 49 | Lawyer. |
| Cooper, E. F. | W. | M. | 23 | Lawyer. |
| Arnold, C. P. | W. | M. | 31 | Surveyor. |
| Staples, Geo. W | W. | M. | 35 | Mariner. |
| Staples, Ella | W. | F. | 18 | Wife. |
| Staples, Florence | W. | F. | 10 | |
| Hazleton, S. B | W. | M. | 38 | |
| Gregg, O. S | W. | M. | 60 | Carpenter. |
| Dassler, Carl | W. | M. | 43 | Hostler. |

were living in said township on the 1st day of June, 1880, but have since removed therefrom.

D. R. SMITH.

Witness:
JOHN B. ISLER, *Special Agent of Census.*

Sworn and subscribed.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice.*

STATE OF SOUTH CAROLINA,
*County of Williamsburgh, Johnson's Township:*

Near Smith's Mills, Johnson's Township, in said county, on this 10th day of January, 1881, personally appeared before me, Joseph W. Kimball, a trial justice within and for said county, Smart Flowers, whom I certify to be of good repute, who, being duly sworn, deposes and says that—

| Name. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Rogers, Plenty | B. | M. | 40 | Farmer. |
| Rogers, Mary | B. | F. | 38 | Wife. |
| Rogers, Nancy | B. | F. | 18 | Daughter. |
| Rogers, Harriet | B. | F. | 14 | Daughter. |
| Lawrence, Ned | B. | M. | 33 | Carpenter. |
| Porcher, Amelia | B. | F. | 23 | Wife of Horace Porcher. |
| Porcher, T. C | B. | M. | 5 | Son. |
| Porcher, A | B. | F. | 3 | Daughter. |
| Allen, Mingo | B. | M. | 19 | |
| Davis, Sinkey | B. | F. | 9 | Sister-in-law of J. Jeameret. |

were living in said township on the 1st day of June, 1880, but have since removed therefrom.

SMART FLOWERS.

Witness:
JOHN B. ISLER, *Special Agent of Census.*

Sworn and subscribed.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice.*

STATE OF SOUTH CAROLINA,
*County of Williamsburgh, Johnson's Township:*

Near Smith's Mills, Johnson's Township, in said county, on this 10th day of January, 1881, personally appeared before me, Joseph W. Kimball, a trial justice within and for said county, Smart Flowers, whom I certify to be of good repute, who, being duly sworn, deposes and says, that—

| Name. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Nawland, Abraham | Mu. | M. | 21 | |
| McConnell, Lou | B. | F. | 3 | Daughter of Hannah McConnell. |
| Green, Hester | B. | F. | 6 | Daughter of Will Green. |

were living in said township on the 1st day of June, 1880, but have since died.

SMART FLOWERS.

Witness:
JOHN B. ISLER, *Superintendent of United States Census.*

Sworn to and subscribed.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice.*

STATE OF SOUTH CAROLINA,
*County of Williamsburgh, Johnson's Township:*

At Johnsonville, in said county, on the 10th day of January, 1881, personally appeared before me, Joseph W. Kimball, a trial justice within and for said county, R. H. Kimball, whom I certify to be of good repute, who, being duly sworn, deposes and says that—

| Name. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Davis, W. S. | W. | M. | 86 | Physician. |
| Bolynn, D. L. | W. | M. | 60 | Farmer. |
| Benson, W. I. | W. | M. | 29 | Farmer. |
| Lymkins, N. | W. | F. | 47 | Wife of Wesley Lymkins. |

were living in Johnson's Township on the 1st day of June, 1880, but have since died.

R. H. KIMBALL.

Witness:
JOHN B. ISLER, *Superintendent of Census.*

Sworn and subscribed before me this the 10th day of January, 1881.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice*

STATE OF SOUTH CAROLINA, *Williamsburgh County:*

At Johnson's Township, in said county, on this 12th day of January, 1881, personally appeared before me, Joseph W. Kimball, a trial justice within and for said county, J. T. Rollins, whom I certify to be of good repute, who, being duly sworn, deposes and says that—

| Name. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Huggins, Hannah | B. | F. | 70 | |
| Snowden, Ned | B. | M. | 60 | Laborer. |
| Conner, M. | B. | M. | 33 | Laborer. |
| Snowden, W. | B. | M. | 14 | Laborer. |
| Snowden, E. | B. | M. | 12 | Laborer. |

were living in said township on the 1st day of June, 1880, but have since removed therefrom, and that McGee, W. W., W. M., 8-12; Gillard, R., B. M., 10, were living in said township on the 1st day of June, 1880, but have since died.

JAMES T. ROLLINS.

Witness:
JOHN B. ISLER, *Special Agent United States Census.*

Sworn and subscribed.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice.*

STATE OF SOUTH CAROLINA, *Williamsburgh County:*

At Johnson's Township, in said county, on this 12th day of January, 1881, personally appeared before me, Joseph W. Kimball, a trial justice within and for said county, William S. McConnell, whom I certify to be of good repute, who, being duly sworn, deposes and says that—

| Name. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Holmes, Henry | B. | M. | 15 | Laborer. |
| Blake, E | B. | F. | 30 | Laborer. |

were living in said township on the 1st day of June, 1880, but have since removed therefrom, and that Floyd, E. W., W. F., 2; Staggers, B., B. F., 3, were living in said township on the 1st day of June, 1880, but have since died.

W. S. McCONNELL.

Witness:
JOHN B. ISLER, *Special Agent United States Census.*

Sworn and subscribed.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice.*

STATE OF SOUTH CAROLINA,
*Williamsburgh County, Johnson's Township:*

At Johnsonsville, in said county, on this 10th day of January, 1881, personally appeared before me, Joseph W. Kimball, a trial justice within and for said county, Samuel Parsons, whom I certify to be of good repute, who, being duly sworn, deposes and says that—

| Names. | Color. | Sex. | Age. | Remarks. |
|---|---|---|---|---|
| Prater, H. H. | W. | M. | 43 | Carpenter. |
| Prater, V. C. | W. | F. | 30 | Wife. |
| Prater, Joanna | W. | F. | 11 | Daughter. |
| Prater, C. H. | W. | M. | 5 | Son. |
| Prater, S. F. | W. | F. | 3 | Daughter. |
| Thomson, I. H. | W. | M. | 20 | Laborer. |
| Baxley, D. A. | W. | M. | 23 | Farmer. |
| Baxley, Mary I. | W. | F. | 23 | Wife. |
| Norton, Nettie | W. | F. | 49 | |
| Norton, Amanda | W. | F. | 8 | Daughter. |
| McAllister, I. M. | W. | M. | 56 | Farmer. |
| McAllister, Mary | W. | F. | 37 | Wife. |
| Hannah, S. | W. | F. | 60 | Mother-in-law of I. F. Carter. |
| McDougall, C. C. | W. | M. | 22 | Farmer. |
| McDougall, S. W. | W. | F. | 18 | Wife. |
| Cannon, R. | W. | F. | 35 | Niece of C. Newell. |
| Reese, Shadrick | B. | M. | 20 | Laborer. |
| Reese, Jenney | B. | F. | 20 | Wife. |
| Brown, J. | B. | F. | 20 | Niece of T. B. Green. |

were living in said township on the 1st day of June, 1880, but have since removed therefrom, and that Harman, N. H., W. M., 67, farmer; Parsons Lily C., W. F., 7, daughter of S. Parsons, were living in said township on the 1st day of June, 1880, but have since died.

SAMUEL PARSONS.

Sworn and subscribed.

JOSEPH W. KIMBALL, [SEAL.]
*Trial Justice.*

Mr. CONKLING. Mr. President, I infer from the little I have heard from the Senator from South Carolina—and it is very little, owing to being most of the time engaged otherwise—that his utterance is designed as an assault on me. For the vaporings of the Senator from South Carolina, I have no concern. He has alluded to a speech made

by me in New York in September last; he has taken now about five months to reply to that speech.

Having had no notice or knowledge that the Senator meditated any reference to me, and having been unable to hear much of what he has read from his apparently carefully concocted manuscript, I will take at least until to-morrow or some other morning when I may find time to read in the RECORD whatever he may be pleased to publish. Should I find that he publishes anything requiring of me personally or as one of the representatives of the State of New York any comment, I will make it. Meanwhile I dismiss the matter with the remark, that whenever satisfied that I have in any manner done injustice to the State of South Carolina, to the people of South Carolina, to any other State, to any other community, to any individual, I shall seek a seasonable and suitable occasion to recall and as far as possible correct my error.

Mr. BUTLER. Mr. President, the Senator from New York may rest assured that whatever I have uttered will appear in the RECORD to-morrow morning. He says that the vaporings of the Senator from South Carolina are matters of no concern to him. He will pardon me for saying that the swaggering insolence of the Senator from New York is of no concern to me.

Mr. CONKLING. Mr. President, I need not have heard the Senator from South Carolina in order to ascertain that he is a person with whom I do not choose to bandy epithets here or anywhere, least of all here; and therefore I have nothing to add to that which I have before said.

### MEXICAN AWARDS.

Mr. EATON. I offer the following resolution, and ask for its immediate consideration:

*Resolved*, That the President be, and he is hereby, requested to inform the Senate, if not incompatible with the public interest, whether any objection has been made by this Government to suits being brought in the courts of the United States by the Government of Mexico against American citizens, and if such objection has been made, to communicate to the Senate the diplomatic correspondence, if any, in relation thereto.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

Mr. VOORHEES. Let it be printed and go over until to-morrow. There will be no desire for delay.

Mr. EATON. I ask that it be printed and laid on the table if it must go over.

The VICE-PRESIDENT. The resolution will be printed.

### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 554) for the relief of David W. Stockstill—to the Committee on Military Affairs.

The bill (H. R. No. 4434) for the relief of Mrs. Martha Bridges, of Bartow County, Georgia—to the Committee on Claims.

The bill (H. R. No. 2844) for the relief of James E. Montell—to the Committee on Finance.

The bill (H. R. No. 4437) for the relief of the heirs and legal representatives of Pierre Joseph Mais—to the Committee on Private Land Claims.

The bill (H. R. No. 4438) for the relief of William Redus—to the Committee on Claims.

The bill (H. R. No. 7036) to establish post-routes—to the Committee on Post-Offices and Post-Roads.

### COMMITTEE ON POST-OFFICES AND POST-ROADS.

Mr. HAMLIN. With the concurrence and approval of the chairman of the Committee on Post-Offices and Post-Roads, I ask the Senate to give its leave to that committee to sit during the session of the Senate to-day.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senator from Maine asks that the Committee on Post-Offices and Post-Roads be allowed to sit during the session of the Senate to-day. Is there objection? The Chair hears none, and that leave is granted.

### THE LIBRARY.

Mr. VOORHEES. I wish to ask the attention of the Senate for one moment to the order of business. There is an extremely important bill on the Calendar, reported from the joint select committee on the consideration of additional accommodations for the Library of Congress. I have not sought to antagonize the appropriation bills, nor do I wish to do so; but I give notice that as soon as the present appropriation bill for pensions is concluded, I will then ask the Senate to take up and consider the bill which I have indicated. It is a bill of the very greatest importance, but at the same time I feel convinced that it will not occupy any considerable length of time. It is one of those questions that we must meet. When the appropriation bill in charge of the Senator from California [Mr. BOOTH] is concluded, I shall ask the Senate to take the course indicated by me.

### ORDER OF BUSINESS.

Mr. BOOTH. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Chair is informed by the Secretary that the unfinished business is the bill (S. No. 1210) for the relief of certain officers of the Navy.

Mr. CONKLING. That was the unfinished business on Saturday.

The PRESIDING OFFICER. The Chair is informed that is now the unfinished business.

Mr. McMILLAN. I think that bill was taken up under an order of the Senate postponing the prior order until to-day.

Mr. FARLEY. We can finish it to-day.

Mr. McMILLAN. I should like to inquire whether that order does not——

Mr. CONKLING. The honorable Senator will pardon me. Such a motion as that would not be in order under the rules of the Senate.

The PRESIDING OFFICER. The Indian severalty bill by vote of the Senate was postponed until Monday and thereby lost its place as unfinished business.

Mr. CONKLING. Will the Chair be kind enough to repeat his statement?

The PRESIDING OFFICER. The Indian severalty bill was postponed by vote of the Senate on Saturday last until Monday, and thereby lost its place as unfinished business.

Mr. CONKLING. That is the rule undoubtedly; and then the pending bill, as the unfinished business, is the regular order.

The PRESIDING OFFICER. Undoubtedly.

Mr. EATON. I ask the Chair if the pending bill is not the bill which was under discussion when the Senate adjourned and the Senator from New Hampshire was in the middle of a speech. I submit that that bill ought to be taken up now to give my friend from New Hampshire the opportunity to close his remarks.

Mr. BOOTH. I ask unanimous consent that the pending order, whatever it may be, be laid aside informally in order to proceed with the consideration of the pension appropriation bill.

The PRESIDING OFFICER. The Senator from California asks unanimous consent of the Senate that the unfinished business, which is the bill (S. No. 1210) for the relief of certain officers of the Navy, be laid aside temporarily and without prejudice, in order that the pension appropriation bill may be taken up. Is there objection?

Mr. FARLEY. I dislike to antagonize my colleague; but in view of the fact that the appropriation bill can come up immediately after this bill, I think we should go on with it. I shall not press the objection.

Mr. WINDOM. I believe the pension bill is now before the Senate by unanimous consent.

The PRESIDING OFFICER. Not yet. There being no objection to the proposition of the Senator from California, the pension appropriation bill will now be taken up. It is before the Senate.

Mr. WINDOM. I only want to say a word or two to call the attention of the Senate to the question before it. If I am not mistaken the question is upon the point of order raised as to whether the amendment proposed by the Senator from Virginia [Mr. WITHERS] is in order. Now, it does seem to me that the Senate can save a great deal of time by deciding that question. We have already discussed the amendment two or three days, and the discussion will probably run two or three days more, when I think if the Senate will decide according to the rule it will hold the amendment out of order, when all the discussion will have passed for nothing. It seems to me if the Senate could be induced to act upon the question, or to confine the discussion to the question of order, it would save a great deal of time. I shall insist, I think, if the discussion goes on, that it shall be confined to the question.

Mr. KIRKWOOD. Mr. President, when this bill was up on Saturday, I took the floor to reply, as I might, to the argument made by the Senator from Illinois, [Mr. LOGAN,] but yielded at the request of Senators, as the hour was late, that other business might be done. I will say to the Senator from Minnesota that I do not see how he can save any time by insisting on confining the debate to the question of order.

Mr. WINDOM. I will answer the Senator, if he will permit me. If the amendment be ruled out of order, there will be nothing of that kind before the Senate.

Mr. KIRKWOOD. But how do you stop discussion? As I said on Saturday, if the amendment is ruled out of order the pension bill proper remains, and that is open to discussion.

Mr. WINDOM. I am quite sure that nobody will want to discuss this general question upon the simple proposition of the bill that we shall appropriate money to pay the pensions.

Mr. KIRKWOOD. I have often been very sure of matters in which I have found myself very much mistaken.

Mr. WINDOM. I am relying very much on the disposition of the Senate to complete its business by the 4th of March. If I am mistaken in that, then the Senator from Iowa is doubtless right.

Mr. KIRKWOOD. I am satisfied that the Committee on Pensions, who have spent considerable time in the preparation of this bill, will be unwilling, after it has been so strongly opposed and upon the grounds of opposition offered to it here, to let the matter go over until their side of the question has been presented to the Senate.

Mr. JONES, of Florida. I rise to a question of order. What is the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is, Is the amendment offered by the Senator from Virginia [Mr. WITHERS] to the pension appropriation bill in order?

Mr. JONES, of Florida. I understood that the Senator from California [Mr. FARLEY] had given way simply for the purpose of letting

this matter be put in a position to be heard after his bill was considered, and not to go into general debate.

The PRESIDING OFFICER. The Chair did not so understand.

Mr. WILLIAMS. If I understand the condition of the question, it is simply a question of order; the merits of the bill are not before the Senate at all; the question is, Is the amendment offered by the Senator from Virginia in order at this stage of the bill? That is the question, and we have been discussing the merits of the bill for two or three days.

Mr. EDMUNDS. The Senator from Iowa kindly allows me to say a word. The pending question is whether the amendment to the pension appropriation bill providing for a local examination is in order. Upon that the Senator from Iowa is addressing the Senate. He thinks it right when that question is pending to proceed to consider what would be the effect of such a measure, if it were in order or if it were not, whichever way his opinion may be. Now, I wish to say so that everybody can hear me that in the fifteen years I have been in the Senate whenever these questions have come up in this way, it has been always decided, sometimes on appeal and by yeas and nays so that it is settled, that every Senator must be the judge for himself as to the relevancy of the remarks he is making about anything, and on the whole it has been found that it is better for liberty and courtesy and fair play all around in a small body like this that it should be so.

Mr. FARLEY. Do I understand that the proposition is to consider this amendment now instead of going on with the unfinished business?

The PRESIDING OFFICER. The Chair understood the Senator from California on the right [Mr. FARLEY] to assent to the proposition made by his colleague [Mr. BOOTH] that the regular order, which is the bill which was under discussion when the Senate adjourned on Saturday last, be temporarily laid aside, without prejudice, for the purpose of taking up the pension appropriation bill.

Mr. FARLEY. For the purpose of allowing that bill to have its place, as I understood, and be considered immediately after the unfinished business was concluded. That was my intention.

Mr. ALLISON. Now the Senator from California will allow me a moment. There is an appropriation bill pending under consideration. The bill of the Senator from California will be the regular order the moment that bill is disposed of.

Mr. FARLEY. But the unfinished business was the naval bill.

Mr. ALLISON. Undoubtedly.

Mr. FARLEY. And the Senator from New Hampshire was addressing the Senate, and in the midst of his speech when the Senate adjourned. Under the rules of the Senate that bill is entitled first to consideration to-day.

Mr. ALLISON. Undoubtedly; but any Senator can move to lay aside the bill, and it is a universal custom to lay aside such measures for appropriation bills.

Mr. FARLEY. Not always.

Mr. ALLISON. Always.

Mr. JONES, of Florida. I ask if in the midst of debate on a pending measure it is usual to ask a Senator to suspend his argument in order to take up an appropriation bill?

Mr. ALLISON. It is not proper to take a gentleman off the floor, of course.

Mr. JONES, of Florida. The Senator from New Hampshire was on the floor at the adjournment on Saturday.

Mr. ALLISON. But he has slept over Sunday on it. I desire to appeal to the Senator from California to allow this appropriation bill to go on.

Mr. FARLEY. But it will take all day to-day.

Mr. ALLISON. So be it; but the Senator's bill is now the regular order.

Mr. FARLEY. Well, go on.

Mr. KIRKWOOD. Am I in order, Mr. President?

The PRESIDING OFFICER. The Senator from Iowa is in order.

Mr. FARLEY. The understanding is that the unfinished business retains its place after this bill is over.

The PRESIDING OFFICER. That is the understanding.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 939) to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws.

The message also announced that the House had appointed Mr. JOHN F. HOUSE, of Tennessee, and Mr. RICHARD CROWLEY, of New York, tellers on the part of the House to count the electoral votes for President and Vice-President of the United States on Wednesday, February 9, 1881.

## AMENDMENT TO APPROPRIATION BILLS.

Mr. MAXEY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. CALL submitted an amendment intended to be proposed by him to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

## PENSION APPROPRIATION BILL.

The Senate, as in Committe of the Whole, resumed the consideration of the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, the question being on the point of order raised by Mr. TELLER as to the reception of the amendment proposed by Mr. WITHERS.

Mr. KIRKWOOD. I propose, Mr. President, as briefly as I may and as clearly as I may, to present to the attention of the Senate the present condition of the business in the Pension Office; what has caused that condition, as I understand it; the hardships it imposes upon applicants for pensions, and the benefits to those applicants to be derived from the amendment offered by the chairman of the Committee on Pensions.

What, then, is the present situation? There are now pending in the Pension Office in round numbers 300,000 pension claims. Of that number 282,000 or about that are original claims. The others are for increase of pension, widows' pensions and so on; but in round numbers there are 300,000 claims there pending, enough to require the continued labor of the present force in the Pension Office for ten years to settle them, if a single new claim should not be presented. That is the condition of affairs. Claims are pending there now that cannot be heard and determined short of ten years from this time, unless something be done. It is much more difficult now to dispose of claims than it was immediately after the close of the war. When claims were then presented they were based upon causes apparent because the existence of the disability could be proved in almost every case by Army records; scarcely anything was needed except proof of the identity of the claimant. But now after the lapse of sixteen years from the close of the war the case is wholly different; the classes of claims presented are wholly different; they require a much more careful and much more full investigation, and are much more difficult to prove. So we not only have this immense number of claims to dispose of, but we have the added difficulty in disposing of them by reason of the length of time which has elapsed since the close of the war and the causes for which claims are now presented.

This amounts to a denial of justice to applicants, it is an absolute denial to them of that justice which they have a right to demand at the hands of the American Government. We indulge in very eloquent language at times in regard to what is due to pensioners, what care should be taken of them; and yet it seems to me we cannot do them a greater wrong than to so manage any bureau established for the allowance of their pensions that they may, half of them, die before their claims can be heard. Justice, when it is not granted speedily, is substantially denied; and therefore the Commissioner of Pensions has pressed upon the attention of the Senate Committee on Pensions, and that committee for the last two years and more have been carefully considering to ascertain whether something cannot be done to remove these difficulties out of the way, and allow the men who are asking for their pensions and are entitled to them to have them.

The Senator from Illinois [Mr. LOGAN] agrees with me that something should be done. He agrees with me that the present condition of affairs is a denial of justice.

Mr. LOGAN. The Senator will allow me to say that I agree that if there was more force required Congress ought to give it; I mean force in the Pension Office by additional clerks, not additional machinery.

Mr. KIRKWOOD. The Senator from Illinois, I repeat, agrees with me that something should be done, that the present condition of affairs is a denial of justice to pensioners, and the question then is, what shall be done, and how shall it be done? I understood the Senator in his remarks on Friday and Saturday to say that there were two things in the way of a speedy determination of these claims: first, that the Commissioner of Pensions was incompetent and unfit for his place; and second, that he had not force enough at his command to do the work if he were competent.

Now, Mr. President, I am not here as the special advocate of the Commissioner of Pensions. I never knew him or knew there was such a man until I became acquainted with him by my membership of the Committee on Pensions; but my membership of that committee for four years has brought me largely in contact with him, has led me, as was my duty, I think, to know as well as I am able to know whether or not he is fit for that place, and I feel myself bound in justice to him to say that I believe him to be a faithful, an honest, a competent, and an energetic officer, who is doing all that he can or that any man in his place can do to hear and determine these cases rapidly and speedily, and with as strong a desire as any other man can have that every one who is entitled to a pension shall have it. He has been about five years in the service. During that time he has decided more cases and more difficult cases than his predecessor, and the records of that office will show that during the three years, 1877, 1878, and 1879, the Pension Office has disposed of 57,339 cases, and that during the three years preceding that time that same office disposed of only 39,265 cases.

As I said before, year by year it becomes more difficult to determine what shall be done in the matter of applications for pensions.

When the pensioner applied for a pension because he had lost a leg or an arm, or because he had been discharged from the service having been discharged from the service by reason of disease, the question to be determined was an easy one; but now after ten, twelve, fourteen, or fifteen years have expired, when men come in and say they are suffering from disease contracted in the service, it becomes a very difficult question to determine whether or not that claim is a valid one; it becomes a very difficult matter for the applicant to prove that which he assigns for the cause of his application.

Not only has the present Commissioner done more work than his predecessor, but he has done it more cheaply. In 1874 it cost $28.62 to decide a pension claim; in 1875, $27.47; in 1876, $32.40. Under the present Commissioner it cost, in 1877, $25.41; in 1878, $20.55; and in 1879, $18.70 to decide a pension. So that he has not only done more work in the same time, but he has done more difficult work during that time, and he has done it more cheaply than his predecessor did. It may be that he is incompetent, but the evidence does not show it.

If, then, he is competent, is faithful, how does it come that the office is at this time blockaded and the business of allowing pensions is substantially suspended so far as a great many of the applicants are concerned? That is a pertinent question, a proper one. The reason, I apprehend, is easy to be found. We passed in 1879 what is called the arrears bill. I am not intending to-day to discuss the propriety or impropriety of the passage of that bill, but I desire to show the operation that bill has had upon the business of the Pension Office, in order to account, if that will account, for the obstruction of business now in it.

From the 25th day of January, 1879, to the 1st day of July, 1880, that is from the date of the passage of the arrears act until the 1st of July, 1880, one hundred and fifty-five thousand eight hundred and odd, or nearly one hundred and fifty-six thousand, claims were presented for allowance over and above the average presentation of claims that had occurred for years before that. In other words, if the presentation of claims had run along during that period of time as it had run along during the eighteen months preceding that time, there would have been 156,000 less claims in the Pension Office than there are to-day, so far as I can judge. At all events, the number of claims presented during that time exceeds by 156,000 the average that had been presented for eighteen months preceding that time.

More than that, some 20,000 claims that had been barred by existing law because the applicant had been unable to perfect his proof within five years, had been renewed by the removal of that bar by the arrears-of-pensions act.

With this immense mass of new applications thrown upon the Pension Bureau, it was not only reasonable that we should expect, but it was inevitable that it should be, to use a popular phrase, "snowed under" with its business, and that there should be cause of complaint on the part of men applying for pensions that their claims are unreasonably delayed in the hearing and determination.

Impressed with this view, the Committee on Pensions, as I before said, have labored assiduously for some two years past to devise some means by which this pending difficulty might be removed, by which the men who apply for pensions should have determined the question whether or not they are entitled to them, and if they are entitled to them, should have them allowed. That bill from its first presentation up to this time has been the subject of persistent misrepresentation and of very great misunderstanding. I remember perfectly well when the word was spread all through the State where I live, and where it is believed yet by many, that if that bill became a law every pensioner residing in any county of the State of Iowa who desired to prosecute a claim for a pension and had witnesses residing in Maine or California, would be compelled to bring the witnesses from Maine or California to the county where he lived in Iowa to have them examined before the examiner and surgeon provided for by the bill. That was spread broadcast over the country, was believed by many men to be so, and because it was believed and because it is yet believed, many men are utterly opposed to the proposed law, although it never did contemplate and does not contemplate any such thing.

Another thing that has been done to create prejudice against this bill is this: it has been persistently held up before the people of the country, and especially before the soldiers of the country, as a bill the primary purpose of which and almost the only purpose of which is to detect frauds as they are claimed to be upon the pension law. That is not the primary object of this bill; it is not the principle of this bill at all. The leading purpose of the bill is to provide some means by which the question whether a man is entitled to a pension or not can be speedily determined. The question of the detection of fraud is a mere incident. That fraudulent claims shall be allowed is inevitable in the nature of things. How large a proportion of the claims allowed are fraudulent I do not know, do not pretend to know; but as long as men are found dishonest enough to seek the payment to them of that which does not belong to them, and as long as agents can be found for them to press their claims, frauds will occur. They ought not to be encouraged.

Mr. LOGAN. Will the Senator allow me to call his attention to the amendment I spoke of the other day on that point? I said those claims which had not yet been allowed would have to be examined under the machinery proposed in the amendment. It was mentioned a while ago that that was a mistake.

Mr. KIRKWOOD. I have not come to that yet; I shall be at it soon. I was speaking of the allegation that witnesses would have to be brought from all parts of the United States to the county where the applicant lived.

Mr. LOGAN. Nobody said that.

Mr. KIRKWOOD. The Senator from Illinois is widely mistaken. That was scattered broadcast all over this country years ago. I have received letter after letter from soldiers in my own State protesting to me against what they call that feature of the bill, and wondering why and how I could support a bill that contained any such provision.

An effort has been made to create the impression that the Commissioner of Pensions, and I suppose the Committee on Pensions as well, consider all applicants for pensions as perjurers, dishonest men, because the allegation has been made by the Commissioner, and because it has been shown to the committee that some fraudulent claims have been allowed where perjury has been committed. As a member of that committee I have passed through my hands as a sub-committee two claims, in one of which every important paper in the case was a forgery, and in another where the applicant himself was in the penitentiary when the claim was in my hands, for perjury and subornation of perjury in endeavoring to procure the allowance of the claim. It was so after the Mexican war; fraudulent claims were then pressed and were then allowed; fraudulent claims are now pressed and allowed, and they will be. You cannot avoid it until you can change human nature.

It is true, Mr. President, that while the great bulk of our Union soldiers were of the very best men that we had in the country, while that is peculiarly so of the soldiers raised in what we may call the rural districts of the country, yet many soldiers were raised in our large cities, some of whom were of a different class of men. We had at that time in some of our large cities men who were pursuing the very profitable industry of "bounty jumping;" enlisting to-day and taking the oath of allegiance to the Government as a soldier, getting the bounty, and deserting to-morrow, and the next day enlisting again and taking another bounty. We had them by scores and hundreds; I am afraid by thousands. A man who would engage in that kind of industry would not at all hesitate to engage in the procurement for himself, if he could, of an unlawful and fraudulent pension; and it is unfortunately true that in all the large cities men can be found who will press the allowance of such claims.

Mr. LOGAN. Does not the Senator know, however, that where an occurrence of that kind took place, the rolls of the War Department show the fact, and hence the man could not get a pension?

Mr. KIRKWOOD. The Senator from Iowa does not know that, Mr. President. A man would enlist to-day as John Jones, jump his bounty, and enlist to-morrow or next day under another name, and a third time under another name, and a fourth time under another name, and the records of the War Department would show not that John Jones had enlisted three or four times successively, but that three or four different men had enlisted, and the records would not show the fraud.

But, as I was saying, the question of fraud is a mere incident of this bill. The great leading purpose of the bill is to have a speedy determination of the question whether the man who asks for a pension is entitled to it or not, and not make him delay year after year, year after year, and go down at last perhaps to his grave with a belief that the country he served so well has been unjust to him in refusing to give him that to which he is entitled. That is the purpose of the bill.

I now come to the point alluded to by the Senator from Illinois. I received a few days ago what I suppose to be a circular-letter, addressed by a firm in this city to myself, and I presume to other Senators, giving reasons why in the judgment of the writer this bill should not pass, and the first reason assigned is that if this bill shall pass then all, the proof now on file in the Pension Office in regard to claimants, whether that proof be complete as to particular claims or incomplete as to others—that all that proof is to go for nothing and, in the language of the circular addressed to me, these cases are to be commenced *de novo*. I deny it. There is not a word of truth in it. It never entered into the contemplation of the men who drew the bill, and who have studied it, I think, carefully, that any such result should follow.

Mr. LOGAN. Would not the papers where the application has not been allowed here be referred to that court?

Mr. KIRKWOOD. Why, Mr. President, it seems to me that a man at all clear-headed in matters of business must understand what the result will be. If this amendment should become a law the first thing to be done in the Pension Office is to go through and assort, if I may so express myself, the claims there pending. It is supposed that about 25 per cent. of them are ready for final hearing, but they are scattered here and there by their number through the great mass of claims and are now as a rule reached in their regular order only. Therefore I say that if the bill shall pass as proposed to be amended the officers of the Pension Office will have to go to work and assort out from the mass those that are ready for hearing and lay them aside for present determination.

Mr. LOGAN. What will be done with the rest?

Mr. KIRKWOOD. Then the pensioners' court, as the Senator from Illinois calls it, as I understand, will be furnished in each case with the points upon which additional testimony is required. Where tes-

timony is on file establishing certain points needed to be established that evidence will stand, and this pensioners' court will be required to investigate, to procure, to furnish evidence upon points that are not covered by the testimony already on file.

Mr. LOGAN. If the Senator right there will allow me, I will show him exactly what I maintain, and I will give him the reasons for it by only calling his attention to the amendment. This is the language of the amendment, and if it does not sustain what I said then I misunderstand the English language:

All payments of pensions under this act of persons not on the pension-roll at the time of the passage of this act shall be made as far as may be practicable under the provisions hereinafter contained.

This is in the first section of the bill, that the pensions not allowed must be allowed under this machinery. That is exactly the language of it.

Mr. KIRKWOOD. The Senator from Illinois speaks of an amendment of which I know nothing.

Mr. LOGAN. I addressed myself to the amendment which was offered to the amendment after the original amendment was submitted. The amendment to the amendment was offered by the Senator who submitted the amendment as a part of the amendment, and it was read at the Secretary's desk; it is fastened to the amendment and is to be discussed in reference to it.

Mr. CONKLING. It is pending now.

Mr. LOGAN. Certainly it is, and is a part of the amendment.

Mr. CONKLING. And must be voted upon.

Mr. LOGAN. Certainly.

Mr. KIRKWOOD. That is, it is offered as an amendment to the amendment, which is the bill as it was reported from the Committee on Pensions.

Mr. LOGAN. Certainly, that is what I said.

Mr. KIRKWOOD. But the Senator ought not to characterize as part of the bill an amendment offered to it by an individual Senator.

Mr. LOGAN. It was offered by the chairman of the Committee on Pensions.

Mr. WITHERS. Not as a representative of the committee at all; but without authority from the committee.

Mr. LOGAN. It makes no difference; it is now pending before the Senate the same as any other portion of the amendment, and I discussed it, and I said that under this amendment every pension claim in the Pension Office not yet decided at the time this bill shall pass, if it shall become a law, by the order of the Commissioner of Pensions could be referred to this court. That is what I said, and that is the language of it.

Mr. WITHERS. Will the Senator from Iowa permit me a moment?

Mr. KIRKWOOD. Certainly.

Mr. WITHERS. I will state in explanation that the whole object of the amendment to the amendment was to effect, if possible, such a change in the phraseology of the original amendment as would render it no longer obnoxious to the point of order; that it sought simply to prescribe the methods and conditions under which the money appropriated by this bill should be expended; and that it consequently only operated for one year, the desire being to remove the objection made by the point of order. I would state in addition that the criticism of the Senator from Illinois is not, in my judgment, well founded, taking the phraseology of the amendment itself as the basis for interpretation.

Mr. LOGAN. That is a difference of opinion.

Mr. WITHERS. The point which the Senator stated was carefully considered before I offered the amendment to the amendment, and it was designed to obviate the very objection which he has urged, that the phraseology used in the amendment was adopted so as to make it applicable to the cases not now on the pension-rolls, so far as it is practicable to do so, it being the intent and object of the amendment that those cases which had been examined in the Pension Office, as the Senator from Iowa has well said, and the proof of which had been nearly or quite perfected, should not be affected at all by the operations of the amendment. But still it is an amendment offered by myself to an amendment pending, and it is entirely within the province of the Senate, if they think proper to do so, to vote down that amendment, and I should vote it down myself if I believed it was obnoxious to the objection made by the Senator from Illinois; which I do not believe.

Mr. KIRKWOOD. Of course the Senator from Illinois did not wish to place the bill or those who favor it in any false position. We are not to suppose that of each other at all; and yet I submit to him in all candor whether it is precisely fair to criticise as part of the bill coming from the committee and subject the bill to criticism as it came from the committee on account of an amendment offered by an individual member of the Senate to the bill as it came from the committee.

Mr. LOGAN. The Senator certainly does not understand what I said. I spoke of it as being an amendment offered by the Senator from Virginia, which was before the Senate to become a part of the original amendment, and therefore I discussed it the same as if it were a part of the measure, for the reason it had to be voted upon by the Senate the same as the bill. I said substantially this, that even without that amendment under the provisions of the bill offered by the Committee on Pensions as an amendment to the appropriation bill, without the amendment that I was discussing, the Commissioner has authority if he so desires to remit back to this court or whatever it may be an examination of the cases not yet allowed at the time the bill shall pass; and I will state the reason, so that the Senator can see exactly what my position is. You provide nowhere in the bill any rules or regulations as to what cases they shall examine or what cases they shall not examine, but you leave the whole thing to the Commissioner of Pensions to make rules and regulations for this court, or for these examiners, for witnesses, for everything connected with the pension claims not yet determined, and that under these rules and regulations he may remand these cases for examination. I said that substantially, and I repeat it. That is in the bill, and it is a part of the bill without the amendment to it.

Mr. KIRKWOOD. The situation, then, is thus: the Senate Committee on Pensions prepare and report to the Senate a bill. An individual member of the Senate proposes an amendment to that bill, and the Senator from Illinois in discussing the general features of the bill incorporates in it, without the vote of the Senate, the proposed amendment to the bill of the committee. It seems to me it is hardly legitimate to do that, but the Senator from Illinois must judge for himself. But the Senator insists that leaving this amdedment out, under the provisions of the bill it is in the power of the Commissioner of Pensions to refer to this examining court the evidence in claims where the evidence is already complete, and the evidence taken in cases where the evidence is not yet completed. It seems to me that is a very strange assumption. You might just as well say that the Commissioner of Pensions can at this time, if we do not pass the bill proposed as an amendment to the appropriation bill, throw aside all the proof in all these cases and compel all parties to begin over again. One is just as reasonable as the other.

If after the passge of this bill the Commissioner of Pensions can throw aside the testimony taken in completed cases and require them to be re-examined before this board, then he can throw aside under the authority he now has that same proof and require the claimant to go to work again and reproduce it. What is the purpose of the bill? The purpose of the bill is to furnish the complete testimony necessary to the determination of pension cases, to furnish it where it has not yet been furnished, and complete it where it has been partially furnished. That is the purpose of the bill. That is the only purpose of the bill in this feature of it; and to say that because we provide a different mode of furnishing proof, that has not been furnished, therefore the Commissioner will be justified in throwing aside the proof that has been taken under the existing law, is presuming upon not only a degree of imbecility upon the part of any Commissioner that is incredible, but is presuming, it seems to me, somewhat largely upon the credulity of the body to whom the argument is addressed.

Mr. LOGAN. The Senator does not wish to misinterpret what I said, and I think he will agree with me if he will reflect for a moment. Under the law the Commissioner of Pensions has a right to reject any case. He has a right to send any case back for examination. He has a right to send a special agent to examine any pensioner or claimant. He has a right to send a surgeon to do that. Now, if he has these rights, and you give him a right to make rules and regulations under the present measure that you desire enacted, without prescribing any mode in the bill ourselves, but leave it to him to do it, I ask if it is not reasonable to suppose that he can send a case back if he has a suspicion. Suppose the case is complete so far as the evidence is concerned. If it is complete, why does he not allow it? But inasmuch as it is complete, and he does not allow it, and has a suspicion of the case, can he not send that case back to these examiners you propose for examination? Is not the authority broad enough in your proposed law to do that? Do you not contemplate that? That is exactly what I said, that he could send all these cases back to this board that you authorize for a re-examination. I do not mean for retaking all the evidence, but for supporting it or examining it, for ascertaining all about it, he may send every one of them back; and you provide for that very thing in your proposition by giving him authority to make all rules and regulations in reference to evidence, in reference to examinations, in reference to everything else except merely you provide for the appointment of certain persons. That is what I said, and I still say it; and that is exactly what your proposition is.

Mr. KIRKWOOD. The Senator from Illinois can ask a longer question than almost any person that I ever knew.

Mr. LOGAN. I did not ask a question. I was only stating my proposition.

Mr. KIRKWOOD. I said, and desire to repeat, that the Commissioner of Pensions has not and will not have a particle of power with reference to a claim after this amendment shall have been passed, if it shall pass, that he has not to-day with reference to cases now pending in his office. I will be glad to have the attention of the Senator from Illinois while I repeat that. I say if this bill shall pass the Commissioner of Pensions will not have under it one particle of power in regard to cases in which the testimony is complete or partially furnished and incomplete that he has not to-day in regard to the same identical cases.

Mr. LOGAN. The Senator will understand that my whole argument went to the point that the Commissioner of Pensions under the present law had all the power he could desire and all the power that any Congress ought to give him. That was my argument. I do say he has the power under the present law, and inasmuch as he

has it under the present law, why do you wish to change it so as to throw it into another channel which is cumbersome and inconvenient? That is exactly the point I made in my argument, that all the power that is necessary for the Commissioner of Pensions for examining claimants by special agents, by surgeons, by boards of surgeons, wherever he has a suspicion, exists under the law now ample and complete. That is exactly what I said, and I say so still.

Mr. KIRKWOOD. The Senator has a right to say it as often as he has the opportunity.

Mr. LOGAN. The Senator asked me if that was not so and I just repeated it. You appealed to me to know and I thought I would state it to you.

Mr. KIRKWOOD. I understood the Senator from Illinois to claim that this bill as presented here gave to the Commissioner of Pensions, in case it should pass, power that he had not in regard to the procurement of proof in cases pending before him. I say the Senator from Illinois is mistaken in that regard. I say the bill is designed only and can be used only by any man with common sense to enable the Commissioner of Pensions to complete the proof in uncompleted cases, and to procure the proof in cases where no proof has been produced already, and where cases are complete now in their proof before the Commissioner of Pensions it is perfectly idle to argue or assert that those cases completed will be sent to anybody for investigation. The Commissioner has power to-day when he takes up a case in which the proof is completed to say "I will not determine it, but I will require additional proof;" or, "I will have all these witnesses testify over again." He has that power to-day, but no man exercises it; and I say the bill does not give to the Commissioner of Pensions in this regard, in the examination of claims, one particle of power beyond that which he has to-day in the same direction. It merely changes the mode in which the incomplete testimony shall be produced or new testimony taken.

The Senator says that the Commissioner of Pensions has to-day full, ample, and complete power over the whole subject. He has too much power, and this bill is designed to curtail his power in some particulars. In one very important particular it is designed to curtail his power. There is one thing that has caused, and properly caused, an immense deal of hard feeling among the soldiers of our country, and that is the fact that pensions already granted are suspended without giving the pensioner a chance to be heard.

Mr. LOGAN. What do you propose to do with that case?

Mr. KIRKWOOD. I will say directly if the Senator will give me time to make my speech within my time. When the present Commissioner of Pensions came into office——

Mr. LOGAN. The Senator does not wish, I know, to be incorrect on the record, and if he will allow me I will read to him the law to show that the Commissioner cannot suspend a pensioner to-day unless he gives him notice. That is the law now.

Mr. KIRKWOOD. Read the law.

Mr. LOGAN. I read section 3 of the act of June 21, 1879:

That sections 4771, 4772, and 4773 of the Revised Statutes of the United States, providing for biennial examinations of pensioners, are hereby repealed: *Provided*, That the Commissioner of Pensions shall have the same power as heretofore to order special examinations, whenever, in his judgment, the same may be necessary, and to increase or reduce the pension according to right and justice; but in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon sworn testimony, except as to the certificate of the examining surgeon.

That is the law now.

Mr. KIRKWOOD. Certainly it is, but what does that refer to?

Mr. LOGAN. The Senator said the bill proposed as an amendment could not allow the Commissioner to reduce a pension without giving notice. I say that is the law now.

Mr. KIRKWOOD. The Senator is incorrect in making the statement. I did not say that the Commissioner of Pensions had power now to reduce the amount of pension a man was receiving without notice, but I say he has to-day the power to suspend a man's claims, to suspend his pension, upon the theory that it is fraudulent. That is a different thing from reducing the amount of a soldier's pension. Does the Senator from Illinois deny that to-day the Commissioner of Pensions can exercise the power upon the ground that a claim is fraudulent to suspend the payment of that claim entirely and drop the name from the roll?

Mr. LOGAN. Of course he can do it.

Mr. KIRKWOOD. Of course he can, and he ought not to have the power to do it.

Mr. LOGAN. You do not take the power from him in the amendment which you support.

Mr. KIRKWOOD. If it passes he would not have the power to do it. When the present Commissioner of Pensions came into office, the rule was, as it came down to him, that when there was reason to suspect that a claim was fraudulent, a special agent was sent out, who took affidavits and returned them with his report to the Pension Office; and thereupon very often a poor pensioner found his name dropped from the pension-roll, and the first knowledge he had of that fact was a notification from the pension agent that he was to receive no more pension. The present Commissioner changed that by his own order. He required that after the special agent had gone by his order into a neighborhood to examine into the question whether or not a claim was fraudulent, and had taken such evidence as he could gather upon that point, he should then notify the pensioner not of the names of the witnesses but of the substance of the testimony against him, and he should then take the testimony of such witnesses as the pensioner would produce. In other words, the present Commissioner of Pensions, against whom so much complaint is made, liberalized the rule; but it is still left in the power of the Commissioner by means of this secret agency to drop a pensioner from the roll. The bill of which the Senator from Illinois complains so much guards against all that in the future, and takes that power from the Commissioner of Pensions, except in cases where the party whose pension is attacked has full notice of it, and has the right to go before this pension court, as it is called, and hear the testimony of the witnesses against him and produce counter testimony upon his own side to sustain his claim, a privilege never had before.

Mr. LOGAN. It is the law now.

Mr. KIRKWOOD. No, sir, it is not the law now unless I am mistaken. If this bill shall pass, what will follow? As I said, the present force in the Pension Office will be set to work to assort the claims in that office, laying aside for determination those in which the proof is complete, preparing abstracts showing what additional proof is needed in cases where the proof is incomplete, and referring to this pensioners' court the claim in which no proof has been presented. Then the force in the Pension Office goes to work to determine and settle those cases that are complete and which should be allowed to-day and which would be allowed to-day if they were not smothered in by hundreds and thousands of incomplete cases standing before them on the calendar of the Pension Office.

Mr. LOGAN. Will the Senator allow me to ask him what there is to hinder them from assorting the cases now without passing this bill? There is nothing in the world except that they do not want to do it; that is all.

Mr. KIRKWOOD. No, the Senator is mistaken. I have been instrumental in doing it perhaps as well as the Senator, and I have felt all the time that I was perhaps doing wrong. The man whose claim is incomplete has a right to be heard in his order as well as the man whose claim is complete. The Senator and myself and other Senators who hear me have been sending letters to the Commissioner of Pensions asking to have cases taken up out of their order, and it sometimes has been done; and every time it has been done injustice has been done to some other men who have not made that application to a friend in Washington. Every time you go to work to take up a case out of its order you delay just so much longer the examination of the cases that stand before it. It is done occasionally, and yet it is not fair that it should be done. The work of from ten to twenty clerks at every session of Congress that we are here is taken up in that way that should be devoted to the examination of these claims. The attention of those clerks is taken up in answering the letters that members of Congress send there inquiring about the condition of claims out of their order.

One of the troubles in regard to testimony taken in these cases is that it is taken very frequently before justices of the peace who are unskilled in preparing affidavits, and it often happens (I have seen it over and over again in cases passing through my hands as a member of the Committee on Pensions) that an affidavit, where probably the witness knew all that was important to be told, has been put down in so bungling a way that it is worth no more in the case than so much waste paper. A witness will state his conclusions merely without stating the facts upon which he bases his conclusions or his means of knowledge. A great amount of the testimony taken in that way under the present system, by men who do not understand either the pension law or know the way to prepare testimony, is perfectly useless, because wholly informal and not containing that which is necessary to give it validity.

If the system proposed prevails nine-tenths of the witnesses perhaps will be taken before men who do understand what the pension law is; men who do understand how affidavits should be prepared in order to give them force and effect, and there their testimony will be reduced to writing, and brought in proper form before the board that has to determine upon the validity of the claim. You will find these courts in every congressional district in our country, and you will gather together the testimony much more speedily than it is now gathered in the way of writing letters from one part of the country to another part of the country, asking for the appearance of men before a justice of the peace to give their testimony in the way indicated. It promises more speedy results; it promises more certain results; and because it promises more speedy results and because it promises more certain results it is for the benefit of the men who are to be benefited by these pensions if they shall ever be granted.

At one time it was said of this proposed law that it entailed an enormous expense upon the pensioner. The idea was given out that he had to pay the fees that would be charged by those men for doing this work. It is wholly a mistake. The pensioner does not pay one cent of the fees provided for in the bill; it is all paid by the Government. The only expense he is put to is in getting his witnesses to the place where this testimony is to be given.

Mr. LOGAN. That is the only expense there is about it.

Mr. KIRKWOOD. And that he has to do now. I suppose he has to do that now. There is no provision of law I know of that entitles the pensioner now to get his neighbor to go to the county seat, or any place else, to give his testimony without paying for it.

Mr. LOGAN. It is now taken before a justice of the peace.

Mr. KIRKWOOD. Yes; he can go before a justice of the peace; but then he must go with the affidavit from the justice of the peace to the county seat to get the seal of the clerk of the court upon it, and he must pay the clerk of the court for doing that.

Mr. LOGAN. The pensioner has to do that?

Mr. KIRKWOOD. Certainly.

Mr. LOGAN. But he does not have to take the witness there, and the expense of taking a witness there is avoided as the law now stands.

Mr. KIRKWOOD. I think the experience of the Senator from Illinois is that nine-tenths or a large portion of these affidavits are taken at the county seat at last. The pensioner must get his witness to go some place to get his affidavit, and under the present system he must pay his expenses, and if it is taken before a justice, as I before said, he must then take the affidavit after he has it to the county seat, and get attached to it the seal of the clerk of the court of the county to show that the justice of the peace is a justice, and he must pay the fees consequent upon that. Under this bill we make some changes in that regard. Declarations, as they are called, must now be made before a court of record; that is, the declaration of the party applying for a pension must be made before a court of record. Under this bill those declarations would be made before this pension court, as it is called. If they are made before a court of record the expense attending upon it is to be paid by the applicant. If they are made under this bill before this pension court they are made without any expense to the pensioner.

Again, as to the section in regard to the increase of pension for disability, under the existing law, when an application is made for an increase of pension by reason of an increase of disability, if the increase is granted that now commences from the date of the examination before the surgeon upon whose report the increase is allowed. For instance, a man is rated upon the pension-rolls at a certain rate to-day. His pension ought to be increased as he thinks, and he applies to the Pension Commissioner for an increase. After awile his request is taken up and examined, and an order is sent out for his examination before an examining surgeon at some time in the future, and if the increase is approved, under the existing law that increase dates from the report of the surgeon. Under this bill if the increase is allowed, it dates from the time of his application for the increase, a benefit to him of several months or perhaps a year in each case.

Again, the Senator from Maine, [Mr. HAMLIN,] who I do not now see in his seat, on Saturday, when the Senator from Illinois was speaking upon this subject, said that the county in which he lived was something like two hundred miles long, and that it would be a great distance for witnesses in that county to come from all parts of it to the place where this pension court would sit; and I understood the Senator from Illinois to say that under this bill they would have to go there. Let me read section 5 of the bill now proposed by the Senator from Virginia as an amendment.

That in case medical examinations of pensioners and pension claimants, or the testimony of any witnesses, are required, which cannot well be made or obtained, or which it appears to the Commissioner of Pensions are unnecessary to be made or obtained in the manner provided in section 2 of this act, the same may be made or obtained in such other manner as the Commissioner of Pensions shall direct; and he is hereby required to make convenient rules and regulations for the making of such medical examinations and for the obtaining of such testimony, and to that end may designate any surgeon convenient to the pensioner or claimant to make the medical examination, and any officer authorized to administer oaths convenient to the proposed witnesses to take such testimony, notice of time and place of taking such testimony having previously been given to claimant.

There is a complete answer to the question asked by the Senator from Maine. It will be inconvenient, doubtless, to bring all these witnesses to the county seat, especially in sparsely-settled portions of our country, such as the county in which the Senator from Maine says he lives, and so in our Territories; and in order to avoid that the Commissioner of Pensions is not only authorized, but he is required to make regulations by which this testimony can be taken by a local officer authorized to take oaths, and by which the examinations to be made by the surgeon can be made by a local surgeon, avoiding the very difficulty suggested by the Senator from Maine on Saturday, which still remained in the mind of the Senator from Illinois, although he was engaged in discussing this section of the bill among others.

The Senator from Illinois on Saturday drew a very pathetic picture of a poor soldier in his own State, I believe, who had been in the Union service during the war, and was poor and sick and unable to furnish the proof requisite to establish his right to a pension. I do not see precisely the pertinence of that pathetic story. What is the duty of the Commissioner of Pensions? Some people seem to apprehend that he is placed in his office with a discretionary power to grant a pension to any person he may think entitled to it; that if a strong appeal is made to his sympathy and his sympathetic feelings overcome him, then he may grant a pension upon his sympathy; in other words, that he has the power to say in substance for what causes pensions shall be granted. I do not so understand the duty of the Commissioner of Pensions at all. He is an officer of the Government, appointed and sworn to execute the law we make for him. The law-making power of the Government determines what causes shall entitle a man to a pension: it specifies those causes in the statutes relating to pensions and the Commissioner of Pensions sits there as a judge sits in a court, not to say what the law should be but to say what the law is. He has no more right to allow a pension outside of the law under which he acts than you, Mr. President, [Mr. CAMERON, of Wisconsin, in the chair,] when sitting upon the bench of the courts of your State had a right to allow a plaintiff to recover against a defendant when he did not furnish proof under the law to show that he was entitled to recover. That is, I understand, the duty of the Commissioner of Pensions.

There are thousands of men, unfortunately, in our country who are entitled to pensions if they could make the necessary proof; but the men by whom they could make the proof are dead or they cannot be found, and the proof cannot be made. I repeat it, unless the proof be made to bring the case within the law as we write it the Commissioner of Pensions is not only powerless to grant a pension, but he would violate his oath of office if he did grant a pension without that proof. Therefore Congress in its capacity as a law-maker is appealed to at every session of Congress, and bills are brought before the Senate and before the House, sitting as a court of equity to grant relief where by the strict rules of the law the Commissioner of Pensions cannot do it; and your Committee on Pensions in this body and your Committee on Pensions in the other body once at least in every week have their time taken up in the examination of these cases, and when they find, as they do find frequently, that although the proof is too incomplete to justify the Commissioner of Pensions to allow a pension, yet, looking at the case in its broad equity, the man is, in their judgment, entitled to a pension, they make a law for his case, because every special act which we pass here granting a pension is a law made to cover the particular case of a man for whose benefit it is passed. It is not right that the impression should go abroad that the Commissioner of Pensions has discretion to override the law and grant pensions where the proof does not come within the law and come up to the law. It is possible that a person might be found to take the office of Commissioner of Pensions who would disregard the obligations of the oath he takes and erect himself into a law-making power instead of a power to administer the law. That is possible, but I do not think it is desirable. It seems to me it would be rather dangerous to allow any man, soldier or civilian, to have the power to say that in his judgment such and such a man ought to have a pension, and because of his judgment to give him one.

When I was speaking a short time ago of the work done by the present Commissioner of Pensions, I omitted to notice one fact to which I wish to call attention in his justification. It is complained, bitterly complained, that great delay occurs in the hearing of pension cases. It undoubtedly is so; it must continue to be so; and much more will it continue, in my judgment, if this bill should not pass. But how has it been in the past? In 1880, the year just closed, there were decided in the Pension Office of cases that had been commenced in 1862 fifteen cases, that had been there for eighteen years, thirteen years before the present Commissioner took his office. Of cases commenced in 1863 there were two hundred and fifty-nine cases decided by the Commissioner during the last year. Of cases commenced in 1864 there were two hundred and twenty-two cases decided during the last year. Of cases commenced in 1865 there were one hundred and seventy-nine decided during the last year. Of cases commenced in 1866 there were two hundred and forty-five; of cases commenced in 1867 there were one hundred and ninety-four; of cases commenced in 1868 there were one hundred and nine; of cases commenced in 1869 there were sixty-four; of cases commenced in 1870 there were two hundred and thirty-three. Of cases commenced between 1862 and 1865, counting both years, there were six hundred and seventy-five disposed of last year by the present Commissioner of Pensions; and of cases commenced between 1860 and 1870, counting both years, there were 1,520 decided by the present Commissioner of Pensions during the last year. So that it seems that we have had a series of incompetent Commissioners, if time is to be the only means by which we are to judge of their efficiency.

I believe that I have consumed as much of the time of the Senate as I desire to consume in this matter. I have but to say further that the idea has been held forth that this is the Commissioner's bill; that it is Bentley's bill. I am not speaking of what is done on the floor here, but what is done outside. An effort having been made, as I think unjustly, to make him unpopular this appellation is given to the bill for the purpose of making it unpopular, as well as the Commissioner. The bill is not the bill of the Commissioner of Pensions; it is the bill of the Committee on Pensions. They are responsible for it; they have consulted with him about it largely; and they have consulted with the pension agents as well; but the responsibility for reporting the bill rests with the Committee on Pensions; the responsibility for its authorship rests with the Committee on Pensions; and for one I assume cheerfully my share of that responsibility.

I do not propose to compete here or elsewhere in making statements of devotion to the interest of the soldiers of our country who served in the Union Army. Those of them in my own State have I apprehend formed their opinion whether or not I am their friend. I am sure they have not done it because I ever professed to be especially their friend. If they have made up their mind in my favor it has been for some reason other than my special protestations of friendship for them. I have allowed them to judge in regard to that matter from what I have done instead of from what I have said. I do not pretend here to say what their judgment may be on that subject, but I am satisfied that if their judgment is, as I hope it is, that I have tried in my way in the past to show by my actions that I am their

friend, however they may differ with me as to the merits of this bill, that will not change their opinion. If they should think, as I do not, that this is not a good bill, they will overlook my support of it because they will think I have erred by mistake and not by intention.

I was anxious to have this bill discussed before the country, so that both sides of it could be presented. But one side of it has been presented until quite recently. During the last year men occupying prominent places, as I understand, among the soldiers of the country, in what is called the Grand Army of the Republic, had their attention called to this bill by a speech made by the Commissioner of Pensions some place North, I do not remember where, and by their request a large number of copies of the bill were sent to different posts of the Grand Army of the Republic, in order that they might examine the bill upon its merits, and not take the statements of those who opposed it as a means of judging of this question.

I had the opportunity the other day of presenting nearly one hundred memorials and resolutions passed by different posts of the Grand Army of the Republic in favor of the passage of this bill. I have also presented a number of petitions against its passage, two this morning. But as an indication of the means taken to prejudice the public mind in regard to this bill and to create the impression that it is an unsafe bill for the soldiers, I will relate a single instance, and then relieve the Senate. Within the last ten days I received a letter from a lady living in the State of Iowa, written in pathetic language, entreating me to oppose the passage of this bill as one calculated and intended to injure the soldiers of the country. I answered the lady, of course, as respectfully as I knew how, telling her that I thought she was mistaken as to the tenor and effect of the bill, and that I was sure she was mistaken as to the purpose of those by whom it was promoted; and the matter passed from my mind. A few days afterward I saw, I think in the New York Tribune, in some one of the New York papers, a piece of information picked up by these irrepressible reporters who have a faculty of discovering everything, it appears, and are bound to print it when they discover it. It gave the form of a letter to be addressed to members of Congress in both Houses, and the letter I received from the lady in Iowa was a precise copy of the letter sent out from this city, I suppose, all over the country. I fortunately had enough of the letter preserved to compare it word by word, letter by letter. The poor woman had received that circular and had gone to the trouble of sitting down and copying it twice, sending one copy of it to me and one copy to the other House, I suppose, to her member there, and knowing nothing at all in regard to the merits of the bill more than was contained in the circular of the agency by which it was sent to her.

I repeat what I said before, a persistent, a determined, and an unscrupulous effort has been made outside of this Chamber to prejudice this system in the minds of the men who are to be benefited by it and for whose benefit it has been originated; and I trust that this discussion, if it has no other effect, will have the effect of showing that there are other men, as well as those who have outside of this Chamber sought to misrepresent this bill, who are their true friends.

Mr. LOGAN. I do not wish to discuss this bill any further, but with one statement I wish to give notice that if this amendment shall not be adopted, as I hope it will not, I shall propose an amendment. I have a bill somewhere with the amendment on it. I had the bill and the amendment together.

I want to call the Senator's attention just to one thing, not by way of discussion, but that he may look over his memorandum and see whether he is not mistaken in calling the attention of the Senate to the amount of claims allowed from 1861 to 1871. I think he forgot to state the number of claims that have been allowed during the last year. I desire to make the statement that during the last year 4,000 claims were allowed during one month and 200 rejected. At that rate 48,000 claims would be allowed during a year, with 2,400 rejected. According to that rate, in three years every pension claim in the Pension Office would be examined and allowed or rejected. The Senator fails to state that in the examination of the 300,000 pension claims that he speaks of there are included in that 300,000 over 80,000 rejected claims, that stand on the books to-day rejected, which leaves only about 220,000 claims there to be examined. I make this statement so that the Senator can examine and see whether he is correct, or whether I am.

What I desired to state was that the five hundred and forty officers who are to be appointed under this amendment, if you rate them at $3,000, and I do not believe you can get officers for less than $3,000 a year, will be over a million and a half of dollars per annum.

Mr. KIRKWOOD. The bill provides expressly that they shall not receive a dollar except their fees and $3 a day.

Mr. LOGAN. I understand that, but the fees are bound to come up to that, or you cannot get the proper men to perform the office. That is what I speak of. That will amount to a million and a half per annum that the Government must pay for fees and salaries, and if you say you can get them for $2,000 a year, that will amount to over a million a year right under your bill. Now, if they can allow 4,000 pension claims per month with the present force they have, the amendment that I shall propose is to increase the salary of the chiefs of divisions, I do not remember how many there are, probably eight or nine, to $2,000 per annum, so that men may be selected who are perfectly competent. They can be obtained for that amount of money, and perhaps the very chiefs who are there now are competent. I also shall propose to increase the clerical force fifty, which will be sufficient, or, if that is not sufficient, more; but fifty are as many as are asked for at any time. I propose to give the Commissioner that. A thousand dollars a year for the fifty clerks will be $50,000, and the increase on the other salaries will be $200 a year each, which will be about two thousand dollars, which will make $52,000. For $52,000 you can get all the necessary labor to perform what this million and a half of dollars would perform, and it would be better performed. That is the amendment which I shall propose to the bill, provided the bill is not considered out of order as an amendment to an appropriation bill. That is all I desire to say.

Mr. KIRKWOOD. A single word in reply, if the Senate will indulge me. I am glad the Senator called my attention to the fact that in the month of October an unusually large number of pension claims was allowed. That was so, and why?

Mr. LOGAN. I do not know why.

Mr. KIRKWOOD. Perhaps the Senator will appreciate the reason I give him.

Mr. LOGAN. Certainly. I do not understand it.

Mr. KIRKWOOD. The Commissioner of Pensions is in his position a good deal like a character I have read of who had a choice between the devil and the deep sea. He was pressed upon one side, and hardly pressed, to take up and examine claims, in which the proof is completed, out of their order; he is pressed upon the other side by those whose claims are not complete to take up everything in its order, so that the incomplete claimants may be informed of what is necessary to their completion. That is the dilemma he finds himself in. In October or September, I do not remember which, he yielded to the pressure in one direction and did take up out of their order a number of claims and decided them, and by his so doing he delayed just so much longer the giving to the men whose claims were incomplete the information they had the right to expect at his hand in its order. That is the explanation, as I understand it, of that matter. Perhaps the Commissioner of Pensions did wrong, but Senators who have been pressing him to do that identical thing are not the men to find fault with him because he did it.

Mr. LOGAN. The Senator will understand that I am finding no fault. I only insist that he ought to do the same character of work every month, and not make the month of October an exception.

Mr. KIRKWOOD. Then the Senator from Illinois will get upon his back all the class of men whose claims will be delayed by doing that sort of thing, the men the hearing of whose cases will be set back because that particular thing is done. He will, of course, get the applause of men who are benefited by it, but he should consider as well the interests of those who will not be benefited but prejudiced by it.

Mr. LOGAN. Congress was not in session in October, so that these particular requests from members of Congress that the Senator refers to certainly do not apply to that labor that I have suggested.

Mr. KIRKWOOD. Oh, the requests go from home as well as from the Capitol; they go from our residences as well as from here. Now I will detain the Senate no longer.

Mr. SAUNDERS. Mr. President, is an amendment now in order to the amendment?

The PRESIDING OFFICER. It is not.

Mr. KIRKWOOD. I have an amendment to offer when the time comes.

Mr. SAUNDERS. The first vote, then, is to be taken upon the point of order, and that as I understand it will settle the question as to whether we can put in an amendment to the amendment or not. The amendment is impracticable as it now stands so far as my State is concerned. The bill as it stands now would have to be amended before it could be practically enforced in my State. The bill provides for one set of these officers in each congressional district.

Mr. LOGAN. And you have but one?

Mr. SAUNDERS. We have but one congressional district in our State, and this bill provides that the officers to be appointed under it shall visit each county seat three times in the year, besides other duties. We have, I think, sixty-seven organized counties in my State, which would make over two hundred visits; and if you give them one day at each county seat, and that would be little time enough, it would require four hundred days for one year's work. So the Senate can see at once that it would be impossible to carry out the provisions of the amendment so far as the State that I have the honor in part to represent would be concerned.

I have taken no particular part in the debate on this subject; I have left it to those who have examined it more carefully than I have; but I have been governed a good deal by those in the country who are interested in this matter and who examine these things fully as closely as we do here. I am governed by the men who are interested in it. I am getting letters every day from the country on this subject, and nine out of ten of them condemn the provisions of this amendment. I have one right here now that is a sample on one point, and I do not think that point was answered fully by the Senator from Iowa. This letter I received this morning. The writer says:

If the Senate bill No. 496 becomes a law, I shall not be able to prove up my claim, for it will be impossible for me to get my witnesses before the pension courts, as I could not pay their expenses. I beg you to do all you can to defeat that bill and all others like it.

Then the writer further says:

My claim is just, and I do not care how many spies or detectives come down to investigate it, but if the bill (S. No. 496) becomes a law I will have to give up and lose the pension that I am properly entitled to. Only a pension claimant with money could prove up a claim under that law, and a person with money does not need the pension.

Mr. WITHERS. If the Senator will pemit me one moment, I will just state that that is a verbatim copy of a circular which was sent out from here, and I have got forty letters nearly indentically in the same language.

Mr. SAUNDERS. I have got them in different language. I get some of them in the language of that circular, and some I am sure are original. I presented remonstrances this morning from men whom I know to be very intelligent gentlemen—who are able to think for themselves. One of them is a member of the Legislature of the State where he lives, and others who are equally as intelligent with himself, and these men all say that they do not want this bill to become a law. Of course some oppose it for one reason and some for another.

So far as I can understand it the committee have brought in this bill for the purpose mainly of guarding against fraud. I confess that I am unable to see where that prevention comes in. They are allowed to hold their court in each county seat and to examine witnesses and to get their pay according to the number of witnesses. That is, they can only get fifty cents for one, and the inducement is evidently held out to get just as many witnesses as they can. If they can get a dozen witnesses that would be $6; if they have but one witness they would only get fifty cents, so that so far as removing the cause for fraud is concerned it really invites it.

If I could see any advantages in it, I would vote for its passage; but if there are no advantages it is better to take the law we have, for that is now pretty well understood by the people, than to make a new one and be equally confused in understanding it, as was the case with the present bill at the beginning. So far as the people of the country are concerned, they have learned how to prepare their papers and how to bring their witnesses together. I know it was said by the Senator from Iowa that they had to have the same witnesses go before a justice of the peace as they would have to go before these courts under the operation of this bill, but in this case they have got to go on a fixed day, at a certain time when this court is sitting, and it may not be convenient for witnesses to go at such times; whereas, on the other hand, they can take witnesses before a justice of the peace to suit their own time and the convenience of the witnesses themselves, so that it makes in that case against them rather than for them.

I say again that so far as fraud is concerned I cannot see but what the same inducements are held out in this bill that are in the present law, only that this bill provides for two persons to form the court—one, I suppose, to watch the other. One is to be of one party politically, and the other is to belong to the other party, the presumption, I suppose, being that if you get a dishonest man on one side you will get an honest man on the other. Have we any proof of that? If you get an honest man it does not matter to what party he belongs. If you get an honest man one is as good as two or half a dozen; but if you do not get an honest man, then you will be liable to have frauds practiced on the people and upon the Government the same as under the present law, so that it depends after all upon the man. Now, you have individuals going out from the Pension Bureau watching the applicants to prevent fraud being practiced on the Government; I was going to say that there are scores of them out now; at any rate tens are out at this time on that very business, and it does seem to me that they ought to be able to detect most of these frauds at any rate. I cannot see that the provisions of this act would make any improvement in that particular.

I am free to say if we can detect frauds and prevent individuals from getting in fraudulent claims it is our duty to do so, but I do not see that there is anything in the amendment to prevent fraud that is not already in the present law.

Unless I can learn something more on this subject than I know now of I shall vote against the amendment; but if the decision on the question of order should be such that the amendment will finally come before the Senate, it must be amended, as Senators will see, to cover such cases as I have named in the State that I have the honor in part to represent. As I said, the law could not be carried out there at all, because the time would not permit the officers to do the work required of them.

Mr. LOGAN. All the Territories are in the same condition.

Mr. SAUNDERS. Yes; all the Territories, and some other States are in the same condition.

Mr. TELLER. I should like to call the attention of the Senate to the fact that the vote to be taken is not upon the amendment, but upon the question of order simply. I do not propose myself to express any opinion now upon the amendment nor upon the capabilities of the Commissioner of Pensions. So far as I know he is capable, and the amendment may be good. I have raised the question under the twenty-ninth rule. It seems to me the system is a pernicious one, and one in which we ought not to indulge. If the amendment is ruled to be in order this discussion will go on for some time yet. Here is an appropriation bill that ought to pass, and it ought to pass at once. There is a large deficiency here provided for, and that money ought to be in the hands of the proper authorities to be distributed. If this measure is a meritorious one it can come before the Senate in the way other bills come, and it can then be discussed if further discussion is needed, and pass or fail to pass as the case may be.

Mr. WITHERS. It is not my desire to delay action upon the pension appropriation bill proper. I did desire that something should be said upon the merits of the amendment which I had the honor to propose to the appropriation bill, as the chairman of the Committee on Pensions. It has been so fiercely assailed by Senators on both sides of the Chamber that I thought fairness required that a statement should be made from some one friendly to the amendment before the question of order should be determined by the Senate. I am perfectly willing that the Senate shall vote now upon the question of order submitted; and if the Senate shall determine, as I hope it will, that such an amendment as I propose is in order, I shall then desire to say something more particularly with regard to the details of the measure, and to produce what, in my judgment, are sound arguments to demonstrate that the bill is drawn, as it was designed to be, in the interest of the pensioners as the first consideration, in the interest of the Government as the second consideration, and that it would very materially expedite the decision of pension cases and protect the Government against the payment of pensions to persons not duly entitled to them.

It is not my province particularly to enter upon any defense of the Commissioner of Pensions. If half that has been said on this floor is true, he certainly is utterly unworthy of the confidence of the people or the position which he occupies. But candor and justice alike compel me to bear witness that, so far as my official intercourse with him is concerned, extending now over a period of four or five years, I have found him uniformly anxious apparently, and as I believe sincerely, to promote the interest of the pensioners and protect the interest of the Government at the same time. Certainly his efficiency in the office can be proved, as I think, by reference to the dispatch of business under him, the number of cases which have been determined during his administration being, as I am informed, in excess of those of any of his predecessors for the same period of time.

I wish to say one word simply in regard to the amendment which I offered by the consent of the Senate, as I understood, the other day, the object of which simply was, if possible, to remove the point of order which was made by the Senator from Colorado against the amendment. I think it has been usually held here that an amendment could be ingratted upon a general appropriation bill, the scope and effect of which was simply to limit the expenditure and prescribe the manner in which the expenditure under it was to be made. That is the whole object of the amendment to the amendment which I submitted. It was to limit the operation of the provisions of the amendment to the money appropriated by this bill, and, of course, it would only be of force for the next fiscal year. I think that removes the point of the objection that it is general legislation, at any rate.

Mr. TELLER. It is not possible that the amendment or modification can change the question that this is general legislation. With that kind of amendment the Senator might put on the Revised Statutes, if he saw fit, if they were not already in force. The simple question is whether this is legislation. Nobody can doubt it. I do not believe there is a Senator on this floor who does not know that this is general legislation of the most extensive character.

Mr. CONKLING. Mr. President, I ask the Chair to state the point of order and have read the rule under which the point of order arises.

The PRESIDING OFFICER. The rule under which the point of order is made is Rule 27, which will be read by the Secretary.

The Chief Clerk read as follows:

No amendment which proposes general legislation shall be received to any general appropriation bill; nor shall any amendment not germane or relevant to the subject-matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and decided without debate; and any amendment to a general appropriation bill may be laid on the table without prejudice to the bill.

Mr. INGALLS. Mr. President, I rise simply for the porpose of expressing the hope that a vote may be taken without further discussion upon the point of order. There is no doubt in my own mind that the point of order is well taken. I shall therefore vote to sustain it; and that being my view of the case, of course if it is sustained by a majority of the Senate, further discussion upon the merits of the amendment would be unprofitable. If the debate continue and the amendment should be held to be in order, I shall desire to say something both upon the general subject of pensions and upon the particular provisions of the amendment that has been offered by the Senator from Virginia; but inasmuch as if the point of order should be sustained, discussion will be unavailing, I suggest, without wishing at all to limit debate, whether it would not be wise at this time to take the vote upon that part of the question and leave the rest for future consideration.

The PRESIDING OFFICER. The question is, Is the amendment offered by the Senator from Virginia [Mr. WITHERS] as modified by him in order under Rule 27?

The question was decided in the negative.

The PRESIDING OFFICER. The amendment is held by the Senate not to be in order.

Mr. INGALLS. What is the pending question?

The PRESIDING OFFICER. The pension appropriation bill is in Committee of the Whole and open to amendment.

Mr. PLUMB. I offered on Saturday an amendment for the purpose of having it printed. I ask if it has been returned from the Printing-Office? If so, I ask that it be read.

The PRESIDING OFFICER. The Senator from Kansas [Mr. PLUMB] offers an amendment, which will be read.

The CHIEF CLERK. After line 17 it is proposed to insert:

To provide fifty additional examiners for the Pension Office, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners, the sum of $200,000, to be immediately available.

Mr. WITHERS. I raise the point of order on that amendment.

Mr. PLUMB. I desire to call the attention of the Senator from Virginia to the fact that while we have voted down the proposition to amend the law by substituting new machinery for the old, it is conceded by every one that the pension law, as it at present stands, is not executed as rapidly as it should be to meet the necessities of the case. The trouble is not so much with the law as it is with the delay in its operation; that the pensioners are obliged to wait an unreasonable time for the adjustment of their cases, and while a good deal has been said about frauds on the Government in the obtaining of pensions under the present law, still I think in the main the great complaint, and that which most induced the Pensions Committee to offer the amendment which it did, and which has also been at the bottom of the various devices for new legislation, has been the fact that the present law does not afford to the applicant a speedy adjustment and determination of his claim for pension. My proposition is that the force engaged in the consideration of pension cases shall be increased.

If one hundred and fifty examiners can dispose of fifteen hundred cases a month, two hundred examiners ought to be able to dispose of a proportionately greater number. It is one of those cases which if we do not settle it now is going to be an occasion of great reproach. It is no saving to the Government to postpone the payment of the necessary salaries for the employment of the requisite force to properly consider and determine the pension cases pending and those which are constantly filed. The Senate having said that bill No. 496, as it was called, is not in order as an amendment to the pension appropriation bill, practically says that there shall be no legislation which will give either increased force or increased opportunity or efficiency to the Pension Bureau and that the 300,000 men whose applications are now pending in the Pension Bureau shall continue to cool their heels waiting upon the slow processes of administration under the present law.

The present condition of things is, I think, a national scandal. If we cannot agree that there shall be a new law, we can at least agree that there shall be added force for the purpose of carrying out the old law; and such a provision as I propose affords the only chance for legislation upon this subject the present session. It is only a question of the expenditure of $200,000 more in an endeavor to expedite the business of the Pension Bureau; and this expenditure is as nothing added to the amount we already expend, and even less, when compared to the obligation we are under to the applicants whose claims are postponed and retarded either by lack of proper legislation or of proper administration of the law already on the statute-book. Some time this cost has got to be incurred unless the Government means forever to shirk its obligation to do justice to these men.

And while I am on that subject I desire to say something about that part of this discussion which relates to frauds on the Government. I am not on the committee. I do not undertake to say, because I do not know anything about the percentage of frauds; and with all due respect to everybody I do not believe anybody else knows anything definite about the percentage of frauds perpetrated. The present law may be inefficient for the detection of frauds, and yet it has been shown in this debate that the money heretofore appropriated by Congress for the purpose of detecting frauds has not all been expended. I therefore assume that in the judgment of the Commissioner of Pensions there was not sufficient ground for the use of the money voted and the employment of necessary force for the purpose of discovering frauds. Only about one-half of this money was expended, as the Senator from Illinois reminds me, and if we expect to legislate so as to prevent all fraud we must expect to legislate so as to practically prevent all pensions. You cannot carry on machinery of such magnitude without some fraud being committed. Fraudulent claims are passed in the Quartermaster's Department, and equally there is fraud in the allowance of claims in the Commissary Department. There are frauds committed in all branches of the public service; they are inseparable and always will be from large Government instrumentalities of administration.

This allegation of fraud, however, in this case has been a matter of sore and, as I think on the whole, just complaint from the great body of the ex-soldiers of this country. It has been so persistently urged, so constantly and always insisted upon, stated in so many forms, applied in so many ways, alleged to be of such great magnitude, that it has come to be that every pensioner, more or less, considers himself under the suspicion of "the powers that be" and of the public as a man who has committed a fraud upon the Government in the obtaining of his pension. I think, therefore, Mr. President, that this debate has gone far wrong in that particular. I do not believe that the frauds occurring in the Pension Bureau bear any greater proportion to the amount disbursed than they do in other Departments of the Government. I believe they are only such as are inseparable from the administration of a machine like that bureau. Of course there is opportunity for fraud on account of the large number of cases and the *ex parte* nature of proof permitted by the law; but I believe that in proportion to the amount expended the frauds are even less than they are in other Departments of the Government, and I do not believe any practical system we can adopt will wholly prevent fraud. The millennium is not here nor is it coming this year. But, however this may be, the first obligation on the part of the Government is not to detect fraud, but to discharge faithfully and fully the obligations it is under to these men.

A good deal has been said, not only in debate, but in public prints, about the amount of money involved in the payment of pensions, present and prospective. I do not know where all these statements emanate nor how authentic they may be, but I am prepared so far as my action is concerned to accept the statement that the amount of money which will be necessary to pay the arrears of pensions is $510,000,000, and, assuming that to be the obligation due to the pensioners growing out of the loss of health, of limb, or life, I shall not hesitate to vote for its appropriation, nor would I hesitate if the amount were four times greater, no more than I would hesitate to vote the amount, however large, to meet the ordinary and necessary expenses of the Government.

It is, after all that can be said, only a question as to whether a great Government will pay its debt, not a debt in the ordinary sense of the term, but a debt that is more sacred, a debt that should rest upon the Government with a higher sense of obligation than a debt representing money borrowed or ordinary service rendered. The question of amount does not properly come in. It is a question as to the existence of the obligation and as to whether the Government is able to discharge it.

It has been well said that things seen are mightier than things heard. The time was when this nation did not think of higgling over the question of its obligations to these men, and when those in station here and the loyal people of the whole country considered only whether the men whose wrongs we are considering would be able by their courage, by their risk of blood and life and the sacrifice of their health to save the Government. At that time they could have had pensions and increase of pay unto the last farthing of the ability of the Government of the people for the asking. They did not avail themselves of their opportunity. But they did rely, as they had a right to, upon the faith of the Government, pledged in statutes then in force, that those who lost limbs or health in the line of duty should be entitled to pensions; and every soldier who went into the Army went in understanding that obligation of the Government and relying upon it just as much as he relied upon the promise that he should be paid the monthly pittance he received under the name of pay. After the war Congress established a law of limitation, providing that claims not filed within five years should not be entitled to go back to the date of discharge. Two years ago that limitation was extended to the 1st day of July last. This was not done very freely; it met with some opposition, and it was said in the public prints that it was opening the doors of the Treasury to jobs, and so on.

Mr. President, the law-making power had no right to establish an arbitrary rule which required the soldier to come within a certain and very limited period from the time of his discharge and file his claim for a pension or be cut off from all right to that pension which accrued prior to the time of his application. It was a rule which worked unjustly; it was a rule which ought to have been wiped out, as it was; and before this bill passes I shall move an amendment enlarging the operation of the arrears-of-pensions act so as to permit claims to be filed during the next two years, the applicants in which shall come within the provisions of that act.

It is said, why did not these soldiers come in and file their claims immediately after their discharge? When the war was over the men who rejoiced over its close more than any other men were those who served in the Army. The men outside who made money, who enjoyed the ease of home, the honors of civil employment, the profits incident to a condition of war, which drew off a large percentage of the energetic, ambitious, competent men of the country, were not nearly so anxious for the close of the strife as were the men who carried the musket, and by whose valor and sacrifice the country was saved. They were not only glad to be mustered out and go back to their families and homes, but they asked neither bounty nor station as a reward for patriotic service performed. They were so rejoiced at the result accomplished by their sacrifice that they did not think or care to set up a claim against the Government for pension on account of loss of health in the line of duty. They were proud of their achievements, and the feeling was quite general among all, who did not then realize that they had suffered serious and irreparable injury, that seeking a pension would detract from the merit of their service.

Few of them realized then that the seeds of disease, never to be eradicated, had been lodged in their bodies by that service; that sleeping on the ground and in the swamps, marching night and day, exposed to cold, wet, hunger, and all the vicissitudes and privations incident to military service, had made inroads upon their health which would remain a legacy of that service so long as they lived, and in many cases make life a burden.

These men went back to find the avenues which before they had

filled closed against them. Whether mechanics, lawyers, laborers, farmers, merchants, the vacancies made by their enlistment were filled by others. Their places had not been kept open waiting for their return. They had to begin anew. In many cases that was impossible in the old location, and new ones had to be sought out. So they went South, and East, and West, poor in purse and growing poorer in many cases; rich only in the consciousness of duty done, and in the pride of a power exercised for the common good and laid down at the time when it might have been used to the advantage of those who wielded it.

And so it is to-day that there are more ex-soldiers of the Union Army in proportion to the total of population in the State of Kansas than in any State east of the Mississippi River, and they are not there alone because they preferred to be there of all places, but largely because they had to go somewhere. They could not stay where they before had lived. They have drifted about; many of them coming to realize by degrees what they had no suspicion of when they were mustered out, that their health had been broken by their service. Generally, however, so long as they could live in any degree of comfort by their own labor, the thought of pension did not come, or if it came it was put aside as something not to be thought of, or as something to be held in reserve until the necessity was absolute. There was, too, the old feeling of pride that the great merit of their service would be tarnished by applying for a pension.

But poverty and disease broke down even aspirations of that kind; and there are men who went out of the service a little halt, a little broken down, who thought the rest they would get and the quiet of a life at home would repair these misfortunes, but who find that they were mistaken; that they are getting worse instead of better; and finally yielding to the inevitable they come now and ask the Government to give them what was part of their contract and part of the promise under which they served it; and I say they ought not to be turned away under a plea that they did not come in time.

I know a man who enlisted in the Army from Kansas, who at the date of his enlistment was comparatively a wealthy man for that day and for that location. His eyesight was impaired during his service, not permanently as he hoped. When his term of enlistment expired he went back to the calling from which he had gone to enter the service. In a few years he lost his money in unprofitable ventures, and finally he lost his eyesight. Then, with great reluctance, he concluded to apply for a pension, but the statute of limitations, which Congress had imposed, cut him off from all benefit for the time pending his application, until the passage of the arrears act gave a sum of money, with which he bought a small farm, and to-day he sits in the door of a Kansas cabin with his face turned toward a beautiful landscape which he will never see; and but for the arrears act he would to-day be in an almshouse. He is poor, but relieved from absolute want; but his sacrifice and suffering no money can compensate for. The country is still his debtor, and ought not to begrudge him the pittance which lightens the burden of his blighted life.

Another man, who lives only a few miles away from the former, came out of the Army with eyesight impaired, as the consequence of his service. He thought he could be cured. He spent all his substance and nearly ten years of his time in trying all available specialists and remedies, but all to no avail. He is nearly blind. He was and is entitled to a pension; but, poor though he is and helpless, he has never applied, though justly entitled to a pension. His pride has prevailed over suffering and poverty. Some day he may be compelled to apply for a pension, and there should be no statute of limitations to stand in his way, but the door should be kept constantly open for him.

These are but samples. Similar cases exist all over the country.

I have a letter in my possession from a lady writing about a pension that she is applying for. I have known her for twenty-five years—a noble woman, born to fortune; but her husband's service was the beginning of a poverty which will follow her as long as she lives. She writes me about her application for pension. She says:

> I hoped to get the pension that I put in a claim for before this, but have not. I do not know as they will allow it at all. The testimony that we have sent them is good as far as it goes, but we cannot get all that we could have got years ago. The medical testimony is lacking in a measure on account of the death of physicians that we employed, but I think we have sent enough to satisfy them that the claim is a just one. My husband died in consequence of losing his health in the Army. He had a long sickness, recovered a little, but not to be able to labor, then died from weakness in consequence of his long sickness. Three of the children were too young to take care of themselves. I had very little to do with, but did not think then of a pension, but now when so many are getting I think I have as good a right as many others. I do not know as you can do anything in this matter, but if you could see the agent it might do some good, and if it will not be too much trouble write me and I shall feel truly grateful to you.

Mr. President, the men who are to get and who are getting the money paid for arrears did not think of a pension instantaneously when they were mustered out of the service; they did not concern themselves with things of that kind then. The thought came at a later period, and to a large majority of them it has come reluctantly.

I know that to be the case in hundreds of instances which have come within my own knowledge. Men have waited from time to time hoping that their fortunes would improve, hoping that their health would be better, but finally they have come to realize that their fortunes have not improved, that their health has grown constantly worse, and now broken in health and fortune the pittance the Government owes them is their only remaining resource in many cases, the only thing that can save them from want.

Mr. President, the spectacle of a man who has served his country faithfully in a time of great peril, at the risk of his life and at the sacrifice of his health, is not one which ought to exist under a Government which is able to respond to the obligations it is under to him. The Government ought to stand in the attitude not of reluctantly yielding to his solicitation but of inviting him to receive. It ought to be understood all the while that the Government is only too anxious to discharge the obligations it is under to him, and it ought not to have anywhere in any bureau or in any Department of this Government where his righteous claim is pending any one authorized or required to pass on such claim who deems it to be a duty to view this claimant with suspicion, to act as the attorney of the Government in resisting and if possible rejecting the claim. I do not say that in reference to the administration of the Pension Bureau under the present Commissioner. I speak of it generally in reference to the sentiment that has gone abroad adverse to the applicants for pensions. I say nothing about the Commissioner; he has done what he believed to be his duty, I have no doubt; and while I dissent from some of the methods or contrivances which he has adopted for the purpose of ascertaining who were entitled to pensions, at the same time I give to him the credit which I would claim for myself under similar circumstances.

But I come back to this point, that with a man who is indorsed here as a person competent for the position, under a law whose administration he has entire control of, these cases accumulate, and are still accumulating, and will continue so to do for years to come. This ought not to be. We may not be able to relieve his docket, if I may so call it, to the extent we ought, but we can at least manifest our good-will by increasing the force which may be applied to the examination of these claims and the determination whether an applicant in a given case is entitled to a pension. That we ought to do. I have great faith that additional examiners and clerks will bring some relief, and that it is better to do this than to try a new experiment upon all the pending cases, the result of which cannot be foretold.

Many of the applicants under the administration of the law as it now is carried on will die inevitably before their cases can be reached. That I say would be a shame. It is a disgrace to this Government that it is not prepared by proper machinery and proper appliances of whatever kind necessary to take up these cases promptly and dispose of them, so as to be able to say to a man whether he is entitled to a pension under the law or not. These men were willing to die in the service of their country, they were willing to die and willing to be forgotten if necessary, in order that the country might live. But they are not willing to die now on account of poverty which came from their service, on account of disease and wounds which came of that service, while a rich, prosperous, and powerful Government, growing richer every day, boasting itself of its riches, and prosperity, is lavishing its resources in the payment of one class of its creditors and higgling as to whether it shall pay the obligation cemented by the blood of the men who saved it from destruction. We may have to determine between these two classes of men, not as to ultimate payment, but as to preference in time of payment.

The soldiers accepted $16 a month for their service, in a currency which one day was 60 per cent. discount and on the next was 200; and they made no complaint. Another class of men served the Government by taking bonds, which they paid for at sixty cents on the dollar; and they have been repaid twice over. I do not object to that. I am glad that the obligations of the Government sell as high in the markets of the world as those of any other government. But while it is to the credit of the Government that it has paid its legal obligations to the men who loaned it money, so long as there is anywhere underneath the folds of its flag a single man to whom the debt due by reason of military service rendered in the war of the rebellion remains unpaid, that credit will not be as high as it ought to be; its escutcheon will be tarnished, and we shall present the spectacle of a nation that has forgotten its obligations to the men who were willing to take the musket, were willing to sacrifice not only home and property, but life as well, in order that it might save more dollars to return to the men who while they took out with one hand to lend to the Government put largely into the pocket with the other by means of contracts and other opportunities for making rich which the war brought them.

If we make a distinction, let us make it in favor of those whose service was most valuable, and which involved sacrifice. If we are not to make distinctions, and we ought not, let us say these beautiful harvests, this great growth and prosperity of which we boast—that all these things, the results flowing from the service of the men whose valor saved the Union from disruption and the country from anarchy, are to be paid to the uttermost farthing.

Let us not wait until these men knock at our doors, till we are shamed by their poverty and awed by their importunity; rather let us say, "We owe you this debt; come and take what the Government has promised to give you; we will put either here in the capital or in other convenient place, as the case may be, every appliance which the law can provide, whereby the justice of your claim and the amount of it may be speedily and freely determined," and the building of more railways and canals, the improvement of more harbors, and the keeping up of an expensive and useless Navy—all these things

can well be postponed until this Government does justice to the men who saved it in battle, and who have reaped only poverty and suffering therefrom.

The PRESIDING OFFICER. The Chair holds that the amendment is subject to the point of order made against it by the Senator from Virginia.

Mr. HOAR. Will the Chair be kind enough——

Mr. INGALLS. Under what rule does the Chair hold that?

The PRESIDING OFFICER. Rule 27.

Mr. INGALLS. I would like to have that rule read.

The PRESIDING OFFICER. The rule will be read.

The Chief Clerk read as follows:

27. All general appropriation bills shall be referred to the Committee on Appropriations, except bills making appropriations for rivers and harbors, which shall be referred to the Committee on Commerce; and no amendment shall be received to any general appropriation bill, the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law——

Mr. INGALLS. Stop there, Mr. Clerk, please. Is not this to carry out the provisions of existing law, Mr. President?

The PRESIDING OFFICER. If the Senator is dissatisfied with the ruling of the Chair, he may take an appeal.

Mr. INGALLS. The Senator is very much dissatisfied. He takes the liberty to appeal from the decision of the Chair.

The PRESIDING OFFICER. The Senator from Kansas appeals from the decision made by the Chair. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. HOAR. I desire respectfully to ask the Chair, instead of compelling Senators to vote on the very unpleasant question of an appeal, to submit this matter to the Senate. It seems to me, with great deference to the Chair, that the position of the Senator from Kansas is clearly right. As I understand this amendment, it is simply this: the existing pension law being incapable of being carried out during the current year by the insufficiency of the clerical force provided for that purpose, for the mere and sole purpose of carrying out the provisions of existing law this amendment proposes to provide for the compensation of clerks. It is no increase of an appropriation contained in the bill; it is no new item of appropriation except so far as is expressly excepted in the rule itself; and I believe it is within the discretion of the Chair, instead of making the ruling, to submit the question in this first instance to the Senate, which I beg to ask the Chair to do.

Mr. INGALLS. I withdraw my appeal if that course is desired by the Chair.

The PRESIDING OFFICER. The appeal is withdrawn, and the Chair will submit the question of order to the Senate.

Mr. TELLER and Mr. ROLLINS. Now let the amendment be reported.

The PRESIDING OFFICER. The amendment will be reported.

The Chief Clerk. At the end of line 17 of the bill it is proposed to insert:

To provide fifty additional examiners for the Pension Office, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners, the sum of $200,000, to be immediately available.

Mr. DAVIS, of West Virginia. I suppose the Senator is aware that provision for the employés belongs to the legislative bill. That is the usual course. The whole Pension Office force is provided for in the legislative bill. I suggest to the Senator that that is the proper place for this provision to come. In this bill, according to my recollection, nothing is provided for that pertains to employés, but only the money necessary to pay the pensions.

Mr. PLUMB. I agree that the legislative bill would be the proper place for the permanent increase of the force in the Pension Office; but this is simply for the current year. I hope that by another year we shall be able to devise some plan whereby we can more effectually carry out either the present law or some other law. In the mean time, I say this Congress ought not to adjourn, inasmuch as it has refused to do anything else, without providing ample force for the carrying out of the present law, and this is the proper place for that. It is for the purpose of assisting in expending the money that we here appropriate; and as a matter of propriety (saying nothing about the point of order, which I do not care to discuss) this bill is the place where the amendment ought to be put.

Mr. HOAR. Section 4692 of the General Statutes provides that:

Every person specified in the several classes enumerated in the following section—

Which are the special classes of persons entitled to pensions—

shall be placed on the list of invalid pensioners of the United States, and be entitled to receive, for a total disability, or a permanent specific disability, such pension as is hereinafter provided in such cases.

Those persons being entitled as of absolute right under the existing law upon making their proof are deprived of those pensions, and will be during the current year, unless an adequate clerical force to receive, examine, and act upon their cases is provided. Now, I hold that no case can be stated of a provision within the exception of this rule stronger than that. If it were desired to find a clear, unmistakable illustration of the exemption contained in the rule to carry out that provision of law, here it is; and this is the only mode in which it can be carried out without new general legislation, which the Senate has ruled out of order. If that be true, then I submit to the honorable chairman of the Committee on Appropriations that it is not wise to insist on his technical objection that this amendment ought to be placed upon another bill and not on this. The whole discussion of the subject, which has extended over four or five days, so ample, so thorough, so able, has gone on upon this bill. Why should not the Senate therefore follow its debate by its decision and place upon the pending bill, instead of some other bill which would require the entire reconsideration of the whole question, these provisions which are necessary?

I desire to say that I do not see how any Senator can have listened to the eloquent speech of the honorable Senator from Kansas, [Mr. PLUMB,] how any Senator can read day by day the appeals which come to him from widows, from dying men, from brave men who went into the service able to perform all the duties of citizens, and who, by reason of the service they rendered their country, have been obliged to sit down at their own table and in their own dwelling dependent objects of bounty and care, instead of being the sources of bounty and care as they were to wife and children in their families—the appeals from these men that poverty, the almshouse, the grave is approaching because of the failure of this Government to perform its promise—I do not see how any Senator can seek to postpone for a single day, for any legislative necessity whatever, this provision.

Sir, I hold for one that the incoming President of the United States would be faithless to his duty, if this Congress should separate without amply providing for this public necessity, if he did not at once reassemble the two Houses of Congress and compel attention to the subject, compel provision to be made. There has not been an occasion for a special session of Congress since the war closed like the occasion which the insisting on such objections as these to a proposition like this will have occasioned.

I trust that the members of this committee, the discussion having gone on as to the proper policy to be pursued with their full assent for days, will not interpose a mere technical objection as to the fit bill to which this provision should be attached.

Mr. WITHERS. Mr. President, I made the point of order to see whether the Senate would determine that question as they determined the preceding one. If the amendment I offered was out of order—and I am compelled to assume that it was as such was the decision of the Senate—it seems to me that the amendment which is now proposed is equally out of order. If the argument is to be held good that because we have a provision of the general statute laws authorizing and requiring the payment of pensioners when their right to a pension shall have been established, therefore any legislation which is proposed in connection with the payment of those pensions must be in order, surely that argument was just as potent when applied to the amendment which I had the honor of submitting to the Senate. If that was legislation upon a general appropriation bill and out of order, this is legislation upon a general appropriation bill and equally out of order. If the argument of the Senator from Massachusetts be correct that because there is an existing law authorizing the payment of pensions, therefore any legislation looking to that end must be in order, the argument was equally efficacious when applied to the amendment which I offered; and I wish to test the sense of the Senate by requiring a vote on the question of order, not under the twenty-seventh rule, but under the twenty-ninth rule, the same point of order which was made against my amendment.

Mr. CAMERON, of Wisconsin. Mr. President, I am still of the opinion that the amendment offered by the Senator from Kansas is out of order under Rule 27, and under this clause of that rule:

And no amendments shall be received to any general appropriation bill, the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law.

I understand the case provided for in this rule which would not be obnoxious to the provisions of the rule to be this: if Congress had enacted a law which, in order to be carried out, required an appropriation, and had made no appropriation for carrying out that law, then an amendment similar to the one offered by the Senator from Kansas would be in order. But Congress has made an appropriation for carrying out this law——

Mr. HOAR. For next year?

Mr. CAMERON, of Wisconsin. The clerks are provided for now, or will be in some other bill, if they are not already.

Mr. HOAR. Not yet.

Mr. CAMERON, of Wisconsin. I also say it is out of order under Rule 29.

Mr. HOAR. Before my friend passes from Rule 29, do I understand him to say that a bill which provides for fifty clerks instead of forty as contained in the annual appropriation bill last year, which simply increases the number of servants of the same character over those of last year, is out of order under this rule in his judgment? I understand the distinction between the case the Senate just voted upon and this to be that this amendment simply increases the amount of officers under the same mechanism, as ten clerks of the first class instead of eight, or whatever may be the number; the other created new judicial officers; it imposed new rules of law, new methods of procedure, required the creation of a court of surgeons, and so on.

Mr. CAMERON, of Wisconsin. But the object of the amendment offered by the Senator from Vermont was to facilitate the granting of pensions.

Mr. HOAR. But it was not merely to carry into effect an existing law; it was to make a totally new law, to wit: an order for the examination of pensioners, that instead of being in the office here, it should be in the vicinage.

Mr. CAMERON, of Wisconsin. It provided a new system.

Mr. WITHERS. The Senator from Massachusetts must admit that it was to carry out the provision of the law he quoted providing for the payment of pensions. That was the sole object of it.

Mr. HOAR. No, sir; it was more than that. It was to carry out the existing law and to change it, to make a new law.

Mr. WITHERS. No, sir; it was to make new regulations for carrying out the very law which the Senator from Massachusetts quoted.

Mr. HOAR. My friend will pardon me one moment. The proposition which the Senate voted down changed and repealed the existing law by ordering that hereafter there should be examinations of the cases of pensioners in the vicinage where they reside by a newly created board, whose mechanism, whose method of proceeding, whose place of action, and whose rule of proceeding were to be newly created, thereby largely abrogating the existing law and doing a great deal more than carrying it out. This proposition simply is that whereas one hundred clerks distributed among these various offices to carry out the existing law without a change prove inadequate, there shall hereafter be one hundred and fifty. That is all. I hold that this proposition is nothing but that.

Mr. LOGAN. If the Senator will allow me, I will supply right there what he was talking about in section 10 of the proposition that was before the Senate reported by the Senator from Virginia. That section provided:

> Sections 4744, 4771, 4772, 4773, 4774, 4775, and 4777 of the Revised Statutes are hereby repealed, to take effect June 30, 1880.

The sections thus repealed are every particle of law existing in reference to the machinery of allowing a pension.

Mr. HOAR. Certainly.

Mr. LOGAN. Every particle of law that exists for that purpose. It repeals the whole of it.

Mr. HOAR. Suppose the question should be put to any Senator by a constituent, if this passes, Have you changed the pension law this year at all? The answer would be no, so far as this amendment goes; we have merely provided a larger number of clerks to carry it into effect. Suppose, on the other hand, the same question had been put to the Senator from Virginia, if his amendment had been adopted. The answer would have been, Yes, we have entirely changed it; we have entirely abrogated it, in the particulars which the Senator from Illinois states.

Mr. DAVIS, of West Virginia. Mr. President, I submit that where increases of clerks of any kind are required they should be provided for in the legislative appropriation bill. It is very unusual, and I believe without precedent, to increase the clerical force of any of the offices, except upon that appropriation bill, which will only be a few days delayed. I understand the legislative bill has already been reported to the House.

Now, as to the necessity for this so far as I know no person having authority in any of the Departments has asked for an increase. The Committee on Appropriations, I believe, uniformly have given the Pension Bureau all the employés they have asked for. I believe that has been uniformly the case.

Mr. VOORHEES. Let me ask the Senator from West Virginia if it might not be barely possible that the Department may be deficient in not asking for sufficient clerical force. In my judgment they have not nearly enough, and it is greatly to their blame that they do not ask and demand enough to keep up the business of the office. It is no argument to me to say that the Pension Bureau and the Interior Department have not asked for clerical force, when we know that a quarter of a million of claims are lying there, and men and women and children are crying over the delay, who ought to be relieved.

Mr. DAVIS, of West Virginia. It may not be an argument to my friend from Indiana, yet it happens to be a very proper one to me. I believe we are governed generally, and our rules tell us we should be governed, by the estimates of the Departments as to the employés they need. I cannot well see how you can get away from those estimates in such matters. Now, as to the question of order: we provide for paying everybody in the service. For instance, soldiers on the frontier; there are provisions in the statutes to pay them; but would it be in order on the Army bill to increase the number of clerks or the number of paymasters to a thousand in order to make those payments? None of us would agree to that. The salary that each Senator gets and that every employé around here receives is paid under appropriations made in accordance with law; but would it be proper to amend an appropriation bill to say that our Secretary's office should have twenty employés more for that purpose? It is clearly out of order, in my judgment, though I do not make very much of a point of that, as my own impression is that the Pension Office has all the employés it can properly work.

As to the Pension Commissioner not doing his duty, as has been intimated, I think that is a great mistake. I have been thrown in contact with the Commissioner of Pensions more than once lately, and I believe he is honest, conscientious, and competent, and is trying to do his duty fully and completely. I think it would be a great injustice both to the Commissioner and to the Department of the Interior to intimate anything else.

I do not see that the proposed increase of force is necessary, even if the proposition were in order; but it is out of order on the ground that there is no estimate of the Department, there is no law that authorizes the increase, and I think the former occupant of the chair was clearly right when he ruled it out of order for more than one reason.

Mr. TELLER. It does not appear to be imperative to the officer to expend this money. If we give him the $200,000, and he does not need it, he may not expend it. I do not suppose there is anybody here who has had dealings with the Pension Office who does not know that additional help is needed in that office. It is very possible that the terror of the Committee on Appropriations has been so great over him that he has not dared to ask for all he needs.

Mr. DAVIS, of West Virginia. So far as the Committee on Appropriations are concerned they have always said to that particular bureau, though there may be others who have such a terror, that we would give them all they asked. It is not the Commissioner of Pensions, it is the Secretary of the Interior who makes the estimates.

Mr. TELLER. Certainly, I understand that.

Mr. DAVIS, of West Virginia. He is the person to talk to and not the Commissioner of Pensions.

Mr. TELLER. I understand very well that the Secretary of the Interior makes the estimate, but he makes it usually on the suggestion of the Commissioner. It is apparent that they need two things in that Department; one is more help, and another a higher class of men than they have been enabled by the appropriation allowed to employ. You employ a clerk for $900 a year and set him there to do the most important thing that can be done, and that is to judge of the evidence that comes before him. Why, Mr. President, some of those men are qualified undoubtedly. What we ought to do is to put into the Department a number of educated lawyers, men who can distinguish good evidence from bad.

Mr. DAVIS, of West Virginia. But my friend will bear in mind that this amendment will not remedy the evil he now speaks of. I agree with him that there should be more brains in the Department that is to examine these claims. I believe it would be better if we could get them. I believe it would increase the service and do better. This amendment will not reach that.

Mr. TELLER. We propose to give him $200,000 in money. Out of the $200,000 in money he can employ three or four competent men who will have a general supervision of the office. I have received from that office myself letters that have been simply ridiculous. I am not speaking of the Commissioner, for nobody can pretend that he can oversee all the cases. That is an impossibility.

Not long ago, about a year ago, I had occasion to apply to have a pension of a pensioner of the war of 1812 transferred to his widow; and what was the request made of that old woman? They said her papers were on file but that she had failed to prove by an eye-witness that she was married to this man. After living with him for fifty years this was exacted of her by a clerk; it did not come to the attention of the Commissioner; some clerk would not pass the case unless she proved in that way that she was his wife, that she had been married actually. They wanted an eye-witness, the minister or somebody who stood by. When I called the attention of the Commissioner to it, of course he said that was ridiculous, and he provided for other evidence, and the case was allowed.

Not long ago I had occasion to receive a letter from some parties in Western New York where I formerly lived, saying that an old lady whose son had been killed early in the war was an applicant for a pension. Her pension claim had been filed sixteen years before, and there it had lain and waited, and this old woman had lived in poverty the whole time, making her living by knitting and other methods, a woman who I think was, when her pension was allowed, nearly eighty years of age. I went and had the case examined and another clerk said to me as to the matter of this boy that had been killed in 1863 in battle, her youngest boy, "We want the affidavit of somebody that was present at the *accouchement*." The idiotic clerk who had examined that case made that a necessity, and therefore he had pigeonholed the case and it had been pigeon-holed there for years because that kind of testimony was not produced. Hundreds of people could have come up and sworn that this boy was this woman's son, that he had lived in the family and that they knew this woman as his mother, and yet there was not perhaps a single person living who had been present at his birth.

I say you want some men who will review these cases, and who when an incompetent clerk passes upon them and makes such a ruling can say, "That is nonsense; we will not require that kind of evidence." This old woman, after waiting sixteen years or thereabout, if I recollect, for her pension, got the enormous sum of $1,200, and she would not have got anything but the bare pittance that was allowed a soldier's mother, if it had not been for the arrears-of-pensions bill, against which so much has been said here within the last few days.

I think this amendment is not amenable to the question of order. I think it is in order, and I think it is eminently proper and it ought to be put on the bill. As was said by the Senator from Kansas, what difference does it make whether we pay for these examinations this year all at once, or whether we spread them out for five or ten years; I mean what difference does it make to the Government? It makes

a great difference to these pensioners. I do not care, as the Senator from Kansas has said, if it costs fifty million dollars, or a hundred million, or a thousand million. We have agreed to do it, now let us get at it and find out what we owe to these men, and let us have their cases adjudicated on, and if they are proper let us have them allowed; if they are not, let us have them rejected, and the time will come when we can close up this business of examining claims.

Mr. EATON. Mr. President, may I ask the Chair whether the question before the Senate is a question of order?

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The question is whether the amendment offered by the Senator from Kansas [Mr. PLUMB] is in order or not?

Mr. EATON. Then I do not propose to discuss anything else except the question of order. While I agree with my friend from Kansas that this measure should pass to give the bureau of the Commissioner of Pensions additional help, I do not think it is in order upon this bill. Clearly in my judgment it is new legislation. If the bill passes, and the Senate know and the bureau know exactly what force they require, every Senator will vote to give that bureau all the clerical force that is necessary, as we always have done; therefore I will not discuss the other matter. If I did I should say a word in favor of this present Commissioner. So far as I know, he has done his duty faithfully and well.

The PRESIDING OFFICER. The question is whether the amendment offered by the Senator from Kansas [Mr. PLUMB] is in order or not?

Mr. PLUMB called for the yeas and nays, and they were ordered.

Mr. EDMUNDS. Mr. President, I am very anxious that this provision shall be made or something like it, as I was anxious that the amendment reported from the Committee on Pensions should be received for consideration and after being put into a shape that would obviate sundry objections should be adopted. Perhaps I should not say I was anxious for it; but my inclination was to believe that we ought to try the experiment, not of taking everything out of the Pension Office that is there now, but of taking out such part of the cases that had not yet made much progress as would really help to dispose of the business. But I was very much afraid that the other amendment was not in order though I was not here when it was disposed of; and if I am obliged to vote upon this on the mere question of order, I shall be obliged to vote that this is not in order; but I think there is a method if the Senate should decide this not to be in order, whereby we can get at it still without any objection of order. That is all I wish to say.

Mr. DAWES. The original bill proposes the expenditure of a large sum of money in the payment of pensions, and the amendment provides a method of expending that money. I never knew before in my experience——

Mr. DAVIS, of West Virginia. This is an additional appropriation of $200,000, and has nothing to do with the expenditure of money already in the bill.

Mr. DAWES. I do not think that makes any difference. In order to provide for the better expenditure of the money appropriated by the bill, beginning and ending with that money, it is proposed to pay additional clerks for doing it. If this is not a limitation, a prescription of the mode and manner of expending the money appropriated in the original bill, I fail to see what it is. It applies to the appropriation in the original bill; and the fact that it is necessary to pay these men more money does not make it out of order. Suppose that the amendment had been in this form——

Mr. DAVIS, of West Virginia. I know my friend, who has had much experience with appropriation bills, will understand that the money proposed, $200,000, does not apply to the appropriations in this bill, because this bill appropriates for the coming year, and these clerks are asked for the current year. The Senator understands that, of course.

Mr. DAWES. I understand that these clerks are to be set at work.

Mr. DAVIS, of West Virginia. Immediately.

Mr. DAWES. When this bill takes effect, and it is in order to carry out the existing appropriations in this bill that this additional machinery is employed, I do not see but that in substance it will be simply this: there is so much money appropriated, provided that it be expended in the manner and through the instrumentality set forth in the amendment. That is always allowable.

Mr. DAVIS, of West Virginia. But my friend will see that the appropriation of $200,000 for clerical force is for the current year, "immediately available," while the appropriation in the bill is for the year to come, for the next fiscal year.

Mr. DAWES. I understand these clerks are to be employed in deciding to whom this money appropriated in this bill shall go.

Mr. DAVIS, of West Virginia. My friend will understand that this bill, as I have stated once or twice, takes effect on the 1st day of July next. The amendment for the employment of this additional force takes effect immediately and runs up to the time the bill commences.

Mr. DAWES. Does the Senator from West Virginia understand that these clerks are to stop operations on the 1st of July?

Mr. DAVIS, of West Virginia. No obligation, as far as this amendment goes, carries them beyond next July, for it says "to be available immediately" this year, the current year, not the year to come.

Mr. DAWES. But it does not say it shall cease to take effect on 1st of July.

Mr. DAVIS, of West Virginia. But my friend understands well that an appropriation at the end of the year falls unless the expenditure is made during the year.

Mr. DAWES. The money already appropriated it is found impracticable to expend according to existing law without this additional force, in the opinion of those who offer this amendment. This money if it begins and ends with this year, then, is just as clearly money appropriated to carry out existing provisions as it would be if it took effect on the 1st of July to direct the mode of expending the future appropriation. There is no mystery about it. It is a method of expending the money we appropriate under existing law to carry out the existing law. We provide by law and make appropriation for the construction of a vessel for the Navy, and we find it necessary to provide a naval constructor six months afterward it may be, or six more carpenters. Does it make any difference whether we provide the naval constructor six months afterward or provide for him when we make the appropriation? It is for the purpose of carrying out the existing law that we supply this method.

Mr. LOGAN. I do not desire to discuss this question of order, but I do desire to call attention to a matter which has not been mentioned. In all the discussion on either side in reference to this proposition no attention has been drawn to one matter in connection with the allowing of pensions. It makes no difference what kind of machinery or how much of it you have for allowing pensions while the law requires a certificate from the Surgeon-General coming from some hospital, or from the Adjutant-General in reference to the record of the soldier while in the Army, unless sufficient force is provided to furnish that. The Pension Office cannot go on any faster than it gets these certificates. As I said, it makes no difference about the machinery; all the machinery that has been talked about, the proposition that has passed by, and all else that you might frame, would not expedite it unless you furnish the force here in Washington City to examine these records and furnish them to the Commissioner of Pensions. I know the fact that in the Surgeon-General's Office the records are not classified as in my judgment they ought to be; the force has never been sufficient to rearrange and classify and fix them so that they can be examined in a moment to see whether a man was sick or not, and sometimes it is a month before that information is received by the Pension Office, and this is one of the great delays. All that is necessary in reference to the present machinery is to make it ample.

This amendment is of similar character to the one I suggested in my argument and was going to propose; but when it was proposed by the Senator from Kansas, of course that superseded the necessity of my proposition. I think the Senate ought to adopt it, and it ought to attach it to this bill for the purpose of affording the facilities which are necessary; and with this, in my judgment, there is nothing more necessary and nothing more that could advance the interests of pensioners. The law is ample if this addition is made.

Mr. INGALLS. Mr. President, I have no doubt that this amendment is in order under the rule; but a somewhat long experience in connection with the administration of the pension system of this Government leads me to doubt its efficiency. The delay and the procrastination in the adjustment of cases and their enormous accumulation, the congestion of business that has occurred in that office, are due to the inherent vices of the system, and I do not believe that those vices can be remedied by any addition to the present force employed under the Commissioner. The difficulty is here: this pension business is a matter of contract; it is a debt which the Government owes to those persons entitled to claim pensions under existing statutes; consequently, the determining of what individual shall by evidence bring himself within the provisions of the statutes and show himself entitled to be placed upon the roll is a judicial function purely. The great trouble underlying our whole system is, that you intrust judicial functions to executive officers. These men are appointed by the Government; they are paid by the Government; they are responsible to the Government; they can be discharged by the Government. Consequently their interests are thoroughly identified with the Government; and unconsciously and involuntarily they become the partisans of the Government to such an extent that they become antagonistic to the pensioner; and the question they ask themselves is, not what are the reasons for which this pension should be allowed, but what are the reasons that we can discover why this pension should be rejected. And that is the reason why there has been so much procrastination and delay in the adjudication of pension causes; and my belief is, and my fear is, that additional clerks will prove merely an additional obstruction. As it is now, after a case has been made out to the satisfaction of any man who would be impartial between the Government and the pensioner, the clerks and examiners who have the matter in charge devote themselves to further efforts to delay and retard: they call for this evidence upon this point, and for that evidence upon that point, and finally hang it up and lay it away and pigeon-hole it indefinitely, in the vain hope that something may be discovered upon which the pension may not be finally allowed, but finally rejected.

Now, Mr. President, so long as these functions essentially judicial in their character are intrusted to executive officers, just so long you will have trouble with the difficulties that annoy and harass us to-day. Our pension list is already the second largest, I think, in the budget. It is an extraordinary fact that we are paying to-day more

for pensions than we are paying for the support of the Army and Navy combined; and instead of being diminished, if the present pensions claims shall be properly adjudicated the amount is to be annually increased until if my computations are right—and I have, as I said from long familiarity with this subject, devoted great attention to it—I believe that before the claims now upon the list are adjusted the annual pension-roll will reach $100,000,000, and will finally settle back to about forty-five million dollars, at which point it will be maintained for a great number of years—not in consequence of additions to the roll by what is called the arrears-of-pensions act, for that added nobody. There has been studious and persistent misapprehension and misrepresentation about that subject. The arrears-of-pensions act added nobody to the roll; it simply removed an arbitrary, illogical, and unjust limitation by which the pension was to date from the time of the filing of the last paper necessary to establish the claim, thereby placing every man's claim at the caprice of the Commissioner, and said as the law of 1862 said that when a man was wounded or disabled in the service of his country so as to entitle him to a pension, that pension should be paid him from the date of the disability.

There has been much denunciation of the arrears-of-pensions act. It has been denounced as the act of demagogues, as a piece of sentimentalism; and we have had repeated calls from the press and from other sources for some man who would become responsible for the act, as if there was some turpitude about it. Mr. President, I introduced the arrears-of-pensions act first in 1876. I repeated it in 1878. I was chairman of the committee that reported it to the Senate. I moved its consideration in January, 1879, and insisted upon action until it was finally passed. It was an act of justice that had been long delayed; and if public indignation is looking for a victim I offer myself in that capacity; and I hope until some man or some Senator or some member of the House of Representatives who denounces this as an act of demagogism has the intrepidity and the temerity to offer some bill repealing the arrears-of-pensions act we shall hear no more about its injustice or about its demagogism. It was an act of simple justice; it was carrying out the plighted faith of the nation; and whether it gives $50,000,000 this year or $100,000,000 or $500,000,000 is not the question. It does not become men when they owe a debt to stand around grumbling about the amount of it; and I have never heard that a statute of limitations paid a debt. In imposing a statute of limitations upon the pension act the United States Government did an act unworthy of itself. In private life a man who would plead the statute of limitations to a debt otherwise acknowledged to be honest would be regarded as little better than a thief, certainly not a man of honor; and the arrears-of-pensions act was merely removing an invidious, illogical, unreasonable, and arbitrary limitation.

It has been said here that the figures upon this subject have been exaggerated, that we should ultimately pay something more perhaps than $500,000,000 of pensions. I do not think they have been exaggerated. I believe we have already paid something near five hundred million dollars in pensions since 1861, and I have no doubt that under the operation, not of the arrears-of-pensions act, but under the operation of the pension acts of the Government paying a just debt and an obligation to those of the 2,800,000 men who enlisted in defense of this country, we shall ultimately pay perhaps $600,000,000 or $700,000,000; but that is not in consequence of the arrears-of-pensions act, but in consequence of the pension act of 1862, because the arrears-of-pensions act placed no man upon the roll who was not there before; no man could get upon the list of pensioners by virtue of that act unless he brought himself strictly within the provisions of law entitling him to a pension.

But, sir, I did not intend to be betrayed into any consideration of the general subject of pensions. I merely meant to say when I rose that the amendment offered by my colleague, [Mr. PLUMB,] while it is, as I believe, proposed with the best design, yet with the theory that I entertain of the present condition of the pension system, will be ineffectual and an obstruction rather than a benefit to the present system, because until we have separated the judicial functions of the Government in this matter from the executive functions, until we have reposed in men appointed for that purpose who shall not be partisans of the Government the function of deciding who shall be entitled to a pension and what they shall receive, you will always have the same difficulty that exists to-day. Instead of endeavoring to find out reasons why men shall be placed on the roll, they will be endeavoring to find out reasons why they should be rejected.

And in regard to the Commissioner of Pensions, before I sit down I desire to say this: while I do not sympathize in any particular with the animadversions that have been made upon him, I think he is a conspicuous and shining example of the vices that taint our present system of administration. If he had devoted himself to the practical business question of how the 350,000 claims that are pending upon these rolls should be determined and decided, instead of indulging in theories and systematic efforts to invent a new fabric of administration, we should have had less to complain of than we have to-day. But he is there as the representative of this vicious system; he is identified with the Government, and to that extent he is the antagonist of the pensioner; and if our system of pensions had been administered upon the same plan and with the same vigor and energy that characterizes the administration of any great business enterprise in this country, a railroad, a shop, a mine, or a factory, it would not be necessary for him to have said, as he has said in his last report, which is one of the most tragic utterances that ever fell from any official, that while these matters have been pending thousands upon thousands of members of the Army and Navy who were entitled to pensions have died without obtaining relief.

Mr. BURNSIDE. Mr. President——

Mr. THURMAN. Will my friend give me the floor to move an executive session?

Mr. DAVIS, of West Virginia. I hope we shall be allowed to finish this bill. We have been at it several days. I think we are about ready to take a vote.

Mr. THURMAN. If so, I shall not make the motion.

Mr. BURNSIDE. I am not surprised that the Senators who placed obstacles in the way of the adoption of the amendment of the Senator from Virginia should seek some other amendment to rectify their mistake. The men who raised that point of order are now very anxious indeed that something should be done to hasten the handling of pension claims. I favored the amendment of the Senator from Virginia because I believed it would expedite the examination of pension claims. I believed the pensioners would be brought in contact with agents of the Government occupying a judicial position as suggested by the Senator from Kansas, [Mr. INGALLS,] and I thought that would very greatly expedite the settlement of their applications. But I do not believe that this increase of force which is contemplated by this amendment will answer that purpose. In fact I believe very much as the Senator from Kansas does, that it will simply clog the wheels of the bureau. There is too much of that kind of machinery altogether.

The gentlemen who put themselves on account of their parliamentary views as an obstacle in the way of the amendment of the Senator from Virginia have in my opinion done the pensioners of this country and the pension applicants a very great wrong, and it will be seen at a future day that they have done that wrong. I believe that three-fourths of the members of the Senate are favorable to the amendment of the Senator from Virginia, or a greater majority even than that; and yet a few men who think they know more than a large majority of the Senate put themselves in the way of that amendment on a parliamentary technicality, and I think they have done the pensioners a very great wrong, and the Government also.

I just wanted to put myself on record upon that question. Now, I can see no difference between this amendment of the Senator from Kansas [Mr. PLUMB] and the amendment of the Senator from Virginia [Mr. WITHERS] in a parliamentary point of view. This authorizes the employment of an additional number of clerks, and the amendment of the Senator from Virginia authorized the appointment of an additional number of officers. They are both for the same purpose, that is to carry out the pension law, to expedite the granting of pensions. I believe they are both in order, and I voted that the amendment of the Senator from Virginia was in order, and I am ready to vote that this amendment is in order; but I shall vote against the amendment on its merits, because I do not believe it is the most effective way to produce the result which we sought to produce by the amendment of the Senator from Virginia.

Mr. PLUMB. I do not care to detain the Senate; but we might as well talk to some practical effect. I am not willing, so far as I am concerned, to let the question go on the opinion of the Commissioner of Pensions or the Secretary of the Interior, because I have an opinion of my own about it, and I think the Senate ought to have an opinion of its own, too, and it ought not to be compelled, or it ought not to be willing even, to accept simply what may be said by the Department without seeking information elsewhere. We are under a responsibility in this matter. Here is what everybody concedes to be a public scandal. Now, the Senator from Rhode Island says in effect that captiously the amendment moved by the Senator from Virginia has been beaten, and that this is something that is designed to cover the retreat. I did not participate in the discussion on Senate bill No. 496 at all, because I thought I knew how that question was going to be decided, and I did not want to take up time; but I do not believe any candid man, who will look carefully at that bill and observe how everything is required to come back for the supervision and the control and management of the Commissioner of Pensions, will be able to put his hand on his heart and say that that simplifies the business at all. It only substituted two hundred and ninety-three traveling courts for what may now be three hundred thousand traveling courts.

Mr. EATON. I will not interpose a question of order while my friend from Kansas [Mr. PLUMB] is on the floor; but I give notice that after he gets through I will interpose the question of order. I insist that this whole discussion is entirely out of order, just as much as I think the amendment is out of order.

Mr. PLUMB. I presume it may have been out of order technically speaking, but the question is not out of order at all events. Whether the debate be out of order or not is perhaps immaterial; but the question itself is not out of order. This question of order will be more in order on the 1st of July than it is now, and on the 1st day of next January it will be the overshadowing thing if we do not do something. My colleague says—and I have great deference for his judgment, because he is as well posted as any one in regard to the methods of doing business in that office—he is satisfied or fears that the addition of clerks will be an obstruction to business. We do not compel the Secretary of the Interior or the Commissioner of Pensions to take these

clerks if that be the fact; but it will be an expression of the will of the Senate in the first place, and of Congress, that something shall be done. It is recognition of the magnitude of this issue.

I am not willing either to say that the present Commissioner of Pensions is the only man in the United States who can handle two hundred examiners and a corresponding number of clerks. If we give these clerks we shall have more business transacted in the office, and suppose it is only a small percentage of the amount which ought to be transacted, it is still a step in the right direction, and it is superior in my judgment to the bill which was offered by the Pensions Committee, especially for sparsely settled sections of the country. One single district in my State has over forty counties in it. It would not be possible for any court traveling to hold sufficient sessions in any of the counties in that district to transact the business with any degree of speed whatever. That court would have to wait for the instructions of the Commissioner of Pensions at every step. As to the taking of testimony elsewhere in regard to cases pending before the court in any county, it could not act except upon his request, and so on. Everything would have to be drawn through that one conduit, and that would have been sufficient to obstruct it just as completely as the business is obstructed now.

I believe that by the adoption of this amendment, if it shall be adopted, we shall arrive at a more rapid disposition of these cases. I believe it will be regarded as mandatory on the Commissioner of Pensions—if not by the present Commissioner, then by the new one—to dispose of this business more rapidly. I think myself it is the least the Senate can do as an expression of its judgment on that which has become not only a scandal but a great wrong.

The PRESIDING OFFICER. The question is whether the amendment offered by the Senator from Kansas is in order.

The question being taken by yeas and nays, resulted—yeas 31, nays 24; as follows:

YEAS—31.

| | | | |
|---|---|---|---|
| Allison, | Dawes, | Logan, | Rollins, |
| Blair, | Ferry, | McMillan, | Saunders, |
| Bruce, | Hampton, | McPherson, | Teller, |
| Burnside, | Hoar, | Pendleton, | Thurman, |
| Butler, | Ingalls, | Platt, | Vance, |
| Cameron of Pa., | Johnston, | Plumb, | Voorhees, |
| Conkling, | Jones of Nevada, | Randolph, | Windom. |
| Davis of Illinois, | Kirkwood, | Ransom, | |

NAYS—24.

| | | | |
|---|---|---|---|
| Bailey, | Eaton, | Jonas, | Pugh, |
| Beck, | Edmunds, | Kernan, | Saulsbury, |
| Booth, | Farley, | Lamar, | Slater, |
| Cameron of Wis., | Garland, | McDonald, | Vest, |
| Coke, | Harris, | Maxey, | Williams, |
| Davis of W. Va., | Hereford, | Morgan, | Withers. |

ABSENT—21.

| | | | |
|---|---|---|---|
| Anthony, | Carpenter, | Hill of Georgia, | Walker, |
| Baldwin, | Cockrell, | Jones of Florida, | Wallace, |
| Bayard, | Groome, | Kellogg, | Whyte. |
| Blaine, | Grover, | Morrill, | |
| Brown, | Hamlin, | Paddock, | |
| Call, | Hill of Colorado, | Sharon, | |

The PRESIDING OFFICER. The amendment is decided to be in order. The question now is on the adoption of the amendment.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of Illinois. I move that the Senate adjourn. It is too late to go into executive session now.

The PRESIDING OFFICER. The Senator from Illinois moves that the Senate do now adjourn.

The motion was agreed to; and (at five o'clock and twenty minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### MONDAY, *February* 7, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday was read and approved.

#### PERSONAL EXPLANATION.

Mr. SPEER. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. SPEER. Mr. Speaker, in the RECORD of Saturday's proceedings I find that my colleague, Mr. HAMMOND, has reflected on me, and has misinterpreted and misstated a brief statement made by me that day on the electoral count joint resolution. The gentleman was pleased to say, as it appears from the RECORD:

> I regret that my colleague from Georgia [Mr. SPEER] should arraign the rest of us, both of his State and of his party, for an alleged dereliction in duty, in order to justify what some have thought to be his violation of party allegiance and fealty. It may be a subject of congratulation to him that in his estimation now the tail wags the dog. Let it be so—

said the gentleman with infinite condescension.

When the gentleman from whom I quote accomplished this deliverance, on Saturday last, I was not aware that he alluded to me. My name was not mentioned by him, but it is inserted in the RECORD. I presumed that his animadversion was directed at another colleague, who had that day in some way charged Georgia officials with dereliction of duty.

His remarks as applicable to me were unprovoked and were unparliamentary to a degree of coarseness. I had not arraigned anybody for a "dereliction of duty." Nothing I had said could be construed into such an arraignment. It is true that I had differed with my colleague on the Morgan joint resolution, and I simply expressed that difference, and claimed that the resolution adopted by the House on Saturday was entirely satisfactory to me. I mentioned also that I, together with my colleagues who voted against the first resolution, had been criticised by the partisan press.

But, sir, I repeat that I said nothing which could be construed, even by the most irritable and querulous, into an arraignment of anybody for a dereliction of duty. A gentleman of discrimination can easily recognize a difference of opinion entirely consistent with the highest sense of duty in all the parties concerned. And so, sir, it is my privilege to say that my colleague has placed a construction on my remarks which is most unwarrantable. And, sir, the gentleman did not stop there. While he was up he took occasion to regale the House with a choice selection from his *repertoire* of other people's satire, at the expense of those of us in Georgia who have the temerity to dissent from his notions of proper party methods.

> I desire—

Said he, with classical playfulness—

> as I am in the line of quoting authorities, in reply to the suggestion of the gentleman that the independent is always right and everybody else is wrong, to quote a declaration from Coke's Institutes, made many years ago of course.
>
> Lord Coke in the Fourth Institute draws a parallel between a useful member of Parliament—one possessed of all "properties a Parliament man should have"—and the Solomon of the bestial world, to wit, the elephant. "Every member of the House," he says, "being a counselor, should have three properties of the elephant: first, that he hath no gall; secondly, that he is inflexible and cannot bow; thirdly, that he is of a most ripe and perfect memory." * * * We will add two other properties of the elephant—the one that the elephant is *philanthropos, h mini erranti viam ostendit*—a philanthropist who showed the wanderer his road—

Said the gentleman, handsomely translating the dead tongue for those whom Sydney Smith would call the "Agricolous members."

> The other, that though they be *maximæ virtutis et maximi intellectus*, of greatest strength and understanding—

Again translating—

> *tamen gregatim semper incedunt*—

And here the gentleman supplies, with much liberality, his final translation—

> yet they are sociable and go in companies.
>
> Sociable creatures that go in flocks or herds are not hurtful, as deer, sheep, &c., but beasts that walk solely or singularly, as bears, foxes, &c., are dangerous and hurtful. [Great laughter.] And these properties ought every Parliament man to have." (Heard's Curiosities of the Law Reporters, page 183.)

Now, sir, I made no such suggestion as that he imputes to me. I did not suggest that the independent is always right. I simply maintained, as it was entirely proper and legitimate for me to do, that I was right on the particular question mentioned and about which I have been criticised. I confess, too, Mr. Speaker, that whenever I had been in the habit of regarding the shapely intellectual and physical proportions of my colleague I had never detected so many points of similitude between him and the lordly elephant. Indeed, sir, I have seen nothing of the elephant in his make-up. Those who know him best will, however, recognize some of the attributes which Lord Coke mentions. He has no gall. Not he. He is inflexible and cannot bow. The elephant too, I may remark, is no inexpert trumpeter—for himself. But since the gentleman has humorously likened me to the solitary species of the *ferœ naturæ*, I will be pardoned for saying that there are gregarious and sociable animals which, to my mind, much more vigorously suggest and typify the gentleman than the elephant, whose characteristics he would emulate. There, sir, stands that native-born American citizen, *Guliellmus capricornus*. He too is gregarious, and while the elephant, I beg pardon, the gentleman from Georgia, would be but a baby elephant in a herd of these sociable mammals, he might most readily be mistaken for a patriarch of distinction in society with the sportive and frolicsome goat. And so let me in this way gently suggest to the gentleman that his gregarious illustration is not always felicitous.

Mr. HATCH. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. HATCH. I insist that this is not a question of privilege.

Mr. HAMMOND, of Georgia. I hope the gentleman will not be interrupted. Please let him proceed.

Mr. HATCH. I must insist upon my point of order in the interest of the legislation of the country.

The SPEAKER. The Chair thinks the gentleman is going beyond the limits of a mere question of personal privilege.

Mr. SPEER. I am replying to remarks the gentleman has seen proper to make about me.

Mr. Speaker, my colleague has intimated that the arraignment which he alleges me to have attempted was in order to justify what some have thought to be a violation of party allegiance and fealty by me. The gentleman is as far wrong here as he is when he charged me with accusing people of a dereliction of duty. I owe to party no fealty or allegiance which controls either my judgment or my sense of public

duty. I am not sensitive upon that subject. I have differed with the majority of the party, not because I arrogated to myself any superiority, but, sir, I am entitled to my opinion, and do not choose to surrender my convictions.

Sir, I seek to justify my public conduct to no tribunal save the enlightened public sentiment of my State, and while I have differed with my colleague as widely heretofore as I do now, I have as yet no occasion to be chagrined with the judgments of that tribunal.

Mr. HAMMOND, of Georgia. Mr. Speaker, the gentleman's comment this morning upon what I said on Saturday does me injustice——

Mr. NEW. I hope, Mr. Speaker, that we may have order in the House.

The SPEAKER. The Chair desires to state to the gentleman that, as the end of the session approaches, he hopes, in the interest of the transaction of public business, that order may be maintained upon the floor.

Mr. HAMMOND, of Georgia. I repeat, sir, that the comment of the gentleman this morning has done me, in some slight particulars, as much injustice as he claims I did him. Personally I could not on this floor have so far forgotten myself and the respect due to this House as to have been guilty of an unparliamentary assault upon him or any unparliamentary conduct. If I believed that my colleague was coarse in any allusion which he made, I would not say so in this presence. I have regarded him always as my personal friend. I have supped at his grandfather's table and also at his father's table, and have known him intimately from his very boyhood, and I, in common with all the people of the State of Georgia, congratulate the country upon possessing one of his extensive learning and very great brain.

But, Mr. Speaker, great men may err. The most distinguished individual may do wrong, and it may be that the gentleman himself erred on Saturday. I will justify my conduct by citing the motive which actuated me at that time, and see whether or not I am subject to the criticism which he makes this morning.

The democratic party had tried to pass—after a fashion at least, seemed to be trying to pass—a joint resolution. [Laughter on the republican side.] I may say that it seemed a feint. I have no doubt of that. The gentleman from Georgia did not seem to understand that feint, and he voted against his party. We were just before twitted by the honorable gentleman from New Jersey [Mr. ROBESON] (who always does such things decently and very pointedly also) with having violated the old landmarks of constitutional liberty as understood by the democracy. He certainly arraigned our party; he certainly intended to make his arraignment pointed; and when the gentleman from Georgia [Mr. SPEER] arose and said "the gentleman from New Jersey [Mr. ROBESON] did some of us injustice when he said that none on this side dared to stand forth and speak for what we understood to be true democracy against this Morgan joint resolution," and added "there were three of us over here who did that thing, and our votes are found recorded against it," I understood him to mean that which the gentleman from New Jersey had uttered, that none but three—as Shadrach, Meshach, and Abednego, [laughter and applause]—none of this grand democratic party but three had dared to utter what they believed to be true democratic principles. He went further, and said:

> And I congratulate my brethren of the democratic party that we have reached a solution of this question upon which we can agree, and which will not do violence to those grand rights of the sovereign States for which I thought I was speaking when I voted against that joint resolution which took the power from the States and vested it in Congress.

Is not that necessarily pregnant with the idea that when we, the democrats, voted the other way we were doing violence to those grand rights of the sovereign States to which he refers? He also said:

> This resolution now to be adopted by Congress has speedily justified that vote. I have, sir, been criticised, together with my colleagues who voted against that resolution, by the ultra partisan press. But those criticisms were not due solely to the fact that we voted against the resolution, but also perhaps to the fact that we had antagonized ultra partisan methods in the Empire State of the South. We were right, and I stand to that vote, and I find now, if I mistake not, that all the democracy here are standing shoulder to shoulder with us—

That is, "us three"—

> and upon the same line on which we then stood.

Now, Mr. Speaker, before I go on and comment upon that sentence, I wish to refer to the gentleman's remark that I have changed the RECORD by inserting something in it which was not uttered on this floor. I have not done so.

Of course I have nothing to do with the making up of the RECORD, as to the insertion of names in it; and of course every gentleman on this floor who has ordinary intelligence must have understood that I alluded to the gentleman from Georgia, Mr. SPEER, and not to the gentleman from Georgia, Mr. FELTON, in the remarks I made. Mr. FELTON had said nothing to justify the application to him of the idea that in his estimation the tail was wagging the dog. He had said nothing about his difference with the party; he had addressed himself to a question of dereliction of duty on the part of certain officers in Georgia. I could have had no other reference than that to the gentleman, Mr. SPEER.

Now, Mr. Speaker, if I did not behave like the elephant on that occasion, as the gentleman said, in having "no gall," I did not intend to do anything more than to say that I thought it was unkind for the gentleman to arraign his party and to arraign his State. Let me say further there was an additional increment to my feeling in an expression he made use of. The gentleman has changed the RECORD in that particular, and has put in another expression. As soon as the Reporter can supply from his notes the real words the gentleman used it will be seen he uttered no such words as "ultra-partisan methods." He said he was opposed to the "Bourbon party" and the "Bourbon methods of Georgia." He got hold of the slang phrase which the other side is in the habit of throwing in the teeth of this side of the House. And it was that which excited me; I do not know exactly why. I am not sufficiently acquainted with history to know why a man should dislike to be called a "Bourbon" democrat. Possibly the term is used as an antagonism to Jacobin. But at any rate, as it is a slang phrase, uttered by the republican side of the House, I felt it was unkind for a man in our party to take it up and throw it in our teeth.

Mr. ROBESON. When we use that phrase we do not mean Georgia but Kentucky.

Mr. HAMMOND, of Georgia. I said I had no gall in this thing and only desired to defend myself and party. If I had had any gall I might have suggested an unpleasant criticism on the gentleman. That great Englishman, Charles James Fox, when asked to define an "independent," said he was a man who could not be depended upon. [Laughter.] I did not wish to say anything hard or anything unpleasant. Still, with the idea I had in my mind, if I had desired to be unpleasant, I might have prayed for our party that the gentleman, like Samson's foxes, might have a firebrand attached to his tail, and that he might be sent over among the Philistines for their destruction and the annihilation of himself. [Laughter.] But I simply tried to defend my State and my party from any charge of not being true to the rights of the States, from anything that was implied in any harsh term like Bourbonism.

I need not say, Mr. Speaker, that I have no objection to independence of thought and independence of speech and action. Every true man admires independence everywhere and on all occasions. But I wish to make this remark, that the truly independent man needs not to protrude his independence on the world. The world will find it out.

The truly independent man may march as well in column with his party as outside his party; he may differ occasionally with them, but his differences will be the exception and not the rule. I admire true independence—that independence that makes a man stand, when his conscience tells him he must stand, like a rock, even to his death. I admire that independence which made for the church its martyrs, and has made men distinguished in every age as the rightful leaders of mankind. That independence will meet its just reward everywhere. It will give to a man fame, not notoriety.*

Mr. SPEER. I desire to say a word in reply to the gentleman from Georgia, [Mr. HAMMOND.] He has now conceded distinctly that that joint resolution, for voting against which he arraigns me as recreant to party allegiance and party fealty, is a feint and a subterfuge. The gentleman concedes it. [Cries of "Regular order!"]

Mr. HAZELTON. Let the gentleman go on. Let there be fair play.

Mr. SPEER. I had misunderstood it. I thought it was a serious proposition, and being in earnest myself and conscientiously opposed to it, I voted against it. But the gentleman has not escaped the point which I make upon him when I say that he alleged I charged upon him and the people of the State of Georgia a dereliction of duty. Sir, I did no such thing. It is true I used the expression, "Bourbon press;" but at the suggestion of my friend from Virginia, [Mr. HARRIS,] who objected to the use of that expression, I eliminated the term "Bourbon" and substituted the words "ultra partisan," which I think mean precisely the same thing. The gentleman renews his offensive and unparliamentary remark about the tail wagging the dog.

Mr. HARRIS, of Virginia. I ask my friend to let me interrupt him. I know he does not mean to say I suggested to him to keep the expression out of the RECORD. I did suggest that I thought it was unkind in him to apply to our party the term used by the opposite party.

Mr. SPEER. And I accepted the gentleman's suggestion and made the alteration, because I desired to give no offense to my friends on this side of the House by words used in the heat of debate. This is neither unusual here, nor improper.

The gentleman from Georgia again alludes to me as a member of the solitary species of the *ferœ naturæ*. Mr. Speaker, who is there who will always decry that species; who will decry some of the more elevated members of that species, and rather admire, for instance, the melodious wild ass of the plains, who is a gregarious animal? Does not Æsop tell us that an ass, though gregarious, sought on one occasion to enhance his renown by masquerading in a lion's skin?

ORDER OF BUSINESS.

Mr. HAMMOND, of Georgia. I call for the regular order.

Mr. HAZELTON. I also call for the regular order now.

The SPEAKER. The regular order being demanded, the Chair, as

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*The transcript from the shorthand notes of the official reporter puts this as Mr. SPEER's language:

"I have, sir, been criticised, together with my colleagues who voted against the resolution, by the Bourbon press of Georgia. Those criticisms were not due solely to the fact that we had voted against the resolution, but perhaps also to the fact that we had antagonized Bourbon methods in the Empire State of the South."

required by the rules, will now call the States and Territories in alphabetical order for the presentation of bills and joint resolutions for printing and reference. Under this call joint and concurrent resolutions and memorials of State and territorial Legislatures can be presented and appropriately referred; and resolutions of inquiry directed to heads of the Executive Departments are in order for reference to the appropriate committees, which latter resolutions are to be reported to the House within one week.

WITHLACOOCHEE RIVER, FLORIDA.

Mr. DAVIDSON presented a memorial of the State Legislature of Florida, asking an appropriation for the improvement of the Withlacoochee River; which was referred to the Committee on Commerce.

INDIAN WAR EXPENSES OF FLORIDA.

Mr. DAVIDSON also presented a joint resolution of the Legislature of the State of Florida, praying the passage of Senate joint resolution No. 79, for a settlement of the claim of Florida for expenses incurred in the suppression of Indian hostilities in 1855, 1856, and 1857; which was referred to the Committee on Claims.

IMPORTATION OF COPIES OF THE REVISED SCRIPTURES.

Mr. CARLISLE introduced a bill (H. R. No. 7120) to permit the entry at the port of New York free of duty of certain copies of the revised Scriptures; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

TAXATION.

Mr. THOMAS TURNER introduced a joint resolution (H. R. No. 389) upon the subject of taxation; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

Mr. THOMAS TURNER. I ask, as the joint resolution is a short one, that it be printed in the RECORD.

The SPEAKER. It is not in order to submit that request during this call. The Chair will recognize the gentleman later for the purpose.

Subsequently the request was renewed and granted.

The joint resolution is as follows:

*Resolved by the Senate and House of Representatives, &c.*, That the Constitution of the United States confers no power upon Congress to impose tariff, internal revenue, or other taxation, except for the purpose of raising revenue.

Second. The revenue standard of taxation is the lowest rate that will yield the required revenue.

Third. To impose a higher tax when a lower one would yield the same amount of revenue is to place an unnecessary burden on the consumers of the taxed articles, which brings no additional return to the Treasury.

Fourth. That neither the State nor Federal Government has or should have the power to impose a tax upon one portion of the people, or the profits of their industries, for the purpose of enabling another portion to engage profitably in a branch of industry which would otherwise be unremunerative.

Fifth. Within the revenue standard, as above defined, Congress may, in the selection of objects for taxation, discriminate with a view to the effect upon American labor and the introduction of agricultural and manufacturing industries.

Sixth. That internal revenue, tariff, and other indirect taxes should be levied upon the luxuries, and not upon the necessaries of life. The chief advantage of indirect over direct taxation is that the payment of the tax is voluntary; but when imposed on articles of prime necessity it ceases to be such.

L. S. CASEY.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 7121) for the relief of L. S. Casey; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

S. J. WATTS.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 7122) for the relief of S. J. Watts; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM MIRIDA.

Mr. THOMAS TURNER also introduced a bill (H. R. No. 7123) for the relief of William Mirida; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

ANN HUNTER.

Mr. MURCH introduced a bill (H. R. No. 7124) granting a pension to Ann Hunter; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PETER CAMPBELL.

Mr. MURCH also introduced a bill (H. R. No. 7125) granting a pension to Peter Campbell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS MURRY.

Mr. MURCH also introduced a bill (H. R. No. 7126) granting a pension to Thomas Murry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WASHINGTON CITY POST-OFFICE.

Mr. URNER introduced a bill (H. R. No. 7127) to authorize the taking of certain parcels of real estate for the public use known as square No. 459, (Washington City,) where the present city post-office is situated; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

AUDITOR OF RAILROAD ACCOUNTS.

Mr. McLANE. I have a letter from the Auditor of Railroad Accounts in the Treasury Department, which I ask be printed and referred to the Committee on the Pacific Railroad.

The SPEAKER. That is not in order during this call. The Chair will recognize the gentleman later for that purpose.

CONNECTICUT RIVER.

Mr. ROBINSON presented a resolution of the Legislature of Massachusetts, recommending the improvement of the navigation of the Connecticut River; which was referred to the Committee on Commerce.

PHEBE W. ROSS.

Mr. CRAPO introduced a bill (H. R. No. 7128) granting a pension to Phebe W. Ross; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ASSISTANT INSPECTORS OF STEAM-VESSELS.

Mr. MORSE introduced a bill (H. R. No. 7129) to define the duties of assistant inspectors of steam-vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HARRIET E. JONES.

Mr. BREWER introduced a bill (H. R. No. 7130) granting a pension to Harriet E. Jones; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GOOSE RAPIDS, RED RIVER OF THE NORTH.

Mr. POEHLER presented a joint resolution of the Legislature of the State of Minnesota, asking for an appropriation for the construction of locks and dams at Goose Rapids, in the Red River of the North; which was referred to the Committee on Commerce.

ENTRIES OF PUBLIC LANDS.

Mr. WASHBURN introduced a bill (H. R. No. 7131) to legalize entries of public lands under the homestead laws, in certain cases; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

He also introduced a bill (H. R. No. 7132) for the entry and sale of public lands for the right of way to railroad companies; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

IMPROVEMENT OF RED RIVER OF THE NORTH.

Mr. WASHBURN also presented a joint resolution of the Legislature of the State of Minnesota, requesting an appropriation of money for the improvement of navigation of the Red River of the North; which was referred to the Committee on Commerce, and ordered to be printed.

DONATION OF CONDEMNED CANNON.

Mr. MORSE introduced a bill (H. R. No. 7133) donating condemned cannon to Post 7, Grand Army of the Republic, of Boston, Massachusetts; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

THOMAS BLACKFORD.

Mr. PHILIPS introduced a bill (H. R. No. 7134) for the relief of Thomas Blackford, of Pettis County, Missouri; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN H. FISHER.

Mr. PHILIPS also introduced a bill (H. R. No. 7135) for the relief of John H. Fisher, of Pettis County, Missouri; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

COLUMBUS H. COX.

Mr. PHILIPS also introduced a bill (H. R. No. 7136) for the relief of Columbus H. Cox, of Pettis County, Missouri; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

DISTRIBUTION OF PUBLIC LANDS.

Mr. FORD (by request) introduced a bill (H. R. No. 7137) providing for the distribution of the public lands; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

TRANSVAAL REPUBLIC.

Mr. ROBESON introduced a joint resolution (H. R. No. 390) as to the Transvaal Republic; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

SAFETY ON RAILROADS.

Mr. ROBESON (by request) also introduced a bill (H. R. No. 7138) to provide for safety of life on railroads; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

SPENCER OLDS.

Mr. DWIGHT introduced a bill (H. R. No. 7139) for the relief of Spencer Olds; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MAIL SERVICE MUTUAL BENEFIT ASSOCIATION.

Mr. DWIGHT also introduced a bill (H. R. No. 7140) to incorporate

The United States Railway Mail Service Mutual Benefit Association; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BONDS OF CIGAR MANUFACTURERS.

Mr. COVERT introduced a bill (H. R. No. 7141) to amend section 3257 of the Revised Statutes, relative to the bonds to be given by cigar manufacturers; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

PROTECTION OF PUBLIC RECORDS, ETC., AGAINST FIRE.

Mr. MORTON introduced a bill (H. R. No. 7142) to aid in the protection of the public records and property against loss and damage by fire; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

EDUCATIONAL FUND.

Mr. VANCE presented resolutions of the Legislature of the State of North Carolina, in relation to the educational fund; which, having been read on the request of Mr. VANCE, were referred to the Committee on Education and Labor.

Subsequently, on motion of Mr. VANCE, by unanimous consent, the resolutions were ordered to be printed in the RECORD. They are as follows:

A resolution of instruction to our Senators and Members of the House of Representatives in the Congress of the United States in relation to the educational fund.

Whereas the education of the masses is of the first importance; and it is the earnest desire of the members of this General Assembly that educational facilities for the benefit of the masses shall be increased in North Carolina to the fullest extent: Therefore,

*Be it resolved by the senate of North Carolina, (the house of representatives concurring,)* That our Senators and Representatives in Congress be requested to support the bill now before the Congress known as the educational bill.

*Be it further resolved*, That if said bill does not provide for the application of the fund to primary schools exclusively, then our said Senators and Representatives are hereby requested to urge the adoption of an amendment to that effect.

*Resolved*, That the secretary of State transmit to each of our Senators and Representatives in Congress a copy of this resolution.

Ratified this the 31st day of January, A. D. 1881.

C. M. COOKE,
*Speaker House Representatives.*
J. L. ROBINSON,
*President of the Senate.*

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STATE OF NORTH CAROLINA,
OFFICE OF THE SECRETARY OF STATE,
*Raleigh, February 2, 1881.*

I certify that the foregoing is a true copy from the record in this office.
[SEAL.] W. L. SAUNDERS,
*Secretary of State.*

MARY MERRILL.

Mr. VANCE also introduced a bill (H. R. No. 7143) granting a pension to Mary Merrill; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PENSIONS.

Mr. McKINLEY introduced a bill (H. R. No. 7144) to increase the pensions of soldiers of the late war who lost an arm at the shoulder-joint to $30 per month; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. SMITH.

Mr. WARNER (by request) introduced a bill (H. R. No. 7145) for the relief of George W. Smith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CLASSIFICATION OF HOUSE FILES.

Mr. BELTZHOOVER introduced a joint resolution (H. R. No. 391) providing for arranging and classifying the files of the House now stored under the Hall of the House; which was read a first and second time, referred to the Committee on Accounts, and ordered to be printed.

W. D. M'DOWELL.

Mr. COFFROTH introduced a bill (H. R. No. 7146) granting a pension to W. D. McDowell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FIRST LIEUTENANT JOHN NELSON.

Mr. COFFROTH also introduced a bill (H. R. No. 7147) granting an increase of pension to First Lieutenant John Nelson, late of Company K, Eighteenth Pennsylvania Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM A. GROVE.

Mr. COFFROTH also introduced a bill (H. R. No. 7148) granting a pension to William A. Grove; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HERMON R. TYSON.

Mr. WISE (by request) introduced a bill (H. R. No. 7149) for the relief of Hermon R. Tyson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM BEISTEL.

Mr. WISE also introduced a bill (H. R. No. 7150) for the relief of William Beistel; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HOT SPRINGS COMMISSION.

Mr. YOUNG, of Tennessee, introduced a joint resolution (H. R. No. 392) to provide for printing the proceedings of the Hot Springs commission; which was read a first and second time, and referred to the Committee on Printing.

W. A. CHAPMAN.

Mr. WHITTHORNE introduced a bill (H. R. No. 7151) for the relief of W. A. Chapman, of Giles County, Tennessee; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

CALVIN NELSON.

Mr. HOUK introduced a bill (H. R. No. 7152) for the relief of Calvin Nelson, of Knox County, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

IRRIGATION OF BEAR RIVER VALLEY.

Mr. AINSLIE (by request) introduced a bill (H. R. No. 7153) to provide for the irrigation of the lands lying in Bear River Valley, in Idaho Territory, and to incorporate the Bear River Valley Irrigation Company; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

RECLAMATION OF DESERT LANDS.

Mr. AINSLIE also presented a memorial of the Legislative Assembly of the Territory of Idaho, relating to the reclamation of desert lands in Idaho; which was referred to the Committee on the Public Lands, and ordered to be printed.

LEGISLATIVE EXPENSES OF IDAHO TERRITORY.

Mr. AINSLIE also presented a memorial of the Legislative Assembly of the Territory of Idaho, praying for an additional appropriation to defray the expenses of said Territory; which was referred to the Committee on Appropriations, and ordered to be printed.

NORTH IDAHO.

Mr. AINSLIE also presented a memorial of the house of representatives of the Idaho Legislature, praying that the northern portion of Idaho Territory be attached to Washington Territory on the admission of Washington Territory as a State; which was referred to the Committee on the Territories, and ordered to be printed.

HECTOR F. PHELPS.

Mr. WILLIAMS, of Wisconsin, introduced a bill (H. R. No. 7154) for the relief of Hector F. Phelps, late musician of Company B, Tenth Regiment Wisconsin Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LAND GRANTS TO TRANSCONTINENTAL RAILROADS.

Mr. McLANE. I ask by unanimous consent, Mr. Speaker, to present a report from the Auditor of Railroad Accounts, prepared in compliance with my request of June 18, 1880. The report covers all facts connected with the land grants made by the United States to aid in the construction of Pacific railroads. The report has been shaped so as to take up separately each one of the great transcontinental railroads located on the forty-seventh, fortieth, thirty-fifth, and thirty-second parallels of latitude, giving details as to each main and branch line, with a general recapitulation showing the whole result. The report is very interesting, and I ask to have it printed and referred to the Committee on Pacific Railroads, and also to have it printed in the RECORD.

There was no objection, and it was ordered accordingly.

The report is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF AUDITOR OF RAILROAD ACCOUNTS,
*Washington, D. C., February 3, 1881.*

SIR: I have the honor to transmit herewith a report prepared in this office in compliance with your request of June 18, 1880, indorsed on a draught of a resolution which the Committee on Pacific Railroads authorized you to report to the House at its last session, but which in the press of other business was not reached before adjournment.

As the design of the resolution proposed was to ascertain as accurately as possible all facts connected with the land grants made by the United States to aid in the construction of the Pacific railroads, special inquiry has been made in order to obtain the fullest information.

The report has been shaped so as to take up separately each one of the four great transcontinental routes or railroads located on the forty-seventh, fortieth, thirty-fifth, and thirty-second parallels of north latitude, giving details as to each main and branch line, with a general recapitulation showing the whole result.

Very respectfully,

THEO'S FRENCH, *Auditor.*

Hon. ROBERT M. MCLANE,
*Chairman of Committee on Pacific Railroads,*
*House of Representatives.*

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DEPARTMENT OF THE INTERIOR,
OFFICE OF AUDITOR OF RAILROAD ACCOUNTS,
*Washington, D. C., January 26, 1881.*

*Report on the quantity and value of public lands granted by Congress to aid in the construction of the Pacific railroads.*

The proposed resolution in regard to the matters embraced in this report is as follows:

"*Resolved*, &c., That the Committee on the Pacific Railroads, by sub-committee, be authorized to sit during the recess for the purpose of ascertaining the quantity

and value of the public lands heretofore granted by Congress to aid in the construction of the Pacific railroads which have not vested in said roads by the terms of the several laws granting such lands, and the quantity and value of the said lands which have vested in said roads, how the same have been disposed of, at what price, and also how the proceeds of the same have been disposed of; also, the cost (in detail) of the construction of completed road, and the estimated cost (in detail) of the construction of road necessary to be built in order to complete the said railroads in accordance with the requirements of law; also, to ascertain the cost, or estimated cost, of construction of any and all railroads built, or proposed to be built, parallel or adjacent to the said railroads, whether or not the same are located on the line or lands reserved by any of the said granting acts of Congress; with authority to employ a clerk during that time, to obtain the assistance of the Auditor of Railroad Accounts, and to send for persons and papers or examine the same at the principal offices of said railroads; and all expenses necessarily incurred in the execution of this resolution shall be paid out of the contingent fund of the House."

For the purpose of this report the Pacific railroads have been classified as follows, namely:

1. Northern, or route on forty-seventh parallel of latitude.
2. Union Central, or route on fortieth parallel of latitude.
3. New Mexico Southern, or route on thirty-fifth parallel of latitude.
4. Texas Southern, or route on thirty-second parallel of latitude.

The first or northern line is known as Northern Pacific, and extends from the Montreal River, in Wisconsin, to Puget Sound, Washington Territory. Branch roads are intended to be built to Portland, Oregon, and to other points, as may be deemed advisable. The main line and the branch to Portland only have land grants.

The second or Union Central line embraces the roads heretofore known as Union Pacific, Central Pacific, Kansas Pacific, Central Branch Union Pacific, and Sioux City and Pacific, all of which are subsidized with bonds as well as lands. It also embraces in its system the Denver Pacific and the Burlington and Missouri River Railroad in Nebraska, which are subsidized with land only.

The third or New Mexico Southern line extends from Missouri and Arkansas through the Indian Territory to California and the Pacific Ocean, and has a subsidy of lands only.

The fourth or Texas Southern line extends from Louisiana through Texas to connect with the Southern Pacific at Yuma, on the Colorado River, thus obtaining a through line to San Francisco, California. This line has a subsidy of lands only.

NORTHERN, OR ROUTE ON FORTY-SEVENTH PARALLEL.

*The Northern Pacific Railroad Company.*—This company was chartered by an act of Congress approved July 2, 1864, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound, on the Pacific coast, by the northern route," (13 Stat., 365.)—*Report of Auditor of Railroad Accounts*, 1880, page 152.

Section 1 designates the route as follows, namely: "Beginning at a point on Lake Superior, in the State of Minnesota or Wisconsin; thence westerly by the most eligible railroad route, as shall be determined by said company, within the territory of the United States, on a line north of the forty-fifth degree of latitude to some point on Puget Sound, with a branch, via the valley of the Columbia River, to a point at or near Portland, in the State of Oregon, leaving the main trunk-line at the most suitable place, not more than three hundred miles from its western terminus."

Section 2 grants to the company the right of way through the public lands to the extent of "two hundred feet in width on each side of said railroad, including all necessary ground for station buildings, workshops, depots, machine-shops, switches, side tracks, turn-tables, and water-stations."

Section 3 grants to the company "every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever on the line thereof the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights, at the time the line of said railroad is definitely fixed, and a plat thereof filed in the office of the Commissioner of the General Land Office."

Section 6 enacts "that the President of the United States shall cause the lands to be surveyed for forty miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of said railroad; and the odd sections of land hereby granted shall not be liable to sale or entry or pre-emption before or after they are surveyed, except by said company, as provided in this act; but the provisions of the act of September, 1841, granting pre-emption rights, and the acts amendatory thereof, and of the act entitled 'An act to secure homesteads to actual settlers on the public domain,' approved May 20, 1862, shall be, and the same are hereby, extended to all other lands on the line of said road when surveyed, excepting those hereby granted to said company. And the reserved alternate sections shall not be sold by the Government at a price less than $2.50 per acre when offered for sale."

Sections 8 and 9 give the conditions attached to the grant as follows, namely: "That each and every grant, right, and privilege herein are so made and given to, and accepted by, said Northern Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than fifty miles per year after the second year, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1876;" and "that the United States make the several conditioned grants herein, and that the said Northern Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upwards of one year, then, in such case, at any time hereafter, the United States, by its Congress, may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road."

Section 10 enacts that "no mortgage or construction bonds shall ever be issued by said company on said road, or mortgage, or lien made in any way, except by the consent of the Congress of the United States."

Section 20 enacts "that the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times, but particularly in time of war, the use and benefits of the same for postal, military, and other purposes, Congress may, at any time, having due regard for the rights of said Northern Pacific Railroad Company, add to, alter, amend, or repeal this act."

The joint resolution approved May 7, 1866, (14 Stats., 355,) extended the time for commencing and completing the railroad, for the term of two years. (See Report of Auditor of Railroad Accounts for 1880, page 159.)

The joint resolution approved July 1, 1868, (15 Stats., 255,) amended section 8 of the original act, so as to read as follows: "That each and every grant, right, and privilege herein, are so made and given to and accepted by said Northern Pacific Railroad Company upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from and after the 2d day of July, 1868, and shall complete not less than one hundred miles per year after the second year thereafter, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1877." (Auditor's Report for 1880, page 159.)

By the joint resolution approved March 1, 1869, (15 Stats., 346,) Congress gave its consent for the company "to issue its bonds, and to secure the same by mortgage upon its railroad and its telegraph line, for the purpose of raising funds with which to construct said railroad and telegraph line between Lake Superior and Puget Sound, and also upon its branch to a point at or near Portland, Oregon." (Auditor's Report for 1880, page 160.)

The joint resolution of April 10, 1869, (16 Stats., 57,) authorized the construction of a branch from a point near Portland to Puget Sound, (the line from Kalama to Tacoma, constructed and in operation.)

By resolution of May 31, 1870, (16 Stats., 378,) Congress authorized the company "to issue its bonds to aid in the construction and equipment of its road, and to secure the same by mortgage on its property and rights of property of all kinds and descriptions, real, personal, and mixed, including its franchise as a corporation;" also, to construct its main line via the valley of the Columbia River, with a branch across the Cascade Mountains to Puget Sound; and increased the indemnity limits to sixty miles on each side of the road.

Section 2 of this resolution provides "that Congress may at any time alter or amend this joint resolution, having due regard to the rights of said company and any other parties." (Auditor's Report for 1880, page 161.)

Under the authority of this resolution the company, on July 1, 1870, issued its thirty-year bonds bearing interest at the rate of 7.3 per cent. per annum, and secured the same by a mortgage, in accordance with the resolution, to an amount of about thirty million dollars. On the 16th of April, 1875, the company having previously defaulted on its interest, in proceedings of foreclosure the United States circuit court for the southern district of New York appointed a receiver. By a decree of that court the property and franchises were sold at auction August 12, 1875, and were purchased by a committee of bondholders, the sale being confirmed by the court August 25, 1875. The company was re-organized September 30, 1875, upon a plan by which the holders of the bonds of the company were reimbursed for the principal and interest up to and including July 1, 1878, in preferred stock at par, which it was proposed to issue to the amount of $51,000,000. This preferred stock is entitled to 8 per cent. dividends before any dividends are paid on the common stock, and is receivable at par for lands belonging to the company east of the Missouri River. Common stock was issued to the holders of the stock of the old company, share for share, and $49,000,000 of the common stock have been issued, the plan of re-organization being given in the annual report of the company for 1876, page 43.

In 1879 the company placed first mortgages upon the Missouri and Pend d'Oreille divisions of its road, and to June 30, 1880, had issued nearly four million dollars of the bonds secured thereby. On January 1, 1881, the company executed a general first mortgage on all its railroads, lands, property, and franchises to secure an issue of bonds to the amount of $25,000 per mile of the main and branch lines, payable in forty years, and bearing interest at the rate of 6 per cent. per annum. This last mortgage provides for taking up, retiring, and canceling the bonds issued on the Missouri and Pend d' Oreille divisions; it is also provided in the mortgage that all moneys derived from the sales of lands are applicable to the payment of the interest and principal of the bonds; a sinking fund is also created, beginning July 1, 1886, by which 1 per cent. per annum is required to be paid to the trustee, in equal semi-annual installments.

From the reports of the General Land Office the rights of the Northern Pacific Railroad Company attached to their grant as follows, namely: By map of general route, through Minnesota and part of Washington Territory, August 13, 1870; through Dakota, Montana, Idaho, and a part of Washington Territory, February 21, 1872; of a branch line in Washington Territory, August 15, 1873; from Thomson to Moorhead, Minnesota, November 21, 1871; from Moorhead, Minnesota, to Bismarck, Dakota, May 26, 1873; from Kalama to Tenino, Washington Territory, September 13, 1873; from Tenino to Tacoma, Washington Territory, May 14, 1874.

The construction of the Northern Pacific Railroad was begun July 1, 1870, and between that date and March 1, 1874, a period of three years and nine months, five hundred and thirty miles of subsidized road had been completed and put in operation. To November 1, 1880, six hundred and eighty miles have been completed and put in operation, in addition to two hundred and twenty miles of other road in operation and about one hundred miles of new road not quite finished; in all, one thousand miles.

The following table shows the acceptance of the several sections of subsidized railroad of this company:

| No. of section. | From— | To— | Miles. | Opened for business. | Examined by commissioners. | Accepted by the President. |
|---|---|---|---|---|---|---|
| 1 | Thomson, Minnesota | Red River | 228 | Oct. 1, 1872 | Dec. 10, 1872 | Jan. 6, 1873 |
| 2 | Kalama | Tenino, Washington | 65 | July 15, 1873 | Aug. 16, 1873 | Sept. 10, 1873 |
| 3 | Fargo | Bismarck, Dakota | 196.4 | Oct. 1, 1873 | Nov. 24, 1873 | Dec. 1, 1873 |
| 4 | Tenino | Tacoma, Washington | 40.1 | Mar. 1, 1874 | Mar. 5, 1874 | May 12, 1874 |
| 5 | Missouri River | One hundredth mile-post | 100 | July 1, 1880 | July 26, 1880 | Aug. 16, 1880 |
| 6 | One hundredth mile-post | One hundred and fiftieth mile-post west | 50 | Nov. 1, 1880 | Nov. 20, 1880 | Dec. 20, 1880 |
| | Total | | 679.5 | | | |

The length of road and extent of land grant for the whole line included in the charter act and amendments may be stated approximately as follows, namely:

| State or Territory. | Miles of road. | Acres per mile of road. | Total acres granted. |
|---|---|---|---|
| Wisconsin | 110 | 12,800 | 1,408,000 |
| Minnesota | 265 | 12,800 | 3,392,000 |
| Dakota | 450 | 25,600 | 11,520,000 |
| Montana | 800 | 25,600 | 20,480,000 |
| Idaho | 75 | 25,600 | 1,920,000 |
| Washington | 750 | 25,600 | 19,200,000 |
| Total | 2,450 | *23,640 | 57,920,000 |

*Average.

The latest estimate of lands which the company may obtain is as follows, namely:

| Divisions. | Miles. | Acres. |
|---|---|---|
| Minnesota and Dakota divisions | 426 | 5,500,000 |
| Missouri division | 217 | 4,600,000 |
| Yellowstone division | 340 | 7,400,000 |
| Rocky Mountain division | 198 | 4,000,000 |
| Clark's Fork division | 282 | 5,800,000 |
| Pend d'Oreille division | 209 | 3,000,000 |
| Main line to Tacoma across Cascade Mountains | 250 | 4,800,000 |
| Branch from Pend d'Oreille division to Kalama | 250 | 4,000,000 |
| Pacific division | 145 | 2,300,000 |
| Total | 2,317 | 42,000,000 |
| Estimated for Wisconsin division | 112 | 500,000 |

To June 30, 1880, there had been patented to the company 746,509 acres. The company has earned by construction about fifteen million acres of land to November 1, 1880, and sold to June 30, 1880, 2,600,000 acres for $9,000,000. The price of the company's agricultural lands is $2.50 per acre; coal and timber lands being reserved from sale until the country is occupied. The lands not yet earned by the company are about twenty-seven million acres, situated chiefly in Montana, Idaho, and Washington Territories.

The value of the company's lands vested and unvested may be reasonably estimated at $2.50 per acre, so that the lands unsold are worth, say, 39,900,000 acres at $2.50, $99,750,000. For a description of some of these lands reference is made to page 82 of the last annual report of the Auditor of Railroad Accounts.

In 1874 the company in its report to this Department gave the cost of the road and fixtures to June 30, 1874, as $21,353,416.11, and to that time had constructed five hundred and thirty miles of railroad, being an average cost of $40,289 per mile. The expenditure by items is as follows:

| | |
|---|---|
| Surveys | $1,108,278 52 |
| Construction, including docks and wharves | 14,446,356 54 |
| Auxiliary and connecting rail and water lines | 2,728,980 09 |
| Equipment | 2,434,346 25 |
| General and incidental expenses during construction | 635,454 71 |
| Total | 21,353,416 11 |

In addition to these five hundred and thirty miles, the company has constructed a branch line in Washington Territory from Tacoma to Wilkeson, thirty-two miles in length.

The road yet to be constructed and accepted may be stated as follows, with the estimated cost of the same, namely:

| | |
|---|---|
| Wisconsin division—Montreal River to Thompson Junction, 122 miles, at $20,000 per mile | $2,440,000 00 |
| Missouri division—Missouri River to Yellowstone River, 217 miles, at $12,000 per mile, including an iron bridge over the Missouri River at Bismarck, the cost of which is estimated at nearly $1,000,000, or about | 3,500,000 00 |
| Yellowstone, Rocky Mountain and Clark's Fork divisions—Yellowstone River to Lake Pend d'Oreille, 820 miles, at $30,000 per mile | 24,600,000 00 |
| Pend d'Oreille division—Lake Pend d'Oreille to Columbia River, 209 miles, at $21,500 per mile | 4,500,000 00 |
| Columbia River division—Junction of Columbia and Snake Rivers to Portland, 238 miles, at $31,500 per mile | 7,500,000 00 |
| Cascade Mountain division—Junction of Columbia and Snake Rivers to Puget Sound, 219 miles, at $30,000 per mile | 6,570,000 00 |
| Pacific division—Portland to Kalama, 40 miles, at $25,000 per mile | 1,000,000 00 |
| Total road to be constructed, 1,865 miles, at an estimated average cost of $26,868 per mile, amounting to | 50,110,000 00 |

The entire road when completed, 2,700 miles, will have cost about seventy-five million dollars, or at the rate of $28,000 per mile.

The conditions of all Government service on this road are found in section 11 of the charter act, among which one is, that the road is "subject to such regulations as Congress may impose restricting the charges for such Government transportation."

THE UNION-CENTRAL LINE OR ROUTE.

This line being composed of a main and branch lines having different owners, will be treated separately, and in the following order: 1. Union Pacific Railroad Company. 2. Kansas Pacific Railway Company, and 3, Denver Pacific Railway and Telegraph Company, composing the (4) Union Pacific Railway Company, consolidated. 5. Central Pacific Railroad Company. 6. Western Pacific Railroad Company, and (7) California and Oregon Railroad Company, composing the (8) Central Pacific Railroad Company. 9. Central Branch Union Pacific Railroad Company. 10. Sioux City and Pacific Railroad Company. 11. Burlington and Missouri River Railroad Company in Nebraska.

*The Union Pacific Railroad Company.*—This company, chartered by acts of Congress approved July 1, 1862, (12 Stat., 489;) and July 2, 1864, (13 Stat., 356;) received from the United States a grant of public lands to aid in the construction of its railroad and telegraph line, amounting to twenty sections or 12,800 acres per mile of road.

The length of road subsidized is 1,038.68 miles, extending from the Missouri River, near Omaha, Nebraska, to a point five miles west of the crossing of the Utah Central Railroad in Ogden, Utah. If none of the land had been previously disposed of by the United States the total grant would have been 13,295,104 acres.

The quantity which the company will obtain is estimated by the General Land Office to be about twelve million acres; but the estimate of the land commissioner of the company places it at 11,200,000 acres.

The location of the lands may be generally stated as follows, namely: 4,800,000 acres in Nebraska, 4,600,000 acres in Wyoming, 700,000 acres in Colorado, and 1,100,000 acres in Utah; of which it may be said that 3,500,000 acres are agricultural lands, 4,000,000 acres are grazing lands, and 3,700,000 acres desert or waste. About two million acres of the "agricultural" lands remained unsold December 31, 1879, worth, at an average price of $3.50 per acre, $7,000,000; about four million acres of the "grazing" lands, worth, at $1.25 per acre, $5,000,000; in all, worth $12,000,000—without estimating anything for the 3,700,000 acres of desert lands. To June 30, 1880, 1,859,475 acres of land had been patented to the company. To December 31, 1879, the company had sold nearly two million acres, as follows:

| Year. | Acres. | Average price per acre. | Amount. |
|---|---|---|---|
| 1869 | 128,825.28 | $4.535 | $586,808 29 |
| 1870 | 164,058.62 | 4.385 | 719,758 14 |
| 1871 | 206,605.97 | 3.855 | 795,557 53 |
| 1872 | 172,108.67 | 4.39 | 755,430 94 |
| 1873 | 177,083.50 | 5.55 | 983,030.3[illegible] |
| 1874 | 235,749.14 | 4.66 | 1,099,467 21 |
| 1875 | 111,965.55 | 3.66 | 409,916 10 |
| 1876 | 128,696.21 | 3.02 | 389,773 46 |
| 1877 | 69,015.87 | 4.98 | 343,768 02 |
| 1878 | 318,903.47 | 4.88 | 1,557,082 32 |
| 1879 | 243,337.31 | 4.141 | 1,007,855 63 |
| Total for eleven years | 1,956,349.59 | 4.42 | 8,648,447 97 |

From these sales forfeited and canceled contracts must be deducted, which leaves the net sales to the same date 1,568,438 acres, amounting to the sum of $6,916,811.58, being an average price of $4.41 per acre.

The lands are sold in small tracts, averaging about 100 acres to each purchaser, so that there have been 15,000 to 16,000 purchasers. Some sales are made for cash, but the large majority of the sales have been on time, deferred payments drawing interest at the rate of 6 per cent. per annum.

The gross proceeds of sales, interest, forfeitures, &c., to December 31, 1879, have been $8,173,846.83, of which amount $4,412,033.88 has been received in cash, and the remainder, $3,761,812.95, in notes or land contracts yet to be paid. These gross proceeds are applied to the redemption of land-grant mortgage bonds, of which $10,400,000 have been issued and $4,101,000 redeemed.

The expenses of the land department, taxes on land, &c., amounting to $1,880,877.68 to December 31, 1879, have been paid by the company out of its ordinary income.

The cost of the railroad and its equipment to December 31, 1879, amounted to $118,682,223.96, or at the rate of $114,262.54 per mile. The details are as follows, namely:

| | | |
|---|---|---|
| Payments to contractors: | | |
| "Oakes Ames" contract | | $57,140,102 94 |
| "Davis contract" | | 23,129,671 01 |
| "Hoxie contract" | | 11,966,799 63 |
| Total contracts | | 92,236,573 58 |
| Expended by the company for— | | |
| Right of way | | $165,675 66 |
| Fencing and crossings | | 250,700 68 |
| Roadbed and track | | 100,375 78 |
| Coal-sheds | | 13,912 33 |
| Bridging, piling, and trestling | | 158,542 51 |
| Snow-sheds and snow-fences | | 333,979 14 |
| Passenger and freight buildings | | 1,059,904 27 |
| Machine-shops, car-shops, machinery, engine-houses, and turn-tables | | 436,012 21 |
| Water-tanks, wells, pumping-houses, &c | | 124,591 48 |
| Hotels, tenements, &c | | 226,790 77 |
| Rolling-mills, scrap-furnaces, rail-mills, &c | | 228,968 09 |
| Equipment other than furnished by contractors | | 2,193,998 69 |
| Express outfit | | 12,503 71 |
| Government commissioners and Government directors during period of construction | | 188,630 13 |
| Omaha bridge and approaches | | 2,255,089 30 |
| Engineering, agencies, &c | | 1,891,510 57 |
| Total cost of construction | | 101,937,757 90 |
| Less sale of constructed road | $2,840,000 00 | |
| Sale of constructed telegraph line | 104,432 54 | |
| Total amount sold | | 2,944,432 54 |
| Net cost of property | | 98,993,325 36 |
| Interest and discount expenses during construction: | | |
| Interest, discount, and commissions | $2,750,284 63 | |
| Losses on securities | 12,215,868 29 | |
| Interest paid on bonds outstanding | 4,000,000 00 | |
| Discount on Omaha bridge bonds | 440,000 00 | |
| Interest on Omaha bridge bonds | 162,329 94 | |
| Premium on Omaha bridge bonds | 8,032 25 | |
| Expenses paying drawn bonds, &c | 4,446 02 | |
| Total amount, interest, &c | | 19,580,961 23 |
| Unexplained difference between cost as stated on ledger and items as above | | 107,937 37 |
| Total cost of road and equipment | | 118,682,223 96 |

The cost of building and equiping a railroad like the Union Pacific main line from Council Bluffs to Ogden, with similar grades and on the same route, the whole of it laid with steel rails, at the present time may be stated approximately at $32,000,000; say five hundred miles, Council Bluffs to Cheyenne, at $20,000 per mile, and five hundred and forty miles, Cheyenne to Ogden, at $40,000 per mile.

*The Kansas Pacific Railway Company.*—This company originally known as "the Leavenworth, Pawnee, and Western Railroad Company," and afterwards as "the Union Pacific Railway Company, eastern division," was chartered by the State of Kansas February 1, 1855, and received from the United States, under the Pacific

Railroad acts before referred to, a grant of public lands to aid in the construction of its railroad and telegraph line. The grant was twenty sections, or 12,800 acres per mile of road.

The length of road subsidized is 638.6 miles, extending from the eastern boundary line of the State of Kansas, in Kansas City, to Denver, Colorado. The quantity of land granted would have amounted to 8,174,000 acres if none of the lands had been otherwise or previously disposed of by the Government. The General Land Office has estimated that the company will receive about six million acres, but the land commissioner of the company estimates about two hundred thousand acres more.

The location of this company's lands is as follows, namely: 2,600,000 acres in Colorado, 3,600,000 acres in Kansas. Of these probably one-third, say 2,000,000 acres, are "grazing" lands, and the remainder, say 4,000,000 acres, are "agricultural." The lands which were unsold December 31, 1879, lie chiefly in Western Kansas; about two million acres between Manhattan, Riley County, and Grinnell, Gove County worth on an average nearly three dollars per acre, and the remainder, 2,800,000 acres, between Grinnell and Denver, worth probably two dollars an acre; in all, worth about eleven million dollars.

To June 30, 1880, 828,830.44 acres had been patented to the company.

To December 31, 1879, the company had sold 1,521,111.53 acres, as follows, namely:

| Year. | Acres. | Average price per acre. | Amount. |
|---|---|---|---|
| 1868 | 111,271.29 | $2 96 | $329,812 67 |
| 1869 | 382,885.20 | 2 91 | 1,114,578 57 |
| 1870 | 124,168.59 | 3 19 | 396,196 06 |
| 1871 | 123,935.82 | 3 50 | 434,235 52 |
| 1872 | 68,851.29 | 2 92 | 199,841 71 |
| 1873 | 25,423.43 | 3 67 | 93,175 10 |
| 1874 | 35,393.96 | 3 29 | 117,708 61 |
| 1875 | 61,366.58 | 3 57 | 218,808 60 |
| 1876 | 74,554.09 | 4 23 | 315,420 62 |
| 1877 | 135,994.45 | 3 31 | 449,234 44 |
| 1878 | 207,938.03 | 3 38 | 795,997 83 |
| 1879 | 169,328.80 | 4 09 | 692,930 53 |
| Total | 1,521,111.53 | 3 39 | 5,157,940 26 |

Forfeited and canceled contracts for 229,657.16 acres, amounting to $737,979.77, being deducted, leaves the net sales 1,291,454.37 acres, and the amount for which sold $4,419,960.49, or an average of $3.42 per acre.

The lands have been sold principally on time, at one-fifth cash and balance in four annual installments, with interest at the rate of 6 per cent. per annum.

The gross proceeds of sales, interest, forfeitures, &c., to December 31, 1879, have been $4,404,232.52, of which $3,016,022.60 has been received in cash, and the remainder, $1,388,209.92, is held as land notes or contracts. By the terms of the land-grant mortgages, the gross proceeds of sales of land are to be applied to the redemption of the bonds issued thereon. The expenses, commissions, taxes, &c., paid to December 31, 1879, have amounted to $694,997.90.

To December 31, 1879, the cost of this railroad and its equipment, 670.5 miles, is reported by the company as $34,359,540.66, which is at the rate of $51,244.65 per mile.

A railroad like the Kansas Pacific, six hundred and seventy miles, most of it through a rolling prairie country, could be built with steel rails at this time for $15,000 per mile, and fully equipped for $5,000 per mile; in all, $20,000 per mile, or $13,500,000.

*Denver Pacific Railway and Telegraph Company.*—This company was incorporated November 19, 1867, under the general laws of the Territory of Colorado relating to corporations, and was organized December 14, 1867, with a board of trustees. The first annual meeting of stockholders was held on December 14, 1868, when permanent officers were elected.

By the act of Congress approved March 3, 1869, the Union Pacific Railway Company, eastern division, was authorized to transfer to the Denver Pacific Railway and Telegraph Company all the rights and privileges, subject to all the obligations, pertaining to that part of its line of railroad and telegraph between Denver City and Cheyenne. Under this law the company obtained its land grant of twenty sections or 12,800 acres per mile.

The length of road constructed is 105.89 miles, which entitles the company to 1,355,292 acres of land; but the General Land Office estimates the grant which the company will eventually receive as 1,100,000 acres, while the estimate of the company is only 971,771 acres, 800,000 acres of which are covered by a first mortgage given to secure an issue of $2,500,000 of bonds. The company's officers in 1870 estimated the value of the 800,000 acres included in the mortgage at $3,000,000.

All of the company's lands are in Colorado and are among the most fertile and valuable portion of the agricultural lands of that State, and some of the lands have valuable coal deposits.

By the terms of the contract for building the railroad, all of the company's lands granted by Congress over and above the 800,000 acres covered by the mortgage referred to were to revert to the contractors. These lands being left out of the question, the company had remaining December 31, 1879, 630,269 acres unsold, the average value of which may be estimated at $2.50 per acre, amounting to $1,598,170. To June 30, 1880, only 49,811.59 acres had been patented to the company. December 31, 1879, the company had sold lands as follows:

| Year. | Acres. | Average price per acre. | Amount. |
|---|---|---|---|
| 1870 | 32,613.00 | $4 17 | $136,076 43 |
| 1871 | 41,543.55 | 3 94 | 163,858 71 |
| 1872 | 19,959.00 | 4 07 | 81,195 91 |
| 1873 | 17,951.95 | 4 61 | 82,676 96 |
| 1874 | 10,918.54 | 5 21 | 56,877 83 |
| 1875 | 3,676.52 | 6 12 | 22,488 02 |
| 1876 | 4,364.37 | 14 32 | 62,497 50 |
| 1877 | 26,101.56 | 5 25 | 136,963 89 |
| 1878 | 34,523.47 | 3 79 | 130,902 50 |
| 1879 | 7,554.58 | 5 81 | 43,893 84 |
| Total | 199,206.63 | 4 60 | 917,431 59 |

Deducting canceled sales, the net quantity sold during this period was 160,731.89 acres for $713,881.13, or at an average price of $4.44 per acre.

The cost of the road, 105.89 miles, as reported to this office is $6,495,350. But no details of the expenditures have been obtained; it was accepted by the president May 2, 1872. A parallel road like this could be built to-day for $15,000 per mile, say for $1,600,000.

*The Union Pacific Railway Company.*—This company is the successor, by consolidation, to the Union, Kansas, and Denver Pacific Companies.

Summarizing the statements heretofore given as to the three companies named, the following facts are shown, namely:

| | |
|---|---|
| Estimated quantity of land granted, (acres) | 22,824,396 |
| Estimated quantity of land vested under the grant, (acres) | 19,100,668 |
| Quantity sold to December 31, 1879, (acres) | 3,020,625 |
| Gross amount realized from sales | $12,050,653 09 |
| Railroad subsidized with lands, (miles) | 1,783 |
| Cost of road and equipment, 1,815 miles | $154,485,642 29 |
| Cost per mile, road and equipment | $85,116 00 |
| Estimated value of unsold lands, 16,000,000 acres, at $1.50 per acre | $24,000,000 00 |
| Estimated present cost of similar road, 1,815 miles, at $30,000 per mile on an average | $54,450,000 00 |

*The Central Pacific Railroad Company.*—This company is the successor, by consolidation June 23, 1870, of the Central Pacific Railroad Company of California, organized June 28, 1861, and the Western Pacific Railroad Company, organized December 13, 1862, both deriving their charter powers from the State of California, although the State, by act of April 4, 1864, virtually dissolved the company as a State corporation. Subsequently, on August 22, 1870, the Central Pacific was consolidated with the California and Oregon, the San Francisco, Oakland and Alameda and the San Joaquin Valley Railroad Companies.

So far as relates to the subjects of this report, the three roads—Central Pacific, Western Pacific, and California and Oregon—will be treated separately.

The Central Pacific Railroad extends from Sacramento to a point five miles west of the crossing of the Utah Central Railroad in Ogden, Utah, 738.45 miles, of which but 737.50 miles have been subsidized with bonds and lands.

The land grant is under the same acts of Congress as that of the Union Pacific, and amounts to twenty sections, or 12,800 acres, per mile, equal to 9,440,000 acres for the entire road; from which, however, deducting lands previously granted, sold, or reserved by the United States, estimated by the General Land Office at 1,440,000 acres, leaves about eight million acres vested in the company.

Of these 8,000,000 acres 708,862 had been patented to the company to June 30, 1880, and the company had sold to December 31, 1879, 295,886.79 acres, for $1,114,999.66, being an average price of $3.77 per acre. The lands have been sold in small tracts, some for cash, but most of them on time, 20 per cent. of the principal being paid at time of purchase. This company, unlike some others, sells no lands before it has received patents therefor. The proceeds of sales of land are applied to the purchase of land-grant bonds.

The lands remaining unsold December 31, 1879, say 7,700,000 acres, lying most of them in the desert country between Salt Lake and the Sierra Nevada Mountains, are largely unavailable, and many years must elapse before anything can be realized from them. The real value of these lands is not over 50 cents per acre, or $3,850,000, although the company includes them in the general estimate of all their lands at $2.50 per acre, which is the minimum price placed upon adjoining lands belonging to the Government.

The cost of this portion of the Central Pacific Railroad has not been ascertained in detail. In a report published in 1870 the cost of the property on December 31, 1869, was itemized as follows:

| | |
|---|---|
| Construction accounts | $84,129,092 |
| Buildings | 2,159,718 |
| Engines | 1,846,500 |
| Cars | 1,988,125 |
| Total | 90,123,345 |
| Represented by capital stock | 40,097,290 |
| First-mortgage bonds | 25,517,000 |
| United States bonds | 25,517,000 |
| Other debt | 7,871,777 |
| Total liabilities | 99,003,067 |

A road similar to that of the Central Pacific, from Ogden to Sacramento, seven hundred and forty miles, could probably be built to-day for an average price of $30,000 per mile, or $22,200,000.

*The Western Pacific Railroad Company.*—This company was organized December 13, 1862, under the laws of the State of California, and was consolidated with the Central Pacific June 23, 1870.

Under the Pacific Railroad acts the company was authorized to construct a railroad from the American River east of Sacramento to San José, California, a distance of 123.16 miles, and received a subsidy in bonds and lands similar to that granted to the other Pacific railroad companies.

The quantity of lands included in the grant has been estimated by the General Land Office as 1,100,000 acres. To June 30, 1880, 424,727.58 acres had been patented to the company.

The Western Pacific Railroad Company had disposed of its lands prior to consolidation with the Central Pacific Railroad Company.

In a report published in 1870 the cost of this road was stated as $12,347,332, offset by an indebtedness of $2,808,290, and a share capital paid in, $7,900,000.

A portion of the road is of an expensive character, but it could probably be built to-day for $35,000 per mile, or $4,300,000 for the whole road.

*California and Oregon Railroad Company.*—This company was organized under the laws of California June 30, 1865, and was consolidated with the Central Pacific August 22, 1870.

By an act of Congress approved July 25, 1866, (14 Stat., 239,) the company received a grant of twenty sections (12,800 acres) per mile for a railroad from the Central Pacific Railroad to the northern line of the State. The estimated distance is two hundred and ninety-one miles, which would make the grant 3,724,800 acres.

A condition of the grant is that the whole road shall be completed on or before July 1, 1880. (15 Stat., 80.)

The road completed extends from Roseville to Redding, California, 151.81 miles; road uncompleted, 139.19 miles. The lands which have not vested by reason of non-completion of road amount to 1,781,632 acres, leaving 1,943,168 acres vested in the company, or so much thereof as was not previously disposed of by the United States.

To June 30, 1880, there had been patented of these lands 1,338,039.27 acres. To December 31, 1879, the company had sold 366,622 acres, for $2,970,365, or an average price of $8.65 per acre. The lands remaining unsold at that time were 1,576,546 acres, worth, at a reasonable estimate, say $4.50 per acre, over $7,000,000.

The one hundred and fifty-two miles of road were constructed between 1867 and 1872, the whole road being opened for business September 1, 1872. The cost in detail of this road has not been ascertained. In 1870, when some eighty miles of the road had been completed, a report was published in which the cost of the road was stated as $2,750,000, or about $35,000 per mile. The road could be built to-day for $25,000 per mile, or $3,800,000.

From the above statements in regard to these three roads, namely, the Central

Pacific, the Western Pacific, and the California and Oregon, the following condensed statement is made:

| | |
|---|---|
| Estimated quantity of land granted, (acres) | 14,264,800 |
| Estimated quantity of land vested under the grants, (acres) | 10,367,895 |
| Quantity disposed of by Western Pacific before consolidation, (acres) | 424,427 |
| Patented to Central Pacific Company to June 30, 1880, (acres) | 2,047,021 |
| Quantity sold to December 31, 1879, (acres) | 662,669 |
| Amount for which 662,669 acres were sold | $4,085,354 00 |
| Average price per acre | $6 16 |
| Miles of railroad subsidized with lands | 1,012 55 |
| Cost of roads, &c., owned, 1,202 miles | $136,536,295 59 |
| Cost of equipment, machinery, furniture, &c | $9,812,040 66 |
| Cost per mile, (road and equipments, &c.) | $121,754 00 |
| Estimated value of unsold vested lands, (9,280,499 acres, at $1 per acre) | $9,280,499 00 |
| Estimated value of unvested lands, (1,781,632 acres, at $2.50 per acre) | $4,454,080 00 |

*Central Branch Union Pacific Railroad Company.*—The Legislature of the Territory of Kansas, by an act approved February 11, 1859, granted a charter to the Atchison and Pike's Peak Railroad Company.

On November 20, 1866, by vote of persons owning a majority of the stock and in compliance with the laws of the State of Kansas, the name was changed to "Central Branch Union Pacific Railroad Company," to take effect on and after January 1, 1867.

By the thirteenth section of the act of Congress approved July 1, 1862, which chartered the Union Pacific Railroad Company, the Hannibal and Saint Joseph Railroad Company was authorized to build a railroad from Saint Joseph, via Atchison, to connect with the road through Kansas. By regular proceedings beginning June 9, 1863, and ratified by votes of the stockholders, the Hannibal and Saint Joseph Railroad Company assigned to the Atchison and Pike's Peak Railroad Company all their right, title, and interest in the grant to them by the Pacific Railroad act of July 1, 1862, which assignment was formally accepted by the Atchison and Pike's Peak Railroad Company on May 26, 1865.

The land grant to this company is twenty sections, or 12,800 acres per mile for one hundred miles, extending from the Missouri River at Atchison westwardly through Kansas.

The majority of the public lands through which this road runs having been disposed of prior to the grant, the company will obtain only some 250,000 acres, 187,608 of which had been patented to them to June 30, 1880.

To June 30, 1880, about one hundred and seventy thousand acres had been sold by the company at an average price of, say, $5 per acre, amounting to $850,000; and 80,000 acres remained unsold worth about the same price per acre, $5, amounting to $400,000.

The proceeds of the sales of land have been applied to the payment of interest on the first-mortgage bonds and to the general purposes of the company from time to time.

Construction was commenced on this road from Atchison to Waterville, one hundred miles, in July, 1865, and the first section of twenty miles was accepted by the President of the United States on July 12, 1866, and the whole road was completed by January 20, 1868.

The cost of the road, construction, and equipment, as reported to this office December 31, 1879, is $3,913,408.64, or at the rate of $39,134.04 per mile. A road similar to this could be built and equipped to-day for from $15,000 to $18,000 per mile, or, say, $1,650,000.

*The Sioux City and Pacific Railroad Company.*—This company was organized August 4, 1864, under the laws of the State of Iowa.

By section 13 of the act of Congress approved July 1, 1862, which chartered the Union Pacific Railroad Company, it was enacted that "whenever there shall be a line of railroad completed through Minnesota or Iowa to Sioux City, then the said Pacific Railroad Company is hereby authorized and required to construct a railroad and telegraph from said Sioux City, upon the most direct and practicable route, to a point on, and so as to connect with, the branch railroad and telegraph in this section hereinbefore mentioned."

Section 17, of the act of July 2, 1864, so amends section 13 above quoted as to release the Union Pacific Railroad Company from the construction of said branch, and entitles the company so constructing it to receive in bonds an amount not larger than the said Union Pacific Company would be entitled to receive if it had constructed the branch road, and to receive alternate sections of land for ten miles in width on each side of the same along the whole length of said branch.

The President of the United States, on December 24, 1864, designated "the Sioux City and Pacific Railroad Company" as the company approved by him to construct the branch line named in section 17 of the act of Congress approved July 2, 1864.

This company, after careful examination and surveys to ascertain "the most direct and practicable route," filed its map of definite location in Nebraska November 9, 1866, and in Iowa between November 20 and December 7, 1866, from which dates its rights attached to the lands granted.

The original idea of the Pacific Railroad act was that a branch from Sioux City, Iowa, to some point on the Union Pacific Railroad, not further west than the one hundredth meridian, should be constructed. This being impracticable, owing to the character of the country—the streams and valleys all running from northwest to southeast—which would require immense fills and cuts, the act of July 2, 1864, modified the route so as to permit any company constructing the road to select the point of junction.

The quantity of lands patented under the provisions of the foregoing acts has been reported by the General Land Office as 41,318.23 acres.

All lands, lots, and land assets of this road were sold April 15, 1875, to the Missouri Valley Land Company for $200,000.

The construction of this road was begun in the fall of 1866, the first section of the railroad and telegraph was accepted March 27, 1868, and the last one was accepted March 2, 1869. The road was opened for traffic February 11, 1869. The length of subsidized road is 101.77 miles.

This road is subject to all the conditions and requirements applicable to it as a branch of the Pacific Railroad. The Supreme Court of the United States, in revising and affirming the judgment of the circuit court of the United States for the district of Iowa, (99 Supreme Court Reports, 491,) having decided that this road is a branch of the Pacific Railroad and subject to the same conditions as regards the payment of "5 per cent. of its net earnings" toward the reimbursement of the United States on account of bonds and interest.

The company, in its report to this Department for the year ending June 30, 1880, gives the cost of the road and fixtures to that date as $5,355,551.28, having constructed 107.42 miles of railroad, being an average cost of $49,856 per mile.

A road has been constructed west of the Missouri River from Sioux City to Omaha during the past year, but it is much longer and more expensive to operate. A road like the Sioux City and Pacific could probably be built to-day for $15,000 per mile, $1,621,300.

*The Burlington and Missouri Railroad Company, in Nebraska.*—By section 18 of the act of Congress approved July 2, 1864, the Burlington and Missouri River Railroad Company, organized under the laws of the State of Iowa, was "authorized to extend its road through the Territory of Nebraska from the point where it strikes the Missouri River, south of the mouth of the Platte River, to some point not further west than the one hundredth meridian of west longitude, so as to connect, by the most practicable route, with the main trunk of the Union Pacific Railroad, or that part of it which runs from Omaha to the said one hundredth meridian of west longitude." The right of way is also granted by this section "to the extent of two hundred feet where it may pass over the public lands, including all necessary grounds for stations, buildings, work-shops, depots, machine-shops, switches, side-tracks, turn-tables, and water-tanks."

Section 19, for the purpose of aiding in the construction of said road, grants to the said Burlington and Missouri River Railroad Company every alternate odd-numbered section of public land, excepting mineral lands, to the amount of ten alternate sections, or 6,400 acres per mile on each side of the road. Section 20 provides that when twenty consecutive miles of road shall have been completed the "President of the United States shall appoint three commissioners to examine and report to him in relation thereto; and if it shall appear to him that twenty miles of said road have been completed as required by this act, then, upon certificate of said commissioners to that effect, patents shall issue conveying the right and title to said lands to said company on each side of said road, as far as the same is completed, to the amount aforesaid; and such examination, report, and conveyance by patent shall continue from time to time, in like manner, until said road shall have been completed." It also provides "that no Government bonds shall be issued to the said Burlington and Missouri River Railroad Company to aid in the construction of said extension of its road: *And provided further*, That said extension shall be completed within the period of ten years from the passage of this act."

The line constructed and owned by this company extends from Plattsmouth to Fort Kearney, Nebraska, a distance of 190.5 miles. The first section of eighty miles was accepted by the President of the United States October 9, 1871, and the last section November 4, 1872. The road was opened for through traffic September 2, 1872.

The estimated quantity of lands granted by this act is 2,441,600 acres. The quantity patented to June 30, 1880, amounted to 2,374,090.77 acres. The following statement of the business of the land department of this company is taken from Poor's Manual for 1880:

*General account, land department, December 31, 1879.*

| | |
|---|---|
| Lands sold, 1,574,392 acres | $8,556,782 42 |
| Interest on contracts | 2,495,788 50 |
| Imputed payment | 495,817 58 |
| Special deposits | 96,201 52 |
| Extra interest, rents, &c | 65,614 53 |
| | 11,710,204 55 |
| Taxes, commissions, &c | 2,090,904 19 |
| Discounts and premiums | 456,131 09 |
| Principal on sales, due | 5,816,528 13 |
| Interest and other assets | 1,314,258 10 |
| Paid amount, treasurer | 2,040,383 04 |
| | 11,710,204 55 |

The cost of construction and equipment of this road is not given separately, the total cost being stated at $8,294,955, or an average of $43,306 per mile.

A road like the Burlington and Missouri River in Nebraska could probably be built to-day for $16,000 per mile—$3,048,000.

Summarizing the statements heretofore given, the following condensed facts are shown, embracing all the roads of the "Union Central line of route," as enumerated on page 11, of this report.

*Estimated quantity of lands granted and vested.*

| Roads. | Acres granted. | Acres vested. |
|---|---|---|
| Union Pacific | 22,924,396.00 | 19,100,000.00 |
| Central Pacific | 14,264,800.00 | 10,367,895.00 |
| Central branch Union Pacific | 1,280,000.00 | 250,000.00 |
| Sioux City and Pacific | 651,328.00 | 41,318.23 |
| Burlington and Missouri River | 2,438,400.00 | 2,441,600.00 |
| Total | 41,458,924.00 | 32,200,813.23 |

| | Acres. |
|---|---|
| Quantity patented to June 30, 1880: | |
| Union Pacific | 3,738,117.00 |
| Central Pacific | 2,047,021.00 |
| Central Branch Union Pacific | 187,608.00 |
| Sioux City and Pacific | 41,318.23 |
| Burlington and Missouri River in Nebraska | 2,374,090.77 |
| Total | 8,388,155.00 |
| Quantity sold to December 31, 1879: | |
| Union Pacific | 3,020,625.00 |
| Central Pacific | 662,669.00 |
| Central Branch Union Pacific | 170,000.00 |
| Sioux City and Pacific | 41,318.23 |
| Burlington and Missouri River in Nebraska | 1,574,392.00 |
| Total | 5,469,004.23 |
| Amount realized from sales to December 31, 1879: | |
| Union Pacific | $12,050,653 00 |
| Central Pacific | 4,085,354 00 |
| Central Branch Union Pacific | 850,000 00 |
| Sioux City and Pacific | 200,000 00 |
| Burlington and Missouri River in Nebraska | 8,556,782 00 |
| Total | 25,742,789 00 |
| Average price per acre of all sales to December 31, 1879: | |
| Union Pacific | $3 99 |
| Central Pacific | 6 16 |
| Central Branch Union Pacific | 5 00 |
| Sioux City and Pacific | 4 84 |
| Burlington and Missouri River in Nebraska | 5 43 |
| Total average | 4 71 |
| Miles of road subsidized with lands: | *Miles.* |
| Union Pacific | 1,783.00 |
| Central Pacific | 1,012.55 |
| Central Branch Union Pacific | 100.00 |
| Sioux City and Pacific | 101.77 |
| Burlington and Missouri River in Nebraska | 190.50 |
| Total | 3,187.82 |

Cost of roads, &c., owned, as shown by books, &c.:

| | Miles. | Amount. |
|---|---|---|
| Union Pacific | 1,815.00 | $154,485,642 29 |
| Central Pacific | 1,202.00 | 146,348,336 25 |
| Central Branch Union Pacific | 100.00 | 3,913,403 64 |
| Sioux City and Pacific | 107.42 | 5,355,551 28 |
| Burlington and Missouri River | 190.50 | 8,249,955 00 |
| Total miles and cost | 3,414.92 | 318,352,888 46 |
| Cost per mile, road and equipment: | | |
| Union Pacific | | $85,116 00 |
| Central Pacific | | 121,754 00 |
| Central Branch Union Pacific | | 39,134 00 |
| Sioux City and Pacific | | 43,306 00 |
| Burlington and Missouri River in Nebraska | | 46,232 00 |
| Average cost per mile, (3,414.92 miles, $318,352,888.46) | | 93,224 09 |
| Estimated value of unsold vested lands: | | |
| Union Pacific, 14,800,000 acres, at $1.62 per acre | | $24,000,000 00 |
| Central Pacific, 9,280,499 acres, at $1 per acre | | 9,280,499 00 |
| Central Branch Union Pacific, 80,000 acres, at $5 per acre | | 400,000 00 |
| Sioux City and Pacific. (None.) | | |
| Burlington and Missouri River in Nebraska, 800,000 acres, at $7 per acre | | 5,600,000 00 |
| Total | | 39,280,499 00 |
| Estimated value of unvested lands: | | |
| Central Pacific, California and Oregon lands, 1,781,632 acres, at $2.50 per acre | | $4,454,080 00 |

THE NEW MEXICO SOUTHERN, OR ROUTE ON THIRTY-FIFTH PARALLEL.

*The Atlantic and Pacific Railroad Company.*—This company was chartered by an act of Congress approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast." (14 Stats., 292; Auditor's Report for 1880, page 163.)

By this act the corporation was authorized and empowered to construct and enjoy "a continuous railroad and telegraph line" from Springfield, Missouri, to the Pacific Ocean, across the Indian Territory, Texas, New Mexico, Arizona, and California, as a main line, and from Van Buren, Arkansas, to the point where the main line strikes the Canadian River in the Indian Territory, as a branch line, more particularly described in section 1 of the act.

The grants made to the company by the act consist of the right of way through the public lands to the extent of one hundred feet on each side of the railroad, the right to use materials from adjacent lands belonging to the United States, the right to take all grounds or lands, in addition to the one hundred feet on each side of the road that may be necessary for station, shop, turn-table, switching, or other purposes, exemption of the right of way from taxation in the Territories, and for every mile of said railroad constructed in the Territories forty sections, 25,600 acres, of the public lands, and for every mile in the States twenty sections, 12,800 acres, of the same. (See sections 2 and 3 of the act.)

The conditions attached to these grants are given in section 8 of the act, as follows, namely: Work on the road was to be commenced within two years from the date of approval of the act, July 27, 1866, that is, before July 27, 1868; after the second year not less than fifty miles of road per year was to be completed, and the main line was to be completed by July 4, 1878; and if the company suffered any breach of these conditions to continue over one year, section 9 of the act provides that the United States may at any time thereafter "do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road."

Maps of the general route having been filed, public lands embraced within the limits of the grant were withdrawn from sale and the right of the company attached thereto, as follows, namely:

| On line from— | To— | Date. |
|---|---|---|
| Springfield, Missouri | West line of Missouri | Dec. 17, 1866 |
| West line of Missouri | Mouth of Kingfisher Creek, Indian Territory. | Dec. 2, 1871 |
| Mouth of Kingfisher Creek, Indian Territory. | East line of New Mexico | Feb. 7, 1872 |
| East line of New Mexico | East line of California | Mar. 12, 1872 |
| San Francisco, California | San Miguel, California | Mar. 12, 1872 |
| San Miguel, California | Los Angeles County west line, California. | Aug. 13, 1872 |
| Los Angeles County west line, California. | A point in township 7 north, range 7 east, San Bernardino Mission, San Bernardino County, California. | Mar. 12, 1872 |
| A point in township 7 north, range 7 east, San Bernardino Mission, San Bernardino County, California. | Colorado River | Aug. 13, 1872 |

The construction of this railroad was commenced July 4, 1868; and the sections of road below named have been examined by commissioners and reported on by them to the President of the United States, who has from time to time authorized patents for lands so earned to be issued to the company:

| Number of section. | From— | To— | Miles. | Opened for business. | Examined by commissioners. | Accepted by the President. |
|---|---|---|---|---|---|---|
| 1 | Springfield, Missouri | Pierce City, Missouri | 25 | June 14, 1870 | Sept. 22, 1870 | Oct. 11, 1870 |
| 2 | | | 25 | | | |
| 3 | Pierce City, Missouri | Seventy-fifth mile-post | 25 | Dec. 8, 1870 | Jan. 19, 1871 | Jan. 31, 1871 |
| 4 | Seventy-fifth mile-post | 1.54 miles west of crossing of M. K. & T. R. R., in Indian Territory. | 25 | June 22, 1871 | Nov. 16, 1871 | Dec. 6, 1871 |
| 5 | | | 25 | Oct. 6, 1871 | | |
| 6 | Junction of N. M. & S. P. R. R., near Isleta, New Mexico. | Fiftieth mile-post west therefrom | 50 | Nov. 1, 1880 | Nov. 1, 1880 | Dec. 17, 1880 |
| 7 | | | | | | |

The Atlantic and Pacific Railroad Company having suffered a default in the payment of interest on their outstanding bonds, the mortgage given to secure the same was foreclosed by a decree of the circuit court of the United States for the eastern district of Missouri, and the entire property, including the land grant in Missouri, was sold, by virtue of said decree, on September 7, 1876, to William F. Buckley, and by him conveyed November 2, 1876, to the Saint Louis and San Francisco Railway Company, which company became and is now the owner of the property and franchises in Missouri which had belonged to the South Pacific and Atlantic and Pacific Railroad Companies, and also of about 655,000 acres of South Pacific lands and 306,000 acres of Atlantic and Pacific lands.

West of the western boundary of the State of Missouri the road and appurtenances in the Indian Territory and in New Mexico are still owned by the Atlantic and Pacific Railroad Company. The road from Albuquerque, New Mexico, west is known as the "western division."

For the purpose of obtaining means to build and equip the "western division" the company has resolved to issue and negotiate bonds to an amount not exceeding $25,000 per mile, secured by a first mortgage on the franchises, railroad lands, land grants, and other property pertaining to said "western division." The act of Congress approved April 20, 1871, (17 Stat., 19,) authorized the company to "mortgage its road, equipment, lands, franchises, privileges, and other rights and property, subject to such terms, conditions, and limitations as its directors may prescribe." (Auditor's Report for 1880, page 170.)

The company is now examining the route from Vinita, Indian Territory, westward to Albuquerque, New Mexico, with a view to the construction of this part of the road at an early day. The length of this division will be about seven hundred and fifty miles, for four hundred miles of which the land grant is contingent upon the extinguishment of Indian titles thereto or such other arrangement, to be approved by the President, as any Indian tribe or nation may determine upon.

The length of road and extent of land grant for the whole line included in the charter act may be stated approximately as follows, namely:

| State or Territory. | From— | To— | Miles. | Acres per mile. | Acres of land granted. |
|---|---|---|---|---|---|
| Missouri | Springfield | West line | 90 | 12,800 | 1,152,000 |
| Indian | East line | West line | 400 | 25,600 | 10,240,000 |
| Indian | East line | Canadian River | 300 | 25,600 | 7,680,000 |
| Texas | East line | West line | 200 | 12,800 | 2,560,000 |
| New Mexico | East line | West line | 450 | 25,600 | 11,520,000 |
| Arizona | East line | West line | 400 | 25,600 | 10,240,000 |
| California | East line | San Francisco | 655 | 12,800 | 8,384,000 |
| Arkansas | West line | Van Buren | 5 | 12,800 | 64,000 |
| Total | | | 2,500 | | 51,840,000 |

The company's estimate of the above is 2,472.98 miles of road and 49,244,803 acres of land. The estimate of the General Land Office is 2,544.65 miles of road and 50,067,600 acres of land.

The United States having no public lands in the State of Texas, and the lands in the Indian Territory having been "otherwise appropriated" at the date of the grant, there must be deducted from the above total 20,480,000 acres, which leaves 31,360,000 acres actually granted, from which is likewise to be deducted the following, namely:

| | Acres. |
|---|---|
| 1. Lands in Missouri previously disposed of | 645,184 |
| 2. Lands in New Mexico, "mineral," and otherwise disposed of, estimated at one-half of the grant | 5,760,000 |
| 3. Lands in Arizona, "mineral," and otherwise disposed of, estimated at one-half of the grant | 5,120,000 |
| 4. Lands in California of the same character, estimated at one-third of the grant | 2,794,666 |
| 5. Lands in Arkansas otherwise disposed of | 32,000 |
| Total deductions, additional | 14,351,850 |

After all these deductions are made, the quantity of land remaining for the use of the railroad company would be but 17,008,150 acres, and of this quantity the Saint Louis and San Francisco Railway Company received, in 1876, about 300,000 acres, and there had been disposed of by the Atlantic and Pacific Railroad Company, prior to 1876, about 200,000 acres, the proceeds of which were applied to the construction of the road in Missouri; so that in round numbers about 16,500,000 acres of land are only available for the Atlantic and Pacific Railroad Company, to aid in the construction of its railroad of more than 2,000 miles, from Seneca, Missouri, through the Indian Territory, Texas, New Mexico, Arizona, and California, to the Pacific Ocean or San Francisco.

These lands are worth, probably, on an average, not more than $2 per acre when brought into market by reason of the railroad being built, or $33,000,000; but that is merely a nominal value, sales being slow and difficult until settlers are assured of protection from Indians and outlaws in that section of the country. From a recent report of the superintendent of the western division of the railroad, the following facts in regard to the country on the line of the road between Albuquerque and the Colorado River, a distance of six hundred and twenty miles, have been gathered:

Between Albuquerque and the San Francisco Mountains the country is chiefly occupied by large herders and stock raisers, some of the land being cultivated. Many of these herders are Indians. There is considerable timbered land within easy reach of the road and some saw-mills are now being erected. In the immediate neighborhood of the mountains the country is described as capable of being made the first summer and winter resort in the country. Between the San Francisco Mountains and the Great Colorado River, some three hundred miles, the country is known to be rich in minerals, as well as affording fine grazing and agricultural prospects.

As to the location of the line, it is described as being "marvelous in its align-

ment, its grades and general characteristics. To cross the continental divide, the Rocky Mountains of the United States, with only a maximum grade of fifty feet per mile, and this only going west, the east-bound approach being only thirty feet per mile, in a valley a mile wide, with no tunnels, are certainly advantages enjoyed by no other line." This is the language of Superintendent Smith, who is on the ground.

The superintendent's estimate of the annual business that may be done on this six hundred and twenty miles is about fifty thousand tons. If this tonnage is carried to Albuquerque it would make on an average about twelve million tons carried one mile per annum, which, at an average rate of five cents per ton per mile, would give a gross earning from freight carried amounting to $600,000.

Of the 306,111 acres of land acquired by the Saint Louis and San Francisco Railway Company in 1876, to December 31, 1879, 15,000 acres had been sold at an average price of $3.25 per acre, amounting to $48,750. Prior to November 6, 1876, the Atlantic and Pacific Railroad Company had disposed of 200,000 acres of the Missouri lands at an average price of $2.87½ per acre, amounting to $575,000.

No detail of construction has yet been obtained such as to enable a statement to be made showing the cost of the subsidized line; on December 31, 1879, the company reported the cost of "franchises and property" as $28,841,974.50, being two hundred and ninety-two and one-half miles of railroad, &c., in Missouri, extending from Pacific to the western State line near Seneca, making an average cost of nearly one hundred thousand dollars per mile. The road runs through a country where many heavy grades and sharp curves are required, and is of quite an expensive character to build. The property is now in good condition, better than the average of western roads.

Under the authority of the act of Congress approved April 20, 1871, the company on July 1, 1880, issued its thirty-year bonds to the amount of $25,000 per mile, bearing interest at the rate of 6 per cent. per annum, payable semi-annually in January and July, and secured the same by a mortgage on the franchises, right of way, railroad, telegraph, lands, land grants, and other property pertaining to the western division of the road, extending from Albuquerque, New Mexico, to the Pacific Ocean.

The payment of the coupons is also guaranteed by the Saint Louis and San Francisco Railway Company and the Atchison, Topeka and Santa Fé Railroad Company, not exceeding 25 per cent. of the gross amount of their earnings respectively during the six months preceding the due date of such coupons. The mortgage provides that the net proceeds of the land grant shall be used solely for the payment of interest on the first and second mortgage bonds, for the principal and interest of any advances made by the Atchison, Topeka and Santa Fé and the Saint Louis and San Francisco Railroad Companies, and for the purchase and cancellation of the first-mortgage bonds.

The Atchison, Topeka and Santa Fé Railroad Company and the Saint Louis and San Francisco Railway Company each own one-half of the capital stock of the Atlantic and Pacific Railroad Company.

Fifty miles of the western division of this road have just been reported ready for examination by commissioners—making one hundred miles in all completed west of Albuquerque to date.

*The Southern Pacific Railroad Company.*—The Southern Pacific Railroad Company was incorporated under the laws of the State of California December 2, 1865.

On October 12, 1870, articles of consolidation were entered into with the following-named roads: San Francisco and San José, chartered August 18, 1860; Santa Clara and Pajaro Valley, chartered January 2, 1868; and California Southern, chartered January 22, 1870. The Southern Pacific Branch Railroad Company, chartered December 23, 1872, was consolidated with this road August 19, 1873, and the Los Angeles and San Pedro Railroad Company, chartered February 18, 1868, on December 14, 1874. By virtue of the consolidation, the new company succeeds to all the rights, privileges, and franchises of the companies named above.

Section 18 of the act of Congress approved July 27, 1866, which chartered the Atlantic and Pacific Railroad Company, authorized this company to connect with the road of that company at such point on the boundary-line of the State of California as they shall deem most suitable for a railroad line to San Francisco, and to aid in its construction, similar grants of land were made to the Southern Pacific Railroad Company, subject to all the conditions and limitations prescribed for said Atlantic and Pacific Railroad.

The sections of the main line were accepted by the President of the United States, as follows:

| Number of section. | Miles. | Date. |
|---|---|---|
| First section, San José to Gilroy | 30.26 | January 19, 1871. |
| Second section, Gilroy to Tres Pinos | 20.00 | October 23, 1871. |
| Third section, from Goshen, south | 20.00 | October 1, 1872. |
| Fourth section, commencing at twentieth mile | 20.00 | August 6, 1873. |
| Fifth section, commencing at fortieth mile | 20.00 | October 23, 1874. |
| Sixth section, commencing at sixtieth mile | 20.00 | August 23, 1875. |
| Seventh section, commencing at eightieth mile, near Bealeville | 20.00 | June 16, 1876. |
| Eighth section, from Goshen, (west) near Lamoore | 20.00 | January 25, 1877. |
| Ninth section, from Lamoore to Huron | 20.00 | February 21, 1877. |
| Tenth section, from near Bealeville to Mojave | 41.66 | February 13, 1878. |
| Total | 231.92 | |

* From Mojave to the eastern boundary of the State and from Tres Pinos to Huron, the former about two hundred miles in length and the latter varying according to route from one hundred to one hundred and sixty miles, remain unbuilt, and the lands granted remain unvested in the company. The total land grant under the act of 1866 was, say, for five hundred and eighty-eight miles, at 12,800 acres per mile, 7,526,400 acres. Of this grant 2,768,576 acres have vested in the company by virtue of the construction of the 231.92 miles of road referred to, and 4,757,824 remain unearned by construction and unvested. No part of the line aided by a land grant is now under construction; nor is it believed that the company has any intention to construct their road from Mojave eastward. For a statement of the sales of land, cost of construction, and other matters connected with the Southern Pacific reference is made to that part of the report embracing the Texas Southern route immediately succeeding this.

THE TEXAS SOUTHERN, OR ROUTE ON THIRTY-SECOND PARALLEL OF LATITUDE.

*The Texas and Pacific Railway Company.*—This company was chartered by the act of Congress approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes." (16 Stats., 573; see Auditor's Report for 1880, page 170.)

Section 1 designates the route, which may be stated as follows, namely: From a point at or near Marshall, Texas; thence to a point at or near El Paso; thence through New Mexico and Arizona to a point on the Rio Colorado, at or near the southwestern boundary of California; thence to San Diego, pursuing in the location thereof as near as may be the thirty-second parallel of north latitude.

The company was vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of the act.

Section 8 grants a right of way through the public lands to the extent of two hundred feet in width on each side of the railroad, and grounds for stations, buildings, workshops, &c., not exceeding forty acres of land at any one point.

To aid in the construction of said road, section 9 grants every alternate odd-numbered section of public lands, not mineral, to the amount of forty sections or 25,600 acres per mile in the Territories, and twenty sections or 12,800 acres per mile in California.

Section 17 provides that the company shall commence construction simultaneously at San Diego, California, and at Marshall, Texas, and that at least fifty consecutive miles from each of said points shall be completed and in running order within two years after the passage of the act, and to so continue to construct each year thereafter a sufficient number of miles to secure the completion of the whole line * * * within ten years, that is, by March 3, 1881. The act of May 2, 1872, extended the time to May 2, 1882.

Section 18 of the original act provides for the appointment of a commissioner by the President of the United States to examine the various sections of twenty miles of road as completed; * * * and upon the acceptance by the President of the United States of said sections patents shall be issued to said company for the lands so earned.

By the act of Congress approved May 2, 1872, the name, style, and title was changed to "the Texas and Pacific Railway Company," and section 17 of the act of March 3, 1871, amended so as to require that at least one hundred consecutive miles of railroad should be completed and in running order within two years after the passage of the act, that is, by May 1, 1874; (three hundred miles of road were in operation before that time.) It also provides that the company shall commence construction from San Diego eastward within one year, that is, by May 1, 1873, and construct not less than ten miles before the expiration of the second year, and thereafter not less than twenty-five miles per annum in continuous line between San Diego and the Colorado River until the junction is formed with the line from the east. Little or none of the line from San Diego eastward has been constructed. From the Colorado River at Yuma, Arizona, a line of railroad has been constructed by another company, known as the Southern Pacific Railroad Company of Arizona, under the supposition that the general law of 1875 gave them a right of way over the public lands of the United States, although section 5 of that act excepted any lands specially reserved from sale.

In March, 1872, the Texas and Pacific Railway Company acquired by purchase and consolidation all of the franchises and property of the Southern Pacific Railroad Company, a corporation organized under the laws of Texas, and operating sixty-six miles of road between Shreveport and Longview, with a right to extend its line to El Paso. It subsequently acquired, in like manner, the charter privileges and property of the Southern Transcontinental Railway Company, organized under the laws of Texas, with right to construct a road from the northeast boundary of the State to El Paso, and the property and franchises of the Memphis, El Paso and Pacific Railroad Company, another Texas corporation.

On May 31, 1880, the number of miles of road operated was as follows, namely:

| | |
|---|---|
| From Shreveport, Louisiana, to Fort Worth, Texas | 219.69 |
| From Texarkana to Sherman | 155.12 |
| From Marshall to Texarkana Junction | 69.05 |
| Total | 443.86 |

The first section, extending from Marshall to Dallas, a distance of one hundred and forty-seven miles, was accepted by the President of the United States April 7, 1874; the second section, extending from Marshall to boundary-line between Louisiana and Texas, (22.12 miles,) from Marshall to Texarkana, (74.23 miles,) and from Shreveport to Brookston, (56.18 miles,) was accepted August 9, 1875. The last section, extending from Texarkana Junction to Brookston, and from Dallas to Fort Worth, a distance of one hundred and twenty-seven miles, was accepted March 8, 1877.

The company has already entered into a contract for the completion of the road from Fort Worth to El Paso, a distance of six hundred miles. The work was commenced March 5, 1880, and the whole line is to be completed by January 1, 1883.

The quantity of land granted to the Texas and Pacific Railway Company is estimated at 18,000,000 acres, lying in Mexico, Arizona, and California. No lands have been earned by construction of railroad in California or the Territories, and consequently none have yet vested in the company; but the right of way and the land grant are subject, under the provisions of section 17 of the charter act and section 5 of the supplemental act of May 2, 1872, to such action as Congress may deem necessary to secure a speedy completion of the road.

The cost of construction and equipment on May 31, 1880, is reported at $27,418,107.94, which includes expenditures for surveys and location of entire line of 1,457 miles west of Fort Worth. The average cost per mile is $61,771.

*The Southern Pacific Railroad Company.*—The act of Congress approved March 3, 1871, which incorporated the Texas Pacific, provides, in section 23, that for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco the Southern Pacific Railroad Company of California is authorized to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado River, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted by the act of July 27, 1866, before referred to.

The grant of land under this act, being 12,800 acres per mile of road from the Colorado River at or near Fort Yuma to Mojave—346.96 miles—amounts to 4,441,088 acres, supposing none of the land to have been otherwise disposed of. The road having been constructed, was accepted by the President of the United States as follows, namely:

| Sections. | Miles. | Date. |
|---|---|---|
| Section 1 | 50 | May 9, 1874 |
| Section 2 | 50 | Nov. 11, 1875 |
| Section 3 | 50 | Jan. 21, 1876 |
| Section 4 | 78.59 | Mar. 2, 1877 |
| Section 5 | 118.37 | Jan. 23, 1878 |
| Total | 346.96 | |

On December 31, 1879, the total length of road completed and in operation was as follows:

| Northern division: | *Miles.* |
|---|---|
| From San Francisco to Tres Pinos | 100.49 |
| From Carnadero to Soledad | 60.40 |
| Total | 160.89 |

| Southern division: | *Miles.* |
|---|---|
| From Huron, via Goshen and Los Angeles, to west bank of Colorado River | 528.56 |
| From Los Angeles to Wilmington | 22.06 |
| Total | 550.62 |

Total miles of railroad owned, 711.51; of which 578.88 have been subsidized with a land grant from the United States.

The Southern Division is leased to and operated by the Central Pacific Railroad Company; lease terminable in five years from January 1, 1880, or when eastern connections are made.

The quantity of land covered by the grants to this company is estimated by the General Land Office at 9,520,000 acres.

The quantity patented to the company to June 30, 1880, was 1,048,000.65 acres; of which the sales to the same date have been 279,623.40 acres, at an average price of $3.64 per acre, amounting to $1,017,255.89. Sales are made for cash, or part cash and the balance in five years' time, with interest at 7 per cent. per annum, payable in advance. Of the above sales 120,000 acres have been sold for cash at about $2 per acre, and the remainder, 160,000 acres, on credit, at nearly $5 per acre.

The proceeds of land sales are applied exclusively to the redemption of the company's bonds.

The quantity of land vested and unsold June 30, 1880, may be estimated at 5,407,553 acres, worth at a fair average value $1.25 per acre. The company's estimate of the value of the grants from the United States, as stated in their last annual report to their stockholders, is upwards of $40,000,000.

The company's estimates, on account of both grants, are as follows:

| | *Acres.* |
|---|---|
| Main line San Jose to Needles | 7,523,072.00 |
| Branch line, Mojave to Yuma | 4,441,088.00 |
| Estimated total number of acres granted | 11,964,160.00 |
| Less total number of acres sold to June 30, 1880 | 279,623.40 |
| Estimated numbers of acres unsold to June 30, 1880 | 11,684,536.60 |
| Estimated quantity earned by construction of road | 7,413,760.00 |
| Estimated quantity capable of being earned | 4,550,400.00 |
| Total | 11,964,160.00 |

The land agent of the company says: "It is difficult to estimate the quantity of land that will eventually inure to the company from these land grants, as there are included within the limits large areas of Spanish grants and lands otherwise excepted. It is not at all probable that there will be sufficient available lands belonging to the United States within the indemnity limits to make good these deficiencies." He also says: "At the time this grant was made, the value of the lands was rated as trifling, as the best land in Southern California had long been held and occupied by Spanish-speaking residents and their descendants, and were devoted almost wholly to grazing purposes, several acres in the average being required per head of stock. So broken, dry, and forbidding in aspect was the remainder still under the disposition of the Government, that no one, at that day, imagined it could be of the slightest assistance toward the building of the road, and the greater part of it so remains to this day. It resembles, and is commonly known as 'desert land,' totally incapable of being made useful for the support of vegetation or animal life. However, where there is running water sufficiently near, portions of it may be used for pasturage. * * * The Southern Pacific Railroad Company would be glad to co-operate with the Government in any plan whereby its alternate sections could be leased or sold in large unbroken tracts for grazing; and there are millions of acres which it would be willing to sell for such purposes outright, at twenty cents an acre." On the other hand, the company, in its printed annual report to the stockholders, speaks in the highest terms of its lands. The following extracts are taken from the report of the land commissioner: "I cannot forbear, in this connection, alluding once more to the immense increase in agricultural productions, and to the surprising effect of irrigation upon land in Southern California. * * * Lands previously of no value but as cattle ranges, are now becoming the homesteads of thrifty, industrious families. * * * By the use of water, the valuable lucern known as alfalfa has been introduced, and makes it possible to sustain a greater number of cattle. * * * This wonderful clover can be cut three or four times in a season, realizing to the acre ten or twelve tons of hay per annum. * * * But all that part of the State in which this company's lands are situated is especially adapted by climate, soil and situation, to the raising of semi-tropical fruits. * * * Even where water, through canals, cannot be procured, the lands sell, the purchaser being able, by boring a well and the assistance of a 'windmill,' to cultivate acres enough to support a family. Waste or 'desert lands' are thus made available or useful."

In regard to the "mussel slough" lands, about which there has been some trouble between the company and the settlers, the land agent says: "Had it not been for the discovery that portions of the land in the San Joaquin and Tulare Valleys are susceptible to irrigation by diverting the streams from the mountains upon them by means of extensive canals and systems of irrigating ditches, the best lands of the company would have been unsalable to this day, and, like the other portions referred to, would have been regarded as desert lands. So soon as this was made obvious a number of that improvident and speculating class to be found in all communities rushed in upon the lands within the limits of the grant, and, in defiance of the law and the officers of the courts, sought to set up claims as preemptors or technical 'settlers.' Their very presence, their threats as well as their open resistance to the company, with the aid of demagogues who sought to profit by their trespass, made it difficult or impossible for the company to dispose of the lands in the vicinity. In this lawless way the wishes of the railroad company and the purposes of Congress in making the grant were defeated. But for this untoward interruption of the course of law, which has only very slowly been condemned by the executive and judicial officers, the company would have been enabled to transfer into the hands of solid and respectable persons many thousands of acres, and with the traffic derived from their cultivation it would have been able to prosecute the work on the remaining gap in its lines of road."

To June 30, 1880, the cost of construction of the 711.51 miles of railroad owned by this company was $62,919,109.72, and of equipment $1,848,533.81. Total cost, $64,767,643.23, or at an average rate of $91,082 per mile.

GENERAL RECAPITULATION.

| Items. | Northern Pacific. | Union Central route. | Atlantic and Pacific. | Southern Pacific. | Texas Pacific. | Total. |
|---|---|---|---|---|---|---|
| 1 Acres land granted, if all received | 57,920,000 | 41,458,924 | 51,840,000 | 11,967,488 | 18,000,000 | 181,186,412 |
| 2 Acres estimated to be obtained | 42,500,000 | 32,200,813 | 17,008,150 | 10,445,000 | 12,000,000 | 114,153,963 |
| 3 Acres earned by construction, and vested | 15,000,000 | 30,419,181 | 1,140,000 | 5,687,176 | None. | 52,246,357 |
| 4 Acres patented to companies | 746,509 | 8,388,155 | 504,536 | 1,048,000 | None. | 10,687,200 |
| 5 Acres sold by companies | 2,600,000 | 5,469,004 | 215,000 | 279,623 | None. | 8,563,627 |
| 6 Amount realized from sales | $9,000,000 00 | $25,742,789 00 | $623,750 00 | $1,017,256 00 | None. | $36,383,795 00 |
| 7 Average price per acre | $3 46 | $4 71 | $2 90 | $3 64 | None. | $4 25 |
| 8 Acres vested, unsold | 12,400,000 | 24,950,177 | 925,000 | 5,407,553 | None. | 43,682,739 |
| 9 Estimated value | $31,000,000 00 | $39,280,499 00 | $1,850,000 00 | $6,759,441 00 | None. | $78,889,940 00 |
| 10 Acres unvested by reason of non-construction | 27,500,000 | 1,781,632 | 15,868,150 | 4,757,824 | 12,000,000 | 61,907,606 |
| 11 Estimated value | $68,750,000 00 | $4,454,080 00 | $31,736,300 00 | $5,947,280 00 | $24,000,000 00 | $134,887,660 00 |
| 12 Miles subsidized with lands | 2,450 | 3,187.82 | 2,500 | 929 | *1,061<br>840 | 10,967.82 |
| 13 Miles constructed or owned | 680 | 3,414.92 | 175 | *132<br>579 | *444 | 5,424.92 |
| 14 Cost of same | $24,353,416 00 | $318,352,888 00 | †$30,691,974 00 | $64,767,643 00 | $27,418,108 00 | $465,584,029 00 |
| 15 Cost per mile of same | $35,813 00 | $93,224 00 | $80,768 00 | $91,082 00 | $61,771 00 | $82,698 00 |
| 16 Miles to be constructed | 1,865 | 139.19 | 2,325 | 350 | *617<br>840 | 6,136.19 |
| 17 Estimated cost of same | $50,110,000 00 | $5,600,000 00 | $58,125,000 00 | $10,500,000 00 | $43,710,000 00 | $168,045,000 00 |
| 18 Cost per mile of same | $26,868 00 | $40,000 00 | $25,000 00 | $30,000 00 | $30,000 00 | $27,385 00 |
| 19 Total miles of route or system | 2,700 | 3,554 | 2,500 | 929 | 1,901 | 11,584 |
| 20 Total cost of same | $75,000,000 00 | $323,952,888 00 | $88,816,974 00 | $75,267,643 00 | $71,128,108 00 | $634,165,613 00 |
| 21 Total cost per mile of same | $28,000 00 | $91,151 00 | $35,526 00 | $81,020 00 | $37,416 00 | $54,745 00 |
| 22 Estimated present cost of similar railroad | $75,000,000 00 | $91,069,300 00 | $50,000,000 00 | $23,225,000 00 | $47,525,000 00 | $286,819,300 00 |
| 23 Estimated cost of same per mile | $28,000 00 | $25,624 00 | $20,000 00 | $25,000 00 | $20,000 00 | $24,760 00 |

*Unsubsidized. †380 miles.

From this recapitulation it will be seen that there remain "unvested," by reason of non-construction of the respective railroads for which grants were made, the following lands:

| | *Acres.* |
|---|---|
| Northern Pacific | 27,500,000 |
| California and Oregon | 1,781,632 |
| Atlantic and Pacific | 15,868,150 |
| Southern Pacific | 4,757,824 |
| Texas and Pacific | 12,000,000 |

Of these railroads the Northern Pacific, the Atlantic and Pacific, and the Texas and Pacific are vigorously pushing forward the work of construction; and it may be reasonably calculated that these railroads will be completed within the next three years. The California and Oregon uncompleted road extends from Redding to the northern line of the State of California, a distance of about one hundred and fifty miles, and the country there is of such a mountainous character as to require heavy work and great expense, so much so that it is very doubtful if the road will ever be built.

The Southern Pacific uncompleted road extends from Tres Pinos to Huron, across the coast range, a difficult and costly line; and from Mojave to the eastern line of the State of California, at or near a point called "The Needles," over a desert country. Neither of these parts of the Southern Pacific are under construction, and, as in the California and Oregon case, it is very doubtful when they will be built, if ever.

As to the forfeiture of any of these grants, the opinion of the Attorney-General of the United States in the case of the Atlantic and Pacific Railroad Company is given on page 111 of my last annual report.

The Northern Pacific act is similar to that which granted lands to the Atlantic and Pacific in respect to the provisions for any action by Congress looking to a completion of the road.

The Texas and Pacific act contains no provision of the kind referred to, and has no section or clause providing for any repeal of the charter or grants.

The Southern Pacific obtained its grant under the Atlantic and Pacific charter and is subject to the same conditions as that company.

The California and Oregon act, page 178 of Auditor's report for 1880, in section 8, provides that "all the lands not conveyed by patent to said company or companies, as the case may be, at the date of any such failure, shall revert to the United States."

THEO'S FRENCH.
*Auditor of Railroad Accounts.*

LIGHTING THE PUBLIC BUILDINGS.

Mr. ELLIS, by unanimous consent, submitted a resolution in reference to lighting the public buildings and grounds in the District of Columbia with electricity; which was referred to the Committee on Public Buildings and Grounds.

SYMPATHY FOR THE PEOPLE OF IRELAND.

Mr. GILLETTE, by unanimous consent, introduced a resolution expressing sympathy for the present condition of affairs in Ireland; which was referred to the Committee on Foreign Affairs.

IMPROVEMENT OF THE MISSISSIPPI RIVER.

Mr. GILLETTE also, by unanimous consent, presented resolutions of the Board of Trade of the city of Des Moines, Iowa, praying for the improvement of the Mississippi River; which were referred to the Committee on Commerce.

CONTAGIOUS DISEASES OF DOMESTIC ANIMALS.

Mr. ANDERSON, by unanimous consent, presented a memorial of the Legislature of the State of Kansas, in relation to contagious diseases of domestic animals.

PUBLIC BUILDING IN LEXINGTON, KENTUCKY.

Mr. BLACKBURN, by unanimous consent, introduced a bill (H. R. No. 7155) to provide for the erection of a public building for the use of the United States post-office, revenue office, and such other Government offices as may be located at Lexington, Kentucky; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

COUNTING THE ELECTORAL VOTE.

The SPEAKER. The Chair, in obedience to the authority given by the concurrent resolution of the two Houses for the purpose of counting the electoral votes for President and Vice-President of the United States, appoints as tellers on the part of the House Mr. HOUSE, of Tennessee, and Mr. CROWLEY, of New York.

ORDER OF BUSINESS.

The SPEAKER. The Chair will cause to be read Rule XXVIII governing the order of business for to-day.

The Clerk read as follows:

No standing rule or order of the House shall be rescinded or changed without one day's notice of the motion therefor, and no rule shall be suspended except by a vote of two-thirds of the members present, nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month after the call of States and Territories shall have been completed, preference being given on the first Monday to individuals and on the third Monday to committees, and during the last six days of a session.

2. All motions to suspend the rules shall, before being submitted to the House, be seconded by a majority by tellers, if demanded.

3. When a motion to suspend the rules has been seconded, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for thirty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition, and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

UNITED STATES AND BRITISH PROVINCES RECIPROCITY TREATY.

Mr. BOWMAN. Mr. Speaker, I ask to suspend the rules and pass the joint resolution which I send to the Clerk's desk.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That whereas it appears desirable that reciprocal relations should exist between the United States and the British provinces adjacent to our northern frontier, upon a basis assimilating to that of the reciprocal treaty heretofore existing and now abrogated, as far as the present conditions of our industry render desirable, the President of the United States be, and hereby is, authorized to appoint three commissioners, by and with the advice and consent of the Senate, to confer with other commissioners to be appointed by the Government of Great Britain, whenever it shall be the wish of that government to appoint commissioners on its part; such commissioners on the part of this Government to ascertain and report on what basis a treaty of reciprocal trade for the mutual benefit of the people of the United States and the said provinces can be negotiated.

The SPEAKER. Is there a report accompanying this resolution?

Mr. COX. There is a very lengthy report.

The SPEAKER. The Chair understands that there is a unanimous report from the Committee on Foreign Affairs as to this bill.

Mr. COX. There is a minority report.

The SPEAKER. Then the Chair is mistaken.

Mr. MILLS. What is the question pending?

The SPEAKER. The motion of the gentleman from Massachusetts s to suspend the rules and put upon its passage the joint resolution with amendments as reported from the Committee on Foreign Affairs and just read by the Clerk.

Mr. MILLS. Is it open for debate?

The SPEAKER. It will be under the rule if the motion to suspend is seconded by tellers. The Chair is informed that the committee recommend certain amendments, which the Clerk will report.

The Clerk read as follows:

The committee recommend that the following words be stricken out:

"Whereas it appears desirable that reciprocal relations should exist between the United States and the British provinces adjacent to our northern frontier, upon a basis assimilating to that of the reciprocal treaty heretofore existing and now abrogated, as far as the present conditions of our industry render desirable."

Also, in line 9, strike out the word "authorized" and insert "requested;" in line 15 strike out the words "a treaty of," and in line 17 strike out the word "negotiated" and insert "established."

With the proposed amendments the joint resolution reads as follows:

"*Resolved, &c.*, That the President of the United States be, and hereby is, requested to appoint three commissioners, by and with the advice and consent of the Senate, to confer with other commissioners to be appointed by the Government of Great Britain, whenever it shall be the wish of that government to appoint commissioners on its part; such commissioners on the part of this Government to ascertain and report on what basis reciprocal trade, for the mutual benefit of the people of the United States and the said provinces, can be established."

Mr. BREWER. I ask for the reading of the report accompanying that resolution.

Mr. BLAND. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. BLAND. This is a motion to suspend the rules and pass the joint resolution. That motion has not yet been adopted. If that motion be adopted it suspends all the rules, also the rule, if there be one, authorizing the reading of this report without objection.

The SPEAKER. The Chair cannot understand why a report of the House which is directed to be made by the House, and required to be made in accordance with the rules of the House, should not be read as explaining the provisions of the measure to which it relates, if demanded. The Chair can conceive of no other object in making the report. It is, in fact, part of the record coming from the committee.

Mr. BLAND. The report accompanying the resolution is no part of the question on which a vote is to be taken. If fifteen minutes be allowed for debate upon the resolution, and the report is read within the fifteen minutes, it will probably come within the language of the rule.

The SPEAKER. The Chair does not take it out of the fifteen minutes allowed for debate.

Mr. BLAND. It might take all day to read it. I object to its reading. I have a right to object to it. This is a motion to suspend the rules.

Mr. MURCH. I make the point of order, Mr. Speaker, that this is a committee report. The time for reading the report should not come out of the fifteen minutes if it is a committee report. If it is an individual report the time of the reading of the report should come out of the time allowed for individual discussion upon it.

The SPEAKER. The Chair does not see any distinction if the report is authorized in manner as has been stated by the Chair. The Chair thinks that the reading of the report is a right which can be demanded.

Mr. BLAND. Unless it is in order one objection would prevent its being read. I say that it is not in order under a motion to suspend the rules. The Chair will remember that the mere motion to suspend the rules does not suspend them. The rules we apply to this are still in force.

Mr. BRIGHT. Let me suggest, Mr. Speaker, that in my judgment the reading of the report is but a part of the record of the case.

The SPEAKER. The Chair has so held.

Mr. BLAND. The point that I make is that no debate is allowed on the motion to suspend the rules. This is a motion to suspend the rules, and the reading of the report is in the nature of debate.

The SPEAKER. The Chair is of opinion that under the new rules, the gentleman will remember, fifteen minutes' debate is allowed on the motion to suspend the rules and pass a measure.

Mr. CONGER. I ask that the resolution proposed be read again.

The SPEAKER. The Chair thinks it is perfectly idle to read the resolution unless members are silent in the House.

Mr. COX. I think I can solve this question by one word. This is the day for individual motions to suspend the rules. This report comes from the Committee on Foreign Affairs. The gentleman from Massachusetts makes this on his own individual responsibility. I submit, therefore, the report need not necessarily be read to-day, even though some member call for the reading of it.

Mr. BLAND. The point I make is that the report can only be read as a part of the fifteen minutes' debate on each side allowed by the rule.

The SPEAKER. The Chair will cause to be read Rule XXXI.

The Clerk read as follows:

When the reading of a paper other than one upon which the House is called to give a final vote is demanded, and the same is objected to by any member, it shall be determined without debate by a vote of the House.

Mr. BLAND. That is one of the rules of the House, and it is a rule which can be suspended.

The SPEAKER. It is not yet suspended.

Mr. BLAND. This is a motion to suspend the rules.

The SPEAKER. The motion to suspend does not suspend the rules. Before the House actually votes to suspend the rules, the rules are not suspended.

Mr. CONGER. I submit to the Chair, that if the question of reading the report from a committee on a measure sought to be passed is to be determined by the House, then the value of having a report from a committee would be in a great measure lost. I do not think the Chair has ever decided that the rule applies to the reading of reports of committees when the question is on the passage of the bill or resolution to which the report relates.

The SPEAKER. The Chair is clearly of opinion the report ought to be read, but under Rule XXXI he proposes to submit that question to the House.

Mr. CONGER. If the reading of the report can be demanded as a right, the Chair should not submit the question to the House, whether it should be read, but should rule that it must be read.

The SPEAKER. This is perhaps not a paper "upon which the House is called to give a final vote," as described in Rule XXXI, but it is clearly part of the record from the committee.

Mr. CONGER. I desire the resolution to be again read.

Mr. RICE. I rise to ask a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. RICE. Can the views of the minority be read as well as the report of the committee?

The SPEAKER. The Chair supposes they would be read also.

Mr. RICE. Both should be read, if either.

Mr. BLAND. It is well understood, pending a motion to suspend the rules, no debate is in order on that motion.

The SPEAKER. On the contrary, the new rules provide that thirty minutes' debate be allowed.

Mr. BLAND. I had not got through with my statement. The new

rules only make this exception: that the proposition may be debated for thirty minutes, fifteen minutes in favor of it and fifteen minutes on the other side. And I submit that the reading of the report can come in under that debate and in no other way.

The SPEAKER. The gentleman from Michigan asks that the resolution be again read. The Clerk will again report it.

The resolution was again read.

Mr. BOWMAN. If I may be allowed to make a suggestion I think we can do away with the reading of the report. The gentlemen who are in favor of this resolution and those who take the lead in representing the opposition to it I understand are willing to dispense with the reading of the report and to have the matter explained on the floor during the half hour allowed for debate. I hope no one will insist on the reading of the report. We will have half an hour for debate after the motion is seconded.

Mr. BREWER. I insist on the reading of the report.

The SPEAKER. The Chair will submit the question to the House whether the paper shall be read.

Mr. DUNNELL. I doubt whether the House understands the question to be submitted, as there has been a good deal of disorder.

The SPEAKER. The gentleman from Massachusetts [Mr. BOWMAN] moves to suspend the rules and pass a joint resolution coming from the Committee on Foreign Affairs, unanimously recommended by that committee.

Mr. COX. Not unanimously.

The SPEAKER. The Chair begs pardon and corrects himself. There are minority views.

Mr. RICE. A large minority.

The SPEAKER. The gentleman from Michigan [Mr. BREWER] demands the reading of the report of the committee. Under Rule XXXI, which the Chair has caused to be read, the Chair now proposes to submit the question as to the reading of the report to be determined by the House.

Mr. SPRINGER. I submit to the Chair that this being a motion to suspend the rules includes that rule as well as others.

The SPEAKER. But the rules are not suspended until the motion is carried, and the Chair thinks these reports are part of the record from the committee.

Mr. SPRINGER. I ask the Chair to allow me one moment.

The SPEAKER. The Chair will hear the gentleman.

Mr. SPRINGER. This is a motion to suspend the rules. Under the rule which allows the gentleman from Massachusetts to make his motion it is provided there shall be allowed on either side so much time for discussion. Now, the reading of this report is in the nature of debate, but it must come within the rule in regard to motions to suspend the rules which allows a certain amount of debate on either side. This is not the time for that debate. Therefore it is not in order to demand the reading of this report to the exclusion of all other business; nor is it competent for the Chair to submit that question to the House previous to the motion to suspend the rules.

The SPEAKER. The Chair thinks the report is part of the record of the case; but he thinks it is that part of the record which, under Rule XXXI, the House by a majority vote has a right to dispense with.

Mr. SPRINGER. I ask the Chair whether the reading of the report is not in the nature of debate?

The SPEAKER. The Chair is not called upon to decide that point at present.

Mr. SPRINGER. I call upon the Chair to decide that point now.

The SPEAKER. The Chair does not decide except what he is required to decide. The majority of the House can determine by their vote whether the report shall be read or not.

Mr. BLAND. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. BLAND. How can a majority of the House do away with a rule?

The SPEAKER. The rule says a majority shall determine as to the reading.

Mr. BLAND. The majority of the House cannot suspend a rule.

The SPEAKER. But the rules are not yet suspended. This, the Chair thinks, is a part of the record; and the reading of the report, when demanded, should be determined by the House. Otherwise a precedent might be established which might be dangerous in the future.

Mr. BLAND. It takes a two-thirds vote to suspend the rules and direct the reading of the report.

The SPEAKER. The Chair thinks his decision is an equitable one, and in accordance with fair play and common sense.

Mr. ROBINSON. I wish to ask the Chair whether the question to be submitted to the House as to the reading of the report carries with it the reading of the views of the minority?

The SPEAKER. The Chair thinks both.

Mr. ROBINSON. I desire further to ask the Chair whether an appeal is pending, and whether the House is voting on any appeal from the decision of the Chair at this time.

The SPEAKER. The Chair does not know of any. There may be an appeal upon another question of business, not now before the House.

Mr. ROBINSON. I made that inquiry because the House should understand that this vote does not settle this question for the future; only that the House will or will not hear this report read. If the Chair should now make a ruling on the question——

The SPEAKER. The Chair makes no ruling, except to submit under Rule XXXI the question of the reading of this paper to a vote of the House. Any other ruling of the Chair would be arbitrary, and would take away from the majority of the House the power to control its own business.

Mr. RICE. I understand that includes the views of the minority as well as the report of the majority.

The SPEAKER. The Chair so stated. The question now is, Will the House dispense with the reading of the report of the committee?

The question was taken; and upon a division there were—ayes 73, noes 77.

Before the result of the vote was announced,

Mr. SPARKS said: A number of gentlemen around me have voted by mistake.

The SPEAKER. That is their own fault, not the fault of the Chair. On dispensing with the reading of the report there are—ayes 73, noes 77.

Mr. BLAND. I call for tellers on that question.

The question was taken upon ordering tellers, and there were 31 in the affirmative.

So (the affirmative being one-fifth of a quorum) tellers were ordered, and Mr. BLAND and Mr. BOWMAN were appointed.

The House again divided; and the tellers reported that there were—ayes 93, noes 69.

Before the result of this vote was announced,

Mr. CLYMER called for the yeas and nays.

The yeas and nays were ordered, there being 41 in the affirmative; more than one-fifth of the last vote.

Mr. FORT. I would like to have the question again stated by the Chair, as many gentlemen do not understand it.

The SPEAKER. The question is on the motion that the House dispense with the reading of the report of the Committee on Foreign Affairs upon the joint resolution, for the passage of which a suspension of the rules has been moved.

Mr. FORT. That would include the minority report also?

The SPEAKER. It would.

The question was taken; and there were—yeas 162, nays 84, not voting 46; as follows:

YEAS—162.

| | | | |
|---|---|---|---|
| Acklen, | Dwight, | Lounsbery, | Shallenberger, |
| Aiken, | Elam, | Manning, | Shelley, |
| Aldrich, N. W. | Ellis, | Martin, Benj. F. | Simonton, |
| Armfield, | Evins, | Martin, Edward L. | Singleton, J. W. |
| Atkins, | Felton, | McKenzie, | Singleton, O. R. |
| Bailey, | Fisher, | McLane, | Slemons, |
| Ballou, | Forney, | McMillin, | Smith, Hezekiah B. |
| Barber, | Forsythe, | Mills, | Smith, William E. |
| Beale, | Fort, | Mitchell, | Speer, |
| Berry, | Frost, | Money, | Springer, |
| Bingham, | Frye, | Morse, | Stephens, |
| Blake, | Geddes, | Morton, | Stone, |
| Bland, | Gillette, | Murch, | Talbott, |
| Bliss, | Goode, | Myers, | Thompson, P. B. |
| Bouck, | Gunter, | New, | Tillman, |
| Bowman, | Hall, | Nicholls, | Townsend, Amos |
| Bright, | Hammond, John | Norcross, | Tucker, |
| Browne, | Harmer, | O'Connor, | Turner, Thomas |
| Buckner, | Harris, Benj. W. | O'Neill, | Updegraff, J. T. |
| Cabell, | Harris, John T. | O'Reilly, | Upson, |
| Carlisle, | Haskell, | Orth, | Vance, |
| Chalmers, | Hatch, | Persons, | Van Voorhis, |
| Chittenden, | Hazelton, | Phelps, | Voorhis, |
| Claflin, | Henderson, | Phister, | Waddill, |
| Clardy, | Herbert, | Pound, | Wait, |
| Clark, John B. | Herndon, | Price, | Ward, |
| Clements, | Hill, | Ray, | Washburn, |
| Colerick, | Hiscock, | Reagan, | Weaver, |
| Converse, | Hostetler, | Reed, | Wellborn, |
| Covert, | Houk, | Richardson, D. P. | Wells, |
| Cowgill, | House, | Richardson, J. S. | White, |
| Crapo, | Hunton, | Robertson, | Whiteaker, |
| Cravens, | Hurd, | Robinson, | Whitthorne, |
| Culberson, | Johnston, | Ross, | Williams, Thomas |
| Davidson, | Kelley, | Russell, Daniel L. | Willis, |
| Davis, Joseph J. | Kenna, | Russell, Wm. A. | Wood, Walter A. |
| De La Matyr, | Killinger, | Ryan, Thomas | Wright, |
| Dibrell, | Kimmel, | Ryon, John W. | Yeates, |
| Dickey, | Ladd, | Samford, | Young, Casey. |
| Dunn, | Le Fevre, | Sawyer, | |
| Dunnell, | Loring, | Scales, | |

NAYS—84.

| | | | |
|---|---|---|---|
| Aldrich, William | Coffroth, | Hooker, | Prescott, |
| Anderson, | Conger, | Horr, | Rice, |
| Baker, | Cook, | Hubbell, | Robeson, |
| Beltzhoover, | Cox, | Keifer, | Rothwell, |
| Bicknell, | Crowley, | Kitchin, | Sapp, |
| Bisbee, | Daggett, | Lapham, | Scoville, |
| Blount, | Davis, George R. | Lindsey, | Sherwin, |
| Boyd, | Davis, Horace | Lowe, | Smith, A. Herr |
| Bragg, | Davis, Lowndes H. | Marsh, | Sparks, |
| Brewer, | Deering, | Mason, | Steele, |
| Briggs, | Dick, | McCoid, | Taylor, Ezra B. |
| Brigham, | Einstein, | McCook, | Thomas, |
| Burrows, | Errett, | McGowan, | Thompson, Wm. G. |
| Caldwell, | Ferdon, | McKinley, | Townshend, R. W. |
| Calkins, | Field, | Monroe, | Turner, Oscar |
| Camp, | Ford, | Morrison, | Tyler, |
| Cannon, | Godshalk, | Newberry, | Updegraff, Thomas |
| Carpenter, | Hammond, N. J. | Osmer, | Valentine, |
| Caswell, | Hawk, | Pacheco, | Warner, |
| Clymer, | Hayes, | Philips, | Williams, C. G. |
| Cobb, | Heilman, | Poehler, | Wise. |

NOT VOTING—46.

| | | | |
|---|---|---|---|
| Atherton, | Hawley, | Knott, | Stevenson, |
| Bachman, | Henkle, | McMahon, | Taylor, Robert L. |
| Barlow, | Henry, | Miles, | Urner, |
| Bayne, | Humphrey, | Miller, | Van Aernam, |
| Belford, | Hutchins, | Muldrow, | Wilber, |
| Blackburn, | James, | Muller, | Willits, |
| Butterworth, | Jones, | Neal, | Wilson, |
| Clark, Alvah A. | Jorgensen, | O'Brien, | Wood, Fernando |
| Deuster, | Joyce, | Overton, | Yocum, |
| Ewing, | Ketcham, | Page, | Young, Thomas L. |
| Finley, | King, | Richmond, | |
| Gibson, | Klotz, | Starin, | |

So the reading of the report was dispensed with.

At the conclusion of the second roll-call,

Mr. BOWMAN asked consent that the reading of the names be dispensed with.

Mr. CAMP objected.

The Clerk proceeded to read the names of those voting; after which

The following pairs were announced:

Mr. HERNDON with Mr. HAWLEY, for the day, on political questions, each reserving the right to vote to make a quorum.

Mr. KLOTZ with Mr. MILLER, until Wednesday.

Mr. RICHMOND with Mr. JORGENSEN.

Mr. HAMMOND, of New York, with Mr. SMITH, of New Jersey.

Mr. OVERTON with Mr. TAYLOR, of Tennessee.

Mr. MILES with Mr. SINGLETON, of Illinois.

Mr. CASWELL with Mr. BACHMAN.

Mr. JAMES with Mr. O'BRIEN.

Mr. SMITH, of Georgia, with Mr. WILBER, on political questions.

Mr. HURD with Mr. BUTTERWORTH.

The result of the vote was then announced as above stated.

The SPEAKER. The question recurs upon the motion to suspend the rules.

Mr. MILES. I call for a second of that motion.

Tellers were ordered, and Mr. MILLS and Mr. BOWMAN were appointed.

The House divided; and the tellers reported that there were—ayes 33, noes 119.

So the motion to suspend the rules was not seconded.

DEPARTMENT OF AGRICULTURE.

The SPEAKER. The Chair next recognizes the gentleman from South Carolina, [Mr. AIKEN.]

Mr. AIKEN. I was instructed by the Committee on Agriculture——

The SPEAKER. This is not the day for motions from committees to suspend the rules.

Mr. AIKEN. I was instructed by the Committee on Agriculture to present the bill which I now send to the desk on the third Monday of January last. The committee was not then called; and now, upon my own responsibility I present the bill and ask the House by a two-thirds vote to pass it.

The Clerk was proceeding to read the title of the bill, when

Mr. CARLISLE said: Mr. Speaker, on the day assigned to motions by individual members to suspend the rules is it in order for the gentleman to take a bill which his committee has directed him to report and send that up?

The SPEAKER. The Chair thinks not.

Mr. CARLISLE. Because, as the Chair will see, at once——

The SPEAKER. The gentleman from South Carolina will give his attention. The gentleman from Kentucky [Mr. CARLISLE] makes the point of order that as this is the day for individual motions to suspend the rules, the gentleman from South Carolina should not have recognition when his committee has actually given the instruction to make the motion for suspension. The Chair supposed that the gentleman sought the floor as an individual member to make the motion.

Mr. VALENTINE. The gentleman states that he makes the motion now on his own individual responsibility.

Mr. AIKEN. I ask the Chair, for information, why is it that when I am recognized I am not as much entitled as any other member to move a suspension of the rules for the passage of this bill?

The SPEAKER. Because the gentleman stated that he was acting under instruction from his committee.

Mr. AIKEN. I stated no such thing.

The SPEAKER. The Chair so understood.

Mr. AIKEN. The Chair is mistaken.

The SPEAKER. The Chair will go to the record.

Mr. SPRINGER. The gentleman stated that he was instructed by his committee to make this motion in January last, but that he now makes the motion on his own responsibility. I submit, however, that the point is the same. When a committee has taken charge of a bill and instructed its chairman to move its passage under a suspension of the rules on a particular day, and upon that day the committee is not reached, the bill ought to go over until the next day when that kind of business is in order.

Mr. CARLISLE. Otherwise the effect would be to give the committee two chances. When a gentleman fails to have his committee called, he will then undertake to offer his bill as an individual; and if he fails to get the floor as an individual, then on the next day he will offer the bill as a bill of the committee.

Mr. HASKELL. Why is not that the gentleman's right? When a gentleman has obtained recognition of the Speaker and as his own personal privilege and demand asks for a suspension of the rules on a particular subject, who is to question his statement? It is just as much his right to move a suspension of the rules under such circumstances as though no committee had acted on the bill. The gentleman stands here on his individual right.

Mr. KENNA. I desire to ask a question. Suppose the time should come in the history of this session when there could be no further possible opportunity for a committee to move to suspend the rules, what is there in the rules to prevent an individual member in such case from offering in his own right a bill that may have been prepared by such a committee?

Mr. CARLISLE. The committee might reconsider its action.

Mr. KENNA. That adds strength to my proposition that it is the individual right of the member to offer a bill and have a vote of the House upon it without regard to the action of the committee.

Mr. AIKEN. I had no instruction from the committee further than to ask for a suspension of the rules on the third Monday in January to pass this bill. It was not called, and I thought it was nothing but right and candid to say to the House that instruction had been given to me by the committee. I now, upon my own responsibility, ask that the bill be put upon its passage without regard to the action heretofore of the Committee on Agriculture. I cannot see why I have not that right as well as any other man on this floor. It matters not whether that bill is in the hands of the committee or not. They may keep it till doomsday. I desire it to-day put upon its passage. I move that the rules be suspended and the bill be put upon its passage.

The SPEAKER. The difficulty is one the gentleman has made himself in stating that the committee acted on the subject with a view to have the House suspend the rules.

Mr. AIKEN. That is not a portion of my motion at all. I beg pardon of the Chair, but he misunderstands my motive. If it had been an adverse report from the Committee on Agriculture, I hold I would not have been allowed to present it. It was a favorable report from the committee; but inasmuch as the committee failed to effect what they desired, I now, as an individual member, ask permission, having received recognition from the Chair, to have it put upon its passage without reference to what the committee has done or may do. I think it nothing more than the right I have.

The SPEAKER. The Clerk will read the bill.

The Clerk read as follows:

A bill (H. R. No. 4909) for the creation of a Department of Agriculture.

*Be it enacted, &c.*, That the Department of Agriculture, established at the seat of government of the United States, shall be an Executive Department under the supervision and control of a Secretary of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive the same annual compensation, and in like manner, as the Secretaries of the other Executive Departments of the Government.

SEC. 2. That there shall be in the Department of Agriculture an Assistant Secretary of Agriculture, who shall be a practical agriculturist, to be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such duties in said Department as may be prescribed by the Secretary or may be required by law, and who shall be entitled to an annual salary of $3,500.

SEC. 3. That there shall be in the Department of Agriculture a veterinary division, under the control of a veterinary surgeon, subject to the authority of the Secretary, to which division shall be referred all matters pertaining to the inspection of imported or exported live stock, and to the investigation of the causes, existence, and treatment of diseases among animals; and said surgeon shall receive an annual salary of $3,000.

SEC. 4. That there shall be in the Department of Agriculture a division of entomology, under the supervision of an entomologist, whose duty it shall be, subject to the control of the Secretary, to investigate the habits of all destructive insects, and to collect such statistics as will show their effect upon the textile, cereal, and other crops of the United States; and said entomologist shall receive an annual salary of $3,000.

SEC. 5. That in addition to the duties required of the Commissioner of Agriculture under existing law, it shall be the further duty of the Secretary of Agriculture to collect, collate, and submit to Congress, at every regular session, the agricultural statistics of the United States, including those relating to labor and the prices paid for the same; to the transportation and freight of agricultural products, live stock, and manufactured articles; and to the location and number of manufactures, with their sources of raw material and their markets.

SEC. 6. That all laws and parts of laws relating to the Department of Agriculture now in existence, as far as the same are applicable and not in conflict with this act, are continued in full force and effect.

Mr. COVERT. I demand a second.

The SPEAKER appointed Mr. COVERT and Mr. AIKEN as tellers.

The House divided; and the tellers reported—ayes 95, noes 66.

So the motion was seconded.

The SPEAKER. The Chair recognizes the gentleman from South Carolina [Mr. AIKEN] as in charge of the bill. Fifteen minutes is allowed on each side. The Chair has suggested heretofore that ten minutes be taken in advocacy and fifteen against the proposition, and that the last five minutes remain to those who are in favor of the proposition.

Mr. AIKEN. I do not desire to consume the time of the House, having already during this Congress addressed myself to this subject. I now yield five minutes of my time to the gentleman from Mississippi, [Mr. MULDROW.]

A MEMBER. The gentleman is not in the House.

Mr. AIKEN. I yield the other five minutes of my time to the gentleman from Ohio, [Mr. UPDEGRAFF.]

Mr. UPDEGRAFF, of Ohio, addressed the House. [See Appendix.]

Several MEMBERS. Let us have a vote.

Mr. AIKEN. In the absence of the gentleman from Mississippi, [Mr. MULDROW,] and not wishing to take up the time of the House

myself, I will yield the floor to the gentleman from New York, [Mr. COVERT,] chairman of the Committee on Agriculture.

The SPEAKER. The gentleman from New York has fifteen minutes in opposition.

Mr. COVERT. Mr. Speaker, I occupy to some extent an embarrassing position so far as my action on the pending bill is concerned. I have the honor to be chairman of the committee from which this bill emanates. I had the pleasure of participating with my associates on that committee in the discussion which led to the formulation and adoption of the bill now before the House. I assume, sir, that perhaps the only important argument which is submitted for the adoption of this measure is in the fact that a large proportion of the people of this country who are engaged in industrial pursuits are engaged in some one branch of the business of agriculture. It seems to me therein lies one great reason why this bill should not be adopted by this House and should not be enacted into law. We have, sir, the spectacle presented of a large class of the people, already strong in numbers, strong in material resources and abundantly able to protect their own interests, clamoring for the elevation of this department and for the dispensing of special favors to them, when, with the same glance, we see our commercial interests lying prostrate and our manufacturing interests by no means such as they should be, yet no demand comes up from those engaged either in commerce or manufactures asking special governmental intervention in their behalf.

Mr. BLAND. I would like to ask the gentleman from New York a question.

Mr. COVERT. Certainly.

Mr. BLAND. I would like to ask the gentleman if nearly every manufacturing and industrial interest in the country is not now protected, except——

Mr. COVERT. I was referring, Mr. Speaker——

Mr. BLAND. I ask the gentleman from New York if it is not true that nearly every interest in this country is not now protected, excepting the farming interest?

Mr. COVERT. I was about to say, Mr. Speaker, that the remarks I have made had reference solely and entirely to the subject of direct governmental aid, which is invoked in favor of certain classes of our people engaged in industrial pursuits. I know the argument is used by those in favor of this bill that other countries have adopted this system of governmental aid in this direction. But I beg to say to gentlemen who use this as an argument that our theory of government is fashioned upon another plan, upon another system, and is of an entirely different sort from those governments abroad which extend special aid in these various directions. In England, in France, and in other European countries they extend governmental subsidies in various directions that would not be dreamed of in our country. They extend governmental aid to art, to music, to the drama, as well as to various departments of labor which, under our system of government, would not receive any consideration of that character. The design of the framers and founders of our Constitution was that every person and every class of industry here should stand entirely upon its own basis, without reference to governmental aid or special privileges. There is absolutely no warrant in the Constitution for the so-called "elevation" of this Department of Agriculture, and no warrant even for the establishment or existence of a Department of Agriculture as it stands to-day.

That Department, Mr. Speaker, stands to-day as the illegitimate child of this Government; and while every child, illegitimate or otherwise, is entitled to support during its infancy, so I have very cheerfully given, as other gentlemen have given, support to the Department of Agriculture so long as its existence was maintained and the statute creating it remained unrepealed upon the statute-book. But when we are asked here to go a step beyond this, to go and deliberately erect this Department into a still higher one and make it a Cabinet department, then I desire to record my emphatic opposition to the measure. I say, without fear of successful contradiction, that this request is not made by the real agriculturists of this country or by any relatively large number of thoughtful or intelligent men engaged in that business throughout the length and breadth of this land. The intelligent and thoughtful farmer belongs to his local grange, to his town, county, or State agricultural society, and has the benefit of periodicals and newspapers published specially for his uses and his needs. These give him the latest experimental information on all questions in which he takes an interest in connection with his business. He is self-reliant, and does not come to besiege the doors of Congress asking that this be made a Cabinet department or that the Commissioner be made a Cabinet officer under the Government.

I make the prophecy here and now that if this bill is enacted into a law, if this position is elevated to a Cabinet position, it will become a political engine rather than a department of the Government intended to foster and promote the interests of agriculture. Where, sir, is the necessity of this Department as contemplated in this bill? Under the law as it stands to-day the Commissioner of Agriculture, while he has not a seat in the Cabinet, yet makes his reports directly to the President. There is not a single message coming from the Executive to Congress that does not make reference in some way to the agricultural interests and needs of the country founded upon these reports which the Commissioner sends in. He stands now in that respect as he would stand if he were elevated to a Cabinet position, as the agency between the Executive and Congress, through which these suggestions looking to the agricultural needs of the country come for consideration. If this Department were made a Cabinet appointment, he could do nothing more than he does now. He could do no more than that if he had a seat in the Cabinet. I submit that if he held a Cabinet position he could do no more in the cause of agriculture than he has been enabled to do holding his present position. The only difference would be that according to the terms of this bill there would be a multitude of minor officers under his immediate control, a whole corps of subordinates, which would be constantly increasing in numbers, all to be paid at the Government expense, and thereby creating positions that might be given out as a reward for party services rendered or to come. And the spectacle would be presented of this Department, originally designed to induce thought and experimental action on the part of the agriculturists of this country, a bureau intended merely as an experimental department according to the terms of the act creating it—the spectacle would be presented, I say, of this institution, originally intended to subserve good purposes, becoming a mere political position to be offered or awarded to somebody for political services.

Mr. DUNNELL. Will the gentleman permit me to ask him a question?

Mr. REAGAN. I hope the gentleman will not be interrupted in the short time allowed him.

Mr. DUNNELL. I merely wish to ask the gentleman why, if this should be made a Cabinet position, it should make it any more a political engine or department than any other Department of the Government?

Mr. COVERT. I will answer the gentleman.

Mr. DUNNELL. I mean properly conducted under the law.

Mr. COVERT. I will give to my friend from Minnesota the reasons that have induced me to take the stand that I do in reference to this matter, and I beg to assure him and this House that I have given to this question very considerable thought, and I did that because I regarded it as a very important question for our consideration. I will tell my friend from Minnesota that if this is made an Executive Department—a Cabinet position—that the various offices under the control of the Department will be parceled out as rewards for party service. I submit, sir, that such a change as is contemplated would transform the Department into a medium for dispensing political favors and conferring political rewards.

We find the law as it exists upon our statute-book to-day provides for a comparatively cheap and inexpensive medium through which and by which information on agricultural topics can be submitted to the people. The Commissioner is paid a reasonable salary for his services. The Committee on Agriculture in formulating their appropriation bills have adhered to the organic law by which this department was created; and we have been economical and saving in the adjustment of the salaries of its officers.

This bill upon which we are now called suddenly to act transforms the Commissioner into a Secretary of Agriculture, with the same compensation as is given to Secretaries of other Executive Departments of the Government. It creates additional officers. An assistant secretary is provided at a salary of $3,500. A veterinary division is established of a permanent character, with a corps of officers and attachés, and permanency is given to the entomological bureau. The secretary to be created is made to watch and report upon the condition of the labor market, and upon the details of freight tariffs and other business questions. All these details, which I have not the time now to enumerate, much less to dwell upon, will call for the appointment of men to public places. This bill, framed in the way I have thus briefly attempted to outline, is not in harmony with the object and the purpose for which this department was originally created. I defy any gentleman on this floor to read that organic act carefully and refrain from the conclusion that this department was intended as a temporary and experimental department only. By this bill its commendable purposes are sought to be changed so that it shall become a medium for dispensing political favors. I claim there is nothing in the Constitution to warrant what is sought to be brought about by the passage of this law.

Mr. DUNNELL. I submit to the gentleman that he has not yet answered my question.

Mr. COVERT. I beg to say to my friend from Minnesota that I have attempted to answer his question directly and fully. When this proposition is presented to us, that the department as at present constituted meets the demands made upon it and fully subserves the purposes of the organic act which led to its existence, and when this proposed bill seeks to largely increase the number of officials and augment their salaries, what conclusion can be reached except the very proposition my friend from Minnesota [Mr. DUNNELL] seeks to combat?

Holding as I do, Mr. Speaker, that there is no authority and absolutely no warrant in the Constitution for the creation of an executive department of that character; believing that this action is not pressed by any large majority of really thoughtful, intelligent, and practical agriculturists; and believing moreover that the agricultural needs of the country are abundantly subserved by the existing department, rendering further action unnecessary, I most sincerely hope the House will not agree to the passage of the proposed measure. I yield now to my friend from Texas, [Mr. REAGAN.]

Mr. REAGAN. I am not unfriendly to the creation of a new

department of the Government. Indeed I favor the creation of a new department of the Government, but I do not favor the present bill. This bill is simply an enlargement of the powers of the Agricultural Bureau and the making the Commissioner of Agriculture a Cabinet officer.

The subject is one of very great moment. The agricultural, the commercial, the manufacturing, and the mining interests of this country ought, it seems to me, to be placed under a separate and independent department of the Government, which I would call the Department of Industry, in order to embrace the whole of them. And doing that the bill ought to provide for transferring the different bureaus in the Interior, the Treasury, and the War Departments to this new department of the Government. With that done, the great agricultural interests of the country, its great commercial interests, its great manufacturing interests, its great mining interests would receive the supervision and direction of a first-class man; and undoubtedly they deserve the supervision of such a man. But this bill falls far below these purposes. It looks not to any great increase of the efficiency of the Agricultural Bureau, but simply to changing its name. I do not see the necessity of changing the name of the office of Commissioner of Agriculture without changing the law, without doing something to promote the welfare of the country in connection with the agricultural interest.

When we come to see that the agriculture of this country embraces a very large part of its business, when we come to see the large interests in manufactures, the large interests in commerce and in mining, that are mere appendages to the other Departments of the Government, that are attached by accident, as it were, we see that it is not practicable for the heads of the Departments to give the attention to these interests which they require. For instance, many of the duties that should be transferred to a department of industry are under the control of the Secretary of the Treasury. I do not care what the power of intellect or what the learning of the Secretary of the Treasury may be, it is not practicable for him to give to the duties of the Secretary of the Treasury Department proper the consideration which is necessary and then to bestow upon commerce, upon manufactures—I am not sure if the mining interests are connected with that Department—the consideration that is due to these great interests.

I shall vote against this bill because it is a changing of the name of an officer and of the salary and dignity of the office without conferring that benefit upon the great material interests of this country that they have a right to expect and demand when we create a new department of the Government.

Mr. HATCH rose.

The SPEAKER. The time of debate adverse to the bill has expired.

Mr. HATCH. I rise to favor the passage of the bill. The time allowed for debate in favor of the bill has not yet been occupied.

Mr. AIKEN. I ask the Chair how much time I can control?

The SPEAKER. The Chair thinks the gentleman has twelve minutes remaining.

Mr. AIKEN. I yield five minutes to the gentleman from Missouri, [Mr. HATCH.]

Mr. WHITE. How much time has been consumed in opposition to the bill?

The SPEAKER. Fifteen minutes.

Mr. CLYMER. I understood the gentleman from South Carolina [Mr. AIKEN] yielded the floor absolutely. He made no reservation of the time which had not been occupied.

The SPEAKER. But the gentleman from South Carolina cannot change the rule which allows fifteen minutes in advocacy of the measure; and the time allowed for debate in favor of the measure has not been consumed. The Chair thinks the waiver by the gentleman from South Carolina should not have force.

Mr. CLYMER. He yielded five minutes to the gentleman from Ohio, [Mr. UPDEGRAFF.]

The SPEAKER. But the gentleman from Ohio only occupied two minutes.

Mr. AIKEN. I did not desire to consume any portion of the time and yielded the floor to the opposition. I think the House has control of the remaining portion of those fifteen minutes.

The SPEAKER. Undoubtedly.

Mr. WHITE. With all deference to the Chair, I think there are two minutes left not consumed by those who are opposed to the passage of the bill.

The SPEAKER. The Chair was advised by the Clerk keeping the time that the time on that side has been exhausted.

Mr. VALENTINE. It has and two minutes over, for I kept the time.

Mr. WHITE. I think another two minutes should be allowed.

The SPEAKER. The Chair is unable to extend fifteen to seventeen minutes.

Mr. ROBESON. I desire to ask the Chair whether a proposition to enlarge the scope of this bill would be considered as being in opposition to it?

The SPEAKER. No amendment is in order. This is a motion to suspend the rules and pass the bill.

Mr. ROBESON. That is all I want to know.

The SPEAKER. And that motion cuts off debate except for the thirty minutes provided by the rule. The gentleman from Missouri [Mr. HATCH] is entitled to the floor for five minutes.

Mr. HATCH. I desire to say to the House that it was not the purpose of that portion of the Committee on Agriculture who favor the passage of this bill to consume the time allotted to the gentleman moving a suspension of the rules, if such time had been desired by other members of the House. But inasmuch as the chairman of the committee [Mr. COVERT] has seen fit to consume most of the time allotted to the opposition, I desire to say to the House that that gentleman is not the only member of the committee who has given to this question grave and earnest consideration.

When he comes in here and says to the House that there is no warrant in the Constitution of the United States for the erection of this Department as proposed by this bill, I answer him that there is nothing in the Constitution to prohibit the elevation of the bureau having charge of the great agricultural interests of the country into an Executive Department. If there is nothing specifically authorizing it, there is surely no prohibition in the Constitution against it.

But I insist that it comes within the scope and operation of that provision of the Constitution which affirms that Congress shall have power to provide for the "general welfare of the United States," and that further general provision which declares the power of Congress—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

The same power that was exercised by Congress in 1849 when it declared the Interior Department an executive one, and in fact the same power invoked to create and regulate all the Executive Departments.

The gentleman from New York [Mr. COVERT] says that the Department of Agriculture is an illegitimate child. If that be so, then in the name of the great agricultural interests of this country let the Forty-sixth Congress of the United States do to-day the grandest act of its official life and legitimize this child of agriculture. Illegitimate! If it is so, it has done more for the country than any other child that has been born to it since the Declaration of Independence. It is the foundation of our wealth, the corner-stone of our prosperity, and the fruitful source from which we derive our richest and surest revenues.

Now what is this proposition? It is not, as the gentleman from New York seems to suppose, a proposition to create a piece of merely political machinery, a bureau of politicians. It is to dignify as it deserves and to enlarge the interests of agriculture by making the Commissioner of Agriculture a Cabinet officer. And why not do it? What valid objection has been presented to the House why it should not be done?

The gentleman says the agricultural interests of this country do not need this protection, because they are large enough to protect themselves. I reply to the gentleman that every other important interest of this country except agriculture has a voice directly or indirectly in the Cabinet. Every other interest except agriculture has an organized system in the Government to look after its welfare and promote its advancement. The fact that the agricultural interests are large and diversified is the very reason why it should have a representative in the Cabinet. Enlarge this great industry, exalt it, add to its importance and secure justice to it. I hope that at least two-thirds, if not nine-tenths of the House will vote in favor of the bill.

I now yield to the gentleman from Minnesota [Mr. DUNNELL] the remainder of my time.

Mr. DUNNELL. I shall support this measure, although it does not embrace all the interests that ought to be embraced in the creation of a new department. I agree with the gentleman from Texas [Mr. REAGAN] that there should be a department to be denominated the department of industry, which should embrace not agriculture alone, but manufactures, mining, and commerce as well.

No one Department of this Government has now under its charge the great productive forces of this country. These interests to which I have alluded are the productive forces of the country and they should be presided over by one man. "Industries" embrace not only agriculture, but manufactures and commerce and mining.

I wonder that so many years have passed without the creation of a department having in charge specifically these great material interests of the country. The Treasury Department is now overloaded with business. The bureau or department of commerce should be severed from the Treasury Department, and, together with agriculture and the other interests to which I have alluded, should be consolidated in one department.

Five minutes is too little time in which to even allude to the great interests which are involved in this question. Out of the earth comes really all our national wealth. Out of the earth come the great resources of the people. The Treasury would be poor were it not for agriculture, for mining, and for commerce. These three great interests fill up the Treasury, pay our national debt, sustain our national credit, and give us character at home and abroad.

A department of industry is what is demanded at the present time. I vote for this bill in the hope that it will be the beginning of such a department.

The gentleman from New York [Mr. COVERT] says there is no authority in the Constitution for the creation of this department. Why, sir, we have created a Department of Justice, we have created a

Post-Office Department, we have created a Department of the Interior, under the old Constitution, without amendment to that Constitution, by force and operation of law. The Constitution gives to the President the power to appoint secretaries as they may be provided from time to time by process of law.

We have reached a period in our history since the close of the war when we ought, I think, to devote more attention to the material interests of the country. Into this department could be carried the railroad interests of the country. In some bureau of that department this great question, now looming up before the American people of interstate commerce could find its place, its protection, and its proper direction.

I have one minute of my time left, I believe, and I yield it to the gentleman from Iowa [Mr. McCOID] who desires to speak.

Mr. McCOID. I want, in the minute given me, only to say that I hope this bill will pass. The agricultural interests of this country ought to be given at least equal prominence with the many other interests for which Departments have been created with secretaries at their heads.

We have an Army of 25,000 men which is recognized in this way and given a secretaryship. We have an insignificant Navy which is recognized in the same way. The vast agricultural interests of this country in which perhaps more people are interested than in any other ought likewise to be recognized, ought to be given the same prominence.

I am in favor of the principle of this bill. It may not be perfect in its present form, it may not include enough. We ought to have a secretary of agriculture; we ought to have a bureau of entomology, we ought to have in it a bureau of transportation and other bureaus. We ought at least to begin now by the passage of this bill, and we can then perfect the measure in the future.

Mr. AIKEN. Mr. Speaker, have I any time to dispose of?

The SPEAKER. About two minutes, the Chair thinks.

Mr. AIKEN. I yield that time to the gentleman from Pennsylvania. [Mr. GODSHALK.]

Mr. GODSHALK. Mr. Speaker, the two minutes allowed me to speak on this bill are entirely too little to do justice to the subject. Still, I want to say that the interests of agriculture are now so overshadowing in this country that in my judgment the time has come for this House to consider patiently and impartially the importance of the question presented by this bill. I do not pretend to say that the bill is perfect in form or details; but I do say that the time has come when this country should take up the subject of agriculture as of national concern, and consider it as related to the departments of this Government.

It has been said during this debate that there is no warrant in the Constitution for the creation of this particular department. But I want gentlemen to remember that all the Departments of this Government have grown up with the needs of the country. The Department of the Interior is of comparatively recent date; so with others. They have grown up as the country needed them. It must be apparent to the House, I think, that the interests involved in this question are more important than any that has occupied the attention of the House recently. Why, sir, look at our agricultural exports. We are about to appropriate several millions of dollars—perhaps $10,000,000—to the improvement of our rivers and harbors, for what purpose? Why, that the commerce of the country may find its way to the sea, and that foreign commerce may find its way into our ports.

What has gone to make up the great body of our exports? Why, sir, the agricultural productions of the country. When the country was struggling in the slough of despond—when there appeared to be nothing before us but gloom and disaster—the agricultural interests of the country, the plow and the reaper, came to our aid; and thus we are raised to-day to a pinnacle where we have been able to resume specie payments and to present a spectacle of prosperity and happiness that is rarely witnessed in the history of nations.

Now, as I said before, it is probable that in this bill we have not a perfected measure such as the country may require at some future time; but let us take to-day the first step in the right direction. It cannot be urged that this measure will increase public expenditures to an unwarrantable extent. The amount of money involved cannot be taken into account when compared with the mighty interests which this bill seeks to recognize and promote.

This country is to-day the granary of the nations, and the amount we can supply of cereals and meats to the markets of the world is the first factor to determine the quantity and price of food for a large portion of the human race. Look, if you please, at this Union of States, as the recent census presents it; its fifty millions of people, its vast expanse of arable land, embracing every variety of climate, its iron roads spanning the continent, furnishing the means of moving to market the products of the husbandman, and it will be perceived at once how largely every advance we shall make in practical agriculture must contribute to the prosperity of this country, and give it an enduring basis upon which to rest. Do not understand me to imply that this measure is, in my opinion, indispensable to progress in good farming; not at all. Millions of intelligent minds, with much practical knowledge already acquired, and anxious to learn more, find pleasure, I hope, in this noblest science, but they think they may well ask the National Legislature to aid them by judicious legislation.

[Here the hammer fell.]

Mr. HERBERT. As I have not had an opportunity to be heard on this bill, I ask leave to print some remarks on it.

There being no objection, leave was granted. [See Appendix.]

Mr. SIMONTON. I ask similar leave.

There being no objection, leave was granted. [See Appendix.]

Mr. BREWER. I suggest that unanimous consent be given to all members who may desire it to print remarks on this subject.

The SPEAKER. The gentleman from Michigan [Mr. BREWER] asks unanimous consent that all members of the House desiring to print remarks on the bill under consideration may have leave to do so. The Chair hears no objection.

Mr. ROBESON. Mr. Speaker, would it be in order for me at this time to make a motion enlarging the compass of this bill, extending it to trade and commerce, industry and labor?

The SPEAKER. Upon a motion to suspend the rules no amendment is in order. The question will now be taken on the motion to suspend the rules so as to discharge the Committee of the Whole House from the further consideration of this bill and pass it.

Mr. BREWER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 164, nays 83, not voting 45; as follows:

YEAS—164.

| | | | |
|---|---|---|---|
| Acklen, | Dibrell, | Lowe, | Shallenberger, |
| Aiken, | Dunn, | Marsh, | Sherwin, |
| Aldrich, William | Dunnell, | Martin, Edward L. | Simonton, |
| Anderson, | Dwight, | Mason, | Singleton, O. R. |
| Bailey, | Elam, | McCoid, | Smith, Hezekiah B. |
| Barber, | Felton, | McGowan, | Smith, William E. |
| Beale, | Fisher, | McKenzie, | Sparks, |
| Belford, | Ford, | McKinley, | Speer, |
| Beltzhoover, | Forney, | McMahon, | Springer, |
| Berry, | Forsythe, | McMillin, | Steele, |
| Bisbee, | Fort, | Miller, | Stephens, |
| Blake, | Frye, | Mills, | Stevenson, |
| Bland, | Geddes, | Monroe, | Stone, |
| Boyd, | Godshalk, | Morton, | Talbott, |
| Brewer, | Goode, | Myers, | Taylor, Ezra B. |
| Bright, | Hammond, John | Neal, | Thomas, |
| Browne, | Hammond, N. J. | New, | Thompson, P. B. |
| Burrows, | Harmer, | Newberry, | Thompson, W. G. |
| Cabell, | Harris, John T. | O'Connor, | Tillman, |
| Calkins, | Haskell, | O'Neill, | Townsend, Amos |
| Camp, | Hatch, | Pacheco, | Townshend, R. W. |
| Cannon, | Hawk, | Persons, | Turner, Thomas |
| Carpenter, | Hayes, | Phelps, | Updegraff, J. T. |
| Caswell, | Hazelton, | Philips, | Updegraff, Thomas |
| Chalmers, | Heilman, | Phister, | Upson, |
| Clements, | Henderson, | Poehler, | Urner, |
| Coffroth, | Henkle, | Pound, | Valentine, |
| Colerick, | Hill, | Price, | Vance, |
| Conger, | Hooker, | Reed, | Van Voorhis, |
| Cook, | Horr, | Richardson, D. P. | Voorhis, |
| Cowgill, | Houk, | Richardson, J. S. | Ward, |
| Culbertson, | Hubbell, | Robertson, | Warner, |
| Daggett, | Humphrey, | Rothwell, | Weaver, |
| Davidson, | Jones, | Russell, Daniel L. | Wellborn, |
| Davis, George R. | Keifer, | Russell, W. A. | Williams, C. G. |
| Davis, Horace | Kenna, | Ryan, Thomas | Williams, Thomas |
| Davis, Joseph J. | Ketcham, | Ryon, John W. | Willits, |
| Davis, Lowndes H. | Ladd, | Samford, | Wise, |
| Deering, | Lapham, | Sapp, | Wright, |
| De La Matyr, | Le Fevre, | Sawyer, | Young, Casey, |
| Deuster, | Lindsey, | Scoville, | Young, Thomas L. |

NAYS—83.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Clymer, | House, | Reagan, |
| Armfield, | Cobb, | Hunton, | Rice, |
| Atkins, | Converse, | Hutchins, | Robeson, |
| Baker, | Covert, | Johnston, | Robinson, |
| Ballou, | Cox, | Kelley, | Ross, |
| Bicknell, | Crapo, | Killinger, | Scales, |
| Blackburn, | Cravens, | King, | Slemons, |
| Bliss, | Crowley, | Kitchin, | Smith, A. Herr |
| Blount, | Dickey, | Lounsbery, | Tucker, |
| Bouck, | Einstein, | Manning, | Turner, Oscar |
| Bowman, | Ellis, | Martin, Benj. F. | Tyler, |
| Bragg, | Errett, | McCook, | Waddill, |
| Briggs, | Evins, | McLane, | Wait, |
| Brigham, | Field, | Money, | Washburn, |
| Buckner, | Frost, | Morrison, | Wells, |
| Caldwell, | Gunter, | Morse, | Whiteaker, |
| Carlisle, | Hall, | Nicholls, | Whitthorne, |
| Chittenden, | Harris, Benj. W. | Norcross, | Willis, |
| Claflin, | Herbert, | O'Reilly, | Wood, Walter A. |
| Clardy, | Hiscock, | Orth, | Yeates. |
| Clark, John B. | Hostetler, | Prescott, | |

NOT VOTING—45.

| | | | |
|---|---|---|---|
| Atherton, | Gillette, | Miles, | Singleton, J. W. |
| Bachman, | Hawley, | Mitchell, | Starin, |
| Barlow, | Henry, | Muldrow, | Taylor, Robert L. |
| Bayne, | Herndon, | Muller, | Van Aernam, |
| Bingham, | Hurd, | Murch, | White, |
| Butterworth, | James, | O'Brien, | Wilber, |
| Clark, Alvah A. | Jorgensen, | Osmer, | Wilson, |
| Dick, | Joyce, | Overton, | Wood, Fernando |
| Ewing, | Kimmel, | Page, | Yocum. |
| Ferdon, | Klotz, | Ray, | |
| Finley, | Knott, | Richmond, | |
| Gibson, | Loring, | Shelley, | |

So (two-thirds not voting in favor thereof) the motion of Mr. AIKEN was not agreed to.

The following additional pairs were announced:

Mr. STARIN with Mr. SHELLEY, on this bill.

Mr. ATHERTON with Mr. FINLEY, on this bill.
Mr. FERNANDO WOOD with Mr. WHITE.
The result of the vote was announced as above stated.

FORFEITURE OF VESSELS FOR BREACH OF REVENUE LAWS.

Mr. FRYE. I move to suspend the rules so as to take from the Calendar of the Whole House on the state of the Union and consider the bill (S. No. 939) to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws.

The SPEAKER. Does the gentleman desire to take up this bill for consideration or for passage under a supension of the rules?

Mr. FRYE. The Committee on Ways and Means, in reporting the bill, recommended an amendment striking out the words "seizure or," but subsequently, on reconsideration, instructed me to withdraw that amendment. Now, if the bill can be taken from the Calendar and passed without the amendment, I will make that motion.

The SPEAKER. The gentleman can make the motion to pass the bill in that form. The effect of suspending the rules to consider the bill might be to exclude from recognition many other gentlemen whom the Chair desires to recognize.

Mr. FRYE. Then I modify my motion so as to take the bill from the Calendar and pass it without the amendment.

The bill was read, as follows:

*Be it enacted, &c.*, That no vessel used by any person or corporation as common carriers in the transaction of their business as such common carriers shall be subject to seizure or forfeiture by force of the provisions of title 34 of the Revised Statutes of the United States, unless it shall appear that the owner or master of such vessel at the time of the alleged illegal act was a consenting party or privy thereto.

Mr. COX. Mr. Speaker, has this bill been considered by a committee of this House?

Mr. FRYE. It has been. It was reported unanimously in the Senate by the Committee on Finance, and has been reported unanimously in this House by the Committee on Ways and Means.

Mr. COX. I have no objection to the bill; but I would like to hear the amendment.

Mr. CARLISLE. After this bill had been reported with an amendment, the Committee on Ways and Means took up the matter again for consideration, and determined, I believe, that the amendment ought not to be adopted.

Mr. MORRISON. That the bill was better without it.

The SPEAKER. The Chair was advised that the bill was brought before the House with the unanimous approval of the Committee on Ways and Means, having been approved in the same way by the Finance Committee of the Senate. It now comes before the House for passage without the amendment, the Committee on Ways and Means having reconsidered its action recommending the amendment.

Mr. COX. This bill is intended to protect vessels which may have contraband on board if the intention of the owners be innocent.

Mr. FRYE. Or master. If neither owner nor master is privy at all, then the vessel cannot be seized or forfeited; but if they are privy it can be seized and forfeited as it is now.

Mr. COX. I have no objection.

The rules were suspended, (two-thirds voting in favor thereof,) and the bill was passed.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I move the rules be suspended and the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, be passed.

The Clerk proceeded to read the bill.

Mr. SCALES, (interrupting.) Mr. Speaker, is it in order to raise a point of order after the bill has been read?

The SPEAKER. It will be.

Mr. SCALES. Then I desire to raise that point of order when the Clerk has finished the reading of the bill.

The bill was read, as follows:

A bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes.

*Be it enacted, &c.*, That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the direction of the Secretary of War, for the construction, completion, repair, and preservation of the public works hereinafter named:

Improving Richmond Island Harbor, Maine: Completing improvement, $3,000.
Improving harbor at Portsmouth, New Hampshire, $20,000.
Improving harbor at Burlington, Vermont, $10,000.
Improving harbor at Swanton, Vermont, $2,500.
Improving harbor at Hyannis, Massachusetts: Completing improvement, $5,000.
Improving harbor at Newburyport, Massachusetts, $40,000
Improving harbor at Nantucket, Massachusetts, $25,000.
Improving harbor at Plymouth, Massachusetts, $10,000.
Improving harbor at Provincetown, Massachusetts, $5,000.
Improving Little Narragansett Bay, Rhode Island, $5,000.
Improving harbor at Bridgeport, Connecticut, $10,000.
Improving harbor at New Haven, Connecticut, $15,000.
Breakwater at New Haven, Connecticut, $60,000.
Improving harbor at Norwalk, Connecticut, $5,000.
Improving harbor at Southport, Connecticut, $2,500.
Improving harbor at Boston, Massachusetts, $100,000; of which sum $40,000 shall be expended in said harbor, $35,000 at the mouth of Charles River in said harbor and up to Watertown, $20,000 in said harbor at mouth of Mystic River, and $5,000 from said harbor to Nantasket Beach.
Improving Oakland Harbor, California, $60,000; and the sums of money heretofore appropriated for this improvement and unexpended are hereby reappropriated; but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War.
Improving Raritan River, New Jersey, $25,000; of which sum $20,000 shall be expended on rocks at Whitehead Sand Dock, and $5,000 at South Channel, between Crab Island and South Amboy.
Improving harbor at Stonington, Connecticut, $30,000.
Improving harbor at Buffalo, New York, $90,000.
Improving harbor at Charlotte, New York: Repair of piers, $2,500.
Improving Echo Harbor, New Rochelle, New York, $2,000.
Improving Flushing Bay, New York, $10,000.
Improving harbor at Great Sodus Bay, New York, $5,000.
Improving harbor at Little Sodus Bay, New York, $7,500.
Improving harbor at Olcott, New York, $3,000.
Improving harbor at Port Jefferson, Long Island Sound, New York, $4,000.
Improving harbor at Pultneyville, New York, $2,000.
Improving harbor at Wilson, New York, $10,000.
Improving harbor at Waddington, New York, $2,500.
Improving Ticonderoga River, New York, $5,000.
Improving harbor at Erie, Pennsylvania, $20,000.
Ice-harbor at Marcus Hook, Pennsylvania, $30,000.
Pier in Delaware Bay, near Lewes, Delaware, $10,000.
Piers of ice-harbor at New Castle, Delaware: Completing improvement, $20,000.
Improving harbor at Annapolis, Maryland, $5,000.
Improving Breton Bay, Leonardtown, Maryland, $3,000.
Improving the harbors and channels at Washington and Georgetown, District of Columbia, $50,000.
Improving harbor at Norfolk, Virginia, and its approaches, $75,000.
Improving harbor at Oswego, New York, including dredging of channel to lower harbor, $50,000.
Improving Shrewsbury River, New Jersey: Completing improvement, $86,000; of which sum $36,000 shall be expended on south branch, and $50,000 on Main and North Branch.
Improving New River from lead mines in Wythe County, Virginia, to mouth of Greenbrier River, $20,000; of which sum $12,000 shall be expended in the continuation of the work from the mouth of Greenbrier up, and $8,000 in the continuation of the work from the lead mines in Wythe County down.
Improving harbor at Charleston, South Carolina, $175,000.
Improving harbor at Brunswick, Georgia, $5,000.
Improving Savannah Harbor and River, Georgia, $25,000; of which sum $1,000 may be applied to payment of damages for land.
Improving Apalachicola Bay, Florida, $10,000.
Improving Tampa Bay, Florida: Completing the deepening of the bar and channel from the bar to the town of Tampa, $10,000.
Improving harbor at Mobile, Alabama, $90,000.
Improving Mississippi River at and near Vicksburgh, and protection of harbor of Vicksburgh, Mississippi, $50,000.
Improving harbor at New Orleans, Louisiana, $75,000.
Improving Galveston Harbor, Texas: Continuing operations at outer bar, $250,000.
Improving harbor at Ashtabula, Ohio: To secure a sixteen-foot channel, $20,000.
Improving harbor at Black River, Ohio, $7,000.
Improving harbor at Cleveland, Ohio, $200,000.
Improving harbor at Fairport, Ohio, $10,000.
Improving harbor at Huron, Ohio, $3,000.
Ice-harbor at mouth of Muskingum River, Ohio, $30,000.
Improving harbor at Port Clinton, Ohio, $5,000.
Improving harbor at Sandusky City, Ohio, $10,000.
Improving harbor at Toledo, Ohio, $40,000.
Improving harbor at Vermillion, Ohio, $2,000.
Improving harbor at Michigan City, Indiana: Continuing operations at outside harbor, $30,000.
Improving harbor at Calumet, Illinois, $20,000.
Improving outside harbor at Chicago, Illinois: Dredging in outer harbor and constructing exterior breakwater, $150,000.
Improving Galena River and Harbor, Illinois, $12,000.
Improving harbor at Rock Island, Illinois, $6,000.
Improving Monongahela River, West Virginia and Pennsylvania, $25,000; but this sum shall not be expended until the Monongahela Navigation Company shall have undertaken in good faith the building of lock and dam No. 7, at Jacob's Creek, and until said company shall, in manner satisfactory to the Secretary of War, give assurance of their ability and purpose to complete the same.
Improving Shenandoah River, West Virginia, $2,500; but this sum shall not be expended, nor shall the sum heretofore appropriated therefor be expended, until any corporate rights or franchises that may exist over said river shall have been relinquished.
Improving harbor at Waukegan, Illinois, $15,000.
Ice-harbor at Saint Louis, Missouri, $10,000.
Improving harbor and the Mississippi River at Memphis, Tennessee, $15,000.
Improving harbor and river at Au Sable, Michigan, $4,000.
Improving harbor at Charlevoix, Michigan, $10,000.
Improving harbor at Cheboygan, Michigan, $6,000.
Improving harbor at Frankfort, Michigan, $10,000.
Improving harbor at Grand Haven, Michigan, $50,000.
Improving harbor at Black Lake, Michigan: Continuing operations for completion of old project, $6,000.
Harbor of refuge at Grand Marais, Michigan, $20,000.
Harbor of refuge at Lake Huron, Michigan, $50,000.
Improving harbor at Ludington, Michigan, $10,000.
Improving harbor at Manistee, Michigan, $10,000.
Improving Manistique Harbor, Michigan: Completing improvement, $1,000.
Improving harbor at Monroe, Michigan, $1,000.
Improving harbor at Muskegon, Michigan, $10,000.
Improving harbor at Ontonagon, Michigan, $20,000.
Improving harbor at Pentwater, Michigan, $6,000.
Harbor of refuge at Portage Lake, Michigan, $10,000.
Improving river and harbor at Saint Joseph, Michigan, $8,000.
Improving harbor at Saugatuck, Michigan, $5,000.
Improving harbor at South Haven, Michigan, $5,000.
Improving harbor at White River, Michigan, $7,500.
Improving harbor at Ahnapee, Wisconsin, $8,000.
Improving harbor at Green Bay, Wisconsin, $5,000.
Improving harbor at Kenosha, Wisconsin, $5,000.
Improving Ohio River, $350,000; of which sum $150,000 may, in the discretion of the engineers, be expended on Davis Island dam, and $200,000 on the river from its mouth to its head: *Provided*, That $20,000 of the last-named sum may, in the discretion of the engineers, be expended on Indiana chute.
Improving harbor at Manitowoc, Wisconsin, $4,000.
Improving harbor at Menomonee, Wisconsin, $12,000.
Improving harbor at Milwaukee, Wisconsin: Extension and repairs of piers and dredging, $8,000.
Improving harbor at Port Washington, Wisconsin, $17,000.
Improving harbor at Racine, Wisconsin, $6,000.

Improving harbor at Sheboygan, Wisconsin: Repairs, dredging, and extension of piers, $25,000.
Improving Superior Bay, Wisconsin: Dredging for improvement of natural entrance and for repairing existing works, $5,000.
Harbor of refuge at Sturgeon Bay Canal, Wisconsin, $10,000.
Improving harbor at Two Rivers, Wisconsin, $15,000.
Improving harbor at Fort Madison, Iowa, $2,500.
Improving harbor at Muscatine, Iowa, $2,500.
Improving harbor at Grand Marais, Minnesota, $10,000.
Improving harbor at Duluth, Minnesota, $25,000.
Improving harbor at Wilmington, California, $12,000.
Improving Cathance River, Maine, $6,000.
Improving the "Gut," opposite Bath, Maine, $5,000.
Improving Kennebunk River, Maine: Completing improvement, $2,000.
Improving Lubec Channel, Maine, $20,000.
Improving Exeter River, New Hampshire, $5,000.
Improving Winnipiscogee Lake, New Hampshire: Completing improvement, $2,500.
Improving Otter Creek, Vermont, $2,000.
Improving Merrimac River, Massachusetts, $9,000.
Improving Taunton River, Massachusetts, $25,000.
Improving Providence River and Narragansett Bay, Rhode Island, $40,000.
Improving Milwaukee Bay, for purposes of harbor of refuge, $100,000.
Improving Mississippi, Missouri, and Arkansas Rivers: Removing snags, wrecks, and other obstructions, $150,000; of which sum $80,000 shall be expended on the Mississippi River, $45,000 on the Missouri River, and $25,000 on the Arkansas River.
Improving Chippewa River, Wisconsin, $10,000; but this sum is appropriated subject to the same conditions and limitations imposed by section 1 of the act approved March 3, 1879, for the improvement of rivers and harbors, relating to said Chippewa River.
Improving Connecticut River below Hartford, Connecticut, $30,000.
Improving Housatonic River, Connecticut, $2,000.
Improving Thames River, Connecticut, $30,000.
Improving New London Harbor, Connecticut, $4,300.
Removing obstructions in East River and Hell Gate, New York, $200,000.
Improving Buttermilk Channel, New York, $40,000.
Improving Hudson River, New York, $15,000.
Improving Cheesequake's Creek, New Jersey, $5,000.
Improving Cohansey Creek, New Jersey, $7,000.
Improving Elizabeth River, New Jersey, $4,000.
Improving Passaic River, New Jersey, from Pennsylvania Railroad bridge to its mouth, $50,000.
Improving Rahway River, New Jersey, $10,000.
Improving South River, New Jersey, $6,000.
Improving Woodbridge Creek, New Jersey: Continuing improvement, $5,000.
Improving Allegheny River from mouth of French Creek to Pittsburgh, Pennsylvania, $25,000.
Improving Schuylkill River, Pennsylvania, $40,000.
Improving Delaware River below Bridesburgh, Pennsylvania, $100,000.
Improving Delaware River between Trenton, New Jersey, and Bridesburgh, Pennsylvania, $10,000.
Improving Delaware River near Cherry Island Flats, $100,000.
Improving Delaware River at Schooner Ledge, Pennsylvania and Delaware, $40,000.
Improving Broadkiln River, Delaware, $5,000.
For the improvement of the Mississippi River, in accordance with the plan therefor adopted by the Mississippi River commission, to be expended by the Secretary of War, with the advice and under the supervision of said commission, the sum of $1,000,000. And it shall be the duty of said commission to take into consideration, and of the Secretary of War to extend operations, under their supervision, to tributaries of the Mississippi River, to the extent, and no further, that may be necessary in the judgment of said commission to the perfection of the general and permanent improvement of said Mississippi River; but this clause shall not be construed to interfere with the prosecution by the War Department of the improvement of said Mississippi River and its tributraries under general appropriations made therefor.
Improving Broad Creek from its mouth to Laurel, Delaware, $10,000.
Improving mouth of Duck Creek, Delaware, $3,000.
Improving Mispillion Creek, Delaware, $3,500.
Improving Choptank River between Denton and Greensborough, Maryland, $5,000.
Improving Elk River, Maryland, $5,000.
Improving Secretary Creek, Maryland, $3,000.
Improving Threadhaven Creek for three miles below Easton, Maryland, $3,000.
Improving Wicomico River below Salisbury, Maryland: Completing improvement, $2,000.
Improving Appomattox River, Virginia, $10,000.
Improving Blackwater River, Virginia, $1,500.
Improving Chickahominy River, Virginia, $2,000.
Improving Dan River between Danville, Virginia, and Madison, North Carolina, $8,000.
Improving James River, Virginia, $60,000.
Improving Mattaponi River, Virginia, $3,300.
Improving mouth of Nomoni Creek, Virginia, $2,000.
Improving North Landing River, Virginia and North Carolina, $7,500.
Improving Nottaway River, Virginia, $2,000.
Improving Pagan Creek, Virginia, $5,000.
Improving Pamunkey River, Virginia, $2,500.
Dredging a channel through the flats in front of Mount Vernon, Virginia, $1,500.
Improving Rappahannock River, Virginia, $15,000.
Improving Staunton River, Virginia, $5,000.
Improving Totusky River, Virginia, $2,500.
Improving Urbana Creek, Virginia, $4,000.
Improving York Harbor at West Point, Virginia, $25,000.
Improving harbor at Baltimore, Maryland: Continuing operations for the shortening and deepening the channel to twenty-seven feet at mean low-water, $150,000.
Improving Elk River, West Virginia, $5,000.
Improving Great Kanawha River, and operation of works, West Virginia, $200,000.
Improving Guyandotte River, West Virginia, $3,500.
Improving Little Kanawha River, West Virginia, $20,000.
Improving Cape Fear River, North Carolina, $10,000.
Improving Currituck Sound, Coanjok Bay, North River and Bar, North Carolina, $30,000.
Improving French Broad River, North Carolina, $5,000.
Improving Neuse River, from its mouth to head of navigation, North Carolina, $15,000.
Improving Pamlico and Tar Rivers, North Carolina, $3,000.
Improving Scuppernong River, North Carolina, $1,000.
Improving Trent River, North Carolina, $2,000.
Improving Ashley River, South Carolina, $1,500.
Improving Great Pedee River, South Carolina, $6,000.
Improving Waccemaw River, South Carolina, from its mouth up to Waccemaw Lake, North Carolina, $5,000.
Improving Chattahoochee River, Georgia, $20,000.
Improving Coosa River, Georgia and Alabama, $60,000.
Improving Flint River, Georgia, $15,000.
Improving Ockmulgee River, Georgia, $5,000.
Improving Oconee River, Georgia, $2,500, of which sum $1,500 is to be expended between Dublin and Oconee bridge.
Improving Oostenaula and Coosawattee Rivers, Georgia, $1,000.
Improving Savannah River above Augusta, Georgia, $8,000.
Improving Appalachicola River, Florida, $1,500.
Improving Choctawhatchee River, Florida and Alabama, up to Newton, $7,000.
Improving entrance to Cumberland Sound, between Amelia and Cumberland Islands, in Florida and Georgia, $100,000.
Improving Escambia River, Florida and Alabama, $5,000.
Improving Saint John's River, Florida, $100,000.
Improving Suwanee River, Florida, $3,000.
Improving Volusia Bar, Florida, $5,500.
Improving Alabama River, Alabama, $20,000.
Improving Big Sunflower River, Mississippi, $4,000.
Improving Noxubee River, Mississippi, $8,000.
Improving Pascagoula River, Mississippi, $4,000.
Improving Pearl River below Jackson, Mississippi, $25,000.
Improving Pearl River, Mississippi, from Jackson to Carthage, $2,500.
Improving Tallahatchee River, Mississippi, $3,000; of which sum $2,000 shall be expended on the upper and $1,000 on the lower river.
Improving Tombigbee River above Columbus, Mississippi, $1,000.
Improving Yazoo River, Mississippi, $6,000.
Improving Amite River, Louisiana, $5,000.
Improving Bayou Courtableau from Port Barre to Atchafalaya, Louisiana, $7,500.
Improving Bayou Teche from Saint Martinville to Port Barre, Louisiana, $20,000.
Improving Bayou Terre Bonne, Louisiana: Completing improvement, $8,800.
Removing raft in Red River and closing Tone's Bayou, Louisiana, $10,000.
Removing obstructions from Red River, Louisiana, $10,000.
Improving Tangipahoa River, Louisiana, $2,000.
Improving Vermillion River, Louisiana: Completing improvement, $4,900.
Improving Warrior and Tombigbee Rivers, Alabama and Mississippi, to be expended in the same proportions as the appropriation under the act of June, 1880, $25,000.
Improving Aransas Pass and Bay, up to Rockport and Corpus Christi, Texas, $80,000.
Improving channel over bar at mouth of Brazos River, Texas, $40,000.
Improving Pass Cavallo Inlet into Matagorda Bay, Texas, $60,000.
Improving ship-canal, Galveston Bay, Texas, $50,000.
Improving Neches River, Texas, $3,000.
Improving Sabine Pass and Blue Buck Bar, Texas, $150,000.
Improving Narrows of Sabine River above Orange, Texas, and to deepen channel at its mouth, $7,000.
Improving Trinity River, Texas, $10,000.
Improving Arkansas River between Fort Smith, Arkansas, and Wichita, Kansas, $20,000.
Improving Arkansas River at Pine Bluff, Arkansas, $20,000.
Improving Black River, Arkansas, $5,000.
Improving Fourche Le Fevre River, Arkansas, $2,000.
Improving Ouachita River, Arkansas and Louisiana, $10,000.
Improving Saline River, Arkansas, $4,000.
Improving White River between Jacksonport and Buffalo Shoals, Arkansas, $6,000.
Improving White and Saint Francis Rivers, Arkansas, $6,000.
Improving Big Hatchie River, Tennessee, $3,500.
Improving Caney Fork River, Tennessee, $4,000.
Improving Clinch River, Tennessee, $3,000.
Improving Cumberland River above Nashville, Tennessee: From Nashville to Kentucky State line, $15,000; from Kentucky line to Smith's Shoals, $15,000; at Smith's Shoals, completing improvement, $10,000.
Improving Cumberland River below Nashville, Tennessee, $15,000.
Improving Duck River, Tennessee, $3,000.
Improving French Broad River above Knoxville, Tennessee, $3,500.
Improving Hiawassee River, Tennessee, $1,500.
Improving Obed's River, Tennessee, $2,500.
Improving Tennessee River above Chattanooga, Tennessee, $7,000.
Improving Tennessee River below Chattanooga, including Muscle Shoals and shoal at Reynoldsburgh, Tennessee and Alabama, $250,000.
Improving Kentucky River from its mouth to Three Forks, Kentucky, $100,000.
Improving Big Sandy River from Catlettsburgh, Kentucky, to head of navigation, $30,000; of which sum $28,000 shall be expended at Louisa, and $2,000 in the continuation of works on the upper river.
Improving Sandusky River, Ohio, $7,500.
Improving Wabash River, Indiana, $25,000.
Improving White River, Indiana, from Wabash River to Portersville, and to falls on West Fork, $20,000.
Improving Illinois River, Illinois, $250,000.
Improving Mississippi River at and above Alexandria, Missouri, $6,000.
Improving Mississippi River at or near Cape Girardeau and Minton's Point, Missouri, $10,000.
Improving Mississippi River from Des Moines Rapids to mouth of Illinois River, Illinois and Missouri, $175,000.
Improving Mississippi River between mouths of the Illinois and Ohio Rivers, Illinois and Missouri, $600,000.
Removing bar in Mississippi River opposite Dubuque, Iowa, $5,000.
Improving Mississippi River at Hannibal, Missouri, $20,000.
Improving Mississippi River at Natchez and Vidalia, Mississippi and Louisiana, $50,000.
Improving Mississippi River above Falls of Saint Anthony, Minnesota, $10,000.
Improving Mississippi River from Saint Paul to Des Moines Rapids, Minnesota, Iowa, Missouri, Illinois, and Wisconsin, $200,000.
Improving Mississippi River at Quincy, Illinois, $10,000.
Annual expense of gauging the waters of the Mississippi River and its tributaries: Continuing observations of the rise and fall of the river and its chief tributaries, as required by joint resolution of February 21, 1871, $5,000.
Improving Upper Mississippi River: Operating snag-boat and building light-draught steamer, $25,000.
Improving Rock Island Rapids, Mississippi River, Iowa and Illinois: Completing improvement, $8,000.
Improving Des Moines Rapids, Iowa and Illinois, $25,000.
Operating canal at Des Moines Rapids, Iowa and Illinois: Continued operation of the canal, $40,000.
Improving the Osage River, Kansas and Missouri, $20,000.
Improving Cuivre River, Missouri, from mouth to Chain of Rocks, and removing snags and obstructions, $2,000.
Improving Gasconade River, Missouri, $10,000.
Improving Missouri River at Atchison, Kansas, $20,000.
Improving Missouri River at Brownville, Nebraska, $10,000.

Improving Missouri River at Cedar City, Missouri, $15,000.
Improving Missouri River at Council Bluffs, Iowa, and at Omaha, Nebraska, $20,000.
Improving Missouri River at Eastport, Iowa, and at Nebraska City, Nebraska, $14,000.
Improving Missouri River at or near Fort Leavenworth, Kansas, $8,000.
Improving Missouri River at and near Glasgow, Missouri, $20,000.
Improving Missouri River at and near Kansas City, Missouri, $20,000.
Improving Missouri River at Lexington, Missouri, $10,000.
Improving Missouri River at Saint Charles, Missouri, $15,000.
Improving Missouri River at and near Saint Joseph, Missouri, $20,000.
Improving Missouri River at Sioux City, Iowa: For improvement of channel, $7,000.
Improving Missouri River at Vermillion, Dakota, $15,000.
Improving Missouri River above mouth of Yellowstone River, Dakota, $40,000.
Survey of Missouri River from its mouth to Fort Benton, Montana: Continuing survey above Sioux City, $30,000.
Improving Detroit River, Michigan, $50,000.
Improving Saginaw River, Michigan, $10,000.
Improving Saint Clair Flats, Michigan: Repairs, &c., $5,000.
Improving Saint Mary's River and Saint Mary's Falls Canal, Michigan: Completing improvement, $150,000; and for operating and repairs of said canal from the time the same shall be turned over to the United States by the State of Michigan, $50,000.
Repairs and contingencies of public works at Saint Anthony's Falls, Minnesota: To meet repairs necessary, present and prospective, $15,000.
Improving Saint Croix River below Taylor's Falls, Wisconsin, $8,000.
Improving Red River of the North, Minnesota and Dakota, $18,000.
Improving Yellowstone River, Montana and Dakota, $20,000.
Canal around Cascades of Columbia River, Oregon, $100,000.
Improving Upper Columbia River, including Snake River, Oregon, $15,000.
Improving Lower Willamette and Columbia Rivers, from Portland, Oregon, to the sea, including bar at mouth of Columbia River, Oregon, $45,000.
Improving Upper Willamette and Yamhill Rivers, Oregon, $15,000.
Improving Petalumas Creek, California, $8,000.
Improving Sacramento River, California, $30,000.
Improving San Joaquin River, California, $20,000.
Examinations and surveys at South Pass of Mississippi River: To ascertain the depth of water and width of channel secured and maintained from time to time by James B. Eads at South Pass of the Mississippi River, and to enable the Secretary of War to report during the maintenance of the work, $10,000.
Improving Fox and Wisconsin Rivers, Wisconsin, $125,000; of which sum $50,000 shall be expended in continuing the improvement of the Wisconsin River, and $75,000 for continuing the improvement of the Fox River.
Improving Calcasieu Pass, Louisiana, $12,000.
Improving Calcasieu River, Louisiana, from Phillips Bluff to its mouth, $3,000.
Improving Savannah River, Georgia, $15,000.
Improving Mississippi River at Andalusia, Illinois, $6,000.
Improving Mississippi River at Louisiana, Missouri, $10,000.
Repairing breakwater on the Saint Croix River near Calais, $4,000.
Improving Altamaha River, Georgia, $5,000.
Improving Wappoo Cut, South Carolina, $10,000.
Improving Neabsco Creek, Virginia, $5,000.
Improving Bayou Bartholomew, Louisiana and Arkansas, $8,000.
Improving Tensas River, Louisiana, $3,000.
Improving Bayou Boeuf, Louisiana, $5,000.
Improving Current River, Missouri, $2,000.
Improving Rancocas River, New Jersey, $10,000.
Improving Christiana River and Wilmington Harbor, Delaware, $10,000.
Improving Chester Creek, Pennsylvania, $3,000.
Improving Mattawan Creek, New Jersey, $15,000.
Improving Raritan Bay, New Jersey, from Perth Amboy and South Amboy to the main ship-canal off Great Kiln, $50,000.
Improving Newport Harbor, Rhode Island, $25,000.
Improving Tradewater River, Kentucky, open navigation, $3,000.
Improving Cumberland River, Kentucky, above mouth of Jelico, $10,000.
Improving Buffalo Bayou, Texas: To secure a channel of one hundred feet, $25,000.
Improving Pasquotank River, Virginia and North Carolina, $5,000.
Improving Kewanee Harbor, Wisconsin, $5,000.
Improving Niagara River, New York, $5,000.
Improving Portland Harbor, Maine, $20,000.
Improving Scituate Harbor, Massachusetts, $10,000.
Improving Moosabec Bar at Jonesport, Maine, $10,000.
Improving Wareham Harbor, Massachusetts, $10,000.
Improving Canarsie Bay, New York, $5,000.
Improving Sheepshead Bay, New York, $5,000.
Improving Salem River, New Jersey, $3,000.
Improving Susquehannah River, Pennsylvania, above Richards' Island, $15,000.
Improving Susquehannah River above and below Havre de Grace, Maryland, $15,000.
Improving Archer's Hope River, Virginia, $5,000.
Improving Wateree River, South Carolina, $8,000.
Improving Santee River, South Carolina, $22,000.
Improving Pensacola Harbor, Florida, $20,000.
Improving Tchefuncte River, Louisiana, $1,500.
Improving Tickfaw River, Louisiana, $2,000.
Improving Bayou Teche by connecting same with Grand Lake at Charenton, Louisiana, $25,000.
Improving bar and harbor at Brazos Santiago, Texas, $75,000.
Improving Yallabusha River, Mississippi, $3,500.
Improving Tchula Lake, Mississippi, $3,000.
For the expenses of operating and maintaining the Louisville and Portland Canal for the fiscal year ending June 30, 1881, $42,000, which sum shall be immediately available; and for the same purpose, for the fiscal year ending June 30, 1882, $10,500.
Improving entrance to Yaquina Bay, Oregon, $10,000.
Improving Cowlitz River, Washington Territory, $1,000.
Of the amount now available for the improvement of Bayou La Fourche, Louisiana, the sum of $500, or so much thereof as may be necessary, shall be expended in the removal of brick pier at Donaldsonville.
Improving Richmond Harbor, Kennebec River, Maine, $10,000; of which sum $6,000 shall be expended for wing-dams and dredging at the head of Swan's Island and at Hatch's Rock, and $4,000 in dredging and deepening the channel at the foot of Swan's Island according to the plan recommended by Lieutenant Russell.
For reservoirs upon the headwaters of the Mississippi River and its tributaries, $150,000; and this sum, together with the sum of $75,000 heretofore appropriated for the construction of a dam at Lake Winnibigoshish, shall be expended at such places on said headwaters of the Mississippi River and its tributaries as the Secretary of War shall determine: *And it is provided*, That compensation for any private property taken or appropriated for any of said improvements, and all damages to private property caused by the construction of any of said dams, by flowage or otherwise, shall be ascertained and determined under and in accordance with the laws of the State in which such private property is situated. And the Secretary of the Interior is hereby authorized and directed to ascertain what, if any, injury is occasioned to the rights of any friendly Indians, occupying any Indian reservation, by the construction of any of said dams, or the cutting or the removing of trees or other materials from any such reservation for the construction or erection of any of said dams, and to determine the amount of damages payable to such Indians therefor; and all such damages to private property and to friendly Indians, when ascertained and determined in the manner herein directed and provided, shall be paid by the United States: *Provided, however*, That such damages shall not exceed 10 per cent. of the sums hereby and heretofore appropriated for the construction of said reservoirs.
Improving Sumpawamus Inlet, New York, $5,000.
SEC. 2. That the joint resolution approved July 20, 1868, authorizing the construction of the bridge over the Mississippi River "to connect the island of Rock Island with the cities of Davenport and Rock Island," is hereby so amended as to require the Chicago, Rock Island and Pacific Railroad Company to charge for any cars carrying freight other than its own, and for its own cars when carrying freight for other roads, which it may carry across said bridge, the sum of $5 for every car, and for each empty car other than its own the sum of $2, one-half of which sums shall be paid by said railroad company into the Treasury of the United States each month; and the monthly returns thus made shall be in such form and with such authentication as the Secretary of War shall direct.
SEC. 3. That the Secretary of War is hereby directed, at his discretion, to cause examinations or surveys, or both, and estimates of cost of improvements proper, to be made at the following points, namely:
Tombigbee River, Mississippi, from Fulton to Warren's Mill.
Old Town Creek, from where it empties into Tombigbee River to opposite Verona.
Frankford Creek, from its mouth in the Delaware River to Frankford avenue.
Five Mile Point, above Bridesburgh, Delaware River.
Mouth of the Mispillion, Delaware.
Mokelumne River, California, from its mouth at or near Woodbridge.
New York Bay, between Sandy Hook and Coney Island Point.
Newton Creek, Camden County, from Delaware River to head of navigation.
Mantua Creek, Gloucester County, from Delaware River to head of navigation.
Maunce River, from Delaware Bay to Millville, Cumberland County.
Salem and Cohansey Rivers, New Jersey.
Completing survey of Harlem River and through the Harlem Kilns to the East River.
Survey for harbor of refuge in Lake Pepin, at Stockholm, Wisconsin, and Lake City, Minnesota.
Sackett's Harbor, New York.
Matagorda Bay, at the mouth of Saint Mary's Bayou, near the town of Matagorda.
Harbors of Madison and Clinton, Connecticut.
Edgartown Harbor and South Beach, Massachusetts.
Staunton River, from Brook Neal, in Campbell County, to mouth of Pig River, Virginia.
Roanoke River, from Gaston, North Carolina, to Clarksville, Virginia.
Bear Creek, running from Northeast Mississippi into the Tennessee River.
To deepen the channel of the Harrisecket River, from Weston's Point to Freeport Landing in Freeport, Maine.
The channel of Broad Creek, on the west side of Kent Island, Maryland.
Harbor of Brunswick, on the Androscoggin River.
Buzzard's Bay and Barnstable Bay, Massachusetts, at the entrance of the proposed Cape Cod Canal.
Sabine Pass, Texas, through Sabine Lake and River to Orange and Sabine Lake, and the Neches River to Beaumont, to ascertain the cost and practicability of a deep-water channel from Sabine Pass to Orange and Beaumont.
Old Town Creek, Mississippi.
Bar at mouth of Wingate Bay, near Georgetown, South Carolina.
Young's, Lewis's, Clarke's, and Skipanon Rivers, entering into Young's Bay, in the county of Clatsop, near mouth of Columbia River, Oregon.
Corsica Creek, Maryland.
Harbor at mouth of Cedar River, on Green Bay, Michigan.
Lynn Harbor, Massachusetts.
Channel between islands of North Hero and South Hero, Lake Champlain.
Little Tennessee River from its mouth on the Holston or Big Tennessee River to the mouth of Tallis River.
Dog Island Harbor, harbor of Key West, Crystal River, Lagrange Bayou up to Freeport, Manatee River, and Crooked River, Florida.
From a point between Ellis Island and the docks of New Jersey Central Railroad to a point between Robbins' Reef Light and Constable Hook, in waters of Newport Bay, New Jersey.
Big Black River, Mississippi.
Outlet of harbor of Ship Island.
Harbor at Boloxi, Mississippi.
Harbor at Pascagoula, Mississippi.
Upper thoroughfare leading into Tangier Sound, Deil's Island, and Rock Creek, Maryland.
Fish Bend, near Fort Chartres, in the Mississippi River.
Murder Kiln, Delaware.
Delaware River.
Potomac and Anacostia Rivers, in the vicinity of Washington, District of Columbia, with reference to the improvement of navigation, the establishment of harbor line and the flats, so far as their improvement may be necessary to the improvement of navigation and the establishment of the harbor line.
Mouth of Cedar River, Green Bay, Michigan.
Greenport Harbor, New York.
SEC. 4. That for the examinations and surveys herein provided for, and for incidental repairs of harbors for which there is no special appropriation, the sum of $100,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated; and in every case where examinations or surveys are made, the report thereon shall embrace such information concerning the commercial importance, present and prospective, of the improvement contemplated thereby, and such general commercial statistics as the Secretary of War may be able to procure.
This bill appropriates $10,179,800.

The SPEAKER. The report will now be read.

Mr. SCALES. Mr. Speaker, I rise to a point of order. I do not make this point of order in any captious spirit. I do not make it out of hostility to the bill. I do it only to ascertain how the rule is to be construed and how we are to be guided in future, to learn from the Chair the extent of the decision he has already made in reference to the bill reported by the gentleman from South Carolina [Mr. AIKEN] from the Committee on Agriculture.

The point I make is, that this is the day when preference should be given to individuals to suspend the rules rather than to committees. I do not think this is the same point of order raised, or rather it did not have the same application when the Chair decided the other

question as it does to this bill. That bill was not in committee. It had been reported from the committee and was in the House. The Agricultural Committee had no longer any control over that bill. It was in the control of the House, and any gentleman had the right as an individual to move to suspend the rules and pass it because he could not represent in doing so the report and action of a committee.

On the third Monday in January, the day on which preference was given committees, Mr. Speaker, you called from that desk the Committee on Commerce. It did not respond. Had that committee responded, the gentleman from Texas, [Mr. REAGAN,] chairman of that committee, would have risen and as chairman made the same report he makes to-day; he would have on the part of the committee moved to suspend the rules and to pass the bill. He would have done this to get it out of the committee by representing the action of the committee and would have passed the bill. He failed to do it, and now, having lost the day of the committee in court, he seeks to remedy it by evading the rule and as an individual to get the action of his committee before the House. The Speaker knows that he reports the action of his committee. The House knows it. It is reported in the usual manner. It is looked for and accepted as the work of the committee by the House, and anybody knows that his action is the action of the committee, has its sanction and approval in order to get before the House their work appropriating $10,000,000. I go further and say that he would not have been recognized by the Speaker except as the representative of a committee. He would not have dared to ask it on so important a bill, and the Speaker under the rule would not and could not have given him as an individual preference over those who have had his promise so long.

Now, Mr. Speaker, that bill, as I understand it, is in the Committee on Commerce. It was reported to the House and it was sent back by this House. How is it to get here? It must come here as a report. The motion is to suspend the rules and pass it. If it comes at all it comes from the committee, and it comes from the chairman, the organ of the committee. It comes as it would have done on the third Monday in January when the committee had the right and when the committee under call would have responded just as it did to-day.

Mr. Speaker, what is the language under the rule? Individuals on this day shall have preference. What is the object? To prevent the report of a committee which has not been made from coming directly or indirectly before the House in preference to individual members. Can he defeat the rule by saying Judge REAGAN as an individual and not as chairman proposes to get this action before the House? He does no more and no less to-day than what Judge REAGAN would have done as chairman of the Committee on Commerce, and when he had a right to act for it—to wit, to move to suspend the rules of the House and pass the bill. If he can do that now in his capacity as an individual, your rule is a humbug. It is worse than a humbug. There is no meaning in it. It is a fraud, an insult to the intelligence of the House. I understand, Mr Speaker, that the object of the rule was to give individuals one day as their own over committees. Before the last rules were adopted, the Speaker always and properly, as I think, gave preference to committees; hence individuals were hardly ever recognized. The present rule was intended to remedy this. If the true spirit of the rule is to be set aside now, and this method is to be adopted the Speaker can do the very same thing, and recognize individuals so as to get at the action of the committee on both days just as he did before, and thus, regardless of the spirit of the rule, defeat it or not as he pleases. It will not do to say as an individual he has the right to make any motion he pleases. When committees are heard no individual can be, and has never pretended to ask it; and yet this day set apart for individuals has been taken up by committees. It is wrong, and is a fraud upon the rights of individuals and upon their constituents who have no other way of getting a hearing. I ask the Speaker, in all fairness, to decide the question regardless of consequences. I ask him to decide it according to the spirit of the rule, and not in such a way that while he sustains the letter he utterly destroys the spirit of the rule. If this point of order is overruled, then the Speaker can at his option give preference to committees on any day, and the rule which should govern us to-day is a mockery, and individuals by the action of the Speaker can be always kept from the floor—a power, in my opinion, never intended to be given to one man.

Now, Mr. Speaker, as I stated at the outset, I am not raising any captious objections to this bill. I know too well, sir, that it will pass. I know that I cannot prevent it. I dare not throw myself in the way of its passage. Rules and individuals both must go down before it. If it is the will of the House to pass this bill they can pass it to-morrow without a suspension of the rules. They can pass it any day without hinderance to individual rights. They do not need to suspend the rules to-day. They can pass it without conflicting at all with the rights that I and others have to be heard on questions that affect our sections. If the rule which should govern us to-day had said that preference should be given to individuals and no report not yet made from any committee should interfere directly or indirectly with this right, the rule would be unmistakable, and yet the rule in its spirit is just as strong as it is. But I am to be ruled out and the committee or the chairman of the committee is to be heard because he says I am not the chairman of the committee. I am Judge REAGAN, and claim my right as such to bring the work of this committee to the attention of the House, and the Speaker says as chairman you cannot, as judge you can. Is that fair or just? Is that in accordance with the spirit of the rule? If so, then down with the rule. It is a humbug and a fraud which gives the entire power of the House into the hands of one man.

Mr. KENNA. Mr. Speaker, I have but one single word to say in response to the gentleman from North Carolina.

Mr. COX. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. COX. Is this debate on the point of order, or is it the general debate upon the bill?

The SPEAKER. The gentleman from North Carolina makes the point of order, as the Chair understands, that the proposition to suspend the rules to-day must come from an individual member and not from the Committee on Commerce. That the proposition which the gentleman from Texas offers is one which comes from the Committee on Commerce.

Mr. SCALES. The Chair will remember that when the bill was being read I reserved the point of order.

The SPEAKER. The Chair is not going to cut the gentleman out of his right. The Chair has merely stated the point which the gentleman from North Carolina makes, which, as the Chair understands it, is that he has no right to recognize the gentleman from Texas to-day to bring before the House this bill. That the Chair takes to be the point for the reason, as the gentleman from North Carolina alleges, that it properly belongs to the Committee on Commerce, which would have the right on the third Monday in the month to suspend the rules and not interfere with the rights of individual members to-day to move a suspension to-day.

Mr. KENNA. I desire, Mr. Speaker, as I have stated, to say only a word in response to the point of order submitted by the gentleman from North Carolina. In the first place I submit that the point of order raised by the gentleman is absolutely answered by the fact that the Commerce Committee of this House has not at any time authorized or required any member of that committee to report this bill and move to suspend the rules and pass it. I submit, Mr. Speaker, that this is an absolute answer to the point of order made by the gentleman from North Carolina.

Mr. SCALES. Will the gentleman permit me to ask him a question?

Mr. KENNA. Certainly.

Mr. SCALES. Will the gentleman say to this House that it was not distinctly understood by the Committee on Commerce that the chairman of that committee should report this bill to the House to-day, with a view to having action upon it?

Mr. KENNA. When the gentleman from North Carolina will put me in the attitude of being able to understand the individual impulses of members of that committee then I will answer his question, and not before. So far as it as a committee of this House authorized the chairman or any other member to report this bill and move to suspend the rules, I say that no such action has been taken. Unless the House misunderstands me in that proposition, however, I desire to say——

Mr. CLYMER. Will the gentleman allow me to ask him a question?

Mr. KENNA. I am answering a question now; one at a time. It is a fact that the bill which the gentleman from Texas moves to suspend the rules and pass is the exact bill upon which the Committee on Commerce of this House has agreed after two or three long months of labor and investigation. I fail to comprehend in what manner or by what process of reasoning either the Speaker, as the organ of this House, or the House itself can fail to recognize a gentleman on this day, under the rules, simply because the bill he happens to offer is one upon which a committee of the House after investigation has agreed. That is all there is in the proposition.

Mr. CLYMER. Let me understand the proposition of the gentleman. Do I understand him to say that the chairman of the committee was not authorized to report the bill?

Mr. KENNA. If the gentleman means from his interrogatory to intimate that he understands the gentleman from Texas is acting in opposition to the wishes of the Committee on Commerce, so far as they are individually concerned I have no answer to make, for I have not consulted them. The committee as a committee have taken no action on the proposition.

Mr. CLYMER. Then there is some error, for I think by reference to the record it will be seen the gentleman from Texas explicitly declared he reported the bill from the Committee on Commerce.

Mr. KENNA. So he did.

Mr. CLYMER. And the House so understood, and that he did so by authority of the committee.

Mr. KENNA. The motion of the gentleman from Texas is for a suspension of the rules and the passage of the bill which the gentleman from Texas reported to the House from the Committee on Commerce as the bill of that committee, and asked to have printed and recommitted.

Mr. CLYMER. That is what I thought the gentlemen negatived.

Mr. KENNA. But the Committee on Commerce has not instructed the gentleman from Texas on behalf of the committee to move a suspension of the rules on the day on which they have the right as a committee to exercise that privilege.

There is but one question involved and it is this: that an indi-

vidual member of the House in undertaking to offer to-day a bill which has been matured by a committee of the House is encroaching upon the privileges of that committee, which upon a subsequent day may have the right to move to suspend the rules and pass the bill. I submit there is nothing in that, because that committee has not up to this time availed itself of that privilege.

Mr. FORT. The committee will have two weeks to instruct their chairman to report the bill. They will have their day and ought not to monopolize the day assigned to private individuals.

Mr. REAGAN. Mr. Speaker, it is right that I should state the precise status of this bill. The Committee on Commerce, after bestowing on it great labor, agreed to a bill; agreed unanimously to a bill, and authorized me to report it to the House, and to ask that it be printed and recommitted. That is where the bill stands so far as the action of this House is concerned. If we waited to take up this bill until two weeks from to-day, and the House should then pass it, we feared it would be too late for the bill to receive the sanction of the Senate. And if we had waited for two weeks the Committee on Commerce might not have been reached on the call of committees and the bill might have been passed over, and thus the labors of the committee would have been lost and the privilege of the House to act upon the bill would have been lost. In order to obviate those difficulties and those delays the committee have unanimously agreed to the bill as reported to the House. To-day, in my capacity as a member of the House, I move to suspend the rules and pass the bill, which, though not now reported to the House by the committee, has the unanimous sanction of the committee. My motion is to discharge the Committee on Commerce from the further consideration of the bill, and to suspend the rules and pass it.

Now, the objection, if I understand it, urged by the gentleman from North Carolina [Mr. SCALES] is that the bill appropriates a large amount of money, and therefore ought not to be passed.

The SPEAKER. The Chair would remind the gentleman from Texas that the merits of the bill are not now before the House.

Mr. REAGAN. I am not going to discuss the merits of the bill, but I wish to reply to a remark made by the gentleman from North Carolina.

Mr. HARRIS, of Virginia. I wish to ask the gentleman from Texas a question bearing on the point of order; whether, if this had been a day for motions to suspend the rules on reports of committees, the gentleman from Texas would have felt authorized, as the case now stands, to make the motion on behalf of the Committee on Commerce to suspend the rules?

Mr. REAGAN. It is not necessary I should answer that question. It is not before the House.

Mr. ATKINS. I desire to know if this bill has not been approved by the Committee on Commerce.

Mr. REAGAN. I have so stated. I desire to state, not with the view of discussing the merits, but in answer to the point of order of the gentleman from North Carolina who made the point, that the bill appropriates a large amount of money, that that is not an objection under the rule. It may be an objection that may well address itself to the discretion of members in voting on the suspension of the rules, but it is not a question upon which a point of order can be made. The objection simply addresses itself to the discretion of members voting on the motion to suspend the rules.

There is only one other remark I deem it necessary to make. It is that a motion to suspend the rules is a motion to suspend all rules. I have been recognized to make that motion. It is before the House under the authority to make a motion to suspend the rules. The remedy is if it is not approved by the House to vote down the motion to suspend the rules.

Mr. WEAVER. I would like to be heard a moment.

The SPEAKER. The Chair will hear the gentleman.

Mr. WEAVER. At the last session of this Congress a new rule was adopted for the purpose of preventing conflicts between those who represented committees and individuals desiring to move a suspension of the rules. The new rule sets apart the third Monday of the month as committee day, and the first Monday as individual day. Now I submit to the Chair that the construction sought to be given to the rule to-day practically—I care nothing about the technicalities which justify it—but practically it has the effect of giving to the committees both Mondays and to shut out individual members from moving a suspension of the rules. And I submit, if that is to be the construction, the settled construction of that rule, then we might just as well do away with the rule altogether, and say that individuals shall not be recognized at all. This is done manifestly with the purpose of avoiding resolutions by individual members. There is not a member of the House so dull as not to comprehend that such is the purpose. It is an open crucifixion of the rights of the members of this House and of the rights of our constituents.

None but gentlemen who represent committees have been recognized here to-day, and yet it is individual day. What a farce and a mockery! Will individuals be accorded the same privilege on the third Monday; not a word of it.

I have a bill which I wish to bring before this House to-day, known as a bill to equalize the pay of soldiers. I cannot do it if this construction of the rule is to obtain. Sir, that large element of our population, the very men whose blood and valor saved this nation, will be denied justice here, committees, by indirection, will be allowed to nullify the very laws which make this a deliberative body, in order to force through an ill-considered measure which appropriates $10,000,000 at one haul. I protest against that construction of the rule.

Mr. WARNER. One word on the point of order. It seems to me perfectly clear that this is an evasion of the rule, a violation of the spirit of the rule, by whatever method it is brought about. The question is whether the rule shall be set aside by an indirect method when it cannot be done directly.

Mr. McLANE. Neither of the gentlemen on this floor who have taken exceptions to this motion has stated the motion itself. The bill in regard to which a motion is made to suspend the rules is not the bill perfected by the Committee on Commerce. That bill is now in that committee and not before the House. The motion of the gentleman from Texas [Mr. REAGAN] is to discharge the Committee on Commerce from the further consideration of that particular bill, citing its number, and then to pass the bill with amendments. That is the motion now pending.

The objection taken by the gentleman from North Carolina [Mr. SCALES] has no pertinency at all to the actual motion pending, nor has his inquiry as to whether the committee has perfected the bill. Still less is there any ground for the intimation of the gentleman from Iowa, [Mr. WEAVER.]

Mr. SCALES. Will the gentleman allow me to ask him a question?

Mr. McLANE. Certainly.

Mr. SCALES. Is it not well known and well understood by every member of this House that that bill comes here with the sanction of the Committee on Commerce, and that it could come here in no other way? If it does come from that committee, if it is proposed to pass it as coming from that committee, and in no other way, I ask the gentleman if it is not an evasion of the rule by trying to do indirectly what cannot be done directly?

Mr. McLANE. It was not at all necessary for the gentleman from North Carolina [Mr. SCALES] to propound that question to me, because I had already replied to it in the statement which I have made to the House. I have said that the bill perfected by the committee is now before the committee and not before the House at all. It is a printed bill, a copy of which I hold in my hand, and is House bill No. 7104.

Now as to the motive of the gentleman from Texas in making the motion he has made. He has very explicitly stated, in explanation of his course, that had he waited for the instructions of his committee to ask for a suspension of the rules, he could not under the rules of this House have moved such suspension until the third Monday in February. Therefore, exercising his own individual judgment, he thought that would allow too short a time before the close of this session for the proper consideration of this bill.

Therefore, not to evade the rule, but to avail himself of the rule, a rule perfectly explicit, a rule which provides that on the first Monday of the month an individual member of this House may move to suspend the rules, availing himself of the rule, not evading it, he has made the motion now before the House; and I call the attention of the House upon this point of order particularly to the fact that the gentleman from Texas [Mr. REAGAN] acts in his individual capacity and has explained why he acts in that individual capacity. His explanation is that he acts in his individual capacity because if he should wait for a fortnight longer in order to act in his capacity as chairman of the Committee on Commerce and should then pursue the course which the rule authorizes him to pursue as such chairman, he would lose time which he deems indispensable for the proper consideration of this bill.

So far from justifying the intimation that he is taking the House by surprise, he assigns the motive which prompts him to this course, and which is that the Senate as well as the House should have full and ample time to consider this bill.

The only question is whether he has pursued the course pointed out to him by the rules. Has he the right as an individual member of the House to move to-day to discharge a committee from the consideration of a particular bill? I do not believe there is a man in this House who will deny that right to any member of the House. It is exactly what the rule was instituted for.

I submit to you, Mr. Speaker, as the presiding officer of this House, that you have hitherto throughout this session and during last session, whenever a member of this House chose to do so, whether he were a member of the committee or not, conceded to him the right to rise and move that a committee be discharged from the further consideration of a particular bill, indicating the bill by its number, and to put it on its passage. Now the chairman of the Committee on Commerce makes that motion with the addition that the bill shall be passed with amendments, and his motion is in writing and the amendments are attached to the bill.

The SPEAKER. The Chair desires to state to the House that when the gentleman from Texas [Mr. REAGAN] made application to him for recognition to move to suspend the rules and pass this bill he stated to the Chair, which statement has since been corroborated by two other members of the Committee on Commerce, that the Committee on Commerce had nothing to do with the motion which he proposed to make and which he has since made; that he claimed the right as an individual member of this House to make that motion.

It is not given to the Chair, whatever may be his judgment as to

the propriety of the passage of a bill, to allow that judgment to interfere in the least degree with the discharge of his duties as the chief officer of this House. Therefore, believing that technically according to the rule the gentleman from Texas [Mr. REAGAN] was in order, the Chair did not feel at liberty to thwart the will of even a minority of this House in reference to this bill, much less to stand here and singly thwart the desire of perhaps two-thirds of the members of this House in reference to the bill.

The Chair therefore believes that in recognizing the gentleman distinctly in his individual capacity he has not gone beyond the limitations of the rule, and has left to this House its judgment as to the proper interpretation of the rule, which is the duty of every presiding officer in every legislative body.

This bill is a bill of importance—in fact a general appropriation bill. It covers interests in almost every State in this Union; and if the Chair should allow his individual wishes or motives to influence him in the construction of the rules as affecting such a question, he would hardly be worthy of the place he occupies. [Applause.]

The Chair therefore thinks that he is within the scope of the rule when he takes the word of a member of this House on a matter of this kind; for the Chair has no right to question the veracity of a member when that member rises in his place and states that he makes a motion solely on his individual responsibility as a member, and not in any way as a representative of his committee. The Chair therefore thinks that he is correct in the recognition, and he leaves the rest to the House.

Mr. SCALES. Will the Chair allow me to correct him on one point. I understood him to say that this question has been submitted to the House.

The SPEAKER. The Chair has not alluded in his remarks to any former decision. He bases his recognition solely upon the question as presented by the motion of the gentleman from Texas. [Cries of "Regular order!"] The first question is on seconding the motion to suspend the rules.

Several members called for tellers; and, in accordance with Rule XXVIII, tellers were appointed, Mr. REAGAN and Mr. COX being designated by the Chair.

The House divided; and the tellers reported—ayes 122, noes 72.

So the motion of Mr. REAGAN was seconded.

The SPEAKER. The gentleman from Texas [Mr. REAGAN] is now recognized to control ten minutes of the time allowed for debate on the motion to suspend the rules.

Mr. REAGAN. I yield two minutes to the gentleman from Alabama, [Mr. SAMFORD.]

Mr. TOWNSHEND, of Illinois. Before the gentleman from Alabama [Mr. SAMFORD] proceeds, I would like to put to the gentleman from Texas one question only. Does not this bill appropriate $2,600,000 in excess of the amount recommended by the War Department?

Mr. REAGAN. I will answer the gentleman. In considering the improvement of the Mississippi River according to the plans submitted by a board of Government engineers under the law of 1879, the committee has consented in the execution of that project to an appropriation of $1,000,000 for the improvement of the Mississippi River from its mouth to the mouth of the Ohio.

Mr. ATKINS. May I ask the gentleman a question?

Mr. REAGAN. I was answering the question of the gentleman from Illinois [Mr. TOWNSHEND] as to whether this bill did not appropriate an extra amount for the improvement of the Mississippi River.

Mr. TOWNSHEND, of Illinois. That was not my inquiry. The question I asked was whether this bill does not appropriate $2,600,000 in excess of the estimates of the War Department.

Mr. REAGAN. No, sir. On the contrary, the estimates of the War Department called for over twenty-six million dollars; and we cut down the appropriations to a little over ten million dollars.

Mr. TOWNSHEND, of Illinois. Did the War Department recommend that amount on the items embraced in this bill?

Mr. REAGAN. The Department recommended that on the items embraced in this bill. There is no item in the bill that is not put there in conformity with the recommendation of the War Department—not one; and there are very few or no items (unless it may be some small items for finishing works) as to which we have allowed the amount of the estimate of the Department.

Mr. ATKINS. Will the gentleman allow me to ask a question?

Mr. REAGAN. The gentleman had better let me answer the question already put, unless his question is in the same line.

Mr. ATKINS. It is in the same line.

Mr. REAGAN. Very well.

Mr. ATKINS. I wish to ask whether the appropriations in this bill for the Mississippi River are not about two million dollars, or a little over two million dollars, in excess of the amount that has usually been recommended by the Committee on Commerce for the Mississippi River?

Mr. REAGAN. Not quite so much as that. I will explain just how much. In 1879 we passed a bill creating a commission to devise and submit to Congress a plan for the permanent improvement of the Mississippi River. That commission submitted a plan which has been indorsed by the War Department. The Chief of Engineers, as well as two members of the commission, General Gilmore and General Comstock, came to us and suggested that the least amount we ought to appropriate to begin the work between the mouth of the Ohio and the mouth of the Mississippi was $1,800,000; and that amount was recommended by another committee of this House. We felt, however, that in inaugurating this great work on a river and harbor bill it would be best to limit the appropriation to as small an amount as would enable the work to be properly started. Hence we limited the appropriation for that purpose to $1,000,000. That is above the ordinary appropriation on the Mississippi River.

On that portion of the Mississippi between the mouth of the Ohio and the mouth of the Illinois we last year allowed $250,000. This year, looking to the permanent improvement of the navigation of the river, we increased that item to $600,000, being an increase of $350,000 over the former amount. This work is in conformity with the recommendation of the War Department, but the appropriation recommended by that Department was $1,100,000. We allowed about one-half.

The portion of the Mississippi between the mouth of the Illinois and the Des Moines Rapids received last year $100,000; but to keep that work up with the scale for the improvement of the river we decided to increase that item $75,000, making it $175,000.

To the portion of the river between Des Moines Rapids and Saint Paul we gave last year $150,000. This year, looking to the plan of the improvement of the navigation of that river, we increase that item by some fifty thousand dollars, that increase being less than the recommendation of the War Department.

These are the only unusual appropriations, except an appropriation of $150,000 to aid in the commencement of the system of reservoirs on the headwaters of the Mississippi River. These items all aggregate—and, as I have said, they are the only extraordinary items in the bill—the sum of $1,625,000.

But this is not all the money that is appropriated to that river. There are other items. I mean to say, Mr. Speaker, however, that these are the only unusual appropriations.

Now, then, I will state to the House that this increase of appropriations for the improvement of the navigation of that great river which are contained in this bill is two hundred and odd thousand dollars more than in the bill reported last year. It is between $400,000 and $500,000 less than the law which passed the House and Senate last year, if we leave out the items for the improvement of the navigation of the Mississippi River and the establishment of the reservoir system.

It is right the House should know why this bill is more than $1,000,000 larger than the bill reported to the House last year. The items of appropriation, I repeat again, are all within and below the estimates of the Department, the aggregate of the estimates being more than $26,000,000, and the difficult task was imposed upon the committee of getting a bill as low as $10,000,000 out of these items.

Mr. MARSH. I see on page 15 of the bill, "For the improvement of the Mississippi River in accordance with the plan therefor adopted by the Mississippi River commission, $1,000,000." Will the gentleman inform me whether that $1,000,000 is appropriated for the purpose of filling up the gaps in the broken levees on the Lower Mississippi River or whether it is for the purpose of improving the channel and thereby the navigation of that river? I ask this question for the reason that, if it is the design to appropriate money out of the public Treasury to build up the broken-down levees of the South, then that system in equity and fairness should be extended wherever there are overflowed lands along other rivers in this country—which I do not think, however, this House is prepared to do.

Mr. REAGAN. I yielded to the gentleman for a question and not for a speech, and certainly not for any denunciation of the recommendations of the Mississippi River commission.

Now, in answer to the question which has just been proposed to me I have this to say: the Mississippi River commission pointed out certain reaches in the Mississippi River which in their judgment ought to be improved. The first is at New Madrid, forty miles long. The estimate for that was $923,000. That was recommended by this Mississippi River commission as being necessary for the improvement of New Madrid reach. The next is Plum Point reach, thirty-eight miles long, for which there was an estimate of $736,000. The next was Memphis reach, sixteen miles long, for which $382,000 was recommended. Then comes Helena reach, thirty miles long, for which $627,000 was recommended. That was for contracting the channel and protecting the banks, &c. The next is for Choctaw Bend, thirty-five miles long, for which $576,000 is estimated. Finally, we have for Lake Providence reach, twenty-five miles long, $619,000 recommended.

The plan recommended by the Mississippi River commission for the improvement of the Mississippi River is by these reaches.

The SPEAKER. The gentleman's ten minutes have expired.

Mr. MARSH. I will state, Mr. Speaker, that I asked the question of the gentleman from Texas in perfect good faith. I found in the bill a clause appropriating $1,000,000 provided that it shall be expended in accordance with the plan adopted by the Mississippi River commission. Now, when I come to read the report of that commission I see they recommend an appropriation of $1,010,000 for the closing up of the gaps in the levees of the Lower Mississippi River, and the coincidence between an appropriation of $1,000,000 in this bill and the $1,010,000 proposed in the plan of the Mississippi River commission to be expended in filling up levee gaps induced me to make the inquiry I did.

Mr. SAMFORD. I rise to a question of order.
The SPEAKER. The gentleman will state it.
Mr. SAMFORD. I desire to know whether I have not the floor?
The SPEAKER. The gentleman from Texas yielded to the gentleman from Alabama for two minutes: but the gentleman from Texas then went on to speak and he has occupied eleven minutes.
Mr. SAMFORD. That eleven minutes does not come out of my two minutes. [Laughter.]
The SPEAKER. They do not; and the Chair will now recognize the gentleman from Alabama for two minutes, which will leave two minutes remaining of the fifteen minutes in favor of the bill.
Mr. SAMFORD. Mr. Speaker, this bill comes up, as usual, to be passed under a suspension of the rules, with but thirty minutes allowed for debate, and no opportunity for amendment of any sort. The three minutes allowed me, will serve only to say a word in behalf of the navigation of a river in which I am deeply interested as the representative of a large and intelligent part of my constituency.

I do not like this bill, because there ought to be a larger appropriation for the Choctawhatchee River. But I know if it fails, no other bill can be reported at this session, and hence I am forced reluctantly to support it.

There is but one other work of a governmental nature in my district—the Pea River. The engineer's report prevents an appropriation for that river at this time, very much to my regret, and hence the appropriation for the Choctawhatchee should have been far more liberal than the sum allowed, in comparison with other works. This river, nearly two hundred miles in length, waters a large section of country in two States. I will leave to the honorable gentleman from Florida to speak of the great advantage its opening to navigation will be to his State.

For years its importance as a highway for commerce has not been recognized by Congress. The interests of the citizens to be benefited by its improvement have been unjustly ignored. And when I have sought to impress upon the Committee on Commerce the advantages to accrue from its successful navigation, I have regretted to find that there was a disposition to believe that I was only striving for an appropriation for my district without reference to merit. Indeed, I have been compelled to strive, in season and out of season, to obtain the partial recognition which has been given. The committee decided to allow only $5,000, but owing to persistent appeal, the sum of seven thousand was given, not one-tenth the sum which could be used with great advantage to the commercial necessities of a large number of citizens.

Sir, the area of country to be benefited by the successful navigation of this river, in Alabama alone, embraces thousands of square miles. Magnificent forests of the finest timber in the world cover a large section of this country. Cattle and sheep husbandry thrive as well there as on the prairies of Texas or New Mexico, and is rapidly increasing. All sorts of produce, such as corn, oats, cotton, sugar-cane and the like, is being largely raised, and this river is their natural outlet. The citizens are as enlightened, intelligent, industrious, thrifty, law-abiding and worthy, as any in our common country. Owing to the lack of transportation, they are forced to haul their produce forty, fifty, and even seventy-five miles to market. They bear their just proportion of the taxes of the country, and it is not fair that they should be deprived of their just proportion of the benefits.

If I had time I could give the statistics of its commerce, which have been increased by the improvement made with the small appropriation of last year. Three steamboats have already been placed on the river, and others contemplated. The town of Geneva, at the present headwaters of navigation, has within a few months had new life infused into her commerce. I am informed by a perfectly reliable gentleman that Colonel Haines, the engineer, stated to him recently that his estimate of $20,000 was for only a small part of the river, and yet that is the estimate upon which the committee acted in giving an appropriation for the whole river. It is too late for me to correspond directly with the engineer this session, as I would have done with earlier information, else I have no doubt he would verify my statement.

While I know nothing more will be granted in this bill, I hope the agitation which has been had in reference to this matter will secure justice in the future. I do not now discuss the constitutionality or propriety of such legislation; it has grown up without any assistance of mine, and as long as it remains the practice of the General Government, it is unfair, ungenerous, and unjust to ignore the claims of a river of such importance as the Choctawhatchee.

Mr. OSCAR TURNER, Mr. ROBERTSON, Mr. THOMAS TURNER, Mr. FROST, and Mr. KITCHIN by unanimous consent were granted leave to print remarks on the river and harbor appropriation bill. [See Appendix.]

Mr. WHITE. I ask by unanimous consent that all gentlemen who desire to may have the right to print in the RECORD remarks on this bill.
The SPEAKER. The Chair hears no objection, and it is ordered accordingly.

Mr. COX. Mr. Speaker, we have made some reform in the way of considering appropriation bills for rivers and harbors. We now have under our new rule a modicum of debate. It is fifteen minutes *pro* and fifteen minutes *con*, and this on a bill which aggregates $10,179,800. One-half of that time will be $5,089,900; ten minutes for $3,393,666; one minute for $339,366; for every half minute $169,000, and for every second of this debate $51,656. [Laughter.] Time is precious. Every second that ticks—ticks—out goes $51,656 for this doubtful expenditure!

That is indeed limiting debate; but why should we complain? Are not all these various propositions to spend the money of the people involved in this measure, and running up to $10,000,000 or more—forty pages of them, with thousands to the line—are they not all to be adopted or rejected in half an hour? Precious privilege! Is it not all arranged beforehand? "Of course it is," somebody behind me says; and somebody knows.

One friend of mine told me just now that he could not afford to go for this bill, because he had only $104,000 in it. [Laughter.] Another told me that he would favor it, because he had $300,000 in it, which made quite a difference in his favor. [Renewed laughter.] Several gentlemen who have large cities like New York do not intend to vote for this bill on a principle, whether there be in it Hell Gate or any other gate. [Laughter.] We know that New York is a great commercial *entrepôt* and center. She will always be the great seaport and metropolis of the country. Somebody will see to it without logrolling or persuasion that she will always get what she deserves from a just and generous Congress for her harbor and its approaches.

Let us glance over this bill a little. There are some features in it that arrest my attention and touch my fancy. I do not mean to repeat my former protests against similar bills. The reasons for such protests are only too familiar. The practice of passing such bills with inadequate debate, and of suspending the rules to attain the object, is vicious, even if every item of the bill were worthy of our approval. Nor will I now analyze the bill to show the small, inappropriate, and limited objects for which these Federal appropriations are made. That has been done on similar bills of less amount. The subject has been exhausted, though the logical sequence and practical results seem not to be as yet understood by the Committee on Commerce.

Look at those gentlemen on this Commerce Committee. They all had a hand in preparing the bill. See how kind they are to their own States. I do not undertake to say that these gentlemen on the committee really meant to have helped themselves so bountifully. [Laughter.] No, no; I do not say that. But somehow or other it will appear, by investigation, that more than one-half of this $10,179,000 is given to the States represented on this Committee on Commerce. A very good committee to be on for certain purposes, [great laughter,] and the gentleman from New England, who nods assent, [Mr. MORSE,] and who understands thrift, knows something about it himself. Look at my friend from Texas, [Mr. REAGAN.] How much does REAGAN—[laughter]—I mean how much does Texas get in this bill? Seven hundred and fifty thousand dollars. My elegant colleague from New York [Mr. BLISS] gets $469,000. The gentleman from New Jersey [Mr. ROSS]—where is my modest friend from New Jersey?

Mr. ROSS. Here he is.

Mr. COX. My friend from New Jersey, $271,000—the little State of New Jersey. The honorable gentleman from Maryland [Mr. MCLANE] is satisfied with $181,000. The gentleman from Kentucky, [Mr. THOMAS TURNER,] whose character I reverence, [laughter,] and who sits before me—Kentucky, that has nothing but a few local streams that one of its members said only required improvement by macadamizing. [Laughter.] How much does my friend get in this bill? Three hundred and four thousand dollars.

Mr. THOMAS TURNER. Only $168,000; that is wrong. [Great laughter.]

Mr. COX. Only $168,000. Now, the gentleman has kept his eye upon this bill evidently, and has made a close calculation; knowing just how much he was appropriating for the land, or streams, of Kentucky.

Now, in this calculation, Mr. Speaker, I desire to say, in justice to the gentleman from Kentucky, that I am not counting certain general appropriations; for instance, a reservoir in one place, $50,000; in another, $150,000 for the improvement of the Mississippi, Missouri, and Arkansas Rivers. Nor do I reckon one million for the improvement of the Mississippi River, according to certain plans adopted by the Mississippi commission; nor for gauging water, $5,000, and the Upper Mississippi, $25,000, making $1,330,000 not included in the special dispensations to these most favored States.

Nor have I been particular in making these calculations, (hurriedly made, and perhaps with some mistakes,) in fixing the precise division of cost for boundary rivers—like the Ohio—between two or more States. What I want to show is: the lavish reward a State obtains by the vigilance of its attentive Representatives on the Committee on Commerce.

But adding up for the State of Kentucky all the little items of the bill that my friend has got into it, I find that it foots up a total of $304,000. That is my calculation. It may be wrong. If it is wrong I will correct it. [Laughter.] I would never consciously do injustice to Kentucky or to my venerable friend, its active Representative. [Laughter.]

But let us pursue it further. What else does this list show? The gentleman from Louisiana [Mr. ACKLEN] gets $232,000. The gallant gentleman from Virginia, [Mr. BEALE,] $250,000. My good friend, Mr. DEUSTER, of Wisconsin, $418,000. Missouri, so cleverly represented by the gentleman Mr. CLARDY, $620,000. The indefatigable gentleman from Pennsylvania, [Mr. O'NEILL,] $474,000. The adroit gentleman from Connecticut, [Mr. WAIT,] $188,000. And here is

Illinois, an inland State, [laughter,] has a little touch of the lake here and there on its border; how much do you think, under the arrangement of its member on commerce, [Mr. HENDERSON,] she gets in this bill? Why, $912,000, nearly one-tenth of the whole sum! Where is Ohio? How much does Ohio get? Ohio, I know, is pretty well supplied with statesmen. She generally gets what she wants. She has got in this bill, thanks to her statesman, [Mr. TOWNSEND,] $401,000. Massachusetts being represented by its business member [Mr. RUSSELL] gets $249,000. So that the Committee on Commerce pile up over five millions——

Mr. UPDEGRAFF, of Ohio. How about West Virginia?

Mr. FROST. And how about KENNA?

Mr. COX. West Virginia? I forgot West Virginia. [Laughter.]

Mr. FORT. West Virginia has $281,000.

Mr. COX. Two hundred and seventy-one thousand dollars. Let us be just. I believe the Little or Big Kanawhas have come on here for years and years. They are always dry. They ask for more and more appropriations which they sink in their sands. They come now asking for more. They will keep on asking. To-day they have in this bill to be deposited in those same old rivers $271,000.

In the aggregate, these States represented by this honorable Committee on Commerce foot up the pretty sum of a little over one-half of ten millions of dollars, or $5,921,000. [Laughter.]

A MEMBER. How about North Carolina?

Mr. COX. Oh, North Carolina is not on the committee.

Mr. RUSSELL, of North Carolina. Nor in the bill.

Mr. COX. It has been suggested here, and some real discussion has been had in reference to it, whether these appropriations have exceeded the estimates or not. Now, the bill recommends a total of about ten million dollars. This is $2,689,000 in excess of the estimates of the Secretary of War.

Mr. REAGAN. The estimates of the engineers originally sent from the Department were over twenty-two million dollars; and over five million dollars were added by supplementary estimates.

Mr. COX. Wait till I get through. Those are the first estimates I was about to refer to, and, as I am informed, estimates came in afterward. But did you not exceed the estimates heretofore in other years? According to what Senator BECK said in an argument made in the Senate last year, you must have done it. He says:

After giving the list of what the engineers have said ought to be done, the whole amount of which was $14,326,650, the Secretary adds this note:

"Reduction by Secretary of War, to make this aggregate correspond with the aggregate of his estimates for rivers and harbors, as submitted December, 1878, (Estimate Book for 1878-'80, p. 138,) $9,311,650; total harbors and rivers, $5,015,000."

That is what the Secretary of the Treasury asks for; that is what he says the Secretary of War demands; and yet a professed democratic Congress presents a bill now close on to $10,000,000, double the estimates of a republican Secretary of the Treasury, of a republican Secretary of War, and seeks to put every dollar of this money into the hands of republican electioneerers to carry the next election, and there is where half the money will go. I have endeavored as far as I could to keep within the estimates. I have endeavored to keep clear of a proper charge being made that we were extravagant beyond what the heads of Departments demanded.

Mr. ATKINS. Will the gentleman from New York state how that Senator voted on that bill?

Mr. REAGAN. Let me say——

Mr. COX. I do not yield. I believe the Senator voted for the bill; a curious illustration of how men sometimes will act when they forget themselves. [Laughter.]

Mr. OSCAR TURNER. I want it to be understood that I voted against that bill.

Mr. COX. Well, Mr. Speaker, I would like to see and aid some way of improving certain large harbors and certain large rivers upon a proper principle. I am not opposed to having these gentlemen on the Commerce Committee now and then help themselves, provided they are just to the rest of the country. I do not say that any of the committee meant to help themselves or their constituents at the expense of the whole country. Oh, no! Still I am reminded somehow of the management of the Elder Weller, as related by his son Sam. It was election time. The father was engaged to bring down voters from London. An agent made the politic approach, as Dickens relates it, in this fashion:

"It's a wery bad road between this and London," says the gen'l'm'n. "Here and there it is a heavy road," says my father. "'Specially near the canal, I think," says the gen'l'm'n. "Nasty bit, that 'ere," says my father. "Well, Mr. Weller," says the gen'l'm'n, "you're a very good whip, an' can do what you like with your horses, we know. We're all wery fond o' you, Mr. Weller, so in case you should have an accident when you're a-bringing these here woters down, and should tip 'em over into the canal without hurtin' of 'em"—

The philosophy and application of which is summed up by Sam Weller in the following:

"But what I look at is the hextraordinary and wonderful coincidence, that arter what that gen'l'm'n said my father's coach should be upset in that wery place, and on that wery day!"

Every one of these members of the committee gets his big appropriation, which is an extraordinary and wonderful coincidence; while the rest is distributed all over the country.

But, sir, does not the whole country pay for it all?

I saw the other day that in Arizona, where there is a good deal of dry land and little water, that its governor wanted to know why it was that the American Congress while helping other States to waterways did not appropriate money to give more water to their thirsty soil. Why not? Why not let them irrigate from the Treasury? Why not, since they help to pay for these large appropriations?

Are they distributed equally in their benefits to agriculture or transportation? It is just as bad as your protective tariff system, as you know, Mr. Speaker, [laughter;] for the burden it lays is not borne equally by classes, sections, or individuals; nor is the benefit divided fairly. Why do not you distribute the tariff benefaction fairly all around? You add to the price of articles by the price of the customs dues, as you do also by the cost of transportation. And when the people of the great valleys and prairies of the farming portions of the country pay these $10,000,000, who gets the benefit? Certainly they do not get a *quid pro quo*. It is not distributed equally. It should go for Federal commerce, for national objects, if you please; for the important harbors and rivers, not for little streams and bayous here and there, where the people or the States should help themselves for all the local purposes that are necessary.

From the Forty-first to the Forty-fifth Congresses, inclusive, the total of annual river and harbor appropriations has been $54,962,217. Adding to this sum, for the Forty-sixth Congress, $18,000,000 more, and you have nearly seventy-three millions. Are not these millions benefits to certain localities, and not shared by all, except as they share the burdens?

I greatly desired, Mr. Speaker, to have this bill considered in the Committee of the Whole, or somewhere, for amendment. I might then have proposed an amendment: first, that the rivers appropriated for should be declared as broad as they were long; and, secondly, that the improvements in our water-ways should be made according to the methods proposed in Senate Document No. 39 of this Congress.

I hold in my hand this curious document. I ask gentlemen to read at their leisure. It comes from old Virginia. It seems that old Virginia, forgetting her early teaching, is in this business of enlarging the sphere of Federel usefulness by extensive and abnormal appropriations. Why, sir, have we forgotten everything of the old democratic ideas and traditions about appropriations for general purposes only? I had begun to fear that we had forgotten those doctrines here to-day while voting for dignifying a Bureau of Agriculture. What next? We have already a Bureau of Education, a Bureau of Health recently made, and bureaus for various other purposes were suggested. The democratic rule of strict construction and limited powers is, I fear, almost as dead as the dodo.

A MEMBER. It is deader.

Mr. MCLANE. I wish to ask the gentleman what old democrat ever voted against the river and harbor bill?

Mr. COX. River and harbor bills have been vetoed by democratic Presidents.

Mr. HAZELTON. It was done by Franklin Pierce.

Mr. COX. You will find that the late Senator Houston, of Alabama, and men of his stamp, in better days, opposed all the appropriations for other than general improvements, even in his own State, and even for the improvement of the Mussel Shoals of the Tennessee River, because the improvement was not general, but limited to a few States. He stood frankly and boldly on the principle of equality of tax and benefit, and the people sent him back here on this very issue as a tribute to his courageous honesty.

Mr. ATKINS. General Jackson voted for these bills when he was in the Senate.

Mr. MCLANE. I will name two democratic Presidents on that side for every one who can be named on the other side.

Mr. COX. I have not yielded to my democratic friend on the Committee on Commerce, the gentleman from Maryland. Every time you protest against such river and harbor bills as this you find that the member who leaps into the air and strikes the escutcheon of his State is on the Commerce Committee. [Great laughter.]

Now I wish to present a cheaper mode of improving our streams, which is proposed by a citizen of the State of Virginia, in the pamphlet to which I referred. It is a "Memorial of Daniel Ruggles, asking an appropriation to be expended in developing his system of producing rain-fall. February 12, 1880, referred to the Committee on Agriculture and ordered to be printed." [Here the hammer fell.] May I have the privilege of printing this? [Cries of "Go on!"]

Mr. SPRINGER. I ask unanimous consent that the gentleman from New York have his time extended five minutes.

Mr. KENNA. And let the same time be given to the other side.

The SPEAKER. If there be no objection the time of the gentleman from New York will be extended for five minutes, and the same extension of time will be allowed on the other side. The gentleman from Texas will then have seven minutes.

There was no objection.

Mr. COX. Five minutes more is a good deal of extra time to get on a bill of this size. I will use it on the "rain-fall" question and its application to our streams.

I would remark, however, that perhaps something might be gained by referring this bill to the board of education; for if we were to study geography all the year round, we might not, without its Federal help, be able to vote intelligently on these remarkable bills, involving some forty pages of strange names and localities; and then, sir, after the board of education is through with it, we might refer the board of education to the board of health, because the former would be sure to get sick of it before they got through. [Laughter.]

This gentleman, Mr. Ruggles, informs us in his pamplet that he has invented a method for condensing clouds in the atmospheric realm, and for precipitating rain-fall from rain-clouds, to prevent drought, to stimulate and sustain vegetation, to equalize rain-fall and water-flow—

Water-flow, Mr. Speaker, remember that!—

and by combining the available scientific inventions of the age to guard against "pestilence and famine," and to prevent or to alleviate them when prevailing.

His plan involves theological as well as meteorological and scientific problems. He holds that it is an advance step in engineering, founded upon the Mosaic record. He says that one of the first great evolutions of the Omnipotent mind had reference to those atmospheric laws which involved drought and controlled rain-fall. Let me quote:

From the same divine source we derive an early lesson in philosophy, that "the Lord God had not caused it to rain upon the earth, and there was not a man to till the ground." (Gen. ii, 5.)

"But there went up a mist from the earth, and watered the whole face of the ground." (Gen. ii, 6.)

"And the Lord God formed man of the dust of the ground, and breathed into his nostrils the breath of life; and man became a living soul." (Gen. ii, 7.)

"So God created man in his own image, in the image of God created he him; male and female created he them." (Gen. i, 27.)

"And God blessed them, and God said unto them, be fruitful, and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth." (Gen. i, 28.)

Thus we behold our sphere, in its grand celestial orbit, as it fell from the hand of Creative Wisdom.

History, both sacred and profane, admonishes us that the vicissitudes attendant upon drought menace almost continuously vast regions of the habitable globe. History, as well as observation, also admonishes us that man is neither aerial nor amphibious, but a land animal; that he walks the earth, breathes the air, drinks the waters, and that by his impulsive genius and indomitable energy he has attained dominion, more or less imperfect, over large areas of the earth's surface; a limited control over the sea, and some familiarity with, but a far more limited control over, the atmospheric realm. Even the divine injunction to man to "replenish the earth and subdue it" would seem to have been prophetic only of the progress of the ages.

History, both sacred and profane, illustrates by what slow degrees man has advanced in the subjugation of the earth, dominion over the sea, and in the conquest of the atmospheric realm. Each advancing step has constituted an era in human progress. Like the blind man in a dream it has taken a step in advance and then faltered. In his infancy the savage imitates the fish in swimming and disports himself upon the waters. The development of this faculty constitutes, however, only the first step in man's advancement. It facilitated his migration among the fishing-streams and hunting-grounds of the primeval wilderness, but he was still a savage! He invented the canoe, which constitutes an admirable triumph of human art.

The genius of man has been brilliantly illustrated in the progressive stages of development of this primeval invention in all its varied forms. In the small canoe, cut from the trunk of a forest tree or fashioned from the strong bark of the birchen tree, we trace the origin of this inspiration of savage genius. Such was the magic bark, bearing in prehistoric ages the solitary hunter and fisherman. In the progress of time each structure of canoe acquired a capacity to bear scores of savage warriors on the war-path against hostile nations.

It will thus be seen how gradually this scientific intellect produces from these sacred and profound observations his plan for the replenishing of the streams which niggard nature has left here and there waterless. Observe, too, how he pictures the savage genius and his birch-bark canoe in his avocations and migrations, when no Federal exchequer was near by to add to its largess for the genius of his invention. To what is all this tending? Nothing less than to the art of navigation, the conquest of the waters, as well as the mastery of the air, and the mastery of the waters by the mastery of the air. Sublime idea! Thus he would stir to its "profoundest depths" the immobility of the commerce of the world, whether upon the placid Hudson, the beautiful Ohio, or the magnificent Mississippi.

Now, what does he propose to do? How does he propose to do it? He proposes a cheaper mode than we are pursuing by such ten-million annual bills as these. He proposes that we shall have certain skeleton balloons sent up into the air and that these balloons shall be loaded with explosives of all kinds, with dynamite, with Vulcan powder, with mica powder, with nitro-glycerine, with Hercules powder Nos. 1 and 2, and all kinds of gun-cotton and rend-rock, all of which are to be carried up among the rain-clouds and there touched off by some bold and dashing navigator of the air. [Great laughter.] Conquering first the atmospheric realm for great industrial and commercial benefits, he would utilize the highly elastic fluid of the aerial for the navigation of an inelastic liquid. His grand idea for this object is the balloon. With this he would invade the cloud-realm. To use his own expressive language—

It is contemplated in the prosecution of my invention to combine the scientific revelation of the age in which we live (so far as may prove available) to control the cloud-realm by claiming and exacting a passing tribute, under favoring conditions, to sustain and stimulate vegetation, to prevent pervading and desolating drought, and to extract from the soil its natural increase. This result, even imperfectly attained, would tend materially to alleviate famine and often to prevent its occurrence, and would thus become a boon to mankind.

May I add that if it be that such results are attained by the precipitation of rain-fall upon the parched earth, why are such appropriations as these any longer needed? This inventor may not have exactly intended it, but by his plan he would have some of these balloons stationed in the air and over at the heads of these little streams in the mountains, far aloof from men and commerce, to pour down rain from heaven that there might be navigation, through the abundant waters which this scientific plan would produce. [Laughter.]

Let me not do injustice to this rare invention. I must needs quote again:

In the prosecution of my plan only small skeleton balloons of economical or cheap structure will be required, and—

1. The small, light, skeleton balloon to carry into the cloud realm from one to fifty pounds of dynamite, or other explosives, in torpedoes or cartridges charged with them in carefully regulated proportions, and prepared for detonation and simultaneous explosion by the time-fuse, securely attached to the framework of the balloon.

This class of balloons, charged with hydrogen-gas—from 100 to 1,000 cubic feet—would ascend in ten to twenty minutes 10,000 to 12,000 feet, with from 10 to 100 pounds of explosives, into the midst of floating rain-clouds, ready for explosion by the time-fuse.

The same class of balloons may be arranged for explosion by mechanical or clock-work arrangement.

2. The balloon of any desired capacity, bearing torpedoes and cartridges prepared for simultaneous explosion by a combination of a trailing-drag with magneto-electric force in the cloud realm.

3. The balloon, directed by an aeronaut engaged in exploration, from which torpedoes may be thrown in parachutes and exploded from the balloon or from the ground, as circumstances may render expedient.

After describing the various kinds of clouds upon which he would operate, and the results from the reciprocal action of the magneto-electric force between the earth and the clouds, and drawing the very thunders from their caverns and the lightnings from their towers, he boldly proposes his shock to the American Senate:

As a combination of mechanical and chemical forces for the inauguration of a practical plan of exploration, with a view to appropriate the atmospheric laws of cloud-land, in sunshine and in storm, and direct them, so far as may be practicable, within the sphere of the great industrial interests and energies of man, and especially so to sustain vegetation and to equalize the *water-flow of streams and rivers in harmony with systems for extensive irrigation as well as to facilitate navigation.*

The field is broad—very broad; as deep as it is broad—it is very deep! But when we contemplate the triumphs of American genius within the present century, there is abundant reason to anticipate untold advancement. The theory involves the whole round of philosophic principles, as well as an unlimited field for observation.

Now this system is not altogether a new system. Professor Espy has given a hint of it before. I would like to print further the various plans which are referred to by this inventor from Virginia. It is not often that Virginia gives us an inventor. When he comes here, let us hail him! He is from Fredericksburgh, Virginia, and I think he is a brave soldier, from the way he writes. He says that for adventurous science there is a more entrancing prospect in cloud-land than at the pole. He holds that there is a magnetic force like gravitation, which at certain heights does not exhibit any sensible variation; that men have gone up miles high, away up in the air, and have been all over surcharged with electricity, and that they have come down safely; and that if this be so, why could they not with dynamite explosion pour out of the clouds their water to fructify the earth and make its streams run with abundance and gladness! [Great laughter.]

Let us remember that by this explosive force there is an instantaneous conversion of solid or liquid matter in small dimensions into gas or vapor of a greatly increased volume, expanded by heat evolved, generating force, so that the explosive effect of gunpowder being taken as a unit, or 1.00, gun-cotton is 3.00, and nitro-glycerine is 4.80, and their explosive force is 1.00, 3.06, and 4.55, respectively. The most violent explosives are more limited in their effects, yet are often preferred when detonated. The potential energy of explosives, as well as coal, has been measured, approximately, by the evolution of the force, per pound, to raise one ton to the height of one foot, and is designated "per pound" so many "foot tons." The potential energy of gunpowder is 480, of gun-cotton 716, of nitro-glycerine 1,139, while that of one pound of coals is about 4,980!

If these are indeed verities, and I am not disputing them, why may not this potential energy save us from these annual appropriations? All that he asked for this wonderful invention was $10,000! It is economy. Consider its sublime object:

The conformation of our continent, crowned with its lofty mountain ranges, its great bounding rivers, its broad fertile plains, and its boundless forests—all swept by the rain clouds of surrounding oceans—all, all give assurance that a combination of skill and industry will materially protect our soil from impending droughts and from those visitations of desolating famine so often chronicled in the eastern world.

By thus scanning the vicissitudes ever impending we discover the magnitude of the contingencies we may be doomed to meet; and in the event of success in this plan for precipitation of rain-fall we also disclose the notable fact that no other scheme of philanthropy known to man—save that embodied in the Christian dispensation—transcends it.

Now, why not adopt this grand philanthropic arrangement instead of coming here year after year to get appropriations for these little creeks and insignificant rivers in the remote districts of our beloved land, to the torture of our tender consciences, to the ruin of all genuine appropriations and constitutional theories for grand Federal and national purposes? I thank the House for its attention. [Great applause.]

Mr. REAGAN. How much time have I, Mr. Speaker?

The SPEAKER. The gentleman has seven minutes' time, including the five minutes' extension granted by the House.

Mr. REAGAN. If there was no other advantage accruing to the country from the reporting of a river and harbor bill, we are in some measure rewarded, perhaps, for the labors of its preparation by the speeches to which we are annually treated by the gentleman from New York, [Mr. COX.] [Laughter.]

The first point of objection which the gentleman makes to the bill now before the House is that the appropriations exceed the estimates of the War Department. I had stated to the House that the estimates before us embrace about twenty-six million dollars, while the bill appropriates about ten million dollars. The appropriations in this bill are a little less than 40 per cent. of the estimates.

In one sense the statement of the gentleman may have something in it, but he did not seem to understand the point in which there was

any force in it. The Secretary of War recommended the cutting down of the estimates first sent in, from $22,000,000 to $7,500,000; but he subsequently sent in some five million dollars additional. So much for that.

The gentleman made the point that the members of the Committee on Commerce had taken special care of themselves in this appropriation bill. It will be remembered that there are fifteen members of that committee, a member from each of fifteen different States; and those States happen to be generally States where it is necessary to expend the largest amount of money in the improvement of navigation.

Now, it may be the misfortune of Massachusetts that Boston Harbor is in that State, and that she has a number of other important ports which accommodate a large commerce. It may be the misfortune of New York that Long Island Sound and the Hudson River are there. It may, in the view of the gentleman from New York, [Mr. COX,] be a crime on the part of New York that that great State has an immense commerce to be provided for.

It may be the misfortune of Pennsylvania that her great city of Philadelphia, accommodating the commerce of that State and a large portion of the commerce of the great West, is located on the Delaware River, and that there are about a hundred miles of that river which must have its navigation improved and preserved. It may be the misfortune of Maryland that the city of Baltimore is situated in that State, and that the city of Baltimore is at the head of a great estuary leading from the sea, and requires a considerable amount of money to enable it to accommodate its commerce.

It may be the misfortune of the State of Virginia that she has the Chesapeake Bay and the James River and other rivers for the transportation of her large commerce and much of the commerce of the Western and Southwestern States. It may be the misfortune of Ohio that with her immense wealth she has the great lakes on the one side and the Ohio River on the other, with the Mississippi River but little to the west, and that she is called upon to accommodate a vast commerce with great lines of water communication.

The same remarks may be made with reference to Illinois, which also has a member upon the Committee on Commerce. The gentleman from New York did not allude to the State of Michigan, for which considerable appropriations are made in this bill, and which has no member upon the committee. That State has large appropriations because of her immense water front and the commerce accommodated by her ports and the waterways of that State.

Reference was also made to the State of Wisconsin, with its large lake front and its extensive connections with the Mississippi River and with Green Bay. An objection is made also to the expenditures on the Mississippi River which runs along the borders of Iowa, Minnesota, Wisconsin, Illinois, Missouri, Kentucky, Tennessee, Arkansas, Mississippi, and Louisiana, a great river which bears upon its besom, with its tributaries, many times the amount of our foreign commerce; a great river which furnishes transportation for the accommodation of an increasing commerce.

[Here the hammer fell.]

Mr. ACKLEN. I ask consent that the gentleman be allowed five minutes longer.

Several members objected.

The SPEAKER. The Chair has given the gentleman from Texas additional time corresponding with that allowed to the gentleman from New York.

Mr. KING. Before the gentleman from Texas takes his seat I should be glad to ask him a question. [Cries of "Regular order!"]

The SPEAKER. The time allowed for debate on the pending motion is at an end. The question will now be taken on the motion of the gentleman from Texas, that the Committee on Commerce be discharged from the further consideration of the bill read at the desk, and that it be passed with the amendments read.

Mr. VALENTINE and Mr. NICHOLLS called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 160, nays 86, not voting 46; as follows:

YEAS—160.

| | | | |
|---|---|---|---|
| Acklen, | Carpenter, | Ellis, | Hubbell, |
| Aiken, | Caswell, | Errett, | Humphrey, |
| Aldrich, N. W. | Chalmers, | Evins, | Hunton, |
| Aldrich, William | Claflin, | Felton, | Hurd, |
| Atkins, | Clardy, | Ford, | Johnston, |
| Baker, | Clark, John B. | Forney, | Jones, |
| Ballou, | Clements, | Fort, | Keifer, |
| Barber, | Conger, | Frost, | Kelley, |
| Beale, | Cook, | Goode, | Kenna, |
| Berry, | Covert, | Gunter, | Kimmel, |
| Bingham, | Crapo, | Harmer, | King, |
| Bisbee, | Cravens, | Harris, Benj. W. | Loring, |
| Blake, | Crowley, | Harris, John T. | Lowe, |
| Bland, | Culberson, | Hatch, | Marsh, |
| Bliss, | Daggett, | Hawk, | Martin, Benj. F. |
| Bouck, | Davidson, | Hayes, | Martin, Edward L. |
| Boyd, | Davis, George R. | Hazelton, | Mason, |
| Bragg, | Davis, Lowndes H. | Henderson, | McGowan. |
| Brewer, | De La Matyr, | Henkle, | McKinley |
| Brigham, | Deuster, | Herbert, | McLane, |
| Buckner, | Dibrell, | Herndon, | McMillin, |
| Burrows, | Dick, | Hooker, | Mills, |
| Cabell, | Dunn, | Horr, | Money, |
| Calkins, | Dunnell, | Houk, | Monroe, |
| Cannon, | Elam, | House, | Morse, |
| Muldrow, | Reagan, | Smith, William E. | Ward, |
| Myers, | Reed, | Speer, | Washburn, |
| New, | Richardson, J. S. | Stone, | Wellborn, |
| Newberry | Robertson, | Talbott, | Wells, |
| O'Connor, | Ross, | Thompson, P. B. | White, |
| O'Neill, | Rothwell, | Tillman, | Whiteaker, |
| Orth, | Russell, W. A. | Townsend, Amos | Williams, C. G. |
| Pacheco, | Samford, | Tucker, | Williams, Thomas |
| Persons, | Sawyer, | Turner, Thomas | Willis, |
| Phelps, | Shallenberger, | Upson, | Willits, |
| Philips, | Shelley, | Urner, | Wilson, |
| Phister, | Sherwin, | Vance, | Wise, |
| Poehler, | Simonton, | Voorhis, | Wright, |
| Pound, | Singleton, O. R. | Waddill, | Yeates, |
| Price, | Smith, Hezekiah B. | Wait, | Young, Casey. |

NAYS—86.

| | | | |
|---|---|---|---|
| Anderson, | Dwight, | Ladd, | Sapp, |
| Atherton, | Einstein, | Lapham, | Scales, |
| Bailey, | Ferdon, | Le Fevre, | Slemons, |
| Beltzhoover, | Field, | Lindsey, | Smith, A. Herr |
| Bicknell, | Finley, | Lounsbery, | Sparks, |
| Blackburn, | Fisher, | McCoid, | Springer, |
| Bowman, | Forsythe, | McCook, | Steele, |
| Briggs, | Frye, | McMahon, | Thomas, |
| Browne, | Geddes, | Morrison, | Thompson, W. G. |
| Camp, | Gillette, | Murch, | Townshend, R. W. |
| Chittenden, | Godshalk, | Neal, | Turner, Oscar |
| Clymer, | Hall, | Norcross, | Tyler, |
| Cobb, | Hammond, John | O'Reilly, | Updegraff, J. T. |
| Coffroth, | Hammond, N. J. | Osmer, | Updegraff, Thomas |
| Colerick, | Haskell, | Prescott, | Valentine, |
| Converse, | Heilman, | Ray, | Van Voorhis, |
| Cowgill, | Hill, | Rice, | Weaver, |
| Cox, | Hostetler, | Richardson, D. P. | Whitthorne, |
| Davis, Horace | Hutchins, | Robinson, | Wood, Walter A. |
| Davis, Joseph J. | Ketcham, | Russell, Daniel L. | Young, Thomas L. |
| Deering, | Killinger, | Ryan, Thomas | |
| Dickey, | Kitchin, | Ryon, John W. | |

NOT VOTING—46.

| | | | |
|---|---|---|---|
| Armfield, | Gibson, | Miller, | Starin, |
| Bachman, | Hawley, | Mitchell, | Stephens, |
| Barlow, | Henry, | Morton, | Stevenson, |
| Bayne, | Hiscock, | Muller, | Taylor, Ezra B. |
| Belford, | James, | Nicholls, | Taylor, Robert L. |
| Blount, | Jorgensen, | O'Brien, | Van Aernam, |
| Bright, | Joyce, | Overton, | Warner, |
| Butterworth, | Klotz, | Page, | Wilber, |
| Caldwell, | Knott, | Richmond, | Wood, Fernando |
| Carlisle, | Manning, | Robeson, | Yocum. |
| Clark, Alvah A. | McKenzie, | Scoville, | |
| Ewing, | Miles, | Singleton, J. W. | |

So (two-thirds not voting in favor thereof) the motion of Mr. REAGAN to suspend the rules was not agreed to.

Before the announcement of the result,

Mr. HAMMOND, of Georgia. I beg to state that my colleague, Mr. BLOUNT, before the roll was called, left the House unwell.

Mr. KENNA. I move that the House adjourn.

Several MEMBERS. Announce the result!

The SPEAKER. The pairs will be announced.

Mr. KENNA. I insist on my motion to adjourn.

The SPEAKER. If this question should go over pending the announcement of the vote the result could not be changed, as under the rules it must go over until the first Monday in March, when this Congress will have expired.

Mr. KENNA. I am not discussing the effect of the motion.

The following pairs were announced:

Mr. MORTON with Mr. NICHOLLS, on this bill. If Mr. MORTON were present, Mr. NICHOLLS would vote against the bill.

Mr. ARMFIELD with Mr. MANNING, on this bill.

Mr. HISCOCK with Mr. BLOUNT, both gentlemen being engaged upon business of the Committee on Appropriations.

Mr. MCKENZIE with Mr. CARLISLE.

Mr. BELFORD with Mr. WARNER.

Mr. STEVENSON with Mr. MITCHELL, on this vote.

Mr. BUTTERWORTH with Mr. CALDWELL, on this bill.

The result of the vote was announced as above stated.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had adopted the following resolution:

*Resolved*, That Mr. HAMLIN, of Maine, and Mr. THURMAN, of Ohio, be appointed tellers on the part of the Senate in pursuance of the concurrent resolution of the Senate and House of Representatives respecting the counting the votes of electors for President and Vice-President of the United States.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, the bill (H. R. No. 4411) to establish an additional land district in the State of Kansas.

The message further announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House was requested:

A joint resolution (S. R. No. 142) relative to repairing Wyandot mission church, Upper Sandusky, Ohio.

## ORDER OF BUSINESS.

Mr. COOK. I move to suspend the rules, Mr. Speaker——

Mr. ALDRICH, of Rhode Island. I thought the Speaker went from side to side.

The SPEAKER. The Chair has not charged the river and harbor appropriation bill to either side.

Mr. ALDRICH, of Rhode Island. It was an individual motion to suspend the rules.

The SPEAKER. Very well, then, the Chair will recognize the gentleman from Colorado, [Mr. BELFORD.]

Mr. HAZELTON. I desire to say, Mr. Speaker, that the gentleman from California [Mr. PAGE] is detained from the House by the death of his father. It is necessary this announcement should be made so it may appear of record to explain his absence on the votes which have been taken during the day.

BUSINESS BY UNANIMOUS CONSENT.

Mr. BELFORD. I move to suspend the rules and pass the following resolution:

*Resolved*, On and after Monday, February 16, and after the morning hour, one hour of each day shall be assigned to the consideration and passage of bills by unanimous consent, and the Speaker shall recognize members in the order in which their names stand on the roll.

The SPEAKER. The gentleman had better indicate this hour shall commence after the morning hour.

Mr. PRICE. There is no Monday, the 16th.

Mr. BELFORD. I will say Monday, the 14th.

The SPEAKER. The Chair is of the opinion that two-thirds have voted in the affirmative.

Mr. REAGAN. I demand a division.

The House divided; and there were—ayes 138.

Mr. HUNTON. I wish to announce, Mr. Speaker, that Monday, February 14, has been dedicated to the business of the District of Columbia.

The SPEAKER. The gentleman then had better make it Tuesday, the 15th.

Mr. O'NEILL. There is a mistake again; it should be Monday, the 14th instead of the 16th.

Mr. BELFORD. The resolution is not written the 16th. I will amend it as suggested, so as to read from and after Tuesday, the 15th.

Mr. ATKINS. Does this provide for one hour every day?

The SPEAKER. It does.

Mr. ATKINS. One hour for unanimous consent every day?

The SPEAKER. Yes, sir.

Mr. HUNTON. The resolution should read from and after Tuesday.

Mr. MILLS. Not to interfere with appropriation bills.

Mr. VALENTINE. Does that allow Delegates to come in?

The SPEAKER. They ought to be included.

Mr. CANNON, of Utah. I hope that will be done.

Mr. BELFORD. I will accept that as a modification of my resolution.

Mr. ATKINS. Subject to appropriation bills.

The SPEAKER. The gentleman from Kansas asks that the Delegates from the Territories be included.

Mr. BELFORD. I accept that modification.

The SPEAKER. The negative vote will now be counted.

Mr. McMILLIN. I make the point of order that since the affirmative vote was counted the resolution has been amended in a material point, changing its character.

The SPEAKER. The Chair will take the vote over again.

Mr. ATKINS. I move the House do now adjourn.

The House divided; and there were—ayes 57, noes 180.

Mr. WARNER demanded tellers.

The House divided; and there were—ayes 28.

The SPEAKER. Not a sufficient number to order tellers.

Mr. ATKINS. I demand the yeas and nays.

Mr. YOUNG, of Tennessee. I appeal to my colleague——

Mr. ATKINS. There is no use to appeal to me.

Mr. YOUNG, of Tennessee. Perhaps if you heard me for a moment you would withdraw the demand for the yeas and nays.

Mr. ATKINS. This proposition will necessitate an extra session.

The House divided; and there were—ayes 31, noes 131.

The SPEAKER. Not a sufficient number has voted to order the yeas and nays.

Mr. REAGAN. I demand tellers on the yeas and nays.

Tellers were ordered, 30 voting in favor thereof; and the Speaker appointed Mr. ATKINS and Mr. BELFORD.

The House again divided; and the tellers reported—ayes 30, noes 140.

So the yeas and nays were refused.

The SPEAKER. The vote was 57 ayes and 180 noes; so the House has refused to adjourn. The question now recurs on seconding the motion to suspend the rules and adopt the resolution.

Mr. McMILLIN. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. McMILLIN. This is the day under the rules for the discharge of committees and passage of bills which have heretofore been introduced, and for resolutions. I make the point of order under the rules a member cannot introduce a resolution on this day.

The SPEAKER. This is a motion to suspend the rules to enable gentlemen to do so.

Mr. McMILLIN. That is true, and when you suspend the rules you are still working under a part of the rules of this House, and by that rule under which we do work a resolution, I think, cannot be introduced at this time.

The SPEAKER. A motion to suspend the rules is authorized by one of the rules, and this is a motion to suspend all rules which come into conflict with a vote of two-thirds of the House in adopting this proposition. As the resolution has been modified it will again be read.

The Clerk read as follows:

*Resolved*, That on and after Tuesday, February 15, and after the morning hour, one hour each day shall be assigned to the consideration and passage of bills by unanimous consent, and the Speaker shall recognize Members and Delegates in the order in which their names stand on the roll.

Mr. ATKINS. What roll?

The SPEAKER. The roll of the House.

Mr. CONVERSE. I rise to a point of order, and it is this: this resolution changes the rules of the House, and those rules now prescribe what shall be done after the morning hour.

The SPEAKER. This is a motion to suspend the rules in the manner prescribed by those rules themselves.

Mr. CONVERSE. The rule says the rules shall not be suspended without one day's notice.

The SPEAKER. This is a proposition to suspend that rule as well as the others.

Mr. WHITE. I would like to know if this can be amended. [Cries of "Regular order!"] I ask if this can be amended so as to allow the names to be alternately called from each end of the alphabet?

The SPEAKER. The gentleman from Pennsylvania asks that the proposition be modified so as to take the letters first beginning with A and in the same manner from the other end of the alphabet alternately, until all are called.

Mr. CONGER. I object. [Cries of "Regular order!"]

Mr. LOUNSBERY. I ask for a second to the motion.

The question was taken.

The SPEAKER. In the opinion of the Chair, two-thirds have voted in the affirmative.

Mr. AINSLIE. I would like to ask the Speaker if the names of the Delegates are on the roll of the House at all?

The SPEAKER. The Chair understood the resolution has been so modified as to include the names of the Delegates.

Mr. AINSLIE. But the Delegates' names are not upon the roll of the House.

The SPEAKER. They are upon the roll of the House, although not upon the rolls of members as called to vote.

Mr. WHITE. Can I move to amend that proposition?

Mr. WARNER. I desire to know also if it can be modified or amended?

Mr. TOWNSHEND, of Illinois. I rise to a point of order. There has been no second to the demand for the previous question.

Mr. WHITE. I move that the House do now adjourn.

The SPEAKER. The Chair was unable to learn what point the gentleman from Illinois desired to make.

Mr. TOWNSHEND, of Illinois. My point was that there has been no second to the demand for the previous question. I demand a second.

Mr. SCALES. There was no demand for a second before the House divided.

The SPEAKER. If the gentleman states that he rose for the purpose of demanding a second, the Chair will recognize him, and holds that it is not too late.

Mr. ACKLEN. He does not state that.

The SPEAKER. Does the gentleman state that he rose in time to demand a second?

Mr. TOWNSHEND, of Illinois. I do not state that.

Mr. LOUNSBERY. I will state that I demanded a second before tellers were ordered.

Mr. YOUNG, of Tennessee. There has been no second demanded.

Mr. LOUNSBERY. I have just stated that I demanded a second, but the Chair did not recognize it before the vote was taken.

The SPEAKER. The Chair will recognize the demand of the gentleman now, and appoint tellers.

Mr. LOUNSBERY and Mr. BELFORD were appointed tellers.

The House divided; and there were ayes 104, noes 1.

Mr. MILLS. No quorum has voted.

Mr. SPARKS. I move that the House do now adjourn.

The SPEAKER. The Chair is in some doubt. The rule states that pending a motion to suspend the rules one motion may be made to adjourn. That motion has already been made.

Mr. MILLS. But the rule expressly provides that in the event of no quorum being present the House must either adjourn or order a call of the House.

The SPEAKER. The Chair, under that clause of the rule, entertains the motion. If the House chooses it can resist the motion.

The House divided; and there were—ayes 66, noes 93.

Mr. WARNER demanded tellers.

Tellers were ordered.

Mr. SPARKS and Mr. BELFORD were appointed tellers.

The House again divided; and there were—ayes 51, noes 88.

Mr. MILLS. I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. LOUNSBERY. I demand tellers on the yeas and nays.

Tellers were refused.

[Cries of "Regular order!"]

The SPEAKER. The regular order is the announcement of the vote. The House refuses to adjourn.

Mr. MILLS. The question now recurs on seconding the demand for the previous question.

The SPEAKER. The tellers will resume their places. The last vote disclosed the fact that a quorum is present.

The tellers resumed their places.

The House again divided; and there were—ayes 118, noes 2.

Mr. LOUNSBERY. No quorum.

Mr. ANDERSON. I move that there be a call of the House.

Mr. WARNER. I move that the House do now adjourn.

Mr. FINLEY. I make the point of order that that motion is not in order pending the motion for a call of the House.

Mr. ANDERSON. I had made the motion for a call of the House before the motion to adjourn was put.

The SPEAKER. The Chair will entertain the motion.

The call of the House was ordered.

Mr. FRYE. Mr. Speaker, I would like to make a suggestion to the House by unanimous consent.

Mr. FROST. I object.

The SPEAKER. Does the gentleman from Missouri object to allowing the gentleman from Maine to make a brief statement?

Mr. FROST. I will withdraw the objection.

Mr. FRYE. Mr. Speaker, the proposition which has been made touching an hour to be appropriated each day it seems to me is somewhat crude, and in this: it allows one objection to prevent the consideration of a bill. Now, under the old rules, on Friday—objection day—when a bill was reached on the Private Calendar one objection was sufficient to prevent its passage; but when that bill was called again on a succeeding objection day five objections were required to prevent its being laid aside to be reported to the House. If five gentlemen rise in their seats and deliberately object to the consideration of a bill it may be well understood that there is reasonable ground for the objection. If the objection of one man can be allowed to defeat the consideration of a proposition by simply rising and objecting, we are, it seems to me, putting ourselves in the power of a single individual to prevent the House from acting upon any measure. My suggestion therefore is, that inasmuch as this proposition or a kindred one has been submitted to the Committee on Rules, and the committee has a session, I understand from the Speaker, to-morrow morning, and will consider the question and report deliberately to the House touching it, I suggest that it is better for the House to await that report than to spend the night here in this filibustering, out of which nothing of importance can grow. I therefore make the suggestion that we await the report of the Committee on Rules to-morrow.

The SPEAKER. The Committee on Rules, the Chair desires to state, have had under consideration at one meeting this very subject, on the resolution referred on motion of the gentleman from Kansas, [Mr. ANDERSON,] and delayed coming to a conclusion in order to get an expression of opinion from the members of the House as to the form of resolution the Committee on Rules would recommend. There is, the Chair thinks, a majority of the Committee on Rules in favor of reporting something of this sort, so as to relieve the Calendar.

Mr. CALKINS. How would that come up for action? As a privileged question?

The SPEAKER. It would come from the Committee on Rules, whose right to report has never been interfered with. The Chair was anxious to recognize the gentleman from Colorado [Mr. BELFORD] on this subject for the very reason that the Committee on Rules wanted some expression on the part of the members of the House.

Mr. ANDERSON. In view of the fact that I understand the Committee on Rules will report——

Mr. VALENTINE. When?

Mr. ANDERSON. To-morrow or next day, I will withdraw my motion for a call of the House.

Mr. WARNER. Now I move that the House adjourn.

Mr. BELFORD. I desire to ask leave of the House to refer this resolution to the Committee on Rules.

The SPEAKER. The Chair hears no objection, and it is ordered accordingly.

RELIEF OF JEANNETTE EXPEDITION.

Pending the motion to adjourn,

Mr. WHITTHORNE, by unanimous consent, introduced a bill (H. R. No. 7156) appropriating money to be used under the direction of the Navy Department to prosecute a search for the steamer Jeannette, of the arctic exploring expedition; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

Mr. VALENTINE. The gentleman from Ohio [Mr. WARNER] yields to me that I may make a motion. [Cries of "Regular order!"]

The SPEAKER. The regular order is the motion to adjourn.

The question being taken, the motion to adjourn was agreed to; and accordingly (at five o'clock and thirty minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following memorials, petitions, and others papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. NELSON W. ALDRICH: The petition of the Providence Board of Trade, for the distribution of the Geneva award—to the Committee on the Judiciary.

By Mr. BALLOU: Resolutions of the Board of Trade of Providence, Rhode Island, of similar import—to the same committee.

By Mr. BARBER: The petition of Clinton Briggs and 154 others, merchants of Chicago, Illinois, for the appointment of a commission to ascertain and report a basis for a reciprocity treaty between the United States and the British provinces—to the Committee on Foreign Affairs.

By Mr. BICKNELL: The petition of Martin R. Pearson and 43 others, citizens of Crawford County, Indiana, against the passage of a funding bill—to the Committee on Ways and Means.

By Mr. BLACKBURN: The petition of citizens of Fayette County, Kentucky, for a public building at Lexington, Kentucky—to the Committee on Public Buildings and Grounds.

By Mr. BLAND: The petition of citizens of Missouri, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of citizens of Missouri, for an income-tax law—to the Committee on Ways and Means.

By Mr. BREWER: The petition of Harriet E. Jones, for a pension—to the Committee on Invalid Pensions.

By Mr. CALDWELL: The petition of James T. Buchanan and others, soldiers of Kentucky, against the passage of Senate bill No. 496—to the same committee.

By Mr. CHITTENDEN: The petition of the president and faculty of the Brooklyn polytechnic school and other citizens of Brooklyn, New York, for competitive examinations for appointment to executive offices—to the Committee on Reform in the Civil Service.

By Mr. COVERT: The petition of David F. Vail and 41 others, citizens of Suffolk County, New York, for the improvement of Greenport River—to the Committee on Commerce.

By Mr. COX: The petition of William H. Wiggins, asking additional compensation for services performed as a clerk for the House of Representatives—to the Committee on Appropriations.

By Mr. CROWLEY: The petition of Lyman Bradley and Henry F. Briggs, to have refunded to them certain taxes improperly collected from them by United States revenue officials—to the Committee on Claims.

Also, the petition of Alexander Mabon Post, No. 125, Department of New York, Grand Army of the Republic, for the passage of Senate bill No. 496 with amendments—to the Committee on Invalid Pensions.

By Mr. DEERING: The petition of citizens of Iowa, against the passage of the sixty-surgeons bill—to the same committee.

By Mr. DUNNELL: The petition of L. F. McKibbon and 50 others, citizens of Minnesota, for the passage of the interstate-commerce bill—to the Committee on Commerce.

By Mr. DWIGHT: The petition of George Burr and 231 others, citizens of Binghamton, New York, for the passage of Senate bill No. 496 with amendments—to the Committee on Invalid Pensions.

By Mr. ELLIS: Memorial of the Chamber of Commerce of New Orleans, Louisiana, in regard to a bankrupt law—to the Committee on the Judiciary.

By Mr. FINLEY: The petition of citizens of Ohio, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of citizens of Ohio, for the establishment of a post-route from New Washington to Plymouth, Ohio—to the Committee on the Post-Office and Post-Roads.

By Mr. FISHER: The petition of citizens of Huntingdon County, Pennsylvania, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of citizens of Huntingdon County, Pennsylvania, for the imposition of an income tax—to the Committee on Ways and Means.

Also, the petition of citizens of Huntingdon County, Pennsylvania, that the Commissioner of Agriculture be made a member of the President's Cabinet—to the Committee on Agriculture.

By Mr. FORD: The petition of S. R. Guffy and others, for changes in the patent laws to protect innocent purchasers—to the Committee on Patents.

Also, the petition of the same parties, for the enactment of an income-tax law—to the Committee on Ways and Means.

Also, the petition of F. A. Franks and others, citizens of Saint Joseph, Missouri, for a reduction of the tax on cigars to $5 per thousand—to the same committee.

Also, the petition of Isaiah Kirk and others, that soldiers discharged on account of disease receive the same bounty as those discharged for wounds—to the Committee on Military Affairs.

By Mr. GEDDES: The petition of John E. Healey and others, citizens of Wyandot County, Ohio, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of George Campbell and 28 others, citizens of Mansfield, Ohio, soldiers in the late war, of similar import—to the same committee.

By Mr. GILLETTE: The petition of J. W. Fry and 113 others, citizens of Iowa, for legislation to prevent the pleuro-pneumonia or cattle disease—to the Committee on Agriculture.

By Mr. HARMER: Memorial of the Board of Trade of Erie, Pennsylvania, asking that a harbor of refuge be established in Milwaukee Bay—to the Committee on Commerce.

By Mr. HATCH: The petition of 145 citizens of the twelfth congressional district of Missouri, for the passage of a law to protect innocent purchasers against the imposition of fraudulent venders of patents—to the Committee on Patents.

Also, resolutions of the Merchants' Exchange of Saint Louis, favoring the abolition of the special taxes levied on bank capital, deposits, and checks—to the Committee on Ways and Means.

Also, the petition of 156 citizens of the twelfth congressional district of Missouri, for the passage of an income-tax law—to the same committee.

By Mr. HAWK: The petition of G. W. Curtis and 30 others, citizens of Jo Daviess County, Illinois, of similar import—to the same committee.

By Mr. HEILMAN: The petition of Adams Grange, Indiana, for legislation to suppress the cattle disease known as pleuro-pneumonia—to the Committee on Agriculture.

By Mr. KEIFER: The petition of R. J. Williams and 15 others, citizens of Ridgway, Ohio, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of Professor N. S. Townshend, president of the Wool Growers' Association of Columbus, Ohio, and 12 other presiding officers of similar associations throughout the United States, for the passage of the Eaton tariff-commission bill—to the Committee on Ways and Means.

By Mr. KELLEY: Memorial of the Board of Trade of Erie, Pennsylvania, favoring a harbor of refuge in Milwaukee Bay—to the Committee on Commerce.

By Mr. KETCHAM: The petition of Nelson Stalkes and 14 others, citizens of New York, for the equalization of bounties to soldiers—to the Committee on Military Affairs.

By Mr. LAPHAM: The petition of citizens of New York, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. MONROE: The petition of Walter Randall and 33 others, citizens of Lorain County, Ohio, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of the same parties, that the patent laws be so amended as to protect purchasers against fraud—to the Committee on Patents.

Also, the petition of the same parties, for the passage of a law regulating interstate commerce—to the Committee on Commerce.

By Mr. PHILIPS: The petition of citizens of the seventh congressional district of Missouri, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of citizens of the seventh congressional district of Missouri, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. RAY: The petition of Almon P. Graves, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. SAWYER: The petition of 190 citizens of Cass County, Missouri, for the passage of a law imposing a tax on incomes—to the Committee on Ways and Means.

Also, the petition of David Sharp and 190 others, citizens of Cass County, Missouri, for the amendment of the patent laws to protect innocent purchasers—to the Committee on Patents.

By Mr. SCOVILLE: The petition of Alonzo Richmond and others, for the passage of the bill to prevent the adulteration of food and drugs—to the Committee on Manufactures.

Also, the petition of Francis H. Moore and others, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. SHERWIN: The petitions of S. A. Wolcott, Hitchcock & Hayes, Charles Sabin, and P. E. Worsley, for the repeal of the tax on proprietary medicines—to the Committee on Ways and Means.

By Mr. OTHO R. SINGLETON: The petition of citizens of Mississippi, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of citizens of Mississippi, for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of citizens of Mississippi, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of citizens of Mississippi, for the amendment of the patent laws—to the Committee on Patents.

By Mr. A. HERR SMITH: Memorial of the Board of Trade of Erie, Pennsylvania, asking for a harbor of refuge in Milwaukee Bay—to the Committee on Commerce.

By Mr. TYLER: The petition of P. L. Pierce and others, farmers of Vermont, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

By Mr. URNER: The petition of Thomas P. Robosson and 55 others, citizens of Allegany County, Maryland, for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of Dr. W. H. Perkins and 16 others, citizens and ex-soldiers, against the passage of Senate bill No. 496, relating to pensions—to the Committee on Invalid Pensions.

Also, the petition of Thomas R. Leasure and 26 others, citizens of Allegany County, Maryland, in favor of making the Commissioner of Agriculture a member of the President's Cabinet—to the Committee on Agriculture.

By Mr. VANCE: The petition of W. P. Jenkins and others, for a post-route from Ripshin, Tennessee, to Wilders, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. WASHBURN: The petition of Daniel R. Noyes and others, members of the Chamber of Commerce of Saint Paul, Minnesota, for the passage of a law for the prevention of the adulteration of food and drugs—to the Committee on Ways and Means.

By Mr. WELLS: Resolution of the municipal assembly of the city of Saint Louis, Missouri, asking that the appropriation of $50,000 made by act of June 14, 1880, for an ice-harbor at Saint Louis be changed to an appropriation for the improvement of the harbor of said city—to the Committee on Commerce.

By Mr. WHITTHORNE: A bill to establish a post-route from Lawrenceburgh, via Knob Creek, to Waynesborough, Tennessee—to the Committee on the Post-Office and Post-Roads.

Also, a bill to establish a post-route from Voorhies to Forty-Eight, Wayne County, Tennessee—to the same committee.

By Mr. THOMAS L. YOUNG: The petitions of W. H. Brown and 33 others; of Messrs. Schaller & Gerke and 68 other mercantile firms; and of L. A. Strobel and others, citizens of Cincinnati, Ohio, for the repeal of existing laws imposing a tax on capital and deposits of banks and bankers—to the Committee on Ways and Means.

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## IN SENATE.

### TUESDAY, *February* 8, 1881.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read.

Mr. BOOTH. I wish to call attention to that part of the Journal which says that the regular order, on my motion, was laid aside in order to proceed to the consideration of the pension appropriation bill. The proceeding was that it was laid aside unanimously and informally; so that it maintains its place. If there is no difference in the legal interpretation, of course I do not want a change made in the Journal; but the fact was that, by unanimous consent, the pending order was laid aside informally.

The VICE-PRESIDENT. Understandings of that kind are not made part of the Journal.

The Journal was approved.

#### CREDENTIALS.

The VICE-PRESIDENT presented the credentials of Philetus Sawyer, chosen by the Legislature of Wisconsin a Senator from that State for the term beginning March 4, 1881; which were read, and ordered to be filed.

He also presented the credentials of Arthur P. Gorman, chosen by the Legislature of Maryland a Senator from that State for the term beginning March 4, 1881; which were read, and ordered to be filed.

#### EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Treasury, transmitting, in compliance with the act of March 3, 1879, the report of the National Board of Health for the quarter ending December 31, 1880, and also the report of the operations of the board for the year 1880; which was ordered to lie on the table, and be printed.

He also laid before the Senate a letter from the Secretary of the Navy, recommending an appropriation to meet the expenses incident to the unveiling of the statue of Admiral Farragut on the 25th of April next; which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a letter from the Superintendent of the Census, requesting an appropriation for the rent of additional buildings in Washington for the use of the Census Bureau; which was referred to the Committee on Appropriations.

#### PETITIONS AND MEMORIALS.

Mr. PLUMB presented the memorial of E. W. Harris and others, of Kansas, soldiers of the war of the rebellion, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims and all the amendments thereto; which was ordered to lie on the table.

Mr. RANDOLPH presented the petition of B. F. Howell and 200 others, citizens of Morristown, New Jersey, praying for the repeal of the law levying a tax on the deposits of national banks, and also the abolishment of the use of the two-cent stamp on checks and drafts; which was referred to the Committee on Finance.

Mr. BALDWIN presented the memorial of Lewis Gordon and others, of Tompkins Center, Michigan, soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims and the amendments thereto; which was ordered to lie on the table.

He also presented resolutions of the State Association of Agricultural Societies of Michigan, in favor of the establishment of a Bureau of Agriculture, and that the Commissioner be made a Cabinet minister; which were referred to the Committee on Agriculture.

He also presented a resolution of the same body, praying the enactment of a law for the suppression and eradication of contagious diseases of live stock; which was ordered to lie on the table.

He also presented a joint resolution of the Legislature of Michigan, in favor of an appropriation for securing an efficient harbor at New

Buffalo, Berrien County, in that State; which was referred to the Committee on Commerce.

Mr. WINDOM presented a memorial of the Legislature of Minnesota, favoring an appropriation for the speedy construction of reservoirs on the headwaters of the Mississippi River and its tributaries; which was referred to the Committee on Commerce.

Mr. GROOME presented the petition of J. Frank Turner and others, of Talbot County, Maryland praying for an appropriation for the improvement of Skipton Creek, in that county; which was referred to the Committee on Commerce.

Mr. FERRY presented a resolution of the convention of State agricultural societies of Michigan, praying for the establishment of a department of agriculture the head of which shall be a Cabinet officer; which was referred to the Committee on Agriculture.

He also presented a resolution of the same body, praying the enactment of a law for the suppression and eradication of contagious diseases of live stock; which was ordered to lie on the table.

He also presented a joint resolution of the Legislature of Michigan, in favor of an appropriation for securing an efficient harbor at New Buffalo, Berrien County, in that State; which was referred to the Committee on Commerce.

Mr. ALLISON. I present the memorial of J. F. McCurtain, principal chief of the Choctaw Nation, calling the attention of Congress to the violation by Congress of the various treaties with that nation, and asking that proper legislation may be had.

The VICE-PRESIDENT. The memorial will be referred to the Committee on Indian Affairs.

Mr. ALLISON. The subject relates to what is known as the Choctaw claim. I believe that is under consideration by the Judiciary Committee.

Mr. DAVIS, of Illinois. It is.

Mr. ALLISON. If so, I ask that the memorial be referred to that committee.

Mr. GARLAND. Is the memorial from the chief of the nation?

Mr. ALLISON. It is from the chief of the nation and under the seal of the nation.

Mr. GARLAND. I ask, then, that it be printed.

The VICE-PRESIDENT. The memorial will be printed and referred to the Committee on the Judiciary.

Mr. McMILLAN presented a joint resolution of the Legislature of Minnesota, favoring the passage of a law by Congress granting a pension, or some other relief, to Captain John Nix, of Brown County, in that State; which was referred to the Committee on Pensions.

Mr. CONKLING presented the petition of a committee of the Association of the Bar of the City of New York, praying that the salaries of United States judges in the State of New York be increased; which was referred to the Committee on the Judiciary.

He also presented the petition of William H. Warner and others, citizens of Syracuse, New York, surviving soldiers of the war for the Union, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. WILLIAMS presented the memorial of Isaac Holt and others, citizens of various parts of Kentucky, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

## REPORTS OF COMMITTEES.

Mr. VOORHEES, from the Committee on Finance, to whom was referred the bill (H. R. No. 5389) for the relief of Samuel Harper, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BAYARD, from the Committee on Finance, to whom was referred the petition of Joseph A. Shakspeare, mayor of the city of New Orleans, asking that the use of the marine hospital in New Orleans be granted to that city for the reasons set forth, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

He also, from the Committee on Finance, to whom was referred the bill (S. No. 2151) to restore certain articles of silverware to Mrs. Isabella S. McRae, reported it without amendment.

Mr. WALKER, from the Committee on Public Lands, to whom was referred the bill (S. No. 273) to extend the provisions of an act approved March 2, 1855, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands, and for other purposes," reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BURNSIDE. I am instructed by the Committee on Military Affairs, to whom was referred the bill (S. No. 745) for the relief of Major James Belger, to report it adversely and to ask to be discharged from its further consideration. I am also instructed to say that this decision was arrived at by a divided committee.

Mr. MAXEY. I ask that the bill be placed upon the Calendar. The committee is divided upon the case.

The VICE-PRESIDENT. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. LOGAN. I am instructed by the Committee on Military Affairs to report back the bill (S. No. 1555) to fix the rank of certain retired officers of the Army, unfavorably. I have been requested by a member of the committee to say that he would be pleased to have it go upon the Calendar, to which I have no objection.

The bill was placed on the Calendar with the adverse report of the committee.

Mr. BRUCE. The Committee on Education and Labor, to whom was referred the joint resolution (S. R. No. 92) to provide for the enforcement of the eight-hour law, have instructed me to report it adversely. I desire to say that I do not concur with the conclusion of the majority of the committee.

The joint resolution was postponed indefinitely.

Mr. WALLACE, from the Committee on Finance, to whom was referred the bill (H. R. No. 346) for the relief of William H. Thompson, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WHYTE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 2083) amending sections 1418, 1419, and 1420 of the Revised Statutes, reported it with an amendment.

## CHILDREN OF JAMES M'KNATT.

Mr. BAYARD. I am instructed by the Committee on Finance, to whom was referred the bill (S. No. 1987) for the relief of John H. Schabinger, guardian of Susan McKnatt and Martha McKnatt, minor daughters of James McKnatt, deceased, to report it favorably and without amendment. I desire to ask for that bill its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill directs the agent for paying pensions at Washington to issue a duplicate check, and the Treasurer, assistant treasurer, or designated depositary of the United States upon whom the same may be drawn to pay such duplicate check, for the sum of $1,001, in favor of John H. Schabinger, guardian for Susan McKnatt and Martha McKnatt, minor daughters of James McKnatt, deceased, late a private in Company B of the Fourth Regiment of Delaware Volunteers, war of 1861, in the same manner and upon the same terms and conditions as provided in section 3646 of the Revised Statutes of the United States in case of lost checks not exceeding in amount the sum of $1,000.

The bill was reported to the Senate without amendment.

Mr. EDMUNDS. I should like to have the Senator from Delaware state, so that it will go into the RECORD, as there is no written report, what are the circumstances of this case.

Mr. BAYARD. By existing law, where a check to the amount of a thousand dollars is lost in the mail, the Department may issue a duplicate upon certain sureties being taken, with bond and the like provided for by the section of the Revised Statutes referred to in the bill, where the amount does not exceed $1,000. In this case the amount was $1,001, and the original having been issued the law forbade them to issue a duplicate. It was the excess of a single dollar that prevented the Department from issuing a duplicate and taking bond in the form prescribed by law, which is required by the present bill.

Mr. EDMUNDS. What has become of the old check? I think every Senator understands what the law is but what I should like to know, as there is no report, is what became of the check that was issued. What is the evidence of its loss?

Mr. BAYARD. It was lost in the mail. This is the provision of section 3646 of the Revised Statutes:

> Whenever any original check is lost, stolen, or destroyed, disbursing officers and agents of the United States are authorized, after the expiration of six months, and within three years from the date of such check, to issue a duplicate check; and the Treasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such duplicate checks, upon notice and proof of the loss of the original checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe. This section shall not apply to any check exceeding in amount the sum of $1,000.

As the check which was lost unfortunately was for a thousand and one dollars the Department could not issue a duplicate, which of course must be a counterpart, without the authority of Congress.

Mr. EDMUNDS. How long ago was it lost?

Mr. BAYARD. I think the date was about a year and a half ago.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

## SCHOONER A. SCOTT BROWN.

Mr. RANSOM. I am instructed by the Committee on Commerce, to whom was referred the bill (S. No. 1823) granting an American register to the schooner A. Scott Brown, to report it without amendment and with the recommendation that it pass, and I file with the papers a letter from the Secretary of the Treasury recommending its passage. I call the attention of the Senator from Pennsylvania on my left [Mr. WALLACE] to the fact.

Mr. WALLACE. I ask unanimous consent to take up and pass the bill.

Mr. EDMUNDS. I want to ask consent to take up and consider a bill that was reported on the 26th of January.

Mr. WALLACE. If the Senator objects, I withdraw my request.

Mr. EDMUNDS. I do not object. I only want to find out what are the principles of fair play on which we are to proceed. If it is the bad luck of a little relief bill for a poor widow to have been reported some days ago instead of being reported to-day, I want to ask

my friend from Wisconsin [Mr. CAMERON] who reported it to ask to have it recommitted so that he can report it again. I do not object this morning. I only put in an appeal for those who have been so unlucky as to have had their reports made earlier.

The VICE-PRESIDENT. The bill will be read and objections reserved.

The Chief Clerk read the bill (S. No. 1823) to grant an American register to the schooner A. Scott Brown; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. EDMUNDS. What are the facts about it?

Mr. WALLACE. Let the letter from the Department be read.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, *February* 7, 1881.

SIR: A bill (S. No. 1823) has been brought to my notice authorizing the issue of a register to the schooner Wacousta, under the name of A. Scott Brown, built in Canada, and now owned, as is alleged, by an American citizen.

This is one of the barges that were purchased by American citizens in the expectation of being employed under the act of June 30, 1879. A decision of the Attorney-General compelled the levying of an alien tonnage tax on this class of barges, and thus defeated the operation of the act in their benefit.

Under the circumstances I think this vessel should be admitted to registry.

Very respectfully,

JOHN SHERMAN,
*Secretary Treasury.*

Hon. WILLIAM A. WALLACE, *United States Senate.*

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT TO DISTRICT APPROPRIATION BILL.

Mr. CAMERON, of Wisconsin. I ask unanimous consent to take up the bill (S. No. 2094) for the relief of George W. Flood, the bill referred to by the Senator from Vermont. It will not take a moment to have it passed.

Mr. HARRIS. I rise to morning business.

The VICE-PRESIDENT. The Chair must first receive morning business.

Mr. HARRIS, from the Committee on the District of Columbia, reported an amendment intended to be proposed to the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF FISH COMMISSIONER.

Mr. ANTHONY. I am instructed by the Committee on Printing, to which was referred the joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish-culture, to report it without amendment and recommend its passage, and I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. CONKLING asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2162) correcting the pension granted to Lieutenant George W. Graham, One hundred and forty-fourth Regiment New York Volunteers, in accordance with his rank; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. BROWN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2163) for the relief of W. A. Reid; which was read twice by its title, and referred to the Committee on Claims.

Mr. WHYTE. Some time ago I introduced a joint resolution which upon inspection I find was either inaccurately printed or inaccurately copied. Therefore I wish to introduce a correct one of the same character, and ask its reference to the Committee on Claims.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 154) providing for the ascertainment and payment of the claim of the legal representatives of Walter H. Stevens, deceased; which was read twice by its title, and referred to the Committee on Claims.

SOLDIERS' REUNION AT LINCOLN, NEBRASKA.

Mr. SAUNDERS asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 152) granting the use of artillery, tents, &c., to be used at the soldiers' reunion to be held at Lincoln, Nebraska, in the month of September, 1881; which was read the first time by its title.

Mr. SAUNDERS. I ask for the immediate consideration of the joint resolution.

The PRESIDENT *pro tempore*. The joint resolution will be read at length, and objections reserved.

The joint resolution was read the second time at length.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. EDMUNDS. I should like to ask the Senator from Nebraska whether we did not pass an act upon that subject at the last session?

Mr. SAUNDERS. That was for the last year, and there is another reunion for this year, to be held next September.

Mr. EDMUNDS. I would suggest whether it would not be well to make a standing law for Nebraska in order to avoid this special legislation.

Mr. SAUNDERS. I would have no objection to that.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PROHIBITION OF INTOXICATING LIQUORS.

Mr. BLAIR asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 153) proposing an amendment to the Constitution of the United States; which was read the first timeby its title.

Mr. BLAIR. I ask that that joint resolution be read at length.

The joint resolution was read the second time at length, and referred to the Committee on the Judiciary, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein,)* That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid when ratified by the Legislatures of three-fourths of the several States as provided in the Constitution:

ARTICLE —.

SEC. 1. From and after A. D. 1900, the manufacture and sale of distilled alcoholic intoxicating liquors, or alcoholic liquors any part of which is obtained by distillation or process equivalent thereto, or any intoxicating liquors mixed or adulterated with ardent spirits, or with any poison whatever, except for medicinal, mechanical, chemical, and scientific purposes and for use in the arts, anywhere within the United States and the Territories thereof, shall cease; and the importation of such liquors from foreign states and countries to the United States and Territories, and the exportation of such liquors from, and the transportation thereof within and through any part of this country, except for the use and purposes aforesaid, shall be, and hereby is, forever thereafter prohibited.

SEC. 2. Nothing in this article shall be construed to waive or abridge any existing power of Congress, nor the right, which is hereby recognized, of the people of any State or Territory to enact laws to prevent the increase and for the suppression or regulation of the manufacture, sale, and use, of liquors and the ingredients therof, any part of which is alcoholic, intoxicating, or poisonous, within its own limits, and for the exclusion of such liquors and ingredients therefrom at any time, as well before as after the close of A. D. 1900; but until then, and until ten years after the ratification hereof, as provided in the next section, no State or Territory shall interfere with the transportation of said liquors or ingredients, in packages safely secured, over the usual lines of traffic to other States and Territories wherein the manufacture, sale, and use thereof, for other purposes and use than those excepted in the first section, shall be lawful: *Provided*, That the true destination and nature of such packages be plainly marked thereon.

SEC. 3. Should this article not be ratified by three-fourths of the States on or before the last day of December A. D. 1890, then the first section hereof shall take effect and be in force at the expiration of ten years from such ratifications, and the assent of any State to this article shall not be rescinded nor reversed.

SEC. 4. Congress shall enforce this article by all needful legislation.

AMENDMENTS TO BILLS.

Mr. CONKLING submitted an amendment, intended to be proposed by him to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, &c.; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. LOGAN submitted an amendment intended to be proposed by him to the bill (H. R. No. 7036) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

HOUR OF MEETING.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That when the Senate adjourns to-day it adjourn to meet at the hour of eleven o'clock a. m., to-morrow.

NEW YORK CUSTOM-HOUSE APPOINTMENTS.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to report:

1. The names of all persons nominated by the collector of the port of New York for appointment in the New York custom-house between January 1, 1880, and December 1, 1880, with the positions for which they were respectively nominated and the salaries attached to such positions, and the date of such nominations respectively.

2. The names of all persons appointed to positions under the collector of the port in the New York custom-house between January 1, 1880, and December 1, 1880, the positions to which they were respectively appointed and the salaries attached thereto.

3. Whether any persons have, between January 1, 1880, and December 1, 1880, been nominated by the collector of the port of New York for appointment in the New York custom-house who had not previous to such nomination been certified as having been recommended for appointment after examination by the board of examiners appointed in pursuance of the provisions of the so-called civil service rules, together with the names of such persons, the dates of their nomination respectively, and the positions for which they were nominated and the salaries of such positions, and whether any of such persons and which, were appointed and when.

4. Whether any such person referred to in the preceding paragraph has been so nominated or appointed more than once and whether to the same or a different position, with the name of every such person so nominated or appointed more than once and the date of each such nomination and appointment and the position for which each such nomination or appointment was made and the salary thereof.

5. Whether any such person or persons as are referred to in the last two preceding paragraphs so nominated or appointed had prior to such nomination or appointment appeared before the said board of examiners and had failed to secure a sufficient number of marks to qualify him or them under the civil-service rules for an appointment at the time he was so nominated or appointed, and whether at the time of each such nomination and appointment there were any persons not then appointed who on an examination by said examiners had received a higher number of marks than such persons so nominated or appointed, and how many such persons there were who at such time or times had received such higher number of marks and had not been appointed.

6. Whether any person was during said period nominated or appointed under the collector of said port to any position for which he had not been examined by

said board of examiners, and, if so, who such persons were and the dates of their nomination or appointment, or both, and the positions to which they were nominated or appointed, or both, and the salaries attached to such positions.

7. Whether any nominations or appointments have, during said period, been made to positions under said collector of persons to hold "temporary appointments," so called, and the names of all such persons so nominated or appointed, and the dates of their nomination and appointment and the salaries paid to them, and whether any persons received a "temporary appointment" more than once, and, if so, who and when and to what position or positions, and what compensation was paid to each such person.

8. Whether any person who had received a "temporary appointment," or had been appointed when not eligible for appointment according to the civil-service rules, under the said collector, has been permitted to take part in any competition or examination of persons seeking to be promoted from one position to another, and, if so, who and when.

9. Whether during said period any person was nominated or appointed to a position under the said collector who had previously thereto been removed or dismissed from the service of the Government, or had resigned under charges, and, if so, who.

10. Whether the storekeepers or any other class of persons in said custom-house have been excepted from such rules, and whether any storekeeper has been promoted or transferred to another position without an examination in pursuance of such rules, and who and when.

## ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President.

A bill (H. R. No. 706) for the relief of A. B. Rowden;

A bill (H. R. No. 735) for the relief of Dr. John Blankenship;

A bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor;

A bill (H. R. No. 6527) to grant to the coporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses a certain lake known as Carr Lake, situated near said city;

A bill (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York;

A bill (H. R. No. 7098) making an appropriation for the flooring of the National Museum;

A bill (S. No. 939) to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws; and

A joint resolution (H. R. No. 388) to provide for publishing an edition of Hayden's Atlas of Colorado.

## MEXICAN AWARDS.

Mr. EATON. I desire to call up the resolution that I had the honor to offer yesterday, asking for certain information from the Secretary of State.

The VICE-PRESIDENT. The resolution will be reported.

The Chief Clerk read the following resolution, submitted by Mr. EATON on the 7th instant:

*Resolved*, That the President be, and he is hereby, requested to inform the Senate, if not incompatible with the public interest, whether any objection has been made by this Government to suits being brought in the courts of the United States by the Government of Mexico against American citizens, and if such objection has been made to communicate to the Senate the diplomatic correspondence, if any, in relation thereto.

The VICE-PRESIDENT. Is there objection to this resolution?

Mr. VOORHEES. Mr. President, on the joint resolution which the Senator from Connecticut introduced a few days ago I desired to submit a statement of facts connected with the business before the commission which I think will aid the Senate very much in reaching a correct conclusion. I presume it will be as much in order to submit what I have to say upon the pending resolution as to wait for the other resolution to be called up. If the Senator from Connecticut has no objection to that proceeding on my part, I will proceed to do so.

The VICE-PRESIDENT. The Chair will remind the Senator that but five minutes of the morning hour are left.

Mr. VOORHEES. I will occupy only about twenty or thirty minutes. If the Senate will grant me the indulgence, I promise to give what I think has not heretofore been given on this floor, a clear and intelligent statement of the matters complained of—not that others may not do it better than I, but it has not been undertaken.

The VICE-PRESIDENT. The Senator from Indiana asks consent of the Senate to address it at this time upon the subject-matter named by him. The Chair hears no objection.

Mr. VOORHEES. Mr. President——

Mr. EATON. I only desire to say one word. The Chair intimated to the Senate and to the Senator from Indiana that there were but five minutes remaining of the morning hour. I simply desire to say to the Senate that if the resolution which is now before us is to be discussed to-day by my friend from Indiana I hope the Senate will also hear the reasons that the mover of the resolution and its friends have for its adoption.

Mr. VOORHEES. I certainly hope so.

Mr. EATON. I do not like this matter to go by piecemeal. If there is to be a discussion let us have a thorough one.

Mr. VOORHEES. The resolution of the Senator from Connecticut [Mr. EATON] assumes that injustice has been done to the Government of Mexico by the awards mentioned therein. A great deal has been said to the effect that some advantage was taken of that government, as if Mexico had not had a fair chance to protect herself from imposition. A statement of facts will show how far these assumptions are just or unjust.

On the 4th of July, 1868, a treaty was concluded between the Government of the United States and the Government of Mexico, which provided for a commission whose duty it was to hear and determine all claims presented before it for damages sustained by citizens of this country at the hands of citizens of Mexico, and similiar damages sustained by the citizens of Mexico at the hands of citizens of this country. In the early part of 1869, I think in March, commissioners were appointed under that treaty. In April, 1870, now nearly eleven years ago, the claim of Benjamin Weil was filed before that commission. Weil was a citizen of the United States who complained of the loss of property at the hands of certain Mexican forces under the command of General Cortinas. The memorial of Weil, when presented, in April, 1870, necessarily and in fact did specifically describe the kind of property that he alleged he had lost, how much there was of it, how much it was worth, by whom it was taken, the time when it was taken, and the exact place where he was plundered. It is impossible to conceive of plainer, clearer, or more explicit notice given to a defendant than was here given by the memorial of Weil to the authorities of Mexico. He proclaimed exactly what he complained of; he pointed out the place where and the persons by whom he alleged he had been injured, and thereby gave his adversaries every opportunity known in judicial proceedings to follow up and investigate. This case has been discussed as if there had been some concealment, some cunning arts resorted to. In point of fact the petitioner pleaded his claim as openly as if it had been in any court in the world, and put everybody upon full notice and opportunity of investigation.

He named the officer who was in command of the forces which seized his property. All governments keep a roster of their armies. How easy for the authorities of Mexico to have ascertained whether General Cortinas was at the place designated in Weil's memorial at the time of the alleged injury. How easy to have ascertained where he and his command were at that time. No better opportunity was ever given to meet a fraudulent claim if it was one.

Next, let us see whether there was such haste in proceeding to a conclusion as to cut off Mexico from a chance to fully and deliberately present her side of this case. This claim of Weil's lay nearly six years under investigation. It dragged its slow and lazy length along in the open sunlight of day for more than five years, the commission in session a great part of the time, its rooms open, its records open, and Mexico represented by able counsel scrutinizing every step that was taken. Among these counsel was Caleb Cushing. I have not understood that Caleb Cushing was a man easily overreached; I have not heard that his great and lucrative employments sought him because of his easy good nature and willingness to be out-generaled by the other side in a lawsuit. It would seem, however, from the talk in certain quarters in and around this Capitol that the interests of Mexico had been in the hands of incompetent persons, a corps of imbeciles, instead of being, as they were, in the hands of some of the ablest lawyers of the United States.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The morning hour has expired. Is there objection to the Senator continuing? The Chair hears none.

Mr. VOORHEES. I think it will be here conceded that Mexico had all the notice that anybody could have, every possible opportunity to investigate, and longer time than ought to have been given.

On the 8th of October, 1870, counsel for the claimant Weil filed their brief before the commission, nearly all the evidence on which he relied having been filed prior to that time. It will be seen, therefore, that not only by the face of the memorial, but by the evidence itself, from 1870 up to the decision of the claim, Mexico knew all that was alleged, all that was proven, and all that was claimed. What course, however, did the counsel for the Government of Mexico pursue? They almost let judgment go without resistance. The Mexican commissioner afterward attempted to justify the conduct of the agent of Mexico in withholding defensive evidence, said to have been sent to him by his government, on the singular ground that its presentation would have given an opportunity to the claimant to rebut it; as if every plaintiff in a suit has not the right, after the defense puts in its case, to meet such new matter as the defense brings forward. The truth is that the defensive evidence, if they had any, which I very much doubt, was withheld under the mistaken idea that after the commissioners disagreed and the claim went to the umpire Mexico would have the right to file her evidence before the umpire and the plaintiff would not have any right there to meet it.

Mr. JONES, of Florida. Allow me to ask a question. When was this claim of fraud first made, after the decree by the arbitrator?

Mr. VOORHEES. I do not know that the claim of fraud has ever been made by the Government of Mexico. I will meet the question of the Senator as well as I know how to meet it in the course of my remarks. He will gather from what I shall say all I know about the subject. Sir Edward Thornton very justly and very correctly said it was not his province to take testimony, that he was simply to take the case as made before the commissioners and decide it upon the evidence before them; to determine between them who was right, the American commissioner who allowed the claim, or the Mexican commissioner who voted against it, as he did in almost every instance where an American was a claimant.

In the face of so many witnesses of respectability, I am unwilling to decide that the facts detailed by them are not true.

I must decide on the proofs and documents filed in the case, and nothing else.

These remain without contradiction by the Government, and, to remove all misapprehensions, I state that I am willing to give every opportunity in my power as a commissioner to the Government to make a full and ample investigation of this claim, and respond to it, and very much wish that this might be done.

But, as this is declined, I must act on the proofs before me. It is now my decision that the United States must have an award for the value of the property, at the time and place of its seizure, with interest.

Here was not only an offer of great liberality upon the part of the American commissioner, but there was absolute solicitation upon his part to those who represented Mexico to do their duty. What was Mr. Wadsworth to do? In a case pending as long as this had been, waiting day after day and year after year for the Mexican authorities to meet a plain, simple claim that had no mystery about it, was he to continue five years more? He did the only thing that an honest man could do; he rendered his decision, which, under the provisions of the treaty, sent the claim to the umpire.

It will not do to contend that new evidence has been discovered which will warrant a new trial. On the contrary, the Mexican commissioner expressly states that he had his evidence in hand at the proper time, and did not put it in because it would give the claimant a chance to rebut it. It is not analogous to a case where the party has tried his case in court and lost it, doing the best he could, and afterward made new discoveries. There equity interposes. But what would be thought in a court of justice of a man who, after losing a case, should arise and say to an enlightened judge, "I have lost my case: I had my evidence in hand and could have offered it, but would not; the case was continued for me for five years, but at last I thought I could on appeal present my evidence where the other side could not rebut it?"

Does this state of facts present sufficient ground to impugn the honor of this country or the validity of this finding? Who is William H. Wadsworth? I know him well. I had the honor to serve with him in the other branch of Congress years ago, and I hazard nothing in stating that for high intelligence, vigilant, careful, conscientious integrity, he never had a superior in the public service. Has he been imposed upon? Did he make up his finding when he ought not to have done so? Did he hurry the decision and exclude a proper opportunity on the part of Mexico? Who will dare to say so? Nobody. Yet after this claimant is dead, and perhaps many of his witnesses, his widow and children and other innocent parties only now interested in it, we hear people about these Halls talking as if Mexico had been deeply and dangerously imposed upon.

But this matter does not stop here. By the terms of the treaty, clear and explicit, all awards under it were to be final and conclusive. Article 2 of the treaty of 1868 reads as follows:

The President of the United States of America, and the President of the Mexican Republic, hereby solemnly and sincerely engage to consider the decision of the commissioners conjointly, or of the umpire, as the case may be, as absolutely final and conclusive upon each claim decided upon by them or him respectively, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

Should they fail to agree in opinion upon any individual claim, they shall call to their assistance the umpire whom they have agreed to name, or who may be determined by lot, as the case may be; and such umpire, after having examined the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the commissioners, shall decide thereupon, finally and without appeal.

Mr. Weil submitted his claim under that article of the treaty, and thereby became a party to it and was bound by it as well as Mexico. Suppose, however, the decision had been against Mr. Weil, would anybody contend that he could have a rehearing and retrial here? It is a notorious fact that American citizens have complained that by fraudulent practices the Mexican authorities have kept them from establishing legal and just claims for damages. I have here in my hand the case of the Rosario and Carmen Silver Mining Company of California. That company had a claim before this commission which was defeated, rejected. The petitioners came to Congress for relief against what they alleged to be an unjust decision procured by fraud on the part of Mexico. In their petition they allege that the Mexican authorities viciously and dishonestly purloined and suppressed material evidence which they had taken and submitted with their claim, by means of which fraudulent suppression of evidence by the Mexican authorities and the introduction by them of evidence of perjured witnesses the claim was decided adversely to them. That is a strong case. What was the result? I suppose nobody will dispute that we should deal as fairly with our own citizens as with those of other countries. I know no reason why the American Congress should discriminate in favor of Mexicans against Americans; yet what was done in this case of the Rosario and Carmen Silver Mining Company? I have here a report of the Committee on Foreign Affairs of the House of Representatives, made April 24, 1878, in which the doctrine was laid down that a retrial could not be granted; that a settlement under the terms of the treaty was final; that the award was conclusive; that there was no appeal from it.

Afterward application was made on behalf of said mining company directly to the Secretary of State, to which the following answer was returned:

DEPARTMENT OF STATE,
*Washington, March 31, 1879.*

SIR: Your letter of the 10th ultimo, with the accompanying documents, was duly received and has been attentively considered. It requests that application be made to the Mexican Government for a rehearing of the case of which you are the representative. Your request is based in part on allegations of perjury by some of the witnesses against your company, and in part upon the authority contained in the act of Congress of the 17th of June last to suspend payment to claimants, citizens of the United States, in certain cases where the Mexican Government had complained of fraud. In reply I have to express my regret that it is deemed inexpedient to comply with your request.

In view of the clear and positive terms of the fifth article of the convention of 1868, this Government has no right to expect a rehearing of the case, and under the circumstances there is believed to be so little probability that such a rehearing would be granted as a matter of favor that even if there were a disposition, which I am sorry to say there is not, to ask such a favor of the Government, it is supposed that the public interests require that no such request should be made.

I am, sir, your obedient servant,

WM. M. EVARTS.

To E. C. INGERSOLL, Esq.,
*Attorney for the Rosario and Carmen Mining Company of California, Washington, D. C.*

It would seem, therefore, that neither Congress nor the Department of State find any power under this treaty to relieve American citizens as against a case of fraud even if a fraud exists. I wish, however, next to show that this whole agitation on behalf of the authorities of Mexico is an afterthought—I will not say inspired by men for ulterior and sinister purposes; I will not say that it is done for the purpose of levying blackmail upon every payment that is made and every installment as it becomes due; but I will undertake to say here, and to show, that these very awards in behalf of Weil and the La Abra Silver Company were ratified twice by the deliberate official action of the Mexican Government after they were made. On the 29th of June, 1876, after the decision of these cases by the umpire and the action of the umpire was fully known both by this Government and by Mexico, a treaty was concluded between the two governments providing for a ratification of what the commission had done and for the full execution of its decisions. In that treaty, in article 2, we find the following:

It is further agreed that so soon after the 20th day of November, 1876, as may be practicable, the total amount awarded in all cases already decided, whether by the commissioners or by the umpire, and which may be decided before the said 20th day of November, in favor of citizens of the one party, shall be deducted from the total amount awarded to the citizens of the other party, and the balance, to the amount of $300,000, shall be paid at the city of Mexico, or at the city of Washington, in gold or its equivalent, on or before the 31st day of January, 1877, to the government in favor of whose citizens the greater amount may have been awarded, without interest or any other deduction than that specified in article 6 of the said convention of July, 1868. The residue of the said balance shall be paid in annual installments on the 31st day of January in each year, to an amount not exceeding $300,000, in gold or its equivalent, in any one year, until the whole shall have been paid.

There is a plain treaty stipulation covering every dollar that was awarded by that commission, entered into by Mexico with her eyes open. Now she stands here, or somebody does pretending to act for her, seeking to impeach what she agreed to then, with a full knowledge of all the facts.

More than that, however, on that point. Soon after the ratification of this last treaty noted, a correspondence took place between Mr. Fish, then Secretary of State of the United States, and Mr. Mariscal, minister of Mexico to this Government, and on the 4th of December, 1876, in response to a note from Mr. Mariscal, Secretary Fish used the following strong language:

By article 2 of the convention the two governments bind themselves to consider the decisions of the commissioners and of the umpire as absolutely final and conclusive, and to give full effect to such decisions, without any objection, evasion, or delay whatsoever; and by the fifth article the high contracting parties agree to consider the result of the proceedings of the commission as a full, perfect, and final settlement of every claim upon either government arising from transactions prior to the exchange of ratifications thereof.

It may be quite proper that Mr. Avila should advise you of his views as to any particular awards, or as to any points connected with the closing labors of the commission, and you may have felt it to be your duty to bring to the notice of this Government those views so communicated to you.

I must decline, however, to entertain the consideration of any question which may contemplate any violation of, or departure from, the provisions of the convention as to the final and binding nature of the awards, or to pass upon, or, by silence, to be considered as asquiescing in any attempt to determine the effect of any particular award.

With your appreciation of the objects in contemplation in this method of settlement of differences between two governments, and with your intimate acquaintance with the particular provisions of this convention with reference to the binding character of the awards made by the commissioners or by the umpire, you will readily appreciate my extreme unwillingness to consider that, at the moment when the proceedings relating to the commission have been brought to a close, and the obligation upon each government to consider the result in each case as absolutely final and conclusive becomes perfect, the Government of Mexico has taken, or proposes to take, any steps which would impair this obligation.

Then in response to this statement upon the part of Mr. Fish, that the decisions of the commissioners and of the umpire were absolutely final and conclusive, and that he would not tolerate the idea of any violation or departure from them, the Mexican minister, Mr. Mariscal, disclaimed any such intention on his part or on the part of his government in the following language:

It is not my intention, nor the intention of Sr. Avila, to open any question whatever, nor to put in doubt the final and conclusive character of the above-mentioned awards.

But again. The labors of this commission terminated on the 20th of November, 1876, and soon afterward, on the 14th December, Mr. Fish and Mr. Mariscal made and signed a settlement embracing the expenses of the commission and fixing how they should be borne. It is entitled a "statement of account of the United States and Mexican claims commission," and will be found in House Miscellaneous Document No. 39, second session, Forty-fourth Congress. It will be seen in that account that Mr. Mariscal charged the United States the agreed percentage on all the awards made in favor of its citizens and

for the two awards now objected to, namely, those of Weil and La Abra Silver Mining Company. He charged, and was allowed to include in the expense-account of the commission, over forty-six thousand dollars by reason of this recognition on his part and confirmation of what had been done in these cases. In this transaction he was enabled to retain and did retain out of the first annual payment of $300,000 the above amount, the right to which was based solely upon a confirmation on the part of Mexico of the awards in these two cases; otherwise, he had no right whatever to this money.

But there is still much more to show the grave impropriety of the resolution offered at this time by the Senator from Connecticut. By the act of Congress of June 18, 1878, provision was made for the distribution and payment of the awards made by the commission. While that act was under discussion and consideration suggestions were made, it seemed to me at the time, in a sort of vague way, that further consideration ought to be had in these two cases. With a sensitive regard to our own honor we thought too much could not be done to avoid even a suspicion of unfairness toward Mexico. It was for that reason that section 5 of that act was inserted. By that section the President of the United States was empowered and "requested to investigate any charges of fraud presented by the Mexican Government as to the cases hereinafter named, and if he shall be of the opinion that the honor of the United States, the principles of public law, or considerations of justice and equity require that the awards in the cases of Benjamin Weil and La Abra Silver Mining Company, or either of them, should be opened and the cases retried, it shall be lawful for him to withhold payment of said awards, or either of them, until such case or cases shall be retried and decided in such manner as the governments of the United States and Mexico may agree, or until Congress shall otherwise direct." Then it was further provided in that section that any moneys accruing under these awards should be held to abide the President's investigation and determination.

It will be remembered that this act, the fifth section of which I have partially read, became a law nearly three years ago. For more than two years after its passage—to be exact, two years and two months—the Executive Department held entire control of these claims and of all questions relating to them, whether they ought to be retried, whether they ought to be reinvestigated. For more than two years they were there in the Executive Department of the Government, subject to any charges that Mexico might bring against them, subject to any steps that might be taken, those interested in them waiting patiently for a conclusion, and, finally, that conclusion came. It came last August, in a direct order from the President of the United States to pay the money due under these awards, determining that there was no ground of fraud on which to retry them, that Mexico had not made herself felt or heard to such an extent in the Executive Department of the Government as to require a rehearing. During those two years and more there was no want of attention to this subject; on the contrary the Secretary of State heard argument repeatedly for and against the claims, able gentlemen appearing on both sides, thoroughly sifting every allegation that was made. More than that; shortly before the payment was ordered distinguished counsel appeared ostensibly on behalf of Mexico, and asked for delay until they could bring suit in the courts. The Senator from Alabama [Mr. MORGAN] has stated, and stated correctly, on the floor of the Senate that Mexico had the right to go into our courts and sue or ask for an injunction against any citizen of the United States. When it became apparent that the Executive Department would pay this money, as I have said, distinguished counsel appeared there and asked for additional delay, in order to enable them to bring some sort of action. The delay was promptly granted and weeks elapsed again before payment was made. No suit has been brought; every opportunity has been given; our courts have been open to Mexico; time has been given; and it seems monstrous that now, at the end of nearly eleven years since this action commenced, and nearly six years since it was decided, it should be reagitated.

But still further: at the last session of Congress a bill was introduced by the Senator from Alabama seeking to reopen these claims and send them to the courts. Exactly why this was done I do not know, inasmuch as Mexico had already the power to go there; but the bill had one good effect, at least, it brought this whole question to the consideration of the Committee on the Judiciary, and that eminent and learned committee, taking a full view of the whole case, reported back that there was nothing for this Government to do in the premises; that it had done its duty; and there was nothing left except to execute what had been determined according to law.

Sir, I need not assure the Senator from Connecticut that I know him to be actuated in this proceeding, as in all others, by the highest motives, and by the purest sense of honor, but I appeal to his well-known candor to say whether enough has not already been done to vindicate our honor as a Government.

Is there never to be an end to motions, resolutions, and proposed investigations on a subject that was finally disposed of years ago? During the present session of Congress the matter of these two awards and the right to reopen them was fully considered by the House Committee on Foreign Affairs, resulting in the action of the committee against any such right or duty.

It is well to remember that all awards made by the commission are payable in annual installments, and they have eight or nine years yet to run. If, as each pay-day approaches, a suggestion from somebody to the effect that there was fraud in some of the awards shall cause Congress to enter upon an annual investigation, I would congratulate those who are about to leave this body rather than those who will remain. I sincerely hope the Senator from Connecticut will withdraw his resolution, and if not, that it will be voted down.

Mr. EATON. I do not wish to detain the Senate. I will only say a few words. I desire that the pending resolution, which I offered yesterday, may now be reported, and on that I have a word to say.

The Chief Clerk read the resolution, as follows:

*Resolved*, That the President be, and he is hereby, requested to inform the Senate, if not incompatible with the public interest, whether any objection has been made by this Government to suits being brought in the courts of the United States by the Government of Mexico against American citizens, and if such objection has been made, to communicate to the Senate the diplomatic correspondence, if any, in relation thereto.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) If the Senator will allow the Chair, he will lay before the Senate its unfinished business, which can be temporarily laid aside, and the Senator will then be recognized.

The bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, was read by its title.

Mr. EATON. I do not propose at this time to go into a full discussion of this matter. I desire the passage to-day of the pending resolution, asking for information which, in my judgment, the Senate ought to have before it finally passes upon the joint resolution which I had the honor of introducing several days since. I want all the correspondence, the diplomatic correspondence, if compatible with the public interests, between our own and the authorities of the Mexican Government, in order that the Senate of the United States may see whether really the courts of the United States have been open to the Government of Mexico; that is, open in the opinion of the Mexican officials. I do not propose on this occasion to arraign the Secretary of State. That is not necessary; it would not be proper for me to do it; but I desire that the correspondence between the Secretary of State and the Mexican officials shall be laid before the Senate in order that the Senate may see what the effect of that correspondence inevitably has been upon the Mexican authorities.

I desire to say here that in my judgment—and I have given not a little attention to one of these claims, a good deal to both, a great deal to one—I do not believe there was one single bale of cotton belonging to the claimant who charged against the Republic of Mexico the loss of 1,900 bales of cotton. There was not anything to make either woof or wool of. That is my opinion with regard to this matter. I believe it was the baldest case of fraud that ever was perpetrated on the face of the earth.

Mr. JONES, of Florida. Let me ask the Senator how it escaped the attention of the arbitrators?

Mr. EATON. It escaped the attention of the arbitrators because the evidence was not in the possession of the Mexican authorities until after the commission had themselves risen, and when it was carried to the umpire, Sir Edward Thornton—a very distinguished gentleman—Sir Edward Thornton said these words:

In the case No. 447, Benjamin Weil *vs.* Mexico, the agent of Mexico has produced circumstantial evidence, which, if not refuted by the claimant, would certainly contribute to the suspicion that perjury has been committed, and that the whole claim is a fraud. For the reason already given it is not in the power of the umpire to take that evidence into consideration; but if perjury shall be proved hereafter, no one would rejoice more than the umpire himself that his decision should be reversed and that justice should be done.

As I said, I do not desire to go into a full discussion of this matter to-day. I introduced the resolution because I believe that the honor of the United States demanded that further action should be taken. I brought it in because, as a Senator of the United States, I felt it to be my absolute duty to do it, feeling that injustice had been done to a sister republic. Let the resolution which I offered yesterday be passed; let the correspondence between the Secretary of State and the Mexican authorities come before the Senate, and you will see in what position the Mexican authorities here feel themselves to be. You will see whether they thought it proper and prudent to go into the courts of the United States.

Mr. JONES, of Florida. What was inside the claim?

Mr. EATON. I think if there has been a claim it is made out of raw material, that it was covered so all over with fraud that there was not any inside to it, that it was all fraud from the beginning to the end. I incline to the opinion that no treaty, no convention, and no action of umpires or commissioners, can prevent or ought to prevent the Government of the United States from giving to the authorities of Mexico every opportunity to show that fraud.

As I said, I have examined this question with great thoroughness. I find no fault with any gentleman who differs with me. I am not about to attack the American commissioner, Mr. Wadsworth of Kentucky; I am not about to attack the umpire, Sir Edward Thornton, but I say here, on my honor as an American Senator, that this matter ought to be opened.

Mr. BAILEY. What is the evidence?

Mr. EATON. The evidence I do not care to go into here. This man was proved to have been seven hundred miles from the very place that he swore he was present, where his cotton was taken, and it was proved by his own letters.

Mr. BAILEY. Did not Mexico have the proof?

Mr. EATON. It was impossible for Mexico at that time to arrive

at that proof. I am inclined to think that my distinguished friend from Indiana was mistaken when he said, if he did say all, that all of this proof was withheld from the commission. I undertake to say that my reading of the case is that this proof was not in the hands of the agents of Mexico at the time of the holding of the sessions of the commission. Other proof was.

Mr. VOORHEES. What I said was this——

Mr. McDONALD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Indiana?

Mr. EATON. Oh, yes.

Mr. McDONALD. I will read what the Secretary of State says in regard to these claims, especially in regard to the Weil claim. In his report to the President in pursuance of the fifth section of the act of 1878, he says:

In the conclusions to which I came, and which I had the honor to submit to your examination, I was principally governed by the following considerations:

1. In the complaints of the Mexican Government there is not the slightest impeachment, express or implied, of the character or composition of the commission, of its methods of procedure, or of the entire regularity and integrity of its actual proceedings. It was composed of able and eminent men, enjoying the full confidence of the governments by whom they were respectively appointed, and the umpire selected, Sir Edward Thornton, was pre-eminently fitted for his laborious and responsible duties by his long diplomatic experience, his recognized ability, his high character, and his special knowledge of the two countries whose citizens and governments were interested in the arbitration.

2. Before this commission the Government of Mexico had full opportunity and ample time to present its defense, both in evidence and argument, against any claim that was submitted. In the La Abra case a large amount of testimony was taken on both sides, the comparison and valuation of which was within the power of the commission, and the opinion of the umpire shows that it was carefully considered.

In the Weil case it is true that the Mexican Government submitted no testimony, and that the case was decided upon the evidence offered by the claimants. But the Mexican commissioner explicitly declined the offer of further time to produce such testimony, although he professed that his government had such in possession, saying upon the trial:

"There is in the present case the still more serious consideration that there is sufficient evidence upon which to judge of the claim, and that by opening the door to new testimony it would only serve to show the claimant wherein the edifice which he had erected upon his imagination was weak, and by enlightening him how to crown his intrigue by new efforts, which, although they would not change the aspect of the case, might lead him to confirm it."

Now the Secretary expressly states——

Mr. EATON. I do not care to have a speech interjected into mine.

Mr. McDONALD. I do not desire to interject a speech into the Senator's. I simply wanted to read what the Secretary of State said.

Mr. EATON. He does not go to the extent of seeking this action at all. That there was testimony which was withheld I know, and I know further that the important testimony had not yet been discovered, and the Secretary of State did not undertake to say to the contrary, and if he did he would be in error.

Mr. VOORHEES. As the Senator from Connecticut arraigns my statement, I say that the Secretary of State does state that there was no evidence submitted on the part of Mexico in the Weil claim, although the commissioner says he had such evidence, and gives the further reason that he proposes to enable the claimant to rebuild or strengthen his edifice, in the figurative language of the commissioner for Mexico; in other words, to give the claimant a chance of rebuttal. I say the statement of the Secretary of State here bears me out entirely that the Mexican commissioner said he had evidence, and declined to put it in on the ground that that would enable the claimant to rebut it.

Mr. EATON. What I say is this, and if either of the Senators from Indiana, and if the Secretary of State will take the trouble to examine the evidence that is now in, where everybody can read it, he will ascertain the great fact that these vital proofs were not within the power of Mexico at the time. That there was a certain class of evidence, which evidence was not submitted, is true, I make no question about; but the whole evidence was not in. The fact that this man Weil was seven hundred miles from the point where he swore he was when the cotton was taken from him was not in their possession, and they had not that testimony.

Mr. JONES, of Florida. How is that made to appear?

Mr. EATON. It is made to appear by a letter written by Weil himself from Shreveport, in Louisiana, upon a certain day, on which day he alleges that he was below Matamoras in person, in his sworn proof; and there were several other things in connection with it——

Mr. JONES, of Florida. He swore he was at another place?

Mr. EATON. Certainly, and he was seven hundred miles off on that same indentical day, if I am not mistaken. He swore he was there when the cotton was taken from him.

Mr. VOORHEES. If the Senator will allow me a moment, I do not dispute the ability of Mexico or of Mexicans to manufacture testimony, especially after a man is dead, and even to the extent of forging letters. The point that I make here, and the point at issue between the Senator from Connecticut and myself, is while this case was pending in a court open to everybody and the record of which was under inspection, and where Mexico was represented by gentlemen among the ablest counsel in this country, for more than five years, and then solicited by the American commissioner, put in their entire case, proceeding to a judgment reluctantly, and the commissioner of Mexico saying that he had testimony and declined to put any of it in, not some of it but none of it—whether under these circumstances this is a proper subject for rehearing. Three years ago the Congress of the United States sent it to the President of the United States, to the State Department, for a rehearing and a retrial if they should find that it ought to be done.

Mr. EATON. I think my friend ought not to repeat the speech he has made before.

Mr. VOORHEES. I will not interrupt the Senator.

Mr. EATON. My friend has just said what he said before, that this power had been given two years ago, more or less, to the President of the United States, and yet he held it up two years, and did not disburse these moneys. Why did he not disburse these moneys? Because of the allegation of fraud, because of the belief that there had been perjury here in the establishing of these claims. And now for some reason—I hardly know what the reason is—although the evidence is directly to the point and is brought before a new commission, or before the Secretary of State, or before the Congress of the United States, it is not proposed to hold this matter one year, one month, one day longer.

I do not wish to go further into the discussion of this matter today. I believe that the honor of the United States ought to be protected by taking care of the interests of Mexico.

My friend from Indiana suggested something about forging letters after a man was dead. If letters have been forged after a man was dead, I apprehend that such letters would not constitute good testimony in the opinion of the Senator from Indiana, or in my opinion, or in the opinion of anybody else who would have this matter in hand to investigate hereafter. My understanding of it is that there has been no forgery of letters upon the part of the Government of Mexico or its officials, and it is too late in the day for Senators to say on this floor that we cannot open this matter because it has been finally adjudged, when by a law of Congress it has been held in the hands of the President of the United States for two years and more than two years. It will hardly become citizens of the United States, not to say Senators of the United States, to say that if there was a case of bald fraud here we would not notice it, when this very moment the leading journals of Great Britain and many of its leading men are taking into consideration the great fact of the perjury that was committed with regard to the fishery award, and a leading paper in Great Britain says if the allegation can be sustained, no matter about the convention or the treaty, the money must go back to the United States where it belongs.

I say that if the President of the United States have in his hands a million or two of dollars belonging to the Government of Mexico originally, but sent here for the purpose of being distributed, and if part of the claims the money is to meet be covered all over with wrong and fraud, it is the duty of the United States to withhold that money, and it is the duty of the United States to look into this matter thoroughly and fairly. I desire the resolution to pass so that we may have the information from the Secretary of State with regard to that one matter, and hereafter I shall take occasion to call up the joint resolution which I introduced some days ago.

Mr. McDONALD. Mr. President——

Mr. BOOTH. I feel it my duty to call for the regular order.

Mr. JONES, of Florida. Will the Chair have the resolution reported?

The PRESIDING OFFICER. The resolution will be read.

The CHIEF CLERK read the resolution.

The PRESIDING OFFICER. Does the Senator from California insist upon his call for the regular order?

Mr. McDONALD. I wish just a moment.

Mr. BOOTH. I will yield for a minute.

Mr. McDONALD. For five minutes?

Mr. BOOTH. I must in fairness call for the regular order.

The PRESIDING OFFICER. The regular order is called for.

Mr. EATON. I hope we shall have a vote on the passage of the resolution.

Mr. BOOTH. If it is the desire of the Senate to vote on the resolution, and if the Senator from Indiana has no objection to taking a vote upon it, I will yield.

Mr. McDONALD. I have no objection whatever, but I desire to say just about ten words.

Mr. BOOTH. I will yield for ten words.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. McDONALD. I desire to call the attention of the Senate a little more particularly to the statement of the Secretary of State, and I do not understand that to have been controverted. He says:

In the Weil case, it is true that the Mexican Government submitted no testimony, and that the case was decided upon the evidence offered by the claimants. But the Mexican commissioner explicitly declined the offer of further time to produce such testimony, although he professed that his government had such in possession, saying upon the trial, &c.

I simply desire to say that there is not a court in the United States that would grant to a private litigant a new trial upon an application for that purpose, if he should present such a petition as that. I desire to state further, that if Mexico has any complaint in regard to the action arising under that commission, it should be addressed to secure a new convention, in which the parties who have lost their claims by fraud may have an opportunity to present them again. What I have contended against from the beginning is that there should be this one-sided effort acquiesced in by our Government, to relieve Mexico from these two awards and hold our people bound by

all the others. The purpose of the fifth section of the act of 1878 was to clothe the executive department of the Government with precisely that power, and I am willing to continue it if it is necessary; but I shall not vote for a new trial in an *ex parte* application of this kind to a claimant who stands in the position that the Secretary of State has shown that the Mexican Government stands with reference to this claim.

Mr. BOOTH rose.

Mr. WHYTE. If the Senator will allow me to say just one word, the Senator from Indiana has struck the key-note of this whole question. If we are going to do anything to protect Mexico in regard to claims that have been passed against her by the joint convention, I hope we will also do something for those citizens of the United States whose claims were excluded either by the negligence of officers of this Government or by want of proper notice to them that that commission was sitting in this city. I know men with claims; I know specially of one claim, of a citizen of the United States whose coal was seized by Mexican authority, who made a protest before the consul at Vera Cruz and filed it there for the governance of our Government here at Washington, which through the negligence of that consul was not filed in the State Department; and that claimant, or his heirs, for he died shortly afterward, had no notice of this convention at all.

Mr. EATON. That was not the fault of Mexico.

Mr. WHYTE. It was the fault of the commission that proper notice was not given to the various claimants, the notice being published, as is claimed, in but one paper in New Orleans so far as I can ascertain, and no copy of that paper having ever been discovered or produced to show that it was actually published. I say that claim was lost because the Government here had no notice of the protest in Mexico and the claimants, the heirs of the gentleman who had died, had no notice of the sitting of the commission. Therefore if we are to protect Mexico against fraudulent claims, I hope the Government of the United States will protect its own citizens who have just claims which have been unpaid by Mexico.

Mr. JONES, of Florida. Mr. President——

Mr. BOOTH. I must insist on the regular order.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The Senator from California insists on the regular order.

Mr. JONES, of Florida. What is the regular order?

The PRESIDING OFFICER. The pension appropriation bill.

Mr. JONES, of Florida. With the permission of the Senator——

Mr. BOOTH. I cannot yield for any purpose.

The PRESIDING OFFICER. The Chair will lay before the Senate the regular order.

## PENSION APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, the pending question being on the amendment proposed by Mr. PLUMB, after line 17 of section 1, to insert:

To provide fifty additional examiners for the Pension Office, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners, the sum of $200,000, to be immediately available.

Mr. KIRKWOOD. I should like to see that amendment a moment.

Mr. BOOTH. So far as I am personally concerned, I have no objection to the amendment.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. BOOTH. I beg pardon.

Mr. KIRKWOOD. I have a word to say in regard to this matter. After concluding my remarks yesterday I was called out of the Senate Chamber to attend a special meeting of the Post-Office Committee. Upon my return I found that the amendment offered by the Senator from Virginia [Mr. WITHERS] had been defeated, which I very much regretted. I voted yesterday that that amendment was in order. I did that with a good deal of doubt as to the correctness of my vote, but for the purpose of availing myself of a chance to vote for something that would tend to improve the present condition of affairs.

I would suggest to the Senator from Kansas, however, who offered the pending amendment, that if additional clerks are to be placed in the Pension Office, my understanding is that additional room will have to be provided for them. The amendment should be amended so as to allow the application of a portion of the fund to pay the rent of a building for their use. My understanding is that the present building occupied by the Pension Bureau is full, and it is no use for us to employ clerks unless we can have room for them to work in. I suggest that to the Senator who offered the amendment.

Mr. PLUMB. If the Senator from Iowa is informed upon that subject sufficiently to frame an amendment which will meet the point which he urges, I shall have no objection to it.

Mr. KIRKWOOD. Let me look at it again.

Mr. PLUMB. I suggest to the Senator from Iowa that his proposition be made the subject of a separate amendment, when the pending amendment has been adopted, if it shall be agreed to.

Mr. EDMUNDS. It had better be submitted as an amendment to this amendment, because the next one may not be thought to be in order.

Mr. KIRKWOOD. Unless the Senator who offers the amendment thinks it is well to provide for the employment of clerks without making any provision for places where they may work, I suggest that after the word "examiners" in the first line of the amendment he insert "and for rent for additional rooms or buildings therefor." That would obviate the difficulty that seems to me to be somewhat pressing.

The PRESIDING OFFICER. Does the Senator from Iowa offer that as an amendment to the amendment of the Senator from Kansas?

Mr. KIRKWOOD. I offer it as an amendment to the amendment of the Senator from Kansas.

The PRESIDING OFFICER. The amendment to the amendment will be reported.

The CHIEF CLERK. After the word "examiners," in the first line of the amendment, it is proposed to insert "and for rent for additional rooms or buildings therefor;" so as to read:

To provide fifty additional examiners, and for rent for additional rooms or buildings therefor, for the Pension Office, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners, the sum of $200,000, to be immediately available.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas [Mr. PLUMB] as amended.

Mr. KERNAN. On behalf of a great many deserving men, I believe something should be done to speed the adjudication of the claims pending for pensions. The war closed more than fifteen years ago. There are now, as we are informed, more than 250,000 claims pending in the Pension Bureau. Every Senator and every Member gets day after day letters from people in his State or locality asking him to get such a claim speeded and such a claim speeded. We all know that that cannot be done. Here is this very large number of claims pending. Doubtless a very large number of them are deserving, as the claimants believe, and as probably is true, and it is really a denial of justice to leave these claimants for so many years without having their claims decided upon. Those which are just should be allowed; the deserving soldiers of the war should be paid their pensions; and those claims which cannot be maintained ought to be rejected, so that the claimants may know that the bureau thinks they are not entitled to pensions. I feel almost depressed when I realize how many of these claims there are, and how many deserving soldiers and their widows cannot get action upon their claims when they believe they have their proofs to entitle them to pensions.

I am in favor of this amendment in the hope and belief that, if nothing else can be done at this session, it will enable the Commissioner to add to the efficiency and strength of his force so as to dispose of these claims more rapidly. Nothing is more unjust than to delay the claims of deserving men, soldiers who entered the service on the pledge of the Government that if by disease or wounds incurred in the war they lost their health they should have a pension. Half of them, here in the year 1881, when the war closed early in 1865, have been writing and writing and seeking to get action on their claims. I think the Government owes it to itself, it owes it to them, to give at least this measure of relief, and I hope there can be something done to speed their cases far more rapidly in their determination than this will do. I am in favor of the amendment, hoping it will do something in the way of bringing about the determination of these claims.

Mr. WALLACE. It is strange that the Senate and the House should undertake in this way to relieve the Pension Bureau when neither the officer in charge of that bureau nor any one connected with the Government has ever asked for this special mode of assistance. They seek a remedy in a different line, by a court, through judicial processes and not by clerks added; their wishes come to us by the bill of the Senator from Virginia, and in a different form from this proposition. There is no estimate in the Book of Estimates for additional clerks; there seems to be no requirement for this force from the Department of the Interior, or any one authorized to demand it——

Mr. INGALLS. May I interrupt the Senator a moment?

Mr. WALLACE. Certainly.

Mr. INGALLS. At the close of the Commissioner's last report he says:

I respectfully submit the following recommendations:

1. That there be an increase in the number of clerkships of the classes 1, 2, 3, and 4.

2. That the chiefs of divisions and the appeal clerk, who are selected from among the clerks of class 4, be given an additional allowance of $600 each per annum.

3. That the salary of the chief clerk be increased to $2,500 per annum.

4. That the salary of the Deputy Commissioner of Pensions be increased to $3,000 per annum.

5. That the salary of the Commissioner be increased to $6,000.

He does ask for an additional number of clerkships in classes 1, 2, 3, and 4.

Mr. WALLACE. How many does he want? The number is not fixed, few or many, but the great desire there expressed is for increase of salary to those now at work. I do not think that this request is in the Book of Estimates furnished the Appropriations Committee. I have heard nothing of it in the Committee on Appropriations. Neither I nor the others knew anything of this in our consultations in that committee. This statement is made as the Senator read it I do not doubt, and if these clerks be really needed I have no doubt that Congress will be very glad to give them to aid in the much needed expe-

dition. Will the pending amendment answer the purpose? Will it give the relief desired? Is there not some other remedy beyond this required? The Commissioner evidently thinks this will not answer, for he gives all his energy to the measure submitted by the Senator from Virginia, [Mr. WITHERS.] He feels, as most of us do, that a remedy must be found in some other line.

The point to be reached, it seems to me, is to bring the judicial mind to bear upon the facts of each case in some way. The proposition of the Senator from Virginia, the chairman of the Committee on Pensions, was a measure in the right direction, but it had its defects, and was liable to many objections. I could not bring my mind to support it. It has been ruled out of order, but I may briefly refer to it. There were many difficulties surrounding it. Among the first was that it was the institution of a batch of new courts in each State which were strange to the people; these were heretofore utterly unknown in our system, were not in the line of the common law, and in effect it was the creation of new tribunals strange to the people. The second objection is, that it adds large additional expense and multiplies officials throughout the country, while we are already oppressed by their number. The third objection, in my mind, is that it was possible for this court, if it saw fit so to do for any purpose, to become an oppressor and a tyrant over the pensioner himself. I do not say that they would be so, but new tribunals, vested with complete power over the subject given them, may exercise that power for improper purposes, and I fear they would.

Where is the difficulty in the way of sending every pensioner to his own locality for adjustment and decree by his own courts? Why is there any difficulty in the plan of sending each pensioner resident within a county in the State in which he resides, to his home court there—a court of record, of course; not to a single official, nor yet to the process of a jury trial, but allowing him to be heard before the court upon his depositions taken and to be taken in his own case? Under such a system he would be at home among his own people, where he is known, where his witnesses reside, and where the court can examine his case on his testimony and standing and determine it thereon, and on his already existing depositions; or the court may refer the matter to a commissioner or master, and thus arrive at the merits of his case after full investigation. He can be fully heard. The papers from the Pension Office can be sent there upon certificate; the court after hearing can render its decree; and that may be made final and conclusive in the case, and thus we may have an adjudication of these claims, speedily and justly. A home forum with a fair hearing is the best remedy for this clogged Department. Jurisdiction can be vested in the State courts in such matters, and I do not doubt that they would accept it and act.

But wherever there exists a district court of the United States we should give it power to hear the cases resident there of course, but outside of the counties in which exists United States district courts why shall we not use existing machinery? The people own State courts in which pensioner and Government may both be heard if they are willing to exercise this jurisdiction. In the case of a pensioner who is alleged to be fraudulently on the rolls, or of one who wants his claim expedited, we can send him there summarily or upon rule to show cause in which ever form we prefer. If after full hearing the court decrees him to be stricken from the roll all will agree that he is there by fraud, for it is only done after full hearing upon testimony brought into court where both he and the Government have been heard. Such a decree is only made after hearing upon testimony duly taken and entered of record. If it is desired to expedite a case we can send all these that now stand undetermined on the records of the Pension Office there to be carefully examined upon the papers in the office upon additional depositions, and upon the testimony of men who know him, his services, and his diseases. I venture to say that no State court would decline to take jurisdiction, and that the Legislatures of the State would promptly give this added jurisdiction if this were needed in order to accomplish the results we all desire. And if so, six months' work will clean up this enormous list. The amendment proposed by myself I now ask the Clerk to read.

The PRESIDING OFFICER. The amendment proposed by the Senator from Pennsylvania will be read.

The CHIEF CLERK. It is proposed to add as additional sections to the bill:

SEC. 3. That for the purpose of discovering and preventing frauds upon the United States in regard to pensions, the Commissioner of Pensions, in addition to the powers now conferred upon him by law, shall have the right to cite any person now upon the pension rolls to appear before any district court of the United States, if such there be, within the county or parish in which the pensioner resides, or if none such there be, then before any court of record having a clerk and a seal within such county or parish, there to show cause why his name should not be stricken from the roll of pensioners; and such court shall hear the case upon depositions taken in the usual manner, and upon the proofs, certificates, depositions, and affidavits now on file in the Pension Office, which, for that purpose, shall be certified by the Commissioner of Pensions to such court.

SEC. 4. That in order to expedite the settlement of claims for pensions and arrears thereof now on file in the Pension Office, the Commissioner of Pensions is hereby directed to forthwith certify all such claims which have been on the files over six months and cannot be adjudicated by him within ninety days from the passage of this act, together with all papers, testimony, certificates, or other documents filed in or bearing upon each case, to the district court of the United States in the county or parish in which the person claiming such pension resides, or if there be no district court of the United States within such county or parish, then to any court of record having a clerk and a seal within such county or parish, there to be examined by the said court upon the papers, testimony, certificates, or other documents so certified, and such other depositions, proofs, and testimony as may be submitted touching the same, under the rules and regulations hereinafter prescribed.

SEC. 5. That the person receiving or claiming a pension under this act shall be deemed to be in such court for all purposes touching his said case after the said court shall have before it a citation to him to appear in the same on a day certain, which shall, by oath thereto affixed, appear to have been served by a copy thereof mailed by the Commissioner of Pensions to his address at least twenty days prior to such day of appearance; and each of said courts is hereby vested with full jurisdiction to proceed upon written evidence to examine, adjudicate, and settle the question at issue under the proofs so brought before it and the laws regulating pensions, and its decree thereon shall be final and conclusive. If the said court shall adjudge the pensioner not entitled to a pension, his name shall be stricken from the rolls, or his claim taken as dismissed, as the case may be. If the court shall adjudge the applicant entitled to a pension, his name shall be placed upon the rolls at the rate per month fixed by the court; and no interference with or alteration of the said decree or of the sum so paid shall be permitted except upon action had in the same court, after formal notice for a rehearing as herein prescribed.

SEC. 6. That the district attorney of the United States in counties in which there is a district court, and the person in charge of prosecutions for crimes in other counties or parishes, shall act as counsel for the United States in all pension cases in such courts, and shall be entitled to a fee of $10 in each case, to be paid by the United States. Costs of witnesses shall be paid by the United States when summoned by them under the first section hereof, but in no other case. The pensioner or the applicant himself may be examined under oath and his testimony be competent evidence in the adjudication of his case when cross-examined by the counsel of the United States, but not otherwise. The Attorney-General of the United States is hereby directed to make and publish a code of rules, as simple and direct as possible, regulating the mode of procedure in the cases hereinbefore named, which rules when so made are hereby prescribed for the guidance of the said courts in all pension cases coming before them under this act.

Mr. LOGAN. Do I understand the Senator to propose this as an amendment to this bill?

Mr. WALLACE. I intended to move it as an amendment to the bill, but as a matter of course the point of order made would rule it out. By this amendment I desire to express my anxiety as other Senators have done to the Senate, first, to aid in preventing the perpetration of the alleged frauds upon the Pension Department of the Government of the United States; and, secondly, to expedite the settlement, as far as may be by any suggestions I can give the Senate, of the pension cases that now hang unsettled in the Pension Department. This is simply the thought of carrying to the local courts in which the pensioner resides, first, the cases in which the Commissioner of Pensions alleges there are frauds; in such the pensioner is brought into court, and the question of fraud is heard and settled. Second, to send to the local court, the district court of the United States, or any court of record in the county where the pensioner resides, the cases now pending in the Pension Office, there to be heard on the papers now on file in the Pension Office, and upon such other depositions and papers as may be taken by either side in the future, and thus have the question of the right to a pension settled at the home of the pensioner, not by trial by jury, but by the examination of witnesses upon depositions, or by reference of the case to a commissioner or master who shall hear and report upon the same to the court, which in either case shall hear the proofs summarily and make a decree of the court thereon either for or against the claimant. My purpose is to endeavor to bring what aid I can to this subject. The means I would adopt are, first, the settlement of the question of fraud in the courts of the locality; and, second, the rapid adjustment there of the cases now pending in such vast numbers. Of course this amendment is liable to the point of order, as the amendment of the Senator from Virginia was. I simply desired to explain it, and leave it to the consideration of the Senate.

Mr. LOGAN. I desire to call the Senator's attention to one proposition he has in this measure of his. Of course I do not wish to discuss it, because it cannot come up for action. The section providing for the soldier being called before a United States judge, to show cause why his name should not be stricken from the roll as a pensioner, is certainly very peculiar language. In other words, it indicts the soldier and brings him before the court and he must prove his innocence of having defrauded the Government, or he is dismissed from the roll. What is the meaning of it?

Mr. WALLACE. Not at all. It is simply a rule upon him to show cause, to come in upon the allegation that he is fraudulently receiving a pension. What simpler method can there be? An allegation is made in the county in which he lives, and he meets it there at home.

Mr. LOGAN. I understand that; but the Senator provides that the pensioner shall show cause why he shall not be stricken from the roll. Did we ever hear of a man being arraigned in a court to show cause why he should not be sent to the penitentiary? It is the business of the prosecution to show cause why he shall be committed; but this is reversing all the rules of evidence and law. If the Government wants to act fairly it will call a man up and the Government will show cause why he should be dismissed from the roll, and not require a pensioner to show cause why he should not be dismissed from the roll. That is certainly reversing the rules.

Mr. WALLACE. That is a very trifling matter of detail. The question is, after all, where is the forum in which this man who is alleged to be a fraudulent pensioner ought to be heard. I allege that it is at his home and before a local court. That is the whole question, and the form of it is not material at all. He is not to be indicted, he is simply to be cited to appear and if you see fit to strike out the words "show cause," I am content with that amendment. If the Senator prefers the language he suggests I am content to amend it.

Mr. LOGAN. I said this cited him to show cause, and this amendment was like an indictment against him to show cause why he

should not be punished; it called on him to show cause why he should not be dismissed from the roll. That reverses all the rules of evidence that I have ever heard of in any court.

Mr. HOAR. I desire to ask the Senator from Illinois if that is not a mere technical phrase, which does not put the burden of proof on the man cited? It is a rule general in all equity processes, in all notices to respondents to petitions, to come into court and show cause why the prayer of the petition should not be granted. It does not change the burden of proof at all.

I desire, however, to make the point of order on the amendment because I do not think it worth while to spend a day in debating it.

The PRESIDING OFFICER. (Mr. COCKRELL in the chair.) The amendment has not been offered.

Mr. LOGAN. I do not wish to spend time either; but I desire to call attention to the fact—it may be technical or it may not be technical—that this is not like a chancery proceeding. This man is accused of crime; that is, he is to be dismissed from the roll because he is fraudulently on the roll; hence it is an accusation of fraud against him. Being fraudulently on the roll he can be dismissed, and hence the requirement for him to show cause why he shall not be dismissed does bring it in the nature of a criminal proceeding, because he is accused of a crime, for if he is fraudulently on the roll it is a crime.

Mr. KERNAN. Mr. President, I do not rise to discuss the proposition suggested by the Senator from Pennsylvania. I say, however, that when the Committee on Pensions or any other committee shall present a separate bill to facilitate the speedy adjudication of these claims in what I deem a fit and proper way, I shall certainly support it. But as I know this measure will be ruled out on a question of order, I wish to say one word on the amendment which has been held to be in order appropriating $200,000 to enable the Commissioner of Pensions to employ more examiners and more clerks to speed the present machinery or action on these claims. It is no answer to that amendment to say that the Commissioner has not asked it. It is the duty of Congress to see that there is sufficient means appropriated to enable him to proceed more rapidly than he can do with the present force; and as that is in order, and as that very likely is all that can be done at this session, I trust that amendment will be adopted, and that we shall instruct the Commissioner to employ more force and to go on more rapidly than he can do now.

Mr. BECK. Mr. President, I have taken no part in this discussion because, though a member of the Committee on Appropriations, although I listened carefully to the arguments, I have never professed to be familiar with military affairs or with questions relating to safeguards necessary to be thrown around pensions; but the amendment now offered, if sustained by the Senate, will do no good except to enable the bureau to spend that much more money, I think in a useless if not an improper way. The Commissioner of Pensions does not pretend that he has not force enough now. He came before the committee and asked us to increase the salaries of a few of the employés that he has, his own included, as his report shows, but no suggestion was made as to the necessity of any such additional force as is here demanded. Now, on the suggestion of a Senator, without recommendation from the Department, without suggestion of the necessity for it before the committee, without anything to indicate that it would do any possible good, we are called upon to rent additional buildings and give $200,000 more for clerks, and all for what? Under the admittedly defective system we now have, which it seems cannot be amended, we are urged to hurry through the great number of claims on the files that have been presented within the last two years, growing out of the greed of gain from the arrears-of-pensions bill, so that an immense amount of money may be made by claim agents, which they will secure if they can put through fraudulent claims in hot haste and escape detection, under pretext of doing prompt justice to honest claimants.

What the Commissioner desires, and what I think every Senator ought to desire, is a change of the system and a more public and efficient means of determining who are entitled to pensions, then pay them, and pay them promptly; but surely we ought to prevent those who are not entitled to pensions from receiving them.

The Senate has voted down or ruled out of order such a measure, and seems determined that there shall be no investigation into frauds, but that there shall be as many more clerks and employés who know nothing about it pushed into the Pension Office, even against the will of the Commissioner, so as to expedite the passage of the pending cases, whether fraudulent or not.

The Senator from California, the other day, alluding to some remarks I had made on another occasion, seemed to think that I had done injustice in my statement about arrears of pensions. The Commissioner of Pensions, after showing the immense stimulant that had been given to fraudulent claims by reason of the passage of the arrears-of-pensions bill, recapitulates thus:

| | |
|---|---|
| Amount of arrears to old pensioners | $25,293,963 66 |
| First payments previous to July 1, 1880 | 8,821,826 09 |
| Arrears in pending claims | 192,000,847 50 |
| Annual pensions to 125,000 new pensioners | 284,185,000 00 |
| Total | 510,301,673 25 |

In stating this total I omit any account of the annual pensions to the new pensioners whose claims were on file in the office at the time of the passage of the arrears acts, but barred from further prosecution by section 4717, Revised Statutes, which was repealed by that act. The claims thereby revived number twenty thousand or thirty thousand.

Then he shows what it will include.

Third.—

He says:

Third. As to the amount annually paid out upon fraudulent pensions and claims. Under the secret *ex parte* system now in vogue for obtaining the evidence in support of claims, frauds are generally brought to the attention of the office by accident, such as an oversight or mistake on the part of the person attempting to commit the fraud, or voluntary information from some neighbor. Under such conditions, but a small percentage of the frauds are discovered, but even under these unfavorable circumstances, during the four years ending June 30, 1880, 1,561 pensioners were discovered who were illegally drawing pensions, and 1,567 claims were defeated, in which the claimants had already established, *prima facie*, their right to a pension. A very small percentage, probably not exceeding 5 per cent. of each of these classes, have been, or will finally be, restored to the rolls or allowed a pension, upon refuting the evidence tending to show fraud. The amount saved to the Government in accrued pension and annual pensions for the future, calculating the duration of the pension at fifteen years only, after deducting the 5 per cent. allowed for restoration, &c., was $6,045,089.46.

While I do not believe it possible to eliminate from the pension-rolls all the fraudulent claims by any manner of means, yet, considering the whole case, it is my opinion that not less than 10 per cent. of the pensions appropriations are paid out upon fraudulent and illegal claims, which, by the adoption of a proper method for the preparation and presentation of the evidence in support of the cases, would be saved to the Government and the people.

He suggested, as I understand it, the bill introduced by the Senator from Virginia; he urged upon Congress the necessity of a public examination where a physician and an attorney should publicly examine the applicants and furnish the facts. Cases were reported to us, indeed I have been told of them, where men draw pensions because their hands are cut off that were taken off long after the war; cases are reported where men were without arms who lost them in disreputable ways outside of the Army and not connected with it are drawing pensions. So-called widows of soldiers have been married for years and are still drawing pensions as widows; in short, where two liars can be found in the slums of New York or anywhere else to swear them through a pension can be had and the Commissioner cannot prevent it; the pension agents at Washington, who are making fortunes out of this business, can get their share of the plunder, and they are the men, as Senators have stated on this floor, who have sent out all the petitions to be signed protesting against any public examination. And yet the Senate seems determined that it will allow no public investigation; it will pile up $200,000 more to employ clerks and to rent additional buildings, to hurry up all the claims, and thus push them through as rapidly as possible, and make it impossible to detect frauds by giving time for investigation. Why, sir, look at the list filed in the report of the Commissioner.

In the year 1872 there were only 8,857 applications filed for invalid pensions and 6,755 for widows. In the year 1880, after we had passed the arrears-of-pensions bill giving each man a thousand dollars or more—the exact sum I do not know—110,673 invalid claims were filed, seven years after 1872, and it is fair to assume that in 1872 there would be more men filing claims than in 1880, and from widows there were 6,427 claims filed in 1873, and in 1880 25,602, stimulated of course to present any claim and to suborn any witness who would put it through on *ex parte* statements without either a public examination before a competent examiner or before counsel for the United States to take care of our interests. The present system is where the Commissioner says, and says truly, the great evil is. He is asking for no more help in his office; he is asking for more efficient means of detecting fraud. Ten per cent. on $510,000,000, which he says will have to be paid on arrears of pensions alone, is $51,000,000 wrung from the tax-payers of this country to pay fraudulent claims made out by *ex parte* statements, the truth of which no official knows anything about, and as to which the Commissioner has no power to inquire, and all the clerks you add will not help him.

That is the way the Senate is now expected to push through this bill. I did not expect to say a word about it, because I am not familiar with all its details; but what we need now is laws and regulations, not to hurry through fraudulent claims, not to push through the demands of pension agents who have worked up on *ex parte* statements the cases to 110,000 that they have filed of invalids, and to 25,000 those of widows, that they have worked up in this year, when the amount of money received is an inducement, as against the 8,000 invalids and the 6,000 widows seven years ago, when there was no such inducement. If they waited till 1880 to file claims, that fact alone is suspicious. The object ought not to be to add $200,000 to hurry them through before investigation can be had, but to ascertain some fair, honest, careful way whereby the United States can be protected against fraudulent claims and whereby the honest pensioner can get every dollar he is entitled to. Those who have waited so long ought to be made to wait till every fact is fully considered.

Whether the law was good or bad, giving arrears of pensions, (I think it was a bad law,) I am sure it demoralized more soldiers than it benefited; it broke up the soldiers' homes, and much of the money has gone into the hands of men who speculated on the misfortunes of the soldiers. But be that as it may, the law allows it, and genuine soldiers ought to have it; but no honest man among them will object to having a thorough investigation made, whether pensioners are cited to show cause why the pension should not be taken away or whether they are cited to show cause why the United States should continue to pay them. The nearest neighbors of many of these men—so says the Commissioner of Pensions—would be surprised if they were to learn that pensions were being paid to people to whom they are paid.

It may be that the present Commissioner does not use the machinery now in his hands as efficiently as he ought. I do not know about that. He is evidently an industrious, bold, hard-working man. I sometimes think that instead of being commander-in-chief he is doing all the duty from corporal up; that he is taking too much on his own shoulders instead of making other people do it. I would select some man like General Wright, now at the head of the Engineer Corps; some man like General Walker, now at the head of the Census Bureau; some man who had not only the ability but the will and the courage to make every subordinate do his duty, and I would pay him $10,000 a year to see to it that every man he sent out to detect frauds went to the bottom of every suspected case in every congressional district. I would furnish each agent with a list in every district and every county. I would call in the postmasters and the revenue officers and officers of the courts everywhere to give an account of all these people; to tell who married, who died, what children were of age, who were fraudulent, who were honest, and I would spend, if necessary, to stop the payment of one million of fraudulent claims $2,000,000 or any amount required to prevent one million from being stolen. I do not mean to stand upon the amount of money necessary to have the laws enforced; what I desire is to stop stealing and pay salaries sufficient to get the men who can stop it. If Mr. Bentley, the present Commissioner, cannot there are men who can, and I would pay them well to do it. If necessary detach the Pension Office from the Interior Department altogether; make it a separate organization; make its head the master of the situation.

The Senator from Illinois, who knows so much about this—much more than I do—if the bill presented by the Senator from Virginia is not good, and if that presented by the Senator from Pennsylvania is not good, can, in my judgment, suggest the means whereby some efficient man whom he can name, if paid salary enough, with a corps of efficient men, can stop nine-tenths of the corruption going on now, and I hope the Military Committee or the Pensions Committee, or some committee that knows how to do it will do it, and do it at once. All I say is that the present amendment will do no good; it will only facilitate fraud.

Mr. JONES, of Florida. Did I understand the Senator to say that the report of the Commissioner admitted that 10 per cent. of the claims now paid were fraudulent?

Mr. BECK. I will read in a few lines the language of Commissioner Bentley as contained in a communication addressed to Mr. DAVIS, chairman of the Committee on Appropriations, dated January 20, 1881:

> While I do not believe it possible to eliminate from the pension-rolls all the fraudulent claims by any manner of means, yet, considering the whole case, it is my opinion that not less than 10 per cent. of the pensions appropriations are paid out upon fraudulent and illegal claims, which, by the adoption of a proper method for the preparation and presentation of the evidence in support of the cases, would be saved to the Government and the people.

That is the language of the Commissioner.

Mr. LOGAN. Mr. President, I supposed this discussion was over and I do not wish to continue it, but I cannot sit quietly in my seat and listen to the statements which are made without giving my opinion in reference to them. That same statement that in the opinion of the Commissioner of Pensions 10 per cent. of the money paid out was paid out on fraudulent claims has been made over and over again in the Senate Chamber. I said only a few days ago, and I repeat now, that until the Commissioner of Pensions or somebody else can give us the data upon which he formed his judgment about the frauds that are committed on the Pension Office, I must disregard that statement. That was one of the objections I made to the statement of the Commissioner of Pensions a few days ago, that it was only his opinion. Think of a man throwing out his opinions before the country in order to stigmatize pensioners as receiving money fraudulently! And the Senator from Kentucky said whenever you found two liars, a pension claim could be made out.

Mr. BECK. I did not mean to refer to Senators. I referred to men assuming to be entitled to pensions who were not; and if they would claim pensions when not entitled they would get men to swear to lies to enable them to get pensions.

Mr. LOGAN. The suggestion was that wherever there were two liars, that is two persons who would swear falsely, a case could be made out.

Mr. BECK. That is it.

Mr. LOGAN. Does not the Senator from Kentucky know that wherever a man claims a pension because his hand is off, because he has lost his arm, or lost a leg in battle, the records in the War Department are relied on to show that fact? And will he state it to go to the country that men can obtain pensions for the loss of legs or arms in this country by getting two false witnesses to swear falsely to the requisite facts. It is exactly these statements that I protest against, because they are not made upon anything that is correct. Will the Senator from Kentucky state that he knows of any person drawing a pension to-day on account of the loss of an arm or a hand or a leg who lost it after the war was over? I ask the Senator if he knows that fact? He said such cases came before the committee. Does he know the fact that persons are drawing pensions who lost a leg or an arm after the war was over, not in battle but in some disreputable place?

Mr. BECK. I know it as well as I know many a thing. I never saw it; but from the information of men who know all about it and have given names, I know it. In the city of Louisville it is common talk among the policemen that the agents never discover such cases, and they name the men and where they are. I am not a detective, nor do I know these facts myself.

Mr. LOGAN. If it be true that there are men drawing pensions for the loss of an arm or a leg who lost it in a disreputable way after the war was over, it only sustains what I said, that a new Commissioner with the old law is better than the old Commissioner with a new law. It only proves that there is a want of capacity to administer the law as it now exists. I must say to the Senator from Kentucky, not wishing to dispute anything he says, that I do not believe any such case exists. It may exist, but I should have to have evidence of it before I would believe it, because I know that a pensioner obtaining a pension for a wound received in battle or in the line of his duty must have record evidence of that fact. No two false witnesses can obtain a pension for a man; that is entirely a misjudgment of the law. The law is this: where any fact cannot be proven by the record in reference to the contraction of the disease, either the officer of the command in which the soldier served or two of his comrades who were acquainted with the fact when it occurred must swear to the fact. That is the law; so that a man cannot get a pension by obtaining false witnesses in the slums and sloughs of New York. He must get it by the oaths of his comrades to sustain the record. Where the record fails it must be on testimony by his officer or his comrades. The only instance where outsiders testify is to the disease continuing. His neighbors may testify to that; his family physician may testify to that; but when it comes to the fact on which the pension is based, it must be on the records of his country or by the testimony of his comrades. A better examination of the law by Senators perhaps would give them a little more information in reference to the question.

Now, sir, a word in reference to the alleged frauds. The Commissioner of Pensions shows in his report that he had $40,000 given him to detect frauds, and he says he has only used $26,000 of it. Whose fault is it, then? He has a right to detail one hundred and fifty special agents, if he chooses all his office, to examine and detect frauds, and the money has been appropriated for that purpose; and yet Senators stand on this floor and denounce poor, unfortunate men as being frauds or adopting fraudulent practices in obtaining money from the Government with all the means at hand to detect them and they are not detected. That only proves what I said before.

As I said, the machinery of this Government as it now exists is ample. All you want is to put it in force and put a man there who will organize your department, will separate the claims and the evidence as brought in, and pass upon the cases at once; then take up those which have been laid over and examine them.

If the Senator from Kentucky were in charge of the Pension Office, or if I were in charge of it, my judgment is that when we examined a case and said to the claimant that he should procure further evidence we would not say to him, you must procure evidence on this one point, but on every point in the case; we would say to him, you want evidence on this point, on this second point, on this third point, on this fourth point, and so let him cover all at once if he could honestly do so. But when your Commissioner of Pensions calls attention to one point, and when the pensioner covers that, then he calls his attention to another point, he covers that, and then he calls his attention to another point, he covers that, and then he calls his attention to another point, and he covers that, taking from one month to two months to get the testimony on each point, and in that manner delays the applicant.

That is one of the reasons why your law is not executed and your pensioners are complaining. It is because of these delays that are brought about by the officers themselves, and by the men who examine these cases, by not stating the whole thing and letting the pensioner have a chance to examine it all and state the entire facts. I state what I know about it. I have letters now in my possession which show that four or five different points in a case have been examined, one at a time; when one was made sufficient, then another would be suggested. No business man would do that; no man who wanted to facilitate the examination of these pension claims would do that; but that is exactly the way it is managed, and that is the reason of your delay and the reason why you complain. Many men complain merely of the method of the Commissioner of Pensions, who desires to get up some kind of machinery outside of the present law; and that machinery not going fully into operation at once, perhaps when the new administration comes in the necessity will arise for the same machinery with the same engineer to put it in operation. Now, I want no such thing. I want the pensioners to have a fair chance under the law as it now exists, and if they have that they have no right to complain, and if your Commissioner will administer it you will have no right to complain, or I. It is because the law is not administered as it ought to be administered that complaint arises. It is not the fault of the law, but the fault of the administration of the law.

Mr. BLAIR. Mr. President, this matter has been discussed at very great length, and it seems to be understood that the whole discussion is irrelevant, because out of order. I should like, however, to participate for a moment in the discussion so far as to say that the remarks of the honorable Senator who has just taken his seat on the last point covered by those remarks I think do serious injustice to

the Pension Office. I have had some little business communication with that office. I know that the course of proof is in the first place when the application is filed for the bureau to call upon the applicant for evidence in respect of the various points necessary to be maintained in order to establish the claim for a pension; those points are all specified, and he is called upon for the evidence to sustain them. When that evidence returns to the office it very seldom, on account of various informalities, is satisfactory proof of the various points to be established; and thereupon the office restates, so far as necessary, what is established; if one point is proven it is stated; if another is not proven the applicant is called on for further evidence to establish that point; and it is not at all strange that before all these points are finally examined a large and extended correspondence should take place.

There is much that might be said of the merits of the bill which has been ruled out of order and upon which I had, if it were ruled in order, desired to be heard. I think it was a good bill, provided it had been substantially amended in many respects. It was only a partial thing as it stood, and would, I believe, have operated unfavorably in practice as it then was, and yet it did strike at the real difficulty in the Pension Office, which is not the lack of testimony—Heaven knows there is enough there now. The difficulty is they have too much testimony, and they are not able to believe it; they have more than they want, such as it is, and the effort of the bureau is to devise some way in which they can obtain reliable testimony bearing on the cases which are there pending. That cannot be done here by an accumulation of a greater amount of precisely the same testimony, subject to precisely the same objections as that which they already have; and this testimony, taken with such formality and subject to so many reasons of suspicion in so many cases as experience has demonstrated, has produced all through that office a chronic state of suspicion so that no man goes into that office with a fair chance. I have known instances in my little connection with that office where a case being proved overwhelmingly, it seemed to be rejected for the very reason that there was sufficient proof, and the next case would be rejected for the very reason that there was none, and so the applicant is between the devil and the deep sea. If he proves his case they reject it because they say it is not possible to get so full and complete evidence to establish the case as the man has here; it is almost unknown in practice; there is too much of it; it is too good a case, and they are suspicious of it for that very reason, or at least they seem to be. On the other hand, if a man is only able to produce a part of the testimony, and that may be very honest and reliable testimony, the case is rejected on that account. So it goes.

Here I feel bound to say that I believe the Commissioner of Pensions is a true, honest, and capable gentleman, and that he has devoted himself to the discharge of the duties of that important and difficult office with an assiduity and with an ability worthy of all praise, and it will be a fortunate administration that is able to appoint as able a successor as he is himself. But let that pass.

The Pension Office is, in my belief, to-day unfit to consider evidence. It is simply an organized suspicion, and if I had control of that office I would abolish very largely its *personnel*, and I would put in there men who were capable of understanding and weighing evidence, and who were capable of coming to a conviction after they had perused it and examined it, which seems to be the difficulty with the men now there. But there they are; there is the Pension Office with three hundred and fifty or four hundred men who are engaged in the practical administration of the pension law, and there they are likely to be. We are not going to abolish it. We have just taken action which practically precludes Congress from doing anything at the present session to remedy the great evils under which the applicants for pensions are now suffering. I see nothing that we are likely to do excepting to add to the evil, though a little good does come from it, by appropriating the $200,000 which the Senator from Kansas proposes to give. I think it had better be given. It will be largely wasted; it will develop to a still greater extent existing evils; but at the same time it will result in the allowance of a few claims. The evil has become so outrageous, so wicked, the wrong and oppression which this great nation is exercising upon those who have shed their blood in its defense and to whose sacrifices it owes its present existence are so great, that I will seize any opportunity of affording even the slightest relief. The only thing we are likely to do at the present session is simply to give a little more money, to be practically wasted, as very much of that has been which has been given in the past.

Therefore I support this amendment. It will do some good. It is half enough to carry into practical operation the bill proposed by the Committee on Pensions, for I believe it would pay two hundred of the proposed examiners, and pretty much all these cases are within the limits of two hundred congressional districts of the country. But however that may be, it is too late. The money had better be given to add to the efficiency of the bureau for the present session, and I do hope that by some future Congress the evil may be taken hold of in a statesmanlike way, and that some means may be devised to obtain something which will command the conviction of the human mind, which will secure to the claimant an honest and an impartial tribunal. I think the very bill which has been rejected might have been amended by a word in a way to do away with one great evil that exists. Suppose the pension examiners, which it was proposed to appoint, had been made judges of the fact as well as simply commissioners to take the testimony. The bill contemplated that they should be men trained in the law; men accustomed to the consideration of evidence; who could weigh it, who could consider it, draw conclusions from it; men like masters in chancery, commissioners to pass upon questions of fact. If in addition to the function of taking evidence these men had been charged with the duty of passing an opinion upon the force of that evidence, and should be required to make their report to the Department at Washington with their findings of the facts, and that finding should have been made *prima facie* evidence on which a pension should be granted—had that been done this difficulty would have been almost entirely obviated, and the idea of my honorable friend from Pennsylvania, of a court, would have been met. We should have had the advantage of a man living in the locality, acquainted with the people throughout the district, able to judge whether it was probable those who appeared before him told the truth, and he would have the great advantage of personal inspection of the witnesses who testified, and he would be able more than any other man, however capable that other might be, to render an honest and correct decision upon the evidence before him; and that would have relieved the Department at Washington.

What are they doing at the Pension Office? Undertaking with testimony which they do not believe in, to be sure, but theoretically undertaking to pass upon these questions of fact upon the evidence before them. That is what they are undertaking to do; that is their business. If this were devolved upon an examiner living in the locality of the pensioner, it would not require to be done here, and the force in the Pension Office could be very largely discharged; it could be lessened by at least the number of examiners to be appointed throughout the country, so that the expense being reduced here the total expense of the administration of the pension laws would be very slightly, if at all, increased. A few other modifications might have been made in that bill, which would in effect have removed every objection which has been urged against it.

I pay but very little attention to these allegations of fraud. I sympathize with the views of the honorable Senator from Illinois in that regard. There are some frauds, to be sure; but the administration of law generally throughout the country, in my belief, is attended with very much greater frauds than are committed in the Pension Office to-day. There may be some. I am willing that the country should bleed a little in that direction rather than that the honest claims of so vast a number of pensioners should go unheard and unsatisfied. There are substantially 300,000 of these claims now pending; they are coming at the rate of from eighteen to twenty thousand a year; they are coming in on the Pension Office faster than they are being disposed of. There are nearly two thousand of these claims in every district of the United States which has any considerable number at all.

Mr. LOGAN. I desire to call the attention of the Senate to the statement so often made that there are 300,000 pension claims now pending, and I have been on one or two occasions compelled to correct it. The report shows 300,000, but that includes all the claims that were rejected. There are over 80,000 claims rejected. There are but little over 200,000 claims pending now and not examined.

Mr. BLAIR. The Senator, however, is aware of the fact that not one of those rejected claims is finally disposed of; every one of them is liable to be called up at any time, and when one of those cases is called up it necessarily requires a lengthy investigation, and absorbs very much more time than an ordinary claim.

Mr. LOGAN. I merely wish to get the fact to the country that of the 300,000 claims said to be now pending and waiting examination over 80,000 have been examined and rejected. That is the fact.

Mr. BLAIR. Yes, they have been rejected, and universally almost to the dissatisfaction of the applicant; and as long as he lives, believing in his claim, he will try to make an effort to have it allowed. I do not think the Commissioner of Pensions can be charged with an effort to mislead the country in stating the number as he does at 280,000 and coming in continually at the rate of from 1,800 to 2,000 per month. I think that is the truth in regard to it, and I think that under the existing law or the administration of the law we shall not gain on the pension applications for five or ten years to come; the applications will gain on us, and some method will have to be devised in order that they may be disposed of.

Now permit me to say a word in regard to the justice of that bill providing for the payment of arrears of pensions to those whose names are already on the roll. I believe that bill was one of the most just and honorable bills ever enacted by Congress. What was the nature of it? We took the pensioner whose name was upon the roll, who it may be after years of effort had been able to establish the honesty and justice of his claim; we had passed upon it; we had rendered judgment upon it; and the Government was estopped to say that it was paying that pension fraudulently or wrongfully. Other men had applied seasonably and they had drawn pensions from the date of disease or of disability or of the death of the person on whose account the pension was paid; their pensions were from the date of discharge, of disability, or of death all the way down. The Government of the United States, when it provided for the payment of arrears to those who made their applications much later in life, simply gave them not the aggregation of the installments as they would have been paid, but simply the installments themselves, and the United States gained more by the delay of the applicants, considerably more

in very many instances by the use of these installments in the nature of reserved interest, than the pensioner himself received. So it does not lie in the mouth of the United States to say that the pensioner was at fault for having delayed his application or that by reason of his having failed to file his claim it should be considered as less meritorious or less just. It is not the case where when a man's claim has not been established and proved when presented he is allowed subsequently to be paid back to the beginning. By no manner of means, but we pay the man who has fought his way through to the allowance of his claim arrears from the beginning, and the gain is wholly on the side of the country by virtue of this delay.

But, sir, I am aware, as I said in the beginning, that this is all out of order; still, as much is being said in the way of suggestion with reference to the possible framing of some bill which may be a remedy for this evil in the future, I felt at liberty to make these, as I should like if time permitted to make other suggestions.

Mr. SAULSBURY. Mr. President, I have taken no part in the discussion of this question, and do not think it proper to occupy the time of the Senate with any views in regard to it after the matter has been so thoroughly debated as it has been; but I cannot suffer the pending amendment to become incorporated in this bill without at least expressing my opposition to it.

This is the first instance in the history of the country, so far as I know, where there has been any disposition on the part of the Senate or of either House of Congress to force on any Department of this Government or any bureau of this Government assistance in the way of additional clerks or examiners, that has not been requested or the necessity for which has not in some way been suggested by the Department or bureau itself.

The Government has various heads of Departments and heads of bureaus who have charge of the matters pertaining to their own particular stations, and in the past history of the country there has not been too much hesitation on the part of any of these heads of Departments or heads of bureaus in making known to Congress at any time when they needed additional clerks or additional force of any character.

It is to be presumed that if additional force in the way of clerks or examiners was necessary in the Pension Bureau, the officer who has been referred to frequently in this debate, commended by some and censured by others, would have come to Congress and made known to them the wants of the bureau over which he presides. But an anomaly has occurred in the history of the legislation of the country. In the Senate of the United States the grave proposition is made to add clerks and employés to one of the Departments of this Government, at a cost of $200,000 annually, for which they have not asked and perhaps for which they will not thank you.

I rose simply to emphasize this anomaly in the history of our legislation. It is gravely proposed in the Senate of the United States, without even consulting the Commissioner of Pensions, to thrust upon him, not knowing that he has a single desk at which he can place an employé, an examiner, or a clerk, $200,000 more for assistance to enable him to perform the duties of the office. We ought to hesitate, even if it was desired by the Commissioner of Pensions; we ought to examine into the necessity of it, to see whether he could utilize such a force properly, whether the expenditure would be a proper expenditure or not; but instead of doing that we come here without his leave or license and compel him to accept the services of clerks and examiners that will cost $200,000.

This much I desired to say upon the particular amendment now pending before the Senate. In reference to the general question of frauds on the pension-roll, that is a matter of which I have no personal knowledge and therefore of which I cannot speak from any knowledge of my own; but I had the honor when I first came into the Senate, nearly ten years ago, of being placed upon the Committee on Pensions, and I served upon that committee, I think faithfully, for two years. I know that at that time, in 1872 and 1873, it was alleged that the then Commissioner of Pensions—whether he did make that allegation or not I do not know—estimated that the frauds upon the pension fund amounted to nearly 20 per cent. I do not know that these frauds exist, neither do I know that the then Commissioner of Pensions so averred, but I believe that every Commissioner of Pensions from that time to this, so far as I have heard, has expressed his opinion that there were frauds committed on the pension fund and that there were pensioners now on the pension-rolls drawing pensions who had no right to be there. A late Secretary of the Interior, I believe, stated on the floor of the Senate that his experience connected with the Interior Department had satisfied him that gross frauds had been committed upon the pension fund and that many persons were placed upon the pension-roll who were not entitled to be there.

Now, it is not surprising that this should be the case. The Senator from Illinois a few moments ago said that Senators ought not to make such allegations without any data. I suppose he meant without assigning any reasons for the opinion entertained. We all know who have served on the Pensions Committee, as the Senator from Illinois has, how claims are established before the committees of Congress and how they are established also before the Commissioner of Pensions. Many facts are proved by the *ex parte* statements of individuals subject to no cross-examination; and every man who has practiced law to any extent knows that many a time parties would come into court and testify so as to make out their own case did they not know that they would be cross-examined on the very facts necessary to establish their case. Yet on these facts established by *ex parte* testimony there is no cross-examination. If the witness is a man of character, this may not be so important; but if he is not a man of character, if he is regardless of the oath he has taken, there is no certainty that the affidavit which he makes is verity itself.

I believe that one of the greatest duties devolving on Congress at the present time is to devise some mode by which not only the pending claims can be examined but by which the entire pension roll can undergo a thorough investigation. Many of the men who are now drawing pensions have been placed upon the roll on affidavits that were deemed conclusive, but which on a revision of the whole subject may be proved not to have been correct.

I shall cheerfully vote for any proper bill that looks to the thorough revision of the pension roll. I would deprive no man entitled under the laws of the land to a pension, of that which has been awarded him; nor can any man who is on the pension roll rightfully, whose claim is a valid one, object to the examination of his case, as well as of every other man's case, in order to purge the pension roll of any fraud that exists, and it would be a public service performed to the honest pensioner himself, and it might protect the Government against this great and enormous fraud which has been alleged to exist, amounting, as the Senator from Kentucky, under the statements of the Commissioner of Pensions, said, to 10 per cent., and amounting in the arrears of pensions alone to more than $50,000,000, if that statement is correct. As to its correctness I cannot say. But when men charged with the performance of the duties of Pensions Commissioner report to Congress that such is the fact, I ask, does it not become an imperative duty of every Senator to give the subject that examination which will enable him to ascertain the truth or falsity of the statements made by the Commissioner of Pensions himself?

Now, in reference to the arrears-of-pensions act, I have heard that act lauded to the skies. I have no censure against the gentlemen who voted for the act, but I regard the vote which I gave on that subject in opposition to the law which gave arrears of pensions as one of the best votes I have given in my ten years' service in this body. The soldiers themselves were not clamoring for arrears of pension. The whole scheme was worked up by the pension agents. They were the men who got up the cry of arrears of pension. The pensioners as a general rule were satisfied with the bounty of the Government, but the men who were making money as pension agents tried to create a cry throughout the country in favor of that bill. I think it was a very unfortunate act. Doubtless it has put money into the hands of many men, but it was a gratuity, not a debt, as has been asserted in this debate. The pensioner was already receiving all that the Government promised him, all that he was entitled to under the existing law; but in our magnanimity, inspired by patriotism perhaps—I shall not attribute any other motive to the act—we in our magnanimity conferred a gratuity upon men who were already receiving all that they were entitled to under the laws of the country, a gratuity which amounts, according to statements that are made, to not less than $500,000,000. I recorded my vote against that bill, and I am proud that it is upon record. In my place in the Senate I gave my vote against it.

I did not intend, Mr. President, to occupy this much time in the discussion of the subject. I know how futile it is to oppose any measure which seeks to promote, directly or indirectly, the interests of men claiming the bounty of the Government as soldiers; but I simply desired to enter my protest against the pending amendment which proposes to place employés in the shape of clerks and examiners in the Pension Office for which neither the Commissioner of Pensions nor any other officer of the Government has ever made a request.

Mr. JONES, of Florida. Have we not heard statements that there are at least two hundred thousand cases pending there undisposed of? Does not the accumulation, in point of fact, of this large number of applications sufficiently indicate to Congress the necessity for an additional force?

Mr. SAULSBURY. The report of the Commissioner of Pensions discloses the fact that our action in granting arrears of pensions has multiplied fivefold, I believe, the applications for pensions in the last twelve months; but it discloses this further fact that, with the force at his command now, he has examined some 20,000 claims more than any other Commissioner has examined in the same length of time. He has examined, I believe, 55,000 or 56,000 claims in the last year, some 20,000 more than ever were examined in twelve months by any Commissioner but him. So while his report does disclose the fact that there is a great accumulation, it gives us the cause of that accumulation, the arrears-of-pensions act which has caused every man who could possibly conceive that he had a right to the vast sum of money given to the soldier, to make application; but while he has disclosed that fact, he has also disclosed that there has been an assiduity on the part of the Pension Office that is praiseworthy, because he shows the fact that he has examined a much larger number of claims than were ever examined before in the same period of time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas, [Mr. PLUMB.]

Mr. TELLER called for the yeas and nays, and they were ordered.

Mr. BOOTH. Mr. President, I only desire to say one word. I should have preferred that there could have been some substantial

amendment to the method of administration in the Pension Office, but that has been decided to be out of order. I should greatly have preferred that this amendment should be made to the legislative, executive, and judicial bill where it could have been considered by the committee under advice from the department, but the Senate has decided that the amendment is in order upon this bill, and believing that some legislation is necessary in order to expedite the business of the office, I am constrained to vote for the amendment.

Mr. BAILEY. I ask that the amendment be read.

The CHIEF CLERK At the end of line 17 it is proposed to insert:

To provide fifty additional examiners and for rent for additional rooms or buildings therefor for the Pension Office, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners, the sum of $200,000, to be immediately available.

The Secretary proceeded to call the roll.

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virgina, [Mr. DAVIS.] If he were present I should vote "yea." I presume he would vote "nay," and therefore I withhold my vote.

The roll-call was then concluded; and the result was announced—yeas 39, nays 21; as follows:

YEAS—39.

| | | | |
|---|---|---|---|
| Allison, | Dawes, | Kernan, | Ransom, |
| Anthony, | Ferry, | Kirkwood, | Rollins, |
| Baldwin, | Groome, | Logan, | Saunders, |
| Blair, | Hampton, | McDonald, | Slater, |
| Booth, | Hill of Colorado, | McMillan, | Teller, |
| Bruce, | Hoar, | McPherson, | Thurman, |
| Burnside, | Ingalls, | Morrill, | Vest, |
| Call, | Jones of Florida, | Paddock, | Voorhees, |
| Cameron of Wis., | Jones of Nevada, | Platt, | Williams. |
| Conkling, | Kellogg, | Plumb, | |

NAYS—21.

| | | | |
|---|---|---|---|
| Bailey, | Farley, | Lamar, | Walker, |
| Brown, | Garland, | Maxey, | Whyte, |
| Butler, | Harris, | Morgan, | Withers. |
| Cockrell, | Hereford, | Pugh, | |
| Coke, | Johnston, | Saulsbury, | |
| Eaton, | Jonas, | Vance, | |

ABSENT—16.

| | | | |
|---|---|---|---|
| Bayard, | Carpenter, | Grover, | Randolph, |
| Beck, | Davis of Illinois, | Hamlin, | Sharon, |
| Blaine | Davis of W. Va., | Hill of Georgia, | Wallace, |
| Cameron of Pa., | Edmunds, | Pendleton, | Windom. |

So the amendment was agreed to.

Mr. PLUMB. I move to amend by adding as an additional section to the bill:

The provisions of section 2 of chapter 187, third session Forty-fifth Congress, approved March 3, 1879, be, and is hereby, so amended as to extend the limitations therein stated to the 1st day of July, 1883.

The proviso of the section referred to in this amendment is in these words:

*Provided*, The application for such pension has been or is hereafter filed with the Commissioner of Pensions prior to the 1st day July, 1880, otherwise the pension shall commence from the date of filing the application.

The effect of my amendment is to extend the right of filing claims, so as to carry with them arrears, until the 1st of July, 1883.

Mr. BOOTH. Upon that amendment I raise the question of order. It is legislation upon a general appropriation bill.

The PRESIDING OFFICER. The Senator from Kansas offers the amendment which has been read. The Senator from California raises the question of order whether it is in order, being general legislation upon an appropriation bill. That question the Chair will submit to the Senate. Is the amendment offered by the Senator from Kansas in order?

Mr. CONKLING. May I ask the Chair to cause to be read the provision in the bill, to which this is an amendment.

The PRESIDING OFFICER. This is a new section.

Mr. CONKLING. But what is the subject-matter of the bill to which the amendment is supposed to relate? What does it follow in the bill?

The CHIEF CLERK. The second section of the bill is in these words:

All pensions payable, or to be paid under this act, to pensioners who are inmates of the National Home for Disabled Volunteer Soldiers shall be paid to the treasurer or treasurers of said home, to be disbursed for the benefit of the pensioners under regulations to be established by the managers of the home; said payment to be made by the pension agent upon a certificate of the proper officer of the home that the pensioner is an inmate thereof and is still living. Any balance of the pension which may remain at the date of the pensioner's discharge shall be paid over to him; and in case of his death at the home, the same shall be paid to the widow or minor children under sixteen years of age, if any there be: *Provided*, That nothing herein contained shall be construed to prevent an absolute assignment of his pension by a pensioner having neither wife, child, nor parent dependent upon him, as now provided by law.

It is proposed to add:

SEC. 3. The provisions of section 2 of chapter 187, third session Forty-fifth Congress, approved March 3, 1879, be and is hereby so amended as to extend the limitations therein stated to the 1st day of July, 1883.

The PRESIDING OFFICER. Is this amendment in order? Those Senators who believe it is will say "ay;" those opposed will say "no," [putting the question.] The noes have it, and the amendment is decided not to be in order.

The bill was reported to the Senate as amended.

Mr. INGALLS. I wish to reserve for a separate vote in the Senate the amendment that I offered striking out the provision relative to the payment of Indian pensioners in installments, and also the vote by which section 2 of the amendments offered by the Committee on Appropriations was agreed to in Committee of the Whole.

The PRESIDING OFFICER. The Senator from Kansas reserves the amendments indicated.

Mr. BECK. I ask for a separate vote on the amendment of the Senator from Kansas [Mr. PLUMB] giving $200,000 for clerks not desired by the Department.

Mr. ALLISON. Is that the language of the amendment?

Mr. BECK. I want a vote on that.

The PRESIDING OFFICER. That amendment will be reserved. How will the Senate act on the amendments made as in Committee of the Whole?

Mr. HARRIS. Let us vote on all except those reserved.

The PRESIDING OFFICER. All the amendments not excepted or reserved will be submitted to the Senate in gross. Will the Senate agree to the amendments which have been adopted as in Committee of the Whole, and which have not been reserved for separate votes?

The question being put, it was determined in the affirmative.

The PRESIDING OFFICER. The question will now be upon the amendments reserved by the Senator from Kansas, [Mr. INGALLS.]

Mr. INGALLS. My object in reserving section 2 and asking for a separate vote on that was for the purpose of calling attention to the proviso, which is in the following language:

*Provided*, That nothing herein contained shall be construed to prevent an absolute assignment of his pension by a pensioner having neither wife, child, nor parent dependent upon him, as now provided by law.

The fact is that such an assignment is not "now provided by law." It has always been regarded with special disfavor by law as opening the broadest possible of all avenues to the perpetration of fraud upon the Pension Department. I therefore move to strike out from the second section of the bill as agreed to in Committee of the Whole the proviso contained in lines 13, 14, 15, and 16 in the words that I have read.

Mr. BOOTH. I hope the motion will be adopted. On an examination of the law such as I have been able to make since the bill was reported I can find no such provision of law, and I think there is no necessity for the language. It leaves a doubt on a point which ought to be clear.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas to amend the amendment made as in Committee of the Whole.

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

Mr. INGALLS. The Senate, in Committee of the Whole, by a vote of 25 to 25, declined to agree to an amendment I offered to strike out the following words in lines 24, 25, and 26:

And accrued pension due the Indian pensioners shall, in the discretion of the Commissioner of Pensions, be paid in installments.

I stated before the committee that in the Indian country, among the civilized Indian nations, a brigade of three regiments was raised, officered by men of their own blood, that rendered distinguished services to the Union cause throughout the war under a Union general. These men fought for the country; they were wounded in its defense and have by due process of law been declared to be entitled to pensions. We have for several days been engaged in discussing how we shall make the Indians self-supporting and how we shall endue them with the rights of manhood. I submit again to the Senate that if we persist in treating civilized Indians as children, as *non compos mentis* and in putting them under guardianship, we shall certainly make no progress in the direction that has been indicated as desireable heretofore under the bills that have been pending.

I submit again to the sense of justice of the Senate, for which every place has been declared to be a temple and every season summer, whether this restriction shall not be removed, and whether these men having shown themselves to be entitled to pension shall not receive it like every other dependent upon the bounty of the Government. I ask again for a vote upon this amendment, and I ask the Senate to concur with me in saying that these men who have been declared to be entitled to pension shall receive their pension and not be placed under the guardianship of the Secretary of the Interior or the Commissioner of Pensions and have the sum awarded to them dealt out in driblets as he may see fit in his discretion to dispose of it to them.

The PRESIDING OFFICER. The Senator from Kansas moves to strike out the sentence beginning in line 24 and ending with line 26. The question is on this amendment of the Senator from Kansas.

The amendment was agreed to.

The PRESIDING OFFICER. The next reserved amendment will be read.

The CHIEF CLERK. In line 17, after the word "dollars," the Committee of the Whole inserted:

To provide fifty additional examiners, and for rent for additional rooms in buildings therefor, for the Pension Office, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners, the sum of $200,000, to be immediately available.

Mr. WITHERS. I wish to say one word, though I had determined

not to say anything more. It is evident that the views of the Committee on Appropriations have no weight with the Senate whatever, and the opinion of an individual member of the Senate is made to outweigh the opinion and recommendation of the head of a Department and of the Commissioner of Pensions. I would merely call attention to the very anomalous procedure, as I conceive it to be, when a single Senator, on his own judgment of what is necessary and right, gets up in the Senate and moves to increase the clerical force in one of the Departments to an indefinite amount, fifty examiners with a large force of clerks in that Department, such force not being specified, when we had the assurance of the Commissioner of Pensions and the Secretary of the Interior that the increase of the clerical force made in that office a year ago was as much as could be utilized, and that no additional increase of force could add anything to the promptitude with which pension claims could be considered and determined.

I wanted to call attention also to the fact that the legislative, executive, and judicial appropriation bill is the one upon which uniformly it has been the practice of the Senate to ingraft such amendments as the one now presented for consideration, when in the judgment of the Senate they were necessary. They have never been put on the pension bill proper, nor the other regular appropriation bills; but the legislative, executive, and judicial bill is so capacious as to provide for any regulations that may be required with regard to the clerical force of the various Departments, and I can conceive of no just or good reasons why this should be made an exception and attached to this bill without giving an opportunity to those who have control of the legislative, executive, and judicial appropriation bill to ascertain the facts in the case and determine if in their judgment the increase is likely to be effective; because if it be not, and my information is that it will not be, it will simply be an addition of $200,000 or $300,000 for the expense of two or three or four hundred additional clerks, without any probability that we shall have any more pension cases determined than if the present force is allowed to remain as it is. There is ample time before the passage of the legislative bill to ascertain these facts. If it shall be established here that it will increase at all the efficiency of that department or facilitate the decision of pension cases, I will go as far as the farthest, as I have done in the past, in voting whatever increase may be necessary to secure the largest possible clerical force which will secure the prompt decision and adjudication of the vast arrears of cases now pending.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. BURNSIDE. I rise to obtain some information in regard to this amendment which appropriates $200,000. As I understand it, the money is to be expended by different Secretaries, by different Departments. I do not see exactly how it is going to be divided. Part goes to the War Department and part to the Interior. Who is to be the umpire in the matter? I may be ignorant on that subject, but I do not see myself how it can be divided. I should be glad to have the amendment read.

The PRESIDING OFFICER. The amendment will be read.

The Chief Clerk read the amendment.

Mr. BURNSIDE. I submit that that is rather a crude amendment. In its present form I think it will breed difficulty. I voted for it because I thought some good might arise from it; but I do not see on further reflection that the amendment in its present shape is likely to prove beneficial. I think the mover of the amendment had better put it in some other shape, so that there will be no difficulty in the expenditure of the money.

Mr. PLUMB. In the first place I have great confidence that if we vote money for clerks there will be some way found for its expenditure.

Mr. BURNSIDE. If this money can be expended honestly and in accordance with law, let it be done; but the amendment should be put in proper shape.

Mr. PLUMB. If the suggestion of the Senator from Virginia [Mr. WITHERS] is of any weight, then of course there will not be any of this money spent, because he says the Commissioner is well satisfied that no additional force is necessary. If so, of course he will not spend the money, for it is utterly useless.

Mr. WITHERS. No, he would be certain to employ clerks if directed by act of Congress to do so.

Mr. PLUMB. I am not going to stand by the language of this amendment as one of those things which are as perfect as they can be made; but it seems to me on reflection to answer the purpose which is designed. It provides for fifty examiners. Fifty examiners require in order to make their labor effective certain other clerks to examine the records of the Surgeon-General's Office and the Adjutant-General's Office, and certain other clerks to manipulate the papers for their examination in the Pension Bureau. That is one of those things which I take it are not legislative questions; but it is an administrative question; it is a question which can be determined by the action of the Pension Bureau according to its experience from time to time. Circumstances existing to-day might require more of one class and less of another, and to-morrow they might require just the opposite. So I do not think there is anything in the way of the effective carrying out of this amendment.

Mr. WALLACE. One branch of service here provided for is under the War Department, and the other under the Interior Department.

Mr. PLUMB. That is the way the appropriation has been made. When we provided for carrying out the arrears-of-pensions act we made in one bill provision for force in all three of these departments, in the Surgeon-General's Office, in the Adjutant-General's Office, and in the Pension Bureau.

Mr. WITHERS. I would ask the Senator if any such provision has ever been incorporated in any pension bill?

Mr. PLUMB. Not in the same verbiage, but we did provide in one bill for the force in all these bureaus.

Mr. BURNSIDE. The same bill should not provide for the expenditure of the money by two Departments. I think it ought to be divided in some way. There should be some provision authorizing the Secretary of War to draw on the Treasury for a certain part of the money, and the Secretary of the Interior to draw for another proportion.

Mr. PLUMB. That is one of those things which can be adjusted in practice according to the needs of the service. More might be required in one Department and less in another. That is a thing which can be very well determined by the Pension Bureau by reason of its experience. There is no difficulty, as I conceive, in the way of carrying it out.

A word or two about the objection of the Senator from Virginia. He alleges that this will not result in the transaction of any more business. Is it conceivable that there is any machine so large in this Government that you cannot increase its efficiency by adding new force? The only foundation I have ever heard for an allegation of that kind as applied to the operations of the Pension Bureau is that there are only a certain number of rolls of regiments, of companies, and batteries, and headquarters, and so on, in which the men who are claiming pensions served, which can be the subject of examination in order to get the record data in regard to the service. But if the men who do this duty enter upon its discharge with the zeal they ought, they would find a great many ways of overcoming that difficulty.

As the Senator from Colorado well knows, out in his country a man who is capable of running a little mine employing ten men knows the great economy of time in running what are called two shifts; that is to say, two gangs of men succeeding each other, one commencing at seven o'clock in the morning and continuing until five in the afternoon, and the other commencing at five and continuing until three the next morning. But the ten-hour system does not prevail in the Departments of this Government; it is a six-hour system I think, and scant at that. I do not mean to say that those who do this work could labor the whole twenty-four hours of the day; I do say, however, that if there is a determination on the part of those who administer the pension laws to transact the business more rapidly, it will be very easy, so far as the force in the Adjutant-General's Office and the Surgeon-General's Office is concerned, to put on a relay of clerks at seven o'clock in the morning who shall work eight or ten hours, as the case may be, to be succeeded by another force of clerks who shall take up the labor where the first left it off and continue it during the evening.

Mr. EATON. That is poetry.

Mr. PLUMB. The Senator from Connecticut suggests that this is poetry. I do not know but that this is getting out of the realm of poetry. This will be a tragedy of large proportions if something is not done pretty soon. I think that the determination of Congress, if it shall be expressed in the shape of this amendment or of any other, whereby additional service will be employed, will so operate on the Commissioner of Pensions and upon all the branches of that service as that these men will feel themselves called upon to give effect, not only to this law, but to stimulate in every way the operations necessary to determine the cases which have been so long pending.

I believe it is entirely competent for clerks to commence work at seven or eight in the morning and continue until a proper period in the afternoon and be succeeded by other clerks to take up the examination of these records. It is not an abstruse question, it is not a technical employment, it is one of those things which can be carried on by any person who can read. The question as to whether the name of a certain man was borne on the roll of a certain company or regiment, when he was mustered into the service, when his term expired, whether during that time he was reported to be in hospital, whether during any portion of that time he was reported as a deserter, and all the essential facts of the service, may be determined by any one who can read ordinary handwriting, and who with ordinary handwriting can put upon paper the result of that observation. There will be ways, plenty of ways that a willing Commissioner—no doubt we have such a one—will find to effectively spend this money. As my colleague showed to the Senate to-day in the report of the Commissioner there is a demand for more clerks, and I think if the Commissioner had not made up his mind that the Senate would adopt his view in regard to a system of courts which would supersede the present system, he would have been here asking for more clerks; but his whole effort, or a large part of it, has been directed to the obtaining of legislation he thought better adapted to the allowance of pensions than the present one and I think measurably to the neglect of the machinery necessary to effectively carry out what he now has.

Mr. BECK. Will the Secretary be kind enough to read the title of the bill now under consideration?

The PRESIDING OFFICER. It will be reported.

The CHIEF CLERK. A bill (H. R. No. 6532) making appropriations

for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882.

Mr. BECK. That is the object of the bill. The proposition now is to provide all the machinery not only necessary to carry that out, but also to supply the Adjutant-General's Office and the Surgeon-General's Office, and other branches of the War Department with additional machinery, and that the Senate has declared to be in order and a proper thing on this bill. So then, instead of being a bill to provide for pensions for the year ending June 30, 1882, it is to be converted into a bill to provide for all the machinery necessary for running two branches of the War Department, the Surgeon-General's Office and the Adjutant-General's Office, and all the matters that pertain to the general legislative, executive, and judicial appropriation bill. It is the motion of an individual Senator without the recommendation of the head of a Department or any man in official authority.

Mr. JONES, of Florida. I think the rules of the Senate are very clear on that question.

Mr. BECK. The Senator from Florida must never forget that when a pension bill is up no rule prevails except to give all we can, for fear some soldier will go to the polls and vote against our party. That is the only rule. No Senator, or hardly any, dares to vote what is the truth and what is his own conviction of the truth, for fear that result will follow.

What I want to say is that if the heads of Departments and the Committee on Appropriations are not to be allowed to consider what is necessary as to the clerical force in the Surgeon-General's Office, in the Adjutant-General's Office, and in the Pension Office, and if everthing that any individual Senator sees fit to ask for is, out of order, to be put upon this bill, then you had better vote to dismiss your Committee on Appropriations, and say you have no longer any use for them.

Mr. ALLISON. Mr. President, I voted for this amendment a few moments ago in Committee of the Whole, but I desire to submit now to the Senator from Kansas, on more careful examination of the amendment, whether or not it will effectuate what he desires. It provides first for fifty examiners. Now, I can find no such title in any of the appropriation bills for clerks in the Pension Office. There are examiners there, I know, but they are designated I suppose by the Secretary of the Interior or the Commissioner of Pensions.

Mr. INGALLS. From the general roll of clerks?

Mr. ALLISON. I think these examiners, if they are to accomplish what the Senator desires, should be, at least, fourth-class clerks, and if we desire to make them such we should so designate them. It also provides that certain clerks shall be assigned the Surgeon-General's Office and the Adjutant-General's Office without defining the number or the pay of those clerks. The heads of those offices can employ, if they choose, fourth-class clerks or second or first class, or one-thousand-dollar clerks.

It seems to me that if we are to provide for this additional clerical force on this bill, we should make it more specific and more definite; and therefore, with all due deference to the Senator who has presented this amendment, I think it had better be passed over and go upon the regular bill providing for the legislative, executive, and judicial expenses of the Government. I, for one, shall be ready to vote for the largest number and for the best compensation if we can by providing for this class of clerks secure the performance of this work.

I submit this to the Senator from Kansas. I think his amendment is entirely too indefinite.

Mr. WINDOM. I voted, or should have voted had I not been paired, for this amendment in Committee of the Whole; but, as has been stated by the Senator from Iowa, upon reflection I think it is not in the proper place. The Senator has given some very good reasons I think why it should not be placed here. The legislative appropriation bill will be before the Senate in a short time. The Committee on Appropriations will have ample opportunity before that bill comes before us for action to examine the question and call before it the Commissioner of Pensions and others and ascertain in what classes these clerks should be provided for. It seems to me the amendment would be in place upon that bill and that it is not in place upon this measure.

I shall therefore vote, assuming that the Senator with whom I am paired would vote as I shall, against the amendment in the Senate; and I join with the Senator from Iowa in saying that I shall vote for the largest number of clerks that may be necessary when the legislative appropriation bill comes up. I believe there ought to be an additional force, and I believe that an additional force can be used economically and to expedite the business of the Department; but I cannot vote for it on this bill. I made the statement a few moments ago without as much consideration as I have given it since, and I desire to vote against concurring in the amendment.

Mr. COCKRELL. I desire to say simply that I concur fully in the views expressed by the Senator from Iowa and the Senator from Minnesota. It is certainly not best to put the amendment on this bill. When the legislative, executive, and judicial appropriation bill is before us we can place this amendment in its proper order, so as to make the force effective and make the appropriation which will then be granted efficient in accomplishing the ends desired. I fear it would not accomplish what we desire here.

I say very frankly that I am, and always have been and always shall be, in favor of voting adequate appropriations for every Department of the Government, in order to enable them promptly and efficiently to dispose of all the business that is pending before them. There is an accumulation of business in the Pension Office; it ought to be disposed of, and promptly and justly and fairly; and when the legislative, executive, and judicial appropriation bill comes to the Senate I doubt not the Appropriations Committee, having before them the heads of the Departments and investigating the whole matter, will make such appropriations and such provisions as will accomplish what we all desire. I trust the amendment will not be concurred in.

Mr. PLUMB. It is a little strange that the Appropriations Committee should be so sensitive about what goes on an appropriation bill. I do not recall an appropriation bill that has passed the Senate since I have been here that has not had on it more or less legislation. This very bill has got on it an abundance of it just as obnoxious to what has been said about the propriety of this amendment as the amendment itself is.

So far as the objection of the Senator from Iowa is concerned that we do not say anything about the classes of clerks, let me call that Senator's attention to the fact that when we passed the census act we left the entire question of how many clerks should be appointed and their salaries to the Superintendent of the Census. He is employing to-day clerks, not by classes but picking them up according to the price at which he can obtain them, to do the work. There is no limitation at all. He can pay a man a thousand dollars a year or a thousand dollars a month, or he may stint him to a sum which will barely keep body and soul together. The discretion which is lodged by this amendment is not a new thing; and I do not think that this is the place nor the time nor the circumstance under which an objection of this kind should be raised.

It is true that if this amendment, or a similar one, were to be placed on the legislative, executive, and judicial appropriation bill, it would answer the same purpose. It could not answer any better purpose. But here we are in the last days of the session. There is certain formal business yet to be done, which is going to occupy a great many days of it; there is a great deal of other business which is to come before the Senate, and in a few days we shall be in a maelstrom. The question as to what shall be done will be at the arbitrary will, not of the Senate, but perhaps of a committee; and more than that, the committee itself, as well as the Senate, will be prevented by reason of lack of time from doing many things it would like to do. The time will come when a man who rises here to debate a question, to offer an amendment to anything, will be regarded as a man to be put down; as a man who is doing something toward occasioning the necessity for an extra session of Congress. All debate, practically, will be cut off. We shall be doing business with double haste shortly, and a great many things will be put over that before the committee would say ought to be done.

There is no incongruity, there is no inappropriateness, in this amendment. We are providing here a large sum of money for the purpose of carrying out the pension law; and adding $200,000 for machinery whereby this money is to be expended, does not, I submit in view of all the circumstances of the case and what has preceded it, violate the proprieties in any degree.

Of course, if the committee itself was united and could agree that it would put an amendment of this kind upon the legislative, executive, and judicial appropriation bill, no matter who might say nay, that would be worth considering; but here are two members of the Appropriations Committee who express a conviction that this force ought to be increased, and here are two equally influential members who say the force ought not to be increased. What guarantee is there, then, that when this question comes to be considered on another bill it will receive any more favorable consideration than it receives now, at the hands of that committee?

Mr. HOAR. Will the Senator from Kansas allow me to interrupt him?

Mr. PLUMB. With pleasure.

Mr. HOAR. I am in favor of his amendment and very much in favor of having it acted on now, and not put off to another bill. Therefore, I desire to ask him what his answer is, as his amendment now reads, to the point which has been made that the amendment provides for "the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners." Suppose the Secretary of the Interior, in whose Department the Pension Office is, thinks there should be clerks enough to use this whole appropriation in his Department, and suppose the Secretary of War, in whose Department the Adjutant-General's and Surgeon-General's Offices are, thinks that there should be clerks enough to use up the whole of it in his Department? Is it not necessary for the Senator from Kansas to devise some provision and put it on this amendment before it passes, which shall give somebody the authority of determining how many of these clerks shall be in each of these offices? So far as the Adjutant-General's and Surgeon-General's Offices are concerned it can be left to the Secretary of War to apportion them as he thinks fit. I ask this question not as an objection, but as a friend of the amendment.

Mr. PLUMB. We are vesting a large discretion with the heads of all these bureaus and the heads of the Departments; and there is no more reason to suppose that the Secretary of the Interior would arbitrarily insist on keeping all the clerks provided for by the amendment in his Department, whether necessary or unnecessary, than there

is to suppose that he would do any other improper thing under the discretion we give him in this bill and have given him in other bills.

Mr. BURNSIDE. Will the Senator from Kansas consent to an amendment stating that this expenditure is to be made at the discretion of the President of the United States?

Mr. PLUMB. I was going to say that I hope some of those who are so much in favor of this amendment, and only objecting to the bill it is offered to be placed on, would suggest an amendment which would carry out their idea.

Mr. BURNSIDE. I suggest that amendment.

Mr. PLUMB. I am not going to contend for the language of the amendment. As I said before, I do not care about the form of it; I am after the substance. I want to make sure now, upon a bill that I know is going to pass beyond peradventure, that the existing condition of things in the Pension Bureau shall no longer continue to exist; that is to say, that there shall be an improvement.

Mr. BLAIR. Will the Senator allow me to make a suggestion which may possibly obviate the difficulty? If the amendment should pass as it is, and if there should be a serious difficulty about the division of this money, there can be a provision in the legislative, executive, and judicial appropriation bill specifying how it shall be expended. If that difficulty should arise, if there were anything needed to be done, it could be very easily remedied that way, and the amendment could go on the bill as it is now.

Mr. EDMUNDS. We had better remedy it now, if there is any trouble.

Mr. HOAR. I will make this suggestion to the Senator from Kansas, to add to his amendment these words:

The number and distribution of said clerks in the different offices and different Departments to be at the discretion of the President.

Mr. PLUMB. I am perfectly willing to accept the amendment.

Mr. ALLISON. That amendment is in order.

Mr. PLUMB. I am entirely willing that my amendment should be modified in that way, or in any other way which will make it more certain to have the effect which I desire.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The question is on the amendment to the amendment.

Mr. WITHERS. How will it read as proposed to be amended?

The CHIEF CLERK. At the end of line 17 of section 1 it is proposed to insert:

To provide fifty additional examiners, and for rent for additional rooms or buildings therefor, for the Pension Office, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners, the sum of $200,000, to be immediately available, the number and distribution of said clerks in the different offices and different Departments to be at the discretion of the President.

Mr. BECK. I merely desire to say that I suppose that is upon the assumption that Congress is no longer competent to distribute these employés and the President must do it for Congress.

Mr. BURNSIDE. I suggest that the word "fifty" be stricken out before "additional examiners," leaving it all to the discretion of the President. I suggest that to the Senator from Kansas.

The PRESIDING OFFICER. There is an amendment to the amendment pending. The question is on the amendment proposed by the Senator from Massachusetts to the amendment made as in Committee of the Whole.

Mr. EDMUNDS. I see the Senator from Massachusetts has only used the word "clerks" in his amendment while the principal amendment mentions examiners and clerks.

Mr. HOAR. The examiners are clerks. Although they are called examiners, in reality there is no such official title, and what it means is only clerks to examine.

Mr. INGALLS. The word "examiners" should be stricken out.

Mr. EDMUNDS. As the law now stands there is no such office as examiner except in the Patent Office that I know of; but this is to be a law, and if the law does not provide for an official by the name of an examiner before, if this passes it will provide for it. Therefore, I suggest in the friendliest spirit to the amendment that the end of the clause ought to conform to the beginning, and that with the word "clerks" there ought to be the word "examiners" also.

Mr. HOAR. I suggest to the Senator from Kansas to make the word "examiners," in the original sentence, read "examining clerks."

Mr. INGALLS. It would be better to leave out the word "examiners." They are all known as clerks of different classes. The only two designations in the Pension Office are clerks and copyists.

Mr. EDMUNDS. It certainly appears to me that as we are making a law, and not construing a law, we ought to use terms at the beginning and the end of the amendment that have some relation to each other. If the modification suggested in respect of the word "examiners" is adopted, so that the phrase will be "clerks," then the amendment of the Senator from Massachusetts will be in perfect accordance with the principal amendment; but without it, it seems to me it will leave the same gap open that existed before. It only allows the President to regulate the number and distribution of clerks, but does not allow him to regulate the number and distribution of the persons whom this law, being the last one, styles examiners.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts [Mr. HOAR] to the amendment made as in Committee of the Whole.

Mr. EDMUNDS. An amendment to that is not in order?

The PRESIDING OFFICER. It is not in order at this time.

Mr. EDMUNDS. Is it in order to perfect the paragraph that the Senator from Massachusetts proposes to amend?

The PRESIDING OFFICER. The amendment is not to strike out, but is an additional paragraph, and the amendment of the Senator from Massachusetts to the amendment is in the second degree.

Mr. PLUMB. I suggest to the honorable Senator from Vermont to move his amendment after that of the Senator from Massachusetts is adopted.

Mr. EDMUNDS. Then I understand the Chair to decide that when an amendment is pending and an amendment is offered to that it is not in order to perfect the text of the principal amendment.

The PRESIDING OFFICER. The amendment to the amendment being in the second degree, it cannot be in order to amend further. The question is on the amendment of the Senator from Massachusetts to the amendment made as in Committee of the Whole.

Mr. EDMUNDS. I do not propose to amend the amendment moved by the Senator from Massachusetts.

Mr. HOAR. I understand that has been adopted.

The PRESIDING OFFICER. It has not.

Mr. EDMUNDS. I propose to amend the text.

The PRESIDING OFFICER. The text is an amendment, the Chair will state to the Senator from Vermont, and therefore the amendment of the Senator from Massachusetts is in the second degree, and there cannot be an amendment in the third degree unless it is to strike out and insert, when the part to be stricken out would be amendable; but that is not the proposition of the Senator from Massachusetts.

Mr. EDMUNDS. Very well.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts [Mr. HOAR] to the amendment made as in Committee of the Whole.

Mr. EATON. I think I shall not vote for the amendment of the Senator from Massachusetts as I cannot vote for the amendment of the Senator from Kansas. I think this is all wrong. I have been for many years voting all the Department requires in the way of clerks and assistance. It is the manifest duty of each of the Departments and bureaus of the Government to inform the Senate and the House of the number of clerks that they desire. If this new bill will make a greater clerical force necessary, the Secretary of War and the Secretary of the Interior will notify the proper committees of this and the other House of the increased clerical force which they desire, and then we shall be ready to give them that force. If they do not desire any more force, we ought not to throw away $200,000 of the people's money.

Mr. CONKLING. Will the Senator yield to me to make a suggestion?

Mr. EATON. I will.

Mr. CONKLING. It cannot have escaped the attention of the Senator from Connecticut, first, that large numbers of pension claimants appeal to him to get them special facilities in the Pension Bureau, not that their cases may be decided one way or the other, but that they may be proceeded with in some way. In the second place the Senator must know that the Commissioner of Pensions and those who write by his direction, return answers month after month, year after year, that the reason of the delay, the reason of these applications to a Senator to induce the Commissioner to make a case "special," as they call it, in order that it may be taken up out of its turn, is the want of clerical force, the lack of the hands necessary to handle these papers, to go on with them and dispose of them promptly. In the presence, then, of these facts, if they be facts,—if not the Senator will correct me,—I ask him what the answer is to the thing which naturally occurs to every mind, that we ought on some bill, in some way, by some provision, to supply this need? The honorable Senator says they may ask for clerks when they want them. That no doubt is technically true; but when the Senator is informed as a Senator, when I am informed as a Senator, day after day, in answer to these letters, that the reason of all these delays, involving great hardships, as I am sure they do in some cases, is the lack of clerical assistance, how can we exactly stand upon saying, "they have not made a formal recommendation," or the head of a Department within some rule of the Senate has not put it technically in that way, and although we know the fact we will still wait, because they might in some other way bring it to our notice? I should like if the Senator from Connecticut will oblige me, to hear his views on that aspect of the case.

Mr. EATON. They are very simple, of course.

Mr. CONKLING. Always the Senator's views are.

Mr. EATON. Undoubtedly. Therefore I hardly thought my friend from New York would find it necessary to put a question of that kind. How does he or any other member of the Senate, my friend from Kansas who proposed the amendment, know now whether ten clerks are demanded, or five, or twenty, or fifty, or a hundred? How do we arrive at it? What is the proper legislation and the proper action for this body? It is to be informed by other public servants of what they demand and what they require. I apprehend that the Secretary of the Interior Department knows a great deal better than I how many clerks are necessary in the Pension Bureau, and surely the Commissioner of Pensions ought to know exactly what he desires and how many men he can profitably employ. When he tells us, I will vote with my friend from New York for every man that he desires; but why should we go upon a hunting expedition and a guessing expe-

dition? I come from a guessing country, but I confess I can hardly guess out this problem of how many men shall go to this bureau and how many men to that bureau, and nobody else it seems can; and now it is said you will put it upon the President to do that. Which President, the one in or the one coming in——

Mr. CONKLING. Or the one that did not get in? [Laughter.]

Mr. EATON. The one that did not get in ought to have been in by the vote of the people. In my judgment the whole of this thing is wrong. I hardly think my friend from New York can answer the suggestion which I have so lamely made, and that is that an intelligent head of the Bureau of Pensions, an intelligent head of the War Department, and an intelligent head of the Interior Department may better number the clerical force they can properly use than any member of this body.

I conceive that my friend is answered, and therefore I shall vote against this amendment to the amendment, and against the amendment itself, and whenever the proper officer of the Government asks for more clerical assistance we will all join in giving it.

Mr. CONKLING. The honorable Senator from Connecticut says I am answered. That is true. I never ask the honorable Senator a question without receiving a polite answer. I have received it now; and meaning to be entirely courteous to him, I submit that that answer falls a good way short of the real demands of my question. The honorable Senator says we are not to go on a hunting expedition,—I believe that was his phrase,—to ascertain whether a greater number of clerks cannot be employed somewhere. I agree with him. Certainly we are not to go on a hunting expedition; and if this be such a proposal, no Senator should vote for it. But, Mr. President, that I submit to my honorable friend is rather fanciful. Here is in the country a great procession of mourners and of cripples that are entitled under the laws to the allowance of a pension. I will not stop now to consider whether under the theory suggested this morning by the language of one Senator this proceeds from benevolence, charity, generosity, magnanimity, or according to the view suggested by other Senators from principle which enter into contracts, obligations, dues, the holders of which do not need to throw themselves at anybody's feet or appeal to anybody's mercy. In the one way or in the other, either as the wards of the nation relying upon the benevolence of the nation, which I deny, or as the creditors of the nation appealing to the justice of the nation, which I affirm, great bodies of crippled men and smitten women and orphan children, have meritorious and well-earned claims upon the Government. They ask for their consideration. They are postponed, belated, and disappointed until thousands are weary, heart-sick, and starving. Their attorneys and the pension agents whom they employ appeal in great numbers to Senators. When Senators remember that in the State of New York there are 5,200,000 people, and that 600,000 of the sons of New York marched to the fields of battle, I shall not seem to exaggerate when I say that great numbers of persons such as I have described appeal to me in every month and every week of the year to aid them in gaining answers from the Pension Bureau, not in gaining a favorable result, not in inducing the Commissioner of Pensions to waive some requirement of evidence, to stretch some provision of law, to invent some way of favoring them, but to gain action, consideration, immediate proceeding upon their case which sometimes they say for months has waited and sometimes they say for years has waited an adjudication.

When I do appeal to the Commissioner of Pensions it happens not always—because very often there comes a decision or a suggestion or a letter of advice or a response of some sort indicating that notice is taken, consideration is given to the case to which attention is called, but at other times comes now and again an explanation, sometimes in a letter specially written sometimes if I mistake not in a printed circular printed to be sent I infer by thousands as a wholesale explanation, sometimes again I think in a lithographed letter showing that it is produced in manifold and sent as a wholesale explanation stating in various forms with different illustration and particularity that the Pension Bureau is embargoed, arrested, swamped in its business. Why? Because conducting its business almost wholly by the employment of clerical force, that force is deficient; because there are not clerks enough, or to state it differently, there cannot be employed and secured hours enough of clerical force to examine, classify, and subject to the scrutiny which they are to undergo the papers which exhibit the claims of pensioners.

Having been informed of this again and again, by individual letters, by circulars, by other forms of information signed and sent out officially by the Commissioner of Pensions, the head of the bureau concerned, can the honorable Senator from Connecticut, candid and intelligent as he is, dispose of the matter by turning to me and saying that we are not called upon to go upon hunting expeditions to see if we cannot find a place where more clerks might be used? I submit to that honorable Senator in whose sense of justice and in whose benevolence I have entire confidence, that such a state of facts as this summons us to our feet, and that we cannot turn it off by saying "Oh, well, no doubt, but then there is some technicality which somebody might have complied with and has not." The Secretary of the Interior whom the Senator seems to regard as the repository of the most full, exact, and particular information on this subject—an allegation with which I do not take issue—has not said something that he might have said; and then again the Commissioner of Pensions although he has said a great deal and although he has said it a great many times and although he may have said it individually to all the members of both Houses, has not, speaking to those members altogether as the Houses, or speaking to his superior through whom he might speak to these two Houses, said all this; and therefore we shall be speculating, we shall be on a hunting expedition, we shall be going out as if to find by hook or by crook some place where the money of the Government may be spent.

I submit to the Senator from Connecticut, that is technical; it is very technical. It would be technical were the persons concerned here all astute business men, were every one of these pensioners a man taught in all the methods of presenting and advancing his claims; but when we consider that we are dealing with the untaught, the helpless, the friendless, men who do not understand the circumlocution office, women and children who have few means of intelligence or otherwise in pressing their claims, I submit that we are bound to be a little more liberal, a little less exacting of technicality from the heads of the Departments or bureaus; and when there is brought in any way to our notice the fact that vast numbers of persons are being victimized with that injustice which is as bad as refusal or denial, interminable delay, we have no right to go behind an excuse like this and say we will wait until all the ceremonies and requirements are complied with, we will let all the pensioners who are the subjects of such hardship as I have been speaking of go over from the 4th of March till the first Monday in December next, and then if there should be another Secretary of the Interior endowed with all the knowledge, general and particular, which the Senator from Connecticut ascribes to the present distinguished head of that Department, and he sends to the Senate a communication in which he says that this matter has reached his attention also, why then we will feel that all the requirements are rounded out and that the whole measure of occasion for our action has arrived.

As to the phraseology of this amendment I have not scrutinized it. It came from a Senator whom I supposed to be more familiar than I am with the requirement of the occasion. It was voted for, I observed, first voted for as in order on this bill, and afterward as meritorious, by certain distinguished members of the Committee on Appropriations, whom I am accustomed to follow. I observed that some of the Senators to whom I refer have modified their views. Coming first into the Senate I heard years ago a distinguished member of the body state how safe it was, particularly for inexperienced members, to follow the committees, and that duty was laid down so broadly that I infer that one so inexperienced as I need not know much in order to vote intelligently, except that what the committee say. When the committee divide somewhat politically as in this instance, and the members of the committee representing the party to which I belong, upon a matter which is supposed in some sort to appeal to what may sometimes grow into party divisions, when the republican members of the committee act together, I have been of the impression that it was suitable for me to pay a good deal of heed to their course, because they are supposed to have a greater acquaintance with the matters committed to them. So I was influenced, I confess, considerably both upon the question of order and upon the question of the propriety and sufficiency of this amendment, by the position I saw wiser and better acquainted Senators holding.

Now, I humbly submit that if this subject was in order on this bill, as I thought it was and as I still think it is, notwithstanding the provision about general legislation, and if the amendment in outline and substance is meritorious, we ought not after this discussion to abandon it and throw it down, and postpone to some other bill to come hereafter not only this subject but a rediscussion of it. The amendment suggested by the Senator from Massachusetts seems to me to avoid the only serious difficulty which has been suggested. If there is another one let us hear what that is, and if we can obviate that let us do it, and then if the amount is too large cut it down. If the amendment does not commit to the discretion of these officials and to their conscience and their oath to expend only so much of this money as is actually necessary, by all means let the amendment be made rigorous and searching in that regard; but still let us, as it seems to me we ought if satisfied that injury is constantly occurring because of the deficiency of clerical force, make provision which will supply at least in part that deficiency.

Mr. EATON. Mr. President, I did not intend to provoke a discussion with my friend from New York, for I should be in the unfortunate position that the coon was with the celebrated Captain Scott, and I might as well come down at once; but I do not think that my friend from New York meets the question, I will not say fairly, but properly. He immediately begins to speak of the numerous pensioners, the poor men and women and children who are suffering, and appeals to our feelings in that particular. That is not a part properly of this discussion. What is necessary to carry out the law and who are the proper persons to determine the amount of clerical force necessary to carry out the law? That is the question and the only question. There is no other.

My friend says that I seem to place the utmost confidence in the present Secretary of the Interior. I believe I have as much confidence in him as it is necessary for me to have in that officer. So I have in the Commissioner of Pensions; and it is this much: I have sufficient confidence in his knowledge to believe that he knows the amount of clerical force necessary to carry on his Department. That

is very certain. What is the object of having heads of Departments unless it is that they may inform the Senate and House of Representatives of what is necessary in order to properly carry on the Government? I am not second to my friend from New York but fully abreast with him in being desirous of doing all that is necessary for this class of Government creditors. I assume his own terms; but there is a way to get at this which I think is the proper way and all other ways are improper. Are fifty clerks more enough? Who can say? Who can say whether forty is not enough, and who can say that one hundred are not required?

Mr. CONKLING. May I make a suggestion?

Mr. EATON. Certainly.

Mr. CONKLING. Does the Senator understand that under the amendment, if it become a law, any honest man as Secretary of the Interior or Commissioner of Pensions would employ clerks who were not necessary, would expend the whole of this money if a part of it only turned out to be needed?

Mr. EATON. That is not a part of my argument. I have made no such suggestion.

Mr. CONKLING. No; but my honorable friend objects to it because he says he does not know the exact number. He says they do know. Very well, if they do know I ask him whether he thinks, being honest men, they would employ an unnecessary number.

Mr. EATON. I hope not, but I want to relate a little experience that I have had as one of a committee of this Senate. Some four years ago five members of this body were appointed to examine the various Departments of the Government, to look out, to report to the Senate with regard to the employés. I remember distinctly as one of that committee of advising a certain head of a Department that he ought to give his clerks one hour more labor. We had not the authority to compel it, but the hour was given, and the number of clerks was not reduced. Acting upon the suggestion of the committee, the additional hour's work was given to the clerks, but no reduction was made, when there should have been not less than three hundred dismissed, if they all worked the additional hour; and that was apart from any idea that I have here to-day. The Secretary of the Interior, the Secretary of War, the Surgeon-General, the Commissioner of Pensions ought to know the number of clerks that they can best employ, and when they inform us of the number they desire we will give them that number. I do not myself propose to vote to force any upon them.

## DEATH OF HON. EVARTS W. FARR.

A message was received from the House of Representatives, by Mr. THEODORE F. KING, one of its clerks, communicating to the Senate the intelligence of the death of Hon. EVARTS W. FARR, late a Representative from the State of New Hampshire, and transmitting the resolutions of the House thereon.

Mr. ROLLINS. I move that the business of the Senate be suspended and call for the reading of the resolutions of the House of Representatives announcing the death of Mr. FARR, late a member of the House from the State of New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire asks that the pending order be suspended for the purpose he has named. Is there objection? The Chair hears none; and the resolutions of the House of Representatives will be read.

The Chief Clerk read as follows:

*Resolved*, That this House has heard with profound sorrow the announcement of the death of Hon. EVARTS W. FARR, late a Representative from the State of New Hampshire.

*Resolved*, That in token of regard for the memory of the lamented deceased the members of this House do wear the usual badge of mourning for thirty days.

*Resolved*, That the Clerk of this House do communicate these resolutions to the Senate of the United States.

*Resolved*, That as a further mark of respect to the memory of the deceased this House do now adjourn.

Mr. ROLLINS. Mr. President, I move that the resolutions which I send to the Chair be adopted by the Senate.

The PRESIDING OFFICER. The resolutions will be read.

The Chief Clerk read the resolutions of Mr. ROLLINS, as follows:

*Resolved*, That the Senate has received with profound sensibility the sad announcement of the death of Hon. EVARTS W. FARR, late a member of the House of Representatives from the State of New Hampshire.

*Resolved*, That as a mark of respect for the memory of Mr. FARR, the members of the Senate will wear the usual badge of mourning for thirty days.

*Resolved*, That the sympathies of the members of the Senate be tendered to the family of the deceased in this bereavement, and that the Secretary of the Senate transmit to them a copy of these resolutions.

Mr. ROLLINS. Mr. President, it is now almost a quarter of a century since a member of the delegation from the State of New Hampshire has been called upon to announce the death of a colleague in either branch of Congress. Since the adoption of the Constitution, four Senators from New Hampshire have died during their terms of office—Nicholas Gilman, in 1814; Charles G. Atherton, in 1853; Moses Norris, jr., in 1855; and James Bell, in 1857; although out of the thirty-five Senators who have represented the State prior to the present incumbents but six are now living.

In the other branch for the first time a vacancy has occurred by the death of Major E. W. FARR, the youngest member of our delegation, in the prime of his manhood and but a few days after the people of his district had indorsed his ability and worth by a re-election. In the midst of life we are in death. The great leveler invades all ranks and conditions of life, paying no regard to age or sex, strength or weakness.

In this case the blow fell with little warning and but a brief illness, and it is a significant admonition to us to be always ready to meet that last call to enter upon the new state which awaits us beyond the confines of this earthly existence and there solve the mystery which during all time our human intelligence has not been able satisfactorily to penetrate, except that we are fain to accept the faith that death is but the portal to a new existence and that if a man die he shall live again. The survivors may mourn their loss more grievously when it comes without warning, but it is well with the departed. My acquaintance with Major FARR began in the early days of the great struggle for the preservation of the Union, in April, 1861, when the first call to arms was responded to with so much alacrity, not only by our late and lamented friend, but by so many others in the North. From that time until the day when the sad intelligence of his death was communicated to me by telegraph from his quiet home among the mountains, I watched with interest his career, both in the Army and in civil life, and our friendship was never for one moment interrupted. In his death I mourn the loss of a true, long-tried, and esteemed friend.

Major FARR was born in Littleton, New Hampshire, October 10, 1840. At the early age of twelve, with that independence so charateristic in later years, he struck out for himself, and, by that rugged toil which is not unfamiliar to many New England boys, began to earn his own support and provide means to secure an education. In the fall of 1856 he entered upon his preparatory course for college at the academy at Thetford, Vermont, leaving that with valedictory honors in 1859 for Dartmouth College. His collegiate course was interrupted by the call to arms, and in April, 1861, his name appears first in his native town and among the first in the State enrolled among the volunteers. Subsequently he was appointed a lieutenant in the Second New Hampshire Regiment.

During the first year he was prostrated by disease and sent to the hospital in this city, but an indomitable will and strong constitution carried him through, and as soon as he recovered his strength he returned to his regiment. January 1, 1862, he received his commission as captain and on the 5th of May following in the battle of Williamsburgh during a drenching rain his right arm was shattered by a Minnie ball while he was in the act of firing. With characteristic coolness he picked up his revolver with his left hand and passed to the rear, where he remained forty-eight hours in a dilapidated building without doors or windows, in his wet clothing; he was then conveyed to Fortress Monroe and was sent home, where he arrived in fifteen days after receiving the wound which deprived him of his arm. Impatient of this enforced retirement, in six weeks he returned to the front. Soon after he was appointed major of the Eleventh New Hampshire Regiment, and as such participated in the battle of Fredericksburgh, December 13, 1862. With his regiment he was under General Grant at the siege of Vicksburgh. Later he was detailed as judge-advocate on court-martial duty at Cincinnati and Washington, and after the close of the war studied law and was admitted to the bar in 1867. He was assistant assessor of internal revenue, and subsequently assessor, which office he held until 1873 when the office was abolished.

As a soldier he was chivalrous and brave, bearing a record without blemish, ever present when duty called. As an officer, cool and courageous in danger, strict in discipline, but by his general kindness endeared to all his men, winning the highest estimation of all who knew him and the confidence of his seniors in command. As a lawyer he won a good position and was known as a safe counselor, earning the confidence of his clients and the community. As a politician he was frank and outspoken, leaving no doubt as to his position, and while a stalwart republican, possessed many warm friends among his political opponents.

In 1876 he was elected a member of the governor's council from his district; he was twice appointed prosecuting attorney for his county, resigning that position to take his seat in the present Congress to which he was elected in 1878. At the recent election (November, 1880) he was re-elected to the Forty-seventh Congress in one of the most hotly contested campaigns known in his district, which is a very close one, thus showing the estimation in which he was held by his constituents.

As a member of the House of Representatives he proved himself industrious and efficient; as in the Army, he was never absent from his post of duty except from imperative necessity.

It is said that a prophet is not without honor save in his own country, but the following tribute will show how Major FARR was appreciated in his own community, and this tribute will be indorsed by every member of that community:

To speak of him as a man is to fully know him as a citizen and neighbor, a husband and father, an associate and friend. As a citizen he was just, kind, and public-spirited; as a husband and father ardent and constant in his affections and ever tenderly devoted; as a friend and associate there was no one more loyal, liberal, and unselfish; quick to resent an injury, he was placable and ready to forgive. If he ever unknowingly wronged another, (knowingly he could not have done it,) his magnanimity in redressing it was prompt, noble, and conspicuous. As a public man his integrity and honor were never questioned; incorruptible and sincere, he was ever ready alike to defend a friend and the friendless. Once his confidence was won nothing but dishonor could sever the tie that bound him to his fellowman. Can it be wondered that his people loved and trusted such exemplary manhood?

Warm-hearted, sincere, and generous to a fault, he possessed a genuine magnetism which attracted and held all who approached him.

Entering the Army while not yet twenty-one, with a vigorous and robust constitution, he left it four years later deprived of his right arm and with the seeds of disease about him which rendered him unable to recuperate from the sudden attack, coming as it did just at the end of an arduous and exhausting campaign. His loss is not alone a sad bereavement to his aged father and mother, to his wife and young children, but to the community in which he lived and was honored and to the State which he represented. Struck down in the pride of his manhood, he has left a void which will be hard to fill. To those who were near and dear to him, to his friends and neighbors, and to his State we extend our hearty sympathy, not unmindful that this Congress is also called upon to deplore another break in its family circle and another chair made vacant by his untimely death.

Mr. BLAIR. Mr. President, there is no solitude like that which envelopes a public man amid the multiplied and exacting activities which environ him in the Capitol of his country. I have never felt so utterly alone as when most absorbed in my duties here. The continuous woods, vast, dark and silent, are full of tender companionship, and the spirit of nature speaks with many-voiced and varied tones to him who seeks her wild and secret home. But here one seems to be projected as it were into a kaleidoscopic and tumultuous scene where though all may be light, beauty, and variety, yet when analyzed the elements of the fascinating vision are mere glass and glitter without one ray of heat or throb of sympathy.

Every public man is all alone in a certain and substantial sense. His connections are with his distant constituency; and only with them through the post, the telegraph, and other avenues of communication does he really live. Now and then there is a break through the environment of affairs, and for a little while in cheerful or mournful but always heartfelt communion with a congenial soul there is a brief return of the old-time sense of hearty feeling and of that unrestrained personal and independent self-assertion which belongs of right to the private citizen. Yet how soon the opening closes and the tempest of affairs obscures the whole heavens once more.

We talk and laugh and discuss. We are cheerful and polite—it may be bland and entertaining. We sit side by side; but we are still as far apart as the localities from which we come. There is ever the touch of the hand, the glance of the eye, the friendly tone, and the ready effort to oblige; yet after all the real life of the public man is between himself and those who created him by their choice. He belongs to them. He is of them in the truest and most absorbing sense, and not of those with whom he daily meets on this conspicuous scene. But there be those like the stars which illumine the neglected spaces of night, who, by their select and electric qualities, change the chilly formalities of public association into the warmth and sympathy of private life. These rare spirits are the golden links which connect us and somewhat cure our isolation. They give out not light alone but heat as well, and while they illumine all things, they also warm and weld us together.

But alas! Death, blind, cruel, and insatiable, will tear even them away with no more compunction than when he extorts the spirit of the beast which goeth downward. He

> Loves a shining mark, a signal blow,
> A blow which, while it executes, alarms
> And startles thousands with a single fall.

Of such a man, my personal friend for twenty years, my associate and companion in private and in public life, just stricken down in all the royal strength of forty years, while his sun was high and rising higher on the pathway, it might well have been to the very zenith of place and power, just as he had achieved a personal and political triumph such as comes to but few men even in the longest career, it is my difficult but willing duty for a few moments to speak to you to-day.

Major EVARTS W. FARR, a member of the Forty-sixth House of Representatives and a member-elect of the Forty-seventh, from the third congressional district of New Hampshire, died at his home in Littleton, in that State, on the 30th day of November last, aged forty years. He was born in the same place on the 10th day of October, 1840, of one of the largest and most influential families in our State. His father, who survives the gifted son, filled many conspicuous positions in public life, and through a long course of great activity and usefulness to his fellow-men, he was ever the same intelligent, upright, and efficient gentleman, who, for thirty years at least has been known throughout New Hampshire as "Honest John Farr of Littleton."

The mother was in every way worthy of the father of her boy; and to one who knew them all, it is sufficient eulogy to say that they were worthy each of the other. No young man was ever "better born," in the highest sense, than Major FARR, and his career has reflected great honor upon the family name.

Young FARR was of an active and independent spirit from the beginning. When twelve years of age he assumed the burden of his own support and education. He secured the advantages of the common schools in his native town, and after a preparatory course at the academy located in Thetford, Vermont, then under the direction of Professor Hiram Orcutt, and one of the best institutions in New England, he entered Dartmouth College with the class which graduated in 1863. He was pursuing his studies there with assiduity and great promise when the country called her sons to rebaptize in their blood the sacred principles of liberty and to re-establish upon immovable foundations the integrity and perpetuity of her Constitution and her laws. He was then twenty years old, of stalwart but graceful form, with a countenance full of animation, force, and beauty.

That face was the mirror of all within. I well remember a long conversation with him while attending court in Haverhill, where he chanced to be in the early spring of 1861, just as the mutterings of war became unmistakable to us in our mountain homes. We were then beginning life; I had just entered upon the practice of the law. He designed to pursue that profession as soon as his course of study and preparation would permit. Our conversation lasted nearly through the live-long night, and I desire to bear witness to the memory of my dead friend, that never did man determine to put aside, if need be, the promise of an apparently unsullied future for the untried hardships of the camp and field, with a more vivid sense of what he was to sacrifice and suffer, or with a loftier patriotism and deeper devotion to a stern sense of duty than did EVARTS W. FARR. And when a little later the summons echoed from the walls of beleaguered and then of fallen Sumter all over the astonished North, he strode among the earliest to the field of death and of glory with motives as pure and free from sectional hate, with as knightly and exalted devotion to the ideas of country, liberty, and the good of mankind as ever beat in the bosom of Sidney, or as animated the fathers at Yorktown, Cowpens, or Bunker Hill.

He served in some of the hardest fought actions with great bravery and brilliancy, and throughout the war, losing an arm at Williamsburgh, and receiving the fatal seeds of death in his constitution from exposure in the swamps of the Peninsula, which ripened year by year until a casual cold fastened upon his waning powers and killed him as easily as though he had been a little child. On his return to civil life he studied law, and being admitted to the bar, he practiced the profession unremittingly and with good success from 1867 until his election to the Forty-sixth Congress. He was twice appointed prosecuting attorney for his native county, and held that office when called to service in the halls of national legislation. During this period also he was chosen to be a member of the governor's council, after a most vigorous canvass, from a strongly democratic district, in which but for his great personal popularity success would have been impossible.

As a lawyer Major FARR was highly successful. His attainments for one of his years and opportunities were good. His comprehension of the fundamental principles of law was clear and strong. He had an unfailing fund of good sense, which is worth more to a lawyer than knowledge of every case of every court ever reported when not combined with that unfailing touchstone of truth. He knew what the jury thought and could guide them in his own channels of reasoning to the conclusions in which he believed himself. He had little power to make the worse appear the better reason unless he was honestly wrong, and he always presented his cause with a conscientious conviction that he was right. He had a native love of justice and abhorrence of wrong. He was a tower of strength to the innocent and to the cause he believed to be just, but to none other. He was an honor to the bar, and by his high character and conduct he fully paid that difficult debt which every lawyer owes to his profession.

Having fought to preserve his country, he should be excused for manifesting that interest in preserving the results of the national victory which made him a close observer of events and gave to his mind a bias for public life. His intelligence, his patriotism, and popular manners for years had attracted the attention of the people, and it had long been evident that at an early period he would be summoned to the higher political honors of his State. This expectation was realized by his election in a very close district to the other House.

Every one who has experienced them knows the almost insurmountable difficulties which lie in the way of a new member of a great legislative body, especially if he belongs to the minority. A new member of the majority has comparatively plain sailing in an open sea. But short as has been his connection with the House, only through one regular session, Major FARR had become well known and was very highly esteemed by his fellow-members, both for his ability and worth. He was attentive to every duty and he understood what belonged to it and how to perform it. He was an elegant speaker, very ready in debate and grew stronger every day. I observed this during the late campaign particularly, and believe that had he lived and continued in Congress long enough to do justice to himself and constituents, he would have served his country with great efficiency to the pride of his innumerable friends and of the State. As it was the promise given of that which might have been, sharpens a disappointment most grevious to be borne, even if the full fruition of accomplishment could lend to those who knew and loved him its most consoling power.

His stricken widow and the children of their love bewail in mute and helpless grief a bereavement which lacks none of the terrors of untimely death, of blasted hopes, and of sweetest joys, snatched away in the very hour of supreme realization. To this brave and worthy woman, left to battle and struggle alone with her burden of woe through unusual obstacles, and to these fatherless little ones, some

of whom can hardly know their loss, a grateful country will not fail to extend the warmest sympathy and most grateful remembrance.

But I do waste the time in bewailing his loss. His last deed on earth is done. His record is complete. No blot is there. It is pure as the white pages of the Book of Life. It is like a copy drawn by angel hands for the imitation of those who remain behind. To have prolonged his stay would seem to have been best for us, were he not one of the dead who yet speak with power drawn from the realizations of more worlds than one. His glory will not fade nor will he be forgotten until the history of his State is obliterated. There may have been stronger men, but he was strong; there may have been better men, but I have not known them.

New Hampshire is not ashamed of her other sons. She points to them as her jewels. But of none can she more truly say that he was a knight "without fear and without reproach" than of poor dead FARR, now embalmed in the immortal glory of his own life, and awaiting the reveille of the resurrection on the peaceful banks of the wild Ammonoosuck, while the shadows of Mount Washington lie tenderly on his grave. There is nothing more but to turn slowly and sadly to the exacting realities of life, and by imitation of his bright example to prepare for the inevitable hour.

The PRESIDING OFFICER. The question is on agreeing to the resolutions.

The resolutions were agreed to unanimously.

Mr. CONKLING. Mr. President, as a further mark of respect to the memory of the deceased, I move that the Senate do now adjourn.

The motion was agreed to; and (at five o'clock and twelve minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 8, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

BUSINESS BY CONSENT.

Mr. FRYE. I am instructed by the Committee on Rules to present the resolution which I send to the desk.

Mr. CLYMER. I reserve all points of order on it.

The Clerk read the resolution, as follows:

*Resolved by the House of Representatives*, After Wednesday next, on each day of the remainder of the session other than the third Monday of February and the last six days, whenever on motion the morning hour shall be dispensed with by a two-thirds vote, that hour shall be set apart for the consideration of bills on the several calendars under the following regulations: The States and Territories shall be called in order as now provided for, and as each is called, one of its members shall be named by the Speaker, selected in alphabetical order, who may move the consideration of a bill; if objected to by five members rising in their seats it shall not be considered, otherwise the member making the motion shall be entitled to five minutes for explanation of his bill, or, instead thereof, to the reading of the report accompanying the same, and then a vote shall be taken. The call of States shall go on from day to day until completed, as above provided, and whenever all the Members and Delegates from any State or Territory have been named by the Speaker, such State or Territory shall thereafter be omitted from the call until all the Members and Delegates shall have been so named. Any member not answering as his name is called shall be considered to have waived his privilege.

Mr. CLYMER. I ask that the consideration of the resolution be postponed till to-morrow under the rule.

The SPEAKER. The gentleman from Pennsylvania asks that under the rule this resolution shall lie over one day. That is the gentleman's right. The Chair would suggest that the resolution be printed in the RECORD. The Chair hears no objection.

Mr. NEWBERRY. I desire to suggest an amendment.

The SPEAKER. That may be done when the resolution comes before the House for action.

Mr. NEWBERRY. I should like to suggest now that the consideration of bills on the Speaker's table be included in the resolution.

The SPEAKER. The committee only included the calendars because they only wished to recognize the right as applying to bills that had actually been reported by committees of this House. The committee thought in the case of every bill to be considered under this resolution, as far as possible, there should be a report from a committee of the House in favor of such bill.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I rise to a privileged question. I desire to report back from the Committee on Commerce the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes.

The SPEAKER. What action does the gentleman desire?

Mr. REAGAN. I move that the bill be referred to the Committee of the Whole on the state of the Union, and I give notice that I shall, when the morning hour is through, move that the House go into Committee of the Whole to consider the bill.

Mr. CLYMER. I reserve all points of order.

The bill was referred to the Committee of the Whole on the state of the Union.

ORDER OF BUSINESS.

Mr. ATKINS. I hope the gentleman from Texas will not press the river and harbor bill this morning.

The SPEAKER. The Chair will state that he will recognize the gentleman from Tennessee, [Mr. ATKINS,] the chairman of the Committee on Appropriations, because the gentleman from Tennessee some days ago gave notice to the House that he would to-day move to proceed to the consideration of the legislative bill.

Mr. ATKINS. I move to dispense with the morning hour, my object being to take up the legislative appropriation bill.

Mr. REAGAN. I desire to state——

The SPEAKER. Priority of business is not debatable.

Mr. REAGAN. I know that; but I wish to suggest to the Speaker here are two bills standing on equal ground represented by committees of equal dignity coming before the House. The Committee on Commerce presented this bill——

The SPEAKER. That is in the nature of debate.

Mr. REAGAN. But because the gentleman from Tennessee gave notice that he would call up another bill the Speaker chooses to give priority to the bill reported from the Committee on Appropriations.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] had given notice to the House that he would call up that bill to-day.

Mr. ATKINS. I trust I may be allowed a word of reply. As the Speaker has already stated, I gave notice last week I would this morning call up the legislative appropriation bill; and I do not think the gentleman from Texas should make remarks of the character in which he has indulged.

The SPEAKER. The gentleman from Texas has no right to complain of the action of the Chair in recognizing the gentleman from Tennessee. The notice was given in open House. The Chair thinks that the legislative appropriation bill should have preference under the circumstances. The gentleman from Texas had on yesterday an opportunity to bring the river and harbor bill before the House. The gentleman from Tennessee [Mr. ATKINS] moves that the morning hour of to-day be dispensed with.

Mr. FROST. The gentleman from Tennessee yields to me for a moment to call up from the Speaker's table the Senate bill No. 781 and to ask that it may be put on its passage.

Mr. ROBESON. Will the gentleman from Tennessee [Mr. ATKINS] yield to me afterward to call up a bill? That is what I want to know.

Many MEMBERS. Regular order!

The SPEAKER. The regular order is demanded, which is the motion of the gentleman from Tennesssee [Mr. ATKINS] to dipense with the morning hour for reports of committees.

The motion was agreed to, two-thirds voting in favor thereof.

Several MEMBERS. Regular order!

Mr. GOODE. Will the gentleman from Tennessee [Mr. ATKINS] yield to me for a moment?

The SPEAKER. The regular order has been called for.

Mr. GOODE. I think not since the morning hour was dispensed with.

The SPEAKER. It was, and but a moment since.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I now report from the Committee on Appropriations the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes, and move that it be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. BURROWS. I desire to reserve all points of order on the bill.

The SPEAKER. They will be reserved.

ORDER OF BUSINESS.

Mr. REAGAN. I desire to give notice that in Committee of the Whole I will antagonize the legislative appropriation bill with the river and harbor appropriation bill.

Mr. COX. And I desire to call up the unfinished business, being the apportionment bill, which I hope may be finished to-day.

Mr. ATKINS. Well, we will have to fight it out in Committee of the Whole. I move that the House now resolve itself into Committee of the Whole, my purpose being to proceed with the consideration of the legislative appropriation bill.

Mr. REAGAN. And in Committee of the Whole I shall insist upon going on with the river and harbor appropriation bill.

Mr. ATKINS. That is all right.

Mr. REAGAN. I desire to inquire if the order has been made to refer the river and harbor appropriation bill to the Committee of the Whole on the state of the Union?

The SPEAKER. The bill was referred to the Committee of the Whole on the state of the Union, and all points of order on the bill were reserved.

Mr. McLANE. I desire to make a parliamentary inquiry of the Chair.

The SPEAKER. The gentleman will state it.

Mr. McLANE. Not to embarrass my friend from Tennessee [Mr. ATKINS] or the chairman of the Committee on Commerce, [Mr. REAGAN,] I desire to know whether the bill which the chairman of the Committee on Commerce proposed to report to the House has been received and referred to the Committee of the Whole?

The SPEAKER. It has been, on the motion of the gentleman from Texas, [Mr. REAGAN,] and all points of order on the bill were reserved by the gentleman from Pennsylvania, [Mr. CLYMER.]

Mr. SPRINGER. I desire to make a parliamentary inquiry.

The SPEAKER. The Chair will hear the gentleman.

Mr. SPRINGER. If the House shall now resolve itself into Committee of the Whole on the state of the Union, can the gentleman from Texas [Mr. REAGAN] antagonize in the committee the bill of the gentleman from Tennessee, [Mr. ATKINS?] Under the rules we must in committee consider the bills in the order in which they are upon the Calendar.

The SPEAKER. The Chair will cause the rule to be read; clause 9, Rule XVI.

Mr. COX. I want the Chair to remember that I have raised the question of consideration for the purpose of going on with the apportionment bill as unfinished business.

Mr. ATKINS. I suggest to my friend from New York [Mr. COX] to allow us to go into Committee of the Whole, and we will fight it out on that line.

The SPEAKER. The Chair will cause both rules to be read, applicable to the controversy, between the gentleman from Tennessee [Mr. ATKINS] and the gentleman from New York, [Mr. COX.]

The Clerk read clause 4 of Rule XXIV, as follows:

After the hour shall have been devoted to reports from committees, it shall be in order to proceed to the consideration of the unfinished business in which the House may have been engaged at an adjournment, and at the same time each day thereafter, other than the first and third Mondays, until disposed of; and it shall be in order to proceed to the consideration of all other unfinished business whenever the class of business to which it belongs shall be in order.

The Clerk also read clause 9 of Rule XVI, as follows:

At any time after the expiration of the morning hour it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue or general appropriation bills.

The SPEAKER. Under the clause of the rule which has just been read the Chair is bound to recognize the gentleman from Tennessee [Mr. ATKINS] to submit a motion to go into Committee of the Whole on the state of the Union for the purpose of considering a specific bill, a general appropriation bill. Should that motion be voted down, the Chair would then recognize the gentleman from Texas [Mr. REAGAN] or the gentleman from New York [Mr. COX] to move to go into the Committee of the Whole on the state of the Union on the river and harber bill, or to call up the unfinished business respectively, should there be no intervening motion having a higher privilege than the river and harbor bill or the unfinished business.

Mr. ATKINS. I submit the motion to go into Committee of the Whole on the state of the Union to consider the legislative appropriation bill.

Mr. FRYE. Will the gentleman from Tennessee [Mr. ATKINS] yield to me on a matter of privilege, to submit an order touching the use of the galleries of the House during to-morrow's proceedings?

Mr. ATKINS. I will do so if I can in order.

The SPEAKER. It can be done by unanimous consent.

Mr. FRYE. It will take but a moment.

The SPEAKER. The order will be read.

ADMISSION TO GALLERIES OF THE HOUSE.

Mr. FRYE. I will read the order:

*Ordered*, That on Wednesday, February 9, the whole of the east gallery shall be reserved for the use of the families of the members of the Senate and the House and their visitors. The Doorkeeper shall strictly enforce this order.

I offer this at the request of the Committee on Rules.

Mr. BROWNE. The latter portion of the order should be changed so as to secure equality among members as nearly as possible.

Mr. BUCKNER. The east galleries will not accommodate all the families of members. I suggest that they be admitted to the space in the rear of the seats.

The SPEAKER. The Chair thinks that has never been done during the proceedings attending an electoral count.

Mr. VALENTINE. Will the construction of that order be to admit the families of members on the Speaker's pass, or on the passes of the members themselves?

The SPEAKER. The Chair hopes not on the Speaker's pass.

Mr. VALENTINE. If it is meant that under this resolution persons are to be admitted upon the red tickets which members have already given out, there are enough persons now in the city holding such tickets to more than fill the galleries mentioned; and they will be filled so early that the families of members will have no chance.

The SPEAKER. Those tickets admit persons to the visitors' gallery—not to the galleries intended for members' families. The resolution proposes no restriction, as the Chair understands, in regard to the members' gallery on the left.

Mr. PHILIPS. I wish to inquire how, under the operation of this resolution, the doorkeepers are to ascertain who are the families and visitors of members. As is well understood, there are now out a great many passes given to various parties by members. It seems to me that this resolution ought to be accompanied with some provision for the issue of new passes for this occasion.

Mr. DIBRELL. How many passes will each Senator and Representative be allowed to give

Mr. FRYE. I think gentlemen of the House do not understand the effect of this resolution. It proposes that the gallery on the east side of the Hall be reserved for the families of members and visitors to their families. Every gentleman sending any person into that gallery will do so upon the pledge on his honor that the person is a member of his family or a visitor to his family. I am sorry to say that in this respect members have not adhered to the intention of the rule; and it has been necessary to issue strict orders to the Doorkeeper to enforce the rule. No member has had the right to issue a pass to the gallery appropriated to families of members and their visitors. Properly, under the rules, admission there is obtained only upon a card given by the Speaker of the House for the use of the family of a member. Now this gallery here on the west side of the Hall has been reserved for the use of members; and they have been entitled to issue passes to it. Under this proposed order members will still have the right to give passes to that gallery. The diplomatic gallery is of course reserved for members of the diplomatic corps; so that members will see how much of our galleries will be left for the general public. If members of the House and the Senate will themselves observe the requirements of this order and send to the gallery indicated none others than their families and visitors to their families, there will be ample room.

Mr. O'NEILL. What is to become of visitors in the city who are not visitors to the families of members of Congress?

Mr. FRYE, (exhibiting a card.) There is a pass of the Speaker issued to the family of a member, and every member is entitled to one such card. It is signed by the Speaker, and is called the Speaker's pass.

Mr. O'NEILL. I think to-morrow should be a day specifically given to the people who have come to this capital to witness the count, and that we should not restrict too much the use of the galleries. There are many people in the city not visiting the families of members of Congress who desire to be present here to-morrow, and I think we should recognize that they have some right to be accommodated.

Mr. PHILIPS. My suggestion had reference to the fact that passes may now be out in the possession of parties not entitled to entrance to that gallery. Hence it might be proper to have the doorkeepers instructed to permit no one to enter that gallery except upon a pass of this date. This would effectually prevent the abuse which gentlemen complain of.

The SPEAKER. The Chair desires to state that admission to the front bench of the members' gallery has been placed at the disposal of the Speaker; but he has not confined such admission to members of his family and visitors of his family. He has issued cards of admission over and over again to members having as guests distinguished gentlemen from their districts, whom there was no other way to accommodate. He has also several times given admission to that bench to members of the British Parliament, because he was not able under the rule to ask consent to bring such persons on the floor.

Mr. BREWER. I think the resolution should be amended so as to provide that not exceeding five persons shall be admitted upon any one pass.

Mr. PRICE. That will be ten times as many as there will be room for.

Mr. BREWER. It is understood very well that without some restriction of this kind there are members of this House who would almost fill one of those galleries with citizens of Washington, bringing them in as members of their families. I have seen it done frequently; and it will be done to-morrow unless we adopt some provision to prevent it. We do not want those seats filled so that the wives or families of members cannot find accommodation.

The SPEAKER. The Chair is of opinion that an average of one person for each Senator and member would fill the space thus far suggested.

Mr. BREWER. Unless we adopt a limitation of this kind, those galleries will be filled by those who will enter upon the passes of not exceeding twenty members.

The SPEAKER. An average of five persons to each Senator or member would make near two thousand persons.

Mr. BREWER. I suggest that a certain limited number of tickets be issued to each member and each Senator.

Mr. BAILEY. Can this resolution be amended?

The SPEAKER. It can be; the resolution is before the House.

Mr. BAILEY. I move to amend by striking out the words "and their visitors."

The SPEAKER. The Chair entertains that amendment. The gentleman from New York moves to amend the resolution so that practically the right of admission shall be restricted to the immediate families of members or Senators.

Mr. BROWNE. I think we had better leave the galleries in just the condition in which they are now left by the rules. The rule admits members, their families, and the visitors of their families to the galleries provided on the east side of the Hall; and members may give passes to the members' gallery on the west side. We cannot now undertake to adjust these differences in a way satisfactory to all members of the House. There are two hundred and ninety-three members, and I believe eight delegates, making over three hundred. If each of these three hundred gentlemen should issue a pass to but one person these galleries would be filled. I think, therefore, we had

better let those who can obtain, under the rule, admission to the members' gallery do so, leaving the residue of these galleries open to the general public, of whom the most vigilant will obtain seats, while the others will be excluded.

Mr. HILL. Mr. Speaker, I think this matter is already well regulated. If you allow the word "visitors" to go into that resolution the result will be that it will embrace the whole country. Members who have no wives here, who have no families, will be allowed to issue as many passes as they please to their lady friends, and the result will be that gallery will be crowded with people who are in nowise connected with a member or his family. There are enough of ladies in this city now who are of the families of members to fill that gallery, and I trust that change will not be made. You will find before eight o'clock to-morrow morning, if this resolution is adopted, that those galleries will be filled with visitors, and when members' wives come here they will not be allowed to enter. I move to lay the resolution on the table.

Mr. SPRINGER. I hope the gentleman will withdraw that and allow the whole subject to be referred to the Committee on Rules, with instructions to act in the matter as they may think fit. That will give general satisfaction. The Committee on Rules can take such measures as they deem fit.

Mr. HILL. I have no objection to that.

Mr. SPRINGER. The gentleman from Ohio withdraws the motion to lay upon the table, and allows me to move the reference of the whole subject to the Committee on Rules, to take such action as seems to them fit.

Mr. ROBESON. With the gentleman's permission, I wish to say a word.

Mr. TOWNSHEND, of Illinois. I move to lay the whole subject on the table.

Mr. ROBESON. Let me make a suggestion. That gallery will hold perhaps four hundred people. I do not exactly know how many—say five hundred people. By giving to each member a limited number of tickets, to dispose of to whom he pleases, to his family, if he wishes, to his friends, if he prefers, then you will be absolutely fair, and each man will enjoy equal rights through his representatives there. I move as an amendment that three tickets be issued to each member of this House and three to each member of the Senate, signed by the Speaker, for admittance to that gallery to-morrow, and that no other tickets be recognized.

The SPEAKER. The Chair desires to state that the Committee on Rules have considered this subject.

Several MEMBERS. Three tickets are too many to each Member and Senator. The gallery will not hold that number.

The SPEAKER. That will make twelve hundred tickets, and there is no room for more than four hundred, if properly accommodated, in the space mentioned.

Mr. ROBESON. I withdraw the word "three" and make it "two."

Several MEMBERS. Make it one.

Mr. SPRINGER. I move to refer the whole subject to the Committee on Rules.

The SPEAKER. The Chair will entertain that motion.

Mr. TOWNSHEND, of Illinois. And I move to lay the whole subject upon the table.

The motion of Mr. TOWNSHEND, of Illinois, was disagreed to.

Mr. SPRINGER. I ask now to have a vote on my motion to refer the whole subject to the Committee on Rules, with the power to take such action as in their judgment may seem best.

The SPEAKER. The Chair desires to state that the Committee on Rules have considered this subject——

Mr. McCOOK. I hope the Chair will give to the House a parliamentary definition of the word "family." [Laughter.]

The SPEAKER. It is not within the scope of duty of the Chair to do so. [Laughter.]

Mr. SPRINGER. I think some provision should be made for issuing tickets for all the galleries to-morrow.

The SPEAKER. The question will be on the motion of the gentleman from Illinois, to refer the whole subject to the Committee on Rules to take such action as to them may seem best.

Mr. FRYE. What is the use of doing that? The Committee on Rules cannot meet to-day and make report, and this whole provision will have to be made to-morrow by ten or eleven o'clock.

Mr. SPRINGER. I withdraw my motion to refer to the Committee on Rules.

Mr. ROBESON. I now move my amendment.

The SPEAKER. The question now recurs on the motion of the gentleman from New York, [Mr. BAILEY,] to strike out so much of the resolution as refers to the admission of visitors. The resolution will be read as it will stand if amended.

Mr. FRYE. I desire to suggest to the gentleman from New York to modify his amendment so the Speaker shall issue to each member two cards of admittance, and that only persons holding these cards shall be admitted.

Mr. ROBESON. That is right.

Mr. BAILEY. I withdraw my amendment.

Mr. ROBESON. I also withdraw my amendment.

The SPEAKER. The question is on the amendment of the gentleman from Maine. The Clerk will read the resolution as it will stand if amended as proposed.

The Clerk read as follows:

*Ordered*, That on Wednesday, February 9, the whole east gallery shall be reserved for the use of families of Members and Senators, and their visitors, and the Doorkeeper shall strictly enforce this order. The Speaker shall issue to each family two cards of admission.

Mr. SPRINGER. That should read "member."

Mr. FRYE. No; the original order runs to the family and this may as well run to the family, no matter if some gentlemen are unfortunate enough not to have families. [Laughter.]

Mr. McCOOK. I do not wish any provision which will exclude me from the privileges accorded to any other member.

Mr. FRYE. The gentleman has all those privileges under the resolution as proposed.

Mr. McCOOK. The original resolution unquestionably did not; but what it may be after it is amended as proposed, or whether I would or would not have that privilege, I am unable to see.

Mr. BOWMAN. Can I move an amendment?

The SPEAKER. It depends upon whether it is in order or not.

Mr. FRYE. I will amend the resolution still further by adding to it the words, "to each Senator and member of the House of Representatives." [Cries of "That is right!"]

Mr. BOWMAN. The amendment I propose to offer is this, and it seems to me to be one that there will be no objection to, that as many tickets be printed as there are places in the whole eastern gallery, and divided equally between Senators and members of the House of Representatives. [Cries of "Oh, no!"]

Mr. SAMFORD. What will be the effect of the resolution as now proposed?

The SPEAKER. The Chair thinks the result of the first resolution will set apart the whole eastern gallery for the use of the Senators and Members and their families, and this puts a limitation upon the admission of Members and Senators to two tickets, and no one would be admitted without such ticket.

Mr. FRYE. That practically does so now, in the manner in which I originally presented it.

Mr. ROBESON. I wish to ask a question, whether the whole eastern gallery is included from the reporters' line——

The SPEAKER. It is not; that is part of the southern gallery.

Mr. ROBESON. I move that the words "eastern gallery" be so construed as to include that portion of the south gallery east of the reporters' gallery. [Cries of "That is right!"]

The SPEAKER. The resolution as proposed will be read again.

The Clerk read as follows:

*Ordered*, That on Wednesday, February 9, the whole of the east gallery shall be reserved for the use of the families of Senators and members of the House and their visitors. The Doorkeeper shall strictly enforce this order. The Speaker shall issue to each Senator and member of the House of Representatives two cards of admission, and only persons holding those cards shall be admitted.

The SPEAKER. That gives to each Senator and Member the right to seat two persons in the east gallery.

Mr. SPARKS. It won't hold half of them.

Mr. SPRINGER. I desire to offer the following additional provision.

Mr. ATKINS. I rise to a question of order. I hope the gentleman from Maine [Mr. FRYE] will withdraw his resolution and let us proceed to public business.

Mr. ROBESON. Oh, no; if he does, I will renew it.

Several MEMBERS. Let the resolution be again read.

The resolution was again read.

Mr. ROBESON. I move to amend the resolution as reported by inserting after the words "east gallery" the words "and such portion of the south gallery as lies east of the reporters' gallery." [Cries of "That is right!"]

The amendment was agreed to.

Mr. BURROWS. I wish to inquire whether it is the intention of the mover of this resolution to exclude the Delegates who have seats on the floor?

The SPEAKER. By unanimous consent the word Delegates will be inserted.

There was no objection.

Mr. SPRINGER. I ask that my amendment be read.

The Clerk read as follows:

And provided that the other galleries be reserved for those having members' passes.

Mr. SAMFORD. I wish to inquire if under the resolution proposed any one else except the families of Members and Senators can be admitted?

The SPEAKER. The Chair thinks not. That of course must be on the honor of the Member or Senator himself. The Doorkeeper in such a crowd could not distinguish between those persons entitled and those who are not entitled under this resolution.

Mr. SAMFORD. I asked the question to get the construction of the Chair upon it, as there seems to be some difference of opinion among the gentlemen around me.

Mr. TALBOTT. I wish to ask a question. Suppose a member has two tickets for which he has no special use and desires to give them to some member who has more than two members in his family, would it be a violation of the order to do that?

The SPEAKER. The Chair thinks not.

Mr. SPRINGER. The object of the provision which I have sent

to the desk is to allow a portion of the gallery to be set apart for the use of members who desire to give passes to friends who may be visiting in the city. As it is now only a very small portion of the gallery is set apart for that purpose.

The SPEAKER. The question is on the amendment suggested by the gentleman from Illinois.

The amendment was not agreed to.

The resolution, as amended, was then agreed to.

Mr. FRYE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. ATKINS. I now move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the legislative appropriation bill.

Mr. COX. Before that motion is put I desire to say to the House that on next Thursday——

The SPEAKER. Debate is not in order.

Mr. COX. I do not propose to debate anything. I am simply making an announcement to the House. I wish to state that I will waive the question of consideration to-day if the gentleman from Tennessee desires to go on with the appropriation bill, with the understanding that I shall bring up the apportionment bill on Thursday morning next, after the morning hour.

Mr. ATKINS. I desire to say——

The SPEAKER. Debate is not in order.

Mr. ATKINS. I merely wish the same privilege the gentleman from New York had.

The SPEAKER. The Chair does not wish to allow any privilege, as no debate is in order on this question.

Mr. ATKINS. I want to say, lest it might be taken as a tacit understanding on my part, if I remained silent, that I will press the consideration of the legislative appropriation bill on Thursday next. I desire to give notice to the House that on Thursday I shall endeavor to proceed with the consideration of this appropriation bill.

Mr. COX. Then I give notice that I will contest it by raising the question of consideration on the apportionment bill.

Mr. HOUSE. I rise to make a parliamentary inquiry.

Mr. COX. I shall insist on the question of consideration to-day.

Mr. HOUSE. I understand the gentleman from Tennessee has moved that the House resolve itself into Committee of the Whole on the state of the Union to consider the legislative appropriation bill. Can the gentleman from New York now raise the question of consideration?

The SPEAKER. The way to raise the question of consideration under the rule would be to vote down the proposition.

Mr. HOUSE. Of the gentleman from Tennessee?

The SPEAKER. Yes.

Mr. HOUSE. All right.

Mr. REAGAN. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. REAGAN. Is the motion of the gentleman from Tennessee merely to go into Committee of the Whole or to go into Committee of the Whole to consider a particular bill?

The SPEAKER. The Chair thinks the gentleman from Tennessee under clause 9 of Rule XVI has the right to indicate the particular bill that he wants the House to go into Committee of the Whole to consider. The Clerk will read that clause.

The Clerk read as follows:

> At any time after the expiration of the morning hour it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue or general appropriation bills.

The SPEAKER. When the House was acting on business from the Ways and Means Committee the chairman of that committee always, without controversy, moved that the House go into Committee of the Whole on the state of the Union to consider the particular bill, the funding bill for instance.

Mr. REAGAN. I desire to call the attention of the Chair to clause 7 of Rule XI, where it is provided:

> The Committee on Commerce shall have the same privilege in reporting bills making appropriations for the improvement of rivers and harbors as is accorded to the Committee on Appropriations in reporting general appropriation bills.

The SPEAKER. The Chair has not denied that right to the Committee on Commerce in any particular, but merely gave preference to the Appropriations Committee because of former notice.

Mr. REAGAN. If the Chair will allow me one moment, I wish to say this: if the motion is to go into Committee of the Whole to consider a particular bill, I desire to know it that I may now antagonize it.

The SPEAKER. The gentleman's remedy is to try to vote down the proposition. If it should be voted down, the Chair would then accord to the Committee on Commerce the same right as is now accorded to the Committee on Appropriations.

Mr. REAGAN. Then I ask the House to vote down the pending proposition, and give notice that I shall thereafter move that the House resolve itself into Committee of the Whole for the purpose of considering the river and harbor bill.

The question being taken on the motion of Mr. ATKINS, the affirmative vote was 109.

Mr. McLANE. I rise to a parliamentary inquiry.

The SPEAKER. Before hearing the gentleman's inquiry, the Chair would prefer to finish the count.

Mr. McLANE. My inquiry might influence the count.

The negative vote was then counted; and there were noes 82.

Mr. McLANE. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. McLANE. I intend to call for the yeas and nays on this vote, but before I do so I desire to make a parliamentary inquiry. I desire to know whether the ruling of the Chair upon the ninth clause of Rule XVI excludes the Committee of the Whole on the state of the Union from exercising its discretion?

The SPEAKER. The Chair has never decided what the Committee of the Whole House on the state of the Union shall do.

Mr. McLANE. I understood the Chair to rule distinctly——

The SPEAKER. The Chair did not rule as to any proceeding in the Committee of the Whole on the state of the Union.

Mr. McLANE. I understood the Chair to rule distinctly that the gentleman from Tennessee had the right——

The SPEAKER. The gentleman misunderstood the Chair; and there was nothing in the language of the Chair that would give a semblance to such a proposition. The Chair rules in the House. The Committee of the Whole controls its own action.

Mr. McLANE. I beg pardon if I am not understood by the Chair; but I understood the Chair to rule that the gentleman from Tennessee had the right to indicate what bill should be taken up in Committee of the Whole.

The SPEAKER. That is right. That is in the House. The Committee of the Whole must work out its own difficulties.

ENROLLED BILLS SIGNED.

Pending the announcement of the result of the vote on the motion of Mr. ATKINS,

Mr. COFFROTH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. No. 939) to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bills of the following titles; when the Speaker signed the same:

A joint resolution (H. R. No. 388) to provide for publishing an edition of Hayden's Atlas of Colorado;

A bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor;

A bill (H. R. No. 735) for the relief of Dr. John Blankenship;

A bill (H. R. No. 706) for the relief of A. B. Rowden;

A bill (H. R. No. 7098) making an appropriation for the flooring of the National Museum;

A bill (H. R. No. 6527) to grant to corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake known as Carr Lake, situated near said city; and

A bill (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York.

RELIEF OF JEANNETTE EXPEDITION.

Mr. WHITTHORNE. I ask unanimous consent to take from the Speaker's table the bill (S. No. 2131) appropriating money, to be used under the direction of the Navy Department, to prosecute a search for the steamer Jeannette of the arctic exploring expedition, and move that the same be referred to the Committee on Appropriations with instructions to report back the same during the present week.

The SPEAKER. That requires unanimous consent.

There was no objection, and it was so ordered.

TAX ON BANK CAPITAL AND DEPOSITS, ETC.

The SPEAKER, by unanimous consent, laid before the House a resolution of the board of directors of the Merchants' Exchange of Saint Louis, recommending the repeal of the special taxes levied upon the capital and deposits of banks and bankers, and also the special tax upon bank checks; which was referred to the Committee on Ways and Means.

EXECUTOR OF WALTER R. IRWIN.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, recommending an appropriation of $317 for the payment of the executor of Walter R. Irwin; which was referred to the Committee on Appropriations.

CENSUS OFFICE BUILDING.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, recommending an appropriation of $5,000 for the rent of the building occupied by the Census Office; which was referred to the Committee on Appropriations.

SPRINGFIELD ARMORY.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the pay of the master armorer of the Spring-

field armory; which was referred to the Committee on Appropriations.

SURVEY OF RIVERS IN NORTH AND SOUTH CAROLINA.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of the surveys of Black and other rivers in South Carolina, and of Cape Fear and other rivers in North Carolina; which was referred to the Committee on Commerce, and ordered to be printed.

NATIONAL BOARD OF HEALTH.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting the report of the National Board of Health for the quarter ending December 31, 1880; which was referred to the Select Committee on the origin, introduction, and prevention of Epidemic Diseases in the United States.

ORDER OF BUSINESS.

The SPEAKER. The vote upon the motion of the gentleman from Tennessee [Mr. ATKINS] was—ayes 109, noes 82. The motion is agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union.

Mr. ATKINS. I ask consent that the first and formal reading of the legislative, executive, and judicial appropriation bill be dispensed with.

Mr. REAGAN. I move to take up the river and harbor appropriation bill, which precedes that bill on the Calendar.

The CHAIRMAN. The Clerk will read the order under which the House resolved itself into Committee of the Whole on the state of the Union, after which the Chair will consider and decide what can be done under that order.

The Clerk read as follows:

Mr. ATKINS moved that the House resolve itself into Committee of the Whole on the state of the Union to consider the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes.

Which said motion was agreed to.

Mr. REAGAN. The objection I make to taking up the legislative appropriation bill at this time is that no order of the House can change the rules of the House. Under the rules the Committee of the Whole must decide its order of proceedings. The rule of the House cannot be changed by an order of the House, except by unanimous consent, or on one day's notice. The order of the House was to go into Committee of the Whole on the state of the Union, and the order of business in Committee of the Whole prescribed by the rules of the House cannot be changed by a simple order of the House in contravention of the rules.

I will state further that, as I understand it, the river and harbor appropriation bill stands upon the Calendar of the Committee of the Whole ahead of the legislative, executive, and judicial appropriation bill. Now, I have no personal desire to antagonize the legislative, executive, and judicial appropriation bill; but in the present condition of the business of the House we consider that the river and harbor appropriation bill should be first considered and disposed of. We desire such action as will not injure public interests by defeating the bill making appropriations for river and harbor improvements.

Mr. ATKINS. I hope the Committee of the Whole will sustain the order which the House has made and take up for consideration the legislative, executive, and judicial appropriation bill. That is the great pay bill of the Government; its appropriations are to carry on the various Departments of the Government; and it is therefore a far more important bill than the river and harbor appropriation bill. I voted yesterday with the gentleman for the river and harbor appropriation bill; so far as that is concerned, I have no antagonism whatever to it. But I am unwilling that the river and harbor bill, having had its chance, should now be allowed to come in and displace the legislative appropriation bill. I hope that members on both sides of the House will agree now to take up this great pay bill which carries on all the Departments of the Government, without which there must be an extra session of Congress.

Mr. REAGAN. This river and harbor appropriation bill occupies such a position that if its consideration and passage are delayed until the third Monday of this month there will be but nine working days of the session left, and it is doubtful whether the Senate will then have sufficient time to act upon it. Besides, under the ruling of the Speaker, the chances are that the Committee on Commerce would not be recognized on that day; it could not be if the Chair should adhere to the ruling he has made. Therefore, I tell the members of this House now that in my judgment the decision we shall make upon this question will determine whether we are to have any river and harbor bill or not.

Mr. ATKINS. I think that in two or three days we can get through with this legislative appropriation bill if we work steadily at it. And certainly two or three days will not defeat the river and harbor appropriation bill, if we can get through at all.

Mr. LOUNSBERY. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. LOUNSBERY. My point of order is that the order of the House confines the action of this Committee of the Whole to a particular bill and it has not power to act upon any other bill.

The CHAIRMAN. The Chair was about to decide the point of order, and to suggest to the gentleman from Texas [Mr. REAGAN] the only way in the judgment of the Chair in which the order of the House can be avoided.

It is undoubtedly true that the Committee of the Whole on the state of the Union bears the same relation to the House that every other committee does, and is bound just as much as any other committee is bound by any order or instruction which the House may give it. It is not in the power of the chairman of the committee, or of the committee itself, to overrule an order which the House has made, no matter what the chairman or the committee may think of the propriety of that order. Therefore, the House having resolved itself into Committee of the Whole on the state of the Union for the purpose of considering a particular bill, the chairman of the committee cannot lay before the committee for its consideration any other bill. If gentlemen are dissatisfied with that order of the House, a motion that the committee rise may be made and entertained; and if agreed to, then, when in the House, the order may be made that the House may resolve itself into Committee of the Whole on the state of the Union generally, in which event the motion made by the gentleman from Texas in regard to the river and harbor appropriation bill would be in order; or it may resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the river and harbor appropriation bill or any other bill pending in the committee. The sense of the House may be taken in that way, and when its will has been expressed the committee must obey it; and this is all that the Chair decides on the point now made.

Mr. REAGAN. I will submit that motion.

Mr. McLANE. Before the motion is made that the committee rise I desire the indulgence of the Chair, if he will hear me for one moment.

The CHAIRMAN. Certainly.

Mr. McLANE. I submit to the Chair, not with a view especially to this question, because the gentleman from Texas has indicated his intention to pursue another course, but in view of the rules of the House and its practice, I desire to submit to the Chair——

Mr. HAYES. Has not the Chair already decided this question of order?

The CHAIRMAN. But the gentleman from Maryland asks permission to be heard.

Mr. ATKINS. I object.

Mr. REAGAN. I move that the committee rise.

Mr. SPRINGER. I rise to a question of order. I ask the Clerk to read clause 4 of Rule XXIII, on page 181 of the Manual.

The CHAIRMAN. For what purpose does the gentleman desire the rule to be read? The Chair has decided the question of order.

Mr. SPRINGER. This rule provides——

Mr. ATKINS. Does the gentleman appeal from the decision of the Chair? If not, I make the point of order that he is out of order.

Mr. SPRINGER. I have risen to a question of order.

The CHAIRMAN. The gentleman will please state his question of order.

Mr. SPRINGER. My point is that the House is now in Committee of the Whole on the state of the Union for the consideration of bills in that committee, and that clause 4 of Rule XXIII is to govern our proceedings. I read that clause:

In Committees of the Whole House, business on their calendars shall be taken up in regular order, except bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors, which shall have precedence, and when objection is made to the consideration of any bill or proposition, the committee shall thereupon rise and report such objection to the House, which shall decide, without debate, whether such bill or proposition shall be considered or laid aside for the present; whereupon the committee shall resume its sitting without further order of the House.

The CHAIRMAN. The Chair has just decided that if the House had resolved itself into Committee of the Whole generally, that rule would govern; but when the House has given the committee an order the committee must follow that order.

Mr. SPRINGER. The Chair will pardon me for saying that it is not in order to move to go into Committee of the Whole for the consideration of a particular bill except by unanimous consent.

The CHAIRMAN. That was a question for the House; the Committee of the Whole cannot overrule the action of the House.

Mr. BLOUNT. I demand the regular order.

The CHAIRMAN. The regular order being demanded, the question is on the motion of the gentleman from Texas, that the committee rise.

The question being taken, there were—ayes 68, noes 93.

Mr. REAGAN. I call for tellers.

Tellers were not ordered.

So the motion that the committee rise was not agreed to.

Mr. REAGAN. Can an appeal be taken from the decision of the Chair? [Cries of "Too late!"]

The CHAIRMAN. Of course it is too late under the rules to take an appeal; but the Chair would be well satisfied to have the appeal taken and decided.

Mr. KENNA. I hope the gentleman from Texas will not take an appeal.

Mr. HARRIS, of Virginia. I think that under the circumstances,

the committee acting under the instruction of the House to consider a particular bill, the Chair would have no right to entertain an appeal.

Mr. REAGAN. That is the very point of the question.

Mr. ATKINS. I make the point that it is too late to take an appeal.

The CHAIRMAN. The point is made that the appeal comes too late. The Clerk will proceed to read the bill.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Clerk read as follows:

A bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes.

Mr. ATKINS. I ask unanimous consent that the first reading of the bill for information be dispensed with.

There being no objection, it was ordered accordingly.

Mr. ATKINS. Mr. Chairman, after the waste of an hour of precious time this morning, I do not feel disposed to make any extended remarks on this bill. If the House will give me its ear, I think I can in from three to five minutes, give some idea of the differences between the present bill and the law making appropriations for the legislative, executive, and judicial expenses of the Government for the current year.

The estimates for this bill amount to $17,771,857. The bill appropriates $17,181,091. The estimates exceed the appropriations in the bill by the sum of $590,766. The appropriations proposed in this bill exceed those embraced in the law for the current year by the sum of $879,885. The appropriations for the current year aggregate $16,301,205. The increase of $879,885 in the present bill over the appropriation act for the current year consists principally of increased appropriations for the Internal Revenue Department. For salaries and expenses of collectors and deputy collectors in that department there is an increase of $50,000; for salaries of agents and surveyors and their expenses, an increase of $400,000; and for dies, paper, and stamps, $67,000, aggregating $517,000.

It is estimated that the internal revenue during the coming year will reach the enormous sum of $135,000,000, requiring additional collectors, clerks, and other employés of every description and various increased expenses to collect this additional amount of revenue. There is a considerable increase of distilleries, tobacco factories, &c.

Then, sir, the increased expenses of Congress amount to nearly $58,000 on account of provision being made for a long session instead of a short one. For the independent treasury there is an increase of a little over $50,000, of which, however, $50,000 is intended for the reissue of United States Treasury notes in place of mutilated notes that may be brought in. The appropriations for mints are increased $23,000. Then there is an increase of $33,000 for expenses of territorial governments in consequence of the repeal of the former law fixing the limit of sessions of territorial Legislatures.

When I was not here during the present session of Congress a bill was introduced repealing the act passed a few years ago which required only forty days' session for the Legislative Assembly of each Territory, and that time was extended from forty days to sixty days. This repeal was secured by reference simply to the section of the Revised Statutes, and without any other caption it went to the Senate and in the same way was passed there. I venture to say there are not ten men in this House to-day who know that law was repealed, but so it was that the law was repealed, and by this increase of the sessions of territorial Legislatures from forty days to sixty days there has been an increase of expense of $33,000, which is appropriated for in this bill.

Then we have increased the Land Office $20,000, and for surveyors-general and their clerks $15,000. The Pension Office has an increase of over fourteen thousand dollars. There is a heavy increase for the Patent Office of over thirty-six thousand dollars. We have increased the clerical force of the Patent Office thirty-three in number, and we have also provided for an increase of clerical force in the Post-Office Department of some twenty-eight. Slight increase has been made in other respects in the bill.

There are but three or four salaries in this bill that have been increased. In the first place, we have created one new office. The officer, however, was discharging his duties before, but he was paid in a different way from that which we now provide. We have put upon the regular roll what is called a Government actuary. The officer has been in existence for several years, but paid out of the appropriation for the standard silver dollar. We now put him on the regular roll at a salary of $2,000 a year. He is deemed a necessary officer by the Secretary of the Treasury and other officers of the Government.

We have put back the salary of the Auditor of Railroads to $5,000, the sum at which it was fixed in the Thurman bill. It was reduced to $3,600 in one of the appropriation bills. The committee are satisfied that the duties of that officer are so important to the Government, he having charge of the accounts of the various railroads to which the Government has given aid, amounting to over one hundred million dollars in which the Government is interested in these various roads, we feel it is important we should put this man back to the former salary for the reason that he is rather an expert than otherwise. We have also given an increased salary to his engineer. His present engineer gets $2,000, and we have increased it to $3,000. For the same reason we have increased the salary of the Auditor of Railroads from $3,600 to $5,000. I believe these are the particular points wherein this bill changes the former appropriation bill. We have increased the salary of the chief clerk of the First Assistant of the Post-Office Department, who has been in service for fifty years. He began his public service in the same position which he now holds some fifty years ago under General Jackson, and he has been there ever since through every successive administration no matter what the politics may have been. For that venerable Mr. Marr we have provided that his salary shall be $2,500 in the future; and these are the only changes. I believe I have stated the material difference between this bill and the present law.

The CHAIRMAN. If no other member desires to address the committee in general discussion the bill will now be read by paragraphs for amendment.

Mr. ATHERTON. If no other member has done so I wish to reserve all points of order.

The CHAIRMAN. That has already been done.

The Clerk read as follows:

That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, in full compensation for the service of the fiscal year ending June 30, 1882, for the objects hereinafter expressed, namely:

LEGISLATIVE.

Senate:

For compensation of Senators, $380,000.

Mr. DIBRELL. I offer an amendment, Mr. Chairman, to go in there, covering the Senate as well as the House.

The Clerk read as follows:

After the word "dollars," in line 11, insert the following:

"*Provided*, That no Senator or Representative in Congress shall be paid his monthly salary during any session of Congress until he shall have certified to the Clerk of the Senate or Sergeant-at-Arms of the House that he has not been absent from the sittings of the Senate or House during the time for which he demands pay, except on account of sickness of himself or family; and all absence, otherwise than for sickness, shall be deducted from the monthly pay of said Senator or Representative."

Mr. ATKINS. I believe that is the law now, but I have no objection to the amendment.

Mr. DIBRELL. The law is they shall not have compensation for absence, but this requires the Sergeant-at-Arms or Clerk of the Senate to deduct it from their pay. It will save $100,000 a year, as every man knows.

Mr. YOUNG, of Tennessee. I suggest by the terms of that amendment if a member were absent under the order of the House he would have to make the same certificate before he could receive his money.

Mr. DIBRELL. He is doing his duty as a member of Congress when absent under the order of the House, and therefore it does not apply to him at all.

Mr. YOUNG, of Tennessee. Will the gentleman amend by saying absent by order of the House?

Mr. KEIFER. Absent on duty, you mean.

Mr. YOUNG, of Tennessee. Of course; absent on duty.

Mr. TOWNSHEND, of Illinois. Not by leave of the House.

Mr. YOUNG, of Tennessee. Absent by order of the House.

Mr. CLYMER. The order of the House is the leave of the House.

Mr. SPRINGER. That ought to be amended by inserting "by leave of the House."

Mr. DIBRELL. I object to that amendment.

Mr. SPRINGER. This is substantially the law as it now exists. If you make it as stringent as it is here it will not be enforced. If you intend to let this operate upon members who are habitually absent, (and I presume that is the intention of it,) it should be worded so as to reach their cases; but the House would still have the right to grant leave of absence to its members. There are members who with the approbation of their constituents could obtain the leave of the House to their temporary absence. That should not be deducted then.

Now, Mr. Speaker, as to the misuse of the term sickness. That has become a great abuse. What is meant by sickness? What is to be understood as covering that term? When we have a call of the House at nights the excuses given for absent members would seem to indicate that three-fourths of our members are under the care of physicians. The term sickness is entirely too loose and indefinite to apply to such a case as this; but to put in the words "by leave of the House" it would apply to all cases of habitual absence, because those members who are habitually absent are not supposed to be absent by leave of the House except in case of sickness. As worded now it seems to me the amendment is too indefinite to reach those persons whom it is contemplated to reach by the amendment.

Mr. DIBRELL. I do not think, Mr. Speaker, that any member of the Senate or House would certify on honor that he was sick when he was simply at home attending to private business. That, of course, would have to be left to the honor of the member himself. It would depend entirely upon his honor in any event.

Mr. YOUNG, of Tennessee. Suppose some member of his family is dangerously ill, and his absence is enforced in that way, would it be right to deduct his pay under those circumstances?

Mr. DIBRELL. Any member can get leave of absence when he wants it. That fact is well known here.

Mr. SPRINGER. I move to amend the original proposition by inserting "except by a leave of the House of which he is a member."

The CHAIRMAN. The resolution will be read as it is proposed to be amended.

The Clerk read as follows:

*Provided*, That no Senator or Representative in Congress shall be paid his monthly salary during any session of Congress until he shall have certified to the Secretary of the Senate and Sergeant-at-Arms of the House that he has not been absent from the sittings of the Senate or House during the time for which he demands pay, except on account of sickness of himself or family or by leave of the House of which he is a member; and all absence otherwise than as specified shall be deducted from the monthly pay of said Senator or Representative.

Mr. DIBRELL. The amendment suggested by my colleague was "by order of the House," because he can get leave of the House, and that would enable him to draw his pay as if he were present attending to his duty.

Mr. ATHERTON. It should be so amended as to specify "by order of the House, and on official business;" and I suggest that amendment.

The CHAIRMAN. There is an amendment already pending.

Mr. KEIFER. I desire, Mr. Chairman, to make an inquiry, whether it is proper to make a point of order against an amendment to a pending amendment to a bill? If so, then I make the point of order that the amendment proposed by the gentleman from Illinois [Mr. SPRINGER] is not in order, because it changes existing law. The amendment offered by the gentleman from Tennessee I do not think is subject to that objection. It does not change existing law, although the other amendment, I submit, does; and I wish the Clerk to read section 40 of the Revised Statutes.

The Clerk read as follows:

The Secretary of the Senate and the Sergeant-at-Arms of the House, respectively, shall deduct from the monthly payments of each Member or Delegate the amount of his salary for each day that he has been absent from the Senate or House, respectively, unless such Member or Delegate assigns as the reason for such absence the sickness of himself or of some member of his family.

Mr. ATKINS. As I suggested to my colleague from Tennessee, that is the law as it now exists.

Mr. KEIFER. Now, the amendment of the gentleman from Illinois would change this existing law, as it exempts from the operation of that section of the statute all persons who are absent by leave of the House. Therefore I think it changes existing law, and in that view it cannot be said to be in the interest of economy either. I like the original amendment.

Mr. BAKER. I do not like any of these amendments. They will not accomplish anything. If men are sent here by the people to represent them who have not a sufficient sense of moral responsibility to attend to their public duties and look after the public business entrusted to them, you cannot throw any drag-net around them to bring them in. Your proposed legislation is a skimmer that will not hold water.

The only effect will be this: it is the duty under the law of the accounting officers in making up the accounts of members to deduct for all absence. The statute provides that no pay shall be allowed therefor. That is the existing law, and yet it is inoperative; it cannot be done. The accounting officers cannot comply with it. The only way in which they can do it is to require every member before he draws a dollar to give from day to day a certificate, on his honor, on a blank piece of paper that he has not been absent, and that he has been here all the time attending to his duties in accordance with the law. These amendments would have no effect to prevent absenteeism. They would not reach that class of members who are derelict in their duties. I submit, Mr. Chairman, that unless you can require a certificate in every case, or unless you can so provide that the Sergeant-at-Arms may not pay to a member a single dollar until he presents a certificate covering the case, the law amounts to nothing in the way of addition to what we have already upon the statute-books. And if you do put it in that way, if you make it as stringent as you please, it will result simply in this: that the member who happens to be poor, as the most of us probably are on this floor, who cannot certify from day to day, as he would be required to do, and yet who is attending to his public duties faithfully, is deprived of his pay although in fact the man who is habitually absent may escape the results by technical privileges extended by the House.

The CHAIRMAN. The Chair thinks the amendment proposed by the gentleman from Illinois simply creates another exemption which is not now authorized by law, and that therefore to that extent it changes existing law and certainly is not in the line of retrenchment, and is therefore out of order.

Mr. DIBRELL. Mr. Chairman, I do not intend to take up the time of the committee with the discussion of this proposition. It seems to be simple enough. It does not apply to members who are here in the discharge of their duties or temporarily absent for a brief time on attendance at the Departments here in the interest of their constituents.

Mr. BAKER. Let me ask the gentleman a question. How can the Sergeant-at-Arms know whether a man is here or not unless he has the certificate of that man?

Mr. DIBRELL. This provides the member shall certify; and no man who is here and attending to his duties will object to that.

Mr. ROBINSON. I believe it is the business of the members to be present in the House, and the practice of a good many is in accordance with that theory. But suppose it should happen that some gentleman who is here every single day of the session should have occasion, after the House is called to order, to step down to one of the Departments on some business as much official as his serving here, then he cannot come back and sign his name to a statement he has been here during the sittings of that day. He will withhold, if an honest man, putting his name to such a certificate, thereby forfeiting the amount of the pay for that day's service.

You are attempting to throw a net around the men who will decline to make a false statement, who will be so conscientious about it that they will not certify to their being here unless they are actually in their seats the whole time. And, besides, they will be very careful not to sign something that can be tortured into a misstatement. On the other hand, gentlemen who will be absent from their duty in this House, disregarding the duty they owe to their constituents, will in some way avoid the effect of any such certificate as that, and will draw their pay, much to our chagrin, perhaps.

I submit the law is sufficient now as it stands, and I hope we will not attempt to legislate upon this in an appropriation bill in this hasty way without consideration, cutting we do not know where, hitting ourselves where we should not be hit. There is not a full House now in this Committee of the Whole. I fancy that in the city of Washington at this moment there will be found gentlemen on the streets or at the hotels who have been here this morning. There seem to be a good many vacant chairs. Where will you draw the lines? It seems to me this would lead to absurd consequences and to matters that would annoy gentlemen that are here in good faith from day to day attending to their duties.

Mr. ROBESON. I move to strike out the last word. I agree with what the gentleman from Massachusetts [Mr. ROBINSON] and the gentleman from Indiana [Mr. BAKER] have said. We cannot make good Representatives by legislation. Every man who is here represents his constituents, and is responsible to them for the discharge of his duty. Legislative duty is not confined to sitting always in the close air of this Hall, nor does it consist merely in being always here to vote ay or no upon any or every proposition. It includes the whole range of political reflection, of political investigation, and political action. Representatives often, when time and occasion presses, wish to investigate subjects which cannot be investigated in the immediate presence of this House. They often are required to have intercourse with officials, and to discharge official duties in other places. To themselves and to their own sense of propriety, and to their responsibility to their constituents, must this question be finally left. Do not deceive yourselves, gentlemen. You cannot make good Representatives by direct legislation, nor enforce personal duty by parliamentary resolves. The constituents of the gentleman from Tennessee or those of my venerable friend from Georgia [Mr. STEPHENS] may prefer to have him here for one day in the week than not to have him at all, or to have me or anybody else here every day in the week. To them let this question be referred, and let them act upon it at each recurring election, as is provided by the Constitution of their country.

I withdraw the formal amendment.

Mr. ATHERTON. If in order, I would like to offer an amendment to the amendment, the other having been ruled out of order. I would add after the words "except on account of sickness of himself or family" the words "or on official business."

It seems to me, Mr. Chairman, we ought to do something to prevent the absenteeism which has been the fruitful source of spending a great deal of unnecessary time in attempts to do the business of the House. Men have been absent for the purpose of attempting to procure public office elsewhere. They have been absent in Europe two or three months at a time. Should they be paid for the time they were away on business of that kind, pertaining to their own private interests? Or should they be paid for the time they have spent abroad in seeking pleasure or in seeking something other than what the public interest demanded? If they are in the city attending at the Departments to business of their constituents, in accordance with the language of the amendment I have proposed they can certify upon their honor that they were still attending to the business for which their constituents had sent them. But if they are not absent either by reason of the sickness of themselves or of sickness in their families, or upon the business of their constituents, they are robbing the people of the money they pretend to earn.

We have been here from time to time, staying long periods, attempting to get a quorum, attempting to do the public business for which we are sent here, and our efforts have been neutralized and destroyed because men saw fit to stay away, either for their own pleasure or their private business, or because they saw fit to spend their time about the streets or in the public places of this city when they ought to be here attending to the business of their constituents.

I hope this amendment in some shape or other may prevail, and that we shall either have the benefit of the presence of the representatives of the people, or that the people shall not be compelled to pay for services that are not rendered.

Mr. ATKINS. Let us now have a vote.

The CHAIRMAN. The question is on the adoption of the amendment proposed to the amendment by the gentleman from Ohio, [Mr. ATHERTON.]

Mr. DIBRELL. I will accept that amendment as a portion of mine, if I am permitted.

The CHAIRMAN. That is the gentleman's right. The amendment will be read as now modified.

The Clerk read as follows:

*Provided*, That no Senator or Representative in Congress shall be paid his monthly salary during any session of Congress until he shall have certified to the Secretary of the Senate or Sergeant-at-Arms of the House that he has not been absent from the sittings of the Senate or House during the time for which he demands pay, except on account of sickness of himself or family or on official business; and all absence otherwise than specified shall be deducted from the monthly pay of said Senator or Representative.

Mr. ROBESON. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ROBESON. If this amendment prevails will it be effective for any more than the present month?

The CHAIRMAN. The Chair does not think that is a parliamentary inquiry.

Mr. ROBESON. I wanted to know whether this is demagoging for a month only, or whether it is demagoging for a whole year.

Mr. ATHERTON. In my opinion, if there had been such a law as this so many members would not have been at home looking for Senatorships.

Mr. ROTHWELL. I desire to offer an amendment.

The CHAIRMAN. The amendment will be read.

The Clerk read the amendment, which was to add the following:

*Provided*, That all members shall be allowed an offset for night sessions and extra sessions of Congress.

Mr. REED. Gentlemen certainly will not object to that amendment.

Mr. DIBRELL. I raise the point of order on that amendment that it changes existing law.

Mr. YOUNG, of Tennessee. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. YOUNG, of Tennessee. Is it not obnoxious to a point of order to offer an amendment which will facilitate the absence of members?

The CHAIRMAN. The Chair will decide that point when it is raised. The Chair rules that the amendment offered by the gentleman from Missouri [Mr. ROTHWELL] is not in order.

Mr. McCOOK. Do I understand the Chair to rule the amendment out of order?

The CHAIRMAN. The Chair does, because it changes existing law and does not retrench expenditures.

Mr. McCOOK. I should like to hear the gentleman from Missouri on that.

The CHAIRMAN. The question is upon the amendment of the gentleman from Tennessee [Mr. DIBRELL] as modified.

The amendment was not agreed to, upon a division, ayes 20, noes not counted.

The Clerk read the following, under the heading "House of Representatives:"

For one electrician, $1,150; and one laborer, $800.

Mr. STONE. I move to amend by inserting after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

And all engineers and others who are engaged in the heating and ventilating the House shall be subject to the orders and in all respects under the direction of the Architect of the Capitol.

Mr. ATKINS. That is already the law. It was enacted in the last legislative appropriation bill.

Mr. STONE. It is not in this bill.

Mr. ATKINS. It has been left out of this bill, but it is the law.

Mr. STONE. I understand that every provision of the last appropriation bill does not remain permanently the law.

Mr. ATKINS. Very well; let it go in, then.

Mr. STONE. It has been suggested by the Architect of the Capitol that there might be some question about the matter if the provision was not contained in this bill. It is desirable that this branch of the service should be under his directions.

Mr. ATKINS. No matter; let it go in.

The CHAIRMAN. If it does not change existing law, it is not subject to a point of order.

Mr. CANNON, of Illinois. I want to move an amendment to the amendment.

Mr. BAKER. I ask the Clerk to read the text of the last appropriation bill upon this point, in order that the committee may determine whether or not it is a continuing law.

The CHAIRMAN. Will the gentleman send it up to the Clerk's desk?

Mr. BAKER. I have it here; my impression is that it is not a continuing law.

Mr. STONE. That is my judgment about it, and that is the reason I have moved this amendment.

The CHAIRMAN. The Clerk will read the provision of the last appropriation bill upon this subject.

The Clerk read as follows:

And the electrician, together with everything pertaining to the electrical machinery and apparatus, and all laborers and others connected with the lighting, heating, and ventilating the House, shall be subject exclusively to the orders and in all respects under the direction of the Architect of the Capitol, subject to the control of the Speaker; and no removal or appointment shall be made except with his approval. And all engineers and others who are engaged in heating and ventilating the House shall be subject to the orders, and in all respects under the direction, of the Architect of the Capitol, subject to the control of the Speaker; and no removal or appointment shall be made except with his approval.

Mr. ATKINS. I think it is mere surplusage in this bill.

Mr. CANNON, of Illinois. I ask the gentleman from Michigan [Mr. STONE] to insert the word "hereafter," so that it may become permanently the law.

Mr. CLYMER. I suggest to the gentleman to take the clause of the last appropriation bill.

Mr. STONE. I will do so.

Mr. ATKINS. It has been decided by the courts that an appropriation bill is a law. At the end of every appropriation bill is the provision "that all acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed."

Mr. STONE. I understand there have been different decisions. I will adopt the suggestion of the gentleman from Pennsylvania [Mr. CLYMER] and move as an amendment the provision of the last legislative appropriation bill on this subject, with the insertion of the word "hereafter" after the first word "and," so that it may be a continuing law.

The CHAIRMAN. The Clerk will report the amendment as now offered.

The Clerk read as follows:

And hereafter the electrician, together with everything pertaining to the electrical machinery and apparatus, and all laborers and others connected with the lighting, heating, and ventilating the House, shall be subject exclusively to the orders and in all respects under the direction of the Architect of the Capitol, subject to the control of the Speaker; and no removal or appointment shall be made except with his approval. And all engineers and others who are engaged in heating and ventilating the House shall be subject to the orders, and in all respects under the direction, of the Architect of the Capitol, subject to the control of the Speaker; and no removal or appointment shall be made except with his approval.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

For Botanic Garden: For pay of superintendent, $1,600; for assistants in Botanic Garden and greenhouses, and laborers, under the direction of the Library Committee of Congress, $9,900; in all, $11,500.

For improving the garden, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress $5,000.

Mr. MILLS. I desire to offer an amendment which I am satisfied will not be objected to by the Committee on Appropriations, to insert after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

And all such shrubs and plants as shall be propagated at all the greenhouses and nurseries of the Government in excess of what may be required each year for the public grounds shall be distributed in the congressional districts of the United States.

Mr. MILLS. Under a former law the superintendent at one of the gardens held that he was prohibited from distributing to citizens of the United States the excess of plants and shrubs propagated by him. He has informed me that in the propagation of those plants and shrubs for the adornment of the public grounds in this city he necessarily raises more than there is any use for in those grounds. My amendment provides only that as regards the excess of such shrubs and plants as may not be wanted here he may be permitted, on application of members of Congress when their constituents write for them, to send them out through the country. I think the Committee on Appropriations will have no objection to this amendment.

Mr. ATKINS. Is it broad enough to include both public gardens?

Mr. MILLS. It says "all the greenhouses and nurseries of the Government."

Mr. HAWLEY. I should like a little more information as to the bearing of this amendment. The gentleman from Texas has probably considered its effect; but I would prefer to provide that these gardens shall cultivate only what is necessary for the public grounds, unless in certain special cases where there may be some new development that will be of general use to the country; and that would most properly come under the direction of the Agricultural Department, which devotes itself largely to such subjects. I am a little jealous of starting out upon a new line of expenditure. The shrubs and plants cultivated in the Botanic Garden and other Government gardens are, to a large extent, different in no sense from those raised in private nurseries and gardens. People can buy them in their own localities. But if you begin the distribution of such plants and shrubs to the public, the demand upon each member will gradually increase, and he will be expected to send out, in addition to public documents, enough of these flowers and plants to supply the private garden of every man in his district with all sorts of pleasant and pretty shrubs and flowers.

If the Government is to go to any expense in the cultivation of plants, &c., not needed for the public grounds, it should be only in the direction of developing new and useful plants for agricultural and other purposes. Apart from that, the Botanic Garden and similar gardens belonging to the Government should be devoted to raising only what may be necessary for the public grounds. I am not willing to begin a new course of distribution not specially in the interest of science.

Mr. MILLS. I think the gentleman from Connecticut [Mr. HAWLEY] misunderstands the object of this amendment.

Mr. HAWLEY. Quite likely.

Mr. MILLS. The Superintendent of Public Buildings and Grounds, who is a salaried officer, has placed under his control a certain number of laborers, and he is required to propagate a certain amount of flowers and plants for the adornment of the public grounds. In order to insure the necessary quantity—say five hundred roses—he must plant propably enough to raise under favorable circumstances 1,500. He must make allowance for the possibility of heavy losses. In a fortunate year the whole 1,500 may live; in an unfortunate year two-thirds may die. Now this amendment does not involve the extra expense of a single cent. It simply provides that when, for instance, there is an excess of roses raised, they shall not be thrown away, but if there are, say, five hundred extra roses they shall be distributed through members of Congress to the people. It is only the excess beyond the demands of the public grounds that will be used in this way.

Mr. HAWLEY. My impression is that if an amendment of this kind should be adopted, it might become the rule hereafter to raise a large excess of these plants and flowers in the Government establishments to gratify the demands of our constituents.

Mr. MILLS. The only question is whether, when there is an excess raised in these gardens, it shall be thrown away or distributed among the people.

Mr. McGOWAN. In reference to this matter I desire to say that in pursuance of a resolution of the House the Committee on Agriculture has, through a sub-committee, made investigations concerning this subject, and will be able very soon to report upon the whole question of botanical and other gardens now belonging to the Government. At the suggestion of the Superintendent of Public Buildings and Grounds, who has charge of what is known as the monumental garden, the committee are likely to recommend that the whole matter of the distribution of plants and flowers be taken away from him; that he be entirely relieved of the annoyance and trouble of the matter, and that all the gardens be concentrated under one superintendent. I trust no amendment with reference to this subject will be adopted until that report can be heard by the House.

Mr. ATKINS. I supposed the investigation referred to had reference simply to the Agricultural Department.

Mr. McGOWAN. Not at all; but to all the gardens under the care of the Government—the Botanic Garden, the Agricultural Garden, and the gardens of our public buildings and grounds.

Mr. ATKINS. It is my impression that the Botanic Garden is not under the management of the Agricultural Department. I believe there is one garden under the direction of the Committee on the Library and one under the direction of the War Department.

Mr. McGOWAN. The gentleman will allow me to state that under the resolution of the House the Committee on Agriculture was charged with the investigation of the whole subject pertaining to all these gardens.

Mr. ATKINS. I was not aware of that.

Mr. McGOWAN. That is the fact. The investigation is nearly completed; and the committee will very soon be ready to report.

Mr. ATKINS. When did that resolution pass?

Mr. McGOWAN. At the last session of Congress.

Mr. ATKINS. I have no objection at all; but I was about to say in regard to the amendment of the gentleman from Texas that its object, as I understand, is not to increase the production of these shrubs, plants, flowers, &c., but simply to distribute the excess among the citizens of the United States after the distribution has been made for the usual purposes here in Washington. For my own part, I desire to say that if I had the power I would cut up this whole system, root and branch.

Mr. HAWLEY. The gentleman hardly seems to have comprehended me. I feared that the necessary, the direct, the natural result of this amendment might be a demand for an excess every year; so that those in charge of the botanic and other gardens would calculate that they must provide an excess above the needs of the public grounds in Washington, because members would be crying out for these plants and flowers for distribution to their constituents.

Mr. MILLS's amendment was rejected.

Mr. FORT. I ask the chairman of the committee having this bill in charge to permit me to go back. In a moment I will explain why I make the request.

Mr. ATKINS. Very well, I will withhold my objection until the gentleman has made his statement.

Mr. FORT. I was called out of the House, and not present when the part of the bill to which I wish to move an amendment was passed. I have here a resolution reported from the Committee on Accounts of this House in which they recommend the payment of one month's pay to Charles Demar, a former employé of this House, and a disabled soldier.

Mr. ATKINS. It will be proper to amend the deficiency bill in that particular as it is in the nature of a deficiency, but you cannot put it in this bill for it would be out of order.

Mr. FORT. I think the proper place would be in this bill.

Mr. CLYMER. You would not get it paid until next year.

Mr. ATKINS. Is it for services already rendered?

Mr. FORT. Yes, sir.

Mr. ATKINS. Then it is not germane to this bill.

Mr. BAKER. It belongs to the deficiency bill.

Mr. ATKINS. And when that bill comes up the gentleman can offer it.

The Clerk read as follows:

For compensation to the following in the office of the President of the United States: Private secretary, $3,250; assistant secretary, $2,250; two executive clerks, at $2,000 each; stenographer, $1,800; one clerk class 4; one clerk class 2; one telegraph operator, $1,400; one clerk class 1; steward, at $1,800; one day-usher at $1,400; one day-usher at $1,200; five messengers, at $1,200 each; two doorkeepers, at $1,200 each; one night-usher, $1,200; one watchman, $900; and one fireman, $864; in all, $32,864.

Mr. ATKINS. I offer the following amendment:

After line 380 insert:

"For the construction of an elevator in the Executive Mansion, $500, to be immediately available."

I offer that amendment, Mr. Speaker, by direction of the Committee on Appropriations.

Mr. HAWLEY. That amount will not build an elevator.

Mr. MILLS. I make the point of order on the amendment.

Mr. ATKINS. I am aware that it is subject to the point of order, but it has been urged on the part of a good many gentlemen, and I will not say the solicitation has been confined to the republicans. It has been urged by democrats as well as republicans that this elevator should be put in the Executive Mansion. It will be for the convenience of the inmates and I do not expect the republicans always to occupy that place. I am hopeful in four years from now we will have a good chance for it.

The CHAIRMAN. If the point of order is insisted upon the amendment must be ruled out.

Mr. HUMPHREY. If they have no better success than they have had for twenty years it will be a long time before my friends get into the White House. [Laughter.]

The CHAIRMAN. If the point of order is insisted upon the amendment must be ruled out.

Mr. ATKINS. I withdraw it if the point of order is insisted upon.

The Clerk read as follows:

Second Comptroller of the Treasury:

For Second Comptroller of the Treasury, $5,000; deputy comptroller, $2,700; five chiefs of division at $2,100 each; eight clerks of class 4; twelve clerks of class 3; thirteen clerks of class 2; twelve clerks of class 1; three clerks at $1,000 each; nine clerks at $900 each; one messenger and three laborers, in all, $98,320.

Mr. CARPENTER. I move to amend, in line 496 to strike out "five" and insert "six," so it will read "six chiefs of division;" and in line 497 to strike out "eight" and insert "seven," so it will read "seven clerks of class 4."

Mr. ATKINS. I make the point of order on that amendment.

Mr. CARPENTER. It is subject to the point of order.

Mr. ATKINS. Yes, and I make it.

Mr. CARPENTER. It seems to me if the facts in this case were understood the committee would agree to this amendment.

Mr. ATKINS. I hope it will not be adopted.

The CHAIRMAN. The Chair will confine the gentleman to the point of order; but he is making an appeal to the gentleman from Tennessee to withdraw the point of order.

Mr. ATKINS. There is so little time I cannot give way. I submit the point of order, and the Chair must decide it.

The CHAIRMAN. The Chair of course is bound to sustain the point of order and rule the amendment out.

The Clerk read as follows:

For ice, buckets, file-holders, book-rests, labor, clocks and repairs of the same, and for care of grounds, $17,500; $10,000 of this sum to be expended for metallic shelving and file-holders in the Second Auditor's Office.

Mr. ATKINS. I move to strike out the word "metallic." It is unnecessary and will entail more cost than is desired.

The amendment was agreed to.

Mr. ATKINS. I neglected to state, Mr. Chairman, in my opening remarks upon this bill that we have provided an increase of salary for the assistant treasurer at Boston of $500. I deem it due to the House that I should now make that statement. That is an additional officer whose salary we have increased. It is liable to the point of order if any one makes it; but I do not think the point of order should be made as I am satisfied and the committee are satisfied that officer is not now sufficiently paid for the responsible duties imposed upon him.

Mr. HAWLEY. Does not the statute provide $5,000?

Mr. ATKINS. It did, but it has been repealed.

The Clerk read as follows:

Office of the Director:

Salaries: For Director, $4,500; examiner, $2,300; computer, $2,200; assayer, $2,200; adjuster of accounts, $2,000; one clerk of class 3; one clerk of class 2; two clerks of class 1; one translator, $1,200; one messenger; one copyist, $900; one laborer; making, in all, the sum of $22,120.

Mr. PAGE. I move in line 924, after the word "dollars," to insert "for an experienced and practical assayer, $2,200."

Mr. ATKINS. I have no objection to that.

Mr. BAKER. I suggest the phraseology should be to insert after the word "dollars" the words "who shall be a practical and experienced assayer."

Mr. PAGE. I accept that as a modification of my amendment.

The amendment, as modified, was adopted.

Mr. ATKINS. The hour has nearly arrived when the New Hampshire delegation desire to have the obsequies of their deceased colleague, and therefore I move, in order that may be accomplished, that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed

the chair, Mr. CARLISLE reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration a bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes, and had come to no resolution thereon.

DEATH OF HON. EVARTS W. FARR.

Mr. BRIGGS. Mr. Speaker, I desire to submit the following resolutions.

The SPEAKER. The resolutions will be read.

The Clerk read as follows:

*Resolved*, That this House has heard with profound sorrow the announcement of the death of Hon. EVARTS W. FARR, late a Representative from the State of New Hampshire.

*Resolved*, That in token of regard for the memory of the lamented deceased the members of this House do wear the usual badge of mourning for thirty days.

*Resolved*, That the Clerk of this House do communicate these resolutions to the Senate of the United States.

*Resolved*, That as a further mark of respect to the memory of the deceased this House now adjourn.

Mr. BRIGGS. Mr. Speaker, I rise to perform the melancholy duty of announcing to this House the death of my colleague, EVARTS W. FARR, which occurred at his home in Littleton on the 30th of November last. It was my sad privilege to be with him when he passed away. He died as he had lived, with the heroism of a noble manhood born of hope and faith.

It is no vain tribute of respect New Hampshire would fain pay to her noble and gallant son. As a member of this House, I submit he was universally respected both by political friends and foes. But it is not merely an excellent Representative at the National Capitol that New Hampshire mourns in the death of Major FARR. Among those who pressed eagerly to the front when an imperiled nation called her sons to her rescue, this man was the pride of our State, and under the flag with which we draped that hearse at Littleton he earned the imperishable gratitude of our people.

EVARTS W. FARR was born at Littleton on the 10th of October, 1840. He belonged to one of the best families of our State. His father, an honored member of the legal profession, survives him. Mr. FARR was one of eight children, and his early advantages were those of the typical New England country lad. He pursued his academic course at Thetford, Vermont, where he was graduated with honors, and went thence to college. Frank, earnest, and intelligent, the character of the boy gave true promise of the man. What might have been his fortune had he been permitted quietly to pursue his studies, we cannot tell. Destiny had assigned him a part in a stupendous drama, which was to startle Christendom. In that drama he peformed his part gloriously and well; and like many other young Americans of that eventful period, he leaped to distinction before he had reached the age of manhood.

At the breaking out of the war young FARR was a member of Dartmouth College. With characteristic decision, he turned his back upon college and his face to the field. He was the first man to enter the service from the town of Littleton, from which he enlisted in the First New Hampshire Volunteers. He served continuously from April 20, 1861, to June 4, 1865.

Soon after he entered the service he joined the New Hampshire Second; was appointed a lieutenant June 4, 1861; he was promoted to the rank of captain January 1, 1862, and while in command of company G lost his right arm at the battle of Williamsburgh, Virginia, May 5, 1862. His regiment, one of the most gallant and distinguished in the service, was then one of the four constituting General Hooker's original brigade.

As soon as his wound permitted he returned to the field, and September 9, 1862, was promoted to rank of major in the New Hampshire Eleventh. After fighting with distinguished gallantry at Fredericksburgh, Major FARR went with his regiment to the West, and participated in the siege and capture of Vicksburgh. After the capture he went south with General Sherman to attack General Johnston at Jackson, Mississippi, and during the remainder of the war served on court-martial duty, most of the time as judge-advocate.

Unquestionably his employment on court-martial duty during all the latter part of the war alone prevented his high promotion in the line. As it was, his career as a soldier was an exceptionally brilliant and successful one. In many of the severest engagements of the war he won golden laurels. In the action at Fredericksburgh it was my fortune to be near him, and no veteran of a hundred battles could have shown a statelier, loftier heroism. There was a touch of chivalry in his nature, and he was then of the age when this spirit is at high tide. His patriotism was not lost in the effervescent spirit of the cavalier; he had devotion as well as courage. Nor was his courage of that lower order, derived from excitement. It had nothing to do with rashness nor frenzy. He was cool, patient, and determined. It was the courage of Ney rather than that of Murat. In the fiercest and most disheartening fight he was never known to lose his self-command. This, with his quick decision and soldierly intuition, combined to make him a man of wonderful resources. In action or in any grave and responsible situation he never was "at his wit's end."

Another trait of a great soldier was his fortitude, his power of endurance. "No pain," writes an officer who was long and most intimate with him, "no pain that he suffered could bring a moan, no toil he encountered could dismay him, the longest and hardest march we ever made could not bring a word of complaint from his lips."

In the fight between Hooker's and Longstreet's divisions at Williamsburgh FARR's coolness and endurance came out in full flower. The fight was close, hot, and prolonged to the verge of human endurance. It rained hard, and the sufferings of the men were terrible. FARR seemed imbued with the spirit of a multitude. He demeaned himself through that weary, bloody day in a manner never to be forgotten by those to whom it was known. His valor was equaled only by his equanimity. Only breaking ranks, only the signs of yielding, could provoke his impatience. Just at the close of that terrible day he received the shot which made his empty sleeve, thenceforth his badge of honor.

What a tell-tale thing is an empty sleeve.
* * * *
It tells in a silent tone to all,
Of a country's need, and a country's call,
Of a kiss and a tear for child and wife,
And a hurried march for a nation's life:
It tells of a battle-field of gore,
Of the saber's clash, of the cannon's roar,
Of the deadly charge, of the bugle's note,
Of a gurgling sound in a freeman's throat,
Of the whizzing grape, of the fiery shell,
Of a scene which mimics the scenes of hell;
Though it points to a myriad wounds and scars,
Yet it tells that a flag of stripes and stars,
In God's own chosen time will take
Each place of the rag with the rattle-snake;
And it points to a time when that flag will wave
O'er a land where there breathes no cowering slave.
Till this very hour, who could ere believe
What a tell-tale thing is an empty sleeve—
What a weird, queer thing, is an empty sleeve?

His tastes were essentially military, and he brought to his duties in the field that energy and fixedness of purpose which characterized the man in all he undertook. He mastered the science of the camp and field in an incredibly short time, and, young as he was, became a recognized authority therein. He was a strict disciplinarian, thorough and exact in all his duties, and requiring the same of others. But he was full of considerate kindness to his men, to whom he endeared himself as the friend of all.

Prompt, brave, and responsible, he was ever at the post of duty; and in those evil days there marched not under the flag a hero of more dauntless courage, a devotee of more unfaltering faith than EVARTS W. FARR.

At the close of the war he embraced the profession of the law and at once became one of the most promising members of the New Hampshire bar. An ardent and stirring republican, he also came early to the front in the politics of our State. He held, successively, the positions of assistant assessor and assessor of his internal revenue district, solicitor of Grafton County, and a member of the governor's council. To the latter position he was handsomely elected in a district which had always been strongly democratic; and in this, as later, in his two congressional canvasses, his popularity was abundantly demonstrated. He did credit to every place he held, and his election to the Forty-sixth, and his re-election to the Forty-seventh Congress, were only in the natural course of his ascendant fortune. Of his career in this House, so sadly and so early closed, I will not speak. That I leave to others. His record is familiar to you all. Is it not one of promise?

His memory long will live, alone
In all our hearts, as mournful light
That broods above the fallen sun,
And dwells in heaven half the night.

Of the character of the deceased I propose to offer few words other than those I have already spoken. His was an open, generous, sanguine, earnest nature—such an one as "he who runs may read." Were I fully to express my own admiration for the man, I should be suspected of intemperate speech. My acquaintance with him began in the Army, where we were comrades together, and from that time our friendship was fast. He was instinct with generous and kindly impulses which endeared him to his friends and bound them to him in bonds of the strongest affection. Naturally in such a character there was that which inspired his foes with respect, and however he might dislike, no man could despise EVARTS W. FARR.

Like all of us, the man had his faults; yet he had no prominent defects, and I never knew a man whose faults counted for less as against the general strength and purity of his character. I have had much to say of his earnestness, for this I conceive was the leading factor of his strength. He was ready to take up any duty that lay before him, and to attack it with firm and sincere purpose. He followed a purpose with his whole soul and did nothing by halves. This element of his character, together with his versatility, implied large possibilities. He was a young man, and with length of days must have accomplished that of which all that he had done was but a hint. On the whole, his character was solid, well-rounded, and symmetrical; without grotesque or brilliant eccentricities, he was a very positive force.

The immediate cause of his death was a sudden and virulent attack of typhoid pneumonia. Overwork had induced extreme debility, and his system had little power of resistance. His general health had been blighted in the Army, and his empty sleeve was not the only sad remembrance, not the only legacy of woe that he brought

back from southern fields. A post mortem examination disclosed the presence of chronic disease, which at best must ere long have proved fatal.

In his domestic relations he commanded the strongest affection. We will not lift the veil from that circle of crushed hearts. There is that which should be respected. There is a supreme sorrow, as one day—

There was dole in Astolat.

Major FARR was a great favorite in our State, and his name will be set among those whom New Hampshire delighted to honor. He was a most gallant soldier, a promising young statesman, and a noble, sincere man. We bespeak your respect for his memory as something we shall proudly and gratefully cherish.

Mr. BLAND. Mr. Speaker, death has again visited these gilded walls and removed from our Chamber one of our most worthy and useful members. It is not my purpose to give a history of the deceased, but I shall confine myself to a few outlines that marked his life. Major EVARTS W. FARR was born at Littleton, New Hampshire, October 10, 1840. We learn that at the early age of twelve he struck out for himself, and by industry and hard toil procured the means for his livelihood and education. He graduated at Thetford (Vermont) Academy, and entered Dartmouth College with the class of 1863. But that patriotic ardor and devotion to his country and to duty that always characterized him caused him to leave college and volunteer as a soldier in the Union Army. He enlisted in 1861. For his bravery he was promoted through various grades to the rank of major. While with Fighting Joe Hooker's brigade he lost his right arm in the battle of Williamsburgh, in May, 1862. Notwithstanding the loss of his arm by amputation he continued in the Army, and served with a major's commission, participating in the battles of Vicksburgh, Jackson, Mississippi, and various other engagements, until he was appointed judge-advocate, the duties of which office he performed with marked distinction. After the war was over he commenced the practice of law at his home in New Hampshire. As a soldier Major FARR was courageous, true to his country, never faltering where duty called. To his soldiers he was kind and considerate, though exacting in the performance of every command.

Mr. Speaker, it was not my fortune to know Major FARR personally till I met him in the Committee on Pensions. I shall never forget the first time I met him in committee-room. The chairman called over the names of the committee for reports. None were ready except Major FARR. When his name was called he brought forward a large list of bills with accompanying papers and his reports. He began sorting out his reports dexterously with one hand. I then for the first time noticed he had lost his right arm; but it seemed to me that this was no embarrassment to him, for he selected his reports from other papers with as much apparent ease and facility as though he was using both hands. He read his reports to the committee, and they were all adopted unanimously.

I was struck with his familiarity with the pension laws, the rulings of the Pension Department, and the concise manner in which he stated the laws and the facts bearing on each case. I never knew one of his reports to be rejected or anywise amended by the committee. His judgment was clear and logical. He was always careful of the interests of the public; but, while at all times diligent in protecting the Government, he never permitted technical questions of law to weigh against what seemed to him to be an equitable and meritorious case. His justice was always "tempered with mercy." At times it was difficult to secure a quorum for business; several members of the committee were not regular in attendance. Not so with Major FARR; he was always prompt in attendance, and never behind with his reports.

From my acquaintance with him I was led to highly respect him as a man of sterling integrity, of ripe judgment, and great industry. I think I may truly say his abilities were far beyond the average. He was serving his first term in Congress, and his modesty, the insignia of true merit, forbade him entering the arena of every-day debate and wrangle, a means by which too many endeavor to thrust themselves in the RECORD and before the public at the expense of orderly and intelligent legislation. But he never faltered in the discharge of his duty when he saw it necessary to attack a bad measure or sustain a good one. Major FARR was a close attendant upon the sessions of the House. He was seldom out of his seat. He was watchful of all the proceedings of legislation. He seemed to comprehend instinctively all that was proposed for action, and his judgment as to the right or wrong of a measure was seldom at fault. I differed with him politically, but I am sure he acted with his party from as sincere convictions as I did with mine. There was no member of the Forty-sixth Congress whom I respected more highly than him. If I were called upon to give my measure of the man, I should say that clear judgment, a high sense of honor, an inflexible will, were his peculiar characteristics. He was also a man of generous and noble impulses.

Mr. Speaker, this occasion brings to us the solemn thought of death, of the uncertainties of all human aims, and the end of our ambition. Man like a shadow gropes for a while in the gloom of earth and vanishes. The dark cloud glitters for a moment in the lightning's glare; the thunderbolt signalizes the approaching storm. The cloud drenches the earth with torrents that rush headlong down to the eternal sea. The thunder's roar dies away in soft echoes along the distant hills. The cloud melts away beneath the effulgence of the noonday's sun. Thus the whirl of life is spent and passes into eternity. Man may dominate the earth, but it was given to One alone to conquer death.

We stand here to-day and the words that fall from our lips are licked up with the tongue of electric fire and whispered in the ears of all nations.

We span continents with iron girders and bridge them with the commerce of the world. We measure the depths of the sea, the breadth of rivers, and the distances and magnitude of the heavenly bodies. We predict with mathematical precision the course and velocity of planets, the visit, exit, and return of comets. Yet, sir, with all this power over earth and its surroundings we cannot tell the day nor hour of our existence, for death "cometh as a thief in the night."

Leaves have their time to fall,
And flowers to wither at the North wind's breath,
And stars to set; but all,
Thou hast all seasons for thine own, O Death!

Happy for us we cannot foretell his coming. Our adjournment at the last session would have been sorrowful indeed had we known that on our reassembling one seat here would have thus been made vacant. Our grief was wisely spared us to this last moment. Yet, when we see a man thus cut down in the prime of life, when the dreams of his early ambition were being realized, we are tempted to complain at what would seem to be a harsh visitation of Providence. But, Mr. Speaker, death waits for no one. The justice and wisdom of an all-wise God are far beyond human ken. To His will we meekly bow; to His commiserations and tender mercies we commend the stricken widow and children of our friend.

EVARTS W. FARR is no more. His mortal remains rest beneath the snow-mantled sod of his native State.

There shall the yew her sable branches spread,
And mournful cypress rear her fringed head;
From thence shall thyme and myrtle send perfume,
And laurel evergreen o'ershade the tomb.

How unspeakably sad it would be to close our tribute to our friend here. Can we have the heart to consign him to the cold clay of mother earth, and there leave him as food for the worms. Oh, no! no! The blessed hope of immortality forbids it.

Let earth dissolve, yon ponderous orb descend
And grind us into dust; the soul is safe;
The man emerges, mounts above the wreck
As towering flame from nature's funeral pyre.

Mr. BOWMAN. Mr. Speaker, it is fitting that we should turn aside for a time from the business of the session, from our political contests and wrangles, from the heated discussion of disputed questions, from all the turmoil and noise and labors of congressional life, and offer up our tribute of respect to the memory of our deceased friend and brother member, and place upon perpetual record our recognition and appreciation of his character and services. It is the last thing we can do for him. For him all the petty ambitions of life, the struggle for honorable distinction, the cares, and troubles, and disappointments which beset the life of every man who devotes it to services in high position for his country, the carping and unjust criticisms of opponents, the life of work and worry, all these, which are a part of the lot of every public man lifted up into a position where he can become the target of press or person, are over for our dead friend, and can trouble him no more in that better life of never-ending rest and peace to which he has gone.

After life's fitful fever he sleeps well.

He passed away from an honorable and eventful life, and, although comparatively young in years, no one can feel that that life was not rounded out into full completeness, or mourn on his account that it has ended, although our sympathies go out to those near and dear to him, who lament his loss. All those who knew him, both in private and in his public career, realize that his State, his constituency, and his friends will miss his presence and the useful and honorable place which he occupied in the councils of the nation.

His duty in life, his obligation to his country and his people, had been honorably and nobly performed, and it is perhaps a fortunate and happy fate for a man to pass away from this world in the height of his powers, in honorable position gained by faithful service for his fellow-men and by their appreciation of his worth, deeply regretted and lamented by them, rather than in the "sere and yellow leaf" of old age, with faculties impaired, and powers of usefulness gone, so that as one sinks beneath the waters of life, he leaves scarcely a ripple behind.

Judged by what he was and what he had done no one can call the life of our friend a short one; nay, more, upon the calendar of events and marked by them alone his was a life longer by far than many a one of four-score years and ten. His life has been described by his colleague, who has preceded me; it is not for me to refer to it in detail, or to the examples of heroism and devotion to country, which it displays.

From among the quiet and beautiful hills of the Granite State he went forth to battle for his country, and there has come to us from his comrades the touching story of his heroism, manliness, and devotion to the cause, for which he was ready to sacrifice his life, and for which he probably has sacrificed his life, as much as if he had in reality given it up from musket-ball or bayonet-thrust on the field of battle. We know how early in the war he lost his arm, which was taken off at the shoulder, and how when for most men this would

have been considered, and rightly considered, as an excuse from further service, and to have entitled them without further work and dangers to the honors and gratitude of their countrymen, he again left his home among the White Hills and went to the far southern country to once more endure the hardships, trials, and dangers of military life. He had well earned the reward of rest from military labors and of escape from its dangers—earned it at sad cost, but he refused to accept that reward, counting life or loss of limb, suffering, and privation and danger as nothing, if he could serve his country.

From all that I have seen and known of him; from what I have known of his life here and have heard of it as it was spent at his home among the New Hampshire mountains both before and after his military experience, I cannot but regard him as one of those martyrs of the war who has really given up his life for his country. The strong, vigorous, and rugged New Hampshire boy, reared in the bracing mountain air, where the very breezes are laden with strength and vitality, leading the healthy and hearty outdoor life of the country, came back from the wars weakened and with his vitality sapped by enervating climate or deadly miasmas or the vital waste caused by hardship, privation, and toil.

Many a soldier gave up his life on the field of battle by stroke of sword, or met an immediate and therefore merciful and happy death by rifle-bullet or cannon-ball, and we honor them, and never can honor them too much, as men who died for their country; and we place above their graves the old but never worn-out legend that "It is sweet and beautiful to die for one's country," and shall hold them in grateful remembrance through all the ages.

There was many and many a soldier who left behind him on southern battle-fields or in southern swamps when he came marching home after the war under triumphant flags the better part of his life, a vitality and strength so weakened and sapped that no cool northern breezes and no fond attentions of home could restore them, and who brought back with him the seeds of disease and weakness, so that nevermore could he know the delights of health and the mere pleasure of living, but always his life must be, if not a burden to him, yet something to be careful of, to be watched and guarded, and thus keeping him back from all that he would be or do. Many a life has thus dragged itself along through weary years since the war and has prematurely ended, when, so far as human minds can foresee, it might have had before it many years of active and happy usefulness. These men were as truly the martyrs of the war as those who had the perhaps happier fate of meeting a short and sharp shrift on the field of battle. For the one was the excitement, the honor, the glory, the swift passing away of life without suffering and without knowledge; for the other, the long and weary years, the patient endurance, the uncomplaining words, the cheerful acquiescence in a life whose high capabilities he could not improve, and that feeling of limitation of powers and of his chance to make the most of his life which want of strength and endurance always brings, and then an early and premature death, when perhaps the promise of future usefulness and advancement, the hopes of being most useful to himself and family and friends and country, are at the brightest.

I do not mean to say that the life of our friend was thus hampered and bound in by the strong bonds of bodily weakness so that he could not make the most of it, and did not achieve high and honorable distinction which any man might well be proud of, but I believe that the causes of his death lie in his services in the war, and that, so far as men can judge of what cannot be seen or known, many years of honor and of usefulness would now be before him if it had not been for what he sacrificed and did for his country. His record as a soldier, a statesman, and a citizen is a most honorable one.

My acquaintance with him commenced with the present Congress, to which we both came as new members, and, living near each other here, our acquaintance ripened into intimacy and friendship. I am sure that no one came into close contact with him or to really know him who did not feel for him respect and affection. Quiet and undemonstrative in his manners, not given to self-assertion or to show, not thrusting himself forward before the people, but content to remain quietly in the background unless he was needed and could do good at the front, the unthinking and careless world, judging only by the exterior and not caring to penetrate below the outer surface, might underrate him and not give to him credit for the qualities which he possessed; but behind his quiet manners there was a brave heart, an honest mind and purpose, deep and settled convictions of right, which no plausible arguments or specious reasons could disturb. I think one of the distinguishing traits of his character was his hatred of shams and false pretensions, whether in public or private life, in humble or in official station; his desire to go to the root of a matter, and to find out the right and the true thing; his dislike of the thin veneers and disguises plastered over political or personal iniquities, wrongs, or injustice; his wish to call things by their right names and to have the world call them by their right names and recognize them as they were; in a word, his desire for the truth, however disagreeable, unpleasant, or humiliating.

He was honest in conviction and word and action. The same desire to uphold the right which led him from his northern hills, and to give up all the comforts of home and to make sacrifices of health and limb, followed him into his public service here; and in these Halls he always sought by word and vote to do what he thought to be the right thing, and the honest, true, and therefore the best thing for the people and the country. The best policy is almost always no policy; but doing just the right thing and letting policies and the future take care of themselves, sooner or later the right triumphs, and we find that the unselfish policy of doing what is right without regard to consequences turns out to be the wisest as well as best policy.

Our friend was a man of strong convictions, earnest purposes, and of excellent judgment, forming his opinions with care, and skilled in giving utterance to them when the occasion required. Honest and incorruptible, earnest and industrious, interested in all the great questions of the day, faithful in attending to his duties here and elsewhere; a good man, a good soldier, a good statesman, pure in private life and in public life, such is his record, and such is the description and the memorial of him which we can place upon our records. Happy is he who is thus laid to rest with his life's warfare accomplished, and with the feeling in the hereafter that he has fought the good fight and has passed away loved, honored, and respected.

We followed him to his last resting-place amid the snows of the beautiful valley which had always been his home. It seemed as if the whole population had gathered together to honor him in his death even as they had honored him in his life; to offer up the last tribute of respect which they could ever pay to him; to perform for him the last sad services which they could ever render. The affectionate words of remembrance, the tearful eyes, the faltering accents, the sad faces, all showed that our friend had as deep and warm a place in the hearts and affections of the people to whom he belonged as in their honor and respect.

They gathered in great throngs to accompany in its last journey all that was left here below of our friend; to listen in the village church to the words of consolation and of praise of him who had gone out from among them never to return, and to find a sad solace in the recital and remembrance of his virtues and of his life among them from his boyhood to his death. And so almost under the shadow of Mount Washington and the Franconia range we laid him to rest amid the scenes which he loved so well, where the grand and majestic mountains, whitened to their summits with the snows of winter, look down upon his grave, and where in summer the everlasting hills whose granite summits pierce the sky keep watch and ward over the beautiful green valley where he has found his last resting-place.

Mr. UPDEGRAFF, of Ohio. Mr. Speaker, to me it is a mournful pleasure to add my heart-deep tribute of veneration and love to what has already been so fittingly said in memory of our departed comrade. I shall avoid all extravagance of eulogy. The noble and manly character of EVARTS W. FARR would be marred by any unreal adornment. And yet it is well for his living associates, so soon to follow, to bear testimony to the worth and exalted character of him whose memory to-day we honor.

Even in the rush of crowding duties here a moment's pause by the bier of a fallen comrade is not an idle ceremony. It is wise and well that for a little time at least party conflicts and even the tumult of needful interests should be hushed in such a presence. In that stillness are heard the truer voices, and to that vantage ground come purer air and glimpses of a serener sky. Partisanship is hushed, and the inspiration of generous comradeship strengthens the ties which should bind associated men in amenity and mutual trust. Amid our party antagonisms and fierce rivalries the fraternal intercourse and warm friendships, to which that middle aisle is no barrier, not only redeem the sordid littlenesses of life but ennoble true manhood.

My acquaintance and intercourse with EVARTS W. FARR are among the tenderest and most treasured recollections of this eventful Congress. In the early days of its first session we formed an acquaintance which soon grew into a warm friendship. Serving on the same committee, I had opportunity to know and admire the many noble traits of his character. His colleague has already tenderly and eloquently told the story of his eventful life—his early struggles, his later triumphs, the confidence and love of his people—and paid just tribute to his domestic virtues and recognized abilities.

Coming of sturdy New England families, EVARTS W. FARR's life attested the maxim that "the blood of descent is the prophecy of destiny." He was a type of the region from which he sprang, and of the intelligent and appreciative constituency which had laid upon him the honors he so modestly accepted and the duties he so faithfully discharged. In that section of our country education is universal, labor is justly honored, property largely distributed, and nowhere operate more fully all the great formative forces which make character, develop intellectual and moral elements, and mould nationalities. Hence that section, since the foundation of our Government, has been represented in this body mainly by men of native strength and sound learning, practical sense, and healthy patriotism—men both in mind and character self-poised and symmetrical—the natural outgrowth of such surroundings and such conditions.

One of the profoundest thinkers of this age has wisely said:

> The deeper you study history the surer you find the truly great men and their eras like threads interwoven in the tissue of the whole successive history of their race or nation. There is yet Miltiades in the atmosphere we breathe in this country, and there is Alfred in our daily doings.

And thus New England not only founded a distinctive nationalism within her own borders, but awakening latent forces, voicing the vague but irrepressible longings of the times, and organizing the formative elements of a broader future, has added impelling power to our growth, influenced our history, and being largely in sympathy with the progressive principle which in a free country passes from

conscience to laws and institutions with irresistible force, has powerfully aided our national struggle into institutional existence and permanence, and now these expanding elements are as much a part of our national life as Warren and Adams and Webster are part of our national history.

These reflections suggest themselves here because a typical outgrowth of these New England conditions and these distinctive forces was EVARTS W. FARR. His colleague has spoken of him as a student, a soldier, and a citizen. How characteristic, and how touching that patriotic devotion of the boy scholar turning resolutely away from academic honors to the hardships and perils of the camp and field the very hour he knew his country needed him. No wonder he bore himself so bravely and so grandly through all that awful conflict. The nobility of his nature recognized faithfulness to duty as his supreme guide, so that even after he had lost his right arm at Williamsburgh he joined his regiment before the wound was fully healed, and with an intrepid valor which no danger daunted, no suffering subdued, no defeat disheartened, he remained in active service till in his shattered frame were fixed the seeds of disease which finally undermined the citadel of life. While his country needed his services he refused to care for his own health or safety. Indeed, he seemed to value life itself

But as he served or saved the State.

I shall never forget his look or words as he replied to me one day as to the loss of his arm. With the light of conscious triumph in his eyes, he said in a deep, soft whisper: "No; it is less than I had expected to give my country." Ah, the light of eternity alone can reveal the awful sacrifices made—willingly, proudly made—to our imperiled nation!

And though so modest as to his own claims to honor and so unselfish as to his own demands, he was intensely sensitive to the needs of his soldier comrades and deeply indignant at the wanton neglect of their long-deferred appeals for hearing and justice. Carefully and laboriously he examined the pension claims before that committee, and urged those which were just and meritorious with an honest zeal which stood amazed when he found it impossible to obtain for them the attention of Congress.

His last recorded words in this House, near the close of last session, were an eloquent plea that the soldiers of our country who had just claims not only for hearing but for help should no longer be neglected, and that the one day in each week dedicated by our rules to such claims should not be, as it had been, constantly taken for other business. His was the completeness of integrity—the very chivalry of justice. And to him it very naturally seemed that there could be no duty so imperative, no obligation so urgent, no work so welcome to the agents of the Government or the elected servants of the people as to mete out just if not generous recognition to the deserving soldiers of our country, many of whom are in dire need, helpless, suffering, but still the same men whose once stalwart arms upbore the dear old flag and whose bodies bridged the awful chasm over which the nation marched to victory and peace.

A striking trait of Major FARR'S character was his modesty. Conscious of honest, faithful service, eager only for duty, he had no hunger for mere notoriety and sought no personal advertisement. Even when fully prepared on a subject, he was wont to urge others to take the floor—a rare unobtrusiveness. Indeed, his quiet, earnest work was for a purpose and not for effect, and seemed perpetually to embody the spirit of the Persian proverb:

Words are the children of the wind, deeds are the daughters of the soul.

Absolute honesty and truthfulness were among the impressive characteristics of his nature. Not mere commercial honesty, but truthfulness absolute and honesty in the highest sense of that much embracing and grand old Roman word. Wellington in the House of Lords, just after the sudden death of Sir Robert Peel, in speaking to his memory, praised above all his "truthfulness;" an honor alike to the great statesman who merited it and to the great soldier who so fitly valued it. Well may we all remember that the gratitude and love of peoples follow only those who in the service of their country lay unstained hands

Upon the ark
Of her magnificent and awful cause.

The generous nature of our associate was full of magnanimity. Though intensely loyal and patriotic, though maimed in body and broken in health in the service of his country during the war of the rebellion, he bore no bitterness and no resentment. The magnanimity of his soul sought to embrace every citizen of our country in the bonds of conciliation and brotherhood, and his broad patriotism recognized in every State and every section parts of an indissoluble national unity.

One of the youngest members of this body, no man would have selected EVARTS W. FARR as the first who should break our circle. He was in the very morning of his usefulness and power. The dreams of youth were becoming realities, and with iron will and brave heart he was shaping them into beneficence and fame. In the midst of youth and ambition unfulfilled he has left us.

The ancient Northmen's image of death is less repulsive and more Christian than that of Christian countries. No skeleton, but a gigantic figure that envelops men in the massive folds of his dark robes. But whatever the symbol, whatever the promise of youth or the ripeness of age, Death is always sudden and solemn. He sends no herald and awaits no delay.

We know when moons shall wane,
When summer birds from far shall cross the sea,
When autumn's hue shall tinge the golden grain;
But who shall teach us when to look for thee.

Yet to the soul prepared it matters not. The "well done" is the crown of life. So long as a man dwells on earth life is but a fragment. But the close may seal the work with the benediction of changeless fruition. The career finished in honor and radiant with faith becomes a completed power and an everlasting possession.

May those of us who are left to speak and hear the tributes of this august and sad observance to our beloved associate take heed and ponder the lesson it emphasizes. May we so live and act that something of the good said of him to-day may be as truly said of us, and that death shall be to us indeed the crown and vestibule of life.

The name and fame of EVARTS W. FARR live to his family, his State, his country. He was a good citizen, a brave soldier, a faithful legislator, a true man. Works of loving purpose and noble ambition beautified a life round which will forever cluster tender and holy memories. Warm with the affections and wise with the aspirations which take hold of the life beyond, faith lends the light which clouds cannot hide nor shadows dim.

In the bosom of his beloved New Hampshire, amid the wild beauty of his native valley by the Ammonoosuck he sleeps, borne to his last rest by the loving hands of the grand old fraternities of which he was an honored member. Mount Washington, in cloud-crowned grandeur, stands silent sentinel above his grave. It shall perish. He shall live.

He has done the work of a true man;
Crown him, honor him, love him,
Weep over him tears of women,
Stoop manliest brows above him.
For the warmest of hearts is frozen,
The freest of hands is still,
And the gap in our picked and chosen
The long years may not fill.

Mr. SHALLENBERGER. Mr. Speaker, I do not rise to occupy the attention of the House with any formal eulogy of my comrade, colleague, and friend. Others who knew him intimately and well have given the particulars of his life and the analysis of his character and record in eloquent and fitting terms. It was not my privilege to know him until we met in the extra session of the Forty-sixth Congress which is now drawing to a close. I had not the intimacy that grows out of association on committees, nor were we often thrown together in social gatherings. But it was our fortune to sit near each other on the floor of the House. An acquaintance was readily formed. His age, which was nearly my own, his empty sleeve, and his Army record soon drew me toward him. I could not fail to observe his conduct and his votes during his brief service as a Representative.

At the request of his colleague, in charge of these memorial resolutions, and in justice to my own feelings, I very cheerfully place on record in a few simple words my profound respect for the memory of my deceased friend. His life was neither long nor eventful to a degree that justifies very general recognition and extended eulogy. I greatly mistake the character and taste of EVARTS W. FARR, if living he would have enjoyed unmeasured praise. He was a man of intelligence, of quick perceptions, of wonderful industry and fidelity, of rare courage in upholding his convictions, and of transparent honesty of purpose. He was a student of books and a student of men. He gave himself unreservedly to the work that he undertook. Never absent from his seat unless from necessity, he kept himself informed of the procedure of business and the merits of pending legislation. He was industrious in committee, attentive to his constituency, and extremely anxious to inform himself as to the best methods of serving his country at large as well as the State he in part represented. He was an earnest and uncompromising partisan in the true sense of that word. He believed in the great principles of his party and in its policy of administration as best for all sections of the country.

He recognized the necessity of political as well as military organization, and when out-voted for command esteemed it his duty and his privilege to march in the ranks, side by side with his comrades and coworkers. He believed in aggressive rather than defensive warfare; in advancing the right rather than in obstructing the wrong; in sowing and cultivating good seed rather than in employing his time and wasting his energies in the destruction of weeds. No one could well suspect him of swerving in the least degree from his convictions of right and duty. He was wise enough to seek more information, and discreet enough to build patiently and well by study, observation, and experience the foundation of a congressional reputation that, had he lived, must have sustained a solid structure.

His intellectual ability and parliamentary knowledge shone all the brighter in the setting of a modest self-distrust. As a boy we are told he schooled himself by his daily toil, as the brightest and best of New England boys have done. When the war broke out he was in college and among the first in the Granite State to enlist in April, 1861, as a private soldier. As a captain at Williamsburgh under Hooker he left his right arm on the field of battle. Longer service or greater sacrifice could not have been expected; but his wound had scarcely healed when he sought the front under Grant and Sherman in the Southwest with a major's commission; and not till the war closed did he quit the Army, not always in the field, but always in

the line of active, faithful service. After the war as a law student, successful practitioner, trusted and honored public officer, and finally as a Representative in Congress he maintained the same heroic and unselfish character.

Others have been more conspicuous than he both in military and in civil life, but we may look in vain for a better illustration of the ideal volunteer soldier and citizen of the Republic. When danger threatened his countrymen he was first to seek and last to leave the most perilous and patriotic service. When peace came and the waste of war must needs be repaired, he was again first among the faithful in giving the best energies of a dauntless spirit and an enfeebled, crippled body to the civil service. He died in the prime of manhood, most loved and respected by those who knew him best. It is said that a pebble dropped in ocean will send its wavelets to the distant shore.

Is it too much to say that a life like that of our deceased colleague, pure, unselfish, uplifting in its aims and efforts, dropped in the great ocean of humanity, will not pass from sight without leaving behind an influence that touches the hearts and lives of generations to come? The strength and promise of our American institutions lie in the development of just such characters as that of Mr. FARR. Faithful, as I am told, to every trust confided to him, and generous in kind words and good deeds, he has done what he could to alleviate human suffering and to elevate and ennoble human kind.

Mr. HALL. Mr. Speaker, thrice during this Congress has the end of earth come to members of this House. One of our associates during each of our previous sessions, and now a third just as we were assembling here for this session, have been called from these scenes of warm contention and earnest endeavor to that unseen world to which we know we, too, are all so soon to follow.

Sudden and unexpected as were the deaths of Mr. Clark at our first session and that of Mr. Lay at our last, the news of the decease of my late colleague, Hon. EVARTS W. FARR, at his home in Littleton, New Hampshire, on the 30th day of November last, was hardly less unexpected or more appalling to his associates in this House or to his friends in his own State.

On the evening of Monday preceding the opening of this session I first learned of his brief illness through the public print, and the next morning at nine o'clock he was dead. Though the disease which was the immediate cause of my late colleague's death was so brief that his neighbors hardly missed him from the streets of the village before he was dead, I am aware that he had for months suffered from a complication of diseases which we now know must at any rate have at no remote period brought his life to a close. I very well remember how much and how patiently he suffered here from ill health during the last spring months until finally, under the earnest advice of his physician, he was induced to ask leave of absence for the closing weeks of the session and take a short sea voyage for the benefit of his failing health. I think I have never known a member of this House more constant in his attendance upon its sessions or one who seemed to feel more keenly the necessary absence of an hour than Mr. FARR, and so, troubled and too sensitive about his enforced absence, two days before the close of last session he had returned here improved in appearance and spirits, but still by no means a well man.

From a conversation with him in this Hall, perhaps the last one I ever had with him, for I never saw him after our separation last June, I learned that he was one of that great army of martyrs to their country's cause, who, spared death in battle, camp, and prison, are reserved to after years of pain and infirmity, from insidious disease fastened on the system while serving in our Army during the late civil war.

Major FARR was one of the younger members of this House, having but just completed his fortieth year at the time of his death; but those years were full of earnest effort and stirring incident, though no special privation beset his early life or remarkable opportunity opened before his maturer years.

Waiving the assistance which parental affection was always ready to afford he was always inclined, as I am informed, in his boyhood to rely on his own unaided efforts, and early showed that manly self-reliance and that spirit of independence which so characterized him in after life, by largely, if not entirely, defraying the expenses of his preparatory education at Thetford Academy, in Vermont, a seminary of good repute and large patronage, where he graduaded with valedictory honors and subsequently entered Dartmouth College in the class which graduated in 1863.

Here the war of the rebellion found him pursuing his freshman studies, the earnest, genial son of God-fearing, liberty-loving parents of the Puritan stock. The offspring of such an ancestry, he had imbibed from the daily intercourse of the home circle, from the teaching of the district school, and from the whole social and moral atmosphere that molded his character an earnest admiration for that view of life which claims complete freedom and equal privileges and opportunity in life's struggle for all.

To a mind shaped under such influences anything like classific distinction in the State or in social life, or the arbitrary enforced subservience of individuals or a race, was repugnant beyond endurance, and it was passed comprehension when any attempt was made to reconcile such a system with any code of ethics which reckoned honesty a virtue or theft an offense against fair dealing. Such views his college life was calculated to intensify.

Dartmouth College had been founded a century before, in the heart of our northern wilderness, having for its motto, "*Vox clamantis deserto*," the voice of one crying in the desert, and with the distinct avowal that its mission was to educate the proscribed red man in common with the sons of the white settler. With advancing years and receding forests the Indian had ceased to frequent its halls, but the comprehensive, race-wide philanthropy of Wheelock and his associates had left an abiding impress on its successive generations of instructors and given shape and direction to its mission as an educator of young men; and when the great struggle of 1861 came on, whenever it was referred to, whether among the students themselves in the recitation room, or the hall of more public discourse, there was praise of the social equality pervading life in the free States, and a corresponding denunciation of the peculiar institution which had brought on the great conflict and for the perpetuity of which the struggle was confessedly waged; and soon young FARR, with others of his fellow-students, had exchanged the academic gown for the uniform of the soldier.

Volunteering on the 20th of April, 1861, as a private, he remained in the Army down to June, 1865, when he was honorably discharged. During most of these years, excepting the brief period when he was disabled from keeping the field after the loss of his right arm in the battle of Williamsburgh, Virginia, in May, 1862, he seems to have been in battle, camp, and on the march.

By his bravery and a conspicuous exhibition of all the traits that mark the good soldier, he rose from the rank of private to that of captain in the Second Regiment, and finally to the rank of major in the Eleventh Regiment of New Hampshire Volunteers.

Returning at the close of the war to his mountain home, he set about the study of the law, and was admitted to the bar of Grafton County, New Hampshire, in 1867; at once opened an office in his native town of Littleton, and there continued in the practice of his profession down to the time of his last brief illness, excepting as he was called to places of public trust; and these calls were not infrequent, and they were conspicuously to commanding positions and places which require for their possessor that private worth and public confidence which Major FARR so fully possessed.

Having been assessor of internal revenue by presidential appointment from July, 1870, to the abolition of the office in 1873, county solicitor of Grafton County by executive appointment in 1873 and again in 1876, a member of the executive council of his State in 1876, he was elected a member of this House for the Forty-sixth Congress and again elected to the Forty-seventh Congress in November last.

To those gentlemen in this House who were so fortunate as to make Major FARR's acquaintance it will be no surprise when I say he was a great favorite with his party and the pride of our New Hampshire people. Proverbial for his honesty and his honor, his patriotism proven by his heroic service for his country, his courage on the very crest of battle attested by that empty right sleeve, a bright man intellectually and well poised every way, never descending from the highest moral plane in his daily walk and conversation, a good lawyer, the pleasant gentleman always that you saw here, the leader in every good work, it is no wonder that old men stood by him, young though he was, nor that the young were fascinated by his life, nor that all classes and ages rallied around him and made him their standard-bearer whether he would or no.

The men and women of that northern region are stern in their notions of right and wrong, and exacting of their public servants in matters of public policy; but so well had their requirements been met in his case that their affection toward him whose life we to-day commemorate was as fervid as the fires on their hearth-stones; and when his death was known there was a sense of personal bereavement among all classes which comes only when a trusted leader who is the hope and reliance of the State in the emergencies of the future falls.

As a lawyer, Major FARR had his training and passed his professional life at a bar which for many years has been remarkable for the legal knowledge and forensic ability of its members. Personally I knew little of him in his profession, but I am told that his natural vigor of intellect, aided by that perseverance and determination to excel which seem never to have failed him, very early gave him a prominent position as a lawyer, not only in the minds of community generally, but as well in the more discriminating estimate of the profession. Doubtless others were severer students of books and sharper practitioners, but none, I venture to say, took broader views of the law or made more sensible application of its principles, and no one practiced the law in a more honorable way, or more for the good of the State, or more to the satisfaction of his clients, than Major FARR.

Genius has been said to be the undue development of some one faculty at the expense of others, and all of us have seen too many instances of the like. Genius in this sense Major FARR had not, but if he had none of those shining qualities which dazzle and attract, he had all those qualities which go to make up a noble manhood well balanced and well disciplined. He was a most consistent and serviceable man, rich in good works in public and private life alike. No one was more constant in attendance here than he, none more punctual or more fearless in putting himself on the record on all questions acted on in this House. Though he took little of the time of this House in speech-making, it was neither because he was not interested in matters of legislation, nor because he was not a ready and effective debater, for no one followed our deliberations with more care than he, and he spoke with ease and an ability that attracted attention upon

all subjects that interested him. Doubtless, with longer service here, he would have been found valuable in discussion as well as in consultation.

That my colleague should have been cut off ere it was the noon of life with him; when life promised so much of enjoyment and usefulness; when his hopes were so high and the endearments of that now stricken and desolate little family were so great, is incomprehensible. Reason reels at the blow; all the resources of philosophy and speculation give no solution of the mysterious Providence, and we are reminded that we are here simply the executors of another's will; that the disposition of nations and of individuals alike is not in finite hands. "For now we see through a glass darkly; but then face to face." Now, and whenever we recall our lamented brother, we will say the best we can say of any:

He has done the work of a true man.
* * * *
Never rode to the wrong's redressing
A worthier paladin.
Shall he not hear the blessing,
"Good and faithful enter in?"

Mr. BLAKE. Mr. Speaker, twice within my brief term of service in this House has the seat at my right hand been vacant. Two of our fellow-members who sat there have been taken from us by death. First, Clark of Iowa; then, FARR of New Hampshire. Both of them were "good men and true;" both of them the faithful servants of the people; both of them my friends.

It is of Mr. FARR only that I am to speak at this time. My liking for him was of no sudden growth. Until he came to this seat, I knew not even his name. And then—so soon was it after the loss of poor Clark—I was in no mood to greet him or any other with ardor; while FARR himself, as if he read my thoughts, was shy and formal. Thus were we for a time kept apart. The courtesies of our daily intercourse, however, gradually drew us together, and acquaintance ripened into friendship. When we separated, at the close of the last session, it was with words of mutual regret. During the vacation we exchanged letters, and made plans, which now, alas! are never to be realized. I had heard that he was feeble in health, but I did not foresee the end that was so near. To-day, he lies buried in one of the beautiful valleys which he loved, among the Granite Hills, and the snows of winter are heaped high above his newly-made grave.

It was not easy to become familiar with Mr. FARR. He did not "wear his heart upon his sleeve." He sought no intimacies. Strangers did not understand him. Nor did he respond quickly to their advances. There was to them—and to them, alone—an exterior of reserve; or, sometimes, a plainness of speech which repelled. And a few may have said that he was wanting in sympathy. But these knew him not. His inner self was hidden from them. To those favored ones, who, having gained the key, passed within the portal, he was frank and genial, full of sensibility, tender and loving, abundant in deeds of kindness and good-will.

Little by little did he tell me the story of his life: of his boyhood; of his efforts to obtain education; his patience and self-denial; his arduous military service; his happy marriage; his successes as a lawyer; his participation in the civil affairs of his State; and finally of his election to Congress. The whole was told with great simplicity. There was no boasting; no seeking for praise. Not a word about his distinguished bravery upon the field of battle. All that have I learned from other lips than his own. As he drew the picture for me, he had merely tried to do his duty and to do it well. In his eyes, there was nothing of merit in doing that which is required of all men alike. But the record of this short life—so pure, so useful—is at once a lesson and a legacy for those whom he has left behind.

The few flaws in Mr. FARR'S character were of manner rather than of the heart. Let us speak of his better qualities. He was modest—almost timid, and yet bold when there was occasion for boldness. Humble, yet proud of his strength when there was a wrong to be redressed or the weak and friendless were to be upborne. Zealous in behalf of a client or a cause, and yet zeal and honor went ever side by side with equal steps. Having a mind so broad that he could not be technical, he was direct always in speech and purpose. Like the Sultan Akbar, he believed that "no man was ever lost in a straight road." Hence was he without craft and without deceit. He hated a lie, and for the liar he had scorn. His early struggles had made him practical. Common sense held the scales in which he weighed all things; and honesty of the old-fashioned kind left him rich only in the esteem and confidence of his fellow-men.

When he came into this body it was with the determination to be useful. He did not wish to be conspicuous. No member was more regular in attendance. No one more watchful of the proceedings. No one more studious of the methods of legislation. None more industrious in the committee-room. None more conscientious everywhere. None firmer than he in resistance to any scheme which seemed to be unwise or unwholesome. Thoroughly in earnest about every matter, whether great or small. Devoted to his constituents, being their representative in fact as well as in name. A partisan, and intense in loyalty to his party; at the same time so true to his country as to be in a measure independent of parties and party discipline. Clear and positive in his views upon all political questions and strong in their expression; nevertheless, without rancor or bitterness toward those whom he believed to be honestly opposed to them.

It was not strange, then, that the people who sent him here were prompt to recognize his ability and his fidelity. Nor strange, that in the recent election they insisted upon his return, for further service, to the place which he had filled so well. Could he have been spared for a few years longer, I am persuaded that other and higher honors would have opened to him. And I know that he would have been found worthy of them all. It is idle, however, to speculate upon that which is impossible. His earth-work is finished. He comes to us no more. But there are some in this presence, to-day, by whom he will not be forgotten. In our hearts, his memory—like the sweet-scented branches of the pine tree and the hemlock which stand as sentinels around his grave—shall be green and fragrant forever.

Mr. SHERWIN. Mr. Speaker, I was unacquainted with the deceased member from New Hampshire until I met him here at the extra session of this Congress. The badge he wore, his empty sleeve, first drew my attention toward him, and the formal introduction which followed ripened into an acquaintance during the last session of Congress especially, sitting as he did so near me, which led me to respect, admire, and trust him. Coming as we did from wide-severed portions of the Republic, he from the shadows of Mount Washington in the valley of the Connecticut, and I from the level prairies of Illinois, we yet joined hands in this Hall, one in hope and one in purpose and desire to do that which should redound to the prosperity, the glory, the power, of the nation.

I knew nothing of his life at home. I did know that he had given one of his limbs to his country, and had loyally lavished his strength and the energy of his youth for four long years that the nation might endure an undivided republic forevermore. I can fancy that Major FARR, a student at Dartmouth, the honored *alma mater* of many accomplished and illustrious jurists, statesmen, orators, and scholars, when the late unhappy conflict was impending may have repeated the immortal words of New Hampshire's and Dartmouth's greatest son in the peroration to his second speech on Foot's resolution, expressing the very passion of liberty and union and converting the nation's fears for both into a prophecy, afterward to be gloriously fulfilled; and that those words, now classic, while upon the lips of Webster were but an unquenchable aspiration, were, under the exigent demands of that time, at once transmuted by him into a lofty purpose, which seized upon and impelled him to heroic deeds. Changing the majestic eloquence of the Senate into sublimest action, he helped to place the feet of the nation upon the immovable granite of Union, one and indivisible.

He showed in all my intercourse with him here that he was moved by a constant sense of duty to himself, his constituents, and his country. He was unflagging in the performance of his duties, and untiring in all the routine work which is cast upon a member of Congress. And while attending faithfully to the uninteresting, common, and exacting demands made upon him daily, he was constantly studying the intricate methods of legislation and familiarizing himself with the course of congressional business, that he might be fitted to grapple in the future with those greater and more important questions of state which are only opened to those men of experience acquired within these walls.

He had a mind of singular directness, which went at once to the marrow of a question. He was sometimes impatient at the delays of public business and longed to cut off or suppress all extraneous considerations when debating public questions and proceed directly to its consummation. Yet he was careful and cautious in all essentials.

It is not necessary for me to say that he was animated by a patriotism as broad as the banner which embraces the whole land in its folds, and as bright as are its stars. His love of country was a passion with him. His best thoughts and purposes were given to it, even as he had before given of his body and his blood, freely and without stint. An imputation upon its honor was like a personal affront to him. His country was not New Hampshire, but the Union, indivisible and grand. While he loved the granite hills upon which he was born and reared, and they were his home, those hills were comprehended in the all-embracing circuit of the Republic.

He was simple and unaffected in his manners, and easily approached by every one. Those who knew him could not but be charmed by the frankness of his address, the intelligence of his conversation, and the kindliness of temper which shone over all. A stranger even would have recognized in him a man of stern integrity and purity of life.

This man, whose life had been full of heroic experiences and strenuous living, who had set his ideals high above the ordinary levels of the world and was possessed of the vigor to successfully pursue them, had been selected by the people who knew him best to represent them in the council chambers of the nation before he had attained to the prime of his manhood.

He had acquitted himself so well in his high trusts that he had been the second time chosen by them as their Representative, but hardly had the news of his last success reached us before the wires brought the painful announcement that he was no more. Ambition was laid at rest. Death stepped noiselessly between him and the goal he had set himself. That career, which had so lately opened to him its bright promise of usefulness, for which he had girded himself, but which he had as yet hardly begun to run, was suddenly closed, and we stand by his vacant seat pondering upon the frail tenure by which man is held to the concerns of life. We cannot comprehend the wisdom which has removed him so early from the work of life which he was so well fitted to perform; but we can understand and do know that

he has left with us the record of a man modest yet firm; one who loved the true and the good, and was ready to work for them; a wise legislator, a patriot, an honest man.

Mr. RAY. Mr. Speaker, after what has already been so worthily said of the life and public services of my late predecessor, but little remains for me to add. I feel unwilling, however, to let this occasion pass without paying my humble tribute to the worth of EVARTS W. FARR.

Residing near him, it was my privilege to know him intimately for twenty years and upward. As a civilian, he laid no claim to leadership, as that term is commonly understood, but he was, nevertheless, a thoroughly excellent and public-spirited citizen, possessed of good judgment and sound common sense.

From personal observation ever since he came to man's estate, I can safely aver that in every position of public trust or private confidence in which he was placed he was reliable, faithful, and efficient.

> He who does the best his circumstances will allow,
> Does well, acts nobly; angels could no more.

I concur fully in the accurate compend of his biography which has been so eloquently given by my colleagues, and will not, therefore, take the time of the House in its repetition. The people of his district, appreciating the creditable manner in which he had acquitted himself, both in military and civil life, had elected him as a member of the present Congress by a decisive majority, and honorable members associated with him upon committees, and all who enjoyed his acquaintance, can testify how worthily that honor as well as that of his re-election to the Forty-seventh Congress was bestowed by his constituents. Few men have made more friends during so brief an allotment of life, and none have left behind them fewer enemies.

Upon this occasion I can do little more than to express the sentiments of kindly regard with which my long acquaintance with Major FARR had inspired me, leaving to others, who have to-day so well fulfilled the task, to speak of those features of his career which endeared him to the people of New Hampsire, and which will endear his memory to them forever.

We listen now to the formal announcement of his death that we may, by this public demonstration, show our respect for the high office which he held, and our appreciation of his patriotism as shown on the battle-field and his faithfulness as displayed in civil life. These resolutions cannot augment the fame of the deceased, but they will show that the Republic can be grateful to those who have served her well, and that men of all parties can appreciate the qualities which illustrated and adorned his life.

The lesson of his well-spent life and untimely death cannot fail us, for the former is ever before us as an example, the latter as a warning. The spectacle of one cut down in the prime of his manhood, in the very midst of a useful and meritorious career, is one that may well make us pause in the hurry and bustle of our daily duties, to consider whether life is worth all the wear and tear and worry that we undergo for worldly purposes alone, and it brings to mind, with overwhelming force, the truth that it is not all of life to live. The pure, patriotic, and noble life of our deceased friend remains only a memory, but it is a memory which descends to his family, and kindred, and friends as a priceless inheritance, an imperishable legacy of honor.

With mingled feelings of sadness and satisfaction I move the adoption of these resolutions: sadness at the occurrence which gave rise to their introduction, satisfaction because of the opportunity afforded me to forward what I consider most appropriate action on the part of this House in commemoration of an event which has brought sorsow to so many hearts and an impressive lesson to us all.

The SPEAKER. The question is on the adoption of the resolutions submitted by the gentleman from New Hampshire.

The resolutions were unanimously adopted; and then, in obedience thereto, the House (at three o'clock and forty-five minutes p. m.) adjourned.

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PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BREWER: The petition of Henry Howard and Alonzo N. Moffat, that an American register be granted the steam-barge Tecumseh—to the Committee on Commerce.

Also, resolution of the Legislature of Michigan, asking for an appropriation to improve the harbor at New Buffalo, in the county of Berrien, Michigan—to the same committee.

Also, resolutions of the Association of Agricultural Societies of Michigan, asking that the Bureau of Agriculture be made a Department, and also that measures be taken to prevent the spread of contagious diseases among cattle—to the Committee on Agriculture.

By Mr. CARLISLE: The petition of William W. Hanes, for an extension of his patent for an improvement in explosive projectiles for ordnance—to the Committee on Patents.

By Mr. CARPENTER: The petition of Charles W. Minard, John Standley, and others, soldiers of Grant City, Iowa, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

By Mr. CONGER: The petition of P. A. Wilton and others, citizens of Michigan, for such amendment of the patent laws as will protect innocent purchasers against fraud in the sale of patented articles—to the Committee on Patents.

Also, the petition of P. A. Wilton and others, citizens of Michigan, for the passage of laws requiring just and equal charges for transportation and freight—to the Committee on Commerce.

Also, the petition of Samuel Woolbridge, of Michigan, for compensation for injuries sustained by reason of an alleged illegal arrest and imprisonment by United States officials—to the Committee on Claims.

Also, resolution of the Legislature of Michigan, asking for an appropriation in money for the improvement of New Buffalo Harbor, Michigan—to the Committee on Commerce.

By Mr. HENDERSON: The petition of Joseph B. Cushman and others, that soldiers discharged for disease receive the same bounty as those discharged on account of wounds—to the Committee on Military Affairs.

By Mr. McGOWAN: Resolution of the Legislature of Michigan, asking an appropriation to secure an efficient harbor at New Buffalo, Michigan—to the Committee on Commerce.

Also, the petition of S. L. Bentley and 80 citizens of Eaton Rapids, Michigan, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of S. L. Bentley and 75 citizens of Eaton Rapids, Michigan, for the enactment of an income-tax law—to the Committee on Ways and Means.

Also, the petition of Lewis Gordon and 10 others, citizens of Michigan, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

Also, the petition of William G. Philips and 84 others, citizens of Eaton Rapids, Michigan, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, resolutions of the Association of Agricultural Societies of Michigan, asking that the Bureau of Agriculture be made a Department, and also that measures be taken to prevent the spread of contagious diseases among cattle—to the same committee.

By Mr. McMAHON: The petition of C. N. Cobler and 60 others, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of A. L. Clark and 60 others, for the passage of a law to protect innocent purchasers of patented articles and patent rights—to the Committee on Patents.

Also, the petition of T. J. Oldfather and 60 others, for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of J. C. Stiver and 60 others, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

By Mr. SCOVILLE: The petition of citizens of Buffalo, New York, that a duty be levied upon all fresh-water fish imported into the United States that may be caught in Canadian waters—to the Committee on Ways and Means.

By Mr. STEVENSON: The petition of soldiers of Logan County, Illinois, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. TILLMAN: The petition of members of Saint George Grange, Colleton County, South Carolina, that the patent laws be so amended as to protect innocent purchasers against fraudulent venders of patents and patent rights—to the Committee on Patents.

By Mr. VALENTINE: The petition of W. G. Hildreth and 30 others, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of G. H. Haarmann, of Omaha, Nebraska, manufacturer of vinegar, against the passage of the bill (H. R. No. 6460) relating to the manufacture of vinegar—to the Committee on Ways and Means.

By Mr. WARNER: The petition of R. R. Hudson and 95 others, citizens of Middleport, Ohio, for the construction of an ice-harbor at that place—to the Committee on Commerce.

By Mr. WILLIS: The petition of the Louisville (Kentucky) Board of Trade, against the enactment of a bankrupt law—to the Committee on the Judiciary.

By Mr. YOCUM: The petition of citizens of Clearfield County, Pennsylvania, against the passage of the sixty-surgeons pension bill—to the Committee on Invalid Pensions.

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## IN SENATE.

### WEDNESDAY, *February* 9, 1881.

The Senate met at eleven o'clock a. m.

Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved

PETITIONS AND MEMORIALS.

Mr. JOHNSTON. I present the petition of a number of citizens of Richmond, Virginia, praying for a further survey of James River, with a view of securing a channel to Richmond of twenty-five feet at full tide. This petition is signed by a great number of the prominent men and business men of the city of Richmond, and is so important that I ask that it be read.

The VICE-PRESIDENT. The petition will be read.

Mr. EDMUNDS. What is the petition?

The VICE-PRESIDENT. It is a petition for the improvement of James River.

Mr. EDMUNDS. I submit to the Senator whether it would not answer his purpose, if he wishes the petition in print, to have it printed by order of the Senate, and save the enormous expense of its going into the RECORD. I see it is quite long.

Mr. JOHNSTON. I make that motion.

The VICE-PRESIDENT. The Chair hears no objection, and the petition will be referred to the Committee on Commerce, and ordered to be printed.

Mr. JOHNSTON presented the petition of W. S. Kimball and others, citizens of the United States, praying to have the additional tax assessed and collected under a ruling of Commissioner Douglass, now declared by the Supreme Court to have been illegal, refunded to them; which was referred to the Committee on Finance.

Mr. McMILLAN presented the petition of Samuel Bloomer and others, citizens of Stillwater, Minnesota, and vicinity, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. HARRIS presented the petition of Jacob and Charles Schneider, of Knox County, Tennessee, praying for compensation for wood taken from their farms by the United States Army; which were referred to the Committee on Claims.

Mr. GROOME presented the petition of Harry Howard, Post No. 11, Grand Army of the Republic, of Baltimore, Maryland, praying for the passage of the amendments reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. CALL presented the petition of J. William Ewan and others, citizens of Miami, Florida, praying that Dade County, in that State, be transferred from the northern to the southern judicial district; which was referred to the Committee on the Judiciary.

### REPORTS OF COMMITTEES.

Mr. LOGAN, from the Committee on Indian Affairs, to whom was referred the petition of the Old Settlers or Western Cherokee Indians, submitted a report thereon, accompanied by a bill (S. No. 2164) to refer the claim of the Western Cherokees or Old Settlers to the United States Court of Claims for adjudication. The bill was read twice by its title, and the report was ordered to be printed.

Mr. ROLLINS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 5715) to vacate and close an alley in square 504 in Washington, District of Columbia, reported it with an amendment.

Mr. WALLACE, from the Committee on Finance, to whom was referred the bill (S. No. 2130) for the extension of the area of the mint at Philadelphia, Pennsylvania, and for greater security to the same, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. No. 155) to authorize the Secretary of the Interior to ascertain the amounts due to citizens of the United States for supplies furnished the Sioux or Dakota Indians of Minnesota subsequent to August, 1860, and prior to the massacre of August, 1862, and providing for the payment thereof, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BLAIR, from the Committee on Education and Labor, to whom was referred the bill (S. No. 1468) to enable the State of Colorado to select lands under the act of Congress of July 2, 1862, and the act of July 23, 1866, making a grant of land to States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the bill (H. R. No. 375) for the relief of Philemon B. Hawkins, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2503) for the relief of John H. W. Riley, of California, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (S. No. 197) to declare certain lands subject to taxation, reported it with an amendment.

Mr. KIRKWOOD, from the Committee on Foreign Relations, to whom was referred the bill (S. No. 1834) to pay the creditors of the late Henry O. Waggoner, late consular clerk at Lyons, France, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

### BILLS INTRODUCED.

Mr. ROLLINS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2165) for the relief of Sidney P. Luther; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Finance.

Mr. WINDOM asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2166) authorizing the construction of a bridge to the boundary-line between the United States and Mexico on the Rio Grande River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WHYTE asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2167) to change the name of the tug-boat George I. Morris, of Baltimore, Maryland, to Queen Victoria, of the same place; which was read twice by its title, and referred to the Committee on Commerce.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2168) to authorize the Postmaster-General to adopt a device for canceling postage-stamps; which was read twice by its title.

Mr. COCKRELL. I move the reference of the bill to the Committee on Post-Offices and Post-Roads; and I hope they will give due consideration to it.

The motion was agreed to.

Mr. MORGAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2169) to provide for the settlement of the Ponca tribe of Indians, and for other purposes relating to their welfare; which was read twice by its title, and referred to the Select Committee to examine into the circumstances connected with the removal of the Northern Cheyennes from the Sioux reservation to the Indian Territory.

### AMENDMENTS TO BILLS.

Mr. INGALLS submitted an amendment intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. ROLLINS submitted an amendment intended to be proposed by him to the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

### NATURALIZATION OF NATIVES OF SPAIN.

Mr. WALLACE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested to communicate to the Senate, if in his opinion not incompatible with the public interests, the correspondence which has recently passed between Spain and the United States in regard to the agreement of February 12, 1871, and more particularly with reference to the question of the naturalization in the United States of natives of Spain.

### ADJUSTMENT OF PENSION APPLICATIONS.

Mr. INGALLS submitted the following resolution; which was ordered to lie on the table and be printed:

*Resolved*, That a committee of three Senators be appointed by the Chair, to sit during the recess of the Senate, with power to employ a clerk and stenographer, for the purpose of inquiring into the state of the laws relative to the adjustment of pensions, with authority to report at the next session of the Senate, by bill or otherwise, what measures are necessary to secure the early adjudication of applications for pension.

### PRESIDENTIAL ELECTION.

Mr. WALLACE. I desire to give notice now that on Friday, immediately after the morning hour, I shall ask the Senate to hear me while I submit some remarks on the joint resolution (S. R. No. 148) proposing an amendment to the Constitution changing the mode of electing President and Vice-President of the United States, which I introduced on the 20th of January last.

### CALENDAR OF PENSION BILLS.

Mr. WITHERS. I desire to give notice that to-morrow morning, immediately after the conclusion of the morning business proper, I shall ask the Senate to take up and act upon the various pension bills which are upon the Calendar with favorable reports. A previous notice to the same effect which I gave I was unable to carry out, having been unexpectedly called away.

### COURTS IN VIRGINIA.

Mr. LAMAR. I move to reconsider the vote by which the Senate, on Monday last, passed the bill (H. R. No. 6599) to change the time for holding circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia.

The motion to reconsider was agreed to.

Mr. LAMAR. I now move to reconsider the vote by which the bill was ordered to a third reading and read the third time.

The motion was agreed to.

Mr. LAMAR. In line 3 of section 2 I move to strike out "the 1st of May, 1881," and insert "its passage;" so as to make the section read:

All laws and parts of laws in conflict with this act are hereby repealed. This act shall be in force from its passage.

The PRESIDING OFFICER, (Mr. EDMUNDS in the chair.) The Chair will state that the words proposed to be stricken out by the Senator from Mississippi were inserted by the Senate, as the Chair is informed, by way of amendment, and therefore the vote inserting those words would require strictly to be reconsidered, unless by unanimous consent the Senate is willing they should be stricken out.

Mr. MORRILL. Let the first section of the bill be read.

The Chief Clerk read as follows:

That the United States circuit and district courts of the United States for the western district of Virginia, held at Danville, in the State of Virginia, shall hereafter be held at said city of Danville, commencing on Tuesday after the third Monday in June and on Tuesday after the third Monday in November of each year, instead of the times now fixed by law.

The PRESIDING OFFICER. The Senator from Mississippi asks unanimous consent that the words which were stricken out by an amendment in the Senate may be restored to the bill, leaving the bill in its original condition in that respect. Is there objection? The Chair hears none, and this reversal of the amendment is agreed to by unanimous consent. The question again recurs, Shall the bill be read the third time.

The bill was ordered to a third reading, read the third time, and passed.

DISTRICT MUNICIPAL CODE.

Mr. HARRIS. I desire to call up for consideration the resolution reported by me on Monday last from the Committee on the District of Columbia, which I suppose is properly morning business.

The PRESIDING OFFICER. The Senator from Tennessee, under the rule, calls up a resolution, which will be reported.

The Chief Clerk read the following resolution, reported by Mr. HARRIS from the Committee on the District of Columbia on the 7th instant:

*Resolved*, That on and after Tuesday, the 8th of February, 1881, the Senate will take a recess at —— o'clock p. m., and meet at seven o'clock p. m., for the purpose of considering House bill No. 5541, entitled "An act to establish a municipal code for the District of Columbia," and will continue so to meet each day until the same shall have been finally acted upon by the Senate.

Mr. HARRIS. I have no right to modify the resolution as it was reported by me from a committee. I suggest, however, the propriety of an amendment, and offer to amend by striking out "Tuesday, the 8th," and inserting "Wednesday, the 9th," and in the after part of the resolution by inserting "seven and a half o'clock" instead of "seven o'clock."

Mr. ANTHONY. I suggest to my friend from Tennessee that the experiment of holding an evening session has been very often tried and very seldom has been successful. It seems to me that it would be more convenient to the Senate and conduce more to the dispatch of business if the Senate should sit until seven or half past seven o'clock continuously. The time allowed for recess is not sufficient to enable one to go down street and get dinner and return, and we can get a very comfortable dinner in the restaurant, going out two or three at a time. By continuing in session until about half past seven or eight o'clock we shall transact more business and do it in a more orderly manner than by coming up here in the evening, when it is very difficult to obtain a quorum.

Mr. HARRIS. The bill the consideration of which the resolution provides for is a bill of three hundred and thirty-five pages. The Committee on the District of Columbia believes it important that the bill should be considered. In the present condition of the business of the Senate I am satisfied that it will not be considered at this session unless the Senate will consent to hold night sessions for at least one or two, possibly a larger number of nights. I desire the judgment of the Senate as to whether the bill shall be considered at this session of Congress. Of course I have no desire to press it upon the consideration of the Senate. The committee of which I have the honor to be a member believes it to be important, if the Senate will consent, to set apart a day certain, some early day, when the bill shall be taken up. I have no desire to press upon the Senate night sessions, but I do think it important that the bill should be considered, and I ask the Senate to fix a day, an early day, at which it shall be taken up and its consideration proceeded with to conclusion, or I must insist upon taking the vote of the Senate at least as to holding night sessions for the purpose of considering it.

Mr. HOAR. I desire to ask a parliamentary question of the Chair. Is it in order for the Senate to direct in advance that no other business shall be done except attention to one bill until it is proceeded with under the rule which says what motions shall be in order when a bill is taken up, &c.? Can that be done without a change of that rule of the Senate?

The PRESIDING OFFICER. The Chair thinks that the resolution of the Senator from Tennessee is in order. The Chair thinks that it is in order under the tenth rule, as making a special order, a special direction for the consideration of a particular bill, which the tenth rule provides may be made by a vote of two-thirds of the Senate.

Mr. HOAR. Will the Chair have that rule read?

The PRESIDING OFFICER. The Secretary will report the tenth rule.

The Chief Clerk read as follows:

Any subject or matter may, by a vote of two-thirds of the Senators present, be made a special order; and when the hour fixed for the consideration of a special order shall arrive, it shall be the duty of the presiding officer to lay such special order before the Senate, unless there be unfinished business of the preceding day, in which case the unfinished business shall have precedence.

Mr. HOAR. Will the Chair be kind enough to have the resolution as it now stands read again?

The Chief Clerk read the resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

Mr. HOAR. Does the final passage of the resolution require a two-thirds vote?

The PRESIDING OFFICER. In the opinion of the Chair, it does.

Mr. BECK. I should like to make the suggestion, for what it is worth, that we devote next Saturday, meeting at eleven o'clock, to the consideration of this bill to the exclusion of all other business. The chances are that by meeting at eleven o'clock and devoting all day to it, we shall make more progress with the bill than we would in four or five night sessions, and we can determine by Saturday whether another day will not finish it. I have never seen any good from a night session, and we can do a great deal of work by devoting the whole day Saturday to it and meeting at eleven o'clock.

Mr. HARRIS. I desire to say that the suggestion of the Senator from Kentucky is perfectly satisfactory to me. I wish to consult the convenience and judgment of the Senate first as to whether this bill shall be considered at all, and, if so, to notify the Senate that unless it is considered at an early day its consideration is wholly unnecessary. Unless it can be finally acted upon by the Senate within the next ten days, the bill can never be enrolled during the remaining days of this session. I am perfectly willing myself that we shall hold night sessions for its consideration. I would prefer if the Senate would take it up or proceed to its consideration on the day named by the Senator from Kentucky; but I desire to invoke the judgment of the Senate as to whether the bill shall be considered.

Mr. WALLACE. I desire to give notice that the Post-Office appropriation bill is ready and awaiting the action of the Senate. It only awaits the right of way now occupied by the pension appropriation bill, and just as soon as that appropriation bill is out of the way the Post-Office appropriation bill will be pressed. I am advised that there is debate to go on upon it, and I desire to give notice that I shall claim the right of way for the Post-Office appropriation bill whenever I can get the floor.

Mr. HARRIS. I desire to say to the Senator from Pennsylvania that if the bill in question shall be taken up and under consideration, so far as I have the power, being the person reporting it, I should certainly always consent to its being informally laid aside for the consideration of any general appropriation bill. In the consideration of that or any other bill of its character that I could control, I should always give the right of way to a general appropriation bill.

Mr. BAYARD. I desire to contribute to the judgment of the Senate by stating that the funding bill was reported back here last Friday, and except the appropriation bills—and I can scarcely except some of them—I think there is no measure that calls for diligent attention on the part of the Senate more than that bill. Therefore, I had proposed, not to antagonize any appropriation bill, but to ask the Senate to consider no bill as second in importance after the appropriation bills to the bill for refunding the national debt now about to mature. For that reason I say to my friend from Tennessee, without denying the interest and perhaps necessity for amelioration in the legislation of this District, that I consider it will be the duty of the Senate to prefer action upon the funding bill to any bill that is not strictly necessary for the support of the Government, and I shall urge that whenever the opportunity occurs. I have hoped it might be considered to-morrow.

Mr. MORRILL. It is evident, Mr. President, that we are very much crowded as to time for the business that is before the Senate. I think the motion made by the Senator from Tennessee should be accepted so far as this evening is concerned. The bill is a long one and will require much time for the reading, and I do not understand that there are more than two or three topics in the bill about which there will be much contention. I think, therefore, it will be better to have one evening when the bill can be read, and then, perhaps, accept the suggestion of the Senator from Kentucky for Saturday; but, first and most important, it seems to me that we should have one evening to dispose of the long time it will require to read the bill.

Mr. HOAR. Mr. President, we have seventeen legislative days only after to-morrow, in this session. We have a very large number of measures before the Senate which have been matured by committees and which have been very thoroughly debated, which are of great public importance. Now, it seems to me that the Senate ought not to lay aside all those matters and to lose all the benefit which has come from the discussion and comparison of views upon them, in favor of this particular measure. This is a mere code, codifying the laws of this District, the laws which are in force, laws which are known to the courts and to the profession, and the District will not suffer from a delay of six months in enacting that code into a statute. The labor which has been employed in framing it will not in the least be lost. This document will be here at the beginning of next winter's session, all the work which is required being as valuable and useful to the Senate and the House of Representatives next winter as now.

Then, in addition to that, it contains three or four matters mentioned by the Senator from Tennessee the other day, which will give rise to a very long debate. Now, why should we crowd out the necessary discussion for maturing a pension system, which has been so largely debated so far, by addressing ourselves to the local system of taxation in the District of Columbia? Why should we crowd out the measures for the relief of the Indians, which have been discussed so fully? Why should we crowd out the Geneva award, which the Senate has debated and debated, but the bill in regard to which I hope will command nearly the unanimous support of the Senate, at any rate of a very large majority? Why should all these measures, which were introduced in season, which were brought here early in the session, and which have been so largely discussed and matured, be laid aside to enter upon and begin a discussion in regard to the tax system in the District of Columbia, and the other matters mentioned by the

Senator from Tennessee—a bill which is to take four or five hours in the simple reading?

It seems to me, Mr. President, that the Senator from Tennessee, who will be here in December, can introduce this measure in December. It is true that the present bill has passed the House of Representatives, but the amendments which have been reported by our committee will be very unlikely to get through the House. They cannot in the state of their business, in my judgment, be very likely to feel that they can properly be able to give to them the discussion which matters involving such important principles will provoke.

I trust the Senate will, as the Senator from Tennessee invites their judgment, express the opinion that this matter should be laid aside till the beginning of another Congress, when we shall have ample time, when none of the matters contained in the bill will have suffered any injury by waiting.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee to the resolution.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the resolution as amended.

The question being put, there were, on a division, ayes 19, noes 16—no quorum voting.

Mr. ROLLINS called for the yeas and nays; and they were ordered.

Mr. BAYARD. I ask that the resolution as amended be read for information.

The PRESIDING OFFICER. The resolution will be read as amended.

The Chief Clerk read as follows:

*Resolved*, That on and after Wednesday the 9th of February, 1881, the Senate will take a recess at — o'clock p. m. and meet at seven and a half o'clock p. m. for the purpose of considering House bill No. 3541, entitled "An act to establish a municipal code for the District of Columbia," and will continue so to meet each day until the same shall have been finally acted upon by the Senate.

Mr. VOORHEES. Mr. President, there is not a Senator in this body to whom I would be more courteous than the Senator from Tennessee. This bill, however, is between three and four hundred pages long, involving an entire and elaborate revision of the municipal code and government of this District. If the Senate is going to order night sessions, let it do it with its eyes open. There will be hard nights' work before us, involving every conceivable subject almost that arises in government under this bill. I am as willing to work as anybody in this Chamber; I do not think I am inclined to shirk it; but if we enter on this discussion, we have a hard and elaborate one before us. I agree that if it is to be done, it must be done at night, because there is more than enough of business that is almost imperative in its character to consume all the days between now and the close of the session. I apprehend, however, when this work is entered upon there will be very few night sessions until everybody will regret that they have been ordered. The struggle will be to have a quorum to do business at all, and great and grave questions will be passed upon in a way that they ought not to be disposed of, in a way that will make their reconsideration hereafter necessary. I do not believe that this great measure, this enormous bill, which perhaps is all right and perhaps not all right—my attention has been called to various parts of it—ought to be taken up at this session. It ought to be taken up at the beginning of a session and not considered, as it were, under duress; and, without the slightest disrespect to the Senator from Tennessee, and with every desire on my part to oblige him, I hope the Senate will not make this order.

Mr. BAYARD. I concur very largely with what has been said by the Senator from Indiana. I do not believe that this bill, an entire code of laws for the government of this District, containing 150,000 people, supplying laws for every imaginable branch of that government, can be considered properly at this stage of the session of Congress; and I think, without diminishing its importance at all, that it is comparatively unimportant to other measures which are before the two Houses of Congress, and which should meet with final action before they separate on the 4th of March.

For that reason I shall move to amend the resolution of the Senator from Tennessee by substituting instead of the name and number of the bill contained in the resolution the bill (H. R. No. 4592) to facilitate the refunding of the national debt.

I frankly say that I hope the Senate will not adopt the resolution to hold night sessions. My experience in this body, not now a short one, has proved to me the difficulty, after a long day of close attention in committee-rooms and in the legislative duties of the Senate, of procuring a quorum of the Senate; and so you are constantly arrested upon some motion of importance by the disclosure that you have not a quorum and cannot compel the attendance of Senators. This has been tried, not once or twice, but it has been tried a hundred times, and after resolving to come here the measures before the Senate have been at the mercy of any individual who would demand the yeas and nays on a question that would betray by a division of the Senate the absence of a quorum, and then the bill must be laid on the table and the question go over. But if night sessions are to be had, then I do say that the funding bill should have preference to any other not one of the regular appropriation bills.

I am opposed to night sessions at this time because I do not think they are practicable; I do not think they are economical. In point of hours of labor they are not economical. I am sure that there are many gentlemen who hear me now who recognize perfectly well the difficulty of attempting to get important bills considered in the Senate upon which there ought to be debate, upon which there will be debate, at a time when every division will disclose the absence of a quorum. I put it to the good sense of the Senate that it is not well at this time to direct a night session, and I move the amendment, and I feel called upon to offer it, that House bill No. 4592 be substituted in the place of the bill named in the resolution, the number of which I ask the Clerk to read.

Mr. HARRIS. The amendment the Senator suggests is hardly in order. At all events, I shall raise the question of order.

The VICE-PRESIDENT. The Chair holds that it is in order. It is not a proposition to take up a bill instantly, or to amend a motion of that kind; but it is to strike out one name and number and insert another. That is the amendment of the Senator from Delaware.

Mr. WHYTE. Before the vote is taken I wish to say one or two words. As one of the members of the sub-committee to whom was committed the examination of this bill, I beg to say to the Senate that the bill is the result of the work of a commission appointed under the act of Congress of 1878, providing a permanent form of government for this District. It has been very carefully prepared, it has been very carefully revised, and I am entirely satisfied that it can be disposed of in one or two days, so far as the great bulk of the bill is concerned; and I agree entirely with the Senator from Tennessee in the desire and in the necessity of having night sessions to dispose of parts of the bill to which there will probably be no objection; but I no not think we can begin to-night, and I would suggest to him to postpone the day until Monday next, and provide that from Monday on we shall hold night sessions until this bill is disposed of. If that amendment is made, I think he will have no trouble with the resolution.

Mr. HOAR. Why should not the committee strike out from the bill that which is new legislation, and let that come up in a separate way? I do not propose to permit the affirmation by the Congress of the United States of the doctrine that trust funds (and I include in those funds raised by religious bodies for the public worship of God, and whether those funds be invested in the real estate of churches or held as personal property) ought to be taxed without the most strenuous resistance, and that will give rise undoubtedly to very extended debate. The Senate voted it down on full debate two years ago, and I do not see why in a mere codification of the existing law anything that anybody thinks would be a good change of the law should be put in. New legislation and codes are inconsistent; they do not belong together in the same bill. If the committee would strike out the three or four radical changes proposed in the law and not attempt to force them through by the aid of their code, they would have no difficulty in getting their bill passed.

### COUNT OF ELECTORAL VOTES.

The VICE-PRESIDENT. The hour of twelve o'clock having arrived, in pursuance of the provisions of the concurrent resolution of the two Houses relative to the counting of the votes for President and Vice-President of the United States, the Senate will now proceed to the Chamber of the House of Representatives.

The Senate, headed by the Vice-President and Secretary, and preceded by the Sergeant-at-Arms, thereupon proceeded to the Hall of the House of Representatives.

The Senate returned to its Chamber at one o'clock and forty minutes p. m.

### REPORT ON HOG CHOLERA, ETC.

Mr. WHYTE. The Committee on Printing, to whom was referred the joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of special report of the Commissioner of Agriculture relative to diseases of swine and infectious and contagious diseases incident to other domestic animals, have had the same under consideration, and have instructed me to report it back with a favorable recommendation, and I ask for its immediate consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

### EXECUTIVE BUSINESS.

Mr. EATON. As this may be called somewhat of a broken day, and we have passed through a very pleasant and orderly scene, I hardly think the Senate will care to go into legislative business at large this afternoon. There is some very important business that ought to be brought up in executive session, and I move that the Senate proceed to the consideration of executive business.

Mr. GARLAND. Will the Senator withdraw his motion to allow me to give a notice?

Mr. EATON. Certainly.

### GENEVA AWARD.

Mr. GARLAND. I wish to give notice that on Friday morning next, after the morning hour, if there is no regular appropriation bill before the Senate, I shall ask the Senate to take up and consider the bill (S. No. 2091) for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award, which was reported from the Committee on the Judiciary.

Mr. HOAR. I suggest to the Senator that he give the notice to apply to the time immediately after the conclusion of the routine business of the morning hour.

Mr. GARLAND. I will so modify the notice.

THE MONROE DOCTRINE.

Mr. HOAR. I ask unanimous consent to submit the following resolution:

*Resolved*, That 1,000 copies of the letter of Hon. Edward Everett, written after his retirement from the office of Secretary of State, in reply to Lord John Russell on the proposed tripartite convention relating to Cuba, be printed for the use of the Senate.

I will state that this is a brief document. When Great Britain and France proposed to the United States a convention in regard to the acquisition by either of those powers of the island of Cuba, a correspondence was begun by Mr. Everett with the English Government, when he was Secretary of State, in the usual diplomatic form of addressing a letter to our minister at London to be read to the English minister of foreign affairs. The reply of Lord John Russell, who was then the British secretary of State for foreign affairs, to Mr. Everett's letter was made after Mr. Everett's retirement from the office of Secretary of State; but Mr. Everett made a very able and interesting reply, discussing what is called the Monroe doctrine and the relation of the United States to the question of the acquisition by European powers of territory upon this continent in a very interesting manner. That, however, not being an official document, was printed as a pamphlet, and is not contained, so far as I am aware, in the official documents published by either House of Congress. There is no copy of it in the Congressional Library; there is no copy of it to be found in any of the public libraries in the city of Boston. There is a copy of the pamphlet in the Department of State. It is a very interesting and important contribution to our history, and a very interesting contribution to the material for the discussion of what is known as the Monroe doctrine. It is a brief pamphlet, which can be reprinted without exceeding the cost of the usual order, and I ask unanimous consent that it may be ordered to be printed for the use of the Senate as one of our documents.

Mr. HAMLIN. I am not certain that it is a privileged motion, but if it be not I am quite certain that the Senate will give its unanimous consent to enable me to submit a motion to complete the purpose for which the tellers were appointed. I propose to dispose of what was proceeding, to wit, to finish the counting of the votes according to the forms of the Senate, and I submit the report of the tellers.

The PRESIDING OFFICER, (Mr. EDMUNDS in the chair.) The pending question is, Will the Senate grant unanimous consent that the Senator from Massachusetts have leave at this time to introduce the resolution which was read by him.

Mr. HOAR. It will take but half a minute. However, I will waive it, if the Senator from Maine desires.

Mr. HAMLIN. It would be better to waive it. Let us finish the count.

Mr. HOAR. I will waive the resolution.

The PRESIDING OFFICER. The Senator from Massachusetts withdraws his request for the present.

COUNT OF ELECTORAL VOTES.

Mr. HAMLIN submitted the following report; which was read:

The tellers on the part of the two Houses report that they have counted the votes of all the States cast for President and Vice-President of the United States of America for the constitutional term of four years from the 4th day of March, 1881, and find that on the first Wednesday in December, 1880, the electors of all the States assembled in their respective States, being the day prescribed by law for the assembling of the electors, except the electors for the State of Georgia. That of those who assembled and cast their votes on the said first Wednesday in December, 1880, James A. Garfield, of the State of Ohio, received 214 votes for President of the United States; Winfield S. Hancock, of the State of Pennsylvania, received 144 votes for the same office.

That for Vice-President of the United States, Chester A. Arthur, of the State of New York, received 214 votes; William H. English, of the State of Indiana, received 144 votes.

That from the report of the electors of the State of Georgia, it appears that the electors of that State assembled in Atlanta, the capital of that State, on the second Wednesday of December, 1880, being the 8th day of said month, and so assembled on that day did cast the electoral votes of that State (11) for Winfield S. Hancock, of the State of Pennsylvania, for President of the United States; 11 for William H. English, of Indiana, for Vice-President of the United States.

From all of which it appears that the whole number of electors appointed to vote for President and Vice-President of the United States is 369, of which a majority is 185. Were the votes of electors of the State of Georgia cast on the second Wednesday of December, 1880, being the 8th day of said month, counted, the result would be: For James A. Garfield, of the State of Ohio, for President of the United States, 214 votes, and for Winfield S. Hancock, of the State of Pennsylvania, for President of the United States, 155 votes; and for Chester A. Arthur, of the State of New York, for Vice-President of the United States, 214 votes, and for William H. English, of the State of Indiana, for Vice-President of the United States, 155 votes. If the votes of the electors of the State of Georgia cast as aforesaid were not counted, the result would be: For President of the United States, James A. Garfield, of the State of Ohio, 214 votes; Winfield S. Hancock, of the State of Pennsylvania, 144 votes; for Vice-President of the United States, Chester A. Arthur, of the State of New York, 214 votes; William H. English, of the State of Indiana, 144 votes. In either event James A. Garfield, of the State of Ohio, has received for President of the United States, and Chester A. Arthur, of the State of New York, has received for Vice-President of the United States, respectively, a majority of the votes of the whole number of electors appointed.

H. HAMLIN,
A. G. THURMAN,
*Tellers on the part of the Senate.*
JNO. F. HOUSE,
RICHARD CROWLEY,
*Tellers on the part of the House of Representatives.*

The PRESIDING OFFICER. The report will be entered on the Journal of the Senate, if there is no objection.

Mr. HAMLIN. According to the usage of this occasion, I submit the following resolution:

Whereas the Senate having met the House of Representatives in accordance with the fifth section of the act of 1st March, 1792, relative to the election of President and Vice-President of the United States, and the electoral votes having been opened by the President of the Senate in the presence of the two Houses of Congress and counted by the tellers appointed on the part of the two Houses, and it appearing that the whole number of electors appointed to vote for President and Vice-President of the United States is 369, of which a majority is 185; and it further appearing that James A. Garfield, of Ohio, had received 214 votes for President of the United States, and that Chester A. Arthur, of New York, had received 214 votes for Vice-President of the United States, which number is a majority of the votes of the whole number of electors appointed, and the same having been duly declared by the President of the Senate in the presence of the two Houses: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the two Houses are of opinion that the Constitution and laws have been duly executed, and that no further declaration of these facts is necessary.

The PRESIDING OFFICER. The Senator from Maine asks for the present consideration of this resolution. Is there objection? The Chair will state to the Senate that in the form of the resolution the Chair has some doubt whether under the rules it requires three separate readings, or whether it is to be adopted like a concurrent resolution by a single vote, and will ask the view of the Senator from Maine on that point.

Mr. HAMLIN. My impression is that it is simply a concurrent resolution and does not possess the force of a law or a joint resolution.

The PRESIDING OFFICER. The Chair will, on the suggestion of the Senator from Maine, take that view of it and put the question directly on the adoption of the resolution, if there be no objection. The Chair hearing no objection, the question is on agreeing to the resolution.

The resolution was agreed to.

EXECUTIVE BUSINESS.

Mr. EATON. After consultation with the Senator who has in charge the pension appropriation bill, he deeming it necessary to press that measure, I withdraw, if I may do so, the motion which I made to go into executive session.

The PRESIDING OFFICER. The motion to proceed to the consideration of executive business is withdrawn.

MORTON MONUMENTAL ASSOCIATION.

Mr. VOORHEES. I move to discharge the Committee on Military Affairs from the further consideration of the joint resolution (H. R. No. 83) granting condemned cannon to the Morton Monumental Association, and I make the motion for the purpose of putting the joint resolution upon its passage.

The PRESIDING OFFICER. The recollection of the Chair is that a motion to discharge a committee may be put immediately, and the committee being discharged it will then require unanimous consent to consider the joint resolution afterward. The question is on the motion of the Senator from Indiana to discharge the committee.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Indiana now asks unanimous consent to proceed to the consideration of the joint resolution. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE MONROE DOCTRINE.

Mr. HOAR. I now ask unanimous consent for the adoption of the resolution which I send to the desk.

The PRESIDING OFFICER. The Senator from Massachusetts asks unanimous consent to present, at this time, for present consideration, a resolution which will be reported.

The Chief Clerk read the resolution, as follows:

*Resolved*, That 1,000 copies of the letter of Hon. Edward Everett, written after his retirement from the office of Secretary of State, in reply to Lord John Russell on the proposed tripartite convention, relating to Cuba, be printed for the use of the Senate.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. HOAR. I desire to say in addition to what I have already stated, that Mr. Everett in this letter states that the reply is made with the approbation of Mr. Marcy, the then Secretary of State.

The resolution was agreed to.

AMENDMENT TO A BILL.

Mr. VEST submitted an amendment intended to be proposed by him to the bill (H. R. No. 7036) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. MCPHERSON, it was

*Ordered*, That the papers in the case of Michael Fentenheime be withdrawn from the files of the Senate subject to the conditions imposed by the rule.

PENSION APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, the pending question being on the amendment of Mr. HOAR, to add to the amendment made as in Committee of the Whole the following:

The number and distribution of said clerks in the different offices and different Departments to be at the discretion of the President;

So as to make the entire amendment read:

To provide fifty additional examiners, and for rent for additional rooms or buildings therefor, for the Pension Office, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices, respectively, necessary to render effective the work of said examiners, the sum of $200,000, to be immediately available, the number and distribution of said clerks in the different offices and different Departments to be at the discretion of the President.

Mr. CAMERON, of Wisconsin. Mr. President, the debates in the Senate upon this bill show, I think, great confusion to exist in the minds of Senators on the subject of the estimates made by the Commissioner of Pensions upon the arrears legislation and the extent of the frauds perpetrated under the pension laws. While as an individual the estimates of the Commissioner of Pensions might be of slight importance in his official capacity, these estimates are regarded as an important factor in the legislation of Congress touching all pension matters. This is so mainly for the reason that his opportunities to collect and digest data upon all matters relating to pensions are better than those enjoyed by any other officer or person.

The confusion which exists in regard to what the Commissioner has or has not estimated is employed to defeat measures now pending in Congress which cannot, in my opinion, be long postponed with safety either to the pensioners or the Government.

All the official estimates made by the Commissioner of Pensions touching the arrears of pensions legislation are the following:

I. In a letter addressed to the Secretary of the Interior February 4, 1879, ten days after the passage of the arrears act, the Commissioner stated the number of pensioners on the roll at the date of the passage of the arrears act who would be entitled each to a greater or less sum as arrears at 45,155, and estimated the total amount due them at $34,000,000.

In the same letter the Commissioner pointed out that the arrears act created great irregularities in pensions, and recommended an amendment which in his opinion would obviate such inequalities. The Commissioner estimated the amount which would be required at $25,000,000 in case the amendment recommended by him was passed by Congress. The amendment was adopted March 3, 1879. Up to November 1, 1880, 43,917 of these pensioners had been paid a total of $24,600,487.27. If the entire 45,155 pensioners are paid at the same average rate, the grand total required to pay them will be $25,293,963.66. It will be observed that these figures do not purport to estimate for any case on file not settled at the date of the passage of the arrears act, nor for any case thereafter filed.

To repeat, the commission estimated the amount that would be required to pay the arrears due to the 45,155 soldiers on the roll at the time of the passage of the arrears act, and entitled to arrears, at $25,000,000. Forty-three thousand nine hundred and seventeen of these pensioners were paid their arrears up to November 1, 1880, and the aggregate amount paid to them was $24,600,487.27. At the same rate the amount required to pay the entire 45,155 soldiers will be $25,293,963.66.

I submit that the Commissioner guessed very accurately in this matter.

II. On the 20th of January, 1881, in response to inquiries made by the Senator from West Virginia, chairman of the Senate Committee on Appropriations, the Commissioner of Pensions made an estimate of (1) the total cost of the arrears acts, (2) the total annual payments in the future, (3) the amount annually paid out on fraudulent pensions. These estimates were printed by order of the Senate. They are contained in Senate Miscellaneous Document No. 24.

This contains the first and only estimate made by the Commissioner of the amount of arrears or accrued pensions on the claims which were filed and unsettled on the 25th day of January, 1879, or which have been filed since that date, and will probably be allowed.

I am informed by the Commissioner of Pensions that, in conversation with members of Congress and others, the large amounts required to pay pensioners have frequently been mentioned; but that officer never stated nor pretended to state a particular sum as the cost of the arrears act until subsequent to June last, and except the estimate made at the request of the chairman of the Senate Committee on Appropriations the Commissioner has never given an approximate statement except that it would exceed $400,000,000.

The current statements to the effect that the Commissioner first estimated twenty-five, then fifty, then one hundred, then five hundred, then five hundred and ten, and still later seven hundred and ten millions, have no foundation.

The statement of $710,000,000 is supposed to be based upon a conversation which the Commissioner had with three members of the House Committee on Appropriations, within fifteen minutes after he had furnished to the Senator from West Virginia the estimates contained in Senate Miscellaneous Document No. 24. The recollection of the Commissioner as to that conversation is, that he gave the amount as $510,000,000, and not $710,000,000. It seems scarcely possible that within a few minutes after furnishing an official statement to the chairman of the Senate Committee on Appropriations the Commissioner would place the amount $200,000,000 higher than he had placed it in his official estimate. The member of the House of Representatives whose statement was quoted in debate the other day by the Senator from Illinois probably misunderstood the Commissioner.

III. Previous to the passage of the act of January 25, 1879, estimates were made by the Commissioner upon other bills at the request of committees having them in charge, but such bills differed widely from the present arrears legislation.

The estimate made by the Commissioner February 4, 1879, was, as has since been demonstrated, substantially correct.

Whether or not the estimate contained in the letter of the Commissioner to the Senator from West Virginia is too high or too low, or substantially accurate, cannot now be demonstrated, but the Commissioner submits it to Congress with perfect confidence that the amounts required will not be less than the amounts therein estimated by him.

Mr. PLUMB. I should like to be allowed to modify the amendment so as to make it read:

To provide fifty additional clerks for the Pension Office for the examination of applications, and the number of clerks for the Pension Office and Adjutant-General's and Surgeon-General's Offices respectively necessary to render effective the work of said first-named clerks, the sum of $200,000, to be immediately available.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) There is already an amendment to an amendment pending; and a further amendment is not in order at present.

Mr. BECK. Mr. President, what I am about to say would be better said by the Senator from California who has charge of the bill, [Mr. BOOTH,] but I rose to make a proposition which I hope Senators will agree to in regard to this amendment. I shall either make it or give way for him, if he will be kind enough to state what I think we both agree about.

Mr. BOOTH. I yield to the Senator to make the statement.

Mr. BECK. In thinking over in regard to this amendment, I believe I speak the feelings of the majority of the Committee on Appropriations when I say that we have no desire to pinch the Commissioner of Pensions, the Adjutant-General, or the Surgeon-General in the number of employés necessary to carry on their work efficiently; and if this amendment should now be withdrawn or if it should be voted down, I hope the Senate will agree in advance that an amendment shall be in order to the legislative, executive, and judicial appropriation bill, proposed after full consultation with the Commissioner of Pensions, with the Adjutant-General, and with the Surgeon-General. On that consultation we can determine what additional force each one of these officers may need in order to do their work well, and the committee will after that is done carefully report to the Senate the information received from those bureaus of different Departments of the Government, and present to the Senate the facts relative to it, and ask such an increase of force as will do the work; and if the committee do not ask for enough, it will be legitimate when the legislative bill comes up, which provides for the employés in all the Departments, to add to it any suggestions which will secure a proper number if the committee does not grant the proper number. But it is proposed now to say that we will give $200,000 for increasing the force in two Departments of the Government, perhaps three, one pertaining to the Interior Department as the Pension Office does, one pertaining to the Treasury Department, and certainly one to the War Department, and to intrust the President with the division of this money among them. Thus the proper adjustment of the number that ought to be given to each will be taken away from the control of Congress and its committees. This will breed confusion in the adjustment of the number of employés and in the settlement of the accounts of these respective offices.

Besides, if this amendment is not attached to this bill, the bill will go back to the House, clear, free from any entanglement, the House will perhaps agree to the few amendments we have put upon the bill, and it will become a law at once. The nineteen millions of arrearages that we are compelled to give in order to have prompt action taken in the payment of pensions already adjudicated will then be granted, whereas if the bill goes to the House laden with this somewhat incongruous amendment—I mean one that is not properly attached to the bill—it will create long discussion in the House and perhaps delay the passage of this pension bill which ought not to be delayed while the legislative, executive, and judicial appropriation bill is now up in the House, two-thirds of it I believe has been passed over, another day will finish it there, and long before this pension bill can become a law with this provision in it, the legislative, executive, and judicial bill will be here and the Committee on Appropriations can pass upon it, receive intelligent opinions from each of the heads of bureaus who are to receive this $200,000, and we can pass it before the pension bill thus laden can become a law.

Then as a matter of regularity and as a matter of economy of time, and as a matter to promote prompt action, everything is in favor of the suggestion that I am now making. I am willing, so far as I am concerned, that the Senate shall now declare in advance, if they think any question of order would lie to the consideration of this matter on the legislative, executive, and judicial appropriation bill because it involves an increase of expenditure, that this proposition

for $200,000 already declared in order on this bill shall be in order on the legislative, executive, and judicial appropriation bill so that no question can be made upon it, except as to what is the true amount. That will be the true disposition of the question upon the bill that regularly provides for all the Departments.

Mr. WITHERS. In addition to what has been said by the Senator from Kentucky, and as evidence of the disposition of the Appropriations Committee in regard to this matter, I wish to state that a year ago when this question was up before the Senate, and when the same complaint was made as to the dilatory action of the Pension Bureau on applications for pensions, when the same necessity was declared to exist and an increase of the clerical force of the Pension Office, the Surgeon-General's Office, and the Adjutant-General's Office was asked, when the legislative bill was up the Appropriations Committee had the heads of these different departments before them and inquired of them what additional force was necessary in order to expedite the consideration of these claims. They stated to us the additional number of clerks that they desired, and we gave them every man they asked for. The Senate may rest assured that upon similar reports of the necessity for an increase of clerical force in order to accelerate the disposition of the pension cases, they will find no difficulty on the part of the Committee on Appropriations in according whatever may be required.

Mr. PLATT. Mr. President, I shall vote for this amendment of the Senator from Kansas [Mr. PLUMB] if it is to be considered as an amendment to this present bill; I shall vote for a similar provision to be attached to the legislative, executive, and judicial appropriation bill if it shall then be proposed; but at the same time, I shall do so without any expectation whatever that any such provision would remedy the evil with which we stand face to face to-day. The trouble is not in the inadequacy of force in the Pension Office, it is in the system by which pensions are now adjudicated. The system is not adapted to the amount of the business. It was very well when the number of pensions to be considered was small; but since they have become so large it is entirely inadequate to dispose of them.

Again, the system is vicious in its character. I had intended when the amendment proposed by the Senator from Virginia, the chairman of the Committee on Pensions, was before the Senate, to address the Senate somewhat fully in support of that measure; but the temper of the Senate convinced me that it was useless, and I refrained. It is not the time to discuss it now, but I cannot refrain from saying that I think this Senate has voted down, refused to consider the only practicable measure for affording any relief to the multitude of pension claimants who are clamoring for their rights. I believe that any such provision as this by way of an increased force in the Pension Office and in the Surgeon-General's Office will be just about as effective to afford relief to pensioners and to secure the speedy adjudication of their claims as to endeavor to keep back the rising sea with a broom. We stand here face to face with one alarming fact, and that is that there are 300,000 persons now claiming pensions. I know it is said that 80,000 of these claims are not live claims. In a certain sense they are. They are each one liable to be called up for re-examination; they have not gone off from the list. But suppose it be only 220,000 persons who are asking of this Government that their claims for pensions shall be adjudicated, there is the further fact that those claims cannot be adjudicated under the present system, even with this increase of force, in from less than from six to ten years. What is needed is something which shall meet the requirements of the situation. I believe that Senate bill No. 496 was adapted to meet those requirements; I believe if it had not been so contemptuously, if I may use the word, rejected by the Senate, it would have inaugurated a system which would have been satisfactory—satisfactory to the applicants, satisfactory to the Government—and which would have enabled these claims to be disposed of within a reasonable length of time.

This pressure upon the Pension Office is a thing which we cannot ignore or overlook, and, in my judgment, just so long as we fail to come up to our duty and devise some new plan by which pension claims are to be adjusted, just so long this shame and disgrace to the nation will continue, just so long men will go into their graves in despair, killed of the sickness that hope deferred brings to the heart, and just so long the widows and orphans will suffer for the want of what this nation is in honor and justice and contract bound to grant them speedily.

Thus much I felt that I ought to say, and while I am on my feet I desire to say one word about the Commissioner of Pensions. I came to the discharge of my duties as a member of the Committee on Pensions prejudiced against the Commissioner of Pensions. I had heard of these long delays; I had heard of the difficulties of proving claims in that office, and I felt, as others perhaps naturally feel, that the fault was with the Commissioner; but in the discharge of my duties as a member of that committee I have come to regard the Commissioner of Pensions as an honest, as an able, as an efficient officer. I believe he is the hardest worked officer in any Department of this Government. I believe he has borne unmerited and unlimited abuse, and borne it with true manliness and dignity.

And so, Mr. President, when I first heard of Senate bill No. 496 reported by the Committee on Pensions I had a prejudice against that bill; a prejudice which I am free to confess had been created by outside influence, the influence of those men whose craft is in danger from the passage of this bill; but the Committee on Pensions, of which I am a member, devoted nearly a year of careful thought and study to that bill, and I want to put it on record here and now that I believe no practical relief will ever be afforded to the pension applicants of this country until a bill embracing the general features of that bill is passed.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment of the Senator from Massachusetts [Mr. HOAR] to the amendment made as in Committee of the Whole.

Mr. PLUMB. Mr. President, somebody is responsible for the present condition of things in the Pension Office. The Committee on Pensions, it is true, reported somewhat late a bill to relieve that office by superseding the system now in operation with another one, but for some reason action on that proposition was further postponed until a few days ago. There was not time to consider properly so radical a change as that proposed. The bill was not acceptable to many who believed with the Senator from Connecticut who has just spoken that a change of system should be made. The Commissioner of Pensions is quoted as saying that he cannot use to any advantage additional force in his office, and upon that statement we are asked to permit the old system to go on for another twelve months at least. I do not propose, as far as I am concerned, to shirk my responsibility nor to put any of it off on the Committee on Pensions or the Commissioner of Pensions. If the Commissioner of Pensions does say he cannot use any more force I do not propose to accept that as conclusive. I propose to give him more force anyhow. I know well enough for the purpose of my action here that more force can be used, and can be used with the effect of expediting business in that office.

I hold in my hand a letter which I received this morning from a reputable attorney in my State, which I think shows conclusively that there is a lack of force in the Pension Office, or if not a lack of force, then a lack of a proper use of the force that is there. I will read the letter:

EUREKA, KANSAS, *February* 4, 1881.

DEAR SIR: It may be possible that you will remember, while here in the fall, seeing a crippled soldier who had a claim pending. I do not suppose he was the only one you saw during the campaign. But this man—William Preston—"was" a pensioner under pension certificate No. 94408, was totally disabled and had a claim for an increase of pension pending about a year or a little over. Never heard a word from it. Died November 11, 1880. So his increase, if allowed, will do him no good; but he has left a destitute widow with one child.

On the 4th of December last, I sent to the Pension Department for the proper forms or blank to make application for continuance, but, as yet, receive no reply. If by any means you could assist me in forwarding this matter, you will earn the thanks of the widow and good wishes of—

Your obedient servant,

IRA P. NYE.

Hon. P. B. PLUMB.

Section 4748 of the Revised Statutes is as follows:

That the Commissioner of Pensions, on application being made to him in person, or by letter, by any claimant or applicant for pension, bounty land, or other allowance required by law to be adjusted or paid by the Pension Office, shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing and obtaining said claim.

The machinery by which this man was paid a pension stopped when he died, and his widow could only succeed to that pension by proving, among other things, the one of vital importance, that her husband died by reason of wounds or disease incurred in the line of his duty. She went to an attorney, as was proper, who wrote to the Commissoner of Pensions for the forms which, under this section of the statute, he is required to furnish on application. Two months have elapsed, and yet no reply to that application has come. Will any Senator here say that if there were sufficient clerks to do the business of that bureau the forms necessary to put the claim of that widow in the process of proof and allowance could not have been furnished, and that when the proofs had been sent in some clerk could not go to the files of the office and take that case from them and ascertain by examination whether the proof which she furnished established the two simple facts necessary in order to put her on the rolls in place of her husband, to wit, that she was his widow and that the disease of which he died was a disease he had incurred in the line of his duty.

Mr. President, this man had become totally disabled, by reason of which fact he was entitled to an increase of pension. That does not require an examination as exhaustive and as thorough as it does in regard to the establishment of an original claim; but it requires simply testimony showing the continuance of the disease and the increased disability growing out of the same disease. I submit that if there had been sufficient force in that office to properly transact its business this man might have had the question of his increase of pension passed upon and settled before he died, and also that his widow before this time might have received the forms necessary to enable her to show that she was entitled to the continuance of the pension which had been granted to her husband.

If Congress will not adopt a new system, and if the Commissioner will not consent to make use of the one he has, are we simply to sit here and say we shall do nothing? Are we to say that pension claims shall continue to accumulate, and that the applicants shall continue to die without any practical effort being made to enable them to get that which the Government confessedly owes them? Are these widows in Kansas and elsewhere to be postponed months and months because the forms which are necessary, and which the Commissioner

is required to furnish, cannot be forwarded to them when applied for? One such case as this is sufficient of itself, if it be well attested, to require action, on the part of Congress, with reference to the force of that bureau. It is not for me to say it is the fault of the head of the bureau; and I have not in this debate attacked the Commissioner of Pensions. I do not assume to know whether he is the best person who could be there or not. But I say that getting behind the skirts of the Commissioner of Pensions will not relieve Congress from its plain duty in the premises. Somebody must take the responsibility. If the Commissioner will not, the legislative authority of the Government must, and in some way this great scandal must be removed.

This is not, as was suggested by the Senator from Kentucky yesterday, a party question. It is not a political question. It can never become so unless we make it so by continuing to obstruct the operations of the Pension Bureau so that the men who are waiting there for their pensions, and who have the great body of the loyal soldiery of the United States sympathizing with them, shall rise up with a power which cannot be resisted, which will be potential, and compel the doing of something either through party machinery or other machinery adapted for the purpose. We can make it a party question; we can make it a question which will be seized upon by persons desirous of catching any mood of the public mind for the purpose of getting into power, by pursuing the obstructive policy we have pursued for the last few years. But if we give to these men who say they are entitled to pensions a hearing, that disposes at once of the whole question, and there is no longer chance for an issue. I shall not be jealous of the democratic Congress that may do this act of justice, and how could the doing of it result in favor of the republican party?

Attention is being turned to this obstruction and denial of justice from all quarters. Every member of Congress is plied with letters showing the delay, and the suffering growing out of the delay, which results from the administration of the present system. The complaints are increasing in volume; the sentiment of the country is being aroused. One such instance in a single county as that which is portrayed in the letter I have read, will rouse that entire neighborhood, and it becomes for the time being an issue, and an issue to some extent in politics. Remove the issue by removing the cause for it; give to the widows, give to the pensioners of both sexes and of all degrees and kinds that to which they are entitled, and take the question out of politics by taking it out of consideration. This is not only the dictate of justice, but of policy as well. It cannot be long avoided; in some way we shall have to meet it, and we shall meet it under pressure much greater next year than we are under now, and the people of this country will be quick to perceive, quick to take notice of the neglect which has characterized the action of Congress, and to counteract it with the alacrity with which the Government has met obligations less meritorious in the hands of persons not in necessitous circumstances, and to whom the Government was under no equitable obligations. One of the staple arguments used against this amendment is that frauds are perpetrated on the Government in the procuring of pensions. Because there are frauds in the administration of the law we say that the honest pensioner shall be postponed of his right; we say that we cannot devise a system whereby frauds can be prevented, or that we cannot administer the present system so as to prevent them; and consequently the great body of the pensioners now standing at the door of the Pension Office asking for their rights shall be postponed until death takes them off one by one.

Mr. President, there is no solid foundation for the statement as to frauds in pensions, and yet this cry of fraud has been the turning point of the argument in this case; not that this law cannot be honestly administered, but that it is so administered that frauds occur, and therefore the first duty of the Government is not to give to these men what they are entitled to, but is to stop the frauds, and stop them by stopping the allowance of pensions!

Mr. WITHERS. The Senator will certainly do me the justice to say that when I was up in advocacy of the adoption of the amendment which I offered, I distinctly stated as the purpose of the Senate Committee on Pensions in offering it, first, to relieve the pensioners, to secure prompt action upon their cases, that that was the primary purpose of the committee in reporting the bill and their anxious desire; the detection of frauds was secondary, a consideration incidental thereto.

Mr. PLUMB. I spoke simply of the course of the debate, and that that was one argument used in favor of change of system, and one of the arguments, too, which have been largely used against the adoption of my amendment.

I have said before that I do not believe that the number of fraudulent pensioners upon the rolls is anything like as great as has been stated; and I say on the authority of a high official of the Government qualified to judge, and from my own examination as well, that it is entirely competent for the Commissioner of Pensions to so administer the present law as that claims shall not necessarily be allowed *ex parte*—that it is just as easy for the Commissioner of Pensions to provide for such a hearing of the case of the Government as he thinks is desirable under the present law as under the law proposed by the bill reported from the committee and under consideration the other day. And I believe, Mr. President, that this law can be administered with substantial fairness to the Government and at the same time with rapidity and justice to the pensioners. I believe that to be possible, and I believe one of the necessary steps is to give additional force to the Pension Bureau.

Of course after all there will remain a great deal that we cannot do. The internal administration of that bureau of course must be lodged in the hands of somebody. Congress, perhaps, cannot intelligently revise it; but the fault to-day is not in the system, it is in the administration of it. While the pending amendment may add to it as much as would seem upon the face of it, and may not be as effective as it ought to be, we can all see readily enough that simple inquiries such as were called for by the attorney of this destitute widow, whose husband had died on account of disease incurred in the line of his duty, need not remain unanswered while she is saved from suffering by the charity of her neighbors. That is a question which we have got to meet. We must meet it, if we are to meet it at all for practical purposes, during the next twelve months. We must meet it either upon this bill or upon some other appropriation bill yet to be reported to this body.

I moved this amendment upon this bill believing it to be the proper place for it. It was in line with the general object of the bill; it related to the expenditure of the money, and it expressed my belief as to what was the only practicable thing yet remaining to be done. Now the Appropriations Committee come in and say that it will be more agreeable if moved to another bill. They have made a proposition here which is fair enough and which I am disposed to accept if there be no objection made from any other quarter, to the effect that the Appropriations Committee will put upon the legislative, executive, and judicial appropriation bill a provision increasing the force in the Pension Bureau, and that any amendment to that or any additional proposition covering the same or any similar point shall not be subject to the point of order in the Senate.

The only objection I had to that yesterday was that I thought I foresaw that the committee now, as heretofore, would take the judgment of the Commissioner of Pensions, that we should be put in the attitude again of being invited to shirk responsibilities and put it off on the shoulders of that officer. But, Mr. President, if the proposition of the Senator from Kentucky, assented to by the Senator from Virginia, is agreeable to the other members of the Appropriations Committee, and if it be made in such a way that there can be no doubt whatever that the proposition can go in on the legislative, executive, and judicial bill, the committee proposing in the mean time to investigate this question and themselves consider some proposition for the accomplishment of the object I have in view, I have no objection to withdrawing this amendment if I may be permitted so to do, and let this subject go over until that bill comes up. And when that bill does come up I give notice now that if the committee shall be moved by the reports of the Commissioner of Pensions or anybody else to stand by the existing force or to make only a trifling addition to it, I shall feel impelled by my duty to renew the amendment which I have moved in substance, and ask the Senate to pass upon it on its own responsibility.

Mr. WINDOM. I do not intend to protract this discussion, which has already run for a considerable length. I want to say, however, that I am very much obliged to the Senator from Kansas for withdrawing the amendment. I sympathize with him most fully in the object he has at heart. I am also obliged to him for having brought the question here and called out a discussion upon it. I think it will do good.

My reason yesterday for opposing the amendment was this, and this only: I believe that the amendment proposed will not secure the object desired, and as I want to secure that object I prefer to take the other course. Why do I think it would not secure it? I know there is an opposition in the House (and I sympathize with it most fully myself) to making appropriations in the lump for the employment of clerks. I have resolved over and over again that I never would vote for such appropriations. We have made them in past years, and they have resulted very often in what was believed to be favoritism. The amendment as proposed placed $200,000 at somebody's command to employ any number of clerks he chose with that amount of money, without designating the classes of those clerks or the amount that should be paid them. I feared when this legislation was pending that if it passed in this bill and went to the House in that way it would be rejected, and I believe it would be. The next thing would have been a conference. The conferees on the part of the Senate would have had nothing to support them in asking for this amendment, no recommendations from the Department, and they would have been urging an amendment in violation of the proper principle of appropriation, namely, to designate what the money is for. The result of that would have been that the conference committee on the part of the Senate would be compelled to yield the amendment; they would have had no ground to stand upon in insisting upon an amendment in this form and under these circumstances. What would have been the result further? In the mean time, while this bill was pending in the conference committee, the legislative appropriation bill would have passed from the Senate, and as we had agreed to the amendment on this bill we would not have put in on the legislative bill. Consequently the session would have ended and nothing would have been done.

It is because I want to accomplish something in that line that I opposed the amendment yesterday and am opposed to it to-day. I will not yield to any one in my earnestness and zeal in behalf of the

soldier, in supplying to him the pension he is entitled to by law at the earliest possible moment. The plan suggested by other members of the Appropriations Committee, to act upon the subject on the legislative bill, will in my judgment secure that object. This would not have done it. While I am obliged to the Senator from Kansas and believe he has done a good work in agitating this question, I am also obliged to him for withdrawing the amendment from this bill.

The PRESIDING OFFICER. The Chair will state to the Senator from Kansas that his amendment having been adopted by the Senate as in Committee of the Whole, and it having been reported to the Senate and a separate vote reserved upon it, in the opinion of the Chair the Senator from Kansas cannot now withdraw it, but it will have to be voted upon by the Senate.

Mr. EDMUNDS. I am glad the Senator from Kansas cannot withdraw it. It can be amended so as to make it perfect, as it is in substance. It only wants a little change of phraseology. The Senate has decided the amendment to be in order. I did not think it was. The Senate thought it was; and therefore it becomes simply a question now whether we will take the earliest opportunity to provide for the means of expediting the examination of pension claims. Why we should be told that it would be more suitable on another appropriation bill than on this, I am entirely unable to understand.

The fact that the work in the Pension Office and in the War Department connected with it is greatly behind, owing to insufficient force to make examinations in the Surgeon-General's and Adjutant-General's Offices of claims filed in the Pension Office as to the record of military service and disability, I believe is agreed to by everybody. I know that among the small number of my constituents compared with the whole number in the United States who served in the armies of the Union, there is a constant complaint of men personally known to me to have been worthy soldiers and upright men—of course I do not know about their physical disabilities, whether incurred in the war or not, except in the case of obvious wounds and so on,—men whose character is just as good (and I say that to give them the highest praise) as that of any Senator in this body, write to me day after day complaining that years in some instances have elapsed, long before the arrears matter made any temptation to anybody, since their pension claims were filed, since they had furnished all the proofs that the regulations appeared to require, and yet they could not get them disposed of either *pro* or *con*. I immediately proceed to write to the Commissioner of Pensions, who gives me this reason or that reason, usually apparently a good one, and usually not the fault of the pension applicant. The most common one is that it is awaiting a report from the War Department, which was asked for so many months ago, very often a great many months ago, and so on.

Now I do say, inasmuch as we are committed, and committed so far as pensions in general are concerned upon sound and right principles, to making this recognition according to what we held out in our statutes to the disabled soldiers of the Union, that it is a crying shame that the good cannot be sifted out from the bad within the lifetime of the good cases, most of which are those of persons who from day to day need this little sum that they would not have needed but for their service to their country, and in respect of whom it is a poor consolation to go down hungry and sorrowful into the grave and be told that by and by the thing will be worked through.

Therefore, it having been decided to be in order, I shall vote to make whatever provision we can upon this bill for expediting these investigations.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts [Mr. HOAR] to the amendment made as in Committee of the Whole originally proposed by the Senator from Kansas, [Mr. PLUMB.]

Mr. BOOTH. I move to lay the entire amendment on the table.

Mr. EDMUNDS. How can you do that with an amendment reported from the Committee of the Whole?

Mr. BOOTH. If it cannot be done I do not do it; I want to do it.

Mr. EDMUNDS. You cannot do it; the amendment is in possession of the Senate. I suggest that point to the Chair; I never thought of it before.

Mr. BOOTH. I will take the opinion of the Chair; but the amendment has not been concurred in in the Senate.

Mr. SAUNDERS. I suggest that the amendment be withdrawn by the unanimous consent of the Senate.

Mr. WITHERS. Will the Senator from Vermont indicate the rule which forbids the laying of an amendment upon the table in the Senate?

Mr. EDMUNDS. If the Senator addressed himself to me, I did not hear him.

Mr. WITHERS. I understood the Senator from Vermont to say that a motion to lay an amendment upon the table could not be made in the Senate, but only in Committee of the Whole.

Mr. EDMUNDS. No, I raised the point of order for the consideration of the Chair, because it is a new point to me, that this amendment having been received and considered by the Senate as in Committee of the Whole, (not a Committee of the Whole,) and having been agreed to in committee, in this stage it is not in order to move to lay it on the table, and my first impression is that the point is a good one, but as I say it is a new suggestion.

Mr. WITHERS. The amendment was reserved, and notice was given that a separate vote in the Senate would be taken on this amendment. Therefore the whole thing is within the control of the Senate, and they can dispose of it under any of the ordinary principles of parliamentary law. So it seems to me.

Mr. EDMUNDS. Yes, but it is an amendment that has been agreed upon by the Senate as in Committee of the Whole, and a separate vote has been reserved upon it.

The PRESIDING OFFICER. In the opinion of the Chair it is an amendment subject to all the rules applying to amendments, and if that be so the Chair will rule that the motion to lay it on the table is in order.

Mr. EDMUNDS. I do not know but that the Chair is right; I am not disposed to dispute it; but in order to settle the question so that it will be a guide until the Senate wants to do something else, I appeal from the decision of the Chair. Not intending to differ decidedly from the Chair, although that is my opinion, I wish to take the judgment of the Senate so as to make it a precedent to hold until the Senate wishes to do something else.

Mr. WINDOM. Let the rule be read.

The PRESIDING OFFICER. The Secretary will read the rule in respect to laying amendments upon the table.

The Chief Clerk read as follows:

29. No amendment which proposes general legislation shall be received to any general appropriation bill; nor shall any amendment not germane or relevant to the subject-matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate; and any amendment to a general appropriation bill may be laid on the table without prejudice to the bill.

The PRESIDING OFFICER. The amendment of the Senator from Kansas [Mr. PLUMB] was adopted by the Senate as in Committee of the Whole; the bill was reported to the Senate and all the amendments were concurred in except that of the Senator from Kansas and perhaps others upon which separate votes were reserved. The bill is now in the Senate and the Senate is considering the amendment of the Senator from Kansas. The Senator from California moves to lay the amendment upon the table. The Chair, regarding it as an amendment pending in the Senate to the bill, holds that the motion to lay it upon the table is in order; and the question is, Shall the decision of the Chair stand as the judgment of the Senate? Senators agreeing in that view will say "ay," those of a contrary opinion "no." [putting the question.] The ayes appear to have it. The ayes have it; and the decision of the Chair is sustained. The question is, Will the Senate lay the amendment of the Senator from Kansas upon the table?

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CALL. I understand that the question before the Senate is not properly the subject of debate. I intended to address the Senate upon the amendment.

The PRESIDING OFFICER. The Chair holds that the question is not debatable. The question is on the motion of the Senator from California, [Mr. BOOTH,] to lay the amendment of the Senator from Kansas [Mr. PLUMB] upon the table.

The Secretary proceeded to call the roll.

Mr. MORGAN, (when Mr. PUGH's name was called.) I understand that my colleague [Mr. PUGH] is detained by indisposition at his home.

The roll-call having been concluded, the result was announced—yeas 27, nays 18; as follows:

YEAS—27.

| | | | |
|---|---|---|---|
| Allison, | Cockrell, | Ingalls, | Walker, |
| Beck, | Coke, | Jonas, | Wallace, |
| Booth, | Eaton, | Kernan, | Whyte, |
| Brown, | Hampton, | Morgan, | Williams, |
| Burnside, | Harris, | Morrill, | Windom, |
| Butler, | Hereford, | Saulsbury, | Withers. |
| Cameron of Wis., | Hill of Georgia, | Slater, | |

NAYS—18

| | | | |
|---|---|---|---|
| Baldwin, | Hamlin, | Platt, | Saunders, |
| Blair, | Hoar, | Plumb, | Teller, |
| Call, | Jones of Florida, | Randolph, | Voorhees. |
| Dawes, | Logan, | Ransom, | |
| Edmunds, | McDonald, | Rollins, | |

ABSENT—31.

| | | | |
|---|---|---|---|
| Anthony, | Davis of Illinois, | Johnston, | Paddock, |
| Bailey, | Davis of W. Va., | Jones of Nevada, | Pendleton, |
| Bayard, | Farley, | Kellogg, | Pugh, |
| Blaine, | Ferry, | Kirkwood, | Sharon, |
| Bruce, | Garland, | Lamar, | Thurman, |
| Cameron of Pa., | Groome, | McMillan, | Vance, |
| Carpenter, | Grover, | McPherson, | Vest. |
| Conkling, | Hill of Colorado, | Maxey, | |

So the amendment was laid on the table.

Mr. EDMUNDS. I move to amend the bill by inserting after the word "dollars," in line 12 of the first section, these words:

Of which sum not exceeding $200,000 may be expended in the discretion of the President for the expediting of the examination and disposition of pension claims in the Department of the Interior and the Department of War.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. EDMUNDS. The amendment simply provides that the President of the United States, the Chief Executive of the nation, may make such

use, up to the amount of this sum, of the money here appropriated as in his discretion will be best adapted to expediting the disposition of these claims. I think it better in some respects than the amendment of the Senator from Kansas, because it does not confine it to mere clerks. He may establish a little special board in the Interior Department, if he likes, with this money, if you choose to give it to him, to gather up these cases that are hanging by the eyelids, and have them disposed of by special examinations to get the thing forward; or if he thinks it better to appoint the ordinary routine clerks to that extent, he may do so. Certainly there ought to be the strongest motive on the part of everybody to provide the means, and by that I do not mean merely money, but the effective means of examination and disposition of these cases.

Mr. BURNSIDE. I shall support this amendment in the hope that the President of the United States will adopt some such system as was contemplated by the amendment of the Senator from Virginia [Mr. WITHERS] to this bill; that is, some system which will bring the pensioners themselves in contact with the examiners. I hope the President will find it to the interest of the public service to order the Pension Bureau to adopt some such system as the amendment of the Senator from Virginia contemplated, and I shall vote for the amendment of the Senator from Vermont in that hope.

Mr. BECK. I do not propose to make any point of order. I understand that the only point of order in the Senate is what the majority want, and therefore there is no use in raising a point of order on the amendment; but I desire to say to the Senate, after the suggestions of members of the Committee on Appropriations on both sides of the Chamber have been made, that we are entirely willing to ascertain and lay before the Senate in the legislative, executive, and judicial appropriation bill what each of the Departments or bureaus concerned thinks is best to be done, so as to expedite and guard the proper payment of pensions and the prompt payment of them as well. Such an effort on this bill, which is simply to pay pensions for the year ending June 30, 1882, is not advisable. We have committees of the House and committees of the Senate, and the object is to ascertain the needs of each one of these Departments. We can consult with the Commissioner of Pensions, with the Surgeon-General, with the Adjutant-General, with the Second Auditor, and we can then lay the facts before the Senate, and I have no doubt the committee of the House will do the same thing; and then Congress can act intelligently.

The proposition is now to deprive the committees of both Houses, to deprive both Houses themselves, of the opportunity of determining what in their judgment the needs of the different bureaus and Departments require, and in a bill simply to provide for the payment of pensions to transfer the power to the President of the United States to determine for us, as though we were incompetent to decide for ourselves what is the proper force required to do this work. We might just as well tell the President of the United States to furnish the Treasury Department with all the clerks it needs, the War Department with all the clerks it may need, the Navy Department, the Interior Department, and all the bureaus thereof, with everything that is required in his judgment, and put a fund in his discretion to do what he likes. If that is to be the system hereafter, then this amendment, perhaps, would be the proper thing to do; but if we propose to look into it ourselves and to understand it thoroughly, it is proper to get these things under the control of Congress and the committees of Congress, instead of making all these provisions simply a matter of Executive discretion. That is what all this means, and no more.

I only desire to say one word further. The pensioners who are upon the rolls, who have been there for years, are not disturbed by this delay. They are receiving their pensions promptly, and we have promptly furnished $19,000,000 to pay deficiencies for the current fiscal year, and there was no word of objection from either side; but an anomalous condition of things has sprung up, stimulated, as I believe, by the arrears-of-pensions act. In 1872 only 8,857 applications were filed for invalid pensions and 6,755 applications by the widows of pensioners. In 1880, eight years thereafter, as soon as the arrears-of-pensions law was passed, 110,000 claims of invalids were filed and 25,000 widows filed their claims. After waiting fifteen years, and not asserting their claims during all the time when it was presumed they would have asserted them, if many of them had been just or the parties had been needy, they waited until they saw that from a thousand to twelve or fifteen hundred dollars in each case could be secured, and they come in fifteen years after the war has closed, having waited all that time.

All we ask is to give us time to make a full and fair investigation as to these claims thus filed after these people have waited thus long. When a man waits fifteen years for an honest claim and fails to assert it, it excites some suspicion from that very fact alone; and when the claims swell from 8,000 to 110,000, as in the case of invalids, and from 6,000 to 25,000, as in the case of the widows, and when we see an inciting cause why this thing should spring up from these small to these large proportions under the arrears of pensions, and the *ex parte* system that can be carried out, and the claims obtained without any knowledge whether they are just or unjust, and the Commissioner dare not refuse them, surely there can be no great fault found if we ask these people, who have voluntarily waited so long, who constitute nine-tenths of the cases now delayed—after they have waited fifteen years after the war closed before they even presented their claims—to give us a chance to see that the claims thus postponed and thus stimulated by the hope of large gain shall be carefully looked at before we give the pensions. No honest pension claimant will object to that. He has waited himself for fifteen years before presenting his claim. We ask now to have the pension claims fairly looked at, and we ask time to consult with the Adjutant-General, with the Surgeon-General, with the Commissioner of Pensions, with the different officials who are charged with this responsible duty, and then we can lay the facts that they furnish us before the Senate, and we pledge ourselves to give every dollar that is necessary to secure the claim of every honest pensioner when we have the facts all laid before us.

After the Senator from Kansas has consented to that, after the Senate seem to have assented to it, the Senator from Vermont says "give the President the power," without giving us this opportunity and without waiting; and the only waiting that is to be done is until the legislative, executive, and judicial appropriation bill comes in, which as the RECORD shows almost passed the House yesterday, perhaps will pass it to-day, and which perhaps will be before us to-morrow night and can be reported back to the Senate at an early day next week with every fact ascertained.

It is proposed to do that instead of putting on a provision which, if the Senate does assent to—I have no right to speak for the other House—I have no idea the House of Representatives will consider for a moment. The result will be to tie up this very meritorious bill and the meritorious features in it and delay the $19,000,000 of deficiencies, which were said to be absolutely necessary, much longer than they would be delayed if we were allowed to consider and pass upon it and give what all the Departments say is just in the legislative appropriation bill. I do hope that we shall be allowed to have that investigation, and that we shall not transfer to the President the power of the committees of the two Houses and the power of the two Houses themselves, and authorize him to do something that we know nothing about.

Mr. EDMUNDS. I am very sorry that the Senator from Kentucky has thought it necessary to appeal to the fears of the Senate as to what another independent branch of the Government of this country may or may not do. We have been taught by the principles of parliamentary law, founded upon good sense and founded upon the independence of the two Houses, that it was altogether improper to undertake to sway legislation one way or the other by alluding to what another branch might or might not do. I propose for one to do what I think it right to do, without giving myself any concern as to what another independent branch of Congress may think it its duty to do; and my vote for this amendment or against it would not be affected in the slightest degree by what might be the independent opinion one way or the other, about which we can know nothing, of a co-ordinate branch of the Government. If my honorable friend from Kentucky thinks that is a good influence to govern the votes of Senators, of course it is his duty to follow his convictions. As I think it is not I do not propose to be frightened by the suggestion that it may be that if we had a committee of conference, if the other House should disagree, the Senate conferees might be disposed to recede from this amendment.

The Senator says that here is coming the legislative appropriation bill. How do we know that it is coming? We know it ought to come in due course, but we know that there are only a couple of weeks and a little over of legislative days. We know that there are an infinite number of subjects for consideration in this Congress—I will not say anything about Houses—and I certainly do not know that the legislative appropriation bill will become a law at this session. I do not know but that if it were here the Committee on Appropriations might choose to do as they have done with this present affair, raise a point of order upon amendments that should be put upon it; and I do not know but that the Senate might decide, and decide rightly, that the point of order was well taken. The Senate has decided that on this bill these points of order are not well taken, so that we have got to the merits. Where we may stand at some indefinite future period on some other bill on other points of order, or the same ones repeated, and the opinion of the Senate reversed, I do not know.

What I wish to do for one, as one of the people who are supposed to feel some sense of gratitude and obligation to those who are worthy, is to furnish the Executive Department of the Government the means of expediting the disposition of their claims one way or the other. Those who do not feel that these claims are worthy, who think that they are suspicious or that the service was not very meritorious, of course must be governed by their own convictions. Inasmuch as mine do not run in that direction, I propose, the Senate having held that this business on this bill is in order, to provide on this bill, if I can, for doing something toward calling upon the executive branch of the Government to take some means to endeavor to get on with the disposition of these cases.

But the Senator says that this is surrendering the powers of the committees of Congress, that we are giving up to the Executive to appoint all the clerks and regulate the management of the administration of the Government in his way. Mr. President, that is an unfounded fear. The whole history of legislation is full of instances where, on special occasions and in respect to special aspects, sums of money have been placed at the disposal of the Executive, responsible as he is to public opinion, responsible as he is to the coercive and

punitory power of the two Houses of Congress exercised under the Constitution for any maladministration, in order to get on with the disposition of public affairs, leaving to him as I think in this case it can be best left, whether we do it this week, or the next, or the week after in this body, the selection of agencies and the arrangement of detail in respect of applying the force of the Government in some way to the examination and disposition of these claims. This is what my amendment proposes to do. I am not so much afraid of executive power (I certainly have as little disposition to enlarge it as the Senator from Kentucky) as to be afraid to authorize the President of the United States to employ the public money to the extent of $200,000 in such way as he thinks best to expedite the examination and disposition of these claims.

That is the way it appears to me, and therefore I hope that now and here, inasmuch as we all know without any special reports of the Committee on Pensions or the Committee on Appropriations that there is a blockade in that affair, we shall provide the means for having the blockade removed as far as this little sum will do it.

It is said that this is a matter for helping out the arrears-of-pension people. If it were, it would not be very bad. Congress has voted that the arrears-of-pension people are entitled, and therefore we must carry it out. But it is not chiefly for those who have applied recently. I believe I stated before, and I repeat, that of the letters I get from a great many of the thirty-odd thousand soldiers whom Vermont furnished to the preservation of the Union, the largest share is from people whose claims for pensions were filed long before the arrears-of-pension bill was under discussion; some of them I remember are stated to have been pending, and I have no doubt truly stated, for eight and ten and I believe in one case eleven years, pigeonholed on some little difficulty. Inquire at the Pension Office, and they say "We have not got a report from the War Department," and so on. Now I wish to provide the President with the means in some way, the best means for which he is responsible in this little matter of detail, of providing for expediting these long-standing cases. I know that the Senator from Kentucky—I believe, and certainly I think I am entitled to say that I know—is just as willing as I am to do justice to all these people. He thinks we ought to wait and consider further. It appears to me that we ought to act now.

Mr. WINDOM. Mr. President, I cannot support this amendment proposed by the Senator from Vermont, and I do not propose by my silence to be placed in the position in voting against it of deciding that this service is not meritorious. I vote against it because I do not believe it is the practicable way of securing the object desired, which I stated more fully a few moments ago when on my feet. I believe that to place this amendment in this bill in this form is to lose it. I want to place it on the proper bill and in the proper form, so as to obtain the thing that we seek to do. I would rather do something for the soldier than to talk for him, Mr. President, and it is because I want to do something for him that I want to place it in the proper form that it will be passed by both Houses.

Now, as to delay, keeping those waiting who are entitled to pensions, we have in this bill $17,000,000 and over of deficiencies where the claims have been passed upon and are now simply waiting the money to be appropriated in order that they may be paid. There is no more examination necessary, nothing to be done but that we shall place the money at the command of the Commissioner of Pensions to pay over to the pensioners whose claims have been found. Now, the question is whether we shall put a controverted question here which shall delay this bill two or three weeks, possibly until near the close of the session, and thereby delay the people who are entitled to the $17,000,000, whose claims have been proved and settled. I am not in favor of that. I believe that by placing this on the bill which is to come within the next week we shall secure it; we shall secure the immediate passage of this bill and everybody will get his claims quicker, more expeditiously than if we undertake to pass a lump sum, which I am opposed to under all circumstances, and which, if it will not offend my honorable friend from Vermont, I will say that I have every reason to believe the other House is opposed to, and which will result in the defeat of this measure.

I know that it is not proper to undertake to alarm anybody by what the other House will do, and I do not use it for that purpose, but I refer to it as a reason for the course I take here, because I want to have the thing done rather than to talk about it, and, therefore, I hope that it may be done in the way that will secure it best.

Mr. HOAR. I should like to put a question to my honorable friend from Minnesota or to some other member of the committee, not in the least as a taunt or a suggestion of reproach, but to elicit a contribution to the history of this matter. I understand that the Senator from Kentucky maintains that it would be a little disrespectful to this committee not to wait ten days or a fortnight to get their views as to the remedy for this evil, which they think they can more properly state when the legislative bill shall be in order. Now, how does it happen that we did not get the views of that able and excellent committee last year when the legislative bill was in order? The evil has been crying in our ears for more than twelve months, and when the bill passed last year the Committee on Appropriations, who claim now that this is a matter within their jurisdiction, made no movement for an increase of this clerical force.

The point of my inquiry—and it is put because I have no doubt there is some good answer to it—is, how it happened that if this committee deem this is a matter within their jurisdiction and that they will attend to it, they did not attend to it then.

Mr. WINDOM. I hope that the Senator from Massachusetts will not have his vote influenced in the slightest degree by any sensitiveness on the part of the committee. The position I take upon this subject has nothing of that kind in it. The Senator asks the question why it was not done last year. If my recollection serves me, we did add one hundred and fifty, or about that number, of clerks to this department for that purpose last year; the Senate did it on the recommendation of the committee. It was then supposed that was all the number that could be used. I am satisfied now that a larger number can be used, and I am satisfied that if the appropriations are made in the proper form they will be used, and I want to secure them in the proper form so that they will be effective.

Mr. WITHERS. According to my recollection we gave to those departments which are engaged in the investigation of pension cases every clerk they asked for, every one that they said was necessary, amounting to a large increase of clerical force, in the aggregate over one hundred.

Mr. ALLISON. Mr. President, I voted against the amendment of the Senator from Kansas because of its indefinite character. Now the Senator from Vermont proposes another amendment placing the whole discretion of the use of this money in the hands of the President, and he starts out with an appropriation of $200,000. I should be glad to know from some Senator who has charge of this matter now whether or not $200,000 is a sufficient sum to execute the purposes aimed at in this proposition. I have no objection myself to giving this or any other sum to the President of the United States to be used for this purpose; but I do not see the necessity of appropriating a lump sum, without knowing whether it is a sufficient sum or whether the whole sum will be needed, out of the appropriations made for the purpose of paying pensioners who are already upon the pension-roll, because this $48,000,000 is absolutely essential to pay the pensioners now upon the roll; and yet a portion of this sum is to be diverted to another purpose.

I think I can answer the question of the Senator from Massachusetts who asks why it is that the Committee on Appropriations did not last year make some provision by which these cases could be expedited. I wish to call the attention of the Senator from Massachusetts to the fact that on the 25th day of March, 1880, now nearly one year ago, the proper committee of this body having in charge the subject of pensions placed upon this Calendar a bill looking to a rearrangement and readjustment of the methods by which pension cases should be decided.

Mr. EDMUNDS. Why did they not move to take it up?

Mr. ALLISON. I have yet to see or hear of a Senator pressing that bill before the Senate for consideration. The bill has been upon our Calendar for more than a year. I am not aware that either the Senator from Massachusetts or the Senator from Vermont has pressed the bill to a consideration. It was endeavored here the other day to put it upon this pension appropriation bill, and points of order were raised, I believe, by a member of the Committee on Appropriations. I voted that not that, but some other provision was in order on this bill. I am as willing and as anxious as any Senator on this floor is that the pension cases now blockaded in the Pension Office shall be adjusted finally, so that the applicants if entitled to pensions shall obtain them. But I submit to Senators that, without any recommendation from the Secretary of the Interior, without any knowledge derived from the Secretary of War as to the method by which these claims for pensions can be adjusted, it is not wise for us to place a lump sum in the hands of the President or anybody else for that purpose.

The legislative, executive, and judicial appropriation bill is the proper bill upon which to consider the subject of increased clerical force; and for one I am ready and willing to consider it upon that bill. I understood that there was a proposition made here—I did not happen to be in the Senate at the time—that any amendment looking to the adjustment of this question should be put on the legislative bill without objection as to points of order.

Mr. TELLER. I suppose the Senator from Iowa knows that any person can make a point of order. It is impossible to make such an agreement effective.

Mr. ALLISON. By unanimous consent it can be done.

Mr. TELLER. As suggested, you will not know any more about it then than now, and if it is ever put on in the Senate it might as well be put on now as next week.

Mr. ALLISON. Possibly we may not know anything about it then; but we are in the habit in the Senate of requiring careful estimates from the Departments with reference to the employés in their several Departments, and so careful are we here in the Senate that points of order are raised if anybody undertakes to increase the compensation of a clerk in a Department from $1,200 to $1,400 on the ground that that is a change of the law. Now we propose on a bill that does not relate to the interior administration of the Pension Office to place $200,000 in the hands of the President to be used as he may see fit to use it in adjusting claims. As was suggested by the Senator from Rhode Island who now proclaims his purpose to vote for this amendment, the President may, if he chooses, adopt the machinery of Senate bill No. 496, and carry out its provisions under this amendment. There is no limitation on his power. He may do exactly what is

proposed in Senate bill No. 496. I do not know but that that would be the wisest and best method of expending this money; but it seems to me that we ought to consider the question more carefully with reference to the amount required and with reference to the number of persons to be employed and the compensation to be paid them.

Mr. BURNSIDE. Allow me to say that I announced my willingness to vote for this amendment if it was declared in order; but if a point of order is raised against the amendment I shall vote, as I did against the amendment of the Senator from Kansas, that the amendment is not in order on this bill.

Mr. ALLISON. I am as willing as is the Senator from Vermont or the Senator from Massachusetts to do anything and everything that will expedite these cases; and I believe, as the Senator from Minnesota has already stated, that the most expeditious and safest method is to put the amendments, whatever they are, on the appropriate bill for that purpose.

It is said that we do not know that the legislative bill will be passed during this session. We do know that if it is not passed the Senate will be in session one week after the 4th day of March; and there cannot be any delay on that account. The legislative bill is as certain to pass as this pension bill is certain to pass before the 4th of March, and it is the appropriate bill upon which this question should be considered; and therefore it is that I shall vote against the amendment of the Senator from Vermont, and I shall do what I can before this session closes to have a careful and considerate amendment adopted which will accomplish exactly what this amendment proposes to accomplish by placing all the power in the hands of the President.

Mr. WHYTE. I believe the Senate is ready for a vote on this question, and I therefore move to lay the amendment of the Senator from Vermont on the table.

Mr. EDMUNDS. Mr. President——

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The Senator from Maryland moves to lay the amendment of the Senator from Vermont on the table.

Mr. EDMUNDS. Mr. President, I move to postpone this bill indefinitely.

The PRESIDING OFFICER. The Senator from Vermont moves to postpone the bill indefinitely.

Mr. EDMUNDS. And on that I propose to say a few words.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. EDMUNDS. I am inclined to think that the bill ought not to be postponed indefinitely and I will give some reasons why my motion ought not to be agreed to. One is that I think the bill ought to provide for expediting the examination of pension claims, and to that I shall devote my attention chiefly.

The Senator from Iowa [Mr. ALLISON] says that if the consideration of this question can be postponed until we get another bill next week, assuming that we shall get it then, we can, without any points of order or other troubles, it being still an appropriation bill——

Mr. WHYTE. Will the Senator allow me to rise to a question of order?

Mr. EDMUNDS. Certainly, my friend has a right to rise to a question of order.

Mr. WHYTE. I should like to inquire of the Chair if my motion does not take precedence of the motion of the Senator from Vermont, it being a motion to lay on the table?

Mr. EDMUNDS. Unhappily it does not. Motions to postpone indefinitely precede motions to lay on the table.

Mr. WHYTE. Not according to the rules of the Senate as I read them.

Mr. EDMUNDS. We shall see.

The PRESIDING OFFICER. The Secretary will read Rule 43.

The Chief Clerk read as follows:

When a question is pending no motion shall be received but—
To adjourn,
To adjourn to a day certain, or that when the Senate adjourn, it shall be to a day certain,
To take a recess,
To proceed to the consideration of executive business,
To lay on the table,
To postpone indefinitely,
To postpone to a day certain,
To commit,
To amend;
which several motions shall have precedence in the order in which they stand arranged.

Mr. EDMUNDS. Yes, Mr. President, that is perfectly true; but the Senator did not move to lay this bill on the table. If he had, then his point of order would have been good; but I supposed he did not wish to lay the bill on the table. Therefore the pending question is on the indefinite postponement of this bill.

Mr. WHYTE. I ask for a decision by the Chair of the question of order.

Mr. EDMUNDS. So do I.

The PRESIDING OFFICER. The Chair will hear the Senator from Maryland make his point of order. Will he please state it specifically?

Mr. WHYTE. The point of order is that I moved to lay upon the table the amendment of the Senator from Vermont, and under the rules of the Senate that motion precedes a motion for an indefinite postponement of the bill. The postponement carries with it the amendment also. I have moved to lay the amendment on the table, which would precede a vote to postpone indefinitely the whole bill, amendments and all.

Mr. HOAR. How could the motion of the Senator from Vermont come in order? The duty of the Chair is to put the question on the motion to lay the amendment on the table.

Mr. WHYTE. Without debate.

Mr. EDMUNDS. It is a question of precedence of motions.

The PRESIDING OFFICER. The Chair will decide that the motion of the Senator from Vermont is not in order, but of this the Chair has some doubt, and if the Senator desires, will submit it to the Senate.

Mr. EDMUNDS. Oh, no, Mr. President, the motion being ruled out of order, the motion to postpone the bill indefinitely is not in order. That standing as the judgment of the Senate, I submit to it with such pleasure as I can. Now I withdraw my amendment, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont withdraws his amendment.

Mr. EDMUNDS. And I move to postpone the bill indefinitely.

Mr. WHYTE. Can the Senator withdraw his amendment without the consent of the Senate?

Mr. EDMUNDS. I think I can. The yeas and nays have not been ordered.

Mr. WHYTE. But the motion to lay it on the table has been made.

Mr. EDMUNDS. The yeas and nays have not been ordered.

The PRESIDING OFFICER. The yeas and nays not having been ordered, the Senator from Vermont withdraws his amendment, and moves now, what?

Mr. EDMUNDS. I move to postpone the bill indefinitely.

The PRESIDING OFFICER. The Senator from Vermont moves to postpone the bill indefinitely.

Mr. EDMUNDS. Mr. President, is it in order to submit a few observations on that motion?

The PRESIDING OFFICER. The Chair will decide that it is.

Mr. EDMUNDS. Then I will go on.

Mr. WITHERS. Mr. President, I should like to make a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Vermont yield?

Mr. EDMUNDS. Certainly, for a moment.

Mr. WITHERS. As I understand it now, the Senator from Vermont moves to withdraw an amendment which has been laid upon the table by a vote of the Senate.

Mr. EDMUNDS. I do not understand it that way, Mr. President.

Mr. WITHERS. I thought I must be mistaken, and therefore I wished to know if that was the fact. According to my recollection an amendment was moved by the Senator from Vermont. The Senator from Maryland moved to lay that amendment on the table, the Chair decided that that motion was in order, and the question then came up on the motion to lay the amendment on the table, nothing else being in order, until that was disposed of. How is it possible for the Senator from Vermont, in that condition of things, to withdraw his amendment?

Mr. WHYTE. I do not understand that, either.

Mr. WITHERS. Pending the decision of the motion made by the Senator from Maryland, how could the amendment be withdrawn?

Mr. WALLACE. The effect of it evidently is to withdraw the motion to lay on the table of the Senator from Maryland, which the Senator from Vermont cannot do.

Mr. EDMUNDS. Have I a right to go on, Mr. President?

Mr. WHYTE. Not until this question of order is disposed of.

The PRESIDING OFFICER. The Senator from Virginia, the Chair understands by his remarks, raises a question of order as to whether the Senator from Vermont can withdraw the amendment.

Mr. WITHERS. Whether he can withdraw his amendment after a motion to lay it on the table has been made by another Senator and pending the vote on that motion.

The PRESIDING OFFICER. The Chair would thank the Senator from Virginia to submit some rule which would prevent the Senator from Vermont from withdrawing his amendment.

Mr. FERRY. Is it not very clear, Mr. President, that a motion, until amended, or the yeas and nays have been ordered upon it, can be withdrawn by the mover at any time?

Mr. INGALLS. Rule 44 settles the question.

The PRESIDING OFFICER. The Chair has decided that the Senator from Vermont had a right to withdraw his amendment, and he did withdraw it, and now the question is raised whether he had that right to withdraw it or not, and the Chair has asked for some rule which would not authorize the decision made by the Chair.

Mr. TELLER. May Rule 44 be read?

Mr. WITHERS. I have not the rules before me; but ordinary parliamentary law dictates that when a motion is before the House only certain things can be done. The motion before the House now is to lay the amendment on the table, and it seems to me that until a vote is had on that motion the Senator moving the amendment cannot obtain control of it; it is in the possession of the House and can only be disposed of by a vote upon that amendment or upon the motion to lay on the table unless that motion be withdrawn.

Mr. TELLER. Let us have Rule 44 read.

The PRESIDING OFFICER. The Chair has decided the question, and if any Senator desires to appeal from the decision of the Chair the Chair will gladly submit it to the decision of the Senate.

Mr. WITHERS. I do not desire particularly to appeal from the decision of the Chair. I only wanted to know what was to be the rule of action in this body. This is contrary to what prevails ordinarily in any parliamentary bodies of which I have had any knowledge.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. EDMUNDS. Now, Mr. President, if everybody is satisfied I will proceed. Anybody in this particular branch of the Government who undertakes to prevent a Senator from saying what he wishes to say will require a longer time to do it than it took to elect a President of the United States.

Mr. WITHERS. I will say that that was not my purpose at all.

Mr. EDMUNDS. I know that.

Mr. WITHERS. I was perfectly aware that the Senator had it in his power by various devices to say what he desired to say on the merits of the proposition. It was not for any such purpose that I made the point.

Mr. EDMUNDS. What I wish to say is not to devise, but to advise, in respect to which I mark a difference. Now I will proceed, if I am perfectly in order, to submit an observation in reply to my friend from Iowa, [Mr. ALLISON.]

We all profess to be desirous of aiding in the disposition of the great accumulation of pension claims; we all profess that we wish to do it at the earliest possible moment; but a great many of us profess that our present state of mind is such that we would rather do it at some other time and on some other bill than now, and we are told that if we wait a week or two, we shall have further information, that we are not accustomed to vote money to be expended to carry on the Government without the estimate of the head of a Department; and here it is said there is no estimate for the proposition that I had the honor to submit. That is true. Are you likely to get an estimate when the Department of the Interior and the Pension Office have all their ideas wedded to the sixty-surgeon bill as it is called, and do not wish until that has been tried to provide additional means of going on under the present organization? If you wait until then, a good many gray hairs and a good many sore hearts will go down to the grave before you get any legislation at all. If we have the legislative, executive, and judicial appropriation bill before us next week, there will be no estimate for clerk, or examiner, or copyist, or whatever, unless between this time and that some spur is applied to some head of a Department to make one. The ordinary course of things will bring no estimate; it will bring no new knowledge. The knowledge we have is sufficient already; and that is that on account of some trouble or other either of administration or inadequacy of force or something, this business of the examination of pension claims is greatly, shamefully delayed; and by that I do not mean to intimate that every pension claim is a right one; far from it. Some are wrong; but if some are wrong it furnishes to my mind no reason for delaying or checking those that are right. You might just as well refuse to provide for administering justice in a court, because always heretofore (and always hereafter it will be so) a certain proportion of the causes that are brought to judicial adjudication are false and fraudulent claims and causes, but the false must take their turn with the true to be tried and dismissed while the true are carried into their just operations. That is just what it is in this pension business.

Now, then, the simple thing to do, as it appears to me, is, having the pension bill before us, and the Senate having determined on a yea-and-nay vote that an appropriation bill is a suitable place to consider this question, to proceed to provide the means for trying to get on. The Senator from Iowa asks, how do we know that $200,000 is enough? I do not know. I know that it will go so far, if honestly applied and properly devoted to the selection of such agents and clerks and objects as will touch the spots of delay in these old cases and help get them forward. The Senator asks how do we know that it is not too much? Suppose it to be too much, this only authorizes the President by way of limitation; he is not required, to expend the whole sum. But the Senator says that this is an appropriation bill, and that all this $48,400,000 is needed to pay pensions already due. That is a mistake. Seventeen million dollars is necessary to pay pensions, as we are told, already due. The other $31,000,000 is to provide for accruing pensions that have been and may be allowed in the course of the current year from the 1st of July, 1881, to the 30th of June, 1882. If it turns out at the next December session that this appropriation is inadequate, as it turned out that the last year's appropriation was inadequate, we can supply the deficiency; but I am willing for one to take my risk of doing injustice to the payments of pensions under this bill in doing the best thing I can for these pensioners and provide for the examination and promotion of a disposition of their claims. That is the point, Mr. President, and I think it right in reply to my friend from Iowa to say so.

I did not wish to take up the time of the Senate, but I did not think it quite just that the Senator from Maryland, as I had moved this amendment, should cut me off from the right of replying to the observations of the Senator from Iowa.

Mr. WHYTE. I did not mean to do that. I did not know the Senator wished to speak.

Mr. EDMUNDS. I know the Senator from Maryland had no personal hostility either to me or to my amendment in making that motion. Now, having said this, Mr. President, I withdraw my motion to postpone this bill indefinitely, and I renew the amendment that I had the honor to submit a little while ago.

Mr. WHYTE. Then I renew the motion to lay the amendment on the table.

Mr. EDMUNDS. On that I ask for the yeas and nays.

Mr. WINDOM. I ask the Senator from Maryland to withdraw his motion for a single second.

Mr. WHYTE. If the Senator will renew it.

Mr. WINDOM. I will renew it. I think the amendment illustrates very well the impropriety of ill-considered and hasty legislation. The Senator from Vermont proposes to expedite the consideration of these pension claims, and the bill provides that this money, $48,000,000, shall be for the payment of pensions for the fiscal year ending June 30, 1882, and not a dollar of it is available until after the 30th of June next. The Senator's amendment, which is to expedite these pension claims so much, will not be available until after the 30th of June next, so that nobody will be hastened very much. I now renew the motion of the Senator from Maryland to lay the amendment on the table, as I agreed to do.

Mr. EDMUNDS. I hope my friend will withdraw that motion.

Mr. WHYTE. I withdraw it.

Mr. WINDOM. I want to say to the Senator from Vermont that I propose to keep my agreement; and now, if he will renew it, I withdraw the motion.

Mr. EDMUNDS. I will say as to that, that if the Senate shall be of the opinion that it is right to intrust the President with $200,000 to endeavor to secure the best agencies for getting on with this business, and this amendment be agreed to, I had already prepared an additional amendment, providing that this sum should be available immediately.

Mr. WHYTE. Now I renew the motion to lay the amendment on the table.

The PRESIDING OFFICER. The Senator from Maryland moves to lay the amendment of the Senator from Vermont on the table. Upon that question the Senator from Vermont calls for the yeas and nays.

The yeas and nays were ordered.

Mr. BLAIR. I only wish to make a parliamentary inquiry. I suppose a majority of the Senate are in favor of the bill reported by the Committee on Pensions with such modifications as might readily be made to it by amendments. My inquiry is this: If the amendment of the Senator from Vermont should not be laid on the table, would it be in order to move as an amendment to his amendment the substance of that bill with such modifications as might be inserted therein to meet the general wish of the Senate in that direction, so that this amendment being in order an amendment thereto could be attached? In this way we could get substantially what is desired by the Interior Department, and upon this same bill, if that can be done, and I see no reason why it may not be done; and then if the amount which the Senator from Vermont proposes, some $200,000, could be increased to half a million, the President in his discretion might be authorized to carry out the bill which a majority of the Senate desire. As no part of the money in this bill is available until next July, it seems there cannot be any very great haste about the passage of this bill, and the discussion which it is proposed to postpone until the legislative, executive, and judicial appropriation bill comes to the Senate may just as well take place here and the whole matter be disposed of.

Mr. WINDOM. There is a deficiency of about seventeen million dollars in this bill.

Mr. BLAIR. That is only a small proportion of the bill. I should like to know the opinion of the Chair upon the question as a matter of parliamentary procedure.

The PRESIDING OFFICER. The Chair will decide that an amendment which was not itself in order would not be in order to an amendment.

Mr. BLAIR. Certainly not; but this amendment is in order; no exception has been taken to it on that ground; no one has raised any point of order. There is a motion to lay this amendment on the table. If that motion should be denied the amendment would remain before the Senate, and it could be so changed in the manner I have suggested as that the whole subject-matter which the Senate desires to incorporate into the administration of the pension law could be attached to this bill, and the difficulty which we have encountered thus far would be avoided.

The PRESIDING OFFICER. The Chair understood the Senator to inquire whether the amendment which had been previously ruled out of order would be in order to this amendment.

Mr. BLAIR. No, Mr. President; this amendment is in order as I understand, the amendment of the Senator from Vermont. No one has raised any point of order against it, and the discussion of it has proceeded. I suppose it is to be taken for granted that it is in order; and if so and it should not be laid on the table, why may not the majority of the Senate who desire to enact the sixty-surgeons bill as

it is called, or Senate bill No. 496, with such modifications as can be readily incorporated in it to suit the majority, add that as an amendment to the amendment of the Senator from Vermont, and this matter be reached immediately? If the amendment of the Senator from Vermont is laid on the table, of course that is the end of it.

It does seem to me that if I am correct in the view of parliamentary law involved here, this motion to lay the amendment on the table may well be rejected by a majority of the Senate.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment of the Senator from Vermont.

The question being taken by yeas and nays, resulted—yeas 35, nays 23; as follows:

YEAS—35.

| | | | |
|---|---|---|---|
| Allison | Farley, | Jones of Florida, | Vance, |
| Bailey, | Ferry, | Kernan, | Vest, |
| Beck, | Groome, | McDonald, | Walker, |
| Booth, | Hampton, | Maxey, | Wallace, |
| Butler, | Hereford, | Morgan, | Whyte, |
| Cockrell, | Hill of Georgia, | Pendleton, | Williams, |
| Coke, | Ingalls, | Ransom, | Windom, |
| Davis of W. Va., | Johnston, | Saulsbury, | Withers. |
| Eaton, | Jonas, | Slater, | |

NAYS—23.

| | | | |
|---|---|---|---|
| Anthony, | Cameron of Wis., | Jones of Nevada, | Plumb, |
| Baldwin, | Dawes, | Kirkwood, | Rollins, |
| Blair, | Edmunds, | McMillan, | Saunders, |
| Brown, | Hamlin, | McPherson, | Teller, |
| Burnside, | Hill of Colorado, | Paddock, | Voorhees. |
| Gail, | Hoar, | Platt, | |

ABSENT—18.

| | | | |
|---|---|---|---|
| Bayard, | Conkling, | Kellogg, | Randolph, |
| Blaine, | Davis of Illinois, | Lamar, | Sharon, |
| Bruce, | Garland, | Logan, | Thurman. |
| Cameron of Pa., | Grover, | Morrill, | |
| Carpenter, | Harris, | Pugh, | |

So the amendment was ordered to lie on the table.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BOOTH. I move to amend the title by adding "and for other purposes."

The motion was agreed to.

Mr. WALLACE. I move that the Senate proceed to the consideration of the Post-Office appropriation bill.

The PRESIDING OFFICER. The Senator from Pennsylvania moves that the Senate do now proceed to the consideration of the bill which he has indicated.

Mr. HOAR. Will the Senator from Pennsylvania oblige me by withholding the motion for a moment?

Mr. WALLACE. When the bill has been taken up I will yield.

Mr. HOAR. I wish to call attention to something in connection with the bill just passed.

Mr. WALLACE. Whenever the bill has been reported I will yield.

The PRESIDING OFFICER. The Senator from Pennsylvania moves to take up a bill, the title of which will be read, so that the Senate will know what the motion is.

The Chief Clerk read the title of the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes.

Mr. WALLACE. I now yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The question is on proceeding to the consideration of the bill.

Mr. HOAR. I understood that before the pension amendment was voted down some of the members of the Appropriations Committee gave assurance informally to the Senate that they would ask unanimous consent that amendments covering this question might be in order on the legislative, executive, and judicial appropriation bill. I desire to ask the Senator from Kentucky whether it would not be well to ask that consent now?

Mr. BECK. I asked at the time I made the suggestion that it be done. I hope it will be done now. I desire the fullest, freest, fairest consideration of the necessities of the Pension Office, and if the Senate will agree now to what I suggested this morning I shall be very much gratified. Whether they do or not, when the question does come up I shall vote to give it the fullest and fairest consideration.

Mr. WINDOM. I believe the Senator was understood as asking consent.

Mr. ALLISON. I ask unanimous consent that an amendment may be in order in reference to this question of pensions on the legislative appropriation bill.

Mr. BECK. I hope that will be done.

Mr. TELLER. I wish to make an inquiry of the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa asks unanimous consent of the Senate that when the legislative, executive, and judicial appropriation bill is being considered by the Senate an amendment in regard to the pension matter shall be in order.

Mr. DAVIS, of West Virginia. For the increase of employés.

Mr. EDMUNDS. Let us know exactly what it is.

Mr. TELLER. I want to make an inquiry of the Senator from Iowa, who seems to have this in charge.

Mr. ALLISON. No, I have not the bill in charge; I have this particular thing in charge of asking unanimous consent.

Mr. TELLER. I want to inquire whether any one will be at liberty to move any amendment in reference to this question that has been before the Senate, without reference to what the Department may say. I was told awhile ago that nothing would be in order unless the Department backed it up.

Mr. WITHERS. Except Senate bill No. 496; that is out of order.

Mr. ALLISON. I ask unanimous consent that all amendments looking to the expediting of the consideration of pension claims may be in order on the legislative, executive, and judicial appropriation bill, which is the proper bill.

Mr. WINDOM. I understood that if an additional appropriation for expediting pension claims is to be put on that bill, it is to be reported by the Committee on Appropriations.

Mr. EDMUNDS. The whole subject is to be open on that bill?

Mr. ALLISON. Whatever there is.

Mr. INGALLS. From whatever quarter it may emanate.

Mr. WINDOM. I do not understand that that was the agreement.

Mr. TELLER. I do not think we should be required to consent that the bill reported by the Committee on Pensions, this new system of getting at the pensions, ought to be put on. I do not propose to consent to that, so far as I am concerned.

Mr. WINDOM. I ask unanimous consent that all amendments increasing the clerical force in the Departments shall be in order on that bill.

Mr. BURNSIDE. I do not consent to that, Mr. President. The understanding with me was that all fair amendments touching the expediting of the granting of pensions were to be considered in order, and I am not going into any jug-handled arrangement of that kind, anybody could get up here in a captious way——

Mr. JONES, of Florida. I rise to a question of order.

Mr. BURNSIDE. I have not talked much to-day, and I hope the Senator will allow me to express my views.

The PRESIDING OFFICER. The question of order must be entertained by the Chair. The Senator from Florida will state his question of order.

Mr. JONES, of Florida. What is the question before the Senate, Mr. President?

The PRESIDING OFFICER. The question before the Senate is the motion of the Senator from Pennsylvania, [Mr. WALLACE.] Senators then asked consent of the Senate for certain things, and the Chair does not hold that he has the power to confine them to that question. The Senator from Rhode Island has the floor.

Mr. BURNSIDE. Now, Mr. President, I say that it was my understanding, and I think it was the understanding of nine Senators out of ten who hear me, that all fair amendments which looked to the expediting of the consideration of pension claims were to be considered in order and voted upon on their merits. I am not going into any arrangement whatever that will allow an amendment to be ruled out of order simply because six or eight or ten Senators in this body have objected to it heretofore, and have by parliamentary means clogged the passage of a bill which I think three-fourths of the Senate want to pass. I do not think it is fair and right, and I will never consent to it.

Mr. TELLER. It was distinctly understood at the time when it was broached here by the Committee on Appropriations that it only referred to the increase of clerical force. Everybody understood that, the Senator from Rhode Island did——

Mr. BURNSIDE. I beg the Senator's pardon.

Mr. TELLER. If he did not, then he did not gather his understanding from anything said by any member of that committee; and it was because I saw that there was a disposition after the Senate had disposed of that amendment to adopt an entirely different policy and pursue a different course, which I thought was unfair, that I made the objection, and I propose to stand by the objection. I do not propose that the legislative bill shall be encumbered with that measure. If three-fourths of the Senate want that bill let them bring it up. It has been here since last March. It was asked why we had not brought it up. It would be a piece of impudence, I suppose, if anybody had sought to bring it up except members of the committee. They have seen fit to let it rest here. Now, if they want it, let them bring it up in the regular way. I am opposed to putting on any appropriation bill that bill, whether it is a good one or a bad one, and I propose to stand by the law.

Mr. BURNSIDE. I propose to stand by my objection. I have as much right on this floor as any other Senator, and I do not propose that the rights of a majority of the Senate shall be cut off by any agreement.

The PRESIDING OFFICER. The Senator from Minnesota asks unanimous consent that all amendments to the legislative, executive, and judicial appropriation bill increasing the clerical force on account of the Pension Office shall be in order.

Mr. BURNSIDE. I object.

The PRESIDING OFFICER. The Senator from Rhode Island objects, and that settles that question.

Mr. BECK. I desire to speak to the question of taking up of the Post-Office bill.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. BECK. Preliminary to making the statement I rose to make, I wish to say that I believe I have heard the rules of the Senate often construed to mean that anything is in order by way of debate, no matter what it is, and I can discuss the Nicaraguan Canal, or the Eads jetties, or anything I like on this motion. It has been done so often that I presume I have that right.

I desire to say that when I asked the Senator from Kansas to withdraw his amendment, it was on the ground that if the Senate would allow us to consider the question of what was the necessary force required by the Pension Office, the necessary number of clerks to be added to the Surgeon-General's Office and the Adjutant-General's Office and the Second Auditor's Office, in order to examine applications for pensions, I hoped the Senate would give unanimous consent that we should lay the result before the Senate on the legislative bill without any point of order being made. I could not obtain that consent.

I say now that when the legislative, executive, and judicial appropriation bill comes up before the Committee on Appropriations, if I can have my way, we shall send for the Commissioner of Pensions, the Surgeon-General, the Second Auditor, the Adjutant-General, and all men connected with pensions or who have charge of that business, and so far as they tell me that they need additional force to expedite the payment of honest claims, I shall not only vote for it, but I shall vote that it shall be in order to consider that increase of force, and I hope the Senate will give unanimous consent now that all these things may be done on that bill. I believe it is the interest of the pensioner; I believe it is the interest of good order; I believe we shall keep regularity of system if these things should be allowed. If, however, the Senate will not give that consent, when the bill comes up before the body, if no one else does I shall move that these questions shall all be considered, shall be fairly heard, and I shall vote that such amendments are in order. I agree to every word the Senator from Massachusetts said as to the pledge I desired to give.

Mr. BURNSIDE. Will the Senator from Kentucky allow me to ask him a question?

The PRESIDING OFFICER. Does the Senator from Kentucky yield?

Mr. BECK. I am done.

Mr. BURNSIDE. I beg to ask the Senator from Kentucky a question. If the Commissioner of Pensions should recommend to him, or to his committee, or to the Senate, that he should have the right to employ a surgeon and a lawyer in each congressional district, and to employ clerks in each district, to be placed in immediate communication with the pensioners, as nearly so as possible, would the Senator consider that as a proper increase of force?

Mr. BECK. I consider that the Senate settled that question by ruling it out of order, and that nothing else can come up on the legislative appropriation bill than the employment of additional force.

Mr. BURNSIDE. That would be additional force.

Mr. BECK. It would be additional legislation, which, if the Pension Committee will bring up as an original proposition, I will consider and vote for or against according as the reason of the case may determine my course.

Mr. BURNSIDE. Would the Senator consider an amendment in order at this time which provided that the additional clerks and employés hired under the appropriation should be residents of the congressional districts where the pensioners belong and should be placed in communication with the pensioners as nearly as possible? Would the Senator consider that to be in order?

Mr. BECK. As at present advised I would not consider that that came within the scope of the conversation we had this morning.

Mr. TELLER. I wish to remark that if the Senator from Kentucky says that this so-called surgeons bill comes within the scope of the statement he made, I will withdraw my objection.

Mr. ALLISON. He says he does not so consider it.

Mr. WITHERS. I claim the right to say a word in connection with the statement made by the Senator from Colorado a few minutes ago in reference to this bill.

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. TELLER. Certainly.

Mr. WITHERS. In that statement the Senator said that no effort whatever had been made to secure action on this bill since last March. The Senator is clearly mistaken. Twice, at least, I have given notice to the Senate of my purpose to call it up, but have been unable to obtain the floor to do so at the time indicated and when I wished to do so. It was no fault of mine that it was not taken up. On the contrary, I have anxiously desired it everyday since the bill was reported to the present time. As to whether the bill is in order as an amendment. I understand from the Senator from Colorado that anything will be in order except that particular measure. We can increase the force in the Department in any way, in any branch of the service, and do anything connected with pensions except that particular measure of proposing to establish a court of a surgeon and a lawyer to examine and take evidence, and that is never in order.

Mr. SAULSBURY. Will the Senator from Colorado yield to me for a moment?

Mr. TELLER. I want to say a word upon this subject, and then I will yield entirely.

Mr. SAULSBURY. I will not take half a minute.

Mr. TELLER. I will yield entirely in a moment. What I desired was that just what the Senator from Kentucky had stated to the Senate should be enforced. If he did state it broad enough so that it will include the surgeons bill, as the Senator from Rhode Island thinks he did, I would be willing to withdraw my objection. I understood him to say that he did not mean that and did not so state. Therefore I think I am justified in maintaining my objection.

Mr. SAULSBURY. I desire to say to the Senate that I wish to have an executive session this evening for reasons that I cannot state here, and while I do not wish to antagonize the Senator from Pennsylvania in getting up the Post-Office appropriation bill, I shall be compelled to ask for an executive session if there is further debate in reference to his motion.

ORDER OF BUSINESS.

Mr. WALLACE. I ask that the pending question be put; which is that the Post-Office appropriation bill be made the order of business.

Mr. JONES, of Florida. What is the regular order now before the Senate?

The PRESIDING OFFICER, (Mr. EDMUNDS in the chair.) The question before the Senate is that the Senate now proceed to the consideration of the Post-Office appropriation bill.

Mr. JONES, of Florida. I wish to say that while I have no disposition whatever to obstruct the consideration of any regular appropriation bill, as a matter of ordinary justice I shall claim that the Senate ought to permit the regular order to be considered for reasons that I will state. When the pension appropriation bill was taken up the regular order of the Senate was a bill for the relief of two naval officers, Messrs. Sigsbee and Sands. The Senator from California [Mr. FARLEY] moved to take up that bill, which was done, and before an explanation of it could well be given, the Senator from New Hampshire [Mr. ROLLINS] made a speech in opposition to the measure, and in the course of that speech he asked the Naval Committee certain questions, which up to this time that committee, myself and the Senator from California representing it, have not had an opportunity to answer. That bill is the regular order and we consented that it might be laid aside temporarily, so that the pension appropriation bill could be considered, with the understanding that after the pension bill was disposed of that measure should resume its original place.

Mr. VOORHEES. Of what measure does the Senator speak?

Mr. JONES, of Florida. The bill for the relief of Sigsbee and Sands; and up to this time, although the claim for relief made by these officers was fiercely attacked and has gone on the record as an imposition, no friend of that measure has been permitted to open his mouth in their defense.

Mr. VOORHEES. I should like to have a chance to say a word.

The PRESIDING OFFICER. The Chair will state that as the Chair understands, no entry in respect of the bill referred to by the Senator from Florida has been made on the Journal. Whatever there was about it was a matter of conversation among Senators. Therefore, the Chair thinks that the motion of the Senator from Pennsylvania is in order, to proceed to the consideration of the Post-Office appropriation bill.

Mr. JONES, of Florida. I ask the Chair if there is nothing to show that the bill to which I refer is the regular order after the pension appropriation bill is disposed of?

The PRESIDING OFFICER. Nothing, as the Chair understands from the Journal, was before the Senate as its unfinished business or as the special order; so that the Chair thinks the motion of the Senator from Pennsylvania is in order, which is to proceed to the consideration of the Post-Office appropriation bill, and whatever else may occur depends upon the opinion of Senators as to what they are bound to observe.

Mr. WALLACE. I trust the Senate will permit me to get up the Post-Office appropriation bill. It would be a new precedent in the Senate to lay aside an appropriation bill, at this stage of the session, to take up private bills. I trust we shall take up the bill, and after it has been taken up let it be informally laid aside, if it is the desire of the Senate so to do, in order to proceed to any other business. I will consent to that course; but let it be taken up in order to be the unfinished business to be proceeded with in the morning.

Mr. VOORHEES. Mr. President, I have been trying for about half an hour to say a word or two on the floor of the Senate. I know it is more difficult for the Presiding Officer to look sidewise than straight forward, and consequently those will be recognized——

The PRESIDING OFFICER. The Chair has recognized the Senator from Indiana.

Mr. VOORHEES. It is not the fault of the present occupant of the chair. I have suffered that way ever since I have been in the Senate Chamber.

I simply desire to say, in all good nature, that I intend from this moment on, without cessation and without absences from my seat, without relaxing a particle of vigilance, to press upon the consideration of the Senate the bill providing additional accommodations for the Library. I know that it is my duty to do so, and I intend to do

it. I gave notice the other day that as soon as the pension appropriation bill was disposed of I should ask the Senate to proceed to the consideration of that bill, but there have been about fifty-three Senators recognized since the termination of the pension appropriation bill, while I was trying to make good the notice which I gave the other day.

It is not worth while to seek to evade the consideration of this question; in fact nobody would wish to do so; but unless I make myself very disagreeable in pressing it upon the attention of the Senate, it will not get through here perhaps at all, and certainly not in time to go to the House. We are in such a condition that I should feel derelict, I should feel like a culprit in the discharge of my duty, if I did not do something to relieve the Congressional Library of its miserable condition.

I told the Senator from Pennsylvania the other day (because I do not think a want of frankness is one of the faults of my character) that I should make this motion. I will not undertake to say that that is the reason why he has been determined that I should not have the floor: but we might as well have this matter settled at one time as another. I am not anxious to antagonize appropriation bills. I would not antagonize the pension appropriation bill; but I think I will encounter the weight of a Post-Office appropriation bill with the question of whether the disgraceful condition of our Library shall continue, with a prospect of its continuing for years if we do not act now.

I think we can adjust the business before the Senate so that all can get through. My friend from Texas on my right [Mr. COKE] is anxious to have the remnant of his Indian bill considered; and if, for instance, the Senator from Alabama [Mr. MORGAN] and other gifted orators here, who speak with so much ease and grace and fluency, would give a little security that they would not pioneer upon it, I would be willing to have it taken up; not but what I always listen with infinite pleasure to those discussions, but if we wait until all these measures are disposed of, I am afraid that the books of the Library will have a hard time.

I have but one word more to say, and that is in the shape of an appeal to the accomplished Senator from Pennsylvania, who takes as deep an interest in the Library as anybody else, and to the scholastic and learned Senator from Texas, that when the Post-Office appropriation bill is taken up it may be laid aside, so that the Library bill may have two or three hours. The Library question cannot be a very prolific one for two reasons: In the first place, it is very difficult for any man to make a long speech on a question of whether we ought to build a house on one lot or upon another. It does not branch out; it does not give scope to the imagination. The other reason is, that on a question of architecture, very few people know anything, and while some people can talk on subjects they do not understand, as a matter of course Senators do not belong to that class, so that I do not see where there is much scope for an elaborate discussion in regard to the Library.

I wish to say, if the Senate will pardon me for doing so, that at the close of the last session of Congress, within a few days before its close, a very important bill passed both branches and became a law, under which a joint select committee composed of three Senators and three Members were appointed, whose duty it was to select architectural experts. I say to the Senate that within thirty minutes after the last session of Congress adjourned in June last I had that committee together. We met and went to work. Before we left the city we appointed our expert architects, and they did their duty with industry, with fidelity, and with great skill, so that when we met here last December we had about us a wealth of design and of instruction from our expert architects that was delightful to encounter.

This joint select committee continued in session almost every day for the first month of the present session of Congress. We have perfected our labors so far as we are concerned. We have made our report; we have reported our bill; and now the crying need of the hour or of the moment is to take it up and consider it like sensible men, and dispose of it. As I have already observed, it cannot take long. The committee has reported in favor of a certain locality. If the locality does not command the approbation of a majority of the Senate, let the majority of the Senate locate it some place else. I stand here to plead for no one corner lot over another. I have concurred with the majority of the committee in regard to a certain locality, but my chief and prime object is to build a Library building which will accommodate the books and the valuable material now going to destruction where it is at present located, and it is not a matter of supreme consequence to me where the Library is located.

It is a matter, though, of supreme consequence and of honor on the part of Congress to build one that will accommodate the books we have and the constant flowing stream that is being emptied into our Library.

I have been betrayed into saying a great deal more than I possibly should have done if I had been allowed to speak earlier, but I now earnestly appeal to the Senator from Pennsylvania to let this great question be considered so that the bill can go to the House of Representatives and become a law before the session closes, so that the work can commence on this great and necessary public enterprise.

Mr. WALLACE. Mr. President, I cannot yield the right of way in the Senate to any bill when a public appropriation bill such as this is demands consideration at this stage of the session. I simply ask that the bill may be taken up and put upon its passage, and then the Senate can determine what it will take up for itself. I trust that the Post-Office appropriation bill may be made the order of business.

Mr. COKE. Mr. President, I desire to give notice that at the earliest possible moment, and especially at the time when the Senator from Pennsylvania proposes to yield the floor on the conclusion of the bill about being taken up, that I shall insist that the Indian severalty bill, already thoroughly discussed, has precedence over any other measure for consideration by the Senate, and shall ask that that bill be taken up and considered. The bill is one of the most important that has been before the Senate during the session. It is one that is asked for by one of the Departments of the Government as absolutely necessary to the proper administration of an important branch of its affairs. It is demanded by the condition of the Indians and by the public policy which should be subserved in administering the affairs of the Indians. We have had the bill before the Senate some ten or twelve days. It has been thoroughly and exhaustively discussed in all its branches and provisions, and it does seem to me that now is the time to dispose of it, unless we intend to have a repetition of the same discussion and another useless consumption of time over the same measure at the next session of Congress.

With reference to the bill of the honorable Senator from Indiana, while it is important, it seems to me—and I say it with due deference to that gentleman's opinion—that that bill is insignificant in comparison with the bill that I now say should be proceeded with at the first moment the Senate can take it up.

I will state, further, that the Indian severalty bill has been yielded repeatedly in deference to the views of Senators presenting appropriation bills to the Senate. I have antagonized no appropriation bill. The bill has been yielded repeatedly to other measures that it seemed proper should come before the Senate; and I would submit that it is entitled by the extension of the proper courtesy of the Senate to the next place for consideration.

Mr. JONES, of Florida. Mr. President——

The PRESIDING OFFICER. The Chair will state in reference to the observation submitted by the Senator from Florida that it is probably due to the Senate to state what took place on the 7th of February about the bill referred to by the Senator from Florida, being the bill (S. No. 1210) for the relief of certain officers of the Navy. It appears from the CONGRESSIONAL RECORD that after considerable discussion touching the order of business, the Senator from California [Mr. FARLEY] said:

> The understanding is that the unfinished business retains its place after the bill is over.

Referring, as the Chair understands, to the pension appropriation bill, and the unfinished business being, as the Chair infers from this statement in the RECORD, the bill concerning naval officers.

> The PRESIDING OFFICER. That is the understanding.

The present occupant of the chair thinks, according to his recollection, that these understandings do not go on the Journal, and therefore it is only by the general consent of the Senate that the business laid aside in that way again comes up; and so the Chair felt it to be its duty to put the question on the motion of the Senator from Pennsylvania. The Chair states this in explanation of the ruling that he made a little while ago in regard to the point raised by the Senator from Florida.

Mr. JONES, of Florida. As I said, I have no wish to antagonize any of the important appropriation bills; but when the understanding of the Senate was announced by the Chair, as we find it recorded and as reiterated by the Chair now, I thought it was due to me and to the Senator from California that some notice should be taken of the claim of the bill which was under consideration when that agreement was made.

I say now that it will not take a great while, in my judgment, to dispose of the bill. The Senator from New Hampshire has already made an argument in the case against the claims of these officers, and I thought that in justice to the Naval Committee, of which I am an unpretentious and humble member, something ought to be said, or at least an opportunity should be given to say it, on the other side; and I expected after the pension bill was over that we would come back, according to the agreement here recorded, and consider the bill.

Mr. WALLACE. I have no desire to interfere with any understanding made in the Senate. I am only endeavoring to perform my duty, as I see it, in regard to public business. I want no extra session, and I am compelled to press the bill now in my charge. I am sure the Senate does not desire that we should protract these appropriation bills and run the risk of an extra session. Therefore I feel compelled to insist upon my motion. I have no objection that the understanding which appears upon the CONGRESSIONAL RECORD may continue, but I ask the Senate to take up the Post-Office appropriation bill with that understanding, if it is so understood.

Mr. JONES, of Florida. With the understanding that this order shall be continued as it is now, I have no objection.

Mr. VOORHEES. What is the understanding?

The PRESIDING OFFICER. The Senator from Pennsylvania suggests, the Chair will be allowed to state, that the bill respecting certain naval officers, Senate bill No. 1210, be taken up after the disposition of the appropriation bill.

Mr. VOORHEES. It will be entirely impossible to get such an understanding if it requires unanimous consent.

Mr. JONES, of Florida. It does not.

Mr. VOORHEES. We shall have a vote, then, on it. I do not know who is the majority of the Senate, the Senator from Florida or myself.

Mr. JONES, of Florida. If the Senator will listen one moment to understand the status of this case, I think he will not insist on the objection.

Mr. VOORHEES. I understand it pretty well. I understand that it will lead to a protracted and acrimonious debate.

Mr. JONES, of Florida. That is not the question now. There is an understanding already had. The Senate has already indicated through its presiding officer that this measure should come up, because we had it under consideration when the pension appropriation bill was called up. It was then the regular order, and by general consent, as here recorded, it was agreed that after the pension bill was disposed of the consideration of that bill should be resumed. The consent of the Senate was given to that agreement, and it is so recorded, and if the Senate goes back on its own consent I have no more to say.

Mr. VOORHEES. As a matter of course the Senator from Florida knows I would not stand one moment against what is recorded as the unanimous understanding of the Senate; but if that bill is to be taken up I should like to have a unanimous understanding that the Senate, each member of which is as much interested as I am in the Library question, shall take up and consider the Library bill. If I can have that understanding, I will be content. I ask for that unanimous consent, Mr. President, if I have the right and power to do it.

The PRESIDING OFFICER. The Senator from Pennsylvania and the Senator from Florida, the Chair understands, ask for an understanding that after the disposition of the Post-Office appropriation bill Senate bill No. 1210 shall be considered, and the Senator from Indiana asks that there be a unanimous understanding that after Senate bill No. 1210 shall have been disposed of the Library building bill may be considered.

Mr. WALLACE. No, Mr. President, I simply desire to take up the Post-Office appropriation bill and allow the Senate to dispose of its own understandings as they are found upon the CONGRESSIONAL RECORD. I am content that the bill of the Senator from Florida may have its position when it comes to that point, but I ask that the appropriation bill, which has the right of way, be taken up unfettered with conditions of any kind.

Mr. VOORHEES. I do not want to displace the bill of the Senator from Florida; I do not want to violate what he supposes to have been the understanding of the Senate; but I do want the Senate to indicate its purpose, if possible, to take up the Library building bill immediately thereafter. I do not want to antagonize the Senator from Pennsylvania with his appropriation bill, of course. I do not think that the bill which I am interested in will take much time. If I could have such an understanding I would be glad to have it.

Mr. PENDLETON. Mr. President——

The PRESIDING OFFICER. The Chair will state the question. The pending question is on the motion of the Senator from Pennsylvania to proceed to the consideration of the Post-Office appropriation bill; pending which the Senator from Florida asks that there be a unanimous understanding (which does not by the course of practice go upon the Journal, but only depends upon the will of the Senate afterward) that Senate bill No. 1210 be considered; and then the Senator from Indiana asks a similar understanding that after that the Library building bill shall be considered. The Chair will ask for an expression of assent first to the application of the Senator from Florida.

Mr. JONES, of Florida. With due deference to the Chair I will say that in asking the consent of the Senate to my proposition I am only asking that it shall remain by the assent already given. It is not an original proposition. The assent of the Senate has been already given, and I am only asking that it shall keep its faith. This measure was under consideration, and those representing the Naval Committee yielded to the Senator from California to call up the pension bill, with the understanding on the RECORD here that when the consideration of that bill was terminated this bill should resume its place, and the Senate assented to that unanimously. I am willing that the appropriation bill referred to by the Senator from Pennsylvania shall be considered, but I still insist that the original assent of the Senate given in this case shall be carried out.

Mr. PENDLETON. I desire to call the attention of the Senate, while these various demands are being made upon it, to the fact that last week the Indian severalty bill was informally laid aside during the afternoon and a bill in which I feel an interest, Senate bill No. 1441, was taken up for consideration, and then at the request of many Senators I agreed that it should go over upon an agreement on all sides by unanimous consent that it should be taken up immediately after the Indian severalty bill, which was informally that day laid aside. I desire to say to all the gentlemen who are asking unanimous consent, that this consent has been already given to me, and as soon as I get the opportunity, after the Indian severalty bill comes up, I shall insist upon it.

Mr. ANTHONY. I think that the request of the Senator from Florida is perfectly just and reasonable. The bill which he advocates was before the Senate on Saturday, and it was laid aside on Monday with the understanding that it would come up after the bill then before the Senate was disposed of. He is not asking for a new agreement, but merely asks that the agreement which the Senate had previously made be carried out.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida that after the disposition of the Post-Office appropriation bill Senate bill No. 1210 shall be considered? The Chair hears none; but the Chair will state that, as in all cases of this kind hitherto, it is an understanding of the Senate that is not entered upon the Journal, and it only binds Senators as they may feel themselves obliged to observe it. Then the Senator from Indiana asks unanimous consent that after Senate bill No. 1210 shall have been disposed of the Library building bill may be taken up. Is there objection?

Mr. COKE. I object.

The PRESIDING OFFICER. Objection is made. The question now is on agreeing to the motion of the Senator from Pennsylvania to proceed to the consideration of the Post-Office appropriation bill.

The motion was agreed to.

The PRESIDING OFFICER. The bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes, is before the Senate as in Committee of the Whole, and will be read.

EXECUTIVE SESSION.

Mr. SAULSBURY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After forty minutes spent in executive session the doors were reopened, and (at five o'clock and twenty-seven minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### WEDNESDAY, *February* 9, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. ATKINS. I call for the regular order.

Mr. SPRINGER. What is the regular order?

The SPEAKER. The regular order is the morning hour for the call of committees for reports.

Mr. ATKINS. I move to dispense with the morning hour for the call of committees for reports.

The SPEAKER. This will require a vote of two-thirds.

The motion was agreed to, two-thirds having voted in favor thereof.

Mr. FRYE. Mr. Speaker, I intended, as I gave notice heretofore, that I would call up the rule touching the order of business reported on Monday from the Committee on Rules this morning. But in my judgment the legislative bill may in this hour be disposed of, and therefore I will waive the privilege of calling up that order this morning; but now give notice that I will call it up for consideration immediately after the declaration of the result of the count of the electoral votes for President and Vice-President.

Mr. TOWNSHEND, of Illinois. I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. I desire to know whether the gentleman from Maine [Mr. FRYE] has the right to call up that rule at any time?

The SPEAKER. The gentleman from Maine does not now call up the rule for consideration. When the point arises, if the gentleman from Illinois chooses to make it, the Chair will then decide.

Mr. TOWNSHEND, of Illinois. I give notice, then, I shall make the point of order against it at that time.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. CARLISLE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the consideration of the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes. The Clerk will resume the reading of the bill.

The Clerk read as follows:

In the office of the Commissary-General: One chief clerk, at $2,000; one clerk of class 4; three clerks of class 3; four clerks of class 2; ten clerks of class 1; two clerks, at $1,000 each; one assistant messenger, two laborers, and two watchmen; in all, $31,680: *Provided*, That the Secretary of War, if the public necessity requires it, may detail not exceeding ten enlisted men for clerical service in this division.

Mr. ATKINS. I offer the following amendment to this paragraph:

On page 51, in line 1240, strike out the word "division" where it occurs and insert "bureau" in lieu thereof.

The amendment was agreed to.

The Clerk read as follows:

For contingent expenses of the Adjutant-General's Office, in the old Navy Department building and in the building on F street above Seventeenth street, including fuel, light, heating apparatus, matting, cleaning, labor, and incidental items of care of two floors of the old Navy Department building, $2,800.

Mr. ATKINS. I offer an amendment to this paragraph.

The Clerk read the amendment, as follows:

On page 54, lines 1318 and 1319, strike out the words "and in the building on F street above Seventeenth street;" and in line 1322 strike out the word "eight" and insert the word "five."

The amendment was agreed to.

The Clerk read as follows:

For the rent of that portion of the building on the northeast corner of Twelfth street and Pennsylvania avenue, Washington, District of Columbia, now occupied by the Pension Office, or any other fire-proof building or buildings that the Secretary of the Interior may select, $24,000; and the Secretary of the Interior is hereby authorized to contract with the owner of said building or buildings for the rent thereof to the Government, at a rate not exceeding $24,000 per year, from June 30, 1881, with the privilege for four years from June 30, 1882, at the same rate, contingent upon the making by Congress of the necessary appropriation.

Mr. ATKINS. I offer the following amendment to this paragraph:

In line 1527, after the word "or," where it occurs, insert the word "other."

The amendment was agreed to.

The Clerk read as follows:

Indian Office:

For compensation of the Commissioner of Indian Affairs, $3,500; chief clerk, $2,000; one financial clerk, at $2,000; five clerks of class 4; eight clerks of class 3; one stenographer, at $1,600; twelve clerks of class 2; ten clerks of class 1; thirteen clerks at $1,000 each; eight copyists, at $900 each; one messenger; one assistant messenger; and two laborers; in all, $82,780.

Mr. ATKINS. I offer the following amendment to this paragraph:

In line 1582, after the word "dollars," where it occurs, strike out the word "five" and insert "one principal book-keeper, $1,800; four."

This simply changes the title of one of these clerks to that of principal book-keeper. It does not increase the salary but simply designates him as book-keeper and leaves the number of clerks the same as before.

The amendment was agreed to.

The Clerk read as follows:

Pension Office:

For compensation of the Commissioner of Pensions, $4,000; deputy commissioner, $2,400; chief clerk, $2,000; medical referee, $2,250; forty-five clerks of class 4; seventy-five clerks of class 3; one hundred clerks of class 2; one hundred and forty-eight clerks of class 1; ten clerks, at $1,000 each; thirty copyists, at $900 each; one engineer, at $1,200; one assistant engineer, at $1,000; one messenger and twelve assistant messengers; and for ten laborers and four watchmen; in all, $586,410.

Mr. COFFROTH. Mr. Chairman, I offer the following amendment to this paragraph:

In line 1597 strike out the words "forty-five clerks of class 4" and insert "thirteen chiefs of division, at $2,250 each; thirty-two clerks of class 4."

Mr. ATKINS. I raise the point of order that the amendment increases expenditures and changes existing law.

Mr. COFFROTH. This is a very important amendment, and should be adopted in the interest of the Pension Bureau. The next paragraph appropriates $40,000 for investigating attempts at fraud. There might be $10,000 stricken out from that appropriation, for the reason that by the report of the Commissioner of Pensions it appears but $26,000 of this money was spent last year. When we reach that paragraph I shall move to strike out $40,000 and insert $30,000. Therefore I submit that the proposition, taken altogether, is in the interest of economy.

Mr. ATKINS. I cannot call to mind, Mr. Chairman, at what time the salaries of the clerks were fixed; I think thirty, or forty, or fifty years ago. Since the passage of that original act the clerks of class 4 have received $1,800.

Mr. BAKER. The salaries were fixed last in the Revised Statutes.

Mr. ATKINS. I am aware of that. But when the clerks were originally organized as first, second, third, and fourth class clerks, the salaries were fixed at $1,200, $1,400, $1,600, and $1,000, and those salaries never have been changed from the time they were first organized until this time. The chiefs of divisions generally receive $2,200 or $2,250 and sometimes $2,500. And I suppose, although the gentleman from Pennsylvania [Mr. COFFROTH] has not fixed any sum in his amendment for the salaries of these chiefs of divisions, they would receive $2,250, which will be an increase of $450 for each chief of division over and above the sum which these fourth-class clerks now receive.

I say there is no law which authorizes the giving these additional chiefs of divisions to the Pension Bureau. And besides, if I am permitted to come to the merits of the question, I want to say to this House the Commissioner of Pensions was before the Committee on Appropriations, and if we understood him aright he was entirely satisfied with the bill as it has been presented to the House.

Mr. COFFROTH. I will ask the gentleman from Tennessee if the Revised Statutes do not fix the compensation of the chiefs of divisions at $2,250; if that is not fixed as the compensation for clerks who act as chiefs of divisions?

Mr. ATKINS. I believe that is the fact. So much the worse for the gentleman's position.

Mr. COFFROTH. I wish to state that the Commissioner of Pensions has divided off the business of his bureau into thirteen divisions, and there are thirteen clerks who are acting as the principal examiners or chiefs of divisions. But under this appropriation bill they get only $1,800 a year, while if they were put in here as chiefs of division they would, under the Revised Statutes, get $2,250 a year.

Mr. ATKINS. It may be that the Commissioner of Pensions has for his own convenience divided up his work and made chiefs of divisions arbitrarily. But it is not a fact that the duties of each division are equally onerous. The duties of some of those divisions are much more onerous than of others. Yet the gentleman from Pennsylvania proposes to pay all the chiefs of divisions the same sum.

The CHAIRMAN. Is there any question about the fact that this amendment proposes to change existing law?

Mr. ATKINS. Not at all. I have been merely discussing a little the merits of the question in order to satisfy the gentleman from Pennsylvania.

The CHAIRMAN. The Chair is compelled to sustain the point of order, upon the ground that the amendment changes existing law and does not retrench expenditures. It is not sufficient to make the amendment in order that it does not increase expenditures. If it changes existing law it must actually retrench expenditures to be in order under the third clause of Rule XXI.

Mr. ATKINS. I offer the amendment which I send to the desk.

The Clerk read as follows:

In lines 1602 and 1603 strike out the words "one assistant engineer at $1,000."

Mr. BAKER. I desire to hear some explanation of the reason why this assistant engineer should be stricken out.

Mr. ATKINS. This appears in the bill by mistake. It was not estimated for and I propose to strike it out.

The amendment was agreed to.

The Clerk read the following paragraph:

For contingent and miscellaneous expenses of the Patent Office, namely: For construction and repair of model-cases, stationery, portfolios for drawings, furniture, and labor connected therewith, repairing, papering, painting, plumbing, gas-fitting, carpets, ice, advertising moneys refunded, printing engraved patent-heads, paper for the same, international exchanges, and other contingencies, $25,000.

Mr. VANCE. I offer the amendment which I send to the desk.

The Clerk read as follows:

After line 1663 insert as follows:

"For preparing, under the direction of the Commissioner of Patents, a classified abridgment of all letters-patent of the United States the sum of $10,000: *Provided*, That said abridgment shall be printed and one copy of each shall be furnished to each Senator, Representative, and Delegate in Congress; one copy to each of the eight libraries to be designated by each Senator, Representative, and Delegate, and two copies to Library of Congress; also to such foreign governments as the Commissioner of Patents may designate. Copies may also be sold at the cost of printing, and the sums received for such sales shall be paid into the Treasury.

Mr. ATKINS and Mr. BAKER made the point of order that the amendment changed existing law and did not retrench expenditures.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read the following paragraph:

For photolithographing or otherwise reproducing copies of drawings destroyed or damaged by fire or otherwise exhausted, including pay of temporary draughtsmen, $30,000; the work of said photographing, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs, to be done under the supervision of the Commissioner of Patents, and in the city of Washington, if it can be there done at reasonable rates; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.

Mr. WARNER. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

At line 1678, after the word "at," insert the word "as;" and in line 1679, after the word "rates," insert the words "as elsewhere."

Mr. WARNER. The chairman of the committee, I understand, accepts this amendment.

Mr. BAKER. Now I desire to hear read that portion of the paragraph as it will read if amended. I reserve the right to raise the point of order, if there be one, on the amendment after hearing it read.

The Clerk read as follows:

The work of said photographing, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs, to be done under the supervision of the Commissioner of Patents, and in the city of Washington, if it can be there done at as reasonable rates as elsewhere.

Mr. CANNON, of Illinois. I want to say, Mr. Chairman, that this amendment is clearly not right. I desire to be heard on the point of

order first, and afterward on the merits, if the point of order is not sustained.

Mr. ATKINS. I ask the gentleman from Illinois to yield for a motion that the committee rise.

Mr. CANNON, of Illinois. I yield for that motion.

Mr. ATKINS. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union having had under consideration the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes, had come to no resolution thereon.

ADMISSION TO THE FLOOR OF THE HOUSE.

Mr. SINGLETON, of Mississippi. I submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

*Resolved*, That the privileges of the floor of the Hall of the House of Representatives be accorded to ladies during the count of the electoral vote for President and Vice-President.

The SPEAKER. The Chair desires to state that in accordance with the resolution adopted yesterday there was a space set apart in the galleries sufficient to accommodate three hundred and fifty persons; but direction was given in that resolution for the issuing of seven hundred and fifty tickets of admission. The consequence is that a large number of persons who were intended to be included in the scope of the resolution of yesterday have not been able to find seats. The resolution in regard to the issuance of tickets has been literally executed.

Mr. SPRINGER. The resolution should be amended so as to apply only to those holding tickets.

Mr. ROBINSON. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. ROBINSON. I would inquire of the Chair if under Rule XXXIV the Chair can entertain the resolution of the gentleman from Mississippi?

The SPEAKER. It can be entertained by unanimous consent.

Mr. ROBINSON. Will the Chair direct Rule XXXIV to be read?

The SPEAKER. The Chair will do so.

The Clerk read as follows:

The persons hereinafter named, and none other, shall be admitted to the Hall of the House, or rooms leading thereto, namely: The President and Vice-President of the United States and their private secretaries, judges of the Supreme Court, members of Congress and members-elect, contestants in election cases during the pendency of their cases in the House, the Secretary and Sergeant-at-Arms of the Senate, heads of Departments, foreign ministers, governors of States, the Architect of the Capitol, the Librarian of Congress and his assistant in charge of the law library, such persons as have, by name, received the thanks of Congress, ex-members of Congress who are not interested in any claim or directly in any bill pending before Congress, and clerks of committees when business from their committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the Chair the request of any member for unanimous consent.

The SPEAKER. The gentleman from Massachusetts, as the Chair understands, makes the point of order that it is not competent for the Speaker to entertain such a request.

Mr. BLACKBURN. I would inquire of the Chair if the rule just read by the Clerk applies to any sessions of this House except a legislative session, or a purely House session?

Mr. ROBESON. Certainly not.

Mr. BLACKBURN. Does it apply to a joint session of the two Houses of Congress? I think it does not.

The SPEAKER. The Chair understands that the gentleman from Illinois [Mr. SPRINGER] proposes a substitute for the resolution of the gentleman from Mississippi, [Mr. SINGLETON.] The Chair would suggest that whatever action is taken by the House must be taken immediately.

Mr. SPRINGER. I offer a substitute for the resolution and call the previous question on the resolution and amendment.

The substitute was read, as follows:

*Resolved*, That the Doorkeeper be directed to admit to the floor of the House ladies having tickets issued for the members' gallery during the joint session for the count of the electoral vote.

The SPEAKER. That is to provide for the families of Senators, Members, and Delegates. The Chair will admit the resolution under the circumstances, and believes that the rule just read does not apply to a joint convention of the two Houses.

Mr. HEILMAN. I object to the resolution and want to adhere to the programme. My folks came up here according to the programme and I had to turn them off, and I know several others who are in the same situation.

The SPEAKER. The Chair admits the resolution under the circumstances.

The substitute was agreed to, and the resolution, as amended, was adopted.

ORDER OF BUSINESS.

Mr. ATKINS. I move that the House now take a recess until one minute before twelve o'clock.

Mr. SPRINGER. Would it not be in order to inform the Senate that we are now ready to receive them?

The SPEAKER. The concurrent resolution requires that the two Houses should meet in joint convention at twelve o'clock to-day, and the Chair is advised that the Senate is now on its way to the Hall of the House.

The motion of Mr. ATKINS was agreed to; and the House accordingly (at eleven o'clock and fifty-eight minutes a. m.) took a recess.

At eleven o'clock and fifty-nine minutes a. m., the recess having expired, the House resumed its session.

The SPEAKER. The Chair desires to announce that the two front rows of seats on the right and on the left of the Chair have been reserved for Senators during the session of the joint convention of the two Houses.

COUNTING THE ELECTORAL VOTE.

At twelve o'clock m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall preceded by its Sergeant-at-Arms and headed by the Vice-President and the Secretary of the Senate, the members and officers of the House rising to receive them.

The Vice-President took his seat as presiding officer of the joint convention of the two Houses, the Speaker occupying the chair on the left of the Vice-President.

The VICE-PRESIDENT. The two Houses have assembled in pursuance of the Constitution that the votes may be counted and declared for President and Vice-President of the United States for the term of four years from the 4th day of March, 1881. It becomes my duty under the Constitution, as the President of the Senate, to open the certificates of election of the several States of the nation, in the presence of the two Houses, and I now proceed to discharge that duty. The tellers appointed on the part of the Senate and the House will please take their seats.

Senators HAMLIN and THURMAN, the tellers appointed on the part of the Senate, and Mr. HOUSE and Mr. CROWLEY, the tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats.

The VICE-PRESIDENT. I open the package purporting to contain the certificates of election of the State of Alabama and hand those certificates to the tellers to be reported.

Senator HAMLIN (one of the tellers) read in full the certificate of the vote of the State of Alabama, giving 10 votes for Winfield S. Hancock, of the State of Pennsylvania, for President of the United States, and 10 votes for William H. English, of the State of Indiana, for Vice-President of the United States.

Mr. HOUSE (one of the tellers) then read at length the certificate of the vote of the State of Arkansas, and announced the electoral vote of that State for President and Vice-President.

Senator THURMAN (one of the tellers) then read the certificate of the vote of the State of California, and announced the electoral vote of that State for President and Vice-President.

Mr. REAGAN. Mr. President, I suggest that, by unanimous consent of the joint convention, the reading of the formal parts of the certificates be omitted.

The VICE-PRESIDENT. That may be done by unanimous consent, and was the course pursued at the counting in 1857. Is there objection to the course suggested by the gentleman from Texas? [After a pause.] The Chair hears none, and that course will be pursued.

Senator EDMUNDS. I would suggest, in view of the unanimous consent that has been given, that the tellers might examine the certificates as to their formalities, and the Chair could pass down in advance one of the certificates in order that it might be examined by the tellers, while one of the tellers is announcing the vote of the State preceding.

The VICE-PRESIDENT. The Chair will adopt the suggestion.

The tellers then proceeded to announce the electoral votes of the States of Colorado, Connecticut, Delaware, and Florida.

The VICE-PRESIDENT. The Chair now hands to the tellers the certificate of election of the State of Georgia.

Mr. SPRINGER. I call for the reading of that certificate in full.

The VICE-PRESIDENT. The certificate will be read at length.

Mr. CROWLEY (one of the tellers) then proceeded to read in full the certificate of the vote of the State of Georgia, but before concluding,

Mr. SPRINGER said: Mr. President, I withdraw my demand for the reading in full of the certificate of the State of Georgia.

The VICE-PRESIDENT. The further reading will be omitted, and the result of the vote will be announced.

Mr. CROWLEY (one of the tellers) then announced the result of the vote of the State of Georgia for President and Vice-President of the United States.

The VICE-PRESIDENT. It appearing from the certificates just read that the votes of the State of Georgia were cast on a day other than that fixed by act of Congress in pursuance of the Constitution of the United States, the result of those certificates will not be recorded until, in the language of the concurrent resolution under which the count proceeds, "it shall appear whether the counting or

omitting to count such votes will essentially change the result of the election." When that fact shall appear the record will be made agreeably to the provisions of the concurrent resolution.

The certificates of the remaining States were then opened, and the votes announced as they appear in the following statement submitted by the tellers:

| Number of electoral votes to which each State is entitled. | States. | For President. | | | | For Vice-President. | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | The vote of Georgia, cast on 8th of December, second Wednesday of the month, if counted. | | The vote of Georgia, cast on 8th of December, second Wednesday of the month, if not counted. | | The vote of Georgia, cast on 8th of December, second Wednesday of the month, if counted. | | The vote of Georgia, cast on 8th of December, second Wednesday of the month, if not counted. | |
| | | James A. Garfield, of Ohio. | Winfield S. Hancock, of Pennsylvania. | James A. Garfield, of Ohio. | Winfield S. Hancock, of Pennsylvania. | Chester A. Arthur, of New York. | William H. English, of Indiana. | Chester A. Arthur, of New York. | William H. English, of Indiana. |
| 10 | Alabama | | 10 | | 10 | | 10 | | 10 |
| 6 | Arkansas | | 6 | | 6 | | 6 | | 6 |
| 6 | California | 1 | 5 | 1 | 5 | 1 | 5 | 1 | 5 |
| 3 | Colorado | 3 | | 3 | | 3 | | 3 | |
| 6 | Connecticut | 6 | | 6 | | 6 | | 6 | |
| 3 | Delaware | | 3 | | 3 | | 3 | | 3 |
| 4 | Florida | | 4 | | 4 | | 4 | | 4 |
| 11 | Georgia | | 11 | | | | 11 | | |
| 21 | Illinois | 21 | | 21 | | 21 | | 21 | |
| 15 | Indiana | 15 | | 15 | | 15 | | 15 | |
| 11 | Iowa | 11 | | 11 | | 11 | | 11 | |
| 5 | Kansas | 5 | | 5 | | 5 | | 5 | |
| 12 | Kentucky | | 12 | | 12 | | 12 | | 12 |
| 8 | Louisiana | | 8 | | 8 | | 8 | | 8 |
| 7 | Maine | 7 | | 7 | | 7 | | 7 | |
| 8 | Maryland | | 8 | | 8 | | 8 | | 8 |
| 13 | Massachusetts | 13 | | 13 | | 13 | | 13 | |
| 11 | Michigan | 11 | | 11 | | 11 | | 11 | |
| 5 | Minnesota | 5 | | 5 | | 5 | | 5 | |
| 8 | Mississippi | | 8 | | 8 | | 8 | | 8 |
| 15 | Missouri | | 15 | | 15 | | 15 | | 15 |
| 3 | Nebraska | 3 | | 3 | | 3 | | 3 | |
| 3 | Nevada | | 3 | | 3 | | 3 | | 3 |
| 5 | New Hampshire | 5 | | 5 | | 5 | | 5 | |
| 9 | New Jersey | | 9 | | 9 | | 9 | | 9 |
| 35 | New York | 35 | | 35 | | 35 | | 35 | |
| 10 | North Carolina | | 10 | | 10 | | 10 | | 10 |
| 22 | Ohio | 22 | | 22 | | 22 | | 22 | |
| 3 | Oregon | 3 | | 3 | | 3 | | 3 | |
| 29 | Pennsylvania | 29 | | 29 | | 29 | | 29 | |
| 4 | Rhode Island | 4 | | 4 | | 4 | | 4 | |
| 7 | South Carolina | | 7 | | 7 | | 7 | | 7 |
| 12 | Tennessee | | 12 | | 12 | | 12 | | 12 |
| 8 | Texas | | 8 | | 8 | | 8 | | 8 |
| 5 | Vermont | 5 | | 5 | | 5 | | 5 | |
| 11 | Virginia | | 11 | | 11 | | 11 | | 11 |
| 5 | West Virginia | | 5 | | 5 | | 5 | | 5 |
| 10 | Wisconsin | 10 | | 10 | | 10 | | 10 | |
| 369 | | 214 | 155 | 214 | 144 | 214 | 155 | 214 | 144 |

When the votes of all the States had been severally announced,

Senator THURMAN (one of the tellers) said: The tellers report that the whole number of the electors appointed to vote for President of the United States is 369, of which a majority is 185. Were the votes of electors for the State of Georgia, cast on the second Wednesday of December, 1880, being the 8th day of said month, to be counted, the result would be: For James A. Garfield, of the State of Ohio, for President of the United States, 214 votes, and for Winfield S. Hancock, of the State of Pennsylvania, for President of the United States, 155 votes. If not counted, the result would be: For James A. Garfield, for President of the United States, 214 votes, and for Winfield S. Hancock, for President of the United States, 144 votes. In either event James A. Garfield has received a majority of the votes of the whole number of electors appointed.

And the state of the vote for Vice-President of the United States, is as follows: The whole number of the electors appointed to vote for Vice-President of the United States is 369, of which a majority is 185. Were the votes of electors for the State of Georgia, cast on the second Wednesday of December, 1880, being the 8th day of said month, to be counted, the result would be: For Chester A. Arthur, of the State of New York, for Vice-President of the United States, 214 votes, and for William H. English, of the State of Indiana, for Vice-President of the United States, 155 votes. If not counted, the result would be: For Chester A. Arthur, for Vice-President of the United States, 214 votes, and for William H. English, for Vice-President of the United States, 144 votes. In either event Chester A. Arthur has received a majority of the votes of the whole number of electors appointed.

The VICE-PRESIDENT. Wherefore, I do declare that James A. Garfield, of the State of Ohio, having received a majority of the votes of the whole number of electors appointed, is duly elected President of the United States for four years commencing on the 4th day of March, 1881.

And I do further declare that Chester A. Arthur, of the State of New York, having received a majority of the votes of the whole number of electors appointed, is duly elected Vice-President of the United States for four years commencing on the 4th day of March, 1881. [Loud applause on the floor and in the galleries.]

The business for which the joint convention of the two Houses assembled having been completed, the Senate will return to its Chamber.

The Senate accordingly retired from the Hall; and (at one o'clock and forty minutes p. m.) the Speaker resumed the chair and called the House to order.

Mr. CONGER. I move that the House take a recess for ten minutes.

The motion was not agreed to.

### LAND AT FORTRESS MONROE FOR HOTEL PURPOSES.

Mr. JOHNSTON. I ask unanimous consent that the bill (S. No. 1843) to authorize the Secretary of War to grant the use of certain land at Fortress Monroe, Virginia, for the erection of a hotel, be taken from the Speaker's table and referred to the Committee on Military Affairs.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

### ORDER OF BUSINESS.

Mr. ATKINS. I move that the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the legislative, executive, and judicial appropriation bill.

Mr. HOUSE. I hope the gentleman will withdraw that motion for a moment.

Mr. ATKINS. For what purpose?

Mr. HOUSE. In order that the report of the tellers in relation to the count of the electoral vote may be submitted.

Mr. ATKINS. I withdraw the motion for the present.

Mr. HOUSE. I submit the report which I send to the desk.

The SPEAKER. The report of the tellers on the part of the House recording the vote as counted and declared for President and Vice-President of the United States will be read.

The Clerk read as follows:

The tellers on the part of the two Houses report that they have counted the votes of all the States cast for President and Vice-President of the United States of America for the constitutional term of four years from the 4th day of March, 1881, and find that on the first Wednesday in December, 1880, the electors of all the States assembled in their respective States, being the day prescribed by law for the assembling of the electors, except the electors of the State of Georgia. That of those who assembled and cast their votes on the said first Wednesday in December, 1880, James A. Garfield, of the State of Ohio, received 214 votes for President of the United States; Winfield S. Hancock, of the State of Pennsylvania, received 144 votes for the same office.

That for Vice-President of the United States Chester A. Arthur, of the State of New York, received 214 votes; William H. English, of the State of Indiana, received 144 votes.

That from the report of the electors of the State of Georgia, it appears that the electors of that State assembled in Atlanta, the capital of that State, on the second Wednesday of December, 1880, being the 8th day of said month, and, so assembled on that day, did cast the electoral votes of that State, 11 for Winfield S. Hancock, of the State of Pennsylvania, for President of the United States, 11 for William H. English, of Indiana, for Vice-President of the United States.

From all of which it appears that the whole number of electors appointed to vote for President and Vice-President of the United States is 369, of which a majority is 185. Were the votes of electors of the State of Georgia, cast on the second Wednesday of December, 1880, being the 8th day of said month, counted, the result would be: For James A. Garfield, of the State of Ohio, for President of the United States, 214 votes, and for Winfield S. Hancock, of the State of Pennsylvania, for President of the United States, 155 votes; and for Chester A. Arthur, of the State of New York, for Vice-President of the United States, 214 votes, and for William H. English, of Indiana, for Vice-President of the United States, 155 votes. If the votes of the electors of the State of Georgia, cast as aforesaid, were not counted, the result would be: For President of the United States, James A. Garfield, of the State of Ohio, 214 votes; Winfield S. Hancock, of the State of Pennsylvania, 144 votes; for Vice-President of the United States, Chester A. Arthur, of the State of New York, 214 votes; William H. English, of the State of Indiana, 144 votes. In either event James A. Garfield, of the State of Ohio, has received for President of the United States, and Chester A. Arthur, of the State of New York, has received for Vice-President of the United States, respectively, a majority of the votes of the whole number of electors appointed.

H. HAMLIN,
A. G. THURMAN,
*Tellers on the part of the Senate.*
JNO. F. HOUSE,
RICHARD CROWLEY,
*Tellers on the part of the House of Representatives.*

Mr. CROWLEY. I now offer the following resolution——

Mr. CONGER. Before that resolution is read I desire to ask the gentleman who made the last report whether he followed the usual form?

Mr. HOUSE. Yes, sir; it was prepared according to the usual form.

Mr. CONGER. Whether he followed the usual form in this respect in saying we have counted the electoral vote, or whether the other form was not the electoral votes were counted?

Mr. HOUSE. No; I think this is the usual form.

The SPEAKER. The Chair thinks it is the exact form adopted in the year the resolution as agreed to between the two Houses was passed.

Mr. CONGER. It was in reference to that form I asked whether it was the same.

The Clerk read as follows:

Whereas the House of Representatives having met the Senate, in accordance with the fifth section of the act 1st March, 1792, relative to the election of President and Vice-President of the United States, and the electoral votes having been opened by the President of the Senate in the presence of the two Houses of Congress, and counted by the tellers appointed on the part of the two Houses, and it appearing that the whole number of electors appointed to vote for President and Vice-President of the United States is 369, of which a majority is 185, and it further appearing that James A. Garfield, of Ohio, had received 214 votes for President of the United States, and that Chester A. Arthur, of New York, had received 214 votes for Vice-President of the United States, which number is a majority of the votes of the whole number of electors appointed, and the same having been duly declared by the President of the Senate in the presence of the two Houses: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the two Houses are of opinion that the Constitution and laws have been duly executed, and that no further declaration of these facts is necessary.

The resolution was adopted.

The SPEAKER. If there be no objection, the preamble will be considered as adopted.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. FRYE. I gave notice that I would call up the resolution reported by the Committee on Rules touching the order of business in the House immediately after the declaration of the electoral count, but as it will not take more than an hour or so to complete the consideration of the legislative appropriation bill I will waive it for the present, and now give notice I will call it up after the committee has finished that bill.

LEAVE OF ABSENCE.

Mr. NICHOLLS, by unanimous consent, was granted leave of absence indefinitely, on account of sickness in his family.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I move the House resolve itself into the Committee of the Whole House.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union for the purpose of considering the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes, Mr. CARLISLE in the chair.

The CHAIRMAN. When the committee rose there was pending an amendment presented by the gentleman from Ohio, [Mr. WARNER,] upon which the gentleman from Indiana [Mr. BAKER] had made a point of order.

Mr. BAKER. And I desire, Mr. Chairman, to state that point of order. It is that it changes existing law and it does not appear on its face that it retrenches public expenditure. You will observe by examination of the clause of the appropriation bill for the current fiscal year, on page 25, that the phraseology of the existing law is identical with the text of the bill as it stands in the pending bill before this amendment was proposed.

You will further observe, Mr. Chairman, that the fourth section of the legislative appropriation bill for the current year repeals all acts and parts of acts in conflict with the provisions of that act. Therefore the law now is as it stands in the text of the bill reported from the Committee on Appropriations, and this amendment changes that existing law and does not on the face of it retrench expenditures.

Mr. WARNER. The gentleman from Indiana in making the point of order claims, as I understand him, that the language of this bill is exactly the language of the appropriation bill of last year and which became a law; that this changes the law to a certain extent without on its face reducing expenditures.

Mr. STEVENSON. I should like to know what the amendment is.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Ohio.

The Clerk read as follows:

In line 1678, after the word "at," insert the word "as," and after the word "rates" insert the words "as elsewhere;" so, after amended, it will read:

"For photolithographing or otherwise reproducing copies of drawings destroyed or damaged by fire or otherwise exhausted, including pay of temporary draughtsmen, $30,000; the work of said photographing or otherwise producing plates and copies referred to in this and the two preceding paragraphs to be done under the supervision of the Commissioner of Patents and in the city of Washington, if it can be there done at as reasonable rates as elsewhere; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor."

The CHAIRMAN. The effect of the amendment will be to permit this work to be done elsewhere than in the city of Washington, if it can be done as cheaply.

Mr. WARNER. That can be done now under the law.

The CHAIRMAN. The Chair desires to direct the attention of the gentleman from Ohio to the statement that the appropriation bill for the present year not only confines it to the city of Washington but repeals all laws inconsistent therewith, which is not always the case, as the gentleman knows.

Mr. WARNER. This bill does not as it now reads confine this work to the city of Washington. It is done in the city of Washington if it can be there done at reasonable rates. Now, my amendment simply defines what reasonable rates should be—rates as reasonable as elsewhere. The bill I consider does not limit it to Washington, and on its face I submit as reasonable as elsewhere is *prima facie* reduction of the cost.

Mr. BLACKBURN. Mr. Chairman, on this point of order I desire to say but one word. The Chair has called the attention of the gentleman from Ohio who offered the amendment to the existing law, which repealed all former laws inconsistent with its own provisions. That was done after due notice given and perfectly intelligently by the House, upon the recommendation of the Secretary of the Interior, supported by the letter of the Commissioner of Patents. The House then did not act unadvisedly in adopting the present, the existing law, which repealed all other laws inconsistent with it for reasons which were fully explained in the communication of the Secretary of the Interior, as well as the letter of the Commissioner of Patents. Under that provision of the law, and in accordance with the facts which I have stated, I think the point of order of the gentleman from Indiana is good. The amendment proposed does not on its face tend to reduce expenditures, and it does most unquestionably change existing law under which this lithographing is to be done.

Mr. ATKINS. Outside of the question of its not retrenching expenditures, let us look into it a moment. I think it will be found that it is not practicable to adopt the amendment of the gentleman from Ohio——

Mr. WARNER. If the gentleman from Tennessee is going to discuss the merits of the proposition, I desire to be heard myself upon it.

The CHAIRMAN. The gentleman from Tennessee will confine himself to the point of order.

Mr. ATKINS. I shall not enlarge upon the point of order, which has been thoroughly stated by the gentleman from Indiana.

Mr. WHITTHORNE. Mr. Chairman, it is apparent to me at least that the proposition of the gentleman from Ohio is clearly in the line of retrenchment. Why is it in the line of retrenchment? Because upon the face of the bill as it is here reported it proposes no standard or test of comparison. The amendment proposed by the gentleman from Ohio invites competition, and human experience shows that competition is always in the line of reduction of expenditures. It is manifest, Mr. Chairman, that the proposition of the gentleman from Ohio aims at a reduction of expenditures as much as any proposition can. It seems to me to do so clearly and unequivocally.

Mr. MORSE. Mr. Chairman, I was not present when the proposition was made to offer this amendment; but the same question was raised here during last year when this same bill was before the House for consideration. It seems to me that the chairman of the Committee on Appropriations should be willing to adopt the same provision that was adopted at that time. Simply say that this work may be done anywhere where the rates are satisfactory and where it can be done as well without specifying that it shall be done in Washington. I have constituents of my own in Boston who are able to do the work well and give satisfaction.

Mr. BLACKBURN. That is just the trouble.

Mr. MORSE. That is the trouble exactly. I want all persons to have a fair chance in getting this work. I do not think it is right to compel the Secretary to do the work here alone——

Mr. BLACKBURN. It does not.

Mr. MORSE. It does in terms require the work to be done here, because the bill provides that it shall be done in Washington, if it can be done at reasonable rates. Now, I am no lawyer, but that is the clear meaning of it. Now, I see no reason, if it can be done at reasonable rates at other places, as reasonable rates, or perhaps more reasonable rates than it can be done at Washington, why it should be out of order to adopt this amendment. I say it is not fair to require it to be done here as this bill proposes. It should be permitted to be done anywhere where it can be done well and cheaply.

Mr. BLACKBURN. Mr. Chairman, I will say but a single word in conclusion upon the point of order. It seems to me that as far as the question is concerned as to the change of existing law, we are agreed. The gentleman offering the amendment and those who support it are agreed that it does change existing law. Now, I am willing to submit the whole question to the judgment of the Chair without another word as to whether it comes within the provision of the twenty-first rule in that it does retrench expenditures. It is not so shown on the face of it.

Mr. ATKINS. No sum is mentioned.

Mr. BLACKBURN. No sum is mentioned as being saved by this proposition, and it does not *prima facie* present a case of reduction of expenditures, and without doing that I hold that it is not in order under the terms of the rule.

The CHAIRMAN. Does the gentleman from Indiana insist upon his point of order?

Mr. BAKER. Most certainly, Mr. Chairman.

The CHAIRMAN. If the gentleman will examine the peculiar phraseology of the third subdivision of the twenty-first rule he will see that provision is made for amendments to a bill upon a report of a committee having jurisdiction of the subject-matter, it being of course contemplated that such amendments are offered under the instructions of a committee. To this extent the provision of the rule seems to imply a limit to the power of individuals to offer such amendments; and without reading the rule or commenting further upon it, the Chair holds that under the provision to which reference is made the amendment is clearly not in order.

The Clerk read as follows:

For surveyor-general of Minnesota, $2,000; and for the clerks in his office, $5,000.

Mr. DUNNELL. Mr. Chairman, I move to strike out the word "five," in line 1743, and insert the word "six;" so that it will read, "for the clerks in his office, $6,000."

Mr. CLYMER. I reserve the point of order upon that amendment.

Mr. DUNNELL. I conferred with the chairman of the Committee on Appropriations in relation to this item. I had intended to present that matter to the committee in person. Last year when this bill was before the committee I urged the necessity of an appropriation of $6,000. The estimate was $8,500. I was assured when I came here in November by the surveyor-general of the State that the business of his office was very much behind, and that there was an absolute necessity for a larger appropriation for the purpose of getting it up. I trust the gentleman from Pennsylvania will not insist upon what I think is not really a point of order. The gentleman from Tennessee will remember that I spoke to him about this matter.

Mr. CLYMER. I reserved the point of order until I could ascertain whether there was any necessity for an increase over the existing law. The gentleman from Minnesota has not shown, or if he did, in the confusion I have not heard him, any necessity for this increase.

Mr. DUNNELL. Last year the estimates were $7,500; this year they are $8,500. The increase in the estimate is an evidence there is a demand for a greater appropriation; and I trust the point of order will not be insisted on.

The CHAIRMAN. What is the existing law?

Mr. CLYMER. The existing law makes it $5,000. I must insist on the point of order.

Mr. ATKINS. I will read what is provided in the appropriation act for the current year:

For surveyor-general of Minnesota, $2,000; and for the clerks in his office, $5,000

This bill is the same as the existing law.

The CHAIRMAN. Are the salaries fixed by law?

Mr. ATKINS. The gross sum is the same in the act for this year as it is in the present bill.

Mr. BAKER. I do not think there is anything in the point of order, for this reason: this is a gross appropriation for a given service, without being limited to any particular number of individuals for the accomplishment of that service. It is simply an appropriation from year to year of a gross sum for the employment of clerical labor to accomplish a particular end.

The CHAIRMAN. But is there not a statute which authorizes the employment of those clerks? Or does that depend upon the annual appropriation bill?

Mr. BAKER. There is no law, so far as I am advised, except the annual appropriation bill. From year to year that provides a gross sum for the employment of clerks in these several land offices. If there is any other law than that it would be repealed by our annual appropriation bills, for the reason that if there was a certain number of clerks provided for by law, we have from year to year, as the chairman will recollect, cut down the estimates for this clerical force, and have supplemented that by a repealing clause at the end of the appropriation bill. But this is not a case of that kind; and I submit that the point of order is not well taken.

Mr. CLYMER. In justice to the chairman of the committee and myself, I wish to say when I made the point of order my impression was the gentleman from Minnesota [Mr. DUNNELL] had moved to increase the pay of the surveyor-general $1,000. That was clearly liable to the point of order. I understand now the proposition is merely to increase the amount appropriated for the clerical force. That, I think, is not liable to the point of order.

Mr. BAKER. I hope the increase will be allowed.

Mr. ATKINS. I read from section 2226 of the Revised Statutes:

There shall be allowed for the offices of the several surveyors-general, for clerk hire therein, such sums as may be appropriated for the purpose by Congress from year to year.

After the reading of that section, I think there is nothing in the point of order. But I want to ask the gentleman from Minnesota, as he is familiar with the operations of the land office in Minnesota, if he can tell us whether or not the business is increasing, and how far behind it is in the surveyor-general's office.

Mr. DUNNELL. It is very well known throughout the country there has been a very large increase in the land office of Minnesota for the last few years. I could hardly now tell how many thousands of entries are made under all the various acts of Congress in the public lands of that State. The surveys are now being made there, and the business of the office has been going behind from year to year. I was requested personally to urge upon Congress the increase of this amount. The estimate was $8,500. I only desire to increase the amount in the bill from $5,000 to $6,000. That sum is absolutely needed.

Mr. ATKINS. I desire to say, so far as I am concerned, as the sum fixed in the bill is $3,500 below the estimate, I am willing the gentleman's amendment should be adopted.

The CHAIRMAN. As the point of order is not insisted on, the question is on the adoption of the amendment.

The amendment was agreed to.

The Clerk read the following:

For First Assistant Postmaster-General, $3,500; chief clerk, while the office is held by the present incumbent, $2,500; three clerks of class 4; fourteen clerks of class 3; one clerk of class 3 to act as stenographer and Department telegraph operator; six clerks of class 2; twelve clerks of class 1; four clerks at $1,000 each; three assistant messengers; superintendent of blank agency, $1,800; assistant superintendent of blank agency, $1,600; four assistants to superintendent of blank agency, at $1,200 each; two assistants to superintendent of blank agency, at $900 each; one clerk, at $1,000; one assistant messenger; three laborers, (for blank agency;) superintendent of free delivery, $2,100; one clerk of class 2, (office of superintendent of free delivery;) in all, $81,560.

Mr. ATKINS. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 1802, after the words "chief clerk," strike out all that follows down to and including the word "dollars" in line 1804; and insert in lieu thereof the following: "$2,000, and while the office is held by the present incumbent $500 additional."

The amendment was agreed to.

The Clerk resumed and finished the reading of the bill.

Mr. ATKINS. I move that the committee now rise and report the bill as amended.

Mr. COFFROTH. I ask permission to print certain remarks in regard to the pension portion of this bill.

There was no objection. [See Appendix.]

Mr. GILLETTE. Before the gentleman from Tennessee moves that the committee rise I desire to offer as an additional section what I send to the desk.

The Clerk read as follows:

Printing of national-bank notes:

No appropriation made by this bill shall be used to pay for preparing, printing, and delivering national-bank notes, but these expenses shall all be charged to the banks applying for the same.

Mr. ATKINS. I understand that to be the law now, that the banks all pay for the issuing of their own currency.

Mr. GILLETTE. That is not the law, I will state to the gentleman; but the Government pays for all the clerks employed in this service; it pays for all the printing, prepares the paper and delivers these notes to the banks without expense to them except the cost of the steel plates for printing. It is true we collect a small tax for the greatest bonus ever given by this Government to any class of people, but besides all that we prepare these notes at the expense of the Treasury.

Mr. CANNON, of Illinois. I reserve the point of order.

Mr. TOWNSHEND, of Illinois. What is the point of order of the gentleman from Illinois, [Mr. CANNON?]

Mr. GILLETTE. The gentleman from Illinois has not made a point of order.

Mr. CANNON, of Illinois. I will make the point of order when the gentleman from Iowa [Mr. GILLETTE] gets through.

Mr. GILLETTE. I will yield to the gentleman from Illinois that he may state what is his point of order.

Mr. CANNON, of Illinois. I did not ask the gentleman to yield. Let him go ahead.

Mr. BLOUNT. I make the point of order that the amendment is not germane to this bill. It belongs to the civil sundry appropriation bill. The appropriations for this purpose are all in that bill.

Mr. GILLETTE. The salaries of the officers of the Bureau of Printing and Engraving are provided for by this bill.

Mr. ATKINS. I will state to the gentleman from Iowa it will be more proper for him to offer his amendment to the sundry civil bill; because it is in that bill these expenses are provided for. It would be germane to that bill but not to this.

The CHAIRMAN. That is what the Chair was going to state to the gentleman from Iowa.

Mr. GILLETTE. This bill does provide for some of those expenses, but if the point of order is maintained I will offer it upon the sundry civil appropriation bill——

Mr. CANNON, of Illinois. As the amendment has been withdrawn, for the reason suggested, I have no desire to press my point of order upon it.

Mr. ATKINS. I now move that the committee rise and report the bill with amendments to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. ATKINS. I call the previous question on the bill and amendments.

The previous question was seconded, and the main question ordered.

The SPEAKER. The question is first upon agreeing to the amendments reported from the Committee of the Whole. Is a separate vote demanded on any of the amendments?

Mr. ATKINS. I desire none.

The SPEAKER. Then the amendments will be voted upon in gross.

The amendments reported from the Committee of the Whole were then agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time.

Mr. ATKINS. I call the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

The question was taken; and there were—yeas 217, nay 1, not voting 74; as follows:

YEAS—217.

| | | | |
|---|---|---|---|
| Acklen, | Colerick, | Hall, | McLane, |
| Aiken, | Conger, | Hammond, John | McMahon, |
| Aldrich, N. W. | Converse, | Harmer, | McMillin, |
| Aldrich, William | Cook, | Harris, Benj. W. | Miller, |
| Anderson, | Covert, | Haskell, | Mills, |
| Armfield, | Cowgill, | Hatch, | Mitchell, |
| Atherton, | Cox, | Hawk, | Monroe, |
| Atkins, | Crapo, | Hawley, | Morrison, |
| Baker, | Cravens, | Hayes, | Morse, |
| Ballou, | Culberson, | Heilman, | Morton, |
| Barber, | Daggett, | Herbert, | Muldrow, |
| Beale, | Davis, George R. | Herndon, | Muller, |
| Beltzhoover, | Davis, Horace | Hill, | Murch, |
| Berry, | Davis, Joseph J. | Hiscock, | Myers, |
| Bicknell, | Davis, Lowndes H. | Horr, | New, |
| Bisbee, | Deering, | Hostetler, | Norcross, |
| Blackburn, | De La Matyr, | Houk, | O'Connor, |
| Bliss, | Dibrell, | Humphrey, | O'Neill, |
| Blount, | Dick, | Hunton, | Osmer, |
| Bouck, | Dickey, | Hurd, | Overton, |
| Bowman, | Dunn, | Hutchins, | Page, |
| Boyd, | Dunnell, | Johnston, | Phelps, |
| Bragg, | Dwight, | Jones, | Phillips, |
| Brewer, | Einstein, | Jorgensen, | Phister, |
| Brigham, | Elam, | Keifer, | Prescott, |
| Bright, | Ellis, | Kelley, | Price, |
| Burrows, | Errett, | Kenna, | Ray, |
| Cabell, | Evins, | Ketcham, | Reagan, |
| Caldwell, | Felton, | King, | Reed, |
| Camp, | Ferdon, | Knott, | Richardson, D. P. |
| Cannon, | Field, | Lapham, | Richardson, J. S. |
| Carlisle, | Finley, | Le Fevre, | Robertson, |
| Carpenter, | Fisher, | Lindsey, | Robeson, |
| Caswell, | Forney, | Loring, | Robinson, |
| Chalmers, | Forsythe, | Lowe, | Ross, |
| Chittenden, | Fort, | Marsh, | Rothwell, |
| Clardy, | Frye, | Martin, Benj. F. | Russell, W. A. |
| Clark, Alvah A. | Geddes, | Mason, | Ryan, Thomas |
| Clements, | Gibson, | McCoid, | Samford, |
| Clymer, | Gillette, | McCook, | Sapp, |
| Cobb, | Goode, | McGowan, | Sawyer, |
| Coffroth, | Gunter, | McKinley, | Scales, |
| Scoville, | Starin, | Updegraff, Thomas | Whiteaker, |
| Shallenberger, | Steele, | Upson, | Whitthorne, |
| Shelley, | Stevenson, | Urner, | Williams, C. G. |
| Sherwin, | Stone, | Valentine, | Williams, Thomas |
| Simonton, | Talbott, | Vance, | Willis, |
| Singleton, J. W. | Taylor, Ezra B. | Voorhis, | Willits, |
| Singleton, O. R. | Thompson, P. B. | Waddill, | Wilson, |
| Slemons, | Thompson, W. G. | Wait, | Wright, |
| Smith, A. Herr | Tillman, | Ward, | Yeates, |
| Smith, Hezekiah B. | Townshend, R. W. | Warner, | Young, Casey. |
| Smith, William E. | Tucker, | Washburn, | |
| Sparks, | Turner, Thomas | Wellborn, | |
| Springer, | Updegraff, J. T. | Wells, | |

NAY—1.

Turner, Oscar.

NOT VOTING—74.

| | | | |
|---|---|---|---|
| Bachman, | Ford, | Lounsbery, | Ryon, John W. |
| Bailey, | Frost, | Manning, | Speer, |
| Barlow, | Godshalk, | Martin, Edward L. | Stephens, |
| Bayne, | Hammond, N. J. | McKenzie, | Taylor, Robert L. |
| Belford, | Harris, John T. | Miles, | Thomas, |
| Bingham, | Hazelton, | Money, | Townsend, Amos |
| Blake, | Henderson, | Neal, | Tyler, |
| Bland, | Henkle, | Newberry, | Van Aernam, |
| Briggs, | Henry, | Nicholls, | Van Voorhis, |
| Browne, | Hooker, | O'Brien, | Weaver, |
| Buckner, | House, | O'Reilly, | White, |
| Butterworth, | Hubbell, | Orth, | Wilber, |
| Calkins, | James, | Pacheco, | Wise, |
| Claflin, | Joyce, | Persons, | Wood, Fernando |
| Clark, John B. | Killinger, | Poehler, | Wood, Walter A. |
| Crowley, | Kimmel, | Pound, | Yocum, |
| Davidson, | Kitchin, | Rice, | Young, Thomas L. |
| Deuster, | Klotz, | Richmond, | |
| Ewing, | Ladd, | Russell, Daniel L. | |

So the bill was passed.

The following pairs were announced:

Mr. RUSSELL, of North Carolina, with Mr. BROWNE, on this vote.

Mr. MULLER with Mr. MCCOOK, until Monday evening next, on all political questions; Mr. MULLER reserving the right to vote to make a quorum.

Mr. LOUNSBERY with Mr. BAILEY, until Monday next.

Mr. EINSTEIN with Mr. CLARK of New Jersey, until Thursday, the 17th instant, on all political questions, except to make a quorum.

Mr. BAYNE with Mr. FROST, on all political questions, until further notice.

Mr. DAVIDSON with Mr. BRIGGS, with the right to either to vote to make a quorum.

Mr. NICHOLLS with Mr. RICE, until further notice; Mr. RICE reserving the right to pair some other member instead of himself with Mr. NICHOLLS.

Mr. MARTIN, of Delaware, with Mr. BOYD, on all political questions, until Monday next.

Mr. VAN AERNAM with Mr. HENRY, until further notice.

Mr. RICHMOND with Mr. O'BRIEN.

Mr. BLAND with Mr. CLAFLIN.

Mr. FORD was announced as absent for the day, attending to important business in the Departments.

Mr. STONE. I am paired with Mr. MONEY; but, thinking he would vote for this bill, I have voted for it.

Mr. CONGER. My colleague, Mr. NEWBERRY, has been required to leave the House on account of ill-health.

The result of the vote was then announced as above stated.

Mr. ATKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIGHT-HOUSE, ETC., NARRAGANSET BAY.

Mr. ALDRICH, of Rhode Island, by unanimous consent, introduced a bill (H. R. No. 7157) making an appropriation for the erection of a light-house and fog-bell on Whale Rock at the entrance of Narraganset Bay; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

W. P. WOOD.

Mr. DICKEY, by unanimous consent, reported back from the Committee on Claims the letter of the Secretary of the Treasury relative to the claim of W. P. Wood for compensation for capture of counterfeit plates, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Appropriations.

The motion was agreed to.

AGRICULTURAL APPROPRIATION BILL.

Mr. COVERT, from the Committee on Agriculture, reported back, with amendments, the bill (H. R. No. 7099) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. ANDERSON and Mr. ATKINS reserved points of order on the bill.

PRINTING OF AGRICULTURAL REPORT.

Mr. COVERT also, by unanimous consent, reported back from the same committee the joint resolution (H. R. No. 373) relative to print-

ing the Agricultural Report for the year 1880; which was referred to the Committee of the Whole House on the state of the Union.

ALPHABETICAL LIST OF PRIVATE CLAIMS.

Mr. DAVIS, of California, from the Committee on Accounts, reported back, with a favorable recommendation, the following resolution:

*Resolved*, That the Clerk of the House be directed to have completed the digested summary and alphabetical list of the private claims presented to the House of Representatives, from the Forty-second to the Forty-sixth Congress inclusive; and the expenses of performing said work shall, under the direction of the Committee on Accounts, be paid out of the contingent fund of the House.

The SPEAKER. The report accompanying this resolution will be read.

The Clerk read as follows:

The Committee on Accounts, to whom was referred the resolution, report that in their judgment this work is a very useful and valuable one to the members and committees of the House. It is an alphabetical list of the private claims presented to the House, showing their nature, when and by whom they were presented and what action was had upon them. The work is completed to the end of the Forty-first Congress. The continuation to the end of the present Congress will involve a very inconsiderable expenditure of money, which will be at the same time judiciously invested. The committee therefore unanimously recommend the passage of the resolution.

Mr. CONGER. I move that the resolution be amended by inserting after the word "inclusive" the words "including the number of the report when made."

Mr. DAVIS, of California. I have no objection to that amendment.

The amendment of Mr. CONGER was agreed to.

The resolution, as amended, was adopted.

RAILROAD FROM ATLANTIC SEABOARD TO MISSOURI RIVER.

Mr. ANDERSON, by unanimous consent, presented a concurrent resolution of the Legislature of the State of Kansas in favor of the erection by the Government of a double-track freight railroad from the Atlantic sea-coast to the Missouri River; which was referred to the Committee on Railways and Canals, and ordered to be printed in the RECORD. It is as follows:

Whereas the increase in the agricultural products of the West has been much faster than the means of transportation, thereby preventing a realization of the highest prices for our products by preventing their being marketed at a seasonable and most advantageous time; and

Whereas the complete and comprehensive view of this fact contains conclusive proof that a Government railroad would furnish prompter and cheaper means of transportation, affording to the people of the different sections of our country the opportunity for a more speedy interchange of their product and at a less cost, thereby solving the vexed question of adequate and cheap transportation; and as this question is in the highest degree national in character, and of peculiar importance not only to Kansas, but to all the agricultural States of the West: Therefore,

*Be it resolved by the senate, (the house of representatives concurring therein,)* First, that our Senators from this State be instructed and our Representatives in Congress requested to urge in the Congress of the United States the building of a double-track Government freight railroad from the sea-coast on the east to the Missouri River on the west, so as to make the main line accessible for commercial purposes to the people of all the States of the Mississippi Valley.

Second, that a copy of these resolutions be transmitted by the secretary of State to our Senators and Representatives in Congress with the earnest request that they urge the measures herein contained.

OFFICE OF SECRETARY OF STATE,
*State of Kansas, ss:*

I, James Smith, secretary of State of the State of Kansas do hereby certify that the foregoing is a true and correct copy of the original resolution on file in my office, and I further certify that the same was adopted by the senate February 1, 1881, and was concurred in by the house February 3, 1881.

In testimony whereof I have hereunto subscribed my name and affixed my official seal. Done at Topeka, this 4th day of February, A. D. 1881.

[SEAL.] JAMES SMITH,
*Secretary of State.*

ORDER OF BUSINESS.

Mr. SPARKS. I move to proceed to the consideration of the House Calendar. I do this with a view of getting at the case of General Porter for consideration at this time.

Mr. KEIFER. We are unable to hear the gentleman's motion.

The SPEAKER. The gentleman from Illinois [Mr. SPARKS] moves to go to the consideration of the House Calendar, his object being to reach the Fitz-John Porter case.

Mr. FRYE. I desire to call up the resolution reported by me yesterday from the Committee on Rules.

Mr. SPARKS. Has that precedence over my motion?

Mr. REAGAN. I shall desire to antagonize the motion of the gentleman from Illinois, if that comes up, by a motion to go into Committee of the Whole on the state of the Union for the consideration of the river and harbor bill.

The SPEAKER. The motion suggested by the gentleman from Texas [Mr. REAGAN] would have precedence over the motion of the gentleman from Illinois.

Mr. REAGAN. I do not propose to do that to the exclusion of the gentleman from Maine, [Mr. FRYE.]

Mr. GUNTER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GUNTER. I wish to know whether it would be in order at this time to move to proceed to the consideration of business on the Speaker's table.

The SPEAKER. The motion to proceed to consider business on the Speaker's table would come in after the unfinished business. The first motion in order under the rules would be the motion to go into Committee of the Whole on the state of the Union to consider revenue and appropriation bills; next would come the unfinished business; next the motion to go to business on the Speaker's table; and next the motion of the gentleman from Illinois [Mr. SPARKS] to proceed to consider bills on the House Calendar. When the motion of the gentleman from Arkansas [Mr. GUNTER] to go the Speaker's table is in order, that motion will take precedence of the motion of the gentleman from Illinois.

Mr. GUNTER. Then, as I understand, if the motion to go into Committee of the Whole should be negatived, the question of consideration would be between the business on the Speaker's table and the unfinished business which the gentleman from New York [Mr. COX] would desire to bring up.

The SPEAKER. The gentleman from Maine, however, is demanding the consideration of a privileged question. The Chair will cause to be read a part of Rule XXVIII.

The Clerk read as follows:

No standing rule or order of the House shall be rescinded or changed without one day's notice of the motion therefor.

The SPEAKER. The gentleman from Illinois [Mr. TOWNSHEND] made a point of order, or gave notice that he intended to make one, against the right of the gentleman to call up this resolution at any time.

Mr. TOWNSHEND, of Illinois. My point of order is, while it may be the right of the committee to make report, it has no right to call up that report at any time for consideration.

The SPEAKER. The rules do not in fact give the Committee on Rules the right to report at any time, and that point, to be effective, should have been made at the time the report was submitted. The Chair thinks, however, that it was not made. At any rate the report was allowed to come in, and under the operation of Rule XXVII, first clause, it has rested over one day. Although the rules do not give the Committee on Rules the right to report at any time, yet the practice of the House has been uniformly to allow the Committee on Rules to report at any time and to consider that report at any time when it was as to the manner of conducting the business of the House.

Mr. TOWNSHEND, of Illinois. Does the Speaker decide that the gentleman has the right to call up this as a privileged question to the exclusion of the unfinished business?

The SPEAKER. The Chair decides that the resolution is now properly before the House.

Mr. TOWNSHEND, of Illinois. I submit, of course, to the decision of the Chair.

Mr. COX. I rise to a point of order. Was there any understanding that the gentleman from Maine should have this time to bring in his proposition?

The SPEAKER. The gentleman rises under his right.

Mr. COX. Have I the right to call up for consideration the apportionment bill?

The SPEAKER. If the House does not wish to consider the subject called up by the gentleman from Maine, [Mr. FRYE,] the question of consideration can be raised against it. The gentleman from Texas stated that he did not antagonize it.

Mr. REAGAN. I stated that I would not antagonize the motion of the gentleman from Maine, but that I would antagonize any other measure which came up.

Mr. COX. I will antogonize the motion of the gentleman from Maine.

The SPEAKER. The Chair will submit that question whether the House will now proceed to the consideration of the resolution of the Committee on Rules as indicated by the gentleman from Maine.

The House divided, and there were—ayes 128, noes 21.

Mr. COX. I withdraw the question of consideration against the resolution of the gentleman from Maine.

The SPEAKER. The question of consideration having been withdrawn, the Chair recognizes the gentleman from Maine.

BUSINESS BY UNANIMOUS CONSENT.

Mr. FRYE. I ask that the resolution be read.

The Clerk read as follows:

*Resolved by the House of Representatives*, After Wednesday next, on each day of the remainder of the session other than the third Monday of February and the last six days, whenever on motion the morning hour shall be dispensed with by a two-thirds vote, that hour shall be set apart for the consideration of bills on the several calendars under the following regulations: The States and Territories shall be called in order as now provided for, and as each is called, one of its members shall be named by the Speaker, selected in alphabetical order, who may move the consideration of a bill; if objected to by five members rising in their seats it shall not be considered, otherwise the member making the motion shall be entitled to five minutes for explanation of his bill, or, instead thereof, to the reading of the report accompanying the same, and then a vote shall be taken. The call of States shall go on from day to day until completed, as above provided, and whenever all the Members and Delegates from any State or Territory have been named by the Speaker, such State or Territory shall thereafter be omitted from the call until all the Members and Delegates shall have been so named. Any member not answering as his name is called shall be considered to have waived his privilege.

Mr. FRYE. In the first line as printed the resolution reads, "after Wednesday next." To-day is Wednesday, and therefore I suggest by unanimous consent the resolution be modified so as to read "after to-day."

There was no objection, and it was ordered accordingly.

Mr. CONGER. I ask now that the limitation shall also extend to the reading of the report; for there may be reports which will take an hour to read. Let there be the same limitation on the reading of the report as there is on the debate.

Mr. FRYE. I accept the suggestion of the gentleman from Michigan, and will limit the reading of the report to five minutes, the same as an explanation.

The House on Monday, Mr. Speaker, by a very large majority appeared to be in favor of a resolution very much broader than this one which has been reported by the Committee on Rules. Now I wish to deal in all frankness with the House, and I desire to show them wherein this differs from the proposition on which a vote was had. The resolution offered on Monday provided that there should be one hour each day in which bills offered by members might receive consideration, subject to one objection, or could not be considered if there were one objection. This resolution provides that there shall not be any such hour as that unless first on motion made and by a two-thirds vote the morning hour is dispensed with. If that is done by a two-thirds vote then that hour shall be occupied by the business indicated in that resolution. So the House will see it is a very great restriction and limitation on the original resolution which was referred to the committee.

Again, that resolution made one objection fatal. The judgment of the Committee on Rules was that ought not to be so; that from mere caprice or temper, or something of that kind, one objection might be made and prevent the consideration of a bill which fairly should be considered. And the committee have provided that the bill shall be considered unless five gentlemen rising in their seats object to its consideration.

Then it provides further, in explanation of the bill so that the House may be secure, the bill is one entitled to consideration; that five minutes shall be given to such explanation of the bill by the gentleman who offers it, or instead of that, five minutes for the reading of the report accompanying the bill.

Again, sir, there is a restriction. The original resolution provided that any gentleman might offer a bill for consideration. That would be a bill which might not have been before the House. It might have been a bill which had received no consideration by any committee. The Committee on Rules have restricted that to bills on the several calendars, and these bills you will see have all been considered by the several committees and reported favorably to the House.

Now, sir, certain gentlemen are very desirous of keeping off to a certain extent that limitation, and putting in also bills on the Speaker's table. I do not know that there is any great objection to that, for such bills have been considered by a Senate committee. They have had consideration by the Senate and have been sent to the House and placed upon the Speaker's table. I have no authority, however, to accept the amendment. I understand one to that effect will be offered. My own objection, if I had one to it, would be that on any day after the unfinished business is disposed of a majority of this House is privileged to go to business on the Speaker's table, and when there they can take up the business on the table, bill after bill, in their legitimate order, and a majority of the House can pass every bill there unless a point of order should be raised against it, and then that bill, if subject to the point of order, as containing an appropriation, would be obliged, under the rule, to go to the Calendar of the Committee of the Whole. Being on that Calendar, it immediately comes under the provisions of the bill which we now present. And so, Mr. Speaker, it did not seem necessary in the mind of the committee to include bills upon the Speaker's table, together with bills upon the Calendars of the House, in this resolution.

Again, the resolution which was offered and referred to the Committee on Rules provided that the roll of the House should be called in alphabetical order of the members of the House and the Delegates. In the opinion of the Committee on Rules you never would reach the last part of the alphabetical list. Now, the last half of the names on that alphabetical list or roll might belong to a half dozen States, and so a half dozen States would be entirely shut out from the benefits which were intended to be conveyed equally to all. Therefore the committee were of opinion that such a method would work injustice. But under this resolution as now proposed the committee have thought better to provide a roll-call of the States and Territories just as we have it on Monday, and then when a State is called by the Speaker he first recognizes a member by name in alphabetical order from that State. Then if the State has a bill in which there is a general interest, a public bill, that State or that delegation could induce that particular member whose name was called to take up the State bill and present it to the House for consideration rather than his own private measure.

Mr. PAGE. Will the gentleman allow me to ask him a question?

Mr. FRYE. Certainly.

Mr. PAGE. Did the committee take into consideration the fact that one member might want to introduce a bill or offer a bill that a majority of the delegation from his State did not want?

Mr. FRYE. They did not.

Mr. PAGE. Why did they not provide that a bill, to be offered under the provisions of this proposition, should be determined by a majority of the delegation. An individual might offer a private bill rather than one in which his State was interested.

Mr. FRYE. In response to the question of the gentleman from California, I will say that the committee did not take this into consideration, because the original proposition provided that there should be a call of the roll of every member of the House, giving to each member, in that way, as nearly as practicable, the same privilege. But I have just shown that if called in that way the last half of the alphabet would not probably be reached during the session. Now, allow me to say if this rule is adopted by the House, and then without caprice, without temper, without any special antagonism it is carried out in the House, I have no doubt before the session closes that two-thirds of the members at least will have the privilege—at least two-thirds of those present—of offering a bill to the House for consideration.

Mr. WARNER. What about the other third?

Mr. FRYE. They will be obliged to go without, and they would have been compelled to do that if the proposition had been adopted to allow the roll to be called in alphabetical order and go through the list of members in that way.

Mr. MILLS. I would like to ask the gentleman a question in this connection. You contemplate by your resolution that five members objecting to a bill can kill it. Now if such a bill is called up a majority can pass it.

Mr. FRYE. No; the rule means, as I understand it—and I call the Speaker's attention to it, because I think it likely that there will be a ruling required upon it—when a State is called the gentleman first alphabetically on the list is named by the Speaker. If he desires it, he can take from the Calendar a bill and ask its immediate consideration; that then such bill shall be read for the information of the House, and then the objections, if any, are called for to the consideration of the bill.

Mr. MILLS. These five objections can accomplish as much as a majority of the House in effectually disposing of a bill——

Mr. TOWNSHEND, of Illinois. I desire to know if the person presenting a bill or calling up a bill for consideration is allowed five minutes in favor of it, what time is to be allowed to those who may object to the passage of it.

Mr. FRYE. No provision is made for allowing those who object to a bill to discuss it, and for this reason: if a bill is on the Calendar gentlemen have the opportunity to examine it, the committees have examined it, there is a report accompanying it; and the privilege is accorded by the committee in this report, or the power is given to five members to stop its consideration.

Mr. MILLS. That is the very point that I want to get at. Do you not propose to give the power of the majority of the House to five members. In other words, that five members can prevent the passage of a bill.

The SPEAKER. Only during that hour. It is proposed that five may object to its consideration. One can do that now.

Mr. TOWNSHEND, of Illinois. There is no provision or opportunity then for debate against it?

Mr. FRYE. No; none at all.

Mr. KEIFER. I desire to ask the gentleman this question: Suppose after the Speaker has called a State and designated the member who shall be entitled to ask the consideration of a bill, and after that five members object, I want to know whether that State is to be passed over?

The SPEAKER. In that case the gentleman who has been named loses his right.

Mr. KEIFER. I agree he loses his right. But does the State then lose the right to present a bill?

The SPEAKER. It does until another from that State is called in the order as required. The Chair will illustrate. When the State of Alabama is called, the gentleman from Alabama who will be named by the Speaker will be Mr. CLEMENTS. That gentleman calls up a bill. After the bill has been read if five members object then that bill could not be considered; that gentleman would have exhausted the privilege; and the State would lose its present privilege; and the Chair thinks he would be compelled to go next to the State of Arkansas.

Mr. KEIFER. It does not appear so by the rule in definite terms. That may be the proper construction of it.

The SPEAKER. That was the intention of the Committee on Rules.

Mr. KEIFER. I think that ought not to be the case.

Mr. VALENTINE. Then when the State of Nebraska, having but one member on this floor, is called, and I ask the House to consider a certain bill, and five members rise to object, the State loses its privilege and all right of recognition thereafter.

The SPEAKER. The gentleman representing that State loses all right of recognition until the other two hundred and ninety-two members have had the same right as the gentleman from Nebraska. This resolution recognizes the right of individual membership.

Mr. KEIFER. This is important, and I desire it should be fully understood. I understood the Chair to say that in that case the call would pass to the next State. Now suppose the next State called was Ohio and a bill was called up by a member from that State and there were five objections to its consideration, I understand the Chair to say he would pass over the other nineteen members from Ohio and go to some other State.

The SPEAKER. That is the intention of the rule.

Mr. KEIFER. I think the rule should be amended so that that would not be the case.

The SPEAKER. If it was otherwise the whole roll of the State of Ohio might be called and twenty members of that State would each have the right if consecutively objected to continue to call up bills to the exclusion of the next State and all the States thereafter.

Mr. KEIFER. Only until a bill was considered; and then the State would have had its right after one bill was considered; and then the State drops out of the call. That is what I am endeavoring to suggest.

The SPEAKER. New York, for instance, under that arrangement might have thirty-three calls if as often objected by five members before the next State would be reached, and before the State of Ohio would be reached.

Mr. KEIFER. That would be because the thirty-three men from New York were so unfortunate as to find five persons objecting to each of their applications, because if one consideration came in, the whole State would be passed by. I think the resolution should be so amended as to give each State a right to consideration.

Mr. FRYE. I suppose I am holding the floor all this time.

The SPEAKER. The Chair has recognized the right of the gentleman from Maine to control the subject until the expiration of one hour. To whom does he yield?

Mr. FRYE. I yield to the gentleman from Mississippi [Mr. SINGLETON] for a question.

Mr. SINGLETON, of Mississippi. I understand when a State is called the gentleman representing that State who happens to be first on the list alphabetically takes charge of all the business belonging to that State.

Mr. FRYE. The gentleman then does not understand the resolution aright.

Mr. SINGLETON, of Mississippi. Now suppose I introduce a bill into the House and have prepared myself to discuss it, and my colleague who has the floor has not informed himself on the subject; yet he alone is to speak for five minutes, and I who understand the bill am cut off from the privilege of discussing it at all.

Mr. FRYE. I think the gentleman from Mississippi is entirely wrong in his construction of the resolution. No gentleman from a State would be entitled to take entire charge of the business of that State. The gentleman who was first called from the State would have a right to present a bill for consideration; it might be a pension bill or any other private bill. The reason why States were selected was this: that a State might have a bill in which it had a profound interest; and if that were the case the delegation from that State would have an opportunity to induce the gentleman whose name was called first to take that bill in which the State was interested and offer that for consideration. It is an advantage which a State would have over the call of individual members under the ordinary rule in the House.

Mr. SINGLETON, of Mississippi. I cannot understand how that would be an advantage to me.

Mr. TOWNSHEND, of Illinois. I desire to ask the gentleman from Maine a question. I wish to know from the gentleman from Maine upon what theory he thinks two-thirds of the House will have an opportunity to ask for this privilege. If you deduct the five minutes allowed to each member to present his bill, if you deduct the time in reading the reports and the bill, you will find not more than six bills can be disposed of in a day. We have but nineteen legislative days in this session remaining; multiply six by nineteen, and you have one hundred and fourteen. Therefore, only one hundred and fourteen members will obtain the privilege of asking unanimous consent for the passage of their bills.

Mr. FRYE. And that is one hundred and fourteen more than would get any privilege unless you adopt this resolution.

Mr. TOWNSHEND, of Illinois. Now we can ask the privilege at any time, and if there be no objection we can get it.

Mr. FRYE. There never was an instance known in which there was not an objection if you ask the consideration of a bill; and, besides, what the gentleman suggests can be done afterward, even if this resolution be adopted.

Mr. TOWNSHEND, of Illinois. This is in the interest of one hundred and fourteen members, who have the fortune to be from the smaller States or who appear highest alphabetically on the roll of their States.

Mr. FRYE. No, sir; it is in the interest of the business of this House.

Mr. CANNON, of Illinois. That is it.

Mr. FRYE. That is what it is.

Mr. TOWNSHEND, of Illinois. Would it be in order for me now to move to lay this resolution on the table?

The SPEAKER. Such motion would have precedence.

Mr. TOWNSHEND, of Illinois. Then I move that the resolution be laid on the table.

Mr. FRYE. I have not yielded the floor to the gentleman for any such purpose.

The SPEAKER. The gentleman from Maine [Mr. FRYE] states he yielded for a question. The Chair will entertain the motion to lay on the table when the gentleman from Maine sits down.

Mr. TOWNSHEND, of Illinois. I will not take the gentleman off the floor; but I give notice that I will submit that motion at the proper time.

Mr. SAPP. Will the gentleman from Maine [Mr. FRYE] allow me to ask him a question?

Mr. FRYE. Certainly.

Mr. SAPP. It is whether, if the name of a member is called and he fails to call up a bill, the State is then passed?

Mr. FRYE. It is.

Mr. ROBESON. I would like to ask the gentleman a question.

Mr. FRYE. Very well.

Mr. ROBESON. It is whether this proposition does not leave to every member of this House all the privileges he now has, and only adds to them some other privileges or facilities which are to be given by this proposed rule?

Mr. FRYE. Exactly.

Mr. ROBESON. And everything that we now get is in addition to what this proposes to give? Therefore if we get in one hundred and fourteen new propositions for consideration by the House, is not that a privilege for at least a portion of the members of this House which they would not get at all if it was not for this resolution?

Mr. TOWNSHEND, of Illinois. That is not correct.

Mr. ROBESON. And I want to ask the gentleman whether he does not think it wise, when we are going to do a practical thing, to take hold of that practical thing itself, and not bring up impracticable projects that will not amount to anything? Whether, if we do not get this measure of relief, the one hundred and fourteen members will be crowded out and nobody will get anything at all?

Mr. FRYE. The gentleman has stated it exactly.

Mr. WARNER. I want to ask the gentleman how we can give privileges to one hundred and fourteen members which they do not now have without denying to other members some privileges which they do have?

Mr. FRYE. The little experience which I had yesterday in connection with a small order touching the use of the galleries to-day—about two hundred suggestions of amendments having been made to me personally and about fifty more from the floor of the House—taught me a lesson. [Laughter.]

Now, I have no pride of opinion in this proposed rule, neither has the Committee on Rules any pride of opinion about it, and no care as to what the House may do with it. But if it be opened to amendment there will be no limit to the proposition of amendment. I desire to say to the House simply that before my hour has expired I propose to demand the previous question.

Many MEMBERS. Do it now.

Mr. FRYE. I cannot well do it now. If the previous question shall be sustained, then it will be within the power of any gentleman who is recognized, if he has an important amendment which he desires to have made to this rule, to move to recommit it, even while the demand for the previous question is pending or after it has been seconded, to recommit it with instructions to the Committee on Rules to report this proposition back with the amendment he shall indicate.

Mr. ALDRICH, of Rhode Island. Will not the gentleman now allow a single amendment, to insert the words "business on the Speaker's table," and have that amendment pending when the previous question is called?

Mr. FRYE. I have no authority to admit an amendment. The gentleman can move to recommit with instructions to report such an amendment.

Mr. ALDRICH, of Rhode Island. We do not want to recommit it.

Mr. YOUNG, of Tennessee. I ask the gentleman to yield to me.

Mr. FRYE. I have agreed to yield to the gentleman from Tennessee [Mr. YOUNG] for fifteen minutes.

Mr. TOWNSHEND, of Illinois. Allow me a moment before the gentleman yields.

Mr. BLACKBURN. Will the gentleman from Maine [Mr. FRYE] yield to me for a moment?

Mr. FRYE. I will with pleasure.

Mr. BELFORD. I desire to ask the gentleman from Maine [Mr. FRYE] a question. I offered the resolution which has brought this subject before the House. Now I wish to know whether the gentleman will allow me at this time to offer a substitute for the rule proposed by the Committee on Rules, so that it may be pending.

Mr. FRYE. I cannot yield the floor for that purpose. If I were to yield to the gentleman from Colorado [Mr. BELFORD] I would be equally obliged to yield to fifty other members. A motion to recommit with instructions can be made after the previous question has been demanded.

Mr. TOWNSHEND, of Illinois. One question.

Mr. FRYE. State it.

Mr. TOWNSHEND, of Illinois. I made a mistake as to the number of days left of this session. I find upon re-examination that only ten days will be left for the operation of this proposed rule, and if only six bills can be disposed of on each of those ten days, but sixty members of this House will enjoy the privilege proposed by this resolution.

Mr. BLACKBURN. One moment, if the gentleman pleases.

Mr. FRYE. With pleasure.

Mr. BLACKBURN. With a view of simplifying the settlement of the question now before the House, and without desiring to enter into any detailed statement, I will ask the gentleman from Maine [Mr. FRYE] to yield for a motion to recommit this additional or new rule to the Committee on Rules, with instruction to report it back day after to-morrow morning, immediately after the reading of the Journal.

Mr. ANDERSON and others. Oh, no!

Mr. FRYE. No, Mr. Speaker, I cannot yield for that purpose.

Mr. BLACKBURN. Then the gentleman will permit me to say that as a member of the Committee on Rules I know nothing of this

proposition. If it has been considered in a meeting of the Committee on Rules, I am not advised of it. I have not failed to attend any meeting of that committee that has been called. I do not mean to express myself as opposed to the resolution; I do not mean by any means to reflect upon the gentleman from Maine for reporting it; but I do mean to say that, as a member of that committee, I have not considered it in committee meeting; and if there has been a meeting of the Committee on Rules for the purpose of its consideration, I was not primarily advised of it, and have not been advised of it since. I feel that it is but reasonable to ask that the resolution shall be recommitted with the various amendments that have been proposed, in order that in the light of the opinions which have been expressed by members in the course of the discussion the Committee on Rules as a committee may act upon it deliberately and advisedly.

Mr. FRYE. A majority of the Committee on Rules has passed upon this proposed rule.

Mr. BLACKBURN. Will the gentleman answer me a question?

Mr. FRYE. Yes, sir.

Mr. BLACKBURN. Was a majority of the Committee on Rules present in a committee meeting?

Mr. FRYE. A majority of the Committee on Rules was not present at the meeting of the committee. I was notified to be present at a meeting of the committee. I was there.

Mr. BLACKBURN. I did not get any notice.

Mr. FRYE. The gentleman from Georgia [Mr. STEPHENS] came a few minutes afterward; and the vote of the committee, those present, was that the resolution be passed over till the gentlemen who were absent could be consulted and their views taken upon it. It was read to the gentleman from Georgia. The attention, I think, of the gentleman from Michigan [Mr. CONGER] was called to it. The "gentleman from Maine" tried to find the gentleman from Kentucky, and was not able to.

Mr. BLACKBURN. The gentleman from Maine will allow me, in justice to myself, to say that the records of Congress show that there has not been a day nor a roll-call on which I have been absent from my place in the House.

Mr. FRYE. I was not charging the gentleman with absence from the House.

Mr. BLACKBURN. It was not my fault that the gentleman did not find me.

Mr. FRYE. The majority of the Committee on Rules authorized this rule to be reported.

Mr. BLACKBURN. In committee meeting?

Mr. FRYE. In committee meeting.

Mr. BLACKBURN. Does the gentleman say that a majority of the Committee on Rules——

Mr. FRYE. I stated exactly what took place; and the gentleman from Kentucky understands it perfectly well.

Mr. BLACKBURN. And the "gentleman from Kentucky" will understand it better.

Mr. FRYE. How will he understand it better?

Mr. BLACKBURN. Does the gentleman from Maine say that any meeting of the Committee on Rules was ever had where this resolution was considered with a majority of that committee present?

Mr. FRYE. The gentleman from Kentucky understood what I said; did he not?

Mr. BLACKBURN. I understood the gentleman from Maine to say "no."

Mr. FRYE. I did not say "no."

Mr. BLACKBURN. Well, I say "no."

Mr. FRYE. Was the gentleman there?

Mr. BLACKBURN. No; but I have the word of the gentleman from Maine for it.

Mr. FRYE. The gentleman from Kentucky speaks entirely without knowledge.

Mr. BLACKBURN. I speak upon the authority of the gentleman from Maine himself.

Mr. FRYE. The gentleman does not speak upon my authority.

Mr. BLACKBURN. It has not been ten minutes since the statement was given to me by you.

Mr. FRYE. I stated the exact fact: that I was called to a meeting of the Committee on Rules; the gentleman from Kentucky was not there.

Mr. BLACKBURN. And was not called there.

Mr. FRYE. There were only two gentlemen there. This rule was passed upon and agreed to by those two, with the understanding that it should be submitted to the gentleman from Georgia, [Mr. STEPHENS,] the gentleman from Michigan, [Mr. CONGER,] and the gentleman from Kentucky, and, if a majority were in favor of it, should be reported to the House. I stated that distinctly; and then I said that I could not find the gentleman. Now, why should he charge upon me—by implication, at any rate—that I have not stated what is the fact?

Mr. BLACKBURN. So far from charging it by implication, I never deal in implications. I deal in direct assertions.

Mr. FRYE. What is your direct assertion?

Mr. BLACKBURN. I stated to this House that it was not my purpose to reflect upon the gentleman in any wise for the report of this resolution; but I also stated the fact that I had never been present at any meeting of the Committee on Rules when this resolution was considered, and never had been called to such a meeting, and never had seen the resolution, though in my place every day and every hour. That is what I said.

Mr. FRYE. Now suppose that should turn out to be true——

Mr. BLACKBURN. Does the gentleman question it?

Mr. FRYE. I am going on with the supposition.

Mr. BLACKBURN. Does the gentleman question the truth of my statement?

Mr. FRYE. Allow me to finish my remark.

Mr. BLACKBURN. Will the gentleman answer my question?

The SPEAKER. The gentleman from Kentucky will not interrupt the gentleman from Maine except with his consent.

Mr. FRYE. Suppose it to be the fact that the gentleman was not there. I know he was not there, and I have said so, have I not? Suppose the gentleman was absent at a meeting of the Committee on Rules, does it follow that the committee can do nothing absolutely?

Mr. BLACKBURN. Yes, if there is not a quorum present.

Mr. FRYE. Well, when a quorum has agreed to a resolution, does the absence of the gentleman from Kentucky spoil it?

Mr. BLACKBURN. That quorum was not there, according to the gentleman's own statement.

Mr. FRYE. A quorum of the committee has agreed to the resolution; and I take it that, being presented properly to the House, it is within the power of the House to enact it into a rule.

Mr. BLACKBURN. The question is whether it is properly presented. There never was a quorum there.

The SPEAKER. What action does the gentleman from Maine propose?

Mr. FRYE. I now yield ten minutes, according to promise, to the gentleman from Tennessee, [Mr. YOUNG.]

Mr. BLACKBURN. Now, I raise the point of order before the gentleman from Tennessee proceeds——

Mr. YOUNG, of Tennessee. Yes; I would like to have this question settled.

Mr. BLACKBURN. That this report is not properly before the House for its consideration. I raise it on the statement of the gentleman from Maine.

The SPEAKER. The point of order is made too late. When the report was presented it might have been in order, but it was not questioned. The meeting at which it was to be considered was an adjourned meeting. There was not a quorum present. The gentleman is correct in his statement, there were but two members present, the Chair and the gentleman from Maine. The gentleman from Maine had prepared this resolution and submitted it to the present occupant of the chair. It was then agreed it should be submitted to the other members. The Chair does not know why it was not submitted to the gentleman from Kentucky; but the point of order the gentleman now makes comes, in the opinion of the Chair, too late. It made it ought to have been made at the time when the report was submitted.

Mr. BLOUNT. How could it have been made when it was not known?

Mr. TOWNSHEND, of Illinois. I make another point. It was represented by the gentleman from Maine that this is a report from the committee, and it now appears it was not a report from the committee.

Mr. FRYE. What does the gentleman from Illinois mean? It was a report of the committee, and I have so stated to this House. If a majority of a committee agree to a report is not that the report of the committee?

Mr. TOWNSHEND, of Illinois. I say that the gentleman has announced to the House that but two members of the committee were present when it was considered, and yet there are five members of that committee who ought to have been summoned to attend its meeting.

Mr. FRYE. I have announced to the House that it was presented to a majority of the members of that committee and that they have agreed to it.

Mr. TOWNSHEND, of Illinois. The point I make is this, and I adhere to it, that the gentleman from Maine, as I understood him, represented this to be the report of the Committee on Rules. I maintain he could only be warranted in making that statement on leave given by a majority of that committee when legally in session as a committee. Now he confesses on the floor that he had only the consent of two members of that committee to make the report.

Mr. FRYE. I did not confess anything of the kind and the gentleman must be dull to understand so.

Mr. CALKINS. I demand the regular order.

Mr. FRYE. I demand the previous question in order to dispose of this matter.

Mr. WARNER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. My point of order has not yet been decided.

The SPEAKER. It is in substance the same point made by the gentleman from Kentucky which has already been decided.

Mr. TOWNSHEND, of Illinois. The difference is this——

Mr. McLANE. Is a motion to recommit it now in order?

The SPEAKER. It is before or after the previous question is ordered.

Mr. BLACKBURN. I submitted that motion long ago, to commit with instructions.

The SPEAKER. The Chair did not recognize it then because the gentleman had not then the floor to make it.

Mr. BLACKBURN. I move to recommit with instructions.

The SPEAKER. The gentleman asked the gentleman from Maine whether he would yield the floor to make that motion and the gentleman from Maine did not yield for that purpose.

Mr. BLACKBURN. I move now to recommit with instructions to the Committee on Rules to report day after to-morrow after the reading of the Journal.

The SPEAKER. The gentleman from Maryland now makes a motion to recommit and the gentleman from Kentucky moves to amend by adding "with instructions," as stated by him.

Mr. CONGER. I desire to say a word about this matter.

Mr. FRYE. I yield to the gentleman from Michigan.

Mr. WARNER. I wish to have my point of order ruled upon. I claimed the floor and was recognized and was taken off it without my consent. Manifestly by this ruling a majority of the members of the committee—three-fifths—will be ruled out of any privilege under the rules.

The SPEAKER. That is as to the effect of the resolution, and is not a point of order.

Mr. WARNER. I say privileges cannot be extended to this number of members in that way.

Mr. McLANE. I demand the regular order of business.

The SPEAKER. The regular order of business is the motion to commit with instructions.

Mr. CONGER. I desire to say for myself as a member of the Committee on Rules, that when this appeal was made to support it the Speaker, the gentleman from Maine, and myself, three members, a majority of that committee, according to my recollection, were together in the corridor where we came to consider it.

The SPEAKER. There was a meeting at the room of the gentleman from Georgia, [Mr. STEPHENS,] a member of the Committee on Rules, and the Chair understood there was to be an adjourned meeting of the committee on Tuesday morning following, when this matter was to be considered. The gentleman from Kentucky states that he did not so understand. The Chair has directed his attention to that fact and he said he did not have notice.

Mr. BLACKBURN. The Chair will do me the justice to add that understanding there was to be an adjourned meeting on Tuesday and not knowing at what hour or what place, I sent the clerk of my committee to the Speaker to ascertain the time and place of holding it, and I received no answer and never heard aught of the meeting on Tuesday, nor of any action taken.

The SPEAKER. The recollection of the Chair is, and it differs from that of the gentleman from Kentucky, that it was at the meeting in the room of the gentleman from Georgia when an adjourned meeting was provided for.

Mr. BLACKBURN. The Speaker will bear witness that a majority of the Committee on Rules evidently did not seem to have so remembered, for the reason that a majority did not attend that meeting.

The SPEAKER. That is the recollection of the Chair at all events.

Mr. BLACKBURN. I know that. But it does not seem to have been so understood by the Committee on Rules.

Mr. GOODE. Would it be in order to lay this whole subject on the table?

The SPEAKER. The Chair will entertain and submit the motion.

Mr. GOODE. I move to lay it on the table.

The motion was not agreed to.

The SPEAKER. The question recurs on the motion of the gentleman from Kentucky, that the subject be recommitted to the Committee on Rules with instructions.

Mr. McLANE. My motion was, without instructions.

The SPEAKER. The motion of the gentleman from Kentucky is submitted as first in order under the rules.

Several MEMBERS. What is the pending question?

The SPEAKER. The pending question is the motion to recommit to the committee, with instructions to report in two days.

The House divided; and there were—ayes 78, noes 121.

Mr. BLACKBURN demanded tellers.

Before the result of the demand for tellers was announced,

Mr. COFFROTH demanded the yeas and nays.

The yeas and nays were not ordered.

The SPEAKER. Thirty-seven members having voted on the demand for tellers, being a sufficient number, tellers are ordered. The Chair appoints Mr. BLACKBURN and Mr. FRYE.

The House divided; and there were—ayes 68, noes 118.

So the motion was not agreed to.

Mr. FRYE. I now demand the previous question.

Mr. McLANE. Does not the question now recur on the motion which I made, to commit without instructions?

The SPEAKER. Under the rule there can be but one motion to commit pending a demand for the previous question, either with or without instructions.

Mr. FRYE. I ask consent to modify the resolution by inserting the words "and on the Speaker's table" after the word "calendars;" so that the bills to be called up shall be on the calendars and such bills as are on the Speaker's table.

There was no objection to the proposed modification.

Mr. FRYE. I now demand the previous question on the proposition.

Mr. McLANE. May I ask a parliamentary question? What has become of the motion to commit without instructions?

The SPEAKER. That has been voted down.

Mr. McLANE. I did not understand that vote to be upon my motion.

The SPEAKER. Pending the demand for the previous question but one motion to commit with or without instructions is in order. The Chair will cause the rule to be read, Rule XVII:

The Clerk read as follows:

1. There shall be a motion for the previous question, which, being ordered by a majority of members present, if a quorum, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments, and include the bill to its engrossment and third reading, and then, on renewal and second of said motion, to its passage or rejection. It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

Mr. BELFORD. I wish to ask a parliamentary question. I would like to know if the House refuses to order the previous question would this proposition be open for further amendment?

The SPEAKER. It will be open both for amendment and debate.

The previous question was seconded.

Mr. AIKEN. Mr. Speaker, I desire to make a parliamentary inquiry. I wish to ask before I vote upon this proposition, what is the practical effect of it? I wish to know, if the proposition is adopted, whether it will accomplish anything. The State of Alabama, for instance, is called by the Speaker, and one member is recognized to report a bill which is not opposed by five members; that bill, of course, comes before the House for consideration, and five minutes probably is consumed in discussing it. But suppose there is a considerable minority who do not desire to pass that bill; what I would like to know is, can that minority, by dilatory motions or in some other way, take up the time of the House and so defeat the consideration of the proposition presented in that way?

The SPEAKER. The Chair would be bound to recognize all motions under the rule, whatever might be the effect of them. Their tendency might be to delay, or they might be classed under the head of dilatory motions; but if coming within the scope of the rules the Chair would have no option but to recognize them.

Mr. AIKEN. Then, under that condition, if this rule is adopted, the State of Alabama could consume the entire morning hour running through the whole session.

The SPEAKER. The question recurs on ordering the main question.

The House divided; and there were—ayes 160, noes 32.

So the main question was ordered.

The SPEAKER. The question is on the adoption of the resolution.

Mr. SPRINGER. The amendment of the gentleman from Maine [Mr. FRYE] has not been submitted.

Mr. FRYE. Unanimous consent was asked for that amendment, and no objection being made, the resolution has been modified as I asked.

The SPEAKER. The resolution will now be read as modified.

The Clerk read as follows:

*Resolved by the House of Representatives*, After to-day, on each day of the remainder of the session other than the third Monday of February and the last six days, whenever on motion the morning hour shall be dispensed with by a two-thirds vote, that hour shall be set apart for the consideration of bills on the several calendars and on the Speaker's table under the following regulations: The States and Territories shall be called in order as now provided for, and as each is called, one of its members shall be named by the Speaker, selected in alphabetical order, who may move the consideration of a bill; if objected to by five members rising in their seats it shall not be considered, otherwise the member making the motion shall be entitled to five minutes for explanation of his bill, or, instead thereof, to the reading of the report accompanying the same, provided the reading of such report shall not exceed five minutes, and then a vote shall be taken. The call of States shall go on from day to day until completed, as above provided, and whenever all the Members and Delegates from any State or Territory have been named by the Speaker, such State or Territory shall thereafter be omitted from the call until all the Members and Delegates shall have been so named. Any member not answering as his name is called shall be considered to have waived his privilege.

Mr. SIMONTON. I call for the yeas and nays.

The yeas and nays were ordered, thirty-six members voting therefor, more than one-fifth of the last vote.

The question was taken; and there were—yeas 147, nays 79, not voting 66; as follows:

YEAS—147.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Calkins, | Dick, | Gillette, |
| Aldrich, William | Camp, | Dunn, | Godshalk, |
| Anderson, | Cannon, | Dunnell, | Gunter, |
| Atherton, | Carpenter, | Dwight, | Hall, |
| Ballou, | Chittenden, | Einstein, | Hammond, John |
| Barber, | Coffroth, | Ellis, | Harmer, |
| Beale, | Colerick, | Errett, | Harris, Benj. W. |
| Belford, | Conger, | Ewing, | Haskell, |
| Berry, | Converse, | Felton, | Hatch, |
| Bingham, | Cowgill, | Field, | Hawk, |
| Bisbee, | Crapo, | Finley, | Hawley, |
| Blake, | Cravens, | Fisher, | Hayes, |
| Bliss, | Crowley, | Ford, | Hellman, |
| Brewer, | Culberson, | Forney, | Henderson, |
| Brigham, | Daggett, | Forsythe, | Henkle, |
| Bright, | Davis, Horace | Fort, | Hill, |
| Browne, | Deering, | Frye, | Hiscock, |
| Butterworth, | De La Matyr, | Gibson, | Horr, |

| | | | |
|---|---|---|---|
| Hostetler, | Morse, | Rothwell, | Tyler, |
| Humphrey, | Morton, | Russell, Daniel L. | Updegraff, J. T. |
| Jones, | Muldrow, | Russell, W. A. | Updegraff, Thomas |
| Jorgensen, | Myers, | Ryan, Thomas | Upson, |
| Kelley, | New, | Sawyer, | Urner, |
| King, | Norcross, | Scoville, | Valentine, |
| Ladd, | O'Connor, | Shallenberger, | Vance, |
| Lapham, | O'Neill, | Shelley, | Wait, |
| Lindsey, | Orth, | Sherwin, | Ward, |
| Loring, | Osmer, | Singleton, J. W. | Washburn, |
| Lowe, | Overton, | Slemons, | Wellborn, |
| Mason, | Philips, | Speer, | Wells, |
| McCook, | Poehler, | Springer, | Williams, C. G. |
| McGowan, | Price, | Starin, | Willis, |
| McKinley, | Ray, | Taylor, Ezra B. | Willits, |
| Miller, | Reed, | Thomas, | Wilson, |
| Mills, | Robertson, | Thompson, P. B. | Yeates, |
| Mitchell, | Robeson, | Thompson, W. G. | Yocum. |
| Monroe, | Robinson, | Townsend, Amos | |

NAYS—79.

| | | | |
|---|---|---|---|
| Acklen, | Covert, | Le Fevre, | Smith, Hezekiah B. |
| Aiken, | Davis, George R. | Marsh, | Smith, William E. |
| Atkins, | Davis, Joseph J. | McKenzie, | Sparks, |
| Beltzhoover, | Davis, Lowndes H. | McLane, | Steele, |
| Bicknell, | Dibrell, | McMahon, | Stevenson, |
| Blackburn, | Elam, | McMillin, | Talbott, |
| Blount, | Evins, | Morrison, | Tillman, |
| Bouck, | Frost, | Muller, | Townshend, R. W. |
| Bragg, | Geddes, | Page, | Tucker, |
| Burrows, | Goode, | Phelps, | Turner, Oscar |
| Cabell, | Herbert, | Phister, | Turner, Thomas |
| Caldwell, | Herndon, | Prescott, | Van Voorhis, |
| Chalmers, | Hooker, | Reagan, | Waddill, |
| Clardy, | Houk, | Richardson, J. S. | Warner, |
| Clark, Alvah A. | House, | Ross, | Weaver, |
| Clark, John B. | Hunton, | Samford, | Whiteaker, |
| Clements, | Hutchins, | Scales, | Whitthorne, |
| Clymer, | Johnston, | Simonton, | Wright, |
| Cobb, | Keifer, | Singleton, O. R. | Young, Casey. |
| Cook, | Kenna, | Smith, A. Herr | |

NOT VOTING—66.

| | | | |
|---|---|---|---|
| Armfield, | Dickey, | Manning, | Richmond, |
| Bachman, | Ferdon, | Martin, Benj. F. | Ryon, John W. |
| Bailey, | Hammond, N. J. | Martin, Edward L. | Sapp, |
| Baker, | Harris, John T. | McCoid, | Stephens, |
| Barlow, | Hazelton, | Miles, | Stone, |
| Bayne, | Henry, | Money, | Taylor, Robert L. |
| Bland, | Hubbell, | Murch, | Van Aernam, |
| Bowman, | Hurd, | Neal, | Voorhis, |
| Boyd, | James, | Newberry, | White, |
| Briggs, | Joyce, | Nicholls, | Wilber, |
| Buckner, | Ketcham, | O'Brien, | Williams, Thomas |
| Carlisle, | Killinger, | O'Reilly, | Wise, |
| Caswell, | Kimmel, | Pacheco, | Wood, Fernando |
| Claflin, | Kitchin, | Persons, | Wood, Walter A. |
| Cox, | Klotz, | Pound, | Young, Thomas L. |
| Davidson, | Knott, | Rice, | |
| Deuster, | Lounsbery, | Richardson, D. P. | |

So the resolution was adopted.

The following additional pair was announced:

Mr. STONE with Mr. MONEY, for this day.

Mr. FRYE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHIEF OF OFFICIAL REPORTERS.

The SPEAKER. The Chair desires to announce that under authority given to the Speaker by Rule XXXVI and in pursuance of the opinion of the Committee on Rules unanimously expressed in writing that there should be a chief of the corps of official reporters of this House, the Chair has appointed Mr. John J. McElhone as such chief. The Chair has made this selection because the gentleman named has been longest in service on the corps.

Mr. RUSSELL, of Massachusetts. I move that the House do now adjourn.

ADDITIONAL CLERKS IN SURGEON-GENERAL'S OFFICE.

Pending the motion to adjourn,

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War relative to additional clerks in the Surgeon-General's Office; which was referred to the Committee on Appropriations.

LIEUTENANT S. R. DOUGLAS.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the losses sustained by fire by Lieutenant S. R. Douglas; which was referred to the Committee on Military Affairs.

SURGICAL LIBRARY AND MUSEUM.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to a fire-proof building, surgical library, and museum; which was referred to the Committee on Public Buildings and Grounds.

HEADQUARTERS, PRESCOTT, ARIZONA.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to appropriation for headquarters, Prescott, Arizona; which was referred to the Committee on Appropriations.

NEW MILITARY POST IN MONTANA.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to an estimate for an appropriation for a new military post to be constructed near the Mussel Shell River in Montana; which was referred to the Committee on Appropriations.

HOLSTON AND CLINCH RIVERS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of examination of Holston and Clinch Rivers; which was referred to the Committee on Commerce, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. DAVIDSON, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of F. Jordan, of Florida, there being no adverse report thereon.

LEAVE TO PRINT.

Mr. SAMFORD obtained unanimous consent to have printed in the RECORD remarks on the interstate-commerce bill. [See Appendix.]

Mr. COX obtained unanimous consent to have printed in the RECORD a tabular statement as to the effect of the various propositions relating to apportionment. [See Appendix.]

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted, as follows:

To Mr. URNER, for the remainder of to-day and to-morrow, on account of important business;

To Mr. HENRY, indefinitely, on account of sickness;

To Mr. BRIGGS, for one week; and

To Mr. MCCOOK, for four days.

CODIFICATION OF THE LAWS.

Mr. CONVERSE, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing:

*Resolved by the House of Representatives, (the Senate concurring,)* That there be printed of the reports and accompanying documents of the commission to codify the land laws, &c., 7,000 additional copies of each; 4,000 thereof for the use of the House of Representatives, 2,000 for the Senate, and 1,000 for the Department.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed without amendments joint resolutions and a bill of the House of the following titles:

Joint resolution (H. R. No. 83) granting condemned cannon to the Morton Monumental Association;

Joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of the special reports of the Committee on Agriculture relative to diseases of swine and infectious and contagious diseases incident to other domestic animals;

Joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commission upon new discoveries in regard to fish culture; and

A bill (H. R. No. 6599) to change the time for holding the circuit and district courts of the United States for the western district of Virginia held at Danville, Virginia.

The message further announced that the Senate had passed a joint resolution and bills of the following titles; in which the concurrence of the House was requested:

Joint resolution (S. R. No. 152) granting the use of artillery, tents, &c., to be used at the soldiers' reunion to be held at Lincoln, Nebraska, in the month of September, 1881;

A bill (S. No. 1823) to grant an American register to the schooner A. Scott Brown; and

A bill (S. No. 1987) for the relief of John H. Schabinger, guardian of Susan McKnatt and Martha McKnatt, minor daughters of James McKnatt, deceased.

ORDER OF BUSINESS.

Mr. TALBOTT. I ask the gentleman from Massachusetts [Mr. RUSSELL] to withdraw his motion to adjourn for a moment, until I can ask to have taken from the Speaker's table a bill for consideration at this time.

Many MEMBERS. Regular order!

The SPEAKER. The regular order is the motion to adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifteen minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BELTZHOOVER: The petition of citizens of York County, Pennsylvania, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of citizens of York County, Pennsylvania, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, the petition of citizens of York County, Pennsylvania, for the amendment of the patent laws—to the Committee on Patents.

By Mr. BREWER: The petition of Stephen Geer, Robert Garner, and 58 others, citizens of Oakland County, Michigan, for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of the same parties, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of the same parties, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of the same parties, for the enactment of an income-tax law—to the Committee on Ways and Means.

By Mr. CALDWELL: The petition of Dr. N. P. Allen and others, citizens of Kentucky, against the reissue to John A. Cummings of the patent for improvements in artificial gums and palates—to the Committee on Patents.

By Mr. COWGILL: Resolutions of the Legislature of Indiana, asking an appropriation of $100,000 for the improvement of Kankakee River—to the Committee on Commerce.

By Mr. FORD: The petition of J. F. Wallace and others, citizens of Missouri, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. HASKELL: Resolutions of the Legislature of Kansas, favoring the building by the United States of a double-track railroad from the sea-coast on the east to the Missouri River on the west—to the Committee on Railways and Canals.

By Mr. HOUK: The petition of Jacob Schneider, for compensation for timber and wood taken from his farm by the United States Army during the late war—to the Committee on War Claims.

Also, the petition of Charles Schneider, of similar import—to the same committee.

By Mr. MITCHELL: The petition of John H. Sortman and others, late Union soldiers, of Williamsport, Pennsylvania, and vicinity, against the passage of the Senate bill providing a new method of settling pension claims—to the Committee on Invalid Pensions.

By Mr. NEW: Resolution of the Legislature of Indiana, asking an appropriation of $100,000 to be applied in deepening, widening, and straightening the Kankakee River in Indiana—to the Committee on Commerce.

By Mr. NORCROSS: The petition of W. A. Snow and 25 others, citizens of Belchertown and Chicopee, Massachusetts, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. OSMER: The petition of O. V. Colton and 18 others, of similar import—to the same committee.

By Mr. SAPP: The petition of citizens of Iowa, for legislation to prevent the spread of the disease among cattle known as pleuro-pneumonia—to the Committee on Agriculture.

By Mr. SHERWIN: Resolutions of the Legislature of Illinois, favoring legislation to prevent the spread of the cattle disease known as pleuro-pneumonia—to the same committee.

Also, the petition of the Illinois State board of health for the passage of a bill to prevent the adulteration of food and drugs—to the Committee on Manufactures.

Also, the petition of John Eddy and 10 other soldiers, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. SPEER: The petition of William E. Hansell, of Forsyth County, Georgia, for relief—to the Committee on Ways and Means.

By Mr. STARIN: The petition of Alfred Pickett and 24 others, that Senate bill No. 496 be defeated—to the Committee on Invalid Pensions.

By Mr. STONE: The petitions of E. W. Smith and 73 others and of O. E. Aldrich and 21 others, citizens of Michigan, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petitions of E. W. Smith and 73 others and Johnson S. Locke and 21 others, citizens of Michigan, for legislation on the subject of interstate commerce—to the Committee on Commerce.

Also, the petitions of Amon Otis and 22 others and of E. W. Smith and 73 others, citizens of Michigan, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petitions of W. L. Williams and 73 others and of E. S. Atkins and 22 others, citizens of Michigan, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. TALBOTT: The petition of George H. Merryman and 30 others, citizens of Baltimore County, Maryland, of similar import—to the same committee.

Also, the petition of the same parties, that the Bureau of Agriculture be made a Department—to the Commiteee on Agriculture.

By Mr. P. B. THOMPSON: The petition of citizens of Kentucky, for an appropriation for the improvement of the North and South Forks of the Cumberland River—to the Committee on Commerce.

By Mr. TYLER: The petition of John Y. Raistrick and 20 others, Vermont soldiers, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. URNER: The petition of John C. Rhodes and 18 others, citizens of Maryland, ex-soldiers, of similar import—to the same committee.

Also, the petition of John G. Frinzel and 16 others, ex-soldiers, of Frostburgh, Maryland, of similar import—to the same committee.

By Mr. WARNER: The petitions of Thomas Brooks and others and of A. H. Matson and others, late soldiers of the Union Army, of similar import—to the same committee.

By Mr. WILLIS: The petitions of W. H. Thomas and others and of L. Oppenheimer & Son, of Louisville, Kentucky, for the passage of House bill No. 4839, and against the passage of the bill (H. R. No. 6460) allowing vinegar makers to manufacture distilled spirits without payment of tax—to the Committee on Ways and Means.

## IN SENATE.

THURSDAY, *February* 10, 1881.

The Senate met at twelve o'clock m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

### ELECTIONS AND APPOINTMENTS IN RHODE ISLAND.

Mr. ANTHONY. I give notice that on next Saturday, if the Senate shall conclude to sit on Saturday, I shall ask the indulgence of the Senate at the close of the morning business to make some remarks upon the reports of the two committees which visited Rhode Island to inquire into the alleged violation of law in that State.

### EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, calling attention to the destruction by fire of the headquarters building, Department of Arizona, located at Prescott, and recommending an appropriation for rebuilding the same; which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs recommending that Congress authorize the use of certain moneys belonging to the eastern band of Cherokee Indians, of North Carolina, to enable them to join their brethren in the Indian Territory; which was referred to the Committee on Appropriations.

### PETITIONS AND MEMORIALS.

Mr. CAMERON, of Wisconsin, presented the petition of John Graham, of College Point, Queens County, New York, praying for the passage of an act conferring on the Court of Claims full authority and jurisdiction to award him a just compensation for the damages and loss sustained by him on account of the detention of his three steamships in the harbor of New York by order of the President of the United States, May 16, 1855; which was referred to the Committee on Claims.

Mr. VOORHEES. I present a joint resolution of the General Assembly of the State of Indiana, and as it is brief I will ask the privilege of the Senate to have it read in full.

The Chief Clerk read as follows:

Concurrent resolution of the General Assembly of the State of Indiana.

Whereas the Kankakee River in the State of Indiana may be made a navigable stream through the counties of Lake, Newton, Porter, Jasper, La Porte, Starke, and Saint Joseph a distance of eighty miles from the town of Momence, in the State of Illinois; and

Whereas the channel of the said river can be straightened and deepened for an expenditure of $100,000: Therefore,

*Resolved by the senate, (the house concurring,)* That the Senators and Representatives of the State of Indiana now in the Congress of the United States are hereby requested to vote for an appropriation by the General Government of $100,000 to be applied in deepening, widening, and straightening, wherever necessary, the Kankakee River in the State of Indiana, and to use their best efforts to procure passage of the same.

*Resolved*, That the secretary of the senate be, and is hereby, instructed to furnish each member of Congress from this State a copy of the concurrent resolution of the General Assembly asking an appropriation of $100,000 by the General Government for the improvement of the Kankakee River, and the proceedings of the two houses thereon.

Mr. VOORHEES. I move that the resolution be printed and referred to the Committee on Commerce.

The motion was agreed to.

Mr. BROWN. I present the memorial of a large number of the most intelligent citizens of the city of Savannah, and the counties of Chatham and Bryan, State of Georgia, praying for an appropriation for the improvement of the inland channel through Romney marsh on the coast of Georgia, adopting the channel which would connect the city of Savannah by the boat line with Warsaw Island. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

Mr. HILL, of Georgia, presented a resolution of the city council of Savannah, Georgia, indorsing the establishment of a national maritime quarantine station on Black Beard Island, and favoring an appropriation for the erection of suitable buildings and complete equipment of the same at that place; which was referred to the Select Committee to investigate and report the best means of preventing the introduction and spread of Epidemic Diseases.

Mr. WALLACE presented resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, in favor of an appropriation of $40,000 for the erection of two ice-breakers in the Ohio River; which were referred to the Committee on Commerce.

### HEIRS OF COLORED SOLDIERS.

Mr. BRUCE. Mr. President, I present the petition of George C. Smith, A. I. Rhodes, and others, praying favorable action on House bill No. 5562, entitled "An act for the relief of the heirs of colored soldiers." The legislation relative to bounty and pensions of colored soldiers has been construed by the officers executing the laws so as to discriminate against such persons of this class who were slaves in April, 1861. To relieve claimants of the disabilities under which this legislation left them, the act of March 3, 1873, was passed, entitled "An act to place colored persons who enlisted in the Army on the same footing as other soldiers as to bounty and pensions."

This act was construed by the honorable Secretary of the Treasury, February 13, 1879, so as still to disallow claims of a certain class.

The bill now before the Senate committee proposes to construe the act of 1873 so as to remove all disabilities relative to the heirs of colored soldiers.

As explanatory of the grounds upon which this legislation is asked, I beg also to submit the following official communication of the Second Auditor of the Treasury:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
*Washington, D. C., January* 18, 1881.

SIR: In reply to your verbal inquiry of the 15th instant, as to the status of the heirs of colored soldiers under the act of March 3, 1873, I have to state:

First. In case of colored soldiers shown by record to have been free April 19, 1861, all bounty has been allowed just the same as in case of white soldiers.

Second. The additional bounty, act of July 28, 1866, and the bounty, act of July 4, 1864, have been allowed in case of colored soldiers, whether slave or free, in the same manner as in the case of white soldiers.

Third. Prior to the act of March 3, 1873, the bounties under act of July 22, 1861, and joint resolution of January 13, 1864, were not allowed in case of colored soldiers who were slaves April 19, 1861.

Fourth. The act of March 3, 1873, was construed by the accounting officers as applicable to discharged living soldiers, not to heirs; but after the decision of the Attorney-General of March 26, 1878, all bounty in case of colored soldiers, slave or free, living or deceased, was until February 13, 1879, allowed by this office in the same manner as in the case of white soldiers.

Fifth. Claims in case of heirs of deceased colored soldiers shown to be slaves April 19, 1861, which were filed and settled prior to the Attorney-General's decision of March 26, 1878, were, under this decision, until February 13, 1879, reopened and considered when such cases were properly referred to, either by the claimants or by their duly authorized attorneys.

Claims of this character filed and disallowed prior to March 26, 1878, were and are now considered under the Attorney-General's decision of said date, when such claims supported by proper evidence are referred to either by claimants or by their authorized attorneys.

Again, claims of this character filed prior to March 26, 1878, that have not been either settled or disallowed, but are now pending as original claims, are considered under the Attorney-General's decision of said date.

Sixth. All original claims in case of colored soldiers, (in behalf of whom or whose heirs no settlement has ever been made by this office,) whenever filed, are now considered, as far as bounty is concerned, on the same footing as claims in case of white soldiers.

Seventh. Therefore, the only claims in case of colored soldiers that are affected by the decision of the honorable Secretary of the Treasury of February 13, 1879, are the claims filed as additional to those that were settled subsequent to the act of March 3, 1873, for all due under laws and decisions then in force; and the additional claims are disallowed on the ground that according to the said decision of the honorable Secretary of the Treasury such cases should not be reopened.

Very respectfully,

O. FERRISS, *Auditor.*

Hon. B. K. BRUCE, *United States Senate.*

While I have the ear of the Chair I beg to call the attention of the Committee on Military Affairs to the importance of action in this matter. The persons to be benefited by this bill are a necessitous class, a class who have exhibited some patience while waiting for an adjustment of their claims.

I move that the petition with the accompanying communication be referred to the Committee on Military Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. SAUNDERS, from the Committee on Railroads, to whom was referred the bill (S. No. 2041) to authorize the construction of a bridge across the Missouri River at or near Omaha, in the State of Nebraska, and to establish the same as a post-road, reported it with amendments.

Mr. BOOTH, from the Committee on Patents, to whom was referred the petition of John L. Mason, of New York, asking for an extension of his patents for a screw-top glass jar known as the Mason fruit-jar, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. VOORHEES, from the Committee on the Library, to whom was referred the bill (H. R. No. 4451) to provide for the erection of a monument at Schuylerville, New York, commemorative of the battle of Saratoga, and for other purposes, reported it with an amendment.

CUSTOMS DISTRICT IN MAINE.

Mr. McMILLAN. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. No. 6451) to amend and re-enact sections 2517 and 2518 of the Revised Statutes, and changing the boundaries of a customs district in the State of Maine, to report it back without amendment, and with a recommendation that it pass.

Mr. HAMLIN. I am unable often to be present in the Senate. That bill simply changes the boundaries of the collection district in which I live. There is no objection in the world to it, and I ask the Senate to consider it now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HALL OF RECORDS.

Mr. VEST. I am directed by the Committee on Public Buildings and Grounds to propose an amendment to the bill (S. No. 1889) making appropriation for the purchase of ground and the erection thereon, in the city of Washington, of a building to be used as a hall of records, and to ask for the present consideration of the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $200,000 for the purchase of a site near the War Department, and erection thereon of a brick and metal fire-proof building, to be used for the safe-keeping of records of the Executive Departments not required in the present executive offices for constant reference, as recommended by the Secretary of War in his annual reports of 1879 and 1880.

Mr. VEST. The amendment which I have been directed to offer is to add to the bill:

Said building to be erected according to plans prepared by the Quartermaster-General and heretofore submitted, and under his supervision and direction.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. VEST. I am directed by the committee to make a brief statement of facts in order to call the attention of the Senate to the importance of the speedy passage of this bill. Day before yesterday a fire occurred in the old Navy Department building which imperiled the records of the Government, in regard to which I have a communication from the Quartermaster-General which I shall ask to be read, the loss of which would entail upon us endless and harassing litigation in the Departments. All the pension records, together with a vast amount of other records which could not be replaced under any state of the case, which would open the door to any amount of fraud, were imperiled by this fire, and this is the third time that this thing has happened within less than three years. Upon the occurrence of the fire preceding this the Committee on Public Buildings and Grounds took action and introduced this bill at the beginning of this session; it has lain here ever since without any action, and the committee are unwilling to assume any further responsibility, but choose to place this matter before the Senate. I ask that the communication from the Quartermaster-General be now read. It states the facts in regard to the necessity for the passage of the bill.

The Chief Clerk read as follows:

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
*Washington, D. C., February* 8, 1881.

DEAR SIR: I learned just now from Mr. Crosby, chief clerk of the War Department, that there was a fire to-day in that part of the War Office located in the old Navy Department building; usual cause, timber about fireplace charred, finally took fire. It was happily extinguished without much damage.

This led to his speaking of the records of discontinued commands, a part of the Adjutant-General's records, which fill a building eighty feet by over twenty feet and five stories high, all of which, like the records of the Quartermaster's Department, would go off in a flash if once fairly on fire.

This is the third fire remembered in the War Department.

I hope this Congress will give appropriation for a fire-proof hall of records.

The danger to records of this office is a constant anxiety to me. These and those of the Adjutant-General are essential to doing justice to soldiers seeking payment of money or pensions due them under the laws of Congress, and to protecting the United States against claims of many sorts growing out of the history and operations of the Army.

If the bill, Senate No. 1889, Forty-sixth Congress, third session, providing for hall of records cannot be got up, perhaps it can be passed as an amendment to the sundry civil bill. It is purely a United States executive matter, not for the District of Columbia.

The appropriation has had the recommendation of the Secretary of War and of the President repeatedly.

I am, very respectfully, your obedient servant,

M. C. MEIGS,
*Quartermaster-General, Bvt. Maj. Gen'l, U. S. A.*

Hon. JUSTIN S. MORRILL, *United States Senate.*

The VICE-PRESIDENT. The question is on the amendment reported from the Committee on Public Buildings and Grounds by the Senator from Missouri.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. COCKRELL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2170) granting a pension to Emma A. Porch; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WINDOM asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2172) regulating the pension of William Blaisdell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PENDLETON asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 155) to exempt certain wild animals from duty when imported by zoological societies; which was read twice by its title, and referred to the Committee on Finance.

EXAMINATION OF PENSION CLAIMS.

Mr. BLAIR asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2171) providing for the temporary increase of facilities for the examination and adjudication of pension claims; which was read twice by its title.

Mr. BLAIR. I ask that the bill be printed and lie on the table. I wish to say in this connection that it now having become quite apparent that there is not likely to be any legislation for the relief of applicants for pensions by way of attachment to the general appropriation bills, I think that those who realize fully the extent of the evils that grow out of the delays in affording facilities for the proper prosecution of pension claims ought to antagonize appropriation bills and any other legislation whatever until an enactment can be secured from the present Congress to relieve the distress that exists in the

land from this cause. I give notice that if Senate bill No. 496, in charge of the chairman of the Committee on Pensions, can be called to the attention of the Senate, I shall move to substitute the provisions of this bill as an amendment to the same; and if the matter cannot be reached in that way I trust the Senate will be disposed to hold night sessions if necessary in order that this subject may receive proper attention. It was well suggested a few days ago by the honorable Senator from Massachusetts [Mr. HOAR] that neglect to legislate on this subject would of itself be one of the strongest possible reasons for the holding of an extra session of the incoming Congress. I certainly think so myself. The amount of distress and suffering and wrong to be inflicted upon the worthiest class of supporters of the Government by our cruel negligence to relieve them is already sufficiently apparent from the debates which have taken place in this body, and it cannot be exaggerated. If I may do so without an intrusion upon individual members of the Senate, I ask that when this bill is printed Senators will be so kind as to examine its provisions, and I think it will be found to obviate very many of the difficulties which have been developed in the course of the debate as existing in the minds of Senators.

The VICE-PRESIDENT. The bill will be printed and lie on the table subject to the call of the Senator from New Hampshire.

### V. S. M. CHAPMAN.

Mr. CAMERON, of Wisconsin. A short time ago I reported adversely from the Committee on Claims the bill (S. No. 1158) for the relief of V. S. M. Chapman, and it was indefinitely postponed. The junior Senator from North Carolina [Mr. VANCE] desires that the vote by which the bill was indefinitely postponed be reconsidered and the bill placed upon the Calendar.

The VICE-PRESIDENT. It will be so ordered if there be no objection. The Chair hears none, and the bill will be placed upon the Calendar with the adverse report of the committee.

### DISTRICT MUNICIPAL CODE.

Mr. WITHERS. If the morning business proper has been completed, I ask, in pursuance of the notice given yesterday, that unanimous consent be given that we proceed to the consideration of the pension bills upon the Calendar which have been favorably reported, in order that the Calendar may be relieved of those cases.

The VICE-PRESIDENT. The Chair will first inquire, Is there further business for the morning hour? The Chair will recognize the Senator from Virginia when the morning business is concluded.

Mr. HARRIS. I call up the resolution that I reported from the Committee on the District of Columbia, some days since, providing for night sessions. I ask for a vote upon it this morning.

The VICE-PRESIDENT. The Senator from Tennessee calls for the consideration, in the morning hour, of the resolution standing upon the Calendar reported by him. The resolution will be read.

The Chief Clerk read the resolution submitted by Mr. HARRIS February 8, as amended, as follows:

*Resolved*, That on and after Wednesday the 9th of February, 1881, the Senate will take a recess at —— o'clock p. m., and meet at seven and a half o'clock p. m., for the purpose of considering House bill No. 5541, entitled "An act to establish a municipal code for the District of Columbia," and will continue so to meet each day until the same shall have been finally acted upon by the Senate.

Mr. WHYTE. The day named in the resolution having passed, I move to insert in lieu of the date named "Monday, the 14th of February;" so as to read "that on and after Monday, the 14th of February, 1881," &c.

Mr. HARRIS. I have no objection so far as I am personally concerned to the amendment of the Senator from Maryland. The resolution was reported by me from the Committee on the District of Columbia, and I do not know that I have the right to accept the amendment, but I have no objection to it.

Mr. KIRKWOOD. I have a word to say in regard to the bill which is the subject of the resolution. I would be very glad to have the people of this District have their code, but they have the law already substantially I suppose as it will be codified if this bill should pass, and can get along for twelve months longer perhaps without much inconvenience. There is a bill on the Calendar from a special committee in regard to contagious diseases of cattle that in my judgment is second in importance to no bill, not even the funding bill, pending before this body, and I will not consent for one that the District code bill shall take its place in our order of business that may possibly defeat the consideration of the bill to prevent the spread of contagious diseases among cattle. Your funding bill will not amount to much, perhaps, at least not as much as it ought to, if those diseases spread beyond the Alleghany Mountains; and we are derelict in our duty, I think, if we do not do something to prevent so great a public misfortune. As a matter of interest to the public, this code has no comparative importance at all, and I hope the Senator from Virginia [Mr. JOHNSTON] who has charge of the other bill to which I have referred will insist upon it with me that nothing shall be done that may possibly defeat the consideration of the bill to which I have alluded.

Mr. JOHNSTON. I agree with the Senator from Iowa as to the importance of the bill he has mentioned. I should have called it up before this time but for the fact that appropriation bills have occupied the attention of the Senate and I did not desire to antagonize them; but I shall antagonize any other bills except appropriation bills. Whenever the Post-Office appropriation bill is concluded, I shall ask the Senate to take up and consider the bill referred to by the Senator from Iowa, and I shall antagonize it to any other bill. I do not consider any bill before this Senate or before the House more important than that, and therefore I shall call it up whenever the pending appropriation bill is through.

Mr. BAYARD. I offered an amendment at the time the resolution was under discussion last to substitute the bill (H. R. No. 4592) to facilitate the refunding of the national debt. That amendment I believe is before the Senate.

I desire also to say that I think it would not be wise on the part of the Senate to attempt to consider even the funding bill in night sessions. It is a bill that demands very thoughtful consideration on the part of each Senator before he shall cast his vote upon it. I think it would be impracticable, experience has proven it to be impracticable, to keep a quorum of the Senate in night sessions after Senators have been engaged all day in committee and in legislative business. For that reason I should not, if I had control of the funding bill, desire it to be brought up irregularly and at night sessions; but if the time of the Senate between now and the 4th of March is to be occupied by night sessions, then I feel it my duty to press the consideration of the funding bill upon the attention of the Senate to the exclusion of every other bill except those for the essential appropriations to carry on the Government.

I therefore hope that the amendment which I have offered to substitute the funding bill instead of the bill reported from the Committee on the District of Columbia and suggested by the Senator from Tennessee will prevail, and I hope then the Senate will not attempt to hold night sessions at this time.

Mr. CONKLING. Impressed by the importance of the bill referred to by the Senator from Iowa [Mr. KIRKWOOD] and glad as I should be to join him in advancing that bill, I rise more especially to say a word about the bill touching the District of Columbia. The Senate will remember that the senior Senator from Ohio, [Mr. THURMAN,] not now in his place, only a day or two ago indicated his interest in the District bill and the fact that he had given attention to it. I call attention to this more especially to address it to the Senator from Tennessee, thinking perhaps that he might be willing to consider this resolution when the Senator from Ohio is here, as he happens now to be absent. For myself, I hope this District bill will not be considered in a night session. I agree with the Senator from Delaware [Mr. BAYARD] in the well-nigh impossibility of inducing a quorum of Senators to remain here for any business in the evening after beginning, as most of them do, at ten or eleven o'clock with committees and having been engaged all day. The funding bill, however, will no doubt command a general, if not full, attendance of the Senate. If the District of Columbia bill commands the attendance of a quorum, it will be only because a quorum is kept for formal purposes; it will never command the attention of a majority of the Senate at evening sessions.

Inasmuch as we have been told that nearly all the provisions of the bill are operative now by virtue of ordinances, regulations, and otherwise, it cannot be said that there is any very great urgency in respect of it; and I submit for that reason that the Senator from Tennessee ought not to press this resolution. What harm can come if the bill relating to the code goes over until another session? This is the short session; it has a positive and certain termination; and there are a great many things of importance to be done. If this code is to be passed, it has to go through haphazard and in a lump, whether it be by day or by night, and certainly so if it is to be done at night sessions where nothing else is to be considered and where every Senator unless he has some special interest in this, knowing that nothing else is to be acted upon, will feel or think he feels at liberty to attend to some one of the other many pressing things which make demands upon all hours now.

Therefore, although I am very sorry to vote against the Senator from Tennessee and will always vote for his convenience or the convenience of his committee in considering business, I cannot vote to select this local bill and deposit that in evening sessions to take the chance which I know there awaits it. I say to the Senator from Tennessee, no matter how meritorious it is, let it go over, if need be, to a long session and let it be taken up before the crowded hours of that session are reached and let us give to it some part of the attention which I think the District deserves and so little of which I think it receives. I do not mean that the Committee on the District of Columbia do not give such attention, but I speak of myself and other Senators at large when I say that we do not give to the interests of this District the attention which I believe they demand.

Now I wish the Senator from Tennessee would let this resolution lie over until the Senator from Ohio comes in, and even then I shall join with others in urging him not to put this District code into evening sessions but give it at least the opportunity that it may have by day.

Mr. HARRIS. Mr. President, there are at least two reasons why it is very important, if it be convenient to the Senate, to consider and dispose of this bill at an early day. Unless it can be disposed of in the Senate at a very early day it cannot be enrolled, the bill being three hundred and thirty-odd pages. It has cost months of hard labor in the other end of the Capitol as well as some months of labor in this end to perfect it so far as it has been perfected, and while all

that may be thrown aside and the District wait a year longer for the codification of its municipal laws, there is yet a more important reason. Our laws as they now exist for the collection of the revenues of the District are very defective, and one of the results of that condition of the law is found in the fact that there is nearly a million of dollars of taxes in arrear. We need remedies that the law does not now furnish for the collection of the District revenue, and it is important that they should be furnished at as early a day as in the convenience of the two Houses of Congress it can be furnished, and all that I ask, Mr. President, is that the Senate shall determine by its vote as to whether it will consider or will not consider this bill and direct as to the importance or relative importance of the various measures that are pending, and proceed to the consideration of something without wasting further time in debating what we shall consider.

Mr. BAYARD. I move that the further consideration of this resolution be postponed until Monday next.

The VICE-PRESIDENT. The Senator from Delaware moves that the further consideration of this resolution be postponed until Monday next.

The motion was agreed to.

HOUR OF DAILY MEETING.

Mr. INGALLS. I move the adoption of the following order:

*Ordered*, That on and after Monday next the daily hour of meeting shall be eleven o'clock a. m.

Mr. EDMUNDS. Let that go over.

The VICE-PRESIDENT. The resolution will go over under the rule.

DEBATE ON MOTIONS TO TAKE UP.

Mr. MORGAN. I offer the following resolution, and ask for its immediate consideration:

*Resolved*, That on a motion to take up a bill or resolution for consideration at the present or at a future time debate shall be limited to fifteen minutes, and no Senator shall speak to such motion oftener than once, or for a longer time than five minutes.

Mr. INGALLS. Let that go over.

The VICE-PRESIDENT. The resolution will go over under the rule.

AMENDMENT TO POST-ROUTE BILL.

Mr. HILL, of Georgia, submitted an amendment intended to be proposed by him to the bill (H. R. No. 7036) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

PENSION BILLS.

Mr. WITHERS. The morning business being over, I move that the Senate now proceed to the consideration of pension bills on the Calendar with favorable reports.

The VICE-PRESIDENT. The Senator from Virginia asks the Senate to consider at this time pension bills upon the Calendar favorably reported from the Committee on Pensions.

Mr. WHYTE. I hope the Senator from Virginia will not limit it to favorable reports.

Mr. HILL, of Colorado. I demand the regular order.

The VICE-PRESIDENT. The regular order is the consideration of the Calendar of General Orders under the special order of the day.

Mr. WITHERS. I renew my motion, then, that the regular order be postponed until to-morrow morning for the purpose of proceeding at once to the consideration of bills on the Calendar with favorable reports from the Committee on Pensions.

The VICE-PRESIDENT. The Senator from Virginia moves to postpone the pending order, being the consideration of the Calendar of General Orders.

The motion to postpone was agreed to.

The VICE-PRESIDENT. The Senator from Virginia now moves that the Senate proceed to the consideration of the calendar of pension bills reported favorably.

Mr. WHYTE. I move to strike out the words "reported favorably," and let the motion apply to all pension cases as reported from the committeee, whether adversely or favorably. There are only a few adverse reports, and they might as well be disposed of.

Mr. WITHERS. There are about twenty of them, and any one of them will give rise to debate that will consume the whole morning hour.

Mr. EDMUNDS. Let the Senator from Virginia move to take up the first pension bill, and when that is disposed of the second, and so on. He need not have any order made about it.

Mr. WITHERS. Very well; I withdraw my motion.

The VICE-PRESIDENT. The motion is withdrawn.

ANGUS M'AULEY.

Mr. WITHERS. Now, following the suggestion of the Senator from Vermont, I move that the Senate proceed to the consideration of Senate bill No. 1432.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1432) granting a pension to Angus McAuley. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Angus McAuley, of Suwannee County, Florida, a soldier of the war of 1812, and to pay him his pension from the time when he was dropped from the rolls.

The bill was reported from the Committee on Pensions with amendments.

The first amendment of the Committee on Pensions was, in line 4, to strike out "place on" and insert "restore to;" so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll, &c.

The amendment was agreed to.

The next amendment was, in line 7, before "war," to insert "Creek Indian," and after "war," in the same line, to strike out "eighteen hundred and twelve, and pay him his pension from the time when he was dropped from the rolls" and insert "and pay him a pension from and after the passage of this act;" so as to make the clause read:

The name of Angus McAuley, of Suwannee County, Florida, a soldier of the Creek Indian war, and pay him a pension from and after the passage of this act.

Mr. CALL. I hope the Senate will not concur in that amendment of the committee. The facts of the case are these: This man was a pensioner on the roll at the time of the commencement of the late civil war; he was disabled by age and disease and by wounds incurred in the service. He was never in any wise whatever disloyal or concerned in the war or connected with it in any shape or form. I submit to the Senate that there is nothing in the laws of the United States which deprive a pensioner, loyal to the Government throughout the whole war, of his right to a pension. By reason of his residence within the confederate lines during the war he was disabled from drawing his pension and was stricken from the roll. There is not a particle of evidence that he comes within any of the provisions of the statute of the United States which prescribes disloyalty as the condition of forfeiting a pension.

For these reasons I ask of the Senate that they shall not concur in the amendment proposed by the committee.

Mr. WITHERS. I wish to state briefly in reply that the amendment of the committee was incorporated into the bill because of the provisions of the act of 1878 or 1879—1878, I believe—when pensioners who had been thus dropped were restored to the rolls, and the act which restores them to the rolls contains a provision that they should receive pension only from the date of the restoration. The committee put this case on the footing of all other cases where pensioners are restored to the rolls by the operation of that law.

Mr. INGALLS. Let the report be read in this case.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The report will be read.

The Chief Clerk read the following report, submitted by Mr. INGALLS April 30, 1880:

The Committee on Pensions submit the following report:

Angus McAuley was a soldier in the Seminole and Creek Indian war, and was pensioned at $2 per month from February 7, 1859. He was dropped from the rolls by reason of his residence within the limits of the insurrectionary States. He asks that he may be restored, and files evidence that he did not perform military service in the confederate army. The committee recommend the passage of the bill with the following amendments: In line 4 strike out the words "place on" and insert "restore to;" in line 7, before "war," insert the words "Creek Indian;" strike out all after the word "war," in line 7, and insert "and pay him a pension from and after the passage of this act."

Mr. INGALLS. Mr. President, although I am not now a member of the Committee on Pensions, as I made the report that has just been read, the case having been referred to me as a sub-committee, I will briefly state the grounds upon which the committee acted.

Mr. McAuley was a soldier of the war of 1812 who was dropped from the roll under the provisions of the statute by reason of his residence within the insurrectionary States. He could have obtained a restoration to the roll by applying to the Commissioner of Pensions, if he had seen fit to do so and could take the oath required by law that he had not while he was so dropped engaged in the rebellion or actively sympathized therewith. He refused to take that oath; he refused to make the application to the bureau for reasons that were satisfactory, I have no doubt, to himself; but having failed to apply to the officer of the Government who under the law had the right to restore him, the committee felt, and I still feel, that if he applies to Congress for relief he should only obtain such relief as is awarded to all those who are within the class to which he belongs. If he wants arrears, or desires to be paid during the period for which he was dropped, the law points out how he can obtain that. If he does not see fit to avail himself of that but comes to Congress for relief, the relief that we grant should be from the passage of the act, the same as all others are treated.

Upon those grounds I hope that the Senate will sustain the report of the committee, and allow this man a pension only from the time when the bill passes.

Mr. CONKLING. Before the Senator from Kansas sits down, I wish to ask him a question if he will allow me. What is there in this case to distinguish it from other cases of like kind?

Mr. INGALLS. Nothing that I know of.

Mr. CONKLING. Am I to infer, then, that if all the pensioners who because of taking part in the rebellion were dropped from the rolls, come to Congress asking restoration, within the precedent of this case, they should be restored?

Mr. INGALLS. I can see no reason why, if all those who were

dropped come to Congress for relief if this act passes, they cannot treat it as a precedent under which they would be entitled to claim arrears during the period for which they were dropped under the operation of the statute.

Mr. CONKLING. Mr. President, that makes this bill rather a large one, and this report for so brief a one comes to mean a great deal.

Mr. WITHERS. There is a provision of law which passed here three or four years ago which restores to the roll those who had been dropped.

Mr. INGALLS. But this man declined to bring himself within the provisions of that statute; he preferred to come to Congress for relief.

Mr. CALL. The Senator from Kansas will pardon me for saying that the proper expression would be that he omitted to do so. He did not decline. There is no evidence that he declined or refused to do it. He simply failed or omitted to do it, either by negligence or otherwise. While I am on the floor I will say to the Senator from New York that the evidence in this case clearly established the fact that this man was a loyal man.

Mr. CONKLING. Mr. President, I would like in the briefest time to understand and to have other Senators understand this bill. I am disposed to think that I ascribe some unreal importance to it, and I beg the Senator from Kansas to correct my impression if I do.

Under the acts of Congress, in a word, not following the language, those who participated in the rebellion fell from the pension-rolls. They did so because of an act which described residents of insurrectionary States; but there was a saving provision in that act; namely those who dissented from the movement which had ingulfed those States, upon saying so on oath, regained or retained their place on the pension-rolls. This pensioner having thus been dropped omitted or refused to do so; I make no contest with the honorable Senator from Florida between these words; I do not conceive them to be at all important. Upon coming into the Senate after my credentials have been presented, I may take the oath of office and become a Senator; and if I do not do so, the distinction between that omission and a refusal to do so becomes somewhat shadowy. This pensioner either omitted knowingly—because the law imputes knowledge to every man, and it is one of the maxims of the law that no man is excused because of ignorance of the law—or refused to do the required thing. What was that? To say on his oath that he did not actively participate in or sympathize with the rebellion. Such being the state of case, it is proposed by this bill to import back into the list of pensioners the name of this former pensioner; and the honorable Senator from Kansas with entire candor says that he does not see after this act shall be adopted why it will not as a precedent open the door and establish the right in so far as the action of Congress can establish it in the instance of every man like this man dropped from the pension-rolls, in a word, because he took part against the Government in the recent civil war.

Mr. President, if it is designed to say that all those who thus lost their footing as pensioners are to be put back; that their sins, if sins they were, though they were as scarlet, are to be made white as wool in this regard, I humbly submit that it would be more orderly, more decorous to do it by some general declaration adequate in its terms in this respect, and professing on its face the great measure of, what I trust without offense I may call, magnanimity which it would carry with it, than to take an isolated case in a bill of a half-dozen lines supported by a report of eight or ten lines half of which relates to verbal amendments, and allow from so small an acorn as this so large and spreading an oak to grow.

I do not mean at this time to express, if I have one, an opinion on the propriety and expediency of such a change of the pension laws. The point I speak to is more especially one of method, and I submit to Senators on the one side or on the other who may favor a change of the pension laws that it should be done openly; it should be done expressly; it should be done so that all may see it; and it should not be done by the Senate putting its finger between the belt and the wheel in a single case in order that it may be drawn in entirely in progress of time, there being no particular act and no particular day to which attention can be turned when this somewhat radical revolution of policy is to be effected.

Mr. President, are we proceeding under an order of business according to which an objection carries over a bill?

The PRESIDING OFFICER (Mr. HOAR in the chair.) The Chair understands from the Chief Clerk that the Calendar has been postponed until to-morrow, and that the present bill was taken up under a vote adopted by the Senate to proceed to its consideration. The Chair supposes, therefore, that it is not liable to objection.

Mr. CONKLING. Then I venture to suggest to the Senator from Virginia, having as I believe charge of this bill, whether it might not be convenient and well to allow it to be passed over in order that the other bills to which no objection will be made may go through, and in order that Senators on either side may form and if they choose express an opinion as to the expediency of this legislation.

Mr. WITHERS. I have no objection individually to the case being passed over; I am merely the representative of the Committee on Pensions. The bill was passed over once before when called up, on the motion of the Senator from Florida, who feels a special interest in it, and who is now opposing the amendment of the committee. I suppose it will be entirely agreeable to him if it be passed over to-day.

Mr. CALL. I have no desire that this bill shall obstruct action on the other pension bills. I scarcely think the honorable Senator from New York will persist in his opposition to this particular case when he finds that it rests upon peculiar ground. This is a case of a man who, by the evidence, has committed no offense. It is not the case of a man who sympathized with the southern or confederate side; it is a man who was loyal to the Government of the United States, and who was so known throughout the country; that was his reputation—an old man unable to render any service, diseased through the whole war, deaf and crippled, and always a Union man, though a resident of the Southern States at the time.

If we admit that by virtue of some supposed conscientious scruple as to swearing, which I do not know to be the case, he declined to swear that he never had any sympathy with those engaged in the confederate cause; if through ignorance of the true import of the oath or the meaning that was attached to it, he omitted or failed or even refused to take the oath, I ask the honorable Senator from New York if it is within the terms of this statute which prescribes disloyalty as the condition of being stricken from the pension-rolls, what reason, I would ask the honorable Senator who has expressed so forcibly his own views on the subject, would there be for depriving a strictly loyal man opposing in opinion the action of his own people and disabled by reason of wounds and disease from moving out of that country, from receiving this little pittance which he was entitled to under the absolute terms of the laws as they now stand and have ever stood? I have no objection to the bill standing over, but I still hope to receive the aid of the Senator from New York, because this applicant has a right, I think, to consideration from him and the other side of this House.

Mr. WITHERS. I move that the bill be passed over without prejudice in order that we may proceed to the consideration of other cases.

The PRESIDING OFFICER. The Senator from Virginia moves that the further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

### WILLIAM HAMILL.

Mr. WITHERS. I now move to proceed to the consideration of House bill No. 3788.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3788) granting an increase of pension to William Hamill. It authorizes the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William Hamill, late sergeant Company E, One hundred and seventeenth Regiment Illinois Volunteers, at the rate of $18 per month.

Mr. INGALLS. The title of that bill would indicate that Hamill was already on the roll; and if that is the case, unless there is some amendment to the bill providing that this pension shall be in lieu of the pension now received by him, he will be entitled to a duplicate pension; I call the attention of the Senator from Georgia [Mr. BROWN] to that fact in order that the matter may be cleared up to the satisfaction of the Senate.

Mr. WITHERS. The report had better be read.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report, submitted by Mr. BROWN January 7, 1881:

The Committee on Pensions, to whom was referred the bill (H. R. No. 3788) granting a pension to William Hamill, have examined the same, and report that the evidence satisfies the committee that the applicant received a gunshot wound in his elbow, in battle, that made his arm stiff and caused it to wither, and renders his disability equivalent to the loss of his arm, and therefore the committee recommend the passage of the bill.

Mr. COCKRELL. I hold in my hand the House report in this case, which states that this claimant—

was pensioned from January 25, 1865, at $5 per month. This rate was increased to $8 per month from July 18, 1866, and again to $14 from April 2, 1873, and reduced to $10 per month in 1875, on account of the construction of the law hereinafter referred to, by the Pension Office; and the application of the claim for increase of his pension to $18 per month was rejected, because the Commissioner of Pensions holds that, notwithstanding the claimant's disability "is permanent, it is not permanent and specific," and the Commissioner says "a specific disability is one which is specifically described in the law, such as the loss of hands or feet," &c.

Mr. INGALLS. Then the title of the bill is evidently right, and I move to amend——

Mr. COCKRELL. It is to increase the pension.

Mr. INGALLS. I move to amend by adding to the bill the words "which pension shall be in lieu of that now received by him," in order that he may not be twice placed on the roll.

Mr. COCKRELL. The bill says—

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William Hamill, late sergeant Company E, One hundred and seventeenth Regiment Illinois Volunteers, at the rate of $18 per month, from and after the passage of this act.

"In lieu of the pension he is now receiving," it is proposed to add.

Mr. WITHERS. The increase will only date from the passage of the act.

The PRESIDING OFFICER. Does the Senator from Kansas move the amendment he has indicated?

Mr. INGALLS. I do move it.

Mr. WITHERS. I would suggest to the Senator from Kansas that the effect of the amendment will be to send the bill back to the House; and as practically the same result is reached, in my judg-

ment, by the present phraseology of the bill, I hope he will withdraw the amendment.

Mr. INGALLS. The effect of the bill as it now stands without the amendment will be to place him again on the roll. He is there already at $10 a month. This bill provides that Mr. Hamill shall be placed on the rolls at $18 a month, and the construction of these statutes by the Commissioner of Pensions is that they take precedence of assignments under the general law. The amendment plainly ought to be made.

Mr. WITHERS. If the Senator insists on it, I shall not object.

Mr. INGALLS. I certainly will not insist on the amendment as against the wish of the chairman of the committee. If he thinks the bill is sufficient, I will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. COCKRELL. Do I understand the Senator from Kansas to say that under this bill this pensioner will be placed again upon the pension-roll and receive his $18 and his $10 too that he is already receiving?

Mr. INGALLS. That is my understanding of it.

Mr. COCKRELL. If that is the law, I shall move the amendment.

Mr. INGALLS. But the Senator from Virginia does not agree with me.

The PRESIDING OFFICER. Does the Chair understand the Senator from Missouri to move an amendment?

Mr. COCKRELL. I renew the amendment of the Senator from Kansas.

The CHIEF CLERK. The amendment is at the end of the bill to add "which pension shall be in lieu of that now received by him."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DALTON HINCHMAN.

Mr. WITHERS. The next case is House bill No. 1628. I move that it be taken up.

The motion was agreed to; and the bill (H. R. No. 1628) granting a pension to Dalton Hinchman was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Dalton Hinchman, late a private in Company G, Second Michigan Cavalry.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WILLIAM HAZELIT.

Mr. WITHERS. The next is Senate bill No. 2030. I move to take it up.

The motion was agreed to; and the bill (S. No. 2030) granting a pension to William Hazelit was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of William Hazelit, late a private in Company A, Twelfth Regiment Kansas Volunteers.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ELIZABETH UPRIGHT.

Mr. WITHERS. The next is House bill No. 1107. I move to take it up.

The motion was agreed to; and the bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mrs. Elizabeth Upright, of Rockford, Iowa, who sent eleven sons into the Union Army, and to pay her a pension at the rate per month now allowed to parents for the loss of children upon whom such parents were dependent.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN PATTERSON.

Mr. WITHERS. The next bill I wish taken up is Senate bill No. 1892. I move that it be considered.

The motion was agreed to; and the bill (S. No. 1892) granting a pension to John Patterson was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of John Patterson, late a corporal in Company B, Third Regiment Ohio Volunteer Infantry in the war with Mexico.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MARTHA NEIL.

Mr. WITHERS. The next is House bill No. 2548. I move to take it up.

The motion was agreed to; and the bill (H. R. No. 2548) granting a pension to Martha Neil was considered as in Committee of the Whole. It provides for placing the name of Martha Neil, mother of James Neil, deceased, late a private of Company E, of the One hundred and fourteenth Regiment of Pennsylvania Infantry Volunteers, on the pension-roll.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JACOB GINDER.

Mr. WITHERS. I move to take up House bill No. 3098.

The motion was agreed to; and the bill (H. R. No. 3098) granting a pension to Jacob Ginder was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Jacob Ginder, father of David H. Ginder, deceased, late a captain, Company I, Eighty-first Regiment Pennsylvania Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HULDA L. BARNARD.

Mr. WITHERS. I move to take up House bill No. 192.

The motion was agreed to; and the bill (H. R. No. 192) granting a pension to Hulda L. Barnard was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Hulda L. Barnard, widow of Henry B. Barnard, late captain of Company K, Second New York Mounted Rifles, and for paying her a pension from January 10, 1877, at the rate received by her husband in his life-time.

Mr. INGALLS. I see that bill proposes to grant arrears for four years.

The PRESIDING OFFICER, (Mr. DAWES in the chair.) There is an amendment proposed by the committee which has not been read.

Mr. INGALLS. I beg pardon.

The amendment of the Committee on Pensions was, in line 10, to strike out the words "in his life-time" and insert "at the time of his death."

The amendment was agreed to.

Mr. PLATT. Does the amendment which has been adopted make the pension commence from the passage of the act?

The PRESIDING OFFICER. The bill will be read as amended.

The CHIEF CLERK. The bill, as amended, reads:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hulda L. Barnard, widow of Henry B. Barnard, late captain of Company K, Second New York Mounted Rifles, and pay her a pension from January 10, 1877, at the rate received by her husband, Captain Henry B. Barnard, at the time of his death.

Mr. PLATT. That leaves the bill open to the same objection.

Mr. INGALLS. The amendment does not relieve the objection.

Mr. WITHERS. I move to amend by striking out that portion which fixes the pension to commence at the date of the death of the party and substituting "from and after the passage of this act."

The amendment was agreed to.

Mr. KERNAN. As I understand, the committee reported the bill giving her a pension from January, 1877.

Mr. WITHERS. That was the House report, but the Senate committee altered the phraseology.

Mr. KERNAN. Is there not a reason for the bill as fixed by the House?

Mr. WITHERS. None whatever that will override the uniform rule of action of the Senate Committee on Pensions who report arrears of pension on special acts.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

JOHN AMMAHOE.

Mr. WITHERS. I move to take up Senate bill No. 1826.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1826) granting a pension to Mohammed Kahn, otherwise John Ammahoe. It provides for placing on the pension-roll the name of Mohammed Kahn, otherwise John Ammahoe, late private in Company E, Forty-third Regiment New York Volunteers, his pension to date from his discharge from the service.

The bill was reported from the Committee on Pensions with an amendment, after the word "volunteers," in line 7, to strike out the words "his pension to date from his discharge from said service, and on account of disability incurred in said service."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

POST-OFFICE APPROPRIATION BILL.

Mr. WALLACE. Mr. President, the time has arrived for taking up the Post-Office appropriation bill. I ask that it be laid before the Senate.

The PRESIDING OFFICER. The morning hour has expired.

Mr. EDMUNDS. I hope the Senator from Pennsylvania will allow the Senator from Virginia to proceed with the pension bills.

Mr. WALLACE. Let the appropriation bill be taken up and then laid aside informally.

Mr. EDMUNDS. That is a mere form.

Mr. WALLACE. I want the bill laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business of yesterday, which is the bill (H. R. No. 6972)

making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes.

Mr. WITHERS. Now I hope the Senator from Pennsylvania will yield to me.

Mr. WALLACE. I yield informally.

The PRESIDING OFFICER. It is asked that the appropriation bill be laid aside for the consideration of pension bills. Is there objection? The Chair hears none.

ROSALIE LOUIS.

Mr. WITHERS. I move that the Senate proceed to the consideration of House bill No. 4887.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4887) granting a pension to Rosalie Louis. It proposes to place on the pension-roll the name of Rosalie Louis, widow of Peter Louis, late of Company B, First United States Sharpshooters.

The bill was reported from the Committee on Pensions with an amendment, after the word "sharpshooters," in line 7, to strike out:

Said pension to commence from the date of the death of the soldier, April 21, 1876, and to be for the same sum per month as was received by the deceased soldier at the time of his death.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

JAMES FORSYTH HARRISON.

Mr. WITHERS. I move to take up House bill No. 3487.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3487) granting a pension to James Forsyth Harrison.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RICHARD P. TAYLOR.

Mr. WITHERS. I move to take up House bill No. 799.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 799) granting a pension to Richard P. Taylor. It proposes to place on the pension-roll the name of Richard P. Taylor, late a private Company E, Thirty-fifth Illinois Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS H. CANFIELD.

Mr. WITHERS. I move next to take up Senate bill No. 1885.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1885) granting a pension to Thomas H. Canfield. It proposes to place on the pension-roll the name of Thomas H. Canfield, father of Thomas S. Canfield, late corporal of Company C, Thirtieth Regiment of Iowa Volunteer Infantry.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ALBERT L. JACK.

Mr. WITHERS. I move to take up House bill No. 2123.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2123) granting a pension to Albert L. Jack. It provides for placing on the pension-roll the name of Albert N. Jack, late a private in Company B, Eleventh Indiana Cavalry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The Committee on Pensions propose to amend the title so as to read: "A bill granting a pension to Albert N. Jack."

The amendment was agreed to.

ROBERT S. GOODALL.

Mr. WITHERS. I move next to take up House bill No. 624.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 624) granting a pension to Robert S. Goodall. It proposes to place the name of Robert S. Goodall, late first-class pilot in the United States Navy, in the Mississippi squadron, on the pension-roll, at a rate proportionate to his disability, to be fixed at the Pension Office; the pension to commence at the date of the discharge of Goodall from the service of the United States.

The bill was reported by the Committee on Pensions with an amendment, after the word "pension-rolls," in line 6, to strike out "at a rate proportionate to his disability, to be fixed at the Pension Office; said pension to commence at the date of the discharge of said Goodall from the service of the United States" and to insert in lieu thereof "subject to the provisions and limitations of the pension laws."

Mr. BECK. I hope the committee will not insist on amending the bill as they have reported to do. I have their report in my hand, which shows absolutely that the man is entirely disabled and that the report made by the assistant surgeon as to the cause of his illness was done through malice. It is clearly shown to have been malicious. Goodall was a good officer, and I think the House bill gives the relief he is entitled to. I ask the Senator from Maryland, [Mr. GROOME,] whose report I have in my hand, whether such is not the case. I do not want to take time.

Mr. WITHERS. I wish simply to state that while the weight of evidence is clearly in the direction indicated by the Senator from Kentucky, there are certain depositions in the case which leave it questionable, and the committee did not think it proper to grant him arrears.

Mr. GROOME. I would say a word in reply to the question of the Senator from Kentucky. I agree as a rule with the committee that it is unsafe to give arrears by special act, inasmuch as many of these cases are cases which depend upon equitable principles and in which the Commissioner has clearly decided right under the law, and it is hard for the committee to draw a distinct line between the cases in which pensions are given by special act for the reason that the Commissioner has clearly erred in the opinion of the committee, and cases in which the right is doubtful. I have no hesitation whatever in saying after examining carefully this case in committee, that if there is any case whatever in which a pension to date back ought to be granted by special act, it is this case. I feel that the facts in this case plainly indicate that this particular pensioner lost the obtainment of his pension at the Pension Office because of the malignity of one of the officers of the Government upon the vessel of which he was an officer.

The facts as found by the House committee and as also found by the Senate committee show that the assistant surgeon upon this vessel was the personal enemy of this man, and it is testified by a number of officers upon the vessel and by the privates on the vessel that he made a false entry upon the log or journal of the vessel, that this man was attacked with pneumonia as the result of the excessive use of alcoholic spirits, when the truth was that he was a sober, faithful, useful, and efficient officer, and the charge was utterly untrue and utterly malicious. But for this falsehood there can be no doubt whatever that this man would have obtained his pension at the Pension Office in the regular manner and would have been entitled to arrears.

Such are the facts of the case; and if the Senate proposes to make any exception whatever to the rule adopted by the Senate Committee on Pensions that arrears of pensions are not to be granted by special act, then I concede most cheerfully to the Senator from Kentucky that this is a proper case for this exception. At the same time, if the Senate is willing to be governed by a rule about the matter, I think it would be very well, although it is a case of great hardship to this particular citizen, that the rule of the Senate committee should be adhered to and that arrears of pension should not be granted. I feel, however, bound to give the Senator from Kentucky the advantage of the statement I have made after a full and thorough examination.

Mr. PLATT. Mr. President, I would suggest to the chairman of the committee and also to the Senator from Kentucky whether it would not be better to pass over this case, as it is likely to excite a discussion which will bring up the whole question whether the Senate under any circumstances will grant arrears of pensions by a special act. That question cannot be disposed of except with a somewhat extended discussion. I would suggest, therefore, that this case be passed over by consent, as was the case of the Senator from Florida.

Mr. WITHERS. I am perfectly willing it shall take that course myself.

Mr. BECK. That will be the last of it this session. If not disposed of now, there is no chance for it.

Mr. WITHERS. We can call it up again. There is one thing certain, that we cannot consent to the granting of arrears of pensions in these cases by special acts without a more protracted debate than I feel authorized to intrude upon the present consideration of the appropriation bill, as I merely hold the floor now by the courtesy of the Senator who has charge of that bill.

Mr. BECK. The case is so extraordinary and so fair that I do not like to let it go, and if the Senator will call it up again——

Mr. WITHERS. I will say to the Senator from Kentucky that there is scarcely a case of a pension granted by these special acts in which the same claim is not made. Some cases, of course, are much stronger than others; the equities are stronger in some cases than in others; but in each and every case the friends of the parties think they are entitled to arrears of pension.

Mr. BECK. I suppose it is better for the applicant to let the amendment pass and go on.

Mr. WITHERS. I think so.

Mr. BECK. If that is not done, I fear the bill will be lost altogether.

The PRESIDING OFFICER. The question is on the amendment.

The question being put, the Chair declared that the noes appeared to prevail.

Mr. EDMUNDS. I wish to inquire of the Chair whether this amendment is the amendment recommended by the committee, cutting off arrears.

The PRESIDING OFFICER. The Chair understands it to be the amendment recommended by the committee.

Mr. EDMUNDS. It appears to me that it would be very extraordinary for the Senate after having cut off arrears in a good many of the pension cases that we have already passed, now to allow arrears in this case. We ought to adopt one rule that should apply to everybody alike. I think I am safe in saying that.

Mr. COCKRELL. The committee recommended in this case the striking off of arrears.

Mr. EDMUNDS. But the Chair, as I understand, said that the amendment was disagreed to, which leaves the provision for arrears to stand.

Mr. COCKRELL. I did not hear it put to the vote.

The PRESIDING OFFICER. The Chair put the question and there was certainly one more in the negative than affirmative, inasmuch as no one voted but the Chair.

Mr. COCKRELL. I ask for another vote.

The PRESIDING OFFICER. The Chair will put the question again.

Mr. EDMUNDS. I was proceeding to say that it seemed to me it would be very extraordinary for the Senate to have rejected all the applications for arrears down to this case, and then to disagree with the committee and allowing arrears in it, and I was calling the attention of the Senate to the value of something like consistency in the disposition of these cases. So I hope the Senate will agree with the committee and agree to the amendment striking out the arrears.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Pensions.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

WIDOW AND CHILDREN OF MICHAEL MEENAN.

Mr. WITHERS. I move next to proceed to the consideration of House bill No. 2331.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2331) granting pensions to the widow and minor children of Michael Meenan, deceased.

The bill was reported from the Committee on Pensions with an amendment, in line 12, after the word "after," to strike out "May 15, 1876, the day of the death of the aforesaid Corporal Meenan," and insert "the passage of this act;" so as to make the section read:

That the Secretary of the Interior be, and he is hereby, directed to place upon the pension-roll, at the rate of $8 per month, the name of Emma Meenan, widow of Michael Meenan, deceased, late a corporal in Company E, Second Regiment Delaware Volunteers; also the names of Mary Meenan, William Meenan, George Meenan, and Edward Meenan, minor children of the said Michael Meenan, deceased, at the rate of $2 each per month, the said pensions to be payable to the parties hereinbefore named, respectively, from and after the passage of this act.

Mr. BAYARD. Mr. President, I want three minutes of the attention of the Senate that I may give the reasons why I think this amendment ought not to be adopted.

On the 26th of February, 1879, the Senate passed a bill for the relief of these parties just as the other House passed this bill the other day. The measure therefore had received the approval of the Senate that the widow and orphan children of this poor and brave man who lost his right arm at Gettysburgh and had from the Government a pension at the time of his death, his death being the result of his wounds, should have his pension from the day of his death. This woman has struggled in poverty; she has kept these little children by the labor of her own hands; they are still of tender years; their father gave his life in the cause of his country; and the Senate have approved the bill that continues this poor pension to the widow and children after his death.

That was the bill of 1879 passed by this body. The House of Representatives passed the identical bill. It comes back now and is proposed to be amended by the committee by dating the pension from the date of the act and not giving it from the day of this man's death. It is necessary in this case to pass a special bill; the general pension law does not provide for it, and therefore when we pass the special bill it is not in conflict with any general law; it is not in conflict with any general principle, but it seems it is in conflict with a rule which has been made by the committee upon this subject of arrears of pension. Here is a small sum for those who need it, in the name of one who earned it, and therefore I trust the Senate will not throw this bill at this stage of the session back into the House. It is adding months that are weary months, that are months of delay, of pain, and of suffering to these poor people, and I beg that the Senate will not here ten days before the adjournment throw such a bill back into the House for the sake of amending it in this particular.

Mr. WITHERS. I have simply to say in reply to the remarks of the Senator from Delaware that the bill as it stands is not in conflict with any law or any principle, but in my opinion it does conflict directly with a principle which has controlled the Senate committee in its action on these cases and that principle is that in every special act granting a pension there must necessarily be a defect in the proof or there would be no necessity for applying to Congress for its action. If the proof had been clear and conclusive that the death of this soldier was caused by his wounds at Gettysburgh, and that his death was clearly traceable to that cause, as the Senator alleges, why the necessity of applying to Congress for a special act? The pension would have been granted in the Pension Bureau, and in this, as in every other special act, there is a defect in evidence, and consequently that principle is involved in the action of the Senate committee in declining to grant arrears.

Mr. BAYARD. I submit to the Senator that it stands here amply supported by two reports in the two Houses. There is no doubt whatever, as stated by the Senator from New Jersey [Mr. McPHERSON] from the Committee on Pensions in his report of the 28th of January and by Mr. COFFROTH in the House on the 20th of February, 1880, that—

The deceased was enlisted on the 1st day of July, 1861, and discharged on the 18th day of April, 1864, on account of the amputation of his right arm, rendered necessary by a wound received at the battle of Gettysburgh.

There is ample proof, also, that the death of the deceased was caused by a lung disease, following an attack of acute pneumonia which was induced by the suffering and weakness resulting from the loss of his arm. He received a pension to the time of his death, and this with what he could earn was the sole support of his family.

The committee therefore report back the bill, and recommend its passage.

And the Senate report is directly to the same effect.

Mr. WITHERS. If the connection between the disease of the lungs which occasioned this man's death and the wounds received in battle had been clearly demonstrated, as the Senator alleges, the widow would never have come to Congress for a pension; it would have been granted at the Bureau of Pensions. But the medical authorities, the medical referees and others, pronounced adversely to the claim because this connection was not proved to have existed, and therefore she had to apply to Congress for relief.

Mr. BAYARD. It is a very strange thing that two committees have been found to reverse the facts stated by the honorable Senator.

Mr. WITHERS. Not at all strange. We very frequently find that to be the case.

Mr. McPHERSON. As a member of a sub-committee of the Committee on Pensions, I reported the House bill back to the committee, pure and simple, without amendment, believing as I did that the testimony was overwhelming in favor of the fact that this widow and these children were entitled to a pension. A rule of the Senate Committee on Pensions declining to give arrears of pension upon any special act caused the committee to instruct me to report the bill to the Senate with the amendment. I believe that if there is any case that stands entirely alone with respect to its justice, this is the one. This poor widow has protected and supported these dependent infant children; one of them I think is only five years of age, and their ages range from five to twelve. She has supported them for four long years, and she asks now and the House bill proposes that the pension be granted to her from the death of her husband, dating from the year 1876. I believe it to be just, and I shall vote in favor of granting the pension to this needy widow and these orphan children from 1876.

Mr. COCKRELL. I ask for the reading of the Senator's report, so as to see whether it sustains the speech he has just made or not.

Mr. McPHERSON. I will state for the information of the Senator from Missouri, that contrary to my expectation I find that the report as printed is not as full as it was sent to the Printer. Some portion of the report has accidentally been omitted, but I can supply I think anything that the report lacks with respect to the facts therein mentioned.

Mr. COCKRELL. Here is a copy of the report; let it be read.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report, submitted by Mr. McPHERSON on the 28th of January, 1881:

The Committee on Pensions, to whom was referred the bill (H. R. No. 2331) granting pensions to the widow and minor children of Michael Meenan, deceased, submit the following report:

The deceased was enlisted on the 1st day of July, 1861, and discharged on the 18th day of April, 1864, on account of the amputation of his right arm, rendered necessary by a wound received at the battle of Gettysburgh, for which he received a pension up to the time of his death.

Dr. Johnson, who attended Meenan, stated in his evidence that Meenan's vitality had been so much reduced by the excessive loss of blood at the time of amputation, and a subsequent disease of the bowels while still in hospital, that he was unable to resist a pulmonary disease following an attack of pneumonia. Other physicians certify to the same fact.

The committee recommend the passage of the bill as amended.

Mr. CALL. I hope the Senate will not concur in the amendment proposed by the committee. It seems to me such a proposition is entirely without reason. It may be very well as a matter of policy in a great many cases not to grant arrears; but why make the distinction in the case of widows and orphans? The law provides that in the case of a man entitled to a pension he shall have it and have the arrears; but if his widow and orphans come before the Commissioner and the Commissioner decides adversely on the evidence, and they appeal to Congress, and they decide that there is sufficient evidence in the case, that the Commissioner erred, the committee hold that in the case of a woman and her children, the orphans and widow of a deceased soldier, shall not have the arrears which the man himself would, or his dependent relatives, have had, which the express provision of the statute says is due them. By section 4718 it is provided:

If any pensioner has died or shall hereafter die; or if any person entitled to a pension, having an application therefor pending, has died or shall hereafter die, his widow, or if there is no widow, the child or children of such person under the age of sixteen years, *shall be entitled to receive the accrued pension to the date of the death of such person.*

The committee have adopted a rule that if the Commissioner decides upon the evidence that a person is entitled to a pension, he shall receive arrears; but if the committee decide that the Commissioner of Pensions erred in his opinion, and that upon the evidence he should have granted the pension, in that case the pension shall not be given to the children and widow of the deceased soldier from the date of

the death, but only from the passage of the law. *They thus make the error or mistake of the Commissioner in deciding on the weight of evidence a reason for depriving the widow and children and perhaps the orphans of a deceased soldier of the arrears or accrued pension which the law gives them.*

I affirm that there is no reason in the distinction which the committee make; it is contrary to the express purpose and provision of the law, and the honorable chairman of the Committee on Pensions, with his great ability and his great zeal to do justice to the pensioners and to the Government, cannot point out a single reason why those who above all others should be the beneficiaries of the law and of the bounty or the obligation of the Government, the widows and children of deceased soldiers and aged pensioners, should not have the benefit of this provision. Why give arrears to those who are in the prime of life, and refuse it to the widows and the orphan children of the deceased soldiers? There can be no reason for the proposition that when the Committee on Pensions have decided that the Commissioner erred, either in the application of the law or in deciding on the weight of the evidence, they should refuse to do what the law in all other cases does, give a pension to the widow and children from the date of his death, including his accrued pension.

I submit to the Senate and to Senators who so earnestly defend the rights of soldiers to these arrears of pension that when a soldier dies with an accrued pension due him, and when the law vests by express terms a right to that accrued pension in his widow and children, and Congress decides that upon the evidence the widow and children have a right to the continuance of his pension, neither the committee nor the Senate nor Congress have the right to deprive the widow and children of the accrued pension. If there is a vested right anywhere it is in such a case. The law prescribes the conditions upon which the soldier and, after his death, his widow and children shall have a pension.

These conditions and the means by which they are proved are entirely distinct. The conditions upon which the law vests the pensions cannot be changed by an error of the Commissioner or any one else in deciding on the weight of evidence, and when the committee and the Senate decide that these conditions of fact do exist, that the soldier died of wounds or disease incurred in the service and in the line of duty, and when in such a case, at the time of his death, there is an accrued pension due him, or when the law prescribes that the widow's or childrens' pension shall commence from his death, is it not apparent that the committee having found the fact of military service, of death from wounds or disease incurred in the service and in the line of duty, they cannot with any reason nor without violating a vested right say, "True it is, the soldier died of disease or wounds received in the service and in the line of duty; the law gives his widow in such a case a pension dating from his death, but inasmuch as the Commissioner has, in the judgment of the Senate, failed to decide this case according to the law, the widow and the orphan shall by this fault or failure of the Commissioner be deprived of their right under the law." There is neither reason nor justice in such a proposition, and I hope that the Senate will not sustain it by their vote on this amendment.

Mr. PLATT. Mr. President, every case which comes before the Senate in which arrears of pension are asked is represented to be a peculiar case. Now, I apprehend that almost all of these cases stand about on the same ground. The Senate has declined heretofore, it has declined to-day, to allow the principle of granting arrears where we pass a special act giving a pension to obtain. It did it in the case advocated by the Senator from Kentucky, which it seems to me was fully as meritorious a case as this. Any one who has been on the Pensions Committee knows how hard it is for a member of that committee to resist the appeals which are made to his sympathy; but there ought to be some rule about this, and the Senate has heretofore adopted the rule in the consideration of all cases, so far as I know, that in granting pensions by special act they shall be made to commence from the date of the passage of the act.

Mr. EDMUNDS. That has been the rule for fifteen years to my knowledge.

Mr. PLATT. It has been the rule, as suggested by the Senator from Vermont, for fifteen years. Now, if we break over it in one case, no matter how strongly that case may appeal to our sympathies, that is the end of the rule, and it must inevitably open the gates through which will pour an innumerable list of applications. If this pension is to be granted to go back of the passage of the act, I have in my mind a case in which I have been appealed to this very morning, which I can present here, I believe with stronger reason why arrears of pension should be granted, and it seems to me that the Senate must face the question in this way: either refuse arrears in all cases, or open the door in all cases.

Most of the pensions granted by special act amount to little more than gratuity pensions. They are like this case where it is insisted that the pneumonia of which the soldier died resulted from the loss of his arm at the battle of Gettysburgh. Medical men to whom that question might be referred would, I think, say that it was impossible, and yet medical men have been found to say that in their opinion it may have been so. The Commissioner of Pensions, relying upon the medical authority in the Pension Office, decides that the cause of death cannot be traced to the wound received in service. The applicant comes here to Congress; we give her the benefit of any doubt that may exist on that subject, and we give her a pension. That is all there is of it. It is little more than a bare gratuity pension; but we recognize her need; we recognize the services of her husband, and, if there be any doubt in the case, we say we will grant her a pension by special act. As I said before, it seems to me we must stand firm in resisting these appeals to our sympathies, or we must open the door in all such cases.

Mr. COCKRELL. I have asked the Secretary to furnish me the original papers in this case. I desire to submit them to the Senate. There seems to be a contradictory view of the evidence and the facts in this case taken even by members of the committee, and it is only fair that the Senate should have the benefit of the testimony upon which these different reports were made. My friend from New Jersey makes a speech; it is very beautiful, it is pathetic, it is touching, but he has a written report here, and the facts stated in his speech are not stated in the report. I want to know upon what I am to act, whether upon the speech made to-day or upon the report made heretofore?

Mr. McPHERSON. I supposed the Senator fully understood me when I rose in my place and stated to him that the report was not very full, and that I proposed to add something to the report from my recollection of the testimony, which should have appeared in the report itself, but accidentally had been left out. Therefore the Senator must not say that my speech and my report do not agree; but my speech was explanatory of the testimony.

Mr. WITHERS. I recollect the case distinctly. The testimony of the attending physician was quoted in the report which has been read by the Senator from Delaware. The report, however, of the medical examiners and the medical referee was that there was no evidence to sustain the connection between the injury received and the death of the person. The man lost his arm in 1864 and died in 1876, twelve years afterward, of a disease following an attack of pneumonia. The medical referee says that there is no connection proved between the injury and the disease.

Mr. McPHERSON. Will the Senator yield to me a moment?

Mr. WITHERS. Certainly.

Mr. McPHERSON. Will the honorable chairman of the committee then tell me why the Committee on Pensions agreed to pension the widow immediately after the passage of this act if there was no connection whatever between the injury and the disease? If the man did not die from disease contracted in the service, then the Committee on Pensions should not have brought in a report to grant his widow a pension at all. This case stands solely and entirely upon whether the Committee on Pensions will make this a case granting a pension to the widow from the year 1876, the date of the death of Corporal Meenan, or whether it will be granted after the passage of the act. I submit if this lady is not entitled to a pension at all, then the bill should not have been reported favorably for any amendment which the Senate might choose to make to it.

Mr. WITHERS. I yielded to the Senator for a question or a remark and not for a speech; and the Senator might have saved himself the speech for I should have answered the point which he raises. The Senator wants to know why it is that the committee reported in favor of granting a pension at all if there was no connection established between the injury and the disease. I quoted this evidence to show that there was a conflict of testimony upon the case, and that the connection was not clearly established between the injury received and the subsequent death of the person. The reason, I presume, which caused the Committee on Pensions to report favorably upon this application for a pension was, that they gave to this poor woman and her infant children the benefit of the doubt and allowed her to have a pension, the right to which was not clearly established under the law. That was the reason, and the sole reason.

Mr. TELLER. I should like to ask the Senator what would be the amount if this pension is allowed?

Mr. WITHERS. I have not calculated it, but it would run back over four years. It would be a certain amount for the widow and so much for her children. The committee, I will here say, have not been actuated by the amount of money involved in these cases, but they have acted upon the general principle which I have distinctly stated, that as there was always a defect in the character of the evidence to sustain these applications for pension which requires them to come to Congress, in their judgment the provision in the arrears-of-pensions act should not apply to them, and that position is sustained by the fact that when the arrears-of-pensions act was passed it was distinctly avowed and proclaimed upon the floor of the Senate that its provisions should not apply to special cases.

Mr. BECK. I do not propose to discuss this question, but to say that in the case lately up, of Captain Robert S. Goodall, notwithstanding the very earnest, truthful, and vigorous statement made in behalf of Captain Goodall by the Senator from Maryland, [Mr. GROOME,] I had to accept the amendment offered by the Committee on Pensions, and I do not see how the committee can consent to any exception being made when they would not allow it in the case of Captain Goodall, who is a man now old, nearly blind, bed-ridden. I had to accept what the committee saw fit to give in order to keep him from becoming an object of charity. I shall surely introduce a separate bill to give him arrears of pension, and shall endeavor to get it through the Senate; but I do not see if the rule is to be established how we can vary it in this or any other case and pass over that. I can understand very well (and for that reason I did not insist upon

rejecting the amendment in the other case) how the Committee on Pensions, acting upon those cases that were not sufficiently clear to enable the Commissioner of Pensions to act, will give the pension now, reserving to each one hereafter the right to present a claim for arrears of pension. If it is established that that is reserved, I believe I shall sustain the committee in all that class of cases, as being the only way in which the claimants can get anything, because if you bring up the question in one case it will come up in another. No more meritorious case was ever presented than the one in which I had to allow the amendment to be passed awhile ago in order to get anything.

Mr. WITHERS. I hope we shall proceed to the consideration of other pension bills on the Calendar, as the Senator from Missouri has called for the papers in this case.

Mr. COCKRELL. I am very anxious to have the papers to settle this difficulty. I have applied to the Secretary, and they are not in the Secretary's office. I have applied to the clerk of the Committee on Pensions, and he informs me that the papers have been returned to the Pension Office. I have sent a telegram to the Commissioner of Pensions to have them sent here. I shall have them here just as quickly as I can get them.

Mr. WITHERS. Then I move that the bill be passed over temporarily, and that we proceed to the consideration of the next pension bill on the Calendar reported favorably.

Mr. BAYARD. I hope the Senator will withdraw that motion. I am asking this for children who I know are needing this money. They need bread. Their father gave his life, and his children are entitled to bread from the country; and if they are to have half the loaf cut off they had better have that. Therefore I beg the Senate to act on the amendment although I think it very unjust.

Mr. WITHERS. If the Senator from Delaware agrees that the amendment shall be passed upon, and is willing to accept the bill as amended, I withdraw the motion to lay it aside.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Pensions.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

WILLIAM H. SCRIBNER.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill (H. R. No. 859) granting a pension to William H. Scribner.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Interior to place on the pension-roll the name of William H. Scribner, late a private in Company E of the Third Regiment of New York Cavalry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELLEN M. GODFREY.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill (S. No. 1637) granting a pension to Ellen M. Godfrey.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to place on the pension-roll the name of Ellen M. Godfrey, widow of the late James A. Godfrey, captain of Company G, Eighteenth Regiment Maine Volunteer Infantry, subsequently First Maine Heavy Artillery, at the rate of $20 per month, from March 3, 1878.

The bill was reported from the Committee on Pensions with an amendment, in line 8 to strike out the words "at the rate of $20 per month from March 3, A. D. 1878."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FRANK KITZMILLER.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill (S. No. 1763) granting a pension to Frank Kitzmiller.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to place on the pension-roll the name of Frank Kitzmiller, corporal Company H, Thirteenth Kansas Volunteers.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MARTHA J. PORTER.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill (H. R. No. 2044) granting a pension to Martha J. Porter.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to place on the pension-roll the name of Martha J. Porter, widow of William M. Porter, late a captain in the One hundred and thirtieth Regiment Pennsylvania Volunteer Infantry.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

LEONHARD WEBER.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill (S. No. 1673) granting a pension to Leonhard Weber.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Pensions with an amendment, to strike out "at the rate of $8 per month pension" and insert "subject to the provisions and limitations of the pension laws;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, directed to place the name of Leonhard Weber, late a private in the Thirtieth New York Independent Battery, on the pension-rolls of the United States, subject to the provisions and limitations of the pension laws.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HENRY C. GROOMES.

Mr. WITHERS. I move that the Senate proceed to the consideration of the bill (H. R. No. 1953) for the relief of Henry C. Groomes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to increase the pension of Henry C. Groomes, a private in Company D, Thirteenth Regiment of Indiana Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. WALLACE. Mr. President——

Mr. WITHERS. I am obliged to the Senator from Pennsylvania for giving way to me.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. No. 1487) to restore the lands included in the Fort Reading and Fort Crook military reservations, in the State of California, to the public domain, and for other purposes.

The message further announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 6599) to change the time for holding circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. I ask that the legislative appropriation bill, which has just come from the House, be laid before the Senate now in order that it may be referred and printed. We want to get to work on it as soon as possible.

The bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

POST-OFFICE APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes.

Mr. WALLACE. The bill being before the Senate, I shall briefly state its contents and then ask the Senate to proceed with it in detail and pass upon the amendments offered by the Committee on Appropriations before permitting any other amendment to be offered to the bill.

The bill is the regular annual appropriation bill for the purpose of carrying on the Post-Office Department. It makes appropriations as reported to the Senate amounting to $41,147,432. The amount added to the bill as it came from the House by the Senate Committee on Appropriations is $297,000. The bill as it came from the House contained appropriations amounting to $40,850,432. The amount of estimates submitted by the Department as necessary for the use of the Department during the fiscal year 1882 is $42,475,932. The bill as reported by the Senate Committee on Appropriations is less than the estimates, $1,328,500. The amount appropriated for these purposes for the current fiscal year was $39,093,420. The bill as reported by the Committee on Appropriations exceeds the bill reported and passed for 1881 by $2,054,012. The estimated postal revenues for 1882 are $38,845,174.10. The bill as reported to the Senate exceeds the estimated postal revenues for the coming fiscal year by $2,302,257.90.

I may be permitted to congratulate the Senate and the country upon the rapid tendency of this Department toward the ability to sustain itself, even with the low rate of postage that now prevails throughout the country. I append a statement showing the expendi-

tures, revenues, and Treasury grants in reference to the Post-Office Department for the last ten years:

| Year. | Expenditures. | Revenues. | Treasury grants. |
|---|---|---|---|
| 1871 | $24,390,104 08 | $20,037,045 42 | $4,126,200 00 |
| 1872 | 26,658,192 31 | 21,915,426 37 | 4,933,750 00 |
| 1873 | 29,084,945 67 | 22,996,741 57 | 5,690,475 00 |
| 1874 | 32,126,414 58 | 26,471,071 82 | 5,922,433 55 |
| 1875 | 33,611,309 45 | 26,791,360 59 | 6,704,646 96 |
| 1876 | 33,263,487 58 | 28,634,197 50 | 5,088,583 03 |
| 1876 | 33,486,332 44 | 27,531,585 26 | 7,013,300 00 |
| 1877 | 34,165,084 49 | 29,277,516 95 | 5,307,652 82 |
| 1878 | 33,449,899 45 | 30,041,982 86 | 3,297,965 25 |
| 1879 | 36,542,803 68 | 33,315,479 34 | 3,597,717 20 |
| 1880 | *39,093,420 00 | †35,210,000 00 | 3,883,420 00 |
| 1881 | ‡41,147,432 00 | 38,845,174 10 | 2,302,257 90 |
| 1882 | | | |

*Appropriations. †Estimated revenues.
‡Appropriations recommended by Senate Committee.

It will be seen that there was a continued increase in the amount necessary to be appropriated from the Treasury from 1871 to 1877, when it culminated in requiring actual appropriations out of the Treasury to sustain this Department of a grand total of $7,013,300. Since that time the amount appropriated out of the Treasury necessary to sustain the Department has decreased, until last year the amount appropriated from the Treasury to sustain the Department was but $3,883,420, while by this bill the amount necessary, taking into consideration the revenues estimated by the Department, is but $2,302,257, or a million and a half less than it was necessary to appropriate last year out of the Treasury to sustain the Department. While the total expenditures of the Department in 1871, ten years ago, were $24,390,000 in round numbers, they are this year $41,147,000. The total revenues in 1871 were but $20,037,000, while they are estimated for this year to be $38,845,000, thus showing not only the growth of the business of the Post-Office Department but the growth of the demand of the country for postal accommodations, and the absolute necessity for that branch of the Government which controls appropriations to recognize the fact that the Post-Office is one of the Departments which must keep pace with the growth of the country. The Committee on Appropriations have in that spirit treated the bill as it came from the House. They have in the House given very free appropriations to all the purposes necessary for conducting this service.

In the Senate we have carefully examined the wants of the Department as laid before us by the officials of the Department, and have added to the appropriations made by the House $297,000. These items are composed, first, of an additional amount for the preparation and publication of postal maps, $5,000. Forty-five thousand dollars was given by the House, and we have added $5,000 to this amount, making the total $50,000. For rent of building for money order office, $15,000. That is for rent and furniture. On a careful examination by the committee into the condition of the Post-Office Department, we found that men are crowded there too much. The basement is occupied with clerks, six or eight in a room, and we found that it was necessary to do something to relieve the pressure upon the room that we found to exist in that Department. We have accordingly recommended, in accordance with the request of the Postmaster-General, the appropriation of $15,000 toward the rent of a building and the furniture for the building, for the purpose of accommodating the money-order office of the Post-Office Department, and the money-order clerks of the Auditor's Office of the Post-Office Department. The force amounts to about one hundred and fifty clerks, and this branch of the service can well be taken out of the general Department, because the connection with it is of that character that it can be isolated and placed in a building by itself. We have also added to the appropriation of $8,000 for letter balances, test-weights, and scales, $2,000, making the total $10,000. For special facilities on trunk lines we have added $50,000, in accordance with the recommendations of the Postmaster-General and his assistants, and to meet what seemed to us to be a decided necessity in the Southwest. We have added to the appropriation for rent, lights, and fuel in country offices, or in post-offices at a distance from Washington, $25,000; we have added for inland transportation by steamboat routes, $50,000; for inland transportation by star routes, $125,000; for mail-locks and keys, $10,000; and for mail-bags and mail-bag catchers, $15,000; making a total of $297,000 added to the bill by the Senate Committee on Appropriations.

These are the changes, and as the amendments come before the Senate in the reading of the bill, I will call attention to them in detail, if necessary, and explain the reasons why your committee have made these recommendations.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The bill will be read at length, and unless there is objection, the amendments of the Committee on Appropriations will be acted upon as they are reached in order in the reading of the bill.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Appropriations was, after the word "dollars," in line 21, to strike out:

And hereafter the Postmaster-General shall cause advertisements of all general mail-lettings of each State and Territory to be conspicuously posted up in each post-office in the State and Territory embraced in said advertisements for at least sixty days before the time of such general letting; and no other advertisements of such lettings shall be required; but this provision shall not apply to any other than general mail-lettings;

And in lieu thereof to insert:

And hereafter the Postmaster-General shall cause a condensed advertisement of all general mail-lettings of each State and Territory and of the District of Columbia, as required by the provisions of an act approved May 17, 1878, entitled "An act to regulate the advertising of mail-lettings, and for other purposes," to be published in the District of Columbia, in accordance with the provisions of the act approved January 21, 1881, entitled "An act to regulate the award of and compensation for public advertising in the District of Columbia," and in addition thereto shall cause advertisements of all general mail-lettings in each State to be inserted in not exceeding ten newspapers published in the State or Territory in which such service is to be let, in manner and form as required by the act approved May 17, 1878. He shall also cause said advertisements to be conspicuously posted up in each post-office in the State and Territory embraced in said advertisements for at least sixty days before the time of such general letting; and no other advertisement of such lettings shall be required; but this provision shall not apply to any other than general mail-lettings.

The amendment was agreed to.

The next amendment was, in line 53, to increase the appropriation "for preparation and publication of post-route maps, including revision of former editions, and maps, diagrams, and other information," from $45,000 to $50,000.

The amendment was agreed to.

The next amendment was, in the clause appropriating for miscellaneous items in the office of the Postmaster-General, after the word "dollars," in line 59, to insert:

And the Postmaster-General is hereby authorized to take the necessary steps to rent a suitable building or buildings for the use of the money-order office of the Post-Office Department and of the money-order division of the Auditor of the Treasury for the Post-Office Department: *Provided*, That the rent of such building or buildings, and the cost of necessary furniture for the same, to be procured under the supervision of the superintendent of the money-order system, shall be paid out of the proceeds of the money-order business: *And provided further*, That the annual rental of such building or buildings shall not exceed the sum of $5,000, and the cost of the furniture for the same shall not exceed $10,000.

Mr. WALLACE. I move to amend the last proviso of the amendment by inserting in line 68, after the word "the," the words "cost of the;" after the word "buildings," in line 69, to insert "and of the furniture;" in line 70, before the word "thousand," to strike out "five" and insert "fifteen," and to strike out all after the word "dollars," in the same line; so as to read:

*And provided further*, That the cost of the annual rental of such building or buildings, and of the furniture, shall not exceed the sum of $15,000.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 82, to increase the appropriation "for letter-balances, test-weights, and scales" from $8,000 to $10,000.

The amendment was agreed to.

The next amendment was, in line 84, to increase the appropriation "for rent, lights, and fuel" from $425,000 to $450,000.

The amendment was agreed to.

The next amendment was, in line 94, after the word "dollars," to insert:

And the Postmaster-General is hereby authorized to expend not to exceed $25,000 thereof for special railroad service between the union depot in East Saint Louis, Illinois, and the union depot in Saint Louis, Missouri; and such sum shall include depot room and transfer service at each terminal.

So as to make the clause read:

Office of the Second Assistant Postmaster-General:

For inland mail transportation, namely: For transportation on railroad routes, $9,488,282; and the Postmaster-General is hereby authorized to expend not to exceed $25,000 thereof for special railroad service between the union depot in East Saint Louis, Illinois, and the union depot in Saint Louis, Missouri; and such sum shall include depot room and transfer service at each terminal.

Mr. VEST. I move to amend the amendment in line 95 by striking out "$25,000" and inserting "$30,000." I presume there will be no objection on the part of the committee to that amendment. It will then read:

And the Postmaster-General is hereby authorized to expend not to exceed $30,000 thereof, &c.

Mr. WALLACE. It is due to the committee to say that they were under the impression that this service could be rendered for $25,000, but it is also the fact that the representatives of the parties who have the control of the only facilities that may be obtained, fix the amount at $30,000, and in order to obtain what is indispensable to the expediting of the mails through Saint Louis, or from East Saint Louis to the Southwest, we must have those facilities. Therefore, the committee will make no special objection to the amendment to the amendment.

Mr. BECK. I only desire to add that I shall vote to appropriate $30,000, because both the Senators from Missouri and the Representatives from that State assured us that without that amount the service cannot be performed, and the risk would be run of missing the mail; and even at $30,000 the service is paid for at a much less rate than rich companies carrying the same class of cars over other railroads are paid.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The Secretary resumed the reading of the bill. The next amendment of the Committee on Appropriations was, after the word "safety-

heaters," in line 104, to insert "and safety-lamps;" so as to make the clause read:

And hereafter when any railroad company fail or refuse to provide railway post-office cars when required by the Post-Office Department, or shall fail or refuse to provide suitable safety-heaters and safety-lamps therefor, with such number of saws and axes to each car for use in case of accident as may be required by the Post-Office Department, said company shall have its pay reduced 10 per cent. on the rates fixed in section 4002 of the Revised Statutes, as amended by act of July 12, 1876, &c.

Mr. KIRKWOOD. I should like to ask the Senator having the bill in charge a question. Representations have been made to me in view of a recent terrible accident that happened to our postal cars, in which some of the postal clerks or agents were burned, of the desirability of having something to extinguish fire, some patent or other process, the name of which I forget.

Mr. WALLACE. Babcock's extinguisher?

Mr. KIRKWOOD. Yes. Did the Committee on Appropriations consider the propriety of that?

Mr. WALLACE. They did consider it, and they gave a hearing to persons interested in that subject, and the conclusion of the committee was not to put that on the bill.

Mr. BECK. We had the opinion of the Department.

Mr. WALLACE. The officials of the Department were brought before us, and they did not recommend it to us in the least.

Mr. KIRKWOOD. I merely wished to make the inquiry, as I knew the matter had been suggested.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriation was, in line 121, to increase the appropriation "for necessary and special facilities on trunk lines" from $400,000 to $450,000.

The amendment was agreed to.

The next amendment was, in line 123, to increase the appropriation "for inland transportation by steamboat routes" from $900,000 to $950,000.

The amendment was agreed to.

The next amendment was, in line 124, to increase the appropriation "for inland transportation by star routes" from $7,875,000 to $8,000,000.

The amendment was agreed to.

The next amendment was, in line 137, to increase the appropriation "for mail locks and keys" from $15,000 to $25,000.

The amendment was agreed to.

The next amendment was, in line 139, to increase the appropriation "for mail bags and mail-bag catchers" from $185,000 to $200,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 166, before the word "postal" to insert "single and return;" so as to read:

For manufacture of single and return postal cards, $296,000.

The amendment was agreed to.

The next amendment was, after the word "dollars," in line 167, in the item for the manufacture of postal cards, to insert:

And the Postmaster-General shall fix the kind and number of each of the same to be manufactured; and the cost of said return cards shall not exceed 25 per cent. in addition to the cost of the same number of single cards.

Mr. KIRKWOOD. I should like to make an inquiry of the Senator from Pennsylvania. The matter of these return postal cards was before the Committee on Post-Offices and Post-Roads, and if my recollection is right the double card has been patented.

Mr. EATON. If my friend will excuse me for one moment, as one of the Committee on Appropriations I propose to offer an amendment which perhaps will meet the idea of my friend from Iowa.

Mr. KIRKWOOD. I was about doing that myself. I will merely state the point I wish to get at, and then I will hear the Senator from Connecticut. The double or return postal card is said to be patented. I am afraid, taking the language as it stands here, we shall not only have to pay for the manufacture of the cards, but that before very long there will be a large claim against the Postmaster-General and against the Government through him on behalf of the patentee.

Mr. EATON. Will my friend hear my amendment?

Mr. KIRKWOOD. Very well; perhaps it will suit better than my own.

Mr. EATON. There was some little difference of opinion in the committee upon this clause. I would amend it by inserting after the word "cards," in line 170, "including the cost of the right to the use of any invention therefor, shall be determined by the Postmaster-General," striking out the words "shall not exceed 25 per cent. in addition to the cost of the same number of single cards," so that it would read:

And the cost of said return-cards, including the cost of the right to the use of any invention therefor, shall be determined by the Postmaster-General.

Mr. KIRKWOOD. That covers the amendment I was about to offer, and I am perfectly content with it.

Mr. WALLACE. I think there is no special objection to the amendment of the Senator from Connecticut. We must get control of the patent if we intend to use the double card, and as the amount is not increased and the Postmaster-General has control of the number, I think the amendment may very properly go on the bill.

Mr. KERNAN. I desire to inquire whether there will then be any limit at all to the price to be paid for the invention, except the discretion of the Postmaster-General?

Mr. EATON. None at all. As one member of the committee, I think I can trust the Postmaster-General to fix the price that he pays for the double card, as we trust him in regard to the price he pays for the single card.

Mr. KERNAN. I did not know but that there was a limit upon the amount appropriated.

Mr. EATON. The amount is limited to the sum fixed in the bill. The price is at the discretion of the Postmaster-General.

Mr. WALLACE. The amount appropriated is left as it is in the bill, and the Postmaster-General is vested with discretion as to how many of each kind of these cards, single and double, he will order to be printed.

Mr. KERNAN. He has $296,000 to do it with?

Mr. WALLACE. Yes; $296,000. As a matter of course, the discretion is a pretty large one, but we have given to a certain extent the same discretion to him. The discretion in regard to postal cards is one which I think we can safely vest in the Postmaster-General, and I think the words proposed by the Senator from Connecticut are proper.

Mr. BECK. I am not able to agree as to the propriety of allowing the discretion to the extent that is now proposed. I believe that a portion of the amendment, including the cost of the right to the use of any invention therefor, is proper, because every one of the different inventions is patented, and unless some limitation is put upon the Postmaster-General, if we leave it in this shape the Postmaster-General will select his own patentee, because he has got to select some patentee, and then he may pay that patentee whatever he likes, whether it is the exact value or double the value of the thing presented, and Congress is simply abandoning to the Postmaster-General the double right to select the patentee he likes best and give whatever that patentee sees fit to demand, and Congress is abandoning all authority over any limitation in regard to the patent. Twenty-five per cent. may not be enough, 40 per cent. perhaps may be required, but it is a very wide discretion to leave it to any Postmaster-General to select first the patentee and then determine the price which is to be paid.

Mr. EATON. Only a word. I think the committee safely left the discretion with the Postmaster-General. I am perfectly satisfied and was, my friend will remember, that 25 per cent. is not enough. It might be 40, it might be 45, it might be 50; but can we not trust to the chief officer of the Department, the Postmaster-General? Here is a double card which is a great advantage to the Government in this regard: if I want to write a note or send a postal card to my friend from Kentucky he might not take any notice of it whatever unless I sent a stamp; therefore I send a double postal card and pay the postage myself of two cents, and if my friend from Kentucky chooses he will return the card; if he does not the Government gets its two cents any way. It strikes me that it would be a great advantage to the community, and the discretion which is to be given to the Postmaster-General seems to me to be necessary in this case. I agree with my friend from Kentucky in fixing the appropriations ourselves, leaving as little to the heads of the Departments as possible, but in this instance I am satisfied that 25 per cent. is not enough, we could not have the double card at all, and therefore I would leave it discretionary with the Postmaster-General.

Mr. BOOTH. I agree with the Senator from Connecticut that this will be a very great convenience and a considerable profit to the United States. An examination of the devices submitted to the committee satisfies me, not only that it will not cost 25 per cent. in addition to making the single postal card, but that it will not cost 10 per cent. more. The whole value of the improvement is in the patent. Two stamps are placed upon the cards with the same impression, and the only additional device is a piece of paper pasted upon the back of the card that can be torn off. While its adoption will be of very great advantage to the United States, its adoption with the liberty to the Postmaster-General to accept it without limitation will be of very much more advantage to the patentees. I do not think that a device of that kind ought to be patented. If it should be patented at all, it is so simple that it should be the idea, and that is not original. Foreign governments are using them; the suggestion came from other governments. I should be very much more inclined to reduce the limit from 25 per cent. to 10 per cent. than to increase it.

Mr. EATON. I think my friend from California is entirely mistaken in his idea of the expense. If his theory be correct we are paying to-day 50 per cent. more than we ought for the single postal card. I undertake to say, and I think my friend will hardly contradict the assertion, that the little strip of paper, which he says can be easily torn off, is the very thing that costs more than the other strip of paper for which we now pay seventy-five cents on the hundred. That is my view about it. There are half a dozen kinds of double postal cards. Where they are made, or who the manufacturers are, I do not know. I have never seen one of them, and have only heard from one of them. I am perfectly satisfied that my friend is mistaken when he thinks that the double postal card can be made for one-quarter of a cent instead of three-quarters of a cent, as it costs for the other postal card.

Mr. MAXEY. The question of return postal cards is one which has been before the Committee on Post-Offices and Post-Roads quite a number of times, and has been very thoroughly discussed. I doubt

myself the feasibility of the plan of double postal cards, and not believing it to be of importance, but believing that the money expended should be upon the ordinary postal cards such as we have, I move to amend in line 166 by striking out "and return" after "single," and in line 168 by striking out the words "of each."

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The Chair will state to the Senator from Texas that the amendment in line 166 has been agreed to, as the Chair is informed by the Chief Clerk. The present occupant of the chair was not here when action took place upon it.

Mr. MAXEY. The amendment is not yet completed, nor should a vote have been taken except on the whole paragraph.

The PRESIDING OFFICER. The Senator can get at his object very easily by moving to reconsider the vote on the amendment or by unanimous consent. The Chair understands that the amendment in line 166 inserting the words "single and return" has been acted upon by the Senate. The Senate have passed from that amendment, and the next amendment is in the same paragraph, beginning in line 167. The Chair understood the motion of the Senator from Texas to include the words "and return," which words have been inserted by a vote of the Senate.

Mr. MAXEY. The point I desire to make is simply this: I have investigated the matter somewhat, and I do not believe that the return cards will be an improvement upon our present system of communication. I do not believe that it would be wise on the part of the Government to pay a royalty for that which is practically of no real service. I do not believe that the whole $296,000 could be well expended in the manufacture of postal cards such as are now in use. The whole object I have in view is to limit the appropriation, not to increase it, but to limit it to the manufacture of postal cards.

Mr. HAMLIN. I confess I was very glad to hear the suggestion of the Senator from Texas, the chairman of the Post-Office Committee. I think he struck the nail precisely on the head. The return card ought not to be in the bill in any way. It is a tax upon the Department, which returns no commensurate revenue for that tax. The postal-card system is subserved by the single card, which may contribute, and does contribute, to the revenues of the Department. I did not understand the Senator from Connecticut to say precisely what the double cards would cost; but I think I did understand him to say that they would cost 75 per cent. more than the single cards. Am I right?

Mr. EATON. No; I did not say that.

Mr. HAMLIN. Did the Senator say what they would cost, or does the Senator have information that would enable him to tell me?

Mr. EATON. My judgment is that the double card will cost from 40 to 50 per cent. more than the single card.

Mr. HAMLIN. I do not propose to discuss the matter now; but when it shall be in order for the Senator from Texas to move his amendment I shall perhaps have a little something to say.

Mr. ALLISON. May I ask the Senator a question before he takes his seat?

Mr. HAMLIN. Yes, sir.

Mr. ALLISON. Do I understand the Senator to say that the Post-Office Committee have examined this question and believe it is not wise to adopt the double card?

Mr. HAMLIN. I cannot answer distinctly. I have been by indisposition kept from the meetings of that committee.

Mr. ALLISON. If that be true it will have great weight with me, I assure the Senator from Maine and the Senator from Texas.

Mr. MAXEY. I did not hear the question.

Mr. ALLISON. I desire to know if the Post-Office Committee have had this question under consideration?

Mr. MAXEY. Very often.

Mr. ALLISON. And if after examining it they have come to the conclusion that it is not wise to adopt the double card?

Mr. MAXEY. I think the best answer I can give is that we have never reported a bill in favor of it, and we have had quite a number before us.

Mr. EATON. Neither my friend from Texas nor my friend from Maine has given a single reason why there is any objection to the double card; and yet both have said that it would not be of any advantage to the Government. Both have signally failed in giving a single reason for that opinion. Here is a penny postal card; a very thin piece of paper, not weighing one-eighth of the single postal card, is added to it, and the man who pastes that gives the Government two cents; and yet my friends say it would be of no advantage to the Government. If the postal card comes back, then the Government has not done double service, for it is not double the weight of the single card. That is my reason for saying this will be of advantage to the Government. I should like to know what reason there is that makes my friend from Texas imagine it would be a disadvantage.

Mr. HAMLIN. I said a moment since that when it should be in order for the Senator from Texas to move the amendment which he had indicated I would state what was my view upon the subject, and I rather chose to do it then because it would be pertinent; but I am not sure that anything in this body is in order that is not out of order. I am not sure that it is proper or appropriate to discuss a question before this body when it is really before it, but you must discuss it when something else is before it. That was the reason which led me to say that I would state the objections which I had when it was more appropriate to state them; but as my friend from Connecticut wants them now, and as I believe it will be more in order to be out of order, I will state them now.

There was an old-fashioned notion prevailing in this country once—it has not so many advocates now as it had among our fathers—that the Post-Office Department, being different from all the other departments of the Government, should at least approximate toward a self-sustaining position. If Senators will look at the results within the last few years they will see that while we have largely extended postal facilities of every kind we have gradually approached that position. Last year I think the Senator who has this bill in charge told us that the deficiencies were between four and five million dollars. This year the deficiencies are a little more than two million.

Our mails are carried by weight. We charge three cents a half ounce to persons who wish to communicate by letter; but to the person who wishes to make an open communication, brief, short, but important to him, we have provided a single postal card. I wish to communicate with my friend in another State by the use of that card. I do so; and he answers upon another card, thereby securing to the Government two cents of postage upon the card. If you send the double card, which is to cost a half more than the single card, you have got to deduct whatever the difference in cost between the two is from the receipts that you derive from the return card. It would cost the Government to manufacture the double card 50 per cent. more than it costs to manufacture the single card. On the question of weight the single postal card is made remunerative in this way, as double return postal cards would not be: they are used as an advertising medium by the thousand if not by the million in the immediate vicinity, and there is no transportation by the Government. They are used in uncounted numbers—we all get them—with printed advertisements upon them from every part; but those advertisements are usually confined largely to the locality. The Government gets the benefit of the postage on the one-cent card, upon which these printed advertisements are made, without being compelled to transport it from Maine to South Carolina or from Maine to California. The great amount of revenue which is derived from the single postal card is derived from that limited circulation. Those which go farthest will, I think, come within the three-cent rule of letters; or, in other words, three of them as they are printed would not exceed in weight the half-ounce; and we do not, therefore, under the single postal cards, pay any more transportation in weight upon three than we pay upon the half-ounce letter. That would be perfectly accurate if all letters weighed half an ounce, but they do not. Many of them weigh a very little more than a single postal card. If you open up a communication which shall be only for written communications, not for advertising, you establish a rate of postage for those who use them in conflict with those who use the letter communication, and establish two rates, and you diminish the revenues upon letter postage to an extent which, in my judgment, would seriously decrease the revenues of your Department, and thereby diminish the facilities that the Department should extend to every part of the country.

I do not suppose I have satisfied my friend, but I have stated to him the reason which will control me in my vote upon this subject. I think the return postal card is wrong in its beginning, wrong as it goes along, and wrong in all its relations. It ought never to have been established, and I should be glad to see it abolished.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Connecticut [Mr. EATON] to the amendment of the Committee on Appropriations.

The amendment to the amendment was rejected.

Mr. MAXEY. I now move the amendment I mentioned, if it is in order.

The PRESIDING OFFICER. The paragraph contains two amendments proposed by the Committee on Appropriations. One of them has been adopted; but if no objection be made, as the amendment of the Senator from Texas requires a change in both, the Chair will entertain the amendment, and treat the amendment in line 166 as not having been agreed to. The Chair hears no objection to that course being pursued.

Mr. MAXEY. After the word "single," in line 166, I move to strike out the words "and return;" after the word "number," in line 168, to strike out the words "of each;" and after the word "manufactured," in line 169, to strike out the words "and the cost of said return cards shall not exceed 25 per cent. in addition to the cost of the same number of single cards;" so as to read:

For manufacture of single postal cards, $296,000; and the Postmaster-General shall fix the kind and number of the same to be manufactured.

Mr. HAMLIN. Let me suggest to my friend from Texas if it would not be better to strike out all the words in italics and take the bill precisely as it came from the House.

Mr. MAXEY. I have no objection to modifying my amendment as suggested by the Senator from Maine.

The PRESIDING OFFICER. That result would be accomplished by simply rejecting the amendment proposed by the Committee on Appropriations.

Mr. HAMLIN. That is it.

Mr. MAXEY. My reply to the Senator from Connecticut has been so admirably made by the Senator from Maine that I do not think it is necessary to add anything to it, only to say that, as is known

to him, myself, and every member of the Post-Office Committee, devices for double-headed postal cards, and double-headed envelopes by wholesale have been placed before us, and we never have regarded any one of them as practical. For a thorough business man any of them might do, but for the great body of the people it is utterly impracticable in my judgment. Therefore it was that we failed to report any bill in favor of the proposal.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Appropriations.

Mr. WALLACE. This amendment was considered in the Committee on Appropriations briefly, and we thought, having one of the officers of the Department before us, that good could be accomplished by it. I confess I am somewhat surprised to find that the subject-matter has been under consideration before in the Post-Office Committee of this body.

Mr. HAMLIN. Frequently.

Mr. WALLACE. Of course that committee have more entirely within their control subjects of this character than the Committee on Appropriations, and what they say has very great weight with me as it ought to have with the Senate. Of course I submit to what action the Senate may see fit to take in regard to the amendment.

Mr. BECK. I sent for the act making appropriations for the postal service for the current year, to see what had been done in regard to these matters. It has just been handed to me now as I have risen. I thought I could lay my hands upon it by looking at the law for the current year. It was my impression that some action had been taken in regard to double postal cards. Does the honorable chairman of the Committee on Post-Offices and Post-Roads remember whether that was so or not?

Mr. MAXEY. I do not hear the Senator.

Mr. BECK. I thought that on the appropriation act for the current fiscal year some action had been taken in regard to the subject of postal cards.

Mr. MAXEY. There was a year or two ago. I do not remember the exact amount which was appropriated. It was placed in the discretion of the Postmaster-General, according to my recollection, but there has been no action under it.

Mr. SAULSBURY. I remember that the law authorized the use of double postal cards, provided that there should be no royalty claimed by any person, and the Postmaster-General has been inhibited by that provision from using double postal cards because there are none except what are patented. An effort has been made before the Post-Office Committee to get a repeal of that provision and a general law on that subject. That is the shape in which the matter stands.

Mr. BECK. Being unable to lay my hand on the law I have nothing to say except that I agree with the Senator from Pennsylvania that the action of the Post-Office Committee has very great weight with me in regard to the money part of the provision.

Mr. TELLER. What is the pending question?

The PRESIDING OFFICER. The Chair will state the question again. The Senator from Texas originaly moved an amendment to strike out so much of the committee's amendment as provided for return cards. It was then suggested by the Senator from Maine that the object of the Senator from Texas would be accomplished by the simple rejection of the committee's amendment. The question is on agreeing to the amendment of the Committee on Appropriations.

The amendment was rejected.

The Secretary resumed the reading of the bill, and read to the end of the first section.

Mr. PUGH. If this be the proper time, I desire to offer an amendment to come in at the end of the first section.

The PRESIDING OFFICER. The Chair understands that the proper time will be immediately after the disposition of the amendments of the Committee on Appropriations. There is but one more amendment of the committee.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in section 2, line 3, after the word "million," to strike out "five" and insert "three hundred and two;" so as to make the section read:

SEC. 2. That if the revenue of the Post-Office Department shall be insufficient to meet the appropriations made by this act, then the sum of $2,302,258, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post-Office Department for the year ending June 30, 1882.

The amendment was agreed to.

Mr. PUGH. I offer an amendment from the Committee on Post-Offices and Post-Roads, to come in at the end of section 1.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. It is proposed, at the end of line 197, to add the following:

For additional postal service to foreign countries, $1,000,000, to be expended under the direction of the Postmaster-General, in the establishment of mail steamship lines, equitably distributed among the Atlantic, Mexican, Gulf, and Pacific ports: *Provided*, That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted to such service.

Mr. EDMUNDS. I make the point of order.

Mr. WALLACE. The point of order is made on this amendment.

Mr. EDMUNDS. I submit that it is not in order.

Mr. PUGH. Will the Senator do me the favor to withhold the point of order so that I may address the Senate upon the subject?

Mr. EDMUNDS. Certainly, with pleasure, if the point of order be reserved.

The PRESIDING OFFICER. The point of order is reserved.

Mr. WALLACE. The committee reserve all points of order upon this amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. PUGH. Mr. President, I should not undertake to consume the valuable time of the Senate in addressing it upon this amendment were I not impressed with the fact that I cannot render a more valuable service to the people of Alabama, whom I in part represent, and in fact to the people of the South, than to give in the form that I have them the figures, the reflections, and the views upon this great subject, to which they have paid no attention and about which they are uninformed, and I make that apology for trespassing upon the courtesy of the Senate.

Mr. President, the amendment reported by the Committee on Post-Offices and Post-Roads to the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department is intentionally left incomplete in some important provisions, about which each member of the committee is free to act in accordance with his convictions when the amendment is before the Senate. The main purpose of the committee was to introduce to the Senate for its consideration and action a subject of pressing and paramount importance—a great American question affecting the present and future welfare of every class and condition in each of the United States. Congress is confronted by the undisputed facts in the Report of the Bureau of Statistics on the Foreign Commerce of the United States that "the total value of the foreign commerce of the United States, embracing both imports and exports, amounted last year to $1,613,770,633, and was larger than during any previous year in the history of the country;" that "during the five years ending June 30, 1876, 1877, 1878, 1879, and 1880, the value of our exports of domestic merchandise from the United States has greatly exceeded the value of imports of foreign merchandise into the United States, this excess amounting in the five years to the sum of $825,400,513;" that "the value of the exports during the last fiscal year exceeded the value of such exports during the preceding fiscal year $125,199,217, an increase of over 17 per cent;" that "the value of the imports during the last fiscal year exceeded the value of such imports during the preceding fiscal year $222,176,971, an increase of over 49 per cent;" that "the rapid increase in the value of the exports from 1860 to 1880 is shown by the fact that the specie value of such exports during the year ended June 30, 1870, amounted to only $376,616,473, whereas during the year ended June 30, 1880, it amounted to $823,946,353, or an increase of 119 per cent." When we survey the almost boundless extent of American territory, exceeding as it does the whole of Europe surrounded as it is by two oceans, the gulf, and the lakes, with an ocean front equal to all other nations combined, and 90,000 miles of splendid railways, and capabilities, opportunities, probabilities, and possibilities for agricultural, commercial, mechanical, mineral, and manufacturing production and development, we are bewildered by the grand spectacle, and rejoice that we are Americans. Great Britain, France, and Germany, the lions of Europe, have culminated in their internal food-producing capacity and found themselves largely dependent upon American surplus for support of their dense populations. The only self-supporting, attractive resource left for their capital, genius, and enterprise is found in manufacturing and mining at home and in their commerce with foreign nations. The total foreign commerce of the United States with Great Britain during last year was $664,410,191; with France it was $169,407,456; with Germany, $109,407,456.

The internal food-producing capacity of the United States is out of the reach of computation. Our boundless fields, in full view of American capital, genius, and enterprise, have attracted and absorbed them, and profitable investment and employment therein have wholly diverted all the agencies of improvement and progress from foreign fields and engaged them in home development. And we find ourselves amazed and confounded by our rapid growth and sudden dimensions. And yet we are in our infancy, and just approaching the untouched and inexhaustible realities and advantages of our situation.

Let us call a halt and look around, and see what is going on between us and our foreign neighbors.

In 1860 we imported in American vessels $228,164,855, and exported same year in American vessels $279,082,902. During the same year we imported in foreign vessels $134,001,399, and exported $121,039,394, making in the aggregate of imports and exports during the year 1860, in American vessels, $507,247,757; and in foreign vessels $255,049,793, over 66 per cent. in favor of American vessels.

In 1880 our imports in American vessels amounted to $164,087,606, and in foreign vessels to $579,394,159. The same year our exports in American vessels amounted to $115,917,891, and in foreign vessels to $730,072,437, a falling off from American vessels to about 17 from over 66 per cent. in twenty years.

This startling loss of the ocean carrying trade of the United States with foreign countries works an annual drainage in coin from American income of about one hundred and thirty millions per annum, paid by Americans to foreign ship-owners for freight and passengers.

The causes that produced this remarkable result have been the subject of much speculative inquiry. We find that the United States was the master in ship-building and in the foreign carrying trade when vessels were made of wood and moved by wind and sail; but now, when ships are built of iron and propelled by steam, their superiority in every particular has given them the sway, and England, getting the start and devoting her energy and capital to the building of iron steamships and employing them in the foreign carrying trade, while we were engaged and absorbed in home production, development, and enterprise, has established her supremacy upon the ocean.

We have not only lost our carrying trade, and are humiliated by the fact that we have not a single iron ship carrying our flag across the ocean, but American sailors, once the pride and boast of the whole country, have disappeared, and to-day we are in the humiliating position of being powerless for naval warfare or the protection of our vitals exposed upon our sea-coast to foreign attack.

Every American is deeply interested, and should feel the paramount importance of providing, as early as practicable, all the means in our power for restoring to American ship-owners our export and import carrying trade with foreign countries. Every State in our Union and every interest and pursuit suffer materially by the annual payment by citizens of the United States to foreign ship-owners of $130,000,000. This amount of gold is exported annually and goes out of American pockets into the pockets of foreigners. How can we continue to submit to such an enormous annual absorption of American income without serious detriment to our prosperity, on account of the loss of our supply of currency and the consequent derangement of our trade and commerce?

How can we accept the condition of perilous dependence upon perpetual peace with our own nation, and between nations that afford the only market for our vast and yearly increasing surplus productions? It becomes the present and pressing duty of Congress to exercise all its power in removing the obstructions and incumbrances and inequalities that are believed to be in the way, and providing all the aids necessary and proper in the great work of restoring our merchant marine, and of saving to Americans the money of Americans, for American carrying trade with foreign countries.

The difficult question is, What is the best and surest and speediest remedy? How far can Senators agree? It cannot be denied that we must have ships enough to accommodate the trade. How shall the indispensable necessity for a sufficient number of ships be supplied? To my mind it is self-evident that the only way to supply the necessary number of ships, or any number of ships, is to make it safe and profitable for men to become ship-owners. Without ship-owners you can have no ship-builders. The inducement to become ship-owners must first exist before there can be any hope of having or employing ship-builders. What will induce Americans to invest their capital in iron steamships and running them as carriers of freight and passengers to and from American to foreign ports? Nothing but reasonable certainty that the investment will be free from legislative impositions and exactions, and profitable. How can these two indispensable predicates to ship-owning by citizens of the United States be supplied?

Ship owning is by companies or corporations and not by individuals. The amount of money required to build an iron steamship of average tonnage is about three hundred thousand dollars, and only associated capital seeks such investment. An American company finds the ocean free to all carriers, with no power in the Government to protect the company against the competition and rivalry of the ships of other nations for the carrying trade. It finds the iron ships of England in possession of nearly 70 per cent. of the foreign carrying trade of this country; that the tonnage of English ships is taxed only 1 per cent. upon the net income of the ship; that to ascertain the tonnage of an English ship only the space occupied by the cargo is measured; that the cost of the English ship is about one-fourth less than an American-built ship, and that some English lines of ships are carrying the mails at an annual compensation of about three million and two hundred thousand dollars. This American company, like all Americans, is anxious to spend its capital in our own country, for ships built here by our own mechanics and workingmen, out of American material, and to run them under the American flag. But, on examination they find that the cost of building the ship in an American ship-yard, by better fed and better paid American mechanics and workingmen, and the higher priced material makes the cost of the American-built ship one-fourth more than the English ship. It is also found that the annual tax on the tonnage of an American built and owned ship is thirty cents a ton, whether it is running or tied up in the dock, and that the whole ship is measured without any allowance of space for machinery or otherwise.

Besides, the State and city tax levied on American built and owned ships, like other property, is in New York 2½ per cent. on the value of the ship, and more or less in other States.

Is it not manifest that the difference in the original cost, and in English and American taxation, and the other differences mentioned have and will always destroy the inducement to become American ship-owners and the hope of successful competition and profitable running of ships built in America, registered, and carrying the American flag, in our foreign trade, under existing navigation laws? It is unreasonable to hope for any change in our favor until ship-owners who are citizens of the United States are placed upon terms of equality in the cost, ownership, and running of their vessels with those other ship-owners with whom they must compete upon the ocean.

There is a wide difference of opinion as to the ability of American ship-builders to construct iron steamers in American ship-yards at the same cost of such vessels built on the Clyde. Mr. John Roach, the greatest American ship-builder, and a man of acknowledged capacity and skill in that business, stated in an elaborate speech before the national convention of ship-owners and ship-builders at Boston in October last, that the difference in the cost of building iron steamers in American ship-yards and on the Clyde was only 10 per cent. Why, then, is it true that during the year ending June 30, 1879, but 193,031 tons were built, including all the schooners, sloops, canal-boats, and barges, and that less than one hundred thousand tons were suitable for foreign trade? Why is it that prior to the introduction of iron steamers, when vessels were built of wood, American ship-builders and owners excelled the world in supplying ships for the foreign carrying trade? The American supply of material for the construction of iron steamers is as abundant as it is in England, and it must be the absence of a demand for American-built iron ships by those who have the capital to invest in ship-building for the foreign carrying trade, that is the sole cause of the idleness of our ship-builders and the surrender of the foreign carrying trade to English and other foreign vessels. Why is there no demand for American-built iron steamers? Mr. Roach, in the same speech from which I have quoted, furnishes the answer. He says:

> The truth is, that taxation on the ship, high rate of interest, and the difficulty of concentrating capital in this country, are at the root of the evil in this matter. Taxation is what has compelled American merchants to sell their ships and put them under a foreign flag. Steamship business is done by large companies, and when you start a company the taxation is too great to be borne. English capitalists readily invest their money in ship operations under the English laws, but they naturally hesitate about risking it under the practically prohibitory shipping-taxation laws of this country. "Put the difference in annual taxation," which continues during the whole life of the ship, beside the difference of 10 per cent. in the cost of construction of American ships built in this country, and say which is the more likely to prevent our merchants from owning ships. It would seem to be enough that the interest on American capital should be 6 per cent. while in England it is only 3, without adding such a tax. Beside, the ship carrying the English flag is not compelled to carry the mail unless it sees proper to do so, and getting for its service fair compensation, while the American ship is compelled to carry it for merely the letter postage. But this is not all. The American ship is more costly to build, because 90 per cent. of the cost of construction is labor, and American labor is dearer than European labor. But so is the American labor required to run the ship dearer. In fact, the labor required in building is only a drop in the bucket. The number of days' labor required to man a 3,000-ton iron steamship for two years is about equal to the number of days' labor to build her, while the life of such a ship of the first class is twenty-five years; therefore, there are more than twelve times more labor required in the running than in the building of the ship. It is the plan of deceit to put forward the little fact that we cannot build, and try to conceal the big fact that we cannot run ships when we have them, unless the barriers of taxation, &c., which I have mentioned, are removed, and an American policy adopted equally as favorable to the building up of a commercial marine as the policy adopted by other nations.

I have thus quoted at length from the speech of the greatest and most experienced ship-builder, Mr. John Roach, and I fully indorse what I have quoted as to the effect of taxation and the other burdens and inequalities created by navigation laws. It is proper for me to mention that in making labor 90 per cent. of the cost of constructing an iron steamship, Mr. Roach estimates the cost of the labor employed in appropriating all the raw material in its natural condition and working it into the material and putting together the perfect ship. It is estimated that the cost of the labor in putting the ship together, having the material in shape of angle-iron, plates, &c., already prepared, is in England about 27 per cent. of the total cost. Mr. Boynton, of New York, who is well informed upon the subject of ship-building, about which he addressed the Boston convention, stated that "the total expenditure for the 100,000 tons of vessels suited to our foreign trade, and built in American ship-yards in the year 1879, would not exceed $10,000,000, and the earnings per annum would be from one and a half to two million dollars." That "this is the total amount of benefit to our country, and its distribution among the workmen that built it, and the seamen that man it, will promote their welfare;" but how much are the shippers and producers of America benefited thereby; and how much have they been injured by having to submit to the annual payment to foreigners of $130,000,000, for ocean transportation, Americans are compelled to purchase, and from supplying which American ship-owners are in effect prohibited by the burdens, prohibitions, and discriminations of American legislation?

The honorable and justly distinguished Senator from Maine [Mr. BLAINE] made a speech last year at the dinner of the New York Chamber of Commerce, from which I make the following quotation:

> In 1856–'7, Great Britain, the leading commercial nation of the world, had only 950,000 tons engaged in trade between the United States and that kingdom. She has 5,200,000 tons now. Germany then had but 166,000 tons; this last year she had 950,000 tons. Norway and Sweden twenty years ago had in trade between this country and their own but 20,000 tons. Last year's reports show that they had 850,000 tons. Even Austria, penned up with a limited seaboard as she is, had in commerce with us twenty years ago not a vessel of her own, but last year she had no less than 220,000 tons. And I might go on thus through the whole list. In this mighty decrease of our tonnage from 4,400,000 to 600,000 tons in about eleven years, the United States has gone backward, and all the vast profit of this trade has gone into the coffers of other nations. Let me ask of you here what other interests have gone backward in that period? Has industry? Why it has outstripped imagination. Has agriculture or internal commerce languished? Why we have increased from 30,000 to 68,000 miles of railroads, and the United States has given to

aid commerce over two hundred million acres of the public domain. But mean time she has protected by tariff every article that the American would manufacture. For the foreign commerce of the country, though, what has been done? It has been left to the alien and the stranger; and in the last ten years the value of the products carried between this country and foreign countries has exceeded $11,000,000,000 a year, out of the carrying of which somebody has made $110,000,000 per annum, a sum far larger than the interest upon the public debt. And who has made this money? France, England, Germany—everybody excepting the United States. Think of it, $110,000,000 in gold coin has gone out of the commerce of this country into the commerce of other countries. Can New York stand this? Can this great port sustain such a loss as this, with all her unbounded advantages of position and of resources, and with the magnificent continental commerce that stands behind her? I say, gentlemen, that if the carrying trade of this country, aggregating $110,000,000, is permanently turned from us, then the question of specie payments becomes one of far more complicated difficulty than it is to-day, and the only way to make that question easier of solution is to turn that current of gold from those coffers into our own.

This is an imposing, faithful, and humiliating picture of the present condition of the means of carrying our exports and imports across the ocean. The question recurs, what is the remedy?

1. Provide by law that "all materials for the construction, equipment, or repair of vessels of the United States may be imported in bond, and withdrawn therefrom under such regulations as may be prescribed by the Secretary of the Treasury; and upon proof that such materials have been used for such purpose, no duties shall be paid thereon. And all vessels owned wholly by citizens of the United States shall be entitled to registry, enrollment, and license, and to all the benefits and privileges of vessels of the United States."

2. "That as property invested in shipping derives its protection from the Government of the United States, and as such property is subject to Federal taxation, it should be exempt from all local and municipal taxation by special act of Congress, leaving the net income only subject to such taxation."

3. Repeal of the law levying a duty upon tonnage.

4. Change of the navigation laws, so as to allow any citizen, company, or corporation of the United States to purchase iron steamships wherever they can be built or purchased the cheapest, with the right to register, enroll, and license, and sail them under the American flag, the same as if they were constructed in an American ship-yard.

5. That iron steamships so purchased and owned, and registered, licensed, and enrolled shall be engaged by contract with the Government to carry the mails of the United States to foreign countries, and allowed for such service reasonable compensation.

All that can be expected from this Congress is an appropriation of $1,000,000 to be expended by the Postmaster-General in increasing and improving the mail facilities of the United States with such foreign countries as he may select, having reference to the increase and improvement of our commerce and carrying trade with such countries. Shall the appropriation be made? It is opposed by some Senators because we can compel the carrying of mails under existing laws for the postage, which, I am informed, amounts annually, for our entire foreign mail carrying, to about two hundred thousand dollars. And it is insisted that all over the present compensation would be naked subsidy.

We might have saved millions paid annually to railroads for overland mail service if such service had been required free of charge as one of the conditions of our land grants and other Government aid to railroads. But no such right was reserved and we are now paying millions to railroad corporations made rich and powerful by the bounty of the Government. We have shown no such liberality to our ship-owners, but after burdening them with taxation, and allowing no freedom in the race with rival foreign nations for the ocean carrying trade of our own country we compel them to carry the mails for a mere trifle when compared with the millions paid railroads for similar service. And it is not unreasonable to estimate that when American ship-owners establish the several lines of free ships between the important ports of this and foreign countries anticipated by the proposed amendment, that the increase of our trade and commerce will so enlarge our mail necessities and facilities that the amount appropriated will not exceed just compensation for the service.

Other Senators oppose the appropriation because it is not to be expended for carrying our foreign mails on American-built ships, owned, manned, registered, and run according to our naviagation laws. In other words, it is insisted that we shall continue an experiment that is already an established failure, of competing upon a free ocean against free ships purchased at far less cost, and running comparatively free from taxation or other incumbrances or restrictions carried by American-built steamers. How has Germany within the last decade increased her tonnage from 166,000 tons to 950,000 tons? How have Norway and Sweden within the last twenty years increased their tonnage from 20,000 to 850,000 tons? How has Austria, with her limited seaboard, grown from no ship to 220,000 tons? The answer is plain and simple and undeniable that each of these countries have permitted their citizens to go into the markets of the world, on the Clyde or elsewhere, and purchase ships where they can make the best bargains, and when so purchased they are unloaded of burdensome taxation and prohibitory restrictions, and entered into a free fight in an open field. If Germans and Swedes and Norwegians and Austrians can succeed in the struggle for the ocean carrying trade, why cannot Americans? When and where was American genius, skill, and enterprise unequal to any demand or emergency when left to an open field and a fair fight? But it is suggested that other countries pay their ship-owners liberal compensation for carrying their mails to foreign ports. Not one in a hundred of English ships have any mail contracts whatever. Neither do the lines having the advantage of mail contracts monopolize transportation on account of their ability to carry freight at cheaper rates. But I am willing to favor liberal compensation for ocean mail service, and place it on terms of equality with our overland mail service by railroads. I doubt very much whether compensation for mail service, however liberal, will produce any largely beneficial results. I have no idea such inconsiderable aid would enable merchants and capitalists who wish to engage in our ocean carrying trade with other countries to compete with the cheaper built and comparatively untaxed and unencumbered ships of England. As John Roach says, we must go to the root of the evil, and in my poor judgment the only way to do so is to legislate as I have proposed. But all we can do now is to vote the appropriation to ships owned exclusively by citizens of the United States, wherever purchased, and try the experiment.

Mr. SAULSBURY. I desire to state that, as a member of the Post-Office Committee, I did not concur in the amendment now offered to this bill from that committee. I dissent entirely from the provisions of that amendment and desire it to be understood that while that amendment has been reported from that committee it did not meet the concurrence of the whole committee. As one member of that committee, I am utterly opposed to the measure.

Mr. BAILEY. Mr. President, I do not propose to discuss this question on the point of order as to reception of the amendment, but I simply rise to say that, as a member of the Post-Office Committee, I did not give my consent to the introduction of this amendment. I am opposed to the whole spirit of the amendment and to every effort to restore the carrying trade of the United States by subsidies. I do not conceive that we shall in that way reach the source of this great evil or that we can restore the carrying trade of the United States by any such measure.

I only rose to give notice that I did not concur in the amendment in committee.

Mr. GROOME. Mr. President, I simply wish to make for myself the statement which has already been made by the Senator from Delaware in his behalf, and by the Senator from Tennessee in his, that I do not concur with the majority of the committee in regard to this amendment. I shall not enter into any discussion of it now.

Mr. MAXEY. Mr. President, this report was made like all other reports are made; it is the report of a majority of the committee. It being a majority report, it is the report of the committee. Those three Senators were opposed to the report.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Senator from Texas refers to the pending amendment which was reported from the Committee on Post-Offices and Post-Roads.

Mr. MAXEY. Yes, sir; it is reported from that committee by a majority, and the report of a majority is the report of the committee. The Senators who have stated their dissent were opposed to it.

Mr. GARLAND. Mr. President, I do not care to enter into a discussion of the merits of this question further than to say that I am in entire sympathy with the proposition contained in the amendment. The only objection I have to it is that it does not include all that it should. The masterly presentation of the case to which we have just listened from the Senator from Alabama [Mr. PUGH] relieves me of the necessity of saying anything at all in favor of the amendment if it was properly before the Senate. I could not add anything to what he has already so ably said; and I am perfectly willing to let the argument of the question rest upon his speech on that side. I simply point to the speech as the man did who had a prayer copied at the head of his bed, so as to save time, simply saying when he went to bed, "Lord, those are my sentiments."

But I rose to address the Senate upon the question of order that was made or reserved to this proposition by the Senator from Pennsylvania.

The PRESIDING OFFICER. The present occupant of the chair is not aware of the fact that a question of order is pending.

Mr. WHYTE. Oh, yes; it was raised both by the representative of the Committee on Appropriations and the Senator from Vermont.

The PRESIDING OFFICER. The present occupant of the chair was not then in the chair. The question of order, then, is made and simply reserved pending the discussion.

Mr. WHYTE. It was waived temporarily to enable the Senator from Alabama to deliver his views.

Mr. GARLAND. And upon that question now or whenever it is proper for me to do so, I wish to make some remarks to the Senate.

Mr. WALLACE. I make the point of order against this amendment that it has never been before the Committee on Appropriations, that this bill was reported to the Senate on the 2d of February, and that the amendment was referred to the committee on the 7th instant, and therefore it does not come within the rule.

The PRESIDING OFFICER. The Chair does not hesitate to decide that even though this amendment is recommended by a standing committee, if it has never been referred to the Committee on Appropriations it does not come within the rule, and the amendment is not in order.

Mr. GARLAND. It has been referred, as the record shows.

Mr. WALLACE. It has been referred. I do not make that point The point I make is that the bill was reported on the 2d of February

to the Senate, that this amendment was referred by the Committee on Post-Offices and Post-Roads to the Committee on Appropriations on the 7th, five days after the bill was in the custody of the Senate.

Mr. GARLAND. That is the statement of the case. The twenty-eighth rule of the Senate requires that before amendments of this kind can be entertained, they shall be referred to the Committee on Appropriations one day before they are offered. The Senator from Pennsylvania, representing the Committee on Appropriations, makes the report of the Post-Office appropriation bill on the 2d of February. That bill was here on the table printed in due time. The Senator from Texas, representing the Post-Office Committee, offers this amendment as recommended by the Post-Office Committee, and it is referred to the Committee on Appropriations on the 7th. That was three days ago. It was actually referred to the Committee on Appropriations, and if the committee did not consider it, that is the business of the committee and not the business of the Senator who offered it or of the Senate.

The Senator from Texas representing the Post-Office Committee could not offer it in the Senate until the bill came up to which it purported to be an amendment. That bill has not come up and not been called up until to-day. Now what is the object of Rule 28 in that particular? It is that neither the Senate nor any of its committees may be taken by surprise in the offering of an amendment to vote away the money of the country.

Mr. EATON. Do I understand the Senator from Arkansas to say that an amendment cannot be offered to a bill until it has been reported?

Mr. GARLAND. I did not say so.

Mr. EATON. Then I misunderstood the Senator.

Mr. GARLAND. I did not say that.

Mr. EATON. An amendment to an appropriation bill can be offered at any time, even before the bill comes from the other House.

Mr. GARLAND. That only strengthens the position I am stating. The object of Rule 28, under which this point of order is raised, is that the Senate and its committees shall not be taken by surprise in reference to voting away the money of the country. Now what is the surprise here? There is none because, pending this bill, on the table of the Senate and printed three days before it is called up, an amendment is offered and referred to the Committee on Appropriations to be considered. Neither the committee nor the Senate can possibly be taken by surprise.

Mr. CONKLING. Will the Senator listen to a suggestion from me?

Mr. GARLAND. I will.

Mr. CONKLING. I am disposed to agree with the Senator, if I can, but I am more troubled upon this point: the object of a rule requiring an amendment to be referred to a committee having the bill in charge must be, beside that stated by the Senator, that the committee may act upon the amendment and may consider it in connection with the bill. When the committee have once reported the bill to the Senate, it is no longer in charge of that committee any more than any other committee. The fact that it was once committed to the committee does not give the committee reporting it any retained hold upon it after it comes into the Senate. Now, if after the committee has finished the bill and reported it to the Senate, an amendment is referred to the committee, how does that satisfy the rule if its object be to enable the committee to act upon that amendment in connection with that bill?

I do not know that I make myself understood by the Senator, but if I do, I beg to hear him on that point.

Mr. GARLAND. I understand the Senator perfectly well, and I was intending to come to that point before I finished. When the Senator from Texas offers his amendment representing the Committee on Post-Offices and Post-Roads, it so happens that this bill is out of the Committee on Appropriations. There we come to the practical question whether it was the duty of the Senator from Texas as representing the Post-Office Committee to have moved to recommit the appropriation bill with the amendment, or whether it was the duty of the Committee on Appropriations having in charge this Post-Office appropriation bill to make the statement and ask that the whole subject be again committed to it.

Now, holding in view all the while that it is simply a question of mere matter of surprise, or mere matter of hasty dealing with the public Treasury, according to the letter of Rule 28, the amendment is out of order possibly, but according to its spirit and meaning it is not out of order, because the Senate and its Committee on Appropriations have had every opportunity to consider this matter maturely, and the question practically suggested now by the Senator from New York is simply a matter of duty or failure of duty—I mean it, of course, in no offensive sense—whether it was not the place of the Committee on Appropriations to ask that the bill be recommitted to it, or whether it was the place of the Senator from Texas, representing the Post-Office Committee, to ask that.

Then we are brought simply on this question of order to this mere matter of *lapsus*, on account of which no Senator can say truthfully that he is surprised or that he has been hastened into the consideration of the subject at all; and in view of the lateness of the session and in view of the difficulty of getting at this question, which is so important and has been so well represented by the Senator from Alabama, I hope that the Senate will vote that this amendment is in order, and I think within the spirit and meaning of the rule, it is in order.

Mr. BAYARD. I would suggest to my friend from Arkansas upon the theory that the committees of the Senate are organized for investigation and to inform the Senate, the rule requiring that amendments to a general appropriation bill shall be submitted to the Committee on Appropriations for the purpose of having their examination, ascertainment, and report, how idle it would be to send a measure to the committee when the committee had discharged itself from the consideration of the bill, having reported the bill back to the Senate. The Committee on Appropriations acts as a body, consults as a body, votes as a body, and reports as a body; but the amendment in question never was before them as a body; they never reported it; and therefore if it be the object of the Senate under Rule 28 to procure advisory action of the committee, whose consultations are to be reported, the object has entirely failed, by not having the amendment submitted to it in time, which means, of course, before the committee reports the bill.

If the amendment had been sent to the committee on the very day of the report of the bill, it would have been too late. The rule requires twenty-four hours, which means twenty-four clear hours for the examination in order that the advice of that committee as an organized body shall reach the Senate. In this case it was impossible. The committee had reported the bill, and as I said had been self-discharged from the further consideration of the subject by reporting the result of their deliberations. Now, can it be that the rule is satisfied either in letter or in spirit, by referring an amendment to them, after relieving them of the subject, after the bill upon which the amendment was to be ingrafted had passed out of their hands?

Mr. GARLAND. In response to the statement the Senator from Delaware makes, let me say that Rule 28 does not require the amendment to be offered a day before the Committee on Appropriations reports. That is not the language of the rule. It requires the amendment to be referred a day at least before it is offered in the Senate. That is the rule; I quote the language exactly, "shall at least one day before they are offered." Offered where? Offered in the Senate, as a matter of course. Now, this amendment is offered by the Senator from Alabama the very first opportunity he has had to offer it. The bill has come from the committee, it is true, yet the committee is not discharged from it, according to the Senator from Delaware. They are not discharged yet. We are proceeding to see whether we will discharge them from the further consideration by adopting the bill or by sending it back to them.

The object, the sole object, of a reference to the Committee on Appropriations is for them to ascertain simply whether the Government can stand the appropriation; and when in their judgment the Treasury can stand the appropriation, that is all the rule requires them to have an opportunity of knowing. We can even yet recommit this bill with all the amendments.

I contend in the parliamentary view that notwithstanding this bill managed by the Senator from Pennsylvania, representing the Committee on Appropriations, was upon the table here, yet when this distinct subject went before them under the amendment submitted by the Senator from Texas, they had this whole subject before them, and it did not require the original bill to go back to them to give them jurisdiction of it. They could have come and reported this as an independent proposition, if they saw proper, or reported it as an amendment to a bill they had already reported. There can be no mistake about that in the view of parliamentary law.

If it is obnoxious to Rule 28, it is, as I think my friend from Pennsylvania will confess, by reason of a bare technicality that makes it so, for the Senate and the committee have had every opportunity to consider this proposition, which stands out here in importance second to none that we have had before the Senate during this session of Congress.

Mr. BUTLER. I should like to make an inquiry of the honorable Senator from Pennsylvania or the honorable Senator from Arkansas. Has the Committee on Appropriations taken any action whatever on this amendment?

Mr. WALLACE. They have not. The Senator from Texas, the chairman of the Committee on Post-Offices and Post-Roads, informed me of his desire to submit this amendment to the Committee on Appropriations. The committee was in session, and I think it was the day after he first gave me notice, before this was referred to the Committee on Appropriations. It was never acted on by the Committee on Appropriations at all. The bill had been reported to the Senate before the amendment was offered.

The PRESIDING OFFICER. The Chair will inquire of the chairman of the Committee on Post-Offices and Post-Roads if this amendment was reported from that committee as an amendment to be offered to this appropriation bill?

Mr. MAXEY. I answer the question by reading from the CONGRESSIONAL RECORD of February 8 a portion of the proceedings of the day before, as follows:

> Mr. MAXEY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Personal notice of which I gave to the Senator in charge of the bill.

Mr. HILL, of Georgia. There is one idea which seems to be taken for granted by some gentlemen here that I confess I do not comprehend. It is that standing committees of this body cannot consider an amendment to a bill unless the bill itself is at the time before the committee. I do not understand that. Where do gentlemen get that idea?

Mr. EATON. Will my friend pardon me a moment?

Mr. HILL, of Georgia. Certainly.

Mr. EATON. Look at the action of the Senate on all bills. Within the last thirty days there have been more than one hundred amendments offered, more than one hundred memorials and petitions presented with regard to bills which have been reported from the various committees, and when they were offered they were laid upon the table because those bills had been reported and thoroughly considered by the committees.

Mr. HILL, of Georgia. I cannot comprehend yet why under Rule 28 the standing Committee on Appropriations cannot consider the question of a specific appropriation proposed by an amendment, simply because the general appropriation bill to which that amendment is to be attached is not before them. I cannot understand it. The whole object of Rule 28 is to secure the consideration by the Committee on Appropriations of a proposed amendment, and that they may give consideration to that amendment they must have it twenty-four hours before it is acted on in the Senate. Now, do you say that an amendment cannot be referred to that committee because the committee has reported the general bill to which the amendment applies? It is no answer to say that it may have been so acted on. I think I know cases where the reverse is true, but still in the nature of the subject why is it that a standing committee of this body cannot consider an amendment proposing a specific appropriation because the general subject has already been reported upon? Are they not familiar with the bill that has been reported? Are they not familiar with the whole subject? Does not the very fact that they have already reported that bill show that they are familiar with it?

Mr. HOAR. Will the Senator from Georgia allow me to make a suggestion at that precise point of his argument in confirmation of it? The very rule implies that amendments are first to be referred to committees that have not got the bill in their possession at all. An amendment to a general appropriation bill is referred to the Committee on Post-Offices and Post-Roads, if it relates to that subject, although the Post-Office appropriation bill never goes to them. The rule itself implies that they may report a specific amendment to a bill that is in the possession of another committee or that is in the possession of the Senate. If they may do that, *a fortiori* may not the very committee that had the bill in its possession all the time have an amendment referred to it?

Mr. HILL, of Georgia. Certainly, I agree with the Senator from Massachusetts; and besides, if Senators will reflect a moment, the necessity of referring an amendment or making an amendment to the bill may not occur to Senators until the committee has reported it. The bill if not reported may when reported contain the very provision wanted, and save the necessity of referring the amendment. When this bill is reported, if a Senator finds that a provision which he desires incorporated in it has not been made, do you say that because the committee have reported the general bill they have got rid of the whole subject, and, therefore, the Senate is incapable of considering it? By no means. The whole object of the rule is to procure consideration to the subject by a committee familiar with it, and they can consider it just as well, just as thoroughly after they have reported the bill as before, and the necessity for making the amendment may be all the more apparent after the bill has been reported.

For my life I cannot see anything in these rules that prevents the consideration of an amendment which has been referred to the committee twenty-four hours in advance of its being offered in the Senate. It is proposed and offered, and then when it comes up in the Senate it is regularly offered; it has been considered, it has received the deliberate consideration of the standing committee of the Senate. Gentlemen seem to have an idea that a standing committee of the Senate cannot consider a branch of a subject unless the whole subject is before them. You have a standing Committee on Appropriations. It is always the duty of that committee to consider any question of appropriations, either general or specific, that the Senate may refer to them.

Mr. MORRILL. May I ask the Senator from Georgia if it has not come under his notice—it certainly has come under mine—that the Committee on Appropriations have frequently come in with many amendments to bills that have already been reported?

Mr. HILL, of Georgia. Certainly. I said in reply to my friend from Connecticut that even if the precedent was the other way it would not satisfy me. I agree with the Senator from Vermont; I think I have observed very often, and indeed I remember now myself to have offered amendments and had them referred to the Committee on Appropriations after that committee had reported the bill. I did not see the necessity of the amendments until after they had reported the bill; it was not brought to my attention; and I then had the amendments referred to the Committee on Appropriations. I can see nothing in the world to prevent them from considering the subject simply because they have reported the bill.

Mr. WHYTE. Mr. President, this is the first time in my life that I have ever heard that after a committee had made its report upon a general appropriation bill that committee could consider amendments subsequently offered and referred to it. I presumed that the old parliamentary proceeding was recognized by everybody that after a committee had made a report of a bill to the House which had sent it to the committee to investigate, as to that particular subject the committee was discharged. It is as old as parliamentary law, and the mere fact that you have a standing committee instead of a select committee to make inquiries for the whole body of the House does not alter the question. It is the very oldest of parliamentary law that after a committee has examined a subject committed to it and reported upon it the committee is dissolved as to that subject, and Jefferson and every parliamentary writer lays it down as the rule of law.

Mr. MORGAN. I will ask the honorable Senator, if he will allow me, whether the Committee on Appropriations could not have got together within the last half hour and have agreed upon this same amendment offered by my colleague and have made it their own when they offered it as an amendment to their bill?

Mr. WHYTE. I do not think so.

Mr. MORGAN. It has been done.

Mr. WHYTE. It may have been done without objection; but the subject-matter must be recommitted to the committee to enable them to consider amendments; and the rule is a rule of reason and of common sense, and if Senators will look at the language of the rule they will see the object of it. The object is to submit to the Committee on Appropriations the amendments while they are discussing the whole appropriation bill. They know the revenue; they know the amount of the resources of the Government, and they know exactly how much can be expended; they know whether the Government can afford to make the expenditure; and while they are considering that question as to the total amount of appropriation, every amendment intended to increase the appropriation bill must go to them. Why? Because that committee has charge of the subject; because that committee is invested with the whole nature of the subject, and because that committee can tell whether the resources of the Government will justify the increase of the appropriation.

Now, why under the rule ought that committee to act before the bill is out of its possession? For the purpose I have stated, that it can ascertain whether it is proper to add that increase of appropriation to the appropriation bill, and must it not investigate it in advance? Certainly. Look at the language of the rule:

> All amendments to general appropriation bills moved by direction of a standing or select committee of the Senate, proposing to increase an appropriation already contained in the bill, or to add new items of appropriation, shall, at least one day before they are offered, be referred to the Committee on Appropriations.

Is that all? Is it a mere matter of form that they are to be sent to that committee? Is it a matter of red-tape that they must go there before they are offered in the Senate? No; it is for the purpose of obtaining the mind of the Committee on Appropriations on the subject at the time when it is considering the whole matter of inquiry, and therefore, while it goes to that committee, and is acted upon by that committee, what further does the rule say?

> And when actually proposed to the bill.

When it has come back from the committee, when the amendment is reported from the committee, either favorably or otherwise, when that amendment so sent to them shall be—

> Actually proposed to the bill, no amendment proposing to increase the amount stated in such amendment shall be received.

Why not? If it does not amount to anything to go to them, but is a mere matter of form, why can you not make, as in this case, the amount $2,000,000 instead of $1,000,000? It shows that the rule is intended to have the amendment before the committee when they are examining the subject, acted upon then during their examination of the subject, and after their report of the bill is made, the amendment coming back with the bill, favorably or unfavorably, that specific amendment as it goes to them and comes back to the Senate cannot be altered, and the amount cannot be increased.

Mr. HOAR. Mr. President, it seems to me that the remarks of the honorable Senator from Maryland are made in entire misconception of the policy of the Senate established in its rules relating to this matter. The rules go all through upon the idea that an amendment to a general appropriation bill is in some sense a separate bill; it relates to a large mass of different subjects, different expenditures. The learned Senator argues that when the Appropriations Committee has made its report upon a bill, it is *functus officio* as to that subject, and it cannot be supposed that it was the purpose of the Senate to permit the commitment of an amendment to a bill to a committee that had reported on the bill itself. Why, Mr. President, the Senator forgets that the very rule he is discussing required and implies the original commitment of the amendment to a committee that has no jurisdiction over the bill whatever. This amendment was properly, in the first place, committed to the Committee on Post-Offices and Post-Roads. They never were to report the bill itself; they had an amendment, and nothing else before them. Now, does not the honorable Senator from Maryland see that the rule starts, in dealing with the matter of this amendment, on the theory that it is to be treated, for many parliamentary purposes, as if it were a separate bill? Then, having been reported to the Senate as an amendment to a general appropriation bill, by a committee that never had that general appropriation bill within its jurisdiction, but only this particular clause,

why should it not be considered by the committee that had the general bill under its jurisdiction?

The rule supposes and implies the expectation of the Senate that these amendments will ordinarily come in after the Senate sees the bill as matured by the committee. It is amendments not contained in the bill or amendments increasing what the bill provides with which the rule deals, implying, therefore, ordinarily that when these amendments are offered, first referred to the appropriate committee, and then referred to the Committee on Appropriations, the Senate will know what the Committee on Appropriations have originally done; otherwise the mover of the amendment cannot know whether he is increasing the items of appropriation or whether he is adding an item not already contained in the bill. Then when the amendment is introduced the rule goes on, as the Senator from Maryland says, to declare that no amendment increasing the amount of that amendment shall be in order; in other words, applying to that amendment (treating it for that purpose as an original bill) the precise provision which the Senate had applied to the original bill as it came from the Committee on Appropriations itself, and guarding the Treasury by prohibiting an increase of the appropriation.

Then the rule goes one step further and says, when this amendment is properly and lawfully moved in the Senate it shall be in order to lay it on the table by itself, and that the adoption of that motion shall not carry the entire bill with it.

So, then, from its origin to its final disposition by an incorporation in the bill, or by a rejection, or by laying upon the table, the rules of the Senate treat an amendment introducing a new subject-matter into a general appropriation bill, a new item, or increasing the proposition of the Committee on Appropriations as to old items, as for that purpose a separate bill, and no reason can be stated why such an amendment should not be referred, if moved after the original appropriation bill has been reported, to the Committee on Appropriations, but on the contrary every reason is in favor of the jurisdiction of that committee.

I do not deal with the question whether this amendment is objectionable under the twenty-ninth rule as general legislation, because that point has not been taken yet.

Mr. BUTLER. I offer the following amendment to the amendment——

The PRESIDING OFFICER. The question of order will be settled before any amendment can be received to the amendment.

Mr. BUTLER. I give notice, then, that I will offer an amendment, after the word "ports" in the fifth line to insert "in proportion to the annual value of the exports from said ports to foreign countries."

The PRESIDING OFFICER. The Chair understands the question of order to be that raised by the Senator from Pennsylvania, that this amendment having been referred to the Committee on Appropriations after that committee had reported the bill to which the amendment is proposed, this amendment is for that reason out of order. The Chair holds that this amendment having been reported by one of the standing committees of the Senate and referred to the Committee on Appropriations more than one day prior to the time that it is offered for adoption in the Senate, the amendment is in order under Rule 28, notwithstanding the fact that the bill had been previously reported by the Committee on Appropriations, and overrules the point of order raised by the Senator from Pennsylvania.

Mr. WALLACE. I now make the point of order under Rule 29 that this is general legislation. It seems to me that that must be apparent from the provisions of the amendment. It is:

For additional postal service to foreign countries, $1,000,000, to be expended under the direction of the Postmaster-General—

That far it is a direct matter of appropriations; but then follows—

in the establishment of mail steamship lines—

First there are to be mail steamship lines established by the Postmaster-General. He is authorized by this amendment for the first time to establish mail steamship lines. Second, these mail steamship lines are to be—

equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports.

So that it is legislation which authorizes the Postmaster-General to create mail steamship lines and to distribute them among the Atlantic, Mexican-Gulf, and Pacific ports. I do not mean to deal with the proviso, but simply desire to call the attention of the Senate to two words found in appropriation bills of this character in making appropriation for steamship routes that now exist. The words are:

For inland transportation by steamboat routes, $950,000.

Those are already in existence. Those to which this $1,000,000 is proposed to be appropriated are to be created by the Postmaster-General and of course it becomes legislation.

For inland transportation by star routes.

How do they exist? By virtue of law creating them. They are already in existence. There is no such thing as that in regard to the mail steamship lines which are to be provided under this amendment. Hence we create, we enact, we establish mail steamship lines, which is the very broadest character of legislation, to appropriate this million of dollars to. Hence I assert that this amendment is obnoxious to the twenty-ninth rule, that it contains general legislation.

Mr. GARLAND. This amendment is certainly unfortunate; it seems to be shingled over with objections on questions of order; but I am decidedly of the opinion that Rule 29 does not affect the amendment at all. That rule is simply to prohibit general legislation upon an appropriation bill coming in the shape of an amendment. The language is that an amendment shall not be received that proposes this kind of legislation. The amendment says:

For additional postal service to foreign countries—

As a matter of course that means that there is already a postal service to foreign countries to which this is to be an addition—

Additional postal service to foreign countries—

How much?

one million dollars, to be expended under the direction of the Postmaster-General, in the establishment of mail steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports.

Mr. WALLACE. Will not those be new steamship lines?

Mr. GARLAND. That may be very true, but the language of the first part of the amendment conveys the idea that it is additional. It is simply to increase, if you please, an existing service, just as you would provide for carrying the mail on an additional mail-route. Upon that and for that you make the appropriation. It is done every year in the postal appropriation bill. This is simply an addition to a service that already exists.

In the establishment of mail steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports.

The Senator from Texas has furnished me the Revised Statutes, section 4006, the law in reference to the establishment of postal service to foreign countries, and this is an appropriation for additional service, to use the language of the amendment. There is already an existing law which this simply expands, which this simply adds new items of expense to. It is scarcely ever the case when an appropriation of this character is made, whether by amendment or original bill, that directions are not given in the shape of mandates of law to the officer as to how he shall execute it or how he shall disburse the money. It becomes, therefore, a very difficult question to determine in these appropriation bills what makes legislation, what are the features of legislation in directing the expending of the appropriations.

If the point now made be well taken, I wish Senators to bear in mind that about two-thirds of this bill would have to be eviscerated from the body of it by an application of that rule. Let the Senate bear in mind for instance, commencing on line 28 of the bill, that it contains this provision:

And hereafter the Postmaster-General shall cause a condensed advertisement of all general mail-lettings of each State and Territory and of the District of Columbia, as required by the provisions of an act approved May 17, 1878, entitled "An act to regulate the advertising of mail-lettings, and for other purposes."

It goes on for half a page of legislation in this appropriation bill, directing the Postmaster-General what he is to do, and Rule 29 says that an amendment shall not be received which is general legislation; but here is an amendment coming from the committee.

Mr. JONES, of Florida. In the presence of the idea which the Senator from Arkansas suggests, and in elucidation of this subject, I should like to know if the existing postal system between this country and foreign countries is established by law like the postal service on land, as suggested by the Senator from Arkansas? I know no statute of the United States which establishes post-routes between the United States and Great Britain, and the analogy I do not think exists. All the existence such routes have is derived from the regulations of the Post-Office Department, I think.

Mr. GARLAND. The statement of the Senator from Florida is correct as I understand, and, as I have said so often, this simply expands and enlarges that service as our necessities and the exigencies of the Government require it to be done; and it is not, within the sense of Rule 29, making additional legislation or general legislation on an appropriation bill. If so, one-half or three-fourths of the bills we pass are vicious and this bill particularly is vicious, and I can point out four or five provisions that go to make new features in the appropriation bill, imposing new duties on the head of the Department and new duties on the employés and different officials of the United States in disbursing this money. I do not think Rule 29 comes in conflict at all with this amendment.

The PRESIDING OFFICER. The Chair rules that the amendment is not in order under Rule 29, and sustains the point of order raised by the Senator from Pennsylvania.

Mr. MAXEY. I appeal from the decision of the Chair.

The PRESIDING OFFICER. From the ruling of the Chair the Senator from Texas appeals.

Mr. HILL, of Georgia. I make this point, that all questions of order under Rule 29 should be submitted to the Senate.

The PRESIDING OFFICER. Questions of relevancy are to be so submitted. Other questions may be decided by the Chair, or the Chair supposes he may in his discretion submit them to the Senate.

Mr. WINDOM. I rose before the Chair decided the question, for the purpose of submitting a reason why I thought this was not general legislation. I will do it as the question now stands, with the permission of the Chair.

The PRESIDING OFFICER. It stands on an appeal.

Mr. WINDOM. I have usually held very strictly both in the committee and in the Senate upon the question of general legislation. I do not believe, however, that this is that character of legislation prohibited by the rules, and for this reason: the amendment goes no

further than to direct what shall be done with the money appropriated. The distinction I draw between general legislation and that which is not general, between that prohibited by the rule and that allowable, is this: if you appropriate a sum of money and provide for an organization or for a service to be conducted at some future time independent of the amount of money to be used, I think it would be general legislation; but if you appropriate an amount of money, and confine your amendment to the use of that money, directing what shall be done with it, it seems to me to be legitimate. If that cannot be permitted in an appropriation bill, I think we shall be very much crippled in throwing around any appropriation the proper safeguards. I do not think the length of a provision has anything to do with it, provided you confine your amendment to the use of the money appropriated. This is so confined, and therefore I think it is not general legislation.

Mr. CONKLING. Will the Senator from Minnesota let me ask him a question?

Mr. WINDOM. Certainly.

Mr. CONKLING. Once or twice before amendments like this engaged the judgment of the Senate on a point of order. I want to inquire of the Senator whether either of those instances was in the case of an appropriation bill, or whether it was only on the post-route bill?

Mr. WINDOM. It was on an appropriation bill that this same point arose.

Mr. CONKLING. Put on by a vote of the Senate?

Mr. WINDOM. I think the Senate voted that it was in order, but I am not positive. That is my recollection.

Mr. CONKLING. The Senate has, I am quite sure, once or twice voted that an amendment like this was in order, but whether upon a general appropriation bill, I was not quite sure. I thought the Senator would know.

Mr. WINDOM. My impression is, though I cannot answer positively, that it was held in order on an appropriation bill, and the amendment on which the Senate formerly voted was very much broader than this; that amendment provided for the establishment of a service which should run through several years and went further than the mere direction as to what should be done with the money appropriated.

Mr. JONES, of Florida. It designated the ports.

Mr. WINDOM. It designated numerous things that had no relation whatever to the distribution or direction of the money appropriated. I want to press upon the Senate this one point: if we cannot direct the use of the money we shall be in a very awkward position in making appropriations in the way of throwing safeguards around them and giving to them that use and direction which the Senate intends.

Mr. CONKLING. Does not this amendment itself make an additional appropriation?

Mr. WINDOM. There is an additional appropriation, and then the amendment, as I understand it, goes on to direct its use. Let me read it:

> For additional postal service to foreign countries, $1,000,000, to be expended, under the direction of the Postmaster-General, in the establishment of mail steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports: *Provided*, That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted to such service.

Every word in the amendment after "dollars" shows how the million dollars is to be expended. I do not think it is general legislation within the meaning of the rule.

Mr. WHYTE. May I ask the Senator from Minnesota before he concludes, if this is not general legislation in that it changes the present condition of the law in regard to the foreign mail service? I would like to ask the Senator from Minnesota whether the foreign mail service is not now conducted upon contracts made by the Postmaster-General after advertising for bids and whether this does not put this money at his disposal to distribute it as he pleases among such steamship lines as he selects?

Mr. WINDOM. I cannot see how it changes any existing law on the subject.

Mr. WHYTE. I ask the Senator if the existing law does not require the Postmaster-General to advertise for bids and to make contracts with the lowest bidder for the carrying of the mail?

Mr. CONKLING. Not unless a proposed route has been established.

Mr. WHYTE. I mean in regard to the foreign service.

Mr. WINDOM. I think not.

Mr. JONES, of Florida. There is no such provision of law.

Mr. WHYTE. I think it is so.

Mr. WINDOM. I believe no foreign mails are carried by contract.

Mr. WHYTE. I do not know, but I think so. Section 4006 of the Revised Statutes provides:

> The Postmaster-General, after advertising for proposals, may enter into contracts or make suitable arrangements for transporting the mail through any foreign country, between any two points in the United States, &c.

Section 4007 provides:

> The Postmaster-General may, after advertising for proposals, enter into contract for the transportation of the mail between the United States and any foreign country whenever the public interests will thereby be promoted.

> 4008. The mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, shall be transported in steamships; but the Postmaster-General may have such transportation performed by sailing vessels when the service can be facilitated thereby.
>
> * * * * * * *
>
> 4010. The Postmaster-General may impose fines on contractors for transporting the mail between the United States and any foreign country, for any unreasonable or unnecessary delay in the departure of such mail, or the performance of the trip; but the fine for any one default shall not exceed one-half of the contract price for the trip.

I think that all recognizes the making of contracts after advertising for proposals. How can you fine a man for a breach of contract if you do not have to make a contract with him after advertising for proposals?

Mr. WINDOM. I want to suggest one point to the Senator from Maryland. If I understand the law he has read, it is simply permissive; the Postmaster-General may do it, but I am informed by members of the Post-Office Committee that he does not do it; and suppose the law does authorize him, this is simply in conformity with it. He may act under that law in doing the same thing now.

Mr. WHYTE. It occurred to me that under the law he was to make a contract with the company that would do the work for the lowest sum. That is the usual mode of making contracts with this Government.

Mr. CONKLING. If the Senator will pardon me, I do not know but that he is right, but as I ventured to reply in a word to his suggestion, I will explain as well as I can what I meant. In the case of a post-route established and regulated, the Postmaster-General is to do what the Senator has now read, and he is to act under statutes still more specific. In the case of foreign and ocean service the Postmaster-General may do what the Senator has read, and doing it the vessel, if a steam-vessel, may be allowed an amount not exceeding all the sea postage and all the inland postage; if the vessel be a foreign or a sailing vessel, the Postmaster-General may allow any sum not exceeding all the sea postage. That is the law as I understand it.

Mr. BURNSIDE. Will the Senator from New York yield for a motion to adjourn?

Mr. CONKLING. I will yield altogether in a moment, and be very glad to vote for the Senator's motion. There being two sets of provisions, one those relating to the establishment of post-routes, and the other the general provisions to which the Senator from Maryland has referred, I submit to him this proposition: The amendment proposes that under the direction of the Postmaster-General this shall be done. Why would it not be in exact accordance with the provisions of law the Senator has read? How does it change those provisions? On the contrary, as to that point it strikes me that this amendment is not only in aid of those provisions, not only consistent with them, but entirely subordinate to them, because the amendment says "under the direction of the Postmaster-General in the establishment of mail steamship lines."

Mr. WHYTE. But it limits him to American vessels of a particular character.

Mr. CONKLING. The proviso is:

> *Provided*, That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted to such service.

That follows and if that is the Senator's point, I am not sure that he is not right so far that it would restrict the Postmaster-General from employing foreign ships and sailing ships. In this respect it follows provisions which were attached to three statutes relating to the carrying of mails from San Francisco to Hong Kong which provided, the last of them, that the ships should be iron ships as to the future service, of 4,000 tons registered burden, to be surveyed and inspected and accepted, and further provided that in case of war they should be purchasable at an appraisement by the Government. This amendment in that respect seems to run somewhat in that groove.

Mr. SAULSBURY. I would like to suggest to the Senator from New York that, so far as I know, there is no law providing for the establishment of steamship lines. Here is now an appropriation to be expended in the establishment of steamship lines. Is it not legislation on an appropriation bill? There is no general law that establishes such lines of steamships, and I ask now if we provide money to be appropriated to that purpose, is it not general legislation establishing mail steamship lines which do not now exist?

Mr. CONKLING. I can only say that I do not wonder that the Senator from Delaware should ask that question. It is a very serious question and a very hard question to answer, and he puts the objection to this legislation under the rule in the most formidable shape in which it can be presented. That is a question undoubtedly that I do not venture at this moment at all events to discourse upon. I rose only to call the attention of the Senator from Maryland to the fact that, except as to the description of the particular ships to be employed, this would seem to be consonant with the statute which he has been reading.

Mr. WALLACE. Mr. President, as I endeavored to state when I was up before in making the point, if this were an appropriation for the transportation of foreign mails to be expended under the direction of the Postmaster-General, then the proposition made by the Senator from Minnesota would be correct; but it is to be expended in the establishment of mail steamship lines; it is the creation of new lines; it is the employment of ships, and not for transportation

of foreign mails alone. It is to create the means by which mails are to be transported. It is to establish by virtue of law the means by which we are to transport the mails to foreign ports, and not for the transportation of the mails alone. That is the point I make.

Mr. BURNSIDE. I move that the Senate adjourn.

The motion was agreed to; and (at five o'clock and two minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### THURSDAY, *February* 10, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

WESTERN JUDICIAL DISTRICT OF VIRGINIA.

Mr. CABELL. I ask unanimous consent to take from the Speaker's table a bill of the House returned from the Senate with an amendment, for the purpose of concurring in the amendment of the Senate. It is House bill No. 6599, to change the times for holding the circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia.

Mr. BLOUNT. I shall not object to this proposition, but I give notice that I shall object to the consideration of any bill of importance at this time.

There being no objection, the bill was taken from the Speaker's table.

The amendment of the Senate was to add to section 1 the words "instead of the times now fixed by law."

The amendment of the Senate was concurred in.

Mr. CABELL moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. COX. I call for the regular order.

The SPEAKER. The regular order is the morning hour for the call of committees for reports.

Mr. SPRINGER. I move to dispense with the morning hour.

Mr. KELLEY. I ask the gentleman to listen to me for a moment.

Mr. COX. I call for the regular order.

Mr. KELLEY. I am instructed by the Committee on Ways and Means to report a bill for the purpose of enforcing our treaty with reference to the Netherlands, and to ask that it be referred to the Committee of the Whole.

Mr. COX. Does the gentleman want action on the bill now?

Mr. KELLEY. No; only to refer it to the Committee of the Whole on the state of the Union.

Mr. COX. I have no objection to that.

DUTIES ON TEA AND COFFEE.

Mr. KELLEY, from the Committee on Ways and Means, reported a bill (H. R. No. 7158) to repeal discriminating duties on tea and coffee the products of the possessions of the Netherlands; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. KELLEY. I desire to give notice that I will on Saturday next, or earlier if opportunity offers, call up this bill for action.

KANKAKEE RIVER, INDIANA.

Mr. DE LA MATYR, by unanimous consent, presented concurrent resolutions of the General Assembly of Indiana, in relation to the improvement of the navigation of the Kankakee River, in the State of Indiana; which were referred to the Committee on Commerce.

ORDER OF BUSINESS.

Mr. COX. I move to dispense with the morning hour for reports.

The SPEAKER. That motion is pending, made by the gentleman from Illinois, [Mr. SPRINGER.]

The question was taken; and upon a division there were—ayes 90, noes 33.

Before the result of the vote was announced,

Mr. VAN VOORHIS said: No quorum has voted.

Tellers were ordered; and Mr. VAN VOORHIS and Mr. COX were appointed.

The House again divided; and the tellers reported that there were—ayes 122, noes 28.

So (two-thirds voting in favor thereof) the morning hour for reports of committees was dispensed with.

The SPEAKER. The morning hour under the new rule adopted on yesterday commences at twenty-five minutes past eleven o'clock.

Mr. COX. Let the new rule be read.

The SPEAKER. The Clerk will read the rule.

The Clerk read as follows:

*Resolved by the House of Representatives*, After to-day, on each day of the remainder of the session other than the third Monday of February and the last six days, whenever on motion the morning hour shall be dispensed with by a two-thirds vote, that hour shall be set apart for the consideration of bills on the several calendars and on the Speaker's table under the following regulations: The States and Territories shall be called in order as now provided for, and as each is called, one of its members shall be named by the Speaker, selected in alphabetical order, who may move the consideration of a bill; if objected to by five members rising in their seats it shall not be considered, otherwise the member making the motion shall be entitled to five minutes for explanation of his bill, or, instead thereof, to the reading of the report accompanying the same, provided the reading of such report shall not exceed five minutes, and then a vote shall be taken. The call of States shall go on from day to day until completed, as above provided, and whenever all the Members and Delegates from any State or Territory have been named by the Speaker, such State or Territory shall thereafter be omitted from the call until all the Members and Delegates shall have been so named. Any member not answering as his name is called shall be considered to have waived his privilege.

The SPEAKER. Under this rule the Chair recognizes the gentleman from Alabama, Mr. CLEMENTS.

BONDS TO BE TAKEN BY MARSHALS.

Mr. CLEMENTS. I call up for consideration the bill (H. R. No. 6535) to allow marshals and deputy marshals to take bond in certain cases.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill was read, as follows:

*Be it enacted, &c.*, That in all cases of misdemeanor it shall be the duty of the court or officer by whose authority a warrant shall issue for the arrest of any person residing more than twenty miles from the place at which such warrant is returnable, to fix and cause to be indorsed on the warrant, at the time of its issuance, an amount at which the arresting officer may take bail, as hereinafter provided.

SEC. 2. That the marshal or other officer executing such warrant shall, on the request of the defendant, discharge him on his giving bond in the sum so fixed, with good and sufficient sureties, for his appearance at the next term of the court having jurisdiction of the offense, and from term to term thereafter until discharged by law, to answer any indictment which may be found, or information which may be instituted, against him therefor; and if such court is then in session, for his appearance at such present term of the court, and from term to term thereafter as hereinabove provided. If the defendant does not avail himself of the privilege to give bail before the warrant is returned, according to its mandate, future proceedings in the cause shall be had without reference to this act.

Mr. FRYE. Does that bill come under the new rule from one of the calendars, or from the Speaker's table?

The SPEAKER. It is on the House Calendar, and is a report from the Committee on the Judiciary.

Mr. HERBERT. And a unanimous report from that committee.

The SPEAKER. The Chair will now ask for objections to the consideration of the bill which has been read.

Mr. BROWNE. Before that is done, I desire to make an inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWNE. Is this the report of the majority of the Committee on the Judiciary?

Mr. HERBERT. It is the unanimous report of that committee.

Mr. WILSON. Let it go; it is all right.

Mr. HAYES. Mr. Speaker, can we not object after the report has been read?

The SPEAKER. The gentleman will see that in such case the five minutes which may have been occupied in reading the report would be wasted. If objection is to be made, it had better be made as soon as the bill is read; in fact, as the Chair understands, that is the requirement of the rule. Is there objection? The Chair hears none. The gentleman from Alabama has five minutes to speak upon the bill, but in lieu of that he calls for the reading of the report.

The Clerk was proceeding to read the report, when

Mr. CONGER said: Mr. Speaker, if when a bill has been read and objection called for, a substitute is to be offered, I think that takes the case out of the rule. We cannot give assent to a substitute before having heard it read at all.

The SPEAKER. The bill which was read was the substitute reported by the committee for the original bill. It is the substitute that is to be voted on.

The Clerk resumed the reading of the report, which is as follows:

The Committee on the Judiciary, having had under consideration the bill (H. R. No. 6495) entitled "A bill to allow marshals and deputy marshals to take bonds in certain cases, and for other purposes," beg leave to report the accompanying substitute therefor, with a recommendation that it do pass.

The committee find that, under the present law and practice, defendants are often obliged to be carried long distances—often more than one hundred and fifty miles—at great expense to the Government, to the court, or commissioner issuing the warrant, there to be bailed. If the defendant is able to give bond, he is put to great expense in traveling back home; but it often happens that he is imprisoned because, among strangers, he can find no sureties. The committee can see no reason why the United States officer making the arrest may not take the bond in such sum as may have been fixed by the officer or court ordering the arrest. It is the practice in Alabama, Kentucky, Ohio, and other States for the arresting officer to take bail in many cases, and your committee believe the bill, if it be enacted into a law, will tend greatly to the relief of hardships resulting under the present system, from the fact that criminal process runs in the United States courts over large territory, while at the same time it will tend to reduce expenses.

Mr. CLEMENTS. Mr. Speaker, this bill has received the unanimous report of the Judiciary Committee, as I am informed. I have selected this bill as one among a number of others, but this one in particular as of more interest and importance, and of no ordinary importance to the people of my State. It is intended for the relief of my people as well as to curtail and lessen very greatly the expenses of the General Government.

I have been informed that the annual expenses for marshals and deputy marshals in the State of Alabama amount to the enormous sum of over fifty thousand dollars, and that over four-tenths of this amount is charged to the expenses of marshals and deputy marshals making arrests. It is intended, sir, to relieve the people from un-

necessary and grievous hardships and inconvenience. It is also a measure of great economy to the Government.

Sir, I could state instances of arrest in my own district, in Sumter and Green Counties, that would excite not only the sympathy but would stir the indignation of all honest men. Citizens of my district have been arrested on mere trumped-up charges, without any just foundation for such proceedings; dragged from their homes, families, hundreds of miles away among strangers, practically denied the right of bail, and obliged to go to prison, in many cases discharged and obliged to return home at heavy expense, without money to pay their way. Sir, I shrink from contemplating the suffering to which my people have been subjected, and I appeal to this House to permit this bill to pass under the rule, which will bring some mitigation of the hardships of the present practice and system now in force in Alabama.

It will be observed that this bill is well guarded, and limited to cases of misdemeanor, and restricted to persons residing more than twenty miles from the place at which such warrant is returnable. It confers upon the court or officer issuing the warrant the power and authority to fix the amount of bail to be required or taken by the marshal or officer making the arrest. Under the present law and practice, defendant and parties arrested for mere misdemeanor are often compelled to travel long distances, often more than one hundred and fifty and even two hundred miles, at great expense to the Government to appear before the court or commissioner issuing the warrant, there to be bailed. If the defendant is able to give bond he is put to great expense in traveling back home; but it often happens that he is obliged to go to prison because, away from home and friends, among strangers, he can find no sureties. I can see no reason why the United States officers making the arrest may not take the bond in such sum as may have been fixed by the officer or court ordering the arrest, as provided in this bill. As stated in the report of the committee, this is the practice in Alabama, Kentucky, Ohio, and other States, for the arresting officer to take bail in many cases in State courts, and I am persuaded and believe that this bill, if enacted into a law, will greatly relieve my people of hardships resulting under the present system, from the fact that criminal process runs in the United States courts over a very large extent of territory, while at the same time it will tend greatly to reduce the expense of the Government. Sir, we have felt most keenly and severely the workings and hardships of the present system practiced by the marshals. Our people are arrested for minor cases of misdemeanor, often without cause, carried one hundred and fifty or two hundred miles before the court or commissioner, there to give bond among strangers, when all this expense and unnecessary trouble could be avoided and the party allowed to make bond at the time and place of his arrest. Sir, I appeal to the sense of this House in behalf of my people that this bill be passed at once.

The bill was ordered to be engrossed for a third reading; and was accordingly read the third time, and passed.

Mr. CLEMENTS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### CHEROKEE AND ARKANSAS RIVER RAILROAD COMPANY.

The SPEAKER. The next State in order under this call is the State of Arkansas; and the Chair recognizes the gentleman from Arkansas, Mr. CRAVENS.

Mr. CRAVENS. I move to take from the House Calendar for passage under this call the bill (H. R. No. 6061) to incorporate the Cherokee and Arkansas River Railroad Company. It has been unanimously reported, with amendments, from the Committee on Railways and Canals.

The bill was read, as follows:

A bill to incorporate the Cherokee and Arkansas River Railroad Company.

*Be it enacted, &c.*, That Thomas Nickerson, Sterne Morse, T. Jefferson Coolidge, B. P. Cheney, Alden Speare, Isaac T. Burr, Charles W. Pierce, C. J. Paine, F. H. Peabody, Thomas Dana, George B. Wilbur, Lucius G. Pratt, Solomon S. Sleeper, Warren Sawyer, and Levi C. Wade, of Massachusetts; W. B. Strong, E. Wilder, George T. Anthony, William P. Hackney, John M. Steele, E. H. Funston, Almerin Gillett, W. H. Guy, —— Hubbard, of Kansas; Granville Wilcox, of Arkansas; J. M. Keating, George W. Armistead, Edward Whitemore, of Tennessee, and Thomas Sherlock, of Ohio, their associates and successors, are hereby incorporated under the name of The Cherokee and Arkansas River Railroad Company, with authority to construct, maintain, and operate a line of railroad and telegraph, beginning at Arkansas City, in the State of Kansas, and running through the Indian Territory, by the best practicable route, following, substantially, the general course of the Arkansas River, and bridging the same where necessary, to a point at or near Fort Smith, in the State of Arkansas; and said corporation is vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act, and is subject to all general laws which now are and hereafter may be in force relating to railroad corporations. The capital stock shall not exceed $4,300,000. It shall be divided into shares of the par value of $100 each, to be deemed personal property and transferable on the books of the corporation as the by-laws may prescribe.

SEC. 2. That within thirty days after the passage of this act the persons named in the first section, and their associates, shall meet pursuant to a notice signed by at least ten of said persons, a copy of which shall have been mailed to each of the others at least ten days before the time appointed. Ten of such persons shall constitute a quorum, and they shall organize under this act and choose not less than five persons to act as directors until others are chosen by the subscribers to the capital stock, who shall be called together for that purpose by the acting directors, upon not less than ten days' notice, when not less than 1,000 shares of said stock have been in good faith subscribed for. By-laws may be adopted at said last-named meeting, and the same may be altered, amended, or repealed, as may therein be provided. In each year thereafter there shall be a meeting of the stockholders, to be known as the annual meeting, for the choice of directors, not less than seven in number, all of whom shall be stockholders, and shall serve for the ensuing year and until their successors are chosen.

SEC. 3. That the directors may make contracts and execute leases and conveyances and accept the same in the name of the corporation, transact all its business, provide for the construction, maintenance, and operation of the railroad and telegraph, and may mortgage the property and franchises of the corporation therefor, and are vested with all the powers necessary thereto. They shall give an account of their doings upon the request of any five stockholders at the annual meeting, and prior thereto shall submit to the stockholders a report of the condition of the railroad, telegraph, appurtenances, and equipment, the earnings, expenditures, indebtedness, assets, and liabilities of the corporation.

SEC. 4. That said corporation shall file in the office of the Secretary of the Interior, under its corporate seal, its acceptance of the provisions of this act within sixty days from the passage thereof, and shall then be entitled to the benefits of the provisions contained in sections 1 and 4 of the act approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States."

SEC. 5. That said corporation, having complied with the requirements of section 4 of this act, is hereby authorized and empowered to construct its railroad and telegraph through any Indian lands or reservation when the same shall be necessary to the construction of its said line, and for that purpose to condemn a right of way to the extent of one hundred feet on each side of the central line of its said road, and shall have the right to take, from the lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction and maintenance of said railroad and telegraph; also grounds adjacent to said right of way for stations, buildings, depots, machine-shops, side-tracks, turnouts, and wood, coal, and water stations, not to exceed twenty acres for each station, to the extent of one station for each ten miles of its road. And said corporation may enter upon and take private property, subject to and in accordance with the provisions of section 3 of an act approved July 2, 1864, entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July 1, 1862," and if at the time of such taking there shall be no judge of a court of record within said Indian Territory, or having jurisdiction over any part thereof, then condemnation shall be made and compensation paid for property taken and damages sustained under such regulations and before such tribunal as the President shall appoint. Said railroad and telegraph may be constructed through any military or other reservation set apart for the use of the United States.

SEC. 6. That this act is upon the express condition that said company shall begin to construct its line within six months, and complete the same within two years from the passage of this act, so as to perfect a through connection to the Mississippi River at Memphis, Tennessee, for both passengers and freight, without change or break of bulk.

Before the reading of the bill had been concluded,

Mr. TUCKER said: Have objections been called for?

The SPEAKER. They have not.

Mr. CLYMER. I want to reserve all points of order on this bill.

Mr. VAN VOORHIS. I object to the consideration of the bill.

The SPEAKER. The reading of the bill will be concluded, after which the Chair will ask for objections.

The Clerk resumed and concluded the reading of the bill.

Mr. CLYMER. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. CLYMER. My point is this: that this act of incorporation gives the right of way through the public lands, and gives, as I understand, twenty acres of land to each section of the road not exceeding one mile.

The SPEAKER. Ten miles.

Mr. CLYMER. Now, Mr. Speaker, I do not know what may be determined to be the proper practice under this new rule. Under the rules as they have heretofore existed, no bill which made an appropriation or which granted lands or property of the United States could be considered in the first instance save in Committee of the Whole; and I do not believe the rules in that respect have been changed. Therefore, in my judgment, the point of order lies that this bill must go to the Committee of the Whole.

Mr. MANNING. There is not an acre of public land given away.

Mr. CLYMER. The right of way is given.

Mr. MANNING. Not at all. The gentleman listens but poorly, I apprehend, if he supposes that this bill appropriates one dollar of public money or gives away one acre of land.

The SPEAKER. This bill came from the Committee on Railways and Canals, and is on the House Calendar, it consequently comes within the scope of the rule.

Mr. MANNING. I was going to remark for the information of the gentleman from Pennsylvania that this bill merely gives power to condemn the right of way, but the company must pay for every inch of ground. Not one dollar of money, and not one acre of the public land, is given away by the bill. I may remark in addition, as the gentleman from Virginia [Mr. TUCKER] has called my attention in a private conversation with me a moment ago to a criticism that might be pronounced upon the bill in its present shape——

Mr. BREWER. I object to a discussion of the merits of the bill on the point of order.

Mr. MANNING. I do not want to discuss the bill, but to make a statement of fact which I apprehend the gentleman will be glad to hear if he will give me an instant. It was suggested that this bill improperly undertook to incorporate a railroad in the State of Kansas and the State of Arkansas, running across the Indian Territory, Arkansas City, in the State of Kansas, being the point of beginning, and Fort Smith, in the State of Arkansas, the point of termination. But I have this moment amended the bill so as to meet this objection, which I am sure will be satisfactory to the gentleman from Arkansas, [Mr. CRAVENS,] who has invited the action of the House at this moment. Under the bill as modified the road will begin in the Indian Territory, near Arkansas City, and will stop in the Indian Territory,

near Fort Smith, the former being within a mile or two of the line between Kansas and the Indian Territory and the latter within a mile or two of the line between Arkansas and the Indian Territory.

The SPEAKER. The gentleman from Michigan [Mr. BREWER] objects to debate on the merits of the bill.

Mr. MANNING. There is no debate; I was merely making that statement.

Mr. BREWER. An explanation of the bill is debate.

The SPEAKER. The point made by the gentleman from Pennsylvania [Mr. CLYMER] is that this bill donates a part of the public property of the United States and must first be considered in Committee of the Whole House on the state of the Union.

Mr. FRYE. Before the Speaker makes a decision on that point I desire to be heard for a single moment, because if that point is decided one way then this new rule becomes absolutely worthless.

The SPEAKER. Not necessarily so. The Chair would suggest that a motion to go into Committee of the Whole to be there considered might be entertained.

Mr. FRYE. Mr. Speaker, the point which is raised by the gentleman from Pennsylvania goes further a great deal than the mere point that this bill contains a donation of public lands. There is the same rule if a bill contains any appropriation whatever it must be first considered in the Committee of the Whole. Therefore, if the Speaker sustains this point of order made by the gentleman from Pennsylvania, then to preserve consistency he will be obliged to sustain the point of order if made against any bill which contains any appropriation of money or land. I suppose nine out of ten bills on the Calendar contain an appropriation. Therefore, if the Speaker should rule that point to be well taken, then nine out of ten bills on the House Calendar would be taken out from under this rule, except by another rule which the Speaker suggests.

If the Speaker pleases, there are the rules; and that is simply one of the rules adopted by this House, that every bill containing an appropriation shall be first considered in the Committee of the Whole. Here comes an additional rule and this rule says distinctly, affirmatively, positively, that whenever the morning hour is dispensed with by a two-thirds vote—and there comes in the power of the House—by a two-thirds vote, then the States shall be called; and when a name is reached and called in its alphabetical order the gentleman bearing the name shall present a bill from the Calendar to the House for its consideration. Then, to preserve the House again, if five members object in their seats, it shall not be considered; but if five men do not rise, then that bill shall be considered, that gentleman shall have five minutes for debate or for the reading of the report. It then goes one step further and says: "And the House shall vote upon it." The House shall vote upon it! Now, sir, under any fair construction of this last rule life and force must be given to it if it is not in conflict with former rules. If it is in conflict, the intention and purpose of the House in passing the rule would control and govern in this last rule. And it seems to me, Mr. Speaker, entirely clear that the other rule is repealed to this extent when a bill is presented through this devious road which this resolution itself marks out. I hope, therefore, the Speaker will not sustain the point of order.

Mr. CLYMER. Mr. Speaker, these two rules, the new and the old one on this subject, must be considered together. That is the fair, legal rule of construction. Now, this new rule is that under certain circumstances a certain member may move the consideration of a bill. The general existing rule is no bill containing an appropriation may be considered save in the Committee of the Whole. Now, it is presumed he may move only the consideration of a bill, which may be considered in the House, and which must not by its terms be considered in the Committee of the Whole. The two rules can stand together, and hence it is I have made the point of order, so that the Speaker may make a ruling which will protect the Treasury, and which will protect—I do not say in this case, and I do not say in every case, but in many cases—from depletion. For, sir, in five minutes under this rule who can do that justice to the rights of the Government which is necessary in order to a fair consideration of the subject? And I hold the only fair construction which can be put upon it, the only safe construction which can be put upon the new rule by the Speaker, is the one I have prayed for.

Mr. ROBESON. I think the point of order made by the gentleman from Pennsylvania is a good one, and for this reason: we have general rules which govern the introduction of bills, and we have special rules which apply to special bills. Now we made a general rule yesterday for the rest of the session to govern the general introduction of bills, but that general rule does not repeal a particular exception which applies to a particular class of bills. That is a principle of legal construction of every law and of every rule. Ordinary bills come in under certain conditions. Bills appropriating money or public property come in under certain other restrictions. That particular, definite restriction is not repealed by a general rule unless it is specially pointed to that, and specially stated, it does apply such a repeal.

Mr. HATCH. I rise to make a parliamentary inquiry.

Mr. ROBESON. I am not arguing this question with regard to this bill, or with regard to any other particular bill. But, sir, that is the principle upon which the rule must be construed, and when you depart from it you are afloat on an ocean of doubt and difficulty. We have applied for the protection of the Treasury and the protection of the property of the United States a special restriction to appropriation bills; and that will not be repealed under any rule, unless it is particularly referred to and particularly stated. The general provision applying to general bills and the general introduction of bills does not repeal it.

Mr. YOUNG, of Tennessee. Mr. Speaker, on this point of order——

Mr. HATCH. I rise to a point of order.

The SPEAKER. There is a point of order already pending.

Mr. HATCH. I wish to ask a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. HATCH. I wish to ask if the time consumed in the discussion of this point of order comes out of the hour allowed for the introduction and passage of bills by unanimous consent under this rule?

The SPEAKER. It does.

Mr. HATCH. Then I hope the question will be decided without discussion.

Mr. YOUNG, of Tennessee. Mr. Speaker, I will not undertake to discuss the question whether the point of order raised against this bill is well taken or not. I desire for a moment the attention of the House and the eye of the Speaker while I state a fact which is important in this connection. I have been trying for more than a year to get the eye of the Speaker and the ear of the House on this bill. I undertake to say now that if gentlemen are right in their conclusion they are wrong in their premises. There is no money or property of the United States appropriated by this bill or disposed of by it in any manner. It distinctly declares that simply the right of way is asked for, but does not part with a dollar of public property.

Mr. PAGE. I call the gentleman to order; he is discussing the merits of the bill. As I understand it, no debate is allowed on the merits of it except the five minutes under the rule.

Mr. YOUNG, of Tennessee. But gentlemen assume in making the point of order that this bill proposes to take the property or money of the United States, and I am simply showing in fact that it does not. It goes through the Indian Territory——

Mr. PAGE. I think the gentleman is certainly discussing the merits of the bill.

Mr. YOUNG, of Tennessee. The gentleman is mistaken. I am discussing the point of order which has been raised against the bill. I am trying to explain that the point of order cannot lie against it for the reason that no property of the Government is disposed of in any shape or form. I say that it passes through the Indian Territory——

Mr. CANNON, of Illinois. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. CANNON, of Illinois. I make this point of order: that this discussion in reference to the point raised upon this bill is premature, and under the rule——

Mr. YOUNG, of Tennessee. Have I the floor or not?

The SPEAKER. The gentleman from Illinois has risen to a point of order which the Chair will hear.

Mr. CANNON, of Illinois. I make the point of order that it is not in order to discuss the question of order raised upon the bill until it is before the House for consideration. This bill is not properly before the House for consideration under the rule which we have just adopted. The Speaker has not called for objections; five members have not risen in their places and made objection. If five members do rise in their places and object to the consideration of it the point of order is useless; and I insist that that question should be asked first. If the bill is before the House for consideration, then gentlemen are privileged to make their points of order. If that question is asked upon this and many other bills without reference to the point of order the bill will be defeated.

Mr. YOUNG, of Tennessee. If the gentleman is through I would like to continue. In addition to what I have said——

Mr. CANNON, of Illinois. The point of order can only be made after the bill is before the House for consideration.

Mr. YOUNG, of Tennessee. If any other gentleman desires to be heard, I hope they will go on now. If not I would like to be heard a few moments myself at this time. I want to say further, Mr. Speaker, that while there is no property of the Government sought to be appropriated or disposed of under the provisions of this bill, neither is there any attempt to deprive the Indian tribes of their property without their consent or without compensation. Treaty stipulations already protect them and provision is made for their consent. The terms of the bill provide that the consent of the Indian tribes shall be obtained, which I believe is provided for under existing treaties already. There can be no objection to the passage of this bill. It simply throws open the great grain regions of the West by a railroad line four hundred and fifty miles long, whereas we now have some fourteen hundred miles.

Mr. STEPHENS. Has the point of order been decided?

The SPEAKER. It has not.

Mr. STEPHENS. I desire to be heard for a moment upon the point of order.

The SPEAKER. As suggested by the gentleman from Illinois, [Mr. CANNON,] the Chair will first submit the question to the House as to objections under the rule.

Mr. STEPHENS. I wish to be heard then on the point of order.

The SPEAKER. The Chair will recognize the gentleman if the bill is allowed to come before the House for consideration. The Chair

thinks it would be proper under the rule to ask first if there be objection.

Mr. CLYMER. Suppose five gentlemen do object?

The SPEAKER. That, of course, will dispose of the point of order, because the bill will not be before the House. Is there objection to the consideration of this bill? [After a pause.] More than five members having objected, the bill is not before the House for consideration.

FORTS READING AND CROOK MILITARY RESERVATIONS, CALIFORNIA.

The State of California being called,

Mr. BERRY asked the consideration of Senate bill No. 1487.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill to restore the lands included in the Fort Reading and Fort Crook military reservations, in the State of California, to the public domain, and for other purposes.

The SPEAKER. The bill will be read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the lands included in the Fort Reading military reservation and in the Fort Crook military reservation, in the State of California, are hereby restored to the public domain.

SEC. 2. That all patents heretofore issued to any lands within the Fort Reading military reservation and Fort Crook military reservation are hereby confirmed.

SEC. 3. That the rights of all settlers on said reservations to acquire title under the homestead and pre-emption laws are hereby recognized and affirmed to the extent such settlers would have acquired by settling on public lands.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PRESCOTT. Let the report be read.

The SPEAKER. The first question will be on the consideration. Is there objection to the consideration of the bill?

There was no objection to the consideration.

Mr. BERRY. I will make a brief statement, Mr. Speaker, in reference to this bill, as there is no report accompanying it. This is a Senate bill, and though it passed the Senate, it has not been considered by the House; but I have a report of the Secretary of War, and also from the Land Commissioner, recommending the passage of the House bill, which is precisely the same as the Senate bill. These reservations had been abandoned for a number of years, and were taken possession of by settlers, the Indians having gone off of them, on the supposition that they could acquire valid and legal title thereto. In fact, the Land Department itself did not know but that it was part of the public domain, and granted patents and permitted *bona fide* residents to acquire title to the same. The President never declared it to be a reservation. It is simply a reservation by virtue of the general law that establishes a reservation wherever a soldier or detachment of the Army stops. I can conceive of no possible objection to the bill.

Mr. PAGE. Will my colleague allow me one moment?

Mr. BERRY. Yes, sir.

Mr. PAGE. Does the War Department acquiesce?

Mr. BERRY. The War Department recommends this; the Commissioner of the Land Office recommends it; and here are the letters, if the House desires to have them read.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. BERRY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MANNING. I would like to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANNING. When gentlemen take the responsibility of defeating a bill by objecting to it, should their names not be recorded? [Cries of "Regular order!"]

The SPEAKER. The Chair thinks that is not necessary. The gentlemen who objected rose in their places.

The next State called in alphabetical order was Colorado. Mr. BELFORD, the Representative of that State, was not in his seat.

Mr. ATKINS. As the gentleman from Colorado [Mr. BELFORD] is not in his seat, I ask unanimous consent that he may have his opportunity when he comes in.

Mr. SIMONTON. If that is agreed to other gentlemen should have the same privilege.

The SPEAKER. The Chair will submit the proposition. The gentleman from Tennessee [Mr. ATKINS] asks unanimous consent that the gentleman from Colorado, not now in his seat, may have the privilege of calling up a bill when he comes in.

Mr. SINGLETON, of Illinois. I object.

MARY LEGGETT.

The SPEAKER. The next State in order under this call is the State of Connecticut, and the Chair recognizes the gentleman from Connecticut, Mr. HAWLEY.

Mr. HAWLEY. I ask the consideration of the bill (H. R. No. 4610) granting a pension to Mary Leggett. The bill is on the Private Calendar.

The bill was read, as follows:

*Be enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary Leggett, widow of Robert Leggett, late private Tenth Connecticut Volunteers, to date from the date of the soldier's death.

There was no objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. TUCKER. Does not the same point of order lie against this bill as that which was before the House a few moments ago?

The SPEAKER. The point of order was not raised at the proper time. It is now too late.

The bill was then passed.

MILTON L. SPARR.

The State of Florida having been called,

Mr. BISBEE called up the bill (S. No. 1193) granting a pension to Milton L. Sparr, said bill being on the Private Calendar.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Milton L. Sparr, as second lieutenant of Company K, Nineteenth Regiment Indiana Volunteers, from and after the passage of this act.

Mr. TUCKER. I make the point of order on that bill.

The SPEAKER. The gentleman from Virginia makes the point of order that this bill comes under the rule of the House which requires it to be first considered in Committee of the Whole House.

Mr. HASKELL. Mr. Speaker, upon that point of order I desire to say a word.

The SPEAKER. The Chair will hear the gentleman.

Mr. HASKELL. The point has been made twice upon this floor and it ought to be met and settled. And I desire to call the attention of the House now to one or two facts, a careful consideration of which I believe will induce the Speaker and the House to agree that the point of order is not well taken.

In Rule XXIII, one of the general rules of this House that have been in operation for about two years, is the provision under which the gentleman from Virginia [Mr. TUCKER] raises the point of order—that is, that all proceedings touching appropriations of money or bills making appropriations of money or property shall be considered in Committee of the Whole. That is a good rule and a wise rule, because it compels the consideration of every such bill in Committee of the Whole.

The SPEAKER. The Chair is advised he did not submit this bill to the right of five members to object. The Chair should have done so before entertaining the point of order. Is there objection to the consideration of this bill? The Chair does not see any one member rising to object. The bill is before the House and the Chair recognizes the point of order.

Mr. HASKELL. This provision of the rule is wise and just because when a question of money or property is involved it compels a careful consideration by the House. In order to provide for the consideration of those bills there are separate calendars, one the Calendar of the Committee of the Whole on the state of the Union and the other the Calendar of the Committee of the Whole for the consideration of private bills.

Those calendars contain these bills which make money appropriations and appropriations of land. Now, then, the new rule and the later legislation must take the place of the former. In the new rule it is specifically provided, and the language is mandatory, that a member may, when his name is called, demand the consideration of a bill that is on the House Calendar or a bill that is on the Speaker's table, or a bill that is in Committee of the Whole on the state of the Union, or a bill that is on the Private Calendar. And unless five persons rise and object the language of the rule is that that bill shall be considered.

It becomes clear, then, Mr. Speaker, that this later legislation specifically and directly including the bills on the Speaker's table leads directly to the point that a bill may be taken from the Calendar and may be considered. It "shall be," says the rule, unless five men object. Therefore in this hour, under this particular rule, at this time, the ordinary and general provision that a bill appropriating money or property shall be considered in Committee of the Whole falls to the ground. The new rule takes its place; and the safeguard that is thrown around the Treasury is that it is to be presumed that if it is a dangerous bill about which there may be two opinions, five men in all this multitude will object. I hold, therefore, that the point of order is not well taken.

Mr. TUCKER and Mr. STEPHENS addressed the Chair.

The SPEAKER. The Chair will first recognize the gentleman from Georgia, [Mr. STEPHENS,] after which he will recognize the gentleman from Virginia, [Mr. TUCKER.]

Mr. STEPHENS. I wish to say but a word or two. The gentleman from New Jersey [Mr. ROBESON] presented the strongest argument in support of this point of order, and it is to his argument that I wish to make a few words of reply.

The argument of the gentleman was that the rule of this House adopted yesterday cannot repeal or modify or change a special rule of the House in regard to bills appropriating money or property.

Now, I maintain that that is just exactly what this new rule did do, just what it was intended to do. The object of the new rule was in some way and under certain circumstances to reach every bill on the various calendars of the House. Those calendars can only be opened up for consideration in this hour by a two-thirds vote, and a two-thirds vote has opened the door to those bills. It takes two-thirds of this House to allow us to take bills from the various calendars and from the Speaker's table for consideration at this time, when called up by members as their States are called. After those bills have been designated by the members of the States so called, then, if five members of this House object to their consideration, the bills are not considered, but the call of States must be proceeded with.

I did not intend and do not need to say any more. Under the new rule which we adopted yesterday, if the point of order now made be held good, there is no object or purpose in the rule and it becomes little less than a farce.

Mr. TUCKER. I do not intend to say anything on the point of order. I raised it because it was raised against a bill which had been called up by the gentleman from Arkansas [Mr. CRAVENS] when that State was called. I desire the rule to operate as to all bills if the point of order is properly raised. I want the Speaker to decide whether the point of order is properly taken, in order that it may apply to both sides of this House and to all the States.

I have no objection to the consideration of a pension bill. I have never voted against a pension bill. I do not object to the consideration of this bill now, unless it is open to a point of order. If it is, then the bill should be set aside.

The SPEAKER. The gentleman from Virginia [Mr. TUCKER] by not objecting to the bill when objections were called for indicated that he was not opposed to the bill itself.

Mr. CLYMER. One word in reply to what was said by the gentleman from Kansas, [Mr. HASKELL.] There are three calendars of this House; the one called the Union Calendar, the one called the Private Calendar, and the House Calendar. The new rule provides that bills may be taken for consideration from these several calendars and also from the Speaker's table. What follows? Clearly not that it shall embrace bills which are prohibited by the existing rule from consideration in the House, bills appropriating money or the property of the Government; but it refers to bills which are not under the ban of such rules. By giving the new rule that construction both rules may stand and be operative.

Mr. STEPHENS. Will the gentleman allow me a moment?

Mr. CLYMER. Certainly.

Mr. STEPHENS. This new rule opens every calendar without limitation; that is what the new rule does.

Mr. CLYMER. But the limitation existed under an old rule, and was not repealed by the new rule either directly or by implication.

Mr. STEPHENS. When two-thirds of the House vote that the doors shall be opened without restriction or limitation, of course they are opened.

Mr. CLYMER. But two-thirds have never said so.

Mr. STEPHENS. They have.

Mr. CLYMER. The vote yesterday was not a two-thirds vote.

Mr. STEPHENS. Two-thirds said so this morning by doing away with the morning hour for reports.

Mr. CLYMER. Oh, this morning; I beg the gentleman's pardon.

Mr. STEPHENS. And these bills cannot be reached under this new rule except by a two-thirds vote.

Mr. CLYMER. There is nothing in the new rule which suspends the operation of the old rule, but both may stand. The gentleman is too old and practical a lawyer not to know that the rule of construction is that where there are two acts of legislation and a construction can be given to both that will allow both to be operative, it must be given.

Mr. STEPHENS. The last will always prevail.

Mr. HASKELL. Will the gentleman from Pennsylvania [Mr. CLYMER] answer a question?

Mr. CLYMER. I will endeavor to do so.

Mr. HASKELL. One of these calendars from which the new rule provides that bills may be taken for consideration in this hour is a calendar specially set apart for money bills. Now, if the new rule does not intend that a money bill shall be taken up for consideration during this hour, why does the rule provide for bills on all the calendars? The rule uses these words—"bills on the several calendars." That is a specific repeal of the general provision of the rules during this hour.

Mr. CLYMER. Let me reply to the gentleman by asking him whether the Union Calendar does not contain a large number of bills which do not appropriate money or property?

Mr. HASKELL. I do not know that it does.

Mr. CLYMER. The gentleman can inform himself.

Mr. HASKELL. The rule provides that every bill which appropriates money or property shall go upon the Calendar of the Committee of the Whole, and those that do not appropriate money or property shall go on the House Calendar, and private bills go upon the Private Calendar whether they appropriate money or not. Under the new rule the three calendars and the Speaker's table are open, and bills from those calendars may now be considered, must be considered when called up properly, unless objected to by five members.

Mr. CANNON, of Illinois. I desire to make a single suggestion. If the Chair shall rule that this point of order is well taken, it would be a ruling that would bear no fruit. Suppose that this bill must be technically considered in Committee of the Whole? It could only be considered in the Committee of the Whole for five minutes, the same as it is considered in the House, and no advantage would be obtained in that way. Therefore, I think that this rule should not be construed technically as the gentleman claims, because so construed the rule would accomplish nothing.

Mr. ROBESON. The gentleman from Pennsylvania [Mr. CLYMER] who has the floor yields to me for a moment. I desire to make one suggestion with regard to this question of order in reply to the answer of the gentleman from Kansas, [Mr. HASKELL,] which was very pointed and very strong. According to my original proposition, the first rule of construction is that when two laws or two rules relate to the same subject, they must be construed together, and both must be given effect, if that be possible. If it be not possible, then the last rule must prevail, and the former is repealed. But the last general rule never repeals a special rule.

Mr. SPRINGER. There is no special rule here.

Mr. ROBESON. If there is a special law or rule referring to a particular individual or a particular class, a general law or rule covering all individuals and all classes does not repeal, and is not held to be inconsistent with, the prior special provision. That I understand to be a general rule of construction. Now, the gentleman from Kansas meets this point fairly, and says the provision that an hour shall be set apart for the consideration of bills on the several calendars and on the Speaker's table is a special provision repealing a special rule with regard to money and property bills, requiring such bills to be considered in Committee of the Whole. But let me remind the gentleman that his answer falls short of the point, because the rule is not that those bills shall not be considered, but that they shall be considered in the Committee of the Whole.

Now, there is no provision in this rule which takes that calendar out of the Committee of the Whole; and when this rule says that bills on that calendar shall be considered they must still be considered according to general rules applicable to them.

Mr. HOUSE. This rule takes a bill off the Calendar.

Mr. BLOUNT. Mr. Speaker——

Mr. HAYES. I would like to know if this discussion is for the benefit of the Speaker?

The SPEAKER. The Chair supposes it is.

Mr. BLOUNT. Mr. Speaker, it seems to me that this question is clear. What is the proposition in this rule?

The States and Territories shall be called in order as now provided for, and as each is called one of its members shall be named by the Speaker.

This, of course, cannot refer to proceedings in Committee of the Whole.

One of its members shall be named by the Speaker, selected in alphabetical order, who may move the consideration of a bill.

This is the proposition without any qualification. The member selects for himself a bill and moves its consideration. What obstacle does the rule recognize to the consideration of the bill?

If objected to by five members rising in their seats, it shall not be considered.

Otherwise the inference is clear, and the language specific too, that the bill shall be considered.

Otherwise—

That is, if five members do not object—

the member making the motion shall be entitled to five minutes for explanation of his bill, or instead thereof to the reading of the report accompanying the same, provided the reading of such report shall not exceed five minutes; and then a vote shall be taken.

The effect of the rule is clear. When a member is recognized by the Speaker and calls up a bill, if objection is not made to its consideration by five members the gentleman calling it up is then to have five minutes to explain it, or the report shall be read, and then the vote is to be taken.

Now, Mr. Speaker, was it not competent for this House to adopt that rule? Was it not the purpose of the House to do this identical thing? And is the will of the House to be thwarted by technical constructions of law?

Mr. REAGAN. I call for the regular order.

Mr. CONGER. Before this matter passes from the consideration of the House, I desire to say one word. The original object of this rule was to have unanimous consent, and a single objection would have prevented the consideration of a bill. [Cries of "Regular order!"] Mr. Speaker, I took the floor in order to have it when this question should come up again.

The SPEAKER. The Chair recognizes the gentleman as entitled to the floor. The hour provided for under the new rule has expired.

Mr. SPRINGER. I hope this point will be settled before we proceed to other business.

The SPEAKER. The regular order is demanded.

## WASHINGTON GASLIGHT COMPANY.

Mr. MURCH. I rise to a question of privilege. I offer as a question of privilege the preamble and resolutions which I send to the desk.

The SPEAKER. Will the gentleman state briefly what is his question of privilege?

Mr. MURCH. I refer to Rule IX, which may be read in connection with the paper I send up.

The SPEAKER. The paper will be read.

Mr. MURCH. I desire the adoption of those resolutions.

The SPEAKER. The resolutions will be read. Until that is done, the Chair is unable to decide whether or not they present a question of privilege.

The Clerk read as follows:

Whereas it is currently reported that persons connected as stockholders or otherwise with the Washington Gaslight Company are attempting to influence members of this Congress in matters pertaining to the lighting of the public buildings and the city, and that such persons are using opportunities arising out of their official connection with Congress for such purpose: Therefore,

*Resolved*, That the Washington Gaslight Company is hereby directed and required to furnish this House immediately with a list of the stockholders of said company, which shall include the names of each stockholder and the number of shares held by each at the present time; also all names of stockholders of record at any time during the six months last past, and that the same be verified under oath by an officer of the said company.

*Resolved*, That the treasurer of the Washington Gaslight Company is hereby required to furnish to this House immediately a statement of the amount of the capital stock of the said company and a statement of every dividend which has been declared by the said company, whether the same has been made in shares, scrip, or cash, or in any other manner whatsoever, and that such statement shall include an account of the cash and all cash resources or assets on hand or held by the said company at the present time.

The SPEAKER. The Chair would rule that the part of this resolution which relates to undue influence on members would be a question of privilege. The Clerk will read that part again.

Mr. MURCH. Very well; I will strike it out of the preamble.

The SPEAKER. The Chair thinks the statement is in the preamble.

The Clerk read as follows:

Whereas it is currently reported that persons connected as stockholders or otherwise with the Washington Gaslight Company are attempting to influence members of this Congress in matters pertaining to the lighting of the public buildings and the city, and that such persons are using opportunities arising out of their official connection with Congress for such purposes: Therefore,

The SPEAKER. That part the Chair thinks is a question of privilege. If any member of Congress is being unduly influenced by what the Chair supposes the language to mean, by persons having access to the floor, then the Chair thinks it is a question within the scope of the rules. The call for information is a question the Chair does not decide now.

Mr. MURCH. Mr. Speaker, I have no desire to charge ex-members of Congress or persons having access to the floor with any purpose to unduly influence members of this House. But there are officers connected with the House who are charged with being stockholders and directors of this gaslight company.

The second resolution relates to the incorporation and present stockholders of this company. It was chartered in 1849 with a capital stock of $300,000, and to-day it has a stock of $3,000,000. In other words, its capital stock has been increased from $300,000 to $3,000,000. Only $300,000 has ever been paid into the company. The stock has been watered.

I am also informed this company is declaring dividends equal to $300,000 a year, and that at this time it is only waiting for the adjournment of this Congress to declare a surplus dividend of 40 per cent., or $1,200,000. I want this matter thoroughly investigated. I want this company to furnish this House with information connected with every department of its business. It was chartered by Congress, and this House has the right to demand of that company an account of its stock and stockholders at any time, and particularly when charges are being daily made in the newspapers of this city and by individuals throughout this city.

The SPEAKER. The Chair will cause to be read a decision of his predecessor upon an alleged misconduct of an officer of this House, which seems to be the charge made directly by the gentleman from Maine.

Mr. MURCH. I do not make charges directly. It is gravely reported in the newspapers of this city that the statements I make are true.

The SPEAKER. It is alleged?

Mr. MURCH. Yes, sir.

The SPEAKER. The gentleman alleges misconduct on the part of an officer of the House.

Mr. MURCH. Not myself, but by journals of this city.

The SPEAKER. The gentleman rises in his place and assumes the responsibility of it. The Clerk will read the former ruling to which the Chair has referred.

The Clerk read as follows:

The Speaker overruled the point of order on the ground that the resolution, though going to the verge to which any matter of privilege of a member of the House should go, involved enough of substance in its connection with the House and legislation to bring it within the rule and definition of a question of privilege.

The SPEAKER. The case then was as to the misconduct of an officer of the House. Here is alleged misconduct on the part of an officer of the House. Upon that ground the Chair entertains the resolution.

Mr. CONGER. Let the proposition be read.

Mr. MURCH. I move the previous question on the resolution.

Mr. HAZELTON. Is not this a charge made against a director of this company who is now a clerk in some part of the building and not connected with the House?

Mr. MURCH. I have not specified anything.

Mr. HAZELTON. But is not it the fact?

Mr. MURCH. I demand the previous question.

The SPEAKER. The resolution will again be read.

Mr. ALDRICH, of Rhode Island. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ALDRICH, of Rhode Island. Do I understand the Speaker to rule that the resolutions are a question of privilege, that it is a question of privilege to inquire into the business of the Washington Gaslight Company?

The SPEAKER. The Chair did not so rule. The Chair ruled the allegation of misconduct on the part of an officer of the House in unduly influencing members of this House was a question of privilege, and he cited a case where the ruling of a former Speaker to that extent was acquiesced in by the House and of course remains the rule of the House to govern the Chair until reversed by the House itself. Under that precedent the Chair recognizes this resolution.

Mr. MILLS. Is there anything in the law requiring this gaslight company to make report to Congress?

The SPEAKER. That does not enter into the question of privilege.

Mr. ALDRICH, of Rhode Island. I shall call for a division.

The SPEAKER. The point suggested by the gentleman from Texas goes to the propriety of the passage of the resolution.

Mr. MILLS. That part of the resolution is improper. The proper way would be for the gentleman to raise a committee of investigation.

The SPEAKER. The resolution is before the House.

Mr. MILLS. This is calling on a private corporation to report to this House.

The SPEAKER. The gentleman demands the previous question. If that be voted down the resolution will be open to amendment.

Mr. MURCH. What amendment does the gentleman suggest?

Mr. MILLS. The gentleman should raise a committee to investigate these charges. That would be the proper way.

The previous question was seconded and the main question ordered.

Mr. MURCH moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ALDRICH, of Rhode Island. I demand a division of the question.

Mr. TOWNSHEND, of Illinois. Is not that too late after the main question has been ordered.

Mr. ALDRICH, of Rhode Island. There are two subjects embraced in these resolutions, and I ask a division of the question.

The SPEAKER. The Chair recognizes that right. The question is on the first resolution.

The resolution was agreed to.

Mr. ALDRICH, of Rhode Island. I now raise the question of order that the second resolution is not in order.

The SPEAKER. The Chair thinks this point of order comes too late.

Mr. ALDRICH, of Rhode Island. I understood the Chair to state that this portion of the resolution does not present a question of order.

The SPEAKER. The Chair decided that it was a question of order inasmuch as it related to the alleged misconduct of an officer of the House, and the following of course are resolutions seeking to establish the truth of the allegation.

Mr. ALDRICH, of Rhode Island. I have no objection to the passage of the resolution itself, but here is a proviso which is specific in its character, has no relation whatever to the allegation contained in the preamble or first resolution, and it does not touch the question of privilege. It relates to an entirely different subject.

The SPEAKER. The Chair thinks that it comes within the rule, in view of the fact that it seeks to establish the truth of the allegation contained in the resolution just adopted.

The second resolution was agreed to.

Mr. MURCH moved to reconsider the vote by which the resolutions were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### ORDER OF BUSINESS.

Mr. COX. I demand the regular order. I move to take up the unfinished business, being the apportionment bill.

Mr. REAGAN. I move that the House resolve itself into Committee of the Whole on the state of the Union for the consideration of the river and harbor bill.

### CORRECTION OF A BILL.

Mr. HAWLEY. I hope the gentleman will yield to me for a moment to ask to make a mere verbal correction in a bill which passed the House this morning. The bill (H. R. No. 4610) which was passed granting a pension to Mary Leggett describes her husband as "late private in the Tenth Connecticut Volunteers." It should read "late lieutenant-colonel of the Tenth Connecticut Volunteers."

Mr. ATKINS. Is there any doubt as to her deserving the pension?

Mr. HAWLEY. No, sir; that has been passed upon already by the House to-day.

Mr. ATKINS. But the action of the House is not the evidence that

we should have. I ask if there is any evidence which entitles her to the pension?

Mr. HAWLEY. Undoubtedly; I knew the officer myself. I know the facts in the case.

The SPEAKER. Without objection the amendment will be agreed to.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. REAGAN. I move that the House now resolve itself into Committee of the Whole for the purpose of considering the river and harbor appropriation bill.

Mr. COX. And I raise the question of consideration on the unfinished business, which is the apportionment bill.

The SPEAKER. The gentleman from New York desires if the motion of the gentleman from Texas is voted down to move to proceed to the consideration of the unfinished business, which is the apportionment bill. The issue can then be made.

Mr. GUNTER. Mr. Speaker, I wish to make an inquiry. I understood on the day before yesterday that my motion to go to business on the Speaker's table had precedence of either of these motions?

The SPEAKER. After the unfinished business is disposed of; but this motion under two rules of the House comes in ahead.

The question is on the motion of the gentleman from Texas that the House resolve itself in Committee of the Whole for the purpose indicated.

The House divided; and there were—ayes 117, noes 60.

Mr. COX. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 150, nays 80, not voting 62; as follows:

YEAS—150.

| | | | |
|---|---|---|---|
| Acklen, | Elam, | King, | Shallenberger, |
| Aiken, | Ellis, | Lindsey, | Sherwin, |
| Aldrich, N. W. | Errett, | Loring, | Singleton, J. W. |
| Aldrich, William | Evins, | Lowe, | Singleton, O. R. |
| Baker, | Felton, | Manning, | Smith, Hezekiah B. |
| Ballou, | Ford, | Marsh, | Speer, |
| Barber, | Forney, | Martin, Benj. F. | Stephens, |
| Beale, | Frost, | Mason, | Stone, |
| Bisbee, | Frye, | McKinley, | Talbott, |
| Blackburn, | Geddes, | McLane, | Taylor, Ezra B. |
| Blake, | Gibson, | Miles, | Thomas, |
| Bliss, | Gillette, | Miller, | Tillman, |
| Boyd, | Godshalk, | Monroe, | Townsend, Amos |
| Bragg, | Goode, | Morse, | Tucker, |
| Brigham, | Gunter, | Muldrow, | Turner, Thomas |
| Buckner, | Hall, | Myers, | Tyler, |
| Burrows, | Hammond, John | New, | Updegraff, J. T. |
| Butterworth, | Harmer, | Newberry, | Upson, |
| Calkins, | Harris, Benj. W. | O'Connor, | Vance, |
| Cannon, | Haskell, | O'Neill, | Voorhis, |
| Carpenter, | Hatch, | Orth, | Waddill, |
| Caswell, | Hawk, | Pacheco, | Wait, |
| Chalmers, | Hazelton, | Page, | Ward, |
| Clardy, | Henderson, | Phelps, | Warner, |
| Clark, John B. | Henkle, | Phister, | Washburn, |
| Clements, | Herndon, | Poehler, | Wells, |
| Conger, | Hiscock, | Pound, | Whiteaker, |
| Covert, | Horr, | Price, | Williams, C. G. |
| Crapo, | Houk, | Reagan, | Williams, Thomas |
| Crowley, | Humphrey, | Reed, | Willis, |
| Daggett, | Hurd, | Richardson, J. S. | Wilson, |
| Davis, George R. | Johnston, | Robertson, | Wise, |
| Davis, Lowndes H. | Jones, | Robinson, | Wood, Walter A. |
| Deuster, | Jorgensen, | Ross, | Wright, |
| Dibrell, | Keifer, | Rothwell, | Yeates, |
| Dick, | Kelley, | Russell, W. A. | Young, Casey |
| Dunn, | Kenna, | Ryan, Thomas | |
| Dunnell, | Kimmel, | Sawyer, | |

NAYS—80.

| | | | |
|---|---|---|---|
| Anderson, | Cox, | Ladd, | Slemons, |
| Armfield, | Cravens, | McCoid, | Smith, William E. |
| Atherton, | Culberson, | McKenzie, | Sparks, |
| Atkins, | Davis, Horace | McMillin, | Springer, |
| Belford, | Davis, Joseph J. | Mills, | Starin, |
| Beltzhoover, | Deering, | Morrison, | Steele, |
| Bicknell, | Dickey, | Muller, | Stevenson, |
| Brewer, | Ferdon, | Neal, | Thompson, P. B. |
| Bright, | Forsythe, | Norcross, | Thompson, W. G. |
| Browne, | Hammond, N. J. | O'Reilly, | Townshend, R. W. |
| Cabell, | Hawley, | Overton, | Turner, Oscar |
| Caldwell, | Hayes, | Persons, | Updegraff, Thomas |
| Camp, | Heilman, | Philips, | Valentine, |
| Carlisle, | Herbert, | Prescott, | Van Voorhis, |
| Chittenden, | Hill, | Ray, | Weaver, |
| Clark, Alvah A. | Hostetler, | Rice, | Wellborn, |
| Clymer, | House, | Ryon, John W. | Whitthorne, |
| Colerick, | Hunton, | Samford, | Wilber, |
| Cook, | Kitchin, | Sapp, | Yocum, |
| Cowgill, | Klotz, | Shelley, | Young, Thomas L. |

NOT VOTING—62.

| | | | |
|---|---|---|---|
| Bachman, | Claflin, | Fisher, | Knott, |
| Bailey, | Cobb, | Fort, | Lapham, |
| Barlow, | Coffroth, | Harris, John T. | Le Fevre, |
| Bayne, | Converse, | Henry, | Lounsbery, |
| Berry, | Davidson, | Hooker, | Martin, Edward L. |
| Bingham, | De La Matyr, | Hubbell, | McCook, |
| Bland, | Dwight, | Hutchins, | McGowan, |
| Blount, | Einstein, | James, | McMahon, |
| Bouck, | Ewing, | Joyce, | Mitchell, |
| Bowman, | Field, | Ketcham, | Money, |
| Briggs, | Finley, | Killinger, | Morton, |
| Murch, | Richmond, | Simonton, | White, |
| Nicholls, | Robeson, | Smith, A. Herr | Willits, |
| O'Brien, | Russell, Daniel L. | Taylor, Robert L. | Wood, Fernando |
| Osmer, | Scales, | Urner, | |
| Richardson, D. P. | Scoville, | Van Aernam, | |

So the motion was agreed to.

On motion of Mr. ACKLEN, by unanimous consent, the reading of the names was dispensed with.

Mr. MONEY. Mr. Speaker, I ask unanimous consent to be allowed to record my vote. I was not observing when my name was called.

The SPEAKER. The Chair will state to the gentleman from Mississippi that under the rule he is not allowed to present a request for unanimous consent for such a purpose. The statement of the gentleman as to how he would vote will appear in the RECORD.

The following pairs were announced from the Clerk's desk:

Mr. NICHOLLS with Mr. JOYCE, until further notice.

Mr. RICHMOND with Mr. JORGENSEN.

Mr. JAMES with Mr. O'BRIEN.

Mr. BLAND with Mr. CLAFLIN.

Mr. EWING with Mr. TOWNSEND, of Ohio, except on the river and harbor bill.

Mr. BAYNE with Mr. FROST, on political questions, until further notice.

Mr. EINSTEIN with Mr. CLARK, of New Jersey, until Thursday, 19th instant, on all questions except where their vote is necessary to make a quorum.

Mr. MULLER with Mr. MCCOOK, until Monday evening, the 14th instant, on all political questions; Mr. MULLER reserving the right to vote on all questions of a quorum.

Mr. LOUNSBERY with Mr. BERRY, until Monday next.

Mr. NICHOLLS with Mr. RICE, until further notice; Mr. RICE reserving the right to pair some other member with Mr. NICHOLLS instead of himself.

Mr. MARTIN, of Delaware, with Mr. BOYD, on all political questions, until Monday next.

Mr. VAN AERNAM with Mr. HENRY, until further notice.

Mr. SIMONTON with Mr. LE FEVRE.

Mr. FISHER with Mr. HARRIS of Virginia.

Mr. STEPHENS with Mr. DWIGHT, until next Tuesday, on all political or party questions, but as he does not regard this as a question of that character, Mr. STEPHENS votes in the affirmative.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. DAVIDSON with Mr. BRIGGS; Mr. DAVIDSON reserving the right to vote to make a quorum.

Mr. CLAFLIN with Mr. MONEY.

Mr. LAPHAM. Mr. Speaker, I did not vote as I believe there is a pair still existing between the gentleman from Kentucky [Mr. KNOTT] and myself.

The result of the vote was then announced as above recorded.

RIVER AND HARBOR APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union under the order of the House to consider the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. COX. All points of order on this bill were reserved.

The CHAIRMAN. The Chair is advised all points of order were reserved. The Clerk will report the bill.

Mr. REAGAN. Unless some member of the House desires a rereading of the bill in full, I will move to dispense with its reading at this time.

Mr. COX. For the purpose of saving time, I will not object to dispensing with the reading of the bill. But I will make a suggestion to my friend from Texas, [Mr. REAGAN.] It is impossible for us to find on the files the reports of the chief engineers of the United States Army as to these various improvements. Some of those reports went to the Senate committee; some have come to the House committee. It is a borrowed copy which I have. I say we cannot consider this bill properly until we examine these reports of the engineers. We should at least have time to reflect over night on some of these remarkable appropriations. I have already glanced at the engineers' reports in regard to some of the matters where they wanted to make a beautiful and smooth story. And it does seem to me as if they needed some little discussion, or as if some of the items required it; indeed, as if this whole bill should be raked fore and aft.

Mr. REAGAN. I ask the Chair what is before the committee?

The CHAIRMAN. Simply the request of the gentleman from Texas to dispense with the reading of the bill. The Chair did not understand the gentleman from New York objected to that.

Mr. COX. I would like to make a motion that the committee rise that we may have the consideration of this bill postponed till to-morrow, so that we may get these reports which we must have. In the mean time I want to say this: I will cheerfully fill up the time this afternoon with the apportionment bill, [laughter,] and will call the previous question two hours after it is taken up.

Mr. REAGAN. I wish to say the gentleman from New York himself is responsible for the river and harbor bill being in the condition it is.

Mr. COX. I assume that responsibility and I am proud of it. And I

say it is not fair to bring this up against the apportionment bill. The responsibility rests upon those who bring in a bill such as this, and not on the gentlemen who killed it.

Mr. REAGAN. I am willing to assume my responsibility for anything and everything I do in this House to the American people.

Mr. COX. I have been in the habit of meeting this thing for twenty years. While you were out of Congress I have been in the habit of meeting it.

Mr. BRAGG. I rise to a question of order. Is there any question before the committee?

The CHAIRMAN. None except the request made by the gentleman from Texas to dispense with the first reading of the bill.

Mr. COX. I have stated that I will not take up time unnecessarily by objecting to that.

Mr. STEVENSON. That is a matter which ought to be decided without discussion.

The CHAIRMAN. Is there objection to dispensing with the first and formal reading of the bill?

Mr. STEELE. I object.

The CHAIRMAN. The Clerk will proceed to read the bill.

Mr. HOUSE. I hope my friend from North Carolina [Mr. STEELE] will withdraw the objection. To read the bill again would only consume time.

Mr. ATKINS. I ask the gentleman to withdraw his objection. Let us avoid an extra session if we can.

Mr. STEELE. I wish to ask the Chair if the bill is amendable?

The CHAIRMAN. It is.

Mr. STEELE. Then I withdraw the objection to dispensing with the first reading.

Mr. REAGAN. I do not desire at this time to enter on a discussion of this bill. If there are other gentlemen who desire to discuss it, I would like, in view of the amount of business before the House undisposed of and the shortness of the period that still remains of the session, that we should have an understanding that general debate shall be as brief as possible.

Mr. SPARKS. Why do you want any general debate?

Mr. REAGAN. I desire, Mr. Chairman, to make a very brief statement, after which it can be determined what time shall be allowed for general debate. I believe that two hours for general debate will be satisfactory.

Mr. ATKINS. Let it be half an hour.

Mr. STEVENSON. I suggest that there be fifteen minutes on each side.

The CHAIRMAN. Gentlemen are aware that this committee can make no order as to closing general debate. It may be closed, however, at any time by a general understanding.

Mr. KENNA. There seems to be no disposition to engage in general debate on this bill. Why cannot we have the understanding that general debate is now closed?

Mr. REAGAN. Before that is done I desire to make a brief statement.

Mr. COX. We cannot have general debate, as the gentleman from Texas knows, without those volumes to consult about the various matters embraced in this bill.

Mr. REAGAN. I understand the difficulty to which the gentleman from New York refers. I know there is a difficulty, but it is not so bad as he supposes. The reports of the engineers have not, as I understand, been delivered generally in the folding-room. The committee obtained advance copies without the index, and made an index of their own on which they have acted. We had the estimates as stated in the letter of the Secretary of the Treasury with the reports of the engineers in the two volumes without index. We have indexed them for ourselves, and as to any case that is desired to be referred to we can give the report. It is also to be remembered that in addition to these reports quite a number of supplementary reports, covering perhaps five millions of dollars of estimates, have come to the committee since those reports were handed to us.

While the House will, as I understand, labor under the disadvantage of not having these reports, we can give the report and estimate for any item in the bill from the reports which we have and which we have indexed for ourselves. It may be that these reports have reached the document-room; I have not sent there for them. I would suggest to gentlemen that they send to the document-room and see if the reports are not there.

Mr. CLYMER. They are not there. I have sent there repeatedly for them, and have also sent to the Senate document-room. I have made every effort to obtain this information and all the avenues have been closed.

Mr. COX. And so have I. I would suggest to the gentleman that he now allow this committee to rise and let this bill go over until to-morrow and not compel us to go it blind, as we will have to do at this time.

Mr. REAGAN. I wish I could accommodate the gentleman from New York; but great public works in all parts of the country are now going forward, and a failure to pass this bill would arrest all those public works with infinite injury to the system of providing facilities for transportation. If we defer the passage of this bill by the House until it is too late for the Senate to act upon it, we will then be responsible for its defeat and for all the public injury that will result from that defeat. For that reason I do not feel at liberty to compromise the chances of passing this bill, though if it were in my power and if the business before the House permitted I would gladly afford every facility in the line suggested by the gentleman from New York.

I wish now to say a few words as to the make-up of this bill. I am not going to deal with the idle characterizations of this bill by gentlemen who know nothing about it. I stated to the House a few days ago that in the discharge of the duties assigned to us by the rules of the House we have taken up and considered the reports of the Engineer Bureau. As stated in the letter of the Secretary of the Treasury submitted to us, those reports contain estimates for something over twenty-two million dollars. The Secretary of War, in a communication appended to those reports, recommends that the estimates of the Engineer Bureau be reduced to $7,500,000.

As I said a few moments ago, in addition to those reports, a considerable number of supplemental reports have been sent to us. The committee have taken up what we consider to be estimates of about twenty-six million dollars. We have reduced those estimates until we have reached a sum a little over ten million dollars.

I stated to the House on a former occasion that, independently of some amounts put upon this bill for the inauguration of permanent improvements of the Mississippi River, the amount recommended by this bill would be only two or three hundred thousand dollars more than the amount recommended by the bill reported to the House at the last session, and about four hundred thousand dollars less than the amount of that bill as passed at the last session. It will therefore be seen by the House that, allowing for the progress of the country and for the increased number of works provided for in the law of the last session, the committee have not been extravagant. On the contrary, they have well kept down the estimates, looking to what was appropriated last year, except that they have added certain items of appropriation for the improvement of the Mississippi River under the supervision of the Mississippi River commission.

I know it is habitual with a few gentlemen here to sneer at the efforts of the Committee on Commerce and by implication to impeach their integrity and honesty of purpose. No committee can be charged with labor more difficult. We have read the reports contained in these two volumes [holding up the volumes of the Engineer Report] and carefully considered all that they contain. We have also read a large number of supplemental reports in manuscript and in print. The committee of fifteen members have diligently debated and earnestly considered every item in this bill. I trust we have conscienciously tried to discharge our duty to the public, in view of securing facilities for the transportation of the commerce of this country for the benefit of the producers and the benefit of the consumers of the commodities so transported.

When we consider that there is transported annually in this country $30,000,000,000 of internal commerce, that the railroads of this country have cost to their builders five billions of money, that the annual repairs put upon those railroads by their owners, acting as individuals in their own interest, amount to about four hundred million dollars annually to accommodate the internal commerce of this country, and then when we consider that we have an internal water navigation in this country of over thirty thousand miles in extent, which furnishes the cheapest means of transportation and the only means of competition with railroads, and then consider that we ask Congress to give us only about eight million or ten million dollars to improve the water-ways of the country, to remove obstructions to and dangers of navigation, to cheapen freights, to cheapen insurance upon the vessels transporting that freight; when we consider that the Committee on Commerce have dealt with these facts and these problems in the interest of the American people, it amazes me that gentlemen will rise up here and talk about the extravagance of appropriating eight or ten million dollars annually for this purpose.

I have not seen the official statement, but I have seen a statement in the public prints, made on this floor a few years ago, that the Government of France, with a territory considerably less than the territory of the State of Texas, was giving $10,000,000 a year for the improvement of her rivers and harbors.

Mr. VALENTINE. On that point allow me to say——

Mr. REAGAN. One moment; let me finish my statement. Now the United States has a territory extending from ocean to ocean, and from the lakes to the Gulf, with fifty millions of people, with the largest resources from field and forest and mine of any country under the sun, with an active, energetic, commercial, prosperous people, and we are haggling here over the appropriation of $10,000,000 a year for the improvement of the facilities of water transportation in this country, when the owners of railroads, as a matter of private interest and investment, expend $400,000,000 every year simply for repairs, to accommodate this internal commerce, outside of their original investments.

Mr. Chairman, the carping, the higgling, the ill-natured, ungenerous flings made at the committee for the discharge of its duties to the country are to me beneath contempt. Mr. Chairman, it is doubtless true—indeed I know it to be true as a matter of fact—that the whole committee of fifteen did not agree to all the items in this bill. There were many items which some members of the committee believed ought to be in while others believed they ought to be out of the bill; as to other items some members believed a larger amount and some a smaller amount should be given. But after considering the reports, after taking in view the necessities of each case and

balancing opinions, we put in such items as the committee could agree upon. We did this as the best we could do. And, Mr. Chairman, I doubt whether any committee ever labored more earnestly to mature a bill in the real interest of the country.

It was stated the other day that the fifteen members of the committee had taken care of themselves and their States at the expense of others. Is that statement true? Was it honestly made, or was it intended as an unjust and untrue appeal to the passions and prejudices of this House? Why, sir, take those States, take their commerce, take their population, take their representation on this floor, take the necessities of improving their waters with reference to the interest of the general commerce of the country, and it will be found that no more was done than justice and fairness required, if as much. I hope the gentleman from New York will not attack this bill because it does not contain in its appropriations as much for Kansas, for Nebraska, for Colorado, and for Nevada as for the great States of New York and Michigan on the one side and Florida and Texas on the other. If he would compel us to go by States, then indeed we must disregard the public interests, we must disregard principle and duty and right. We did not, I trust, allow ourselves to be governed by this consideration.

The gentleman chose to make a fling at me personally, as he always does upon this bill. I can generally afford to let his shafts fall harmless from a shield they can never penetrate, because of that sense of conscious rectitude which shrinks from no duty and is ready for every responsibility. The gentleman from New York says that "the gentleman from Texas" is on the committee, and that State gets $750,000 in the bill. Both propositions are true. But are the appropriations for Texas not consistent with right? Do they not harmonize with justice? Sir, that State would make some six States in territory equal to the State of New York. That State has the most extensive coast-line of any State in the Union, leaving out Michigan, California, and Florida, I believe. That State occupies such a position far inland on the Gulf of Mexico as to open water communication to a large body of country greater in extent than can be reached from any other seaboard in the Union. That State has more than a million and a half of its own population. It sends to market this year over one million bales of cotton, worth not less than $60,000,000, to say nothing of its cattle, its wheat, wool, hides, and other productions, and without reference to the return commerce. That State is struggling for such an outlet to the sea as will accommodate not only the commerce of its own people, but that of Western Arkansas, Western Louisiana, the Indian Territory, Kansas, New Mexico, and the northern States of the republic of Mexico. If any man who has a conscience will examine the bill, observing the size of that State, the extent of its commerce, involving interests important to other States—Iowa, Nebraska, and other States of the West as their shortest way to the sea—if any man making this examination does not reach the conclusion that the committee has been just, then I shall have some reason to doubt whether we have done right.

I have not time to go over the bill and to show that many of the States having no member on the committee are as fully provided for as others. Take the little State of Oregon, away in the Northwest, without a representative on the committee and with but one member on this floor. The provision in the bill for that State is larger in proportion to its population, its wealth, and its commerce than for any other single State in the Union. Take the State of Michigan, which has no member on the committee; it is fairly and justly provided for. Take also the State of Florida. These two States I mention as having a large water frontage. With no member upon the committee, they have fair, just, liberal provision made for them. So, also, take Tennessee and Alabama, and you will find that the same justice is done; but I cannot now pursue this line of remark.

I suggest these things because it seemed to me that the attempt to impeach the integrity of the committee, to enlist the passions of this House against the selfishness of the committee, was unjust and unfair, if it was not unparliamentary. I will make only a single remark in reference to the make-up of this bill. I have been engaged for six years upon that committee. I have met it in almost every meeting. I have read all its reports; I have studied every appropriation that has been recommended by it. Some that I have favored have been excluded from the bill, and some that I opposed have gone in. But, sir, the man who attempts to make up a bill that will please everybody has an exceedingly difficult task. To please this entire House would require (leaving out the territorial Delegates) just two hundred and ninety-three different bills—that is, one for each member.

The gentleman from Illinois asks me how much money. I am not dealing with that question now. But right here I propose to say this, that the very men who fight this bill because it contains $10,000,000 are the very men who appeal to us to put more into the bill and then vote against it because it does not contain a less sum. [Laughter.] That shows their inconsistency and I am not here to answer for them.

Mr. SPRINGER. How much has been applied for before the committee by members of the House and others?

Mr. REAGAN. It would be impossible for me to say. I will say to my friend from Illinois, however, that every member who came before the committee insisted that the particular work in which he was interested ought to have the entire appropriation asked for, that that was a special work of special interest and ought to have preference above all others, and ought to have the entire amount estimated for appropriated. And because we would not make the bill $26,000,000, the very same gentlemen vote against it as extravagant for containing $10,000,000.

And my economical and good friend from New York [Mr. COX] last year appealed to the committee to give a large sum for the improvement of Harlem River to give more sea-port accommodation to the great city of New York beside what it has in the East and Hudson Rivers. Now he objects to this bill on account of its want of economy.

I want to say this, that if this bill as reported from the committee could only receive the approbation of the House, while I know many will feel their disappointment, while I expect two-thirds of the members of the House, if not more than two-thirds, believe they have not got what they needed, still if we can take this limited sum instead of a larger sum that would satisfy them, and which, if granted, would increase the bill so many millions, it would save a drain on the Treasury that would shock the public conscience, and we would thereby be able to preserve the great public works now going on in the interest and for the protection of the navigation and commerce of the country. I trust members of this House will, when they come to vote on this subject, consider what the effect would be of the defeat of this bill, the damage that would ensue from arresting public works now in process of construction, the destruction of the present plants upon these great public works of improvement, compelling hereafter the Government to pay for new plants in place of those destroyed. Are we prepared, on a penny-wise and pound-foolish policy, to arrest the progress and check the career of this great land of ours, presenting now to the world an example of prosperity, of thrift, of commercial enterprise unequaled by the people of any other land?

I desire to say a word in reference to its action on this bill. I hope it may meet the sense of propriety and justice of this House to have such reasonable general debate on this bill as will enable its enemies to attack it and expose its weaknesses, if it has any, and that then, when that is done, we shall report the bill to the House and pass it as it is.

I merely make the suggestion in the interest of the entire country. For if when we are through with general debate we enter upon the process of amendment, I predict now that the bill will not stop short of fifteen or twenty millions of dollars, and that it will not, after you start the process of amendment, as equitably, as fairly, as equally distribute its benefits to all parts of the country and all the great interests as it does now, coming from the hands of fifteen committeemen who have devoted the greater part of this entire session to its consideration and preparation. But I do not care to occupy the floor longer myself.

Mr. DUNNELL. Let the gentleman reserve the remaining portion of his hour.

Mr. REAGAN. I reserve the balance of my time. How much have I left?

The CHAIRMAN. Thirty-five minutes.

Mr. ATKINS. I hope there will be an understanding by the committee to limit this general debate. If we are going to occupy two or three days in the discussion of this bill, from the temper of the House we will not be able to pass it in a week, and that will bring about an extra session without doubt. I am fighting an extra session. I trust the committee will limit this debate by common consent.

The CHAIRMAN. It cannot be limited except by common consent.

Mr. COX. Mr. Chairman, the gentleman from Texas seems to be laboring under the impression that he is put on trial here—that somebody has put him on trial for his patriotism, honesty, statesmanship, and economy. Nothing of the kind. Nobody ever called him dishonest. Nobody ever intimated that he was dishonest. All that was ever stated in that relation was, somehow or other, it was an extraordinary coincidence that the State of Texas got $750,000 under this bill and the gentleman was on the committee. [Laughter.] He rises here and admits that he does get $750,000 and that he is on the committee. He therefore pleads guilty to all I said.

The other gentlemen may not get so much. The ciphering which we did the other day was in a hurry. It was looked over by some friends on both sides. They understand how to handle slate and pencil, if not geography. But no man in this House, unless he has the knowledge almost of the Infinite, can ever tell, from reading this bill superficially, and without the aid of encyclopedias and geographies, engineer reports, and all sorts of documentary and scientific helps, how much of this money goes to one State or the other; but the gentlemen who made this ciphering did the best they could with their limited knowledge.

Mr. Chairman, my friend from Texas challenges us to examine these provisions. How can we examine them? Nobody but the committee has had custody of these engineer reports. They could not be had. We sought them in vain. When members sent even to the Commerce Committee to get copies, although the copies were on their tables, they were refused by their clerk.

How can we make a comparison or urgency for economy or fair-dealing in these matters in the absence of the data or estimates on which the appropriations are founded? "Let us examine it," says the gentleman. Where? How? Are we to take his say-so? Are we to submit to the *ipse dixit* of the gentleman from West Virginia [Mr. KENNA] or from Virginia [Mr. BEALE] or of the other gentlemen upon the committee; and then must we vote? Must we?

Mr. Chairman, I did not come here to vote $10,000,000 in that way. The gentleman from Texas may criticise me if he will. He may say that my conduct here is beneath contempt. He may say what he pleases about me. He has not served as long here as I have and kept as stainless a record. I never was, even by intimation, hinted at as having pursued the interests of myself, of my district, of my State or my constituents in opposition to the general interests. And now——

Mr. REAGAN. Does the gentleman from New York by contrast mean to be understood as saying that I have done anything of the kind?

Mr. COX. The gentleman from Texas was defending himself——

Mr. REAGAN. I demand a reply to my question.

Mr. COX. When a man excuses himself he accuses himself.

Mr. REAGAN. I demand an answer. I want the gentleman from New York to state whether his remark is intended to reflect upon me as implying that I have done anything of the kind?

Mr. COX. When you are polite enough to take your seat and comply with the rules of decorum necessary for a parliamentary body I will take pleasure in answering your question, but not otherwise. I ask the Chairman to enforce the rule.

Mr. REAGAN. The gentleman has made a wanton——

The CHAIRMAN. The gentleman from New York is entitled to the floor.

Mr. REAGAN. If the gentleman from New York does not choose to reply to my question in a satisfactory manner, and declines to disavow any such reflection as his words imply, I ask that his language be taken down; and I make the question of order upon it.

Mr. COX. I made no charge against the honesty of the gentleman from Texas in saying what I did. I deny that I have charged him with dishonesty. Summing up the provisions of this appropriation bill, I stated that the State of which he is a member was to receive under the terms of this bill $750,000, he being on the committee; but——

Mr. REAGAN. Mr. Chairman, the gentleman from New York does not respond to my inquiry. He has referred to the fact that he has been a member of this House for a longer period than I have. He stated that he had preserved a stainless record; that he had never been charged, by implication even, with anything that looked to an improper or selfish motive in advancing personal interests at the expense of the general welfare, and I ask him the question now relative to that if he means to assert that I had done anything of the kind, as his preceding remarks would seem to indicate or imply.

Mr. COX. Now, my dearly beloved friend, if you will just take your seat I will answer your question as politely as I know how.

Mr. REAGAN. The gentleman is as polite a slanderer as I have ever heard, and he can utter his calumnies within the rule of parliamentary proceeding as well as any other man I have ever heard of; but I desire to have a reply to my question.

Mr. COX. I know that when the gentleman from Texas left this House years ago he left it firing a Parthian arrow and with unkindly feeling toward me—because I stood by the Union. [Derisive laughter and cries of "Oh!" "Oh!" on the democratic side.]

Mr. REAGAN. That is exactly the language that might be expected from a demagogue of that character.

The CHAIRMAN. The gentleman from Texas is out of order.

Mr. REAGAN. The gentleman resorts from one calumny to another instead of answering the question I asked him. He will not have the magnanimity or the manhood to state his position, but simply flies from one calumny to another.

Mr. COX. Well, I do not think that I have uttered any serious calumny against the gentleman. But I seem to be unable to satisfy him of that fact, and therefore I let it go by as the idle wind, which I regard not.

Mr. Chairman, in pursuing a debate on a bill of this kind, reaching to the utmost limits of State and local demagogy, I know it is easier to float gently with the current than to endeavor to swim against it. I was referring to the position occupied by the gentleman from Texas in reference to it. I have made no charge of sweeping dishonesty against the gentleman. There are items in this bill that would subject it and the committee that framed it to criticism. I had, as I have said, occasion in the course of that discussion to refer to the position the gentleman from Texas occupied toward this bill as the chairman of the committee that framed it, and as managing it before this House. I do not say that the bill has been made up wrongfully so far as he is individually concerned.

I have scrupulously taken care to charge the gentleman only with this: that he is vigilant for his State, that he is a good local representative standing for his State, and that his colleagues on the committee are doing the same thing. Does the gentleman think to break me down in this debate with the sort of talk he has given to the House about calumny and contempt? Contempt! Why, as the man out West said on a similar occasion, "one cannot find words to express his language." Contempt from him to me! What have I ever done that he should look down upon me with contempt? The gentleman stated I have favored something in New York about the Harlem River. Why, I have voted against all these bills, all the time, with that river in them.

Mr. REAGAN. But the gentleman urged us to do what he would not do himself.

Mr. COX. I declare the gentleman from Texas does not know how to behave in parliamentary practice.

Mr. REAGAN. I know the truth hurts the gentleman sometimes, and I am inclined to tell him the truth when I have a chance.

Mr. COX. Truth cannot hurt any one who is honest and square, and I have been that on this bill and on every bill of this nature. I will not say anything more to the gentleman from Texas here; but if he will make an issue with me out of the House, I will use harpoons, and will then have the advantage of him. [Great laughter.]

The CHAIRMAN. Gentlemen will please take their seats and observe order on the floor. The gentleman from New York will suspend until gentlemen take their seats. The Chair will endeavor to preserve order.

Mr. COX. Now, I see the gentleman from Texas is good humored, for I saw him smile along with the House; and now that the House is good tempered I desire, on my own motion, to recall one little thing I ought not perhaps to have said in this connection. I desire to say to the gentleman from Texas that I knew he came to Congress early as a friend of the Union. I knew him to be opposed to disunion; I knew that he accepted that as a last resort, and was almost the last man who went from this House. I have no reproach to give him for that. But being irritated by these perpetual and peculiar interruptions just now, I did remember a remark he made in leaving here, which I unhappily recalled, and for which I am sorry. [Applause.]

I say we cannot discuss this bill properly without the engineer and other reports. When the gentleman from Texas undertakes to challenge our attention to this bill, I ask why does he not postpone it till we have a chance to examine these matters more critically?

Mr. REAGAN. I do not want to interrupt the gentleman's vein of thought; and will do so only to the extent of saying that when on the occasion to which he refers long ago I said something not pleasant to him, I told him promptly it should go out of the RECORD. And it did go out. I did not wait to parley with him as he does with me.

Mr. COX. I thought from the gentleman's remarks about me that he wanted to review the old "unpleasantness." I do not want to do that.

Now, let us come to some of the States that are the beneficiaries in this bill. Take the State of West Virginia, whose Representative on the Committee on Commerce seems very active. I would like some one to tell me, I would like my friend from West Virginia [Mr. KENNA] to tell me, how much tax West Virginia pays into the Federal Treasury. I believe she does not pay on the average more than $300,000 or $400,000 per year as her share. How much does she get as a largess from the Treasury for her improvements?

Look at page 681 of the report of the Chief of Engineers in regard to the improvement of one river, the great Kanawha, West Virginia. It is said here:

The object of the improvement is to give a constant navigable depth of at least seven feet throughout the whole of the Kanawha to its mouth at the Ohio River.

They undertake to do this by locks and dams. A statement is made as to the kind of dams and locks. And here is a statement of the amount expended June 30, 1880, the total amount being $868,680.32:

Lock 3 is near Point Creek, twenty-one and one-half miles above Charleston ferry. Locks 4 and 5 are respectively near Cabin Creek and Brownstown, fifteen and one-quarter and nine and one-eighth miles above Charleston Ferry. Dam 3 will create a pool extending as high as Cannelton, a very important point on the river, twenty-seven and one-half miles above Charleston ferry.

The balance available July 1, 1880, was $273,319.68. I do not know the amount appropriated in this bill for that special river; but the amount in the estimates for the Great Kanawha for the fiscal year ending June 30, 1882, is $350,000. The amount available at the end of the last fiscal year out of the appropriations was $583,225.76. The amount expended during the year ending July 1, 1880, was $309,906.08, leaving amount available July 1, 1880, as I have stated, $273,319.68.

But, sir, I cannot go into details, but I may print from this report.

Still I will say that the amount estimated as required for completing the existing project is $2,410,000, and the amount to be expended in the fiscal year ending June 30, 1882, is $350,000. This is as to one small river in this State.

So it is as to the Elk River in West Virginia. Sums have been expended there which I have not time to quote. This is a sample of hundreds of items in this bill, which we cannot possibly investigate without having before us the reports of engineers and past appropriations. Here is a great volume of hundreds of pages and without index, to which we have first had access. We are compelled to dive into it on five minutes' notice and pick out at a venture some samples, like this of Elk River. The engineer, always partial to these appropriations, on which his living depends, says of Elk River:

These operations were simple in character, consisting of the removal of such obstructions to navigation as rocks, snags, overhanging trees, and gravel shoals.

Then comes the report of the engineers, dated "United States Engineer Office, Baltimore, January 21, 1880:"

It is suggested that any new appropriation for Elk River be not restricted to certain portions as in the last case. The river needs improvement below the Big Sandy as well as above. Before the river can be considered properly prepared for the full development of the trade upon it, which the resources of the country will probably produce and maintain, some or all of the private mill-dams should certainly be removed or modified, (the expense need not be great,) and the miserable lock and dam near Charlestown should be removed as a nuisance and obstruction to navigation.

That is the work of removing these little mill-dams for mill sites

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or mill purposes in order to allow some little navigation. Oftentimes these appropriations are really for mill purposes and not navigation.

The unexpected cheapness and success, however, of the work of last season lead me to conclude that what remains can be done for very much less than the amount of that estimate, which was $100,000.

One hundred thousand! That is all; and for what?

Now turn again to this same Elk River, to the report to be found on page 692. The engineer says:

From Braxton Court House to the mouth of Big Sandy the traffic consists almost exclusively of logs floated in the river, of canoes and small flat-boats, carrying country produce down stream and returning with groceries, provisions, &c., of staves and hoop-poles.

Mr. ELLIS. What amount did the gentleman say was appropriated last year?

Mr. COX. I do not say myself. I am only reading from the report and what it says. I do not undertake to say anything. The gentleman can look at the report for himself. Hoop-poles is some of the produce floated on this magnificent river, sometimes "poled" down likely, as other cases herein recited. I give this only as a sample.

I never oppose an appropriation for such splendid streams as the Missouri and Mississippi, and for such harbors as are of proper federal magnitude. But I want to know if on this Elk River there is floated federal commerce in "canoes and small flat-boats, carrying country produce down stream, and returning with groceries, provisions, &c., of staves and hoop-poles." The engineer further says:

An iron-furnace exists near Strange Creek, from which iron has been brought down in flats. This furnace is being started again, and the parties interested are anxious for the improvement of the barge navigation.

I have not had time to look all through these matters. I pick up these things at haphazard here and there.

Again, in regard to Scuppernong River, in North Carolina, it is here recorded:

It was proposed to improve the navigation by dredging a canal through the bar at the mouth eighty feet wide and nine feet deep; to cut off points at places where abrupt bends occur in the upper river, and to take out a few stumps.

That is called a great national stream. We are asked to appropriate for it in a general bill for the improvement of our rivers and harbors. The bill is more generous than general.

Mr. YEATES. Will the gentleman allow me to interrupt him a moment?

Mr. COX. Certainly.

Mr. YEATES. I desire to say that that river is nearly a mile wide at its mouth.

Mr. COX. No doubt.

Mr. YEATES. That is the fact.

Mr. COX. How did the stumps grow there?

A MEMBER. Stumps do not grow.

Mr. COX. I know that stumps do not grow, but it is proposed to improve the river by taking out "a few stumps." It is a small river within a single State, and does not come within my category for Federal appropriation. That is my point.

Mr. CLAFLIN. The Harlem River does.

Mr. COX. I did not vote for the Harlem River.

Mr. CLAFLIN. Did you not ask to have it put in the bill?

Mr. COX. I did not name any amount.

Mr. KENNA. I remember very distinctly——

Mr. COX. I will stand by all I have done. Harlem River makes New York City an island, and it needs improvement. I have never disfavored the improvement of the harbor of New Orleans, or Galveston, or Charleston, or any harbors at important points for our commerce. I never have and I never shall. Now look again at one of these appropriations, so unlike those at or near New York. The engineer says of it:

Those making use of Elk River for floating out logs from the head waters to the mouth report that the work of last season has been a great benefit to their interests, the stream in many places being in appearance a new water-course! Experience has shown that at certain points special work would be of benefit. * * * At Wolf Island the brush now covering the bar causes logs to lodge.

That is a great improvement. Because a little brush gets into the creek or stream, stopping saw-logs and other logs from going down, in rushes to the American Congress the Committee on Commerce and asks for money by the million to improve such insignificant rivers and streams, used to float logs which happen to catch in brush!

I may not now be able to interest anybody, perhaps, except the tax-payers, who have to bear these great outlays of expenditure upon such small and insignificant rivers.

The gentleman from Texas and the other gentlemen have hinted to me that I favored Harlem River. I was requested time and again to vote for an appropriation for that river, and would have liked to have helped it somewhat; but it was included with other things which I could not vote for. It was connected in bills which were being driven through this House without debate or amendment, as it was attempted to drive through this bill, under the whip and spur of the previous question, without any time for adequate debate.

I have never felt called upon, Mr. Chairman, even where my own State or city was involved, to vote other than "no" against these mixed appropriations. For that I am subjected to this criticism by the gentleman from Texas.

But, sir, I am happy to believe that the great body of the people and press of this country, at least the independent portion of them, will defend the Congressman who stands up stoutly against these wasteful inroads upon our exchequer for doubtful objects at best, and not in any case for large commercial purposes.

The CHAIRMAN. The gentleman from New York has forty minutes remaining. To whom does he yield?

Mr. COX. I will first yield to my friend from Texas, [Mr. MILLS.]

Mr. MILLS. I want only ten minutes—not exceeding fifteen at any rate.

Mr. Chairman, I have been in Congress for eight years. I have voted for every river and harbor bill that has been reported to this House for its action. I voted for this bill the other day when it was moved to suspend the rules and pass it. I am an internal-improvement man. I am "broad gauge" on questions of that sort. I believe that it is the duty of this Government to remove all obstructions that it is possible for it to remove in the way of commerce seeking the markets of the world. I am not only in favor of opening harbors and removing obstructions to the movement of commerce, but I am in favor of improving the rivers—the small rivers and the large rivers. I remember the history of the Clyde River in Scotland, as once related on this floor by my friend from Pennsylvania, [Mr. KELLEY.] It was once a marsh. I do not know what depth of water it now has.

A MEMBER. Thirty feet.

Mr. MILLS. At any rate it is one of the great waters upon which the great vessels of England are built to-day. It brings immense revenue and immense prosperity to that country by fostering the wealth of that great industry.

Having said thus much, I place myself in a proper attitude to come before this House and ask that justice be done in amending the bill we are now considering, so as to make it serve the purposes I have indicated. I know that the committee in preparing these bills are prone to regard the estimates of the Engineer Department. I know they have largely followed those estimates in recommending this or the other work. But there is a consideration behind the estimates of the Engineer Department and paramount to them, and that consideration is the demands of the commerce to be benefited by the proposed improvement. What does it signify if the Engineer Department reports that it will cost $100,000 to remove the bar at the mouth of some stream and get one hundred feet of water, so as to open communication for one hundred miles into the interior, if contiguous to that stream there are no settlements; if the earth is not cultivated; if it is a swamp, or is the habitation of Indians? The object to be achieved by the expenditure of the public money of this country is to remove obstructions to the movement of our commerce—the surplus products of the labor of the American people; and in that object I fully sympathize.

Now, Mr. Speaker, when I look over the improvements put down to my State in this bill, it seems to me that I see a most flagrant departure from the principle on which such a bill should be framed. I will take the items as they come:

Improving Aransas Pass and Bay, up to Rockport and Corpus Christi, Texas, $80,000.

The remarks I propose to now make would perhaps be more appropriately made upon an amendment when the bill shall be read by paragraphs. But I would then be confined to five minutes, and I could not get through what I wish to present to the House. I therefore speak on the question now.

I want to ask my friend, the chairman of the Committee on Commerce, whether he remembers the amount of commerce that goes through Aransas Pass?

Mr. REAGAN. I could not state the exact amount now; but it is stated as very large.

Mr. MILLS. Not nearly so large as that which goes out of Galveston Bay?

Mr. REAGAN. Oh, no, sir; nothing like it.

Mr. MILLS. Not so large by one to nine?

Mr. REAGAN. I cannot say that; but it is not nearly so large. My friend will understand, however, that Aransas is a place at which it is sought to make a harbor down the coast which would accommodate a portion of country nearer to that point than to these other places. The object of the improvement is to try to secure a port to accommodate that commerce and serve that country.

Mr. MILLS. That is precisely the criticism I am making upon the bill—that we are trying to make harbors where harbors are not necessary—at least not necessary to the extent that the committee has provided. I am in favor of improving the harbor of Aransas, and will vote as much for it as the Representative from that district. I am in favor of improving all these harbors just as fast as we can do so. Now, let us take the next item:

Improving Pass Cavallo Inlet into Matagorda Bay, $60,000.

Now, how much commerce passes out of Pass Cavallo Inlet, and how much comes in there? A small amount I say; and the statement will not be denied.

Improving ship-channel, Galveston Bay, Texas, $50,000.
Improving Neches River, Texas, $3,000.
Improving Sabine Pass and Blue Buck Bar, Texas, $150,000.

Now, Mr. Chairman, it will not be denied, I think, by any gentleman who is familiar with the statistics of Texas that nine-tenths of the commerce of that State goes out and comes in by way of Galveston Bay.

Mr. REAGAN. My colleague will allow me to remind him, because I know he wants to be correct——

Mr. MILLS. Certainly I do.

Mr. REAGAN. That there are over one million bales of cotton entering into the commerce of our State, not half of which goes through Galveston Bay.

Mr. MILLS. My friend will understand that when I say "nine-tenths of the commerce," I mean the Gulf commerce; I do not mean the commerce going by rail to New Orleans and never touching the Gulf at all.

Mr. SAMFORD. Perhaps Galveston Harbor does not need so much improvement as these others.

Mr. MILLS. I am coming to that. But I say again that of all the commerce going out of the Gulf of Mexico, I am satisfied nine-tenths goes through Galveston Harbor.

Now, I have not had the opportunity to examine these statistics, and therefore I am going by my general information of our coast. Five hundred thousand bales of cotton go out of the Gulf of Mexico through the open gateway of Galveston. That 500,000 bales of cotton pass through the corporation, almost all of it, of the city of Houston to Galveston either by rail or water line. There is a water line almost without competition. It fixes its charges at what it pleases. The charge is one dollar on every bale of cotton from Houston to Galveston. Shipping people told the Committee on Commerce a few years ago they could take a cargo of coffee from Rio and deliver it at Houston for nearly the same amount they could deliver it at Galveston. They said they could take a cargo from Houston and deliver it at Liverpool for almost the same they could deliver it at Galveston.

It takes $1 a bale on the 500,000 bales which go out to market. These 500,000 bales are worth about $15,000,000. The whole of the commerce, foreign and domestic, which comes and goes through Galveston Bay was reported to the House by a colleague of mine in a former Congress, eight years ago, to be $60,000,000. Then if $15,000,000 of the $60,000,000 pays a tax, or if the people pay a tax of $500,000 on the $15,000,000, that is about $2,000,000 of tax they pay by not having the obstructions removed in Galveston Harbor and Galveston Bay in the ship-channel in order that this water line may compete with the railroads and thus reduce freights. I have been urging this House to hurry up the completion of that ship-channel so we should have thorough competition between the water-line and the railroad line, and obliterate all overcharge in freights between those two cities.

My friend on the Committee on Commerce has given two other points in that State, the two together having one-half of the commerce which goes through from Houston to Galveston, one $80,000 and the other $150,000, while it is reported by the engineer it will only take $140,000 to complete this ship-canal, and he only gives $50,000 for the purpose. Why, now, shall we hurry these other improvements when there is so little population and commerce about them, and defer this great work so necessary to reduce the expenses of our commerce as it goes to market?

Let us look at what I have had only the time to gather of our population from the new census. Eight or nine counties around Sabine Pass get $150,000 in this appropriation. In these eight or nine counties contiguous to that work the census of 1880 only shows 34,000 people. It is not my argument that we are proposing to improve water-ways to settle the country. I want to improve these water-ways for the purpose of protecting commerce where the lands are settled. I want to improve these water-ways in order to reduce the charges on the products of the laboring people who are contiguous to the works. I am going to vote for this bill. I have no captious fight to make against river and harbor improvements; but the point I make is that it is a bad bill in the respects which I have named. I will not do this injustice to the great interests of my State in that discrimination; but I would rather take that than get nothing at all.

But I want to come before this House and ask them not to take the advice of my colleague and hear all the objections which can be made patiently against this bill and then to go and vote down every amendment without reference to whether it is right or wrong. I do not come here as a guerrilla to fight this bill. I want it to pass and become a law. I lay my appeal to the men who believe in internal improvements as fast as possible to enable the people to send off the products of their labor and to invite prosperity to come to all their hearthstones. I believe in that, and every vote I have ever given since I have been a member of this House has been in faithful and loyal allegiance to that idea. Therefore I come to ask you to help me carry out that proposition by improving this bill and making it respond to that idea. I ask you to take a little more of the public money or change it from where it is not needed so much and put a little more on this ship-channel, and to hasten its completion in order that we may have the benefit of competition in freights and save our people this large taxation.

Mr. REAGAN. I ask the gentleman for a moment to reply to one point.

The CHAIRMAN. The gentleman from New York has thirty minutes remaining of his time.

Mr. COX. I think it in order to allow my friend from Texas five minutes in which to make his answer.

Mr. REAGAN. I sympathize with the wish of my friend from New York and would like to see the ship-channel in Galveston Bay completed. But I had the duty imposed upon me of looking to the whole State, of looking to the interests of every part of it; and it was due to every district of the State that I should act, if possible, with judicial impartiality. Now, then, he forgets that we are just commencing the work at Aransas, Brazos Santiago, and another point, where there has been no money expended until now, to provide harbors where railroads are being built to the Rio Grande to command the commerce of Northern Mexico and the Rio Grande Valley. He forgets that in the determination to get deep water at the port of Galveston we have already expended on that work a half million dollars, and that we are now proposing in this bill, in order to get deep water at Galveston, to give $250,000.

In addition to the $50,000 we propose to give to the ship-channel, we have also appropriated $25,000 for Buffalo Bayou above the ship-channel. And I think my friend is endangering the passage of the bill by making the sort of objections he has made here. I do not think he has fully considered the effect of it. Now, sir, other places have a little, such as it was believed could be given to them. It is true that none of them command such commerce as Galveston. None have received a fourth or perhaps a tenth such as Galveston.

My friend speaks of Sabine Pass. Why, sir, it is the outlet of the Sabine River, that waters the western part of Lousiana and the eastern part of Texas, navigable now by steamboats for three hundred and fifty miles. It is the outlet of the Angelina and Neches Rivers, navigable for three hundred miles more at this season of the year. It is an outlet for a country larger than the State of Maryland and nearly as large as the State of Ohio. There are now being made and have been for a year and more about seven hundred thousand feet of lumber and from seven hundred thousand to eight hundred thousand shingles a day, besides staves, at Orange and Beaumont. The commerce from these mills, as well as the commerce from this entire region drained by these two rivers, goes out through that pass and by one railroad passing Beaumont and Orange. And another fact which his studies do not seem to have familiarized him with, as the committee have done after long examination, is that with the very small appropriations heretofore made at Sabine Pass the depth of water has already been increased from eight to fifteen feet, the deepest entrance on the coast. Perhaps the gentleman is not aware of the fact that between the mouth of the Mississippi and the Rio Grande it is the only harbor that can be dredged out and remain serviceable which will not be filled with the fine, shifting sands brought in by the literal currents of the Gulf. The channel, which the engineer believes can be made for $200,000, when made will give then a depth of from twenty to twenty-two feet of water to accommodate the vast trade north of us with at least one good harbor; and I may also be permitted to state to my colleague that, if I am rightly advised by one of his friends, he expressed his willingness to support a two-hundred-thousand-dollar appropriation for this place.

Mr. MILLS. It is necessary that I should make some response to——

Mr. COX. I yield now five minutes to my colleague from New York.

Mr. CHITTENDEN. Mr. Chairman, I have opposed by my vote all the river and harbor bills, save one, which have been under consideration during my service here. I voted for one under a misapprehension. [Laughter.] I have voted against all others in silence. But I believe the time has come now to call a halt in the present river and harbor methods. I am not opposed to liberal appropriations for our water-ways.

I do not believe $10,000,000 too much to provide for proper expenditures in that direction during the coming year. But I, in the name of those I represent, demand something to show for the money expended. After giving the subject such attention as it has been in my power to give it since the day before yesterday, I do not see how any conscientious members of this committee can justify themselves in supporting this bill. The Committee on Commerce have expended thirty millions, more or less, in the last five years. What have we to show? In my own State—and I am not going to find any fault with Texas or any other State—but I say, and I know what I am talking about, that some of the largest appropriations that have been made during my service here for my own State have been made by the special activities and for the special interests of land-owners and greedy speculators.

It is absurd for the gentleman from Texas, the chairman of this committee, for whose integrity and devotion to this subject no man shall exceed me in admiration, but it is simply absurd when we see what is going on in this House to describe this bill as anything else than a startling illustration of the present condition of our politics. I do not say party politics. I mean selfish personal politics. I want the chairman of the Committee on Commerce to name three men of his fifteen that can answer a question which I shall put to him. I even doubt whether he can answer it himself. I understood the gentleman, the chairman of the Committee on Commerce, to say that he had examined carefully every item in this bill. Now, turning over to the thirty-sixth page I discover one item set apart by itself in one single line—line 852—which puzzles my geography, and I doubt very much whether there is more than one man in the committee of fifteen, if there is one, who can explain it. The line reads as follows:

Improving Sumpawamus Inlet, New York, $5,000.

[Laughter.]

Now, I would like to know if the chairman of the Committee on Commerce himself can tell me where Sumpawamus Inlet in New York is, and what that particular $5,000 is for?

Mr. REAGAN. I can answer the gentleman if he will allow me. I will tell him that Sumpawamus Inlet is on East River just within the boundary of the upper part of the city of New York. It is for the improvement of that inlet, and I am sorry to find the gentleman from New York so ignorant of the geography of his own city.

Mr. CHITTENDEN. I am very glad the gentleman thinks he knows exactly where Sumpawamus Inlet lies. He is mistaken, but never mind. I alluded to that for the purpose of getting something else in. [Laughter.] Now, I know a harbor in New York, Mr. Chairman—and I ask gentleman to listen to this as a just comment upon this unfair bill—I know a harbor in New York State where entered last year for several months during the summer three or four thousand people every day. There were six steamboats damaged during the summer in entering that harbor by running upon a rock. The rock is well known to every good pilot; but in dangerous times of the tide and of the wind, the skill of no pilot is equal to escape it. [Here the hammer fell.] I should like to have two minutes more.

Mr. COX. I yield my colleague one minute more.

Mr. CHITTENDEN. Of the six steamboats, two were absolutely wrecked at the great peril of hundreds of lives, and four others were injured. The steamboat interest applied in vain to the Committee on Commerce, while Sumpawamus Inlet, which is not within the boundary of the city of New York nor on the East River, but on the south shore of Long Island, beyond Babylon, got $5,000.

Now I say a method of dividing up these $10,000,000 by which such a steamboat interest as I have referred to is absolutely ignored, while benefits are conferred upon comparatively trivial nooks of doubtful importance, such a method is intolerable; and the time has come to find a better way. Ten million dollars yearly are not enough to do this work for 50,000,000 people. A commission of character and responsibility should be authorized by Congress to attend to the waterways of this whole country. The work never can be wisely done by the present method. If persisted in we shall soon waste hundreds of millions, without accomplishing the end aimed at.

Mr. COX. How much time have I?

The CHAIRMAN. The gentleman has thirteen minutes remaining.

Mr. COX. I yield half a minute to my colleague, [Mr. HUTCHINS.]

Mr. HUTCHINS. I wish merely to say to the gentleman from New York [Mr. CHITTENDEN] that the case to which he has referred was not one for which an appropriation could be made until within the last three days. At the last session provision was made in the river and harbor bill for a survey of that harbor. The report has come in. The engineer has reported that, in his opinion, an appropriation of $40,000 should be made for that purpose. I hope the gentleman from New York, [Mr. CHITTENDEN,] in the interest of commerce and of the people he represents, will see that that appropriation is made before the end of this Congress.

Mr. COX. I yield five minutes to the gentleman from California, [Mr. PAGE.]

Mr. PAGE. I think I can say in five minutes all I wish to say on this bill. I am not here to say anything in opposition to the bill reported by the committee further than to criticise what, in my judgment, I believe to be an unfair distribution of the public money in the improvement of rivers and harbors. I have no doubt the committee did the best they could on the facts that were before them. No member of Congress was permitted to go before the committee to represent the interests of his State or district; or at least very few were so permitted. I made out to get a little time, not over five minutes, and that after the bill had already been passed upon, as I understand, by the committee.

But, Mr. Chairman, I desire to speak a few moments in behalf of the Pacific coast, which has no representative on the Committee on Commerce. There is but one member, I believe, upon that committee west of the Mississippi River. The State that I have the honor in part to represent upon this floor has less than $140,000 in this bill, while the Great Kanawha in the State of West Virginia has $200,000 appropriated. The great State of California, with a sea-coast extending many hundreds of miles, has less than $140,000 in this bill.

The Sacramento River, navigable for over two hundred and ten miles, on which the commerce of my State must go, has an appropriation of $30,000 only. I desire to call the attention of the thinking men of this House to the question whether these inaccuracies and injustices ought to be committed by the committee. I am not saying that this committee did not perhaps do the best they could with the light before them and in the brief time allotted to them to consider a great bill like this river and harbor bill. But I am here to say that the distribution of this money is unfair, and not according to equity in my judgment, to the great Pacific coast, where the wheat crop this year is rotting by the side of the railroad tracks for the want of transportation, or to the great State of Minnesota, which is perhaps producing the largest wheat crop that has ever been produced by any State, California being second. I do think a portion of the public money could be honestly expended in improving the great national highways, the rivers and harbors of the Pacific coast. And yet we are put off here with $140,000 or less.

I am not criticising the Great Kanawha, represented by my friend from West Virginia, [Mr. KENNA.] I am not saying that that appropriation ought not to have been made. But I am making the comparison between the Great Kanawha and the rivers and harbors of my own State.

Mr. O'NEILL. The gentleman is giving a thrust at the bill and is not conscious of it.

Mr. REAGAN rose.

Mr. PAGE. I do not yield. I do not know why any member of this committee should call me to task for saying a few words in behalf of the people I have the honor in part to represent on this floor.

Mr. O'NEILL. I did not call the gentleman to task for saying something on behalf of the people he represents. He is giving the bill a blow and he is unconscious of it.

Mr. PAGE. I came here to claim no favors from this House and base my demand simply on justice. If it is not justice I do not want a dollar appropriated by this committee or this House for the State of California. I find, on looking over this bill, here is an item for improving Broad Creek, in Delaware, $10,000; another for improving mouth of Duck Creek, Delaware, $3,000; and another for the improvement of another creek in Delaware, $3,500.

Now I am not complaining that this money may not be well expended for that purpose. But I am here to say that the Sacramento and the San Joaquin Rivers in my own State, over which the commerce of a great empire must go, deserves better treatment at the hands of this committee and of this House.

Simply because the Engineer Department in its recommendation failed to ask for a greater amount than $60,000, and because it asked for $300,000 for the Great Kanawha, therefore we are shut off and are informed by the Committee on Commerce that they have given us 40 per cent. of the estimates.

I believe that the Committee on Commerce when formed in the future should be constituted solely with reference to what the business interests and the commerce of the country demand. And, speaking for myself, should I ever have the pleasure to assist in the organization of another House, and in the election of its presiding officer, I shall vote for one who, in my judgment, will recognize that there is a country west of the Mississippi River that ought to be considered by this House. [Great applause.]

The CHAIRMAN. The gentleman from New York [Mr. COX] has five minutes of his hour remaining.

Mr. COX. I yield the remainder of my time to the gentleman from Texas, [Mr. MILLS.]

Mr. MILLS. My colleague [Mr. REAGAN] in the closing sentences of his remarks a few minutes ago said that he had been informed that I had stated to a constituent of mine that I would favor an appropriation of $200,000 for Sabine Pass. The inference to be drawn from that, I suppose, is that I would state in private conversation to a gentleman that I was in favor of one thing, and then I would on the floor of the House of Representatives show myself in favor of a different thing. Sir, that is a blow beneath the belt.

I maintain on the floor of the House precisely what I have said in private conversation with that gentleman or with any other. And I was exceedingly unfortunate in making myself understood if I left the impression upon the mind of any gentleman that I was opposed to this bill or would vote against it. I have said repeatedly that I have voted for every river and harbor bill that has come before Congress since I have been a member. I voted for this bill the other day, and intend to vote for it again.

I will vote for this bill if you put in it $200,000 for Sabine Pass. I would be glad to have the committee put in $200,000 for Sabine Pass. I will vote for it if you put in $150,000 for Aransas Pass. I would much prefer to see a million dollars put in for the improvement of Galveston Harbor. The commerce of that city requires that such an appropriation should be made. The little appropriations we have hitherto made for Galveston Bar have proved utterly useless for removing the obstruction there. It should be a large appropriation.

I think our river and harbor bill, instead of being cut down and narrowed to little expenditures year by year, keeping these works on our hands for years, should provide for the expenditure of twenty or twenty-five millions of dollars annually for the next four or five years, to improve all our water-ways, so that our commerce can be sent to market without any obstruction.

Now, because I stated that I would vote for as much as $200,000 for Sabine Pass, does any gentleman on this floor understand that I would agree that the great work of improving Galveston Harbor shall have nothing, or only $50,000 of the appropriation made for the whole State of Texas? I tell you that nine-tenths of your Gulf commerce goes out of that gate-way. I am speaking in general terms, for I have not had time to obtain accurate figures.

I am in favor of a large appropriation for every work that is necessary for the improvement of the water-ways of our country—all of them—and of larger appropriations than we now get. Therefore I do not want anybody in this House to understand that, because I want an equal distribution, in proportion to the demands of commerce, of the money assigned to my State, I am opposed to anybody else getting any; that I am pursuing a dog-in-the-manger policy; that I would refuse all appropriations because I cannot get the committee to give the necessary amount of money for the works I am more immediately interested in. Not at all. [Here the hammer fell.] I move that the committee now rise and report this bill to the House for further debate.

Mr. TOWNSEND, of Ohio, rose.

Mr. COVERT. I understood the gentleman from Texas [Mr. MILLS] to yield to me for one minute.

The CHAIRMAN. The gentleman has no time to yield.

Mr. MILLS. I will yield it if the Chair will lend it to me.

The CHAIRMAN. The gentleman from Texas [Mr. MILLS] has submitted a motion that the committee rise and report the bill to the House.

Mr. ATKINS. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ATKINS. Did not the gentleman from Texas move that the committee rise for purposes of debate?

The CHAIRMAN. The Chair did not so understand the motion.

Mr. MILLS. I made the motion that the committee rise, in order that we might by to-morrow obtain more facts for the intelligent consideration of this bill.

Mr. REAGAN. I hope the committee will not now rise; it is not yet three o'clock.

The motion of Mr. MILLS was not agreed to.

Mr. TOWNSEND, of Ohio. I yield two minutes of my time to the gentleman from New York, [Mr. COVERT.]

Mr. COVERT. I was in my committee-room until this moment, and therefore did not have the privilege of hearing the remarks of my distinguished colleague [Mr. CHITTENDEN] with reference to one item in this river and harbor bill, an item affecting my district.

Now if my distinguished colleague would devote some part of his summer journeyings to beautiful and healthful Long Island, instead of being so disloyal to his State as to confine his summer pilgrimages to staid and sober Connecticut, he would be in the position occupied by my distinguished friend from New Jersey, [Mr. ROBESON,] and would understand fully the location of the improvement in question and the pressing need which exists for that improvement.

Mr. ROBESON. That statement is correct. I am entirely familiar with the locality and its needs.

Mr. VAN VOORHIS. What is the locality?

Mr. COVERT. It is an inlet on Long Island—Sumpawamus Inlet. I desire to say in the very brief time I have that Long Island is very peculiarly situated with reference to her claims for consideration in this annual river and harbor appropriation bill. Stretching from one end of the island to the other are innumerable bays, harbors, and coves, forming and furnishing harbors of refuge for the myriads of vessels that have occasion to make transit along that, at seasons, somewhat dangerous and treacherous coast. This inlet is the only medium of communication between a number of large and thriving villages and towns and the great South Bay. I assume that my colleague's ignorance of local geography is not so great but that he has heard at least of this latter body of water which floats upon its broad bosom thousands of sail and contributes in large proportion to the commerce of the country and of the whole country.

This inlet has become almost impassable. There is at the point named a very considerable body of people, largely engaged in trade and commerce. It is estimated that a population of over five thousand is directly interested in this proposed improvement, doing an annual business of $500,000 according to the official report of the Engineer Department; and these people are now debarred from any connection with the great water-way I have mentioned. If the local interests which are affected were fairly subject of discussion here, I might add that the citizens of the locality are entirely at the mercy of a railroad corporation so far as the carriage of freight and produce is concerned. It is, however, upon the broader and larger ground that the demands of general commerce require this improvement that I rest this claim. Long Island has an area large enough in itself for the formation of a sovereign State, and it is not therefore remarkable perhaps that my colleague did not know the exact locality of this proposed improvement. If he knew the locality and its people as I know them; if he knew the wants of that people in this regard as I have learned to know them; if he knew as I know the pressing necessity of this improvement, my public-spirited colleague would, I am sure, be the last gentleman on this floor to adversely criticise, or in any way oppose this item in the pending bill.

Mr. ROBESON. That region supplies New York with fish and oysters. I have seen five hundred sail there on a single day.

Mr. TOWNSEND, of Ohio. Mr. Chairman, this discussion has developed the fact that very few members of this committee are satisfied with this bill, from which I argue that the bill must be a very fair, judicious, and proper measure. Members seem to find no other fault with it than that in the appropriations their particular localities are not sufficiently provided for. Now, if the committee has succeeded, not in pleasing any one locality specially, but in making all feel that they ought to have more, it is a good indication that the bill is pretty nearly right. The committee in the course of its labors was compelled from necessity, as well as from propriety, to regard the reports of the Engineer Department, approved by the Secretary of War, as the proper basis upon which to make appropriations for the various works recommended by those reports. They have done so; and if in certain localities the appropriations are not as large as may be desired, it is not the fault of the committee. In distributing the appropriations they have endeavored to be fair and equitable, and I believe, so far as possible, they have succeeded. The gentleman from California [Mr. PAGE] complains that the Sacramento River has received only $30,000 and the San Joaquin only $20,000. I beg to say to him that the Engineer Department recommended $60,000 as the amount that could advantageously be used the coming year on the Sacramento and $40,000 as a suitable appropriation for the San Joaquin. The committee in its liberality, considering the necessities and claims of the Pacific coast, give each of these rivers one-half the amount recommended, which was better than they did for seven-eighths of all the improvements recommended in the bill.

Mr. Speaker, this appropriation bill has been prepared with great care by the Committee on Commerce. Each item in it has received separate consideration by the committee. The detailed reports of the engineer in charge of each work, as well as the approval and recommendation of the board of engineers and the Secretary of War, have been carefully read—in all about three thousand pages. The committee, availing itself of all means of reliable information, has made this bill as fair and as equal in all its provisions as was possible, and with two or three exceptions no appropriation has been made for work not recommended by the Engineer Department and Secretary of War. Some of the streams appropriated for are comparatively small, but all of them navigable, and are important as a means of water communication to the localities through which they run, and are all tributaries to the larger rivers and lakes which form the connecting links in the great water lines for transportation to the seaboard.

The whole amount recommended by the Engineer Department for the improvement of rivers and harbors, numbering about three hundred and fifty in all, was in the neighborhood of twenty-six million dollars; and the Secretary of War, while approving the general recommendation, cut down the amount to about one-third in gross. The committee has tried to keep within this recommendation. The larger works of more pressing importance have been granted a little more than the average, and those of less importance, in some cases, have been allowed a little less; so that the average has been not much above the one-third indicated. The pending bill gives to the general appropriations about eight million four hundred thousand dollars, and the extraordinary amounts appropriated for the Lower and Upper Mississippi increases it to a little over ten million dollars.

I have no time nor is this the place to enter into a discussion as to the importance, advantage, or necessity of this appropriation for river and harbor improvements. I assume that to be admitted. I can say, however, that the opposition to the proper expenditure of money for these purposes has gradually lessened until the cheap notoriety and imaginary popularity gained by violent opposition to this river and harbor appropriation has about passed away. A strong, healthy sentiment now prevails throughout the country, and it is one that demands reasonable and judicious expenditures of money for the improvement of our water-ways, and such an improvement as will secure to us connecting lines of water communication in every possible direction and bring about the cheap transportation to the seaboard of the commerce of the Western and inland States. If this course be followed hereafter I have no hesitation in saying that it will afford the most effective regulator of the prices of freights, and the railroads, which might otherwise combine to charge exorbitant rates, will be held in check and restrained within reasonable limits. Viewing it from this stand-point I doubt whether the same amount of appropriation for any other purpose would result in so great general advantage both to the producer and the consumer. Considering the number of objects appropriated for, I think the amount of this bill is not too large; and the only question for us to determine is whether it is fairly and judiciously appropriated. On this point I have no doubts myself, and commend the bill to the support of the House.

Mr. Speaker, the opposition to this bill comes more from what has been left out of it than what it contains. If my genial and always brilliant friend from New York [Mr. COX] would study the bill a little more closely, he would be favorably impressed with its fairness and strong claims to his support. But he would not be happy if he did not have his annual tilt at the river and harbor bill, and his criticisms are at least entertaining if not instructive. I do not believe he expects to defeat the bill, and would feel badly were it to fail. He relies on men outside of New York to protect the magnificent harbors of the great commercial metropolis of the nation. The Committee on Commerce, in response to the earnest petitions of the Chamber of Commerce and the shipping interests of New York, have made fair appropriations in this bill for this purpose. It therefore comes with a bad grace from the gentleman from New York to attempt to defeat a bill which so largely benefits the city he has the honor in part to represent.

I now yield five minutes to the gentleman from Wisconsin, [Mr. HUMPHREY.]

Mr. HUMPHREY. Mr. Chairman, the whole opposition that has developed to this bill since it came before the House and before the Committee of the Whole seems to arise from the fact that the localities represented by the gentlemen opposing it have not received the full amount which they claim should be appropriated. But, Mr. Chairman, I desire to say a word in reply to what seems to be an unjust criticism by the gentleman from New York [Mr. COX] upon my colleague, [Mr. DEUSTER.] I wish to say that Superior Bay is one of the finest harbors in the world, a harbor which when sufficiently developed will open an empire in the far West and bring to its shores that tidal-wave of commerce that will go to the countries of the East. Yet for that harbor this bill makes an appropriation of only $5,000, while the harbor at Duluth has an appropriation of $25,000.

I say that the criticism of the gentleman from New York was unjust

to my colleague, who has secured only $5,000 for one of the finest harbors in the world, where twenty-five years hence there may be a city of two hundred or two hundred and fifty thousand inhabitants—a situation which has as grand prospects as Chicago and the central cities had twenty-five or thirty years ago. I speak of this because Wisconsin is almost surrounded by water. She is surrounded upon the west by the Mississippi and on the north and east by Lake Superior and Lake Michigan. Yet the appropriations which she receives in this bill are not equal to those which she received in former years when the Fox and Wisconsin Rivers engaged the whole attention of that western country.

Though gentlemen may complain that in some instances appropriations are not put in places where they are most needed, yet so far as Wisconsin is concerned not one dollar has been given improperly; for the proposed expenditure in that State will greatly benefit the whole commerce of the United States. The Mississippi is not an inland river; like Lake Michigan and Lake Superior, it belongs to the whole of this continental country; and every dollar of the appropriations for Wisconsin goes to the Mississippi and its tributaries, and to Lakes Michigan and Superior.

It is a well-known fact that this committee is selected with reference to the river and harbor interests being properly represented thereon. Consequently, in properly estimating the wants of the country in this regard, the committee should make such appropriations as are most needed and without regard to locality; and I believe they have tried to do so.

Furthermore, I desire to say that the people of the great West have not and never had to my knowledge, and I know they have not for four years past, a sufficient amount of appropriation to develope that commerce which is destined to add immeasurably to the wealth of this country. And in connection with this I desire to add one word in regard to what the gentleman from Texas [Mr. MILLS] stated in the course of his remarks.

The CHAIRMAN. The gentleman's time has expired.

Mr. HUMPHREY. I desire to say only one word in addition.

Mr. TOWNSEND, of Ohio. I yield for that purpose.

Mr. HUMPHREY. I desire to say, last spring 5,000 bales of cotton were shipped from Texas to New Orleans by way of Saint Louis, and that very fact shows that the remarks of the gentleman from Texas were perfectly just and proper. If the rivers and harbors of that great country were opened up to navigation and commerce by proper improvements, the trade between Texas and New Orleans would go directly and not the roundabout way of Saint Louis.

Last May the steamer Jo Howard left Saint Louis with 2,700 tons of freight, and Memphis with 3,100 tons, on her decks, for New Orleans, among which was eight hundred bales of the consignment of five thousand bales I have spoken of from Texas to New Orleans. The fact is, Mr. Chairman, the producing classes in this country are to reap the great benefit from these improvements, and this is as it should be.

[Here the hammer fell.]

Mr. TOWNSEND, of Ohio. I yield for ten minutes to the gentleman from Illinois.

Mr. CANNON, of Illinois. Mr. Chairman, I suppose there is no member of this committee who can vote for this bill or against it having less personal interest either for himself or his constituents, so far as the direct expenditure of the money herein appropriated is concerned, than myself. One hundred and thirty miles north upon the lake at Chicago is the nearest point to the section in which I reside that one dollar of the money appropriated by this bill will be expended. Heretofore in my service in this House, while I have always favored the improvement of rivers and harbors, I have contented myself with voting against the river and harbor appropriation bill because in my judgment, while many good appropriations were made, many that were not good were also made. Upon an examination of this bill, however, my judgment was and is still that this is the best river and harbor appropriation bill which has been reported to the House of Representatives since I have had the honor to be a member of the same.

I favor the improvement of the great rivers, lakes, and harbors of the country, because to my mind such improvements will do much to cheapen the freight charges in our internal commerce. When I take up the report of the Chief of the Bureau of Statistics, I find our foreign commerce last year amounted in round numbers to $1,613,000,000. We are there told that this is only the one-twentieth part of the commerce which we carry on between the States, or what is called internal commerce. Multiply $1,600,000,000 by twenty, and you will get some faint idea of the necessities for means of transportation both by rail and water. On reading the same report, I find that in 1870 the exports from the great West to foreign countries of breadstuffs and provisions amounted to $107,000,000. In 1880 these exports reached $441,000,000, an increase of fourfold in ten years. Multiply $441,000,000 by twenty, and you will have some faint idea of the demands of the great West embraced between the Rocky and Alleghany Mountains for transportation of its products.

In this same report will be discovered the fact that the charge for freight is now one-half less than it was ten years ago. In other words, freights in 1870—ten years ago—were twice as much as they were last year or are now on the average. This decrease of the freight charge explains why this great trade and great production have increased so largely in the last ten years. Also let it be remembered that over 82 per cent. of our enormous exports are agricultural products alone.

When the ice closes up the water-ways the railroad freight rate is increased from 25 to 100 per cent. How can this be remedied? I know of no effectual or permanent remedy except by building up competition. If we can develop reliable water transportation which does not close in the winter, that reaches into the heart of the grain-producing section of this country, then we have, indeed, found a means of transportation which will afford competition, not during the summer and fall months, but during the whole year, upon the Mississippi River and some of its tributaries. From Cairo south navigation is always open. At Cairo we have the very heart of the grain-producing district of this country.

Mr. SAPP. Oh, no.

Mr. CANNON, of Illinois. The gentleman says, oh, no. If you choose you may extend it to Iowa. Yet I say practically, however, you have there the heart of the grain-producing country at Cairo. I do not mean just about Cairo, but in that section is somewhere near the heart of it. But, be that as it may, practically it brings us a thousand miles nearer the sea in the West for transportation of our products if the Mississippi River can be kept open with a good channel. That is what is desired.

Mr. SAPP. Will the gentleman allow me to ask him a question?

Mr. CANNON, of Illinois. I cannot just now, but I will do so later.

The CHAIRMAN. The gentleman from Ohio has extended the time to fifteen minutes.

Mr. CANNON, of Illinois. I will yield, then, if the gentleman will make it a question.

Mr. SAPP. I will make it a question, and it is this: the gentleman says he is in favor of the improvement of the great rivers. Now, the Missouri River is navigable for over three thousand miles and there is only $115,000 appropriated for that river. Is that justice?

Mr. CANNON, of Illinois. I am glad the gentleman has asked the question, and from my recollection after examining this bill there is much more appropriated for the Missouri River than $115,000.

Mr. SAPP. Not a bit more for general purposes.

Mr. CANNON, of Illinois. Three times that amount, I am told. But let that be as it may, after an examination of this bill I find it appropriates over four million dollars for the Mississippi and its tributaries, and that is far better than any other bill has provided since I have been a member of the House.

Perhaps the bill does not deal liberally enough with the Missouri. I won't say it does. Perhaps it is not sufficiently liberal with other great water courses. Yet it is far more liberal, I will state again, than any bill reported to this House since I have been a member of it. I have heard it objected by some that the appropriation for the Mississippi River is too large. Some gentlemen object to going to the headwaters and entering upon the reservoir-improvement system. I grant you it may be in the nature of experiment. The reports are in favor of it and the experiment is worth trying. Some, again, object to it by saying that, owing to the large appropriations for the Mississippi River, the effect of its expenditure will be to reclaim some of the bottom lands of that river. Mr. Chairman, I do not understand that to be the primary object of this appropriation. Such reclamation is only incidental to the improvement of the navigation of the river.

But I want to say right here and now, upon that point and others in connection with the Mississippi River, that gentlemen should recollect that it drains a great empire stretching from the Alleghanies to the Rocky Mountains, and I remind gentlemen that the determination that it should remain a free highway forever for the commerce of the vast region which it drains, had much to do with the successful prosecution of the late war, and for one I should thank God and rejoice if in the development of this great river in making a reliable channel from the Gulf to Cairo, and from Cairo on up, the same work which deepens and maintains the channel will also result in whole or part in the reclamation of the alluvial lands bordering upon that river.

The alluvial lands bordering upon the Mississippi from Cairo to the Gulf, from fifty to one hundred and fifty miles in width, if reclaimed and placed under cultivation, are sufficient to make an empire alone. Egypt with its Nile, at one time supporting the most magnificent civilization of the world, was insignificant in comparison. Sir, I hope to live to see sea-going vessels load at Cairo, in my own State, with the products of the West, and also the alluvial lands of the Mississippi in successful cultivation. The next decade will see the public lands fitted for agriculture in the United States taken up and settled, and I have no doubt the next twenty years will see the tide of immigration following down the Mississippi, making that country a garden which is in great part now an unreclaimed wilderness.

It is true, Mr. Chairman, that when you take this bill up and read it item by item you come now and then to a river or harbor which is appropriated for that you do not recognize. Perhaps if we had been better students of geography it would have been better for us. But I do know that a great committee of this House, numbering fifteen members, have had this under consideration in the preparation of this bill for weeks and months, while I have been busy in the preparation of such business as has been committed to my care. And so it is with the gentlemen on the forty-odd other committees of this

House. No one man can seek to exhaust all of the business that comes before the House. I doubt if there is a gentleman within the sound of my voice competent to do more than keep track of the business of two or three committees of the House at the outside. If you legislate at all you must take somebody's recommendation in many instances. I desire to say that there is not a man present within hearing of my voice except some one upon this Commerce Committee who can in two or three months exhaust this bill. But because I do not understand every item that is recommended by this committee, and placed in this bill, is that any reason why I should withhold my support from the whole of it? Is that any reason why I should refuse to yield my assent for an appropriation that I know in general is legitimate and proper for the improvement of the great lakes of the country and for our rivers and harbors?

Mr. TOWNSEND, of Ohio. I yield now fifteen minutes to the gentleman from Illinois, [Mr. HENDERSON.]

Mr. HENDERSON. Mr. Chairman, I did not propose to discuss this bill, and should not have made any remarks whatever but for the allusions of my friend from New York [Mr. COX] in his speech on last Monday. I feel it to be due to myself as a member of the Committee on Commerce to say that for the last two months I have labored more patiently and I think more faithfully as a member of that committee in the preparation of this bill, so as to present to the country a river and harbor bill just and fair as it can be made in all of its provisions, than I have ever done before in discharging any public duty in my life. And I now say to this committee, and to each and every member of it, that while there are provisions in this bill which have not met my approbation and do not now meet it, and while other provisions are left out which I desired to have incorporated in it, yet I believe it is a bill as fair and just in all its provisions as any fifteen men can make it.

The gentleman from New York [Mr. COX] undertook to arraign the members of the Committee on Commerce by showing that it had been a mere grab-game with them; that they had taken especial care to provide for their own constituencies and the States in which they resided; and the gentleman went on to show what each member of the committee received, under the provisions of the bill, as his part of the public plunder; and wound up by saying that the Committee on Commerce have "piled up over five millions of dollars"—one-half of the entire appropriation—for themselves.

Now, Mr. Chairman, what are the facts? I want to call the attention of the committee and I would like to call the attention of the country to this fact in view of what has been said by that gentleman. This committee represents fifteen States of this Union. It represents New York, Pennsylvania, Ohio, and Illinois, four of the most wealthy and most populous States of this Union. It represents largely more than one-half of the whole population of the country. The States represented by this committee have one hundred and eighty-two members on the floor of this House, and they have a population of 29,197,869 according to the last census. It represents States in which the great commercial cities of the country like New York, Philadelphia, Chicago, Boston, Baltimore, New Orleans, Saint Louis, Cincinnati, Pittsburgh, and Cleveland are situated.

And furthermore, Mr. Chairman, when you come to the commerce, when you come to the business of the country, when you come to the navigable waters, the sea-coast, the lakes, rivers, and harbors of the country, you find a much larger proportion in favor of the States represented by this committee than you do in population or in the number of Representatives on the floor of this House.

I would not, perhaps, Mr. Chairman, have said this much, but the gentleman from New York, [Mr. COX,] alluding to myself, said that I came from an inland State with a lake, or a little touch of a lake, here and there. Did my friend intend to deceive the House when he made that assertion? Did he intend to deceive the country when he made that assertion, or was it simply the indulgence of a little poetic fancy? Illinois an inland State with a little touch of lake here and there! Illinois has five hundred miles of the Mississippi River, the noblest river in the world, on its western border; it has, I believe, about one hundred and sixty miles of the Ohio on its south and southeastern border; it has the Wabash also between Illinois and Indiana, and it has Lake Michigan on the northeast, with the city of Chicago and the immense commerce of that great city, which I think compares favorably with any other commercial city of the country. And it has the Illinois River running down through it, which is national in its character, because it connects the lakes of the north with the Gulf of the south, and its improvement is as national as any other work. When you come to look at the interest of Illinois, admitting the statement of my friend from New York to be correct, which I do not, that $912,000 are appropriated for Illinois, she does not get any more than she ought to have for her great commercial interests. I suppose in making up this estimate the gentleman figured largely on the appropriations for the Mississippi River, which is in the interest of the entire Northwest and of the South and, I may say, of every portion of this great country of ours.

Mr. COX. Will the gentleman from Illinois allow me to interrupt him?

Mr. HENDERSON. Yes, sir.

Mr. COX. I wish to say the calculation for Illinois and other States which I have made was made in the first instance by the gentleman on the other side from Iowa, a man who understands arithmetic and geography.

Mr. HENDERSON. It was some one that did not understand exactly all the facts, or else he is a better figurer than I am.

Mr. COX. I would like the gentleman from Illinois to confer with that gentleman and make the corrections accordingly.

Mr. UPDEGRAFF, of Iowa. I made the calculations and am responsible for them. They are correct, too.

Mr. HENDERSON. The gentleman cannot make it out by any correct figuring. You may take the half of what is appropriated for the Mississippi River, which is not in the special interest of Illinois in any sense of the word, and you will fall short, in my opinion. I have here a statement of the population of each one of the States represented on the Committee on Commerce and of the number of Representatives to which each of said States is entitled. It is as follows:

| State. | Population. | Representation. |
|---|---|---|
| New York | 5,083,810 | 33 |
| Pennsylvania | 4,282,786 | 27 |
| Ohio | 3,198,239 | 20 |
| Illinois | 3,078,769 | 19 |
| Massachusetts | 1,783,012 | 11 |
| Connecticut | 622,683 | 4 |
| Virginia | 1,512,806 | 9 |
| Texas | 1,592,574 | 6 |
| Louisiana | 940,103 | 6 |
| Missouri | 2,168,804 | 13 |
| Maryland | 934,632 | 6 |
| Wisconsin | 1,315,480 | 8 |
| New Jersey | 1,130,983 | 7 |
| Kentucky | 1,648,708 | 10 |
| West Virginia | 618,480 | 3 |
| Total | 29,911,869 | 182 |

It has been said the Mississippi River has been too liberally provided for. There are ten States of this Union that lie bordering on the banks of the Mississippi River, and I have also a statement here of the population of those States; and they contain over fifteen millions of inhabitants, nearly one-third of the entire population of this country. The population of these ten States is as follows:

| | |
|---|---|
| Arkansas | 802,564 |
| Iowa | 1,624,620 |
| Kentucky | 1,648,708 |
| Louisiana | 940,103 |
| Minnesota | 780,806 |
| Mississippi | 1,131,592 |
| Missouri | 2,168,804 |
| Wisconsin | 1,315,480 |
| Illinois | 3,078,769 |
| Tennessee | 1,542,463 |
| Total | 15,023,909 |

Again, Mr. Chairman, there are the tributaries of the Mississippi River, which run along the borders or through States like Ohio, Pennsylvania, Indiana, Kansas, and Nebraska, States which are deeply interested in the improvement of the navigation of the Mississippi River. So, Mr. Chairman, when you come to consider the population and wealth and the business and the commerce of all those States interested in the Mississippi River, I have no hesitation in saying that the Mississippi River has not been too liberally provided for. No, sir, the amount should have been larger.

I will say again, in conclusion, for I do not desire to occupy the attention of the committee long, that in my opinion this bill is as fair and just as fifteen members representing different sections of the country could make it, and to all parts of the country. I confess I have been unable to meet objections sometimes made on the part of some members. They say, "You are willing to have us vote millions of dollars for your more magnificent rivers and harbors, to promote your more important and larger commercial interests; but if we want a few thousand dollars to take out snags and rocks and remove the sand-bars from such rivers as we have, you think we are not entitled to anything, while you ask us to vote these larger sums for your greater and more important works." When that objection is made I find it a hard one to answer always. But, Mr. Chairman, I believe in internal improvements. I say here to-day there is nothing of greater interest to this country than the improvements of our navigable waters. There is nothing which will more certainly promote the prosperity of the people of this great country than the improvement of our navigable waters so as to give the people cheaper transportation. And I am disposed, Mr. Chairman, to be liberal wherever our liberality will tend to build up and develop the industries and resources, the commerce and business of the country.

Mr. COX. Will the gentleman allow me to ask him a question?

Mr. HENDERSON. I will, if I have time.

Mr. COX. I wish to ask if there is any appropriation in this bill for the Galena River?

Mr. HENDERSON. There is, sir.

Mr. COX. How much?

Mr. HENDERSON. There is an appropriation of $12,000.

Mr. COX. That is in your district?

Mr. HENDERSON. No, sir; it is not in my district, nor in a hundred miles of it, I think.

Mr. COX. How much is the commerce on the Galena River?

Mr. HENDERSON. I cannot tell you, sir, at this time.

Mr. COX. No?

Mr. HENDERSON. That is a work which was commenced before I had the honor of being a member of the Committee on Commerce; and the appropriation referred to is for the purpose of continuing the improvement. It was not particularly urged by me.

Mr. COX. How long a time will it be before the work of improving that river is completed?

Mr. HENDERSON. The estimates are at the gentleman's command, and he can examine them for himself. If he had examined them as carefully as he ought to have done he would not be laboring under the misapprehension he is now.

Mr. COX. I could not get the reports, or I would have done so.

Mr. HENDERSON. But, Mr. Chairman, I must conclude. My time is up. I think it would be a calamity to the country if this bill should fail and work should be suspended on all our public works. But I have no special interest in the passage of this bill more than other members of the House, nor have I any pride in its passage. I believe the passage of the bill to be in the interest of the entire country. I know it to be in the interest of the great Northwest, and I trust members from that section will carefully consider the provisions of the bill, and the results to follow the failure of its passage, before voting against it. But if it fails, I shall have the satisfaction of knowing that I have at least endeavored to discharge my duty in connection with this bill earnestly and faithfully, and that I am not responsible for any evil consequences which may result from the failure to pass it.

Mr. TOWNSEND, of Ohio. I now yield two or three minutes to the gentleman from Illinois, [Mr. HAWK.]

Mr. HAWK. I thank the gentleman from Ohio for this courtesy. The gentleman from New York [Mr. COX] seems to be very desirous that some explanation be given with reference to the improvement of the Galena River. I have the honor to represent the district in which that improvement is being prosecuted. I desire to say for the information of the gentleman and of the House that this improvement was commenced after having been estimated for by the Chief of Engineers of the Army, under an appropriation made by the Forty-fourth Congress, I believe, possibly not until the Forty-fifth.

The project of the improvement of this river was adopted, I believe, in 1878, the object being to afford a channel one hundred feet in width and four feet deep at low water from the mouth of the river to the city of Galena. At that time some $30,000 were appropriated for the purpose of improving this river by dredging out the bars that had formed below the city so as to form a channel of the depth and width stated, thereby rendering the navigation of the stream feasible up to the wharves built in that city, and in which city there are extensive Government buildings as well. Then another appropriation of $12,000 was made, and also still another one of $12,000, making a total of appropriations to the present of $54,000, which several appropriations have always been below the amounts estimated for, and which have, I believe, been recommended unanimously by the Committee on Commerce. The amount of $12,000 is recommended by the committee to be appropriated this year also, which is far below the amount estimated for, the amount so estimated by the engineers being $50,000 for the fiscal year ending June 30, 1882.

This improvement is progressing rapidly, and it is thought by the engineers and parties interested that the appropriation here asked will complete the improvement so that the largest-sized steamers plying upon the Upper Mississippi River can reach the wharves of the city. Galena is a city of considerable commercial importance, being in the heart of the principal lead-mining district of that country. Other business than that of the shipment of lead is also transacted. There are furnaces for smelting lead and zinc there or in the vicinity, one or two heavy pork-packing establishments, besides several saw-mills. Important railroad interests center there, and a great deal of commerce will be transported on the river when this improvement is completed. Besides there are Government buildings there, and it seems to me that if the gentleman from New York well and thoroughly understood all the facts in the case he would be of the same mind as the Committee on Commerce.

For the information of the gentleman from New York and also of the House, I present some commercial statistics, all I have at hand, showing the shipments from Galena for one month of 1879: Hog products, 2,278,800 pounds; lead, 460,000 pounds; grain, 370,000 bushels; hides, 45,000 pounds; zinc ore, 74,400 pounds; lumber, 518,145 feet; general merchandise, 220,000 pounds.

I may be permitted to state further that this improvement has been now prosecuted almost to completion, and it appears to me, as I believe it would to any gentleman investigating the subject, that it would not be wise to stop the work at its present stage and lose the benefits accruing from the work done and the expenditure already made. It will certainly require but a short time and the expenditure of only a few thousand dollars more for the engineers to be able to report fully upon the wisdom of further expenditure of money in this improvement, in the success of which the people of that section of country feel perfectly sanguine. The wisdom of the Committee on Commerce, having all the facts before them, should certainly not be lightly questioned, especially by those who have had but comparatively limited opportunity to fully and thoroughly consider the bottom facts upon which this bill in each of the several improvements for which appropriations have been recommended is founded.

Mr. TOWNSEND, of Ohio. I now yield two minutes to the gentleman from Pennsylvania, [Mr. O'NEILL.]

Mr. O'NEILL. I want simply to correct the figures of the gentleman from New York [Mr. COX] who on Monday last made his annual speech against the river and harbor appropriation bill.

The gentleman who attended to his arithmetical work was wrong and did injustice to the great State of Pennsylvania and the adjoining States of New Jersey and Delaware. The total appropriations for those three States, or rather for the State of Pennsylvania, for the improvement of the Delaware and Schuylkill Rivers, and for the tributaries of the Delaware River flowing from the States of New Jersey and Delaware, and for the State of Pennsylvania in connection with its rivers in the western portion of the State, amount to $661,500, instead of the amount stated by the gentleman from New York, $474,000.

And I want to say in behalf of the State of Pennsylvania, which by the report of the Superintendent of the Census, has a population of 4,275,000 in round numbers, being second only to the State of New York, and with a river, the Delaware, capable of bearing upon it the commerce of the world, if this and future Congresses shall be as liberal in making appropriations as Congresses heretofore have been, I do not want to have it go out to the world that the State of Pennsylvania, and the States of New Jersey and Delaware bordering upon the Delaware River, have not as large appropriations in this bill as they really do have, that is $661,500. I do not want any injustice done to the Committee on Commerce. Let my friend from New York take that and swallow it.

Mr. TOWNSEND, of Ohio. I yield five minutes to the gentleman from Massachusetts, [Mr. RUSSELL.]

Mr. RUSSELL, of Massachusetts. The gentleman from New York [Mr. COX] has referred to me and the State of Massachusetts, which I have the honor in part to represent on this floor, in connection with the appropriations for Massachusetts in the river and harbor bill, criticising the amount appropriated for that State. The amount appropriated for its rivers, its long line of coast and important harbors, is $248,000; $100,000 of that amount is appropriated for the improvement of Boston Harbor, a harbor without sufficient depth of water to accommodate the deep-draught vessels that are now attempting to do business at this port. The products of the great West are now seeking an outlet at this harbor, and thousands of car-loads of grain and other cereals are being detained upon the tracks of the different roads leading to this point for want of sufficient accommodations for their reshipment.

I believe that this bill making appropriations for the improvement of rivers and harbors is an important and legitimate one, and no appropriation of money will bring a greater return to the people of this country than that made by this bill.

A very large proportion of all the money appropriated by Congress is raised by taxes imposed upon merchandise that is carried over these water-ways. It is true that a few streams, short rivers with long names, are to be improved by appropriations in this bill, but these small feeders bear the same relation to commerce that the small streams bear to a great river. The principal part of this bill is for the deepening of our important harbors and improving the navigation of our great rivers. There never was a greater demand for the improvement of the water courses of this country. Our immense surplus harvests are pressing to the seaboard and the great steamships are striving to take up and distribute these products among the markets of the world.

The small vessels of 1,000 and 2,000 tons burden, and that could easily enter our ports, are found to be too small to transport merchandise cheaply, and steamships of 4,000 and 5,000 tons are the new vehicles deemed necessary to cheapen transportation.

There seems to be a strong opposition to the bill from New York City, which has about the only harbor in the country of sufficient depth of water to float the largest ships. Boston, Baltimore, Philadelphia, and other ports of the country are asking for aid to deepen their harbors and water channels that they may successfully compete with their more favored rival.

Easy and convenient water transportation is the most convenient way to hold in check railroad charges, and the advantage of cheap transportation of cotton, lumber, grain, or coal in any section of the country is felt by the purchaser or consumer wherever he may be located; and gentlemen who criticise this bill on the theory that it has not been territorially equally distributed, without reference to the amount of commerce to be benefited and the facilities that shippers now have, fail to comprehend the whole spirit of river and harbor improvements.

Mr. TOWNSEND, of Ohio. I now yield three minutes to my friend from Minnesota, [Mr. DUNNELL.]

Mr. DUNNELL. Mr. Chairman, I shall vote for this appropriation bill as it stands. It is quite likely that it might possibly be improved if the House would take upon itself the labor of going through with the bill in detail. I believe that the bill contains very much that should commend it to the entire House. One fact ought not to be forgotten, that the bill has been very largely increased in amount by

the appropriations for the improvement of the Mississippi River. We ought to recollect that we now have in office a Mississippi River commission; and when the bill creating that commission was established it was announced here in the House by Representatives from the East as well as those from the South and West, that the country would be very ready to approve any appropriations that Congress might make in carrying out the recommendations of that commission. It is a fact that the commission has been at work for the last year with great intelligence and great thoroughness. Its recommendations are before the country, challenging its respect as they ought to challenge the respect of this House.

We must remember that this country of ours embraces a very large number of harbors and rivers which are to be improved; and when we consider, as the gentleman from Illinois [Mr. HENDERSON] has said, the magnitude of our interstate commerce, when we look at the extent of our products, and when we are confronted at the present time by the monopoly sought to be carried out by combinations of railroads, we may very justly consider whether it is not our duty to be quite liberal in opening up the water-ways of the country.

Now I had the honor to serve four years upon the Committee on Commerce, and an exceedingly interesting and important committee I know it to be—a committee that has very large claims upon our consideration. I know that this committee in getting up the present bill has expended eight or nine weeks of laborious attention to details; and so far as I have examined the measure, so far as I have compared it with the reports of the Engineer Department, it is to me a matter of wonder that with all the pressure coming from different delegations, with the large amounts demanded by the Mississippi River commission, a bill so just, so generous, and so well arranged has been presented to the House for its consideration.

Mr. Chairman, we ought not to forget that although the money thus appropriated may be paid out in some instances upon the improvement of a river or harbor that to-day may seem insignificant, yet that money goes into the hands of the laborers throughout the country. It is not money exported; it is not money burned; it is money expended among the people of our country.

Let me say further, that no man now here or who has heretofore been a member of this House has ever been confronted at the polls by his vote upon a river and harbor appropriation bill. The demagogue may misrepresent such a measure; the correspondent may talk of it as a stupendous fraud; but let any intelligent member of this House go through the report of the Engineer Department intelligently and laboriously, and he will come to the conclusion that we should say to this committee, "Well done."

The CHAIRMAN. The gentleman from Ohio has only five minutes remaining.

Mr. TOWNSEND, of Ohio. I yield that time to my colleague on the committee, the gentleman from West Virginia, [Mr. KENNA.]

Mr. KENNA. Mr. Chairman, there is a good deal that I should like to say in reference to the pending bill. There is no bill which has been brought into this House, to which as one of the members of the House I have since my advent into Congress given more labor, or in which I have taken more interest, and I would have liked to say a word or two in regard to the observations of the gentleman from New York [Mr. COX] concerning the Elk River in my district. Upon a casual examination, which I apprehend he only could make with the particulars at hand of the report in relation to that river, the gentleman has, unintentionally I have no doubt, done great injustice to it; and I would not care to allude to it here but for the fact it has been remarked that the Elk is a sample by which a great many others may be measured. I desire to say in justice to myself, having presented that matter to the committee of this House, and having heretofore presented it to the House, that the river is navigable for steamboats, that it makes large shipments of iron-ore and vast shipments of lumber and other products and is really and truly a very important stream.

Now, Mr. Chairman, as I said in the outset, there is a great deal I would like to say in respect to this bill, but there are other matters to come, other matters pressing upon our attention, the apportionment bill of my friend from New York, general appropriation bills and others of great public importance, and yielding to their pressure and to their greater demand, believing also this House is ready to vote on this bill, I give way to the gentleman from Texas to make such motion as he may see fit in respect to it.

Mr. REAGAN. I move the committee rise and report the bill to the House with the recommendation that it do pass.

Mr. THOMAS TURNER. I ask the gentleman from Texas to yield to me for a moment to respond to what has been charged about the water-ways of my State. As a member of the Committee on Commerce, it is due to me I should be permitted to say one word in behalf of that State that never heretofore has had anything. Give me five minutes. I do not wish to trespass upon the time of the House to any great length, but I hope that time will be yielded to me.

The CHAIRMAN. The gentleman is not in order.

Mr. ATKINS. I do hope, Mr. Chairman, that the chairman of the Committee on Commerce will give the gentleman from Kentucky a chance to be heard. He hardly ever claims the attention of the House, and he ought to have the opportunity.

Mr. THOMAS TURNER. I was promised such opportunity, and I hope it will not be denied to me. I am a member of the Committee on Commerce, and was promised an opportunity to be heard. I am entitled to it. [Cries of "Go on!"]

Mr. REAGAN. Very well, then, I will take the floor in my own right, and as the gentleman from Kentucky is a member of the Committee on Commerce, I will yield to him for five minutes.

Mr. COX. What becomes of the motion of the gentleman from Texas?

Mr. ROBINSON. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. ROBINSON. I make the point that the gentleman from Texas having already occupied the floor cannot again take the floor in his own right.

The CHAIRMAN. The gentleman from Texas when he took his seat reserved thirty-five minutes of his time which was remaining and there was no objection. The gentleman from Texas has control of the bill.

Mr. ROBINSON. I do not think the committee should drive this down the throats of anybody.

Mr. THOMAS TURNER. The gentleman has yielded to me.

Mr. REAGAN. Yes; I yield to the gentleman from Kentucky for five minutes. I withdraw the motion that the bill be reported to the House with the recommendation that it do pass and allow the gentleman five minutes. When he has concluded his remarks I shall then renew the motion and ask for a vote upon it.

Mr. THOMAS TURNER addressed the committee. [See Appendix.]

Mr. UPDEGRAFF, of Iowa. I rise to a parliamentary inquiry.

Mr. REAGAN. I move that the committee now rise and report the bill to the House with the recommendation that it do pass.

Mr. COX. I rise to a point of order.

Mr. MARSH. I rise to a question of order.

The CHAIRMAN. The Chair will take notice of all of the questions of order and hear them in their order.

Mr. UPDEGRAFF, of Iowa. I wish to know if it will be in order to offer an amendment when the committee rises?

The CHAIRMAN. The Chair dislikes to rule in advance. If an amendment is offered the Chair will consider the propriety or impropriety of its consideration by the committee.

Mr. COX. I demand the reading of the bill.

The CHAIRMAN. The gentleman from Iowa proposes an amendment, as the Chair understands.

Mr. UPDEGRAFF, of Iowa. If the bill is open to amendment, I will offer an amendment.

Mr. COX. My point of order is that the bill has not been considered by paragraphs, for amendments, each paragraph being a section under the rule. I ask, therefore, the reading of the bill by paragraphs in order that it may be subject to amendment.

Mr. McLANE. Is that in order at this time?

Mr. CLYMER. I further submit that all points of order were reserved upon the bill, and unless it be read by paragraphs, somewhere or at some time, or at some stage of the bill, there will be no opportunity to make the points of order, and the bill cannot be reported to the House for passage until it goes through that process.

Mr. ROBINSON. I desire to make another suggestion. It is within the power of the House to limit general debate or debate upon any paragraph or section, but not until the debate has been entered upon. Now, if the motion of the gentleman from Texas shall prevail, it is an attempt to put a limitation upon the debate in Committee of the Whole by the committee before the bill has been read or any section of it considered. I submit that is not in order for the committee or for the House.

Mr. REAGAN. If the gentlemen have presented all their points of order, I desire to say this in response: the Committee of the Whole is the judge of when it has allowed debate upon a bill. If the committee determine to recommend the passage of a bill it is a technical compliance with the requirements of the rule, and it puts the subject out of the heat of debate and brings it directly before the House for a vote.

Mr. ACKLEN. I desire to say that, by unanimous consent, when we first went into Committee of the Whole this morning the reading of this bill was dispensed with.

Mr. COX. Not the reading by sections for amendment.

Mr. ACKLEN. The general reading of the bill was dispensed with by consent.

The CHAIRMAN. The Chair will suggest to the gentleman from Louisiana that that was the first reading of the bill for information.

Mr. REAGAN. I insist upon my motion that the committee rise and recommend the bill to the House for its passage.

The CHAIRMAN. The gentleman from New York makes the point and calls for the reading of the first paragraph of the bill for amendment, and the gentleman from Iowa announces that he has an amendment which he desires to offer.

Mr. REAGAN. They have not the floor to make the motion.

The CHAIRMAN. The Chair desires to state that he had been informed of the fact that such a motion would probably be made, and has therefore examined the question. He was at first inclined to hold if no gentleman called for the reading of the bill, and no gentleman had offered an amendment or announced his purpose to do so, if the gentleman from Texas had made his motion to rise and report the bill, and if no such objection had been made the Chair would have entertained the motion. But the Chair cannot entertain that motion

when the gentleman from Iowa desires to offer an amendment as he states, and the gentleman from New York demands the reading of the first paragraph of the bill when amendments may be offered.

Mr. REAGAN. I must appeal——

Mr. ROBINSON. General debate not having been closed I desire to take the floor for that purpose.

Mr. REAGAN. I desire to appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Texas appeals from the decision of the Chair. The Chair will be glad to submit the question to the committee.

Mr. ROBINSON. Is there an appeal in the Committee of the Whole?

The CHAIRMAN. The Chair desires to state that when a gentleman upon the floor of the committee calls for the reading of the bill by paragraphs with a view to amending it, the Chair cannot entertain a motion that the committee rise and report the bill. That is the decision of the Chair from which the gentleman from Texas appeals.

Mr. TOWNSHEND, of Illinois. The gentleman from Massachusetts [Mr. ROBINSON] had obtained the floor before an appeal was taken from the decision of the Chair.

The CHAIRMAN. The Chair does not think he should cut the gentleman off from an appeal because of that.

Mr. REAGAN. I ask the Chair to have the rule read which requires the bill to be read by paragraphs.

Mr. SINGLETON, of Illinois. I do not rise to discuss the question on the appeal, but simply to inquire for information whether there is any rule requiring a bill in Committee of the Whole to be read by sections. If there is a rule of this House or any known parliamentary rule upon the subject to that effect, I should like the Chair to give it.

The CHAIRMAN. It is the common parliamentary law of the land that a bill is referred to the Committee of the Whole for the express purpose of considering and amending.

Mr. SINGLETON, of Illinois. The Chair has not answered my question. I want to know if there is any rule by which this committee is precluded from reporting the bill without reading it by sections.

The CHAIRMAN. There is no express rule, but the practice of this House which has existed for many years has been to allow amendments to be offered in Committee of the Whole. The old rule, Rule 107, as the gentleman will see by reference to the old edition of the rules, expressly provides that in Committee of the Whole the bill shall be read through by paragraphs or sections for debate and amendment. That clause of the rule is not contained in the new revision. But the revision contains in subdivision 5 of Rule XXIII this clause:

When general debate is closed by order of the House, any member shall be allowed five minutes to explain any amendment he may offer, after which the member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon.

Now the Chair thinks it is very clear that after the House has by an order closed general debate it would not be in the power of the Chair to entertain a motion that the committee rise and report a bill without giving every gentleman an opportunity to offer and discuss amendments. But the Chair was inclined to think that inasmuch as in this instance the House had not yet closed general debate and no amendment had been offered and no gentleman had asked for the reading of the bill by clauses, he could have entertained the motion, and he would undoubtedly have entertained the motion on that view of the case if the gentleman from Iowa [Mr. UPDEGRAFF] had not announced that he rose in his place with an amendment in his hand and said that he desired to offer it. Now the Chair does not see how this committee can prevent members from offering amendments. The committee can vote them down.

Mr. REAGAN. I now ask that the committee rise for the purpose of limiting debate.

Mr. ROBINSON. Have I the floor?

Mr. CLYMER. I desire to offer an amendment.

Mr. VAN VOORHIS. I also desire to offer an amendment.

The CHAIRMAN. The appeal from the decision of the Chair is pending.

Mr. TOWNSHEND, of Illinois. I thought the gentleman from Texas had withdrawn his appeal.

Mr. REAGAN. I have not done so.

Mr. TOWNSHEND, of Illinois. I thought he had virtually done so when he submitted another motion.

Mr. McLANE rose.

The CHAIRMAN. Does the gentleman from Maryland desire to discuss the appeal?

Mr. SINGLETON, of Illinois. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SINGLETON, of Illinois. My inquiry is whether an appeal from the decision of the Chair is debatable?

The CHAIRMAN. It has been the custom when an appeal was pending to allow brief statements.

Mr. SINGLETON, of Illinois. Does not the rule forbid it?

The CHAIRMAN. The rule does not forbid it.

Mr. McLANE. As I understand, the Chair ruled against the motion of the gentleman from Texas [Mr. REAGAN] that the Committee rise and report the bill. That was the motion pending when the gentleman from Iowa [Mr. UPDEGRAFF] notified the Chair he desired to offer an amendment, and when the gentleman from New York [Mr. COX] called for the reading of the bill. There was then pending the motion of the gentleman from Texas. I submit to the Chair that he cannot entertain the amendment on the demand of the gentleman from Iowa, or the demand to have the bill read, without overruling the motion of the gentleman from Texas. I wish the appeal to be made upon that ruling of the Chair.

The CHAIRMAN. The Chair will state distinctly what he decided. The Chair decided that in Committee of the Whole House on the state of the Union a motion to amend a bill has preference over a motion that the committee rise and report the bill to the House. That is all the Chair has decided, and from that decision the gentleman from Texas [Mr. REAGAN] has appealed.

Mr. REAGAN. My motion being in first. The only thing I have to say upon that is this: no motion had been made to amend the bill, no point of order had been made; the bill had been debated for hours in Committee of the Whole. In that state of the case I moved that the committee rise and report the bill to the House and recommend its passage. Subsequently a point of order was made by the gentleman from New York and a proposition was made by the gentleman from Iowa to amend.

The CHAIRMAN. This is an entirely new question under the revision of the rules. The Chair hopes there will be order. It is a question which ought to be deliberately considered and decided.

Mr. REAGAN. The Chair could only entertain the point of order by taking me from the floor against the rules of the House for that purpose. The Chair could only hold that the amendment could be offered by taking me from the floor for that purpose when I had a motion pending.

I submit that there is no rule of this House requiring the bill to be read by sections in Committee of the Whole. If it was the judgment of the majority of the Committee of the Whole that the bill had been sufficiently considered, it seems to me the Chair would not disregard a pending motion that the committee rise and report the bill, and of its own motion entertain other motions for which there was no authority, in order to raise a question upon which to base an appeal.

I will state to the Chair, and I desire the House to hear it as well, that the Chair can only get the predicate laid for such a ruling by disregarding the pending motion and volunteering to insert two motions ahead of mine, after my motion had been made and without obtaining the consent of the committee. It seems to me that whatever the opinion of the Chair may be upon an abstract question, the Chair is not required to substitute motions in violation of the rules of the House, and insert them in spite of my pending motion, upon which to base a ruling of the kind made by the Chair. The Chair has already stated that he had reached the conclusion that if no motion to amend was made, and if no point of order was raised, he would recognize a motion that the committee rise and report this bill to the House. No such motion to amend had been made; no such point of order had been raised when I made a motion which put the matter in the category indicated by the Chair. And we cannot avoid the force of that category unless the Chair takes me from the floor in spite of my right to the floor, and inserts a motion for an amendment or a point of order raised by some member. I now yield to the gentleman from Maryland [Mr. McLANE] on the point of order.

The CHAIRMAN. The Chair desires to say one word, because the gentleman from Texas [Mr. REAGAN] seems to labor under a misapprehension. The Chair did not take the gentleman from Texas off the floor, or permit any other gentleman to do so. When the gentleman had submitted his motion that the committee rise and report the bill, he had occupied the floor as long as the rule allowed him to occupy it, because that motion was not debatable. Then a gentleman on each side of the House arose and made other motions, and the Chair simply decided as to the priority of those motions under the rule.

Mr. COX. I call for the reading of clause 6 of Rule XXIII.

Mr. REAGAN. I have yielded to my friend from Maryland [Mr. McLANE] on the point of order.

The CHAIRMAN. The gentleman from Maryland [Mr. McLANE] is entitled to the floor.

Mr. COX. I hope the gentleman will allow the rule to be read.

Mr. McLANE. Let it be read; I have no objection.

The CHAIRMAN. The Clerk will read clause 6 of Rule XXIII.

The Clerk read as follows:

The House may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph to a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only; but this shall not preclude further amendment, to be decided without debate.

Mr. McLANE. The gentleman from New York [Mr. COX] knows very well that the House has not closed general debate on this bill, and there is no question at all about the five minutes' debate. Therefore the rule which he has had read has no application to the present condition of business in this committee. We are now pursuing our debate, and the whole subject is under the control of the committee.

It is perfectly competent for this committee to rise and ask the House to fix the time for closing general debate, and it is equally competent for the committee—I am addressing the Chair in the hope of getting him to review his decision.

The CHAIRMAN. The Chair has nothing to do with this question. It is for the committee to determine it on the appeal from the decision of the Chair. [Cries of "Vote!" "Vote!"]

Mr. McLANE. Those gentlemen who are opposed to the view I may take of this question owe me the courtesy to permit me to present my views to the committee. They are at perfect liberty to vote when the time comes for voting; but until that time comes they are under obligation to give me an opportunity to state why this committee ought not to sustain the decision of the Chair.

Mr. CHALMERS. Will the gentleman allow me to make a parliamentary inquiry, not to interfere with his speech?

The CHAIRMAN. Does the gentleman yield?

Mr. McLANE. I have no right to refuse to let the gentleman make a parliamentary inquiry.

Mr. CHALMERS. What would be the ruling of the Chair upon a proposition at this time to strike out all after the enacting clause of this bill?

Mr. McLANE. That is not a parliamentary inquiry, it is only a hypothetical question.

Mr. CHALMERS. The gentleman does not understand me. I proposed to help him in his argument by asking him the question. If he does not want to accept my services——

Mr. McLANE. I do not want any question at all asked of the Chair as to what his decision would be in any hypothetical case. I desire to confine the attention of the Chair and of the committee to the issue made by the gentleman from Texas, [Mr. REAGAN.]

That gentleman made a motion which I submit he had a perfect right under the rules of this House to make. I want to know where there is any rule of this House which forbids that motion being made at the time it was made? It is entirely competent for this committee to rise for the purpose of obtaining an order of the House to close debate. And it is equally competent for the committee to rise and report this bill for passage. The two motions are entirely distinct, and it is in the power of the committee to adopt either course it pleases.

If it does not desire to have this bill amended at all, it need not have it amended. What an extraordinary proposition it would be to say that if a majority of this committee are content with the bill as it stands, they are not at liberty to report it to the House! That is the issue. I assume that a majority of this committee are perfectly content with this bill. There are gentlemen here who are not content with it. I do not expect them to move that the committee rise and report the bill, or to vote for such a motion. Any gentleman who is not content with this bill would naturally vote against such a motion.

Mr. McMAHON. Will the gentleman allow me to ask him a question?

Mr. McLANE. Certainly.

Mr. McMAHON. If it be in the power of a majority of this committee at any time to rise and report this bill to the House, wherein does that differ from the demand for the previous question, the very thing which it is intended to avoid by going into the Committee of the Whole? It is not within the power of a majority of this committee to take a bill as a whole and report it to the House until there has been an opportunity to amend it?

Mr. McLANE. It is entirely supposable, and indeed it frequently happens, that we may have a motion the practical effect of which would be the same as a vote for the previous question. But the gentleman from Ohio, whose astuteness we all recognize, can very easily perceive that the previous question is necessary in the House in order to bring business to a conclusion, but it is not at all necessary in Committee of the Whole. Why? For the simple reason——

Mr. McMAHON. The gentleman will allow me to say that when you demand the previous question you compel the House to take the bill as a whole, without opportunity for amendment; whereas when the bill is in Committee of the Whole each individual member can shape it by offering amendments and by having a vote upon particular propositions.

Mr. McLANE. Provided a majority of the committee are not already content with the bill. But when the majority of the committee are content with the bill, then, according to the spirit of all parliamentary rules, (and you may find an analogy in every bill coming before the House,) the Committee of the Whole should have an opportunity to rise and report the bill.

Mr. COX. What, then, is the object of going into Committee of the Whole?

Mr. McLANE. If it is objected that in this way debate may be closed, I say that you have only to vote down the motion that the committee rise, and the debate goes on.

Mr. McMAHON. Suppose a gentleman takes the floor in Committee of the Whole, and at the expiration of his hour concludes that the majority is with him, and then moves to report the bill to the House, without giving anybody else a chance?

Mr. McLANE. Very well; he has the right to do that; and if the majority be not with him they may refuse to rise.

Mr. McMAHON. Then there is no difference practically between the demand for the previous question and this motion?

Mr. McLANE. The point which I submit to the Chair is this: there being no rule of this House which prevents the Committee of the Whole from reporting this bill favorably when it is satisfied with it, I want to know why the committee cannot make such a report?

Mr. ROBINSON. I ask the Committee of the Whole to bear with me for a few moments on this point of order. I have already been recognized as entitled to the floor in the general debate, and I do not wish to be understood as waiving my right in that particular when the consideration of the bill shall be resumed.

I am really astonished, if gentlemen will allow me to say so, that they should argue here to take all the vitality out of proceedings in Committee of the Whole by such subterfuge as this; and I think I use the word advisedly.

What is the object of the Committee of the Whole? That we may consider bills making appropriations of money in a place where we shall not be throttled with the previous question. Now, when we commit this bill to the Committee of the Whole, points of order are reserved upon it—reserved upon every paragraph in it. In what way has any gentleman up to this moment had an opportunity to present his point of order against any paragraph? If the gentleman from Texas can make this motion and enforce it, then all such points of order are useless; they can have no effect upon any paragraph of the bill.

Again, under Rule XXIII, in all its provisions, it is within the power of the House after debate has commenced upon the subject to limit the general debate. It is not within the power of the committee to do so; it is never done in committee except by unanimous consent. It would not have been in order for the gentleman from Texas to have moved to limit debate in the Committee of the Whole—not at all; and it is not within his power to do by indirection what he cannot do directly. He ought not then to seek, by a motion that the committee rise, to force the bill upon its passage and thereby cut off general debate.

Let me go further. We have a right to consider each paragraph in this and every other bill coming up in Committee of the Whole; we have a right to submit amendments, to present our points of order, to submit our views to the extent of five minutes *pro* and *con*. It is not within the power of the Committee of the Whole to stop debate even upon a paragraph until the committee has gone back to the House and such permission given.

A MEMBER. And then only on the pending paragraph.

Mr. ROBINSON. Then only upon the pending paragraph. When the committee resumes its sitting the succeeding paragraphs are still open to debate.

What a mountain of absurdity are gentlemen piling up here to plague themselves with in time to come! Are we never to go into Committee of the Whole except upon a river and harbor bill, which, as gentlemen say, the majority are now all ready to pass? Will gentlemen now overrule the decision of the Chair and thus erect a contrivance that shall plague them for all time to come? Is the power of this committee to be exercised to overrule a judgment which I submit commends itself to reason and is in accord with the practice of this House and of the Committee of the Whole ever since there was a Congress and there were any rules? I hope the gentlemen who are committed to this river and harbor bill will bide their time and not upset parliamentary law and wise procedure for the sake of gaining in five minutes what they feel competent to accomplish in perhaps half a day.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. REAGAN. I do not insist on a further count.

The CHAIRMAN. Other gentlemen demand there shall be a count.

Mr. REAGAN. I withdraw the appeal from the decision of the Chair.

The CHAIRMAN. Members on both sides of the House object.

Mr. ELAM. Then they will have to renew it themselves. Let them do so.

Mr. REAGAN. I have a right to withdraw it before it is decided.

Mr. SPRINGER. Not during a division of the committee.

The CHAIRMAN. The committee is dividing.

The committee divided; and there were—ayes 152, noes 6.

So the decision of the Chair was sustained.

Mr. ROBINSON obtained the floor.

Mr. COX. I call for the reading of the bill.

Mr. REAGAN. I move that the committee rise for the purpose of limiting debate.

Mr. ROBINSON. I have the floor and do not yield for that purpose.

The CHAIRMAN. The Chair thinks he ought to recognize the gentleman in charge of the bill.

Mr. ROBINSON. If I am recognized I will yield to the motion that the committee rise.

Mr. REAGAN. I make no compromises. If the gentleman from Massachusetts can take the control of the bill from me, let him do it.

Mr. ROBINSON. The gentleman has not charge of the general debate on this bill. He has charge of the bill and he has charge of the hour that belongs to him, but nobody takes away from him the floor by exercising the rights that belong to him as a member.

The CHAIRMAN. The Chair will state that the gentleman from Massachusetts rose to address the committee in the general debate before this appeal was taken from the decision of the Chair. The Chair permitted the gentleman from Texas to take an appeal notwithstanding that fact. Now the gentleman from Massachusetts rises

and resumes the floor and states he will take the floor, which the Chair thinks it is competent for him to do.

Mr. REAGAN. I move the committee rise for the purpose of limiting debate.

Mr. ROBINSON. Am I recognized?

The CHAIRMAN. The Chair already recognized the gentleman and understands he has yielded to a motion to rise.

Mr. ROBINSON. I have the floor as against anybody.

The CHAIRMAN. The Chair so understands it, and when the committee resumes its sitting the gentleman will have the floor.

Mr. ROBINSON. I do not yield for that motion.

The CHAIRMAN. The Chair misunderstood the gentleman.

Mr. ATKINS. The gentleman from Massachusetts stated that he would yield.

Mr. ROBINSON. I do not yield for a motion that the committee rise to close debate.

The CHAIRMAN. The statement that the committee rise to close debate is, so far as this committee is concerned, simply a motion to rise.

Mr. ROBINSON. Mr. Chairman, I will hold the floor.

Mr. ATKINS. I rise to a parliamentary inquiry.

Mr. REAGAN. One moment.

Mr. ATKINS. I have the floor and I desire to make a statement.

Mr. REAGAN. How can I manage this bill if I am to be taken off the floor in this way.

Mr. ATKINS. The gentleman cannot bulldoze me. [Laughter.]

Mr. REAGAN. I have not tried to do so.

Mr. ATKINS. I have risen to a parliamentary inquiry, and I intend to make it if the Chair recognizes me.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ATKINS. I was going to inquire whether the Chair did not understand the gentleman from Massachusetts to yield the floor to the gentleman from Texas to make a motion that the committee rise?

The CHAIRMAN. The Chair did so understand and so announced.

Mr. ATKINS. I hope the gentleman from Texas will save his temper as against his friends. [Laughter.]

Mr. REAGAN. I will take that as it comes from one who always controls his temper. [Renewed laughter.]

Now, Mr. Chairman, here is the hour of half past four o'clock, the usual hour of adjournment. The gentleman from Massachusetts took the floor from me, as I thought, wrongfully, but I yield to the decision of the Chair. He then consented to yield to a motion that the committee rise, he occupying the floor. When I make that motion at the usual time of day the gentleman now insists he will take back what he said to the Chair and will refuse to allow the committee to rise.

Mr. ROBINSON. May I say a word for myself? At this stage of the proceedings I can state my position better than the gentleman from Texas. I am recognized by the Chair and am entitled to an hour. If the committee and the House have no disposition to take that hour from me—and I will not occupy it; I will not do it merely for the sake of malevolence; if I do not choose to occupy it they shall have it back, or what is left of it—then I am willing the committee shall take any proceedings which will save to me my rights on the floor to occupy one hour when the committee resumes its session. Anything which may be done under that consideration and understanding may be done now.

Mr. REAGAN. I do not understand because the gentleman gets the floor he can control this House under its rules in limiting debate.

Mr. ROBINSON. I have the floor.

Mr. REAGAN. It may be the House will be willing to extend the debate, but I am not sure. I have no objection to letting the gentleman speak. I only object to his statement that by his action he can defeat and control the rules of this House.

The CHAIRMAN. The gentleman from Massachusetts can occupy his hour.

Mr. REAGAN. Very well. Let him go on and do it.

Mr. PAGE. I rise to a parliamentary inquiry. If the gentleman from Massachusetts should yield to a motion that the committee rise when the House again meets to go into committee, can it limit debate so as to cut off his hour?

The CHAIRMAN. It can.

Mr. ROBESON. I rise for another parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ROBESON. If the gentleman retains the floor to-morrow morning when we come together, or the next time this business comes up, can any gentleman rise and move to limit debate while he is on the floor?

The CHAIRMAN. The motion to limit debate is never in order in Committee of the Whole.

Mr. ROBESON. I mean if he reserves his right by consent and yields only for the purpose of moving that the committee rise.

Mr. REAGAN. When he yields to a motion to rise he yields subject to the order of the House to limit debate if it chooses. He may go on and occupy his time now.

The CHAIRMAN. The Chair decides that the gentleman would be controlled by the action of the House.

Mr. ROBINSON. Mr. Chairman, I dislike very much now to be compelled to enter into the debate on this question at this late hour. I beg gentlemen to understand that it is not my own will to begin the discussion now.

Mr. SINGLETON, of Illinois. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. SINGLETON, of Illinois. Mr. Chairman, I understood the Chair to say that he recognized the right of the gentleman from Texas having control of the bill to make the motion for the committee to rise, for the purpose of limiting debate, and inasmuch as the gentleman from Massachusetts had agreed to yield to the gentleman from Texas for that purpose he would recognize the gentleman from Massachusetts. The gentleman from Massachusetts having yielded for the motion of the gentleman from Texas, I insist the motion of the gentleman from Texas has precedence and the gentleman from Massachusetts is not in order or entitled to the floor, but having yielded for the purpose of limiting debate would be bound like other members by the limitation of the House.

The CHAIRMAN. The Chair did not state that he recognized the gentleman from Massachusetts with the understanding that he was to yield to the gentleman from Texas for that purpose.

Mr. SINGLETON, of Illinois. Then I was mistaken.

The CHAIRMAN. But that the Chair had recognized the gentleman from Massachusetts and then understood him to say that he would yield to the gentleman from Texas. But it was not a conditional but an absolute recognition.

Mr. ATKINS. All this is taken out of the time of the gentleman, I suppose? If not, it ought to be.

Mr. ROBINSON. I was ready, Mr. Chairman, as I stated at the outset, to consent that the committee should rise, if fair play was to be given and the understanding was had that I was to have the floor when the committee resumed its sitting, but not to yield for a motion that would take me from the floor and debar me of the right and privilege I hold to occupy the floor in my own time.

I address myself to the questions presented by this bill. I have no hostility to river and harbor appropriation bills. I have voted for some of them, and some I have voted against. They are to be considered upon their merits; and I ask the attention of this committee to this question, because in this bill Congress is asked to enter upon a new course of procedure, and I challenge the attention of the House that it shall begin right.

It is not a question as to whether the original sum of eight millions of dollars or thereabout, shall be applied for the improvement of the ordinary rivers and harbors. But I ask you to give in the consideration of the improvement of the Mississippi River attention to the plan adopted by the Mississippi River commission.

If gentlemen will turn to page 15 of the bill before us, they will find a provision which appropriates $1,000,000 for the inauguration of the great work of improving the Mississippi River.

I submit to the chairman of the Committee on Commerce and to his fourteen associates that they should at least accord to the House the privilege of considering the plan that has been submitted or suggested for the improvement of that river. I recollect in the Forty-fifth Congress it was my privilege and duty to serve upon the Committee on the Improvement of the Mississippi River. I paid close attention to the subject, and then united with the committee in presenting a bill which became a law in June, 1879. Under that bill the Mississippi River commission was created, and under that we have the report which has been submitted to the House and known as Executive Document No. 58, second session of the Forty-sixth Congress.

Now, Mr. Chairman, there are gentlemen here who remember the debate we had when that bill was passed by this House. They will remember it, not alone as having been participated in by gentlemen remote in the east on the Atlantic shore, but by gentlemen in the Mississippi Valley who had a special interest in this great work. It was then said that Congress was not or would not be called upon to expend any money by that bill, nor would it be called upon for that purpose until the "plan" proposed by that commission should be brought back for consideration by Congress and fully decided upon after debate. Therefore, I submit to this Committee of Commerce that they fail to do justice to this House when they ask us to pass under a suspension of the rules, or by this other sort of snap judgment proposed, upon a measure of that sort which may involve the expenditure of $75,000,000 without a moment's consideration. It is not the way to deal with the money of the American people. It is not the way to deal with the judgment of other gentlemen that have seats upon this floor. I am in favor, and have always been in favor, of the improvement of the Mississippi River for purposes of navigation. I need not repeat that here. Gentlemen who remember the remarks that I made upon the passage of that bill will corroborate what I say, and gentlemen from that locality along the Mississippi River know that I stood by the bill and assisted in its passage. I am willing now to do so, but I want the appropriation guarded so we do not give a wide latitude that we will some time repent.

The great question that underlies this matter as a matter of objection is, that the Congress of the United States shall not commit the United States Treasury to the protection of the lands lying along the banks of that river. There has been inaugurated, as is well known, a levee system, which has been maintained along that river, a system inaugurated for the protection of the alluvial lands and undoubtedly a system of great value. It was maintained by individ-

nals and by States; and Congress, seeing the burdens that would come upon those communities, made grants of land to those States to enable them to bear the expense. They took charge of that, and up to the time of the war supported those levees out of private and individual subscriptions or contributions and out of State treasuries.

Mr. BLOUNT. Will the gentleman allow me to interrupt him?

Mr. ROBINSON. Certainly.

Mr. BLOUNT. I desire to state in this connection, if the gentleman will allow me only a moment, that one member of the commission a few days ago was before a sub-committee of which I was a member, and in relation to the plan said that he did not conceive the matter was under the control of Congress at all; that the act creating the commission left the whole matter subject to them; and that they made their estimates upon their own conception of what ought to be done, without any idea of its being reviewed here. And he supposed that their plans—he could not state the amount accurately—in the course of ten years would cover at least an expenditure of one hundred millions of dollars. He said he could not answer, but at the end of that time the expenditure would reach that amount.

Mr. GIBSON. I would like to know what member of the commission made such a statement, and by what authority he made such a statement on behalf of the commission.

Mr. BLOUNT. I state what occurred; what was said by one member of the commission.

Mr. GIBSON. The official report of the commission is before this House, and has been before the Committee on Commerce as well as the Committee on the Improvement of the Mississippi River, and there is nothing in it to warrant that statement.

Mr. BLOUNT. The report is here.

Mr. GIBSON. There is nothing in that report that will justify the gentleman from Georgia in the statement just made; and if the gentleman from Massachusetts will permit me to answer him in turn, I will say there is nothing to justify the line of remark he has been indulging in.

Mr. BLOUNT. There is ample room for what has been said in the act creating the commission and the report made thus far.

Mr. ROBERTSON. I call upon the gentleman from Georgia to name the commissioner to whom he has referred.

Mr. BLOUNT. Let me have the floor and I will make good what I have just stated.

The CHAIRMAN. The gentleman from Massachusetts [Mr. ROBINSON] has the floor.

Mr. ROBINSON. I believe that I was talking about the Mississippi River when I left off. I was here when that bill was upon its passage in the Forty-sixth Congress. It was not claimed by any one that the commission had any power to expend any money without the direct authority of Congress. And if any gentleman will consult that act, which is chapter 43 of the first session of the Forty-sixth Congress, he will find no expenditure is authorized except by the express appropriation and approval of Congress. Therefore what any member of the commission claims is not of any particular importance at the present time in this discussion. What I say is that we should undertake the work of improving the river for the purposes of navigation. I deny that it was ever in the contemplation of Congress in that act that we should appropriate money to protect the alluvial lands along the bank of that river.

Mr. GIBSON. I desire to ask the gentleman a question.

Mr. ROBINSON. I deny it was ever in the contemplation of Congress that we should put the money of the United States on the alluvial lands of the delta of the Mississippi and supply that money from the United States Treasury.

Mr. GIBSON. I desire to ask a simple question.

Mr. ROBINSON. I will yield for a question.

Mr. GIBSON. Is there anything in the report of the commission or in the appropriation proposed by the Committee on Commerce which has in view the protection or reclamation of the alluvial lands in the Mississippi bottom?

Mr. ROBINSON. I will give a simple answer to a simple question. If the gentleman had been patient a little longer he would have heard my answer to that.

If this is such a simple matter I say let this great question come in here by a separate bill and let the plan be considered in this House *pro* and *con*. Is not that the way to deal with a question that means an appropriation of $50,000,000 or more before it ends? Then, is it the way to put it on the river and harbor bill, and perhaps compel some gentlemen that want the river and harbor appropriations to vote something they do not know anything about, or something they do not quite approve, for the sake of getting some inlet improved? Ah, this looks like a little sharp practice in this matter that would not stand proper consideration! And now I come to the question of the gentleman from Louisiana.

Mr. CHALMERS. Will the gentleman allow me to ask him a question?

Mr. HUMPHREY. I desire to be allowed just one word.

Mr. ROBINSON. Not now, until I answer the gentleman from Louisiana, [Mr. GIBSON,] and then if I can answer the gentleman from Wisconsin, [Mr. HUMPHREY,] I will take him up.

Mr. HUMPHREY. Just in connection with this point.

Mr. ROBINSON. I will not take you now. I answer the gentleman from Louisiana who asks me if there is anything in the report or the bill that goes to the protection of the alluvial lands. I ask the gentleman to read the report. I have it here. In the first place I commend to his careful attention the fact that the commission are not unanimous in this report. Two members of that commission, General Comstock, and Hon. Benjamin Harrison of Indiana, do not agree with the majority of the commission in their report. Why? They tell us why. It is because this levee system is included.

Now I will turn to the report of the majority. The commission under that bill was instructed to report on the levee system, and they have done so. The majority of the commission say:

> Levees have never been erected upon the banks of the Mississippi River except for the special purpose of protecting the alluvial lands from overflow. They have, therefore, always had sole reference to the high-water stage, and the degree to which levees might prudently be relied upon "to improve and give safety to navigation," "promote and facilitate commerce, trade, and the postal service," has not hitherto entered into the question of the construction and maintenance of a levee system.

And further on they say:

> While it is not claimed that levees in themselves are necessary as a means of securing ultimately a deep channel for navigation, it is believed that the repair and maintenance of the extensive lines already existing will hasten the work of channel improvement through the increased scour and depth of river bed which they would produce during the high-river stages. They are regarded as a desirable, though not a necessary, adjunct in the general system of improvement submitted.

And then the majority of the commission in their report go on for half a printed page to argue that it would be of great advantage in protecting the roads and the bridges leading to the river, and presenting a means of communication with the river in lieu of wharves and landings, manifestly not for the improvement of the navigation of the river. But it was within the scope of their inquiry, and therefore they have reported upon it. Now, if gentlemen will turn to the views of the minority they will find this:

> We do not concur with the majority of the commission in their estimate of the value of the closure of gaps in existing levees as a factor in the improvement of low-water navigation; this estimate being derived in part from the theoretical views already referred to.

Now, if gentlemen examine this report (and they will have time to do so to-night, and therefore I will not take further time upon it now) they will find a page more of that discussion. I ask that, considering the importance of this question, gentlemen of this committee shall look into that report before they act upon this bill, and if they deem it necessary to move proper amendments to the bill that they shall do so.

So far as levees are of importance to the improvement of the navigation of the Mississippi River, so far as they are necessary to that improvement—and we all want to accomplish the work, and we are all willing to pay for it out of the country's Treasury—so far as they are essential to the work, then let the levees be protected, and if need be let them be rebuilt. But I suspect what we learned in the other committee of the Forty-fifth Congress, and my friend from Louisiana [Mr. GIBSON] knows it, that the people of this section are alive in their advocacy of the construction of these levees for the protection of their lands. And why should they not be? I commend their zeal; I commend them for insisting that their Representatives here shall press the matter upon the consideration of Congress. But it is not legitimate for us to carry out their views.

Mr. ROBERTSON. Will the gentleman from Massachusetts allow me to interrupt him a moment?

Mr. ROBINSON. For a question, yes.

Mr. ROBERTSON. I desire to say to him that, so far as we are concerned, if the theory and plan of the Mississippi River commission is adopted and carried out, we are perfectly willing that no gap in a levee shall be closed and no levee shall be built. That is the proposition.

Mr. ROBINSON. I do not quite understand the gentleman.

Mr. ROBERTSON. If this House shall pass the appropriation recommended by the Committee on Commerce, we are perfectly willing that not one dollar of it shall be applied to building a levee. We want the plan recommended by the Mississippi River commission as a mode of improving the navigation of that river to be carried out, and we will not ask one dollar for a levee.

Mr. ROBINSON. The minority of that commission further say:

> For these reasons we are of the opinion that levees are of very little value in improving the low-water navigation of the river. Of their necessity in protecting alluvial lands against destructive floods there can be no doubt, and to obtain such protection the first step would be the closure of gaps in existing levees.

Now, if my friend from Wisconsin [Mr. HUMPHREY] has a question to ask I will hear him.

Mr. HUMPHREY. I have talked with at least four members of this commission——

Mr. ROBINSON. I thought the gentleman wanted to ask a question, not to testify.

Mr. HUMPHREY. They have said that they do not wish a dollar of this money to be expended except under the direction of the War Department; that it shall be expended as all other moneys appropriated by this bill are expended, under the direction of the War Department.

Mr. ROBINSON. I bring this matter plainly to the attention of gentlemen who are so strongly defending it. If this appropriation was for the improvement of low-water navigation, I would be with

them. If they want that only, certainly the English language will enable them to frame a provision that shall give that and only that.

I see by referring to this bill that the appropriation is to be expended by the Secretary of War "upon the plan adopted by the Mississippi River commission." What is that plan? Of course it is the plan of the majority, and not the plan of the minority. By referring to page 19 of the report of the Mississippi River commission, I find the estimates for works of improvement for the first fiscal year. Among those estimates is this: "Closing gaps in levees, $1,010,000." How much more is to come for succeeding fiscal years nobody knows.

Mr. ROBERTSON. That is every dollar; they do not want another dollar.

Mr. ROBINSON. My friend says they do not want another dollar; yet he is wrong, because turning to other pages of this report I find it stated that it will take $2,020,000 to repair the levees.

Mr. ROBERTSON. Will the gentleman allow me just a moment?

Mr. ROBINSON. Certainly.

Mr. ROBERTSON. Two million dollars is the total estimate for closing all the gaps from the mouth of the Mississippi to the mouth of the Ohio—the whole line of the levees. The total expense of the work which the gentleman from Massachusetts contemplates would cost $50,000,000, and the gentleman from Georgia [Mr. BLOUNT] $100,000,000, will be only $2,000,000 for the completion of the whole line of levees from the mouth of the Mississippi to the mouth of the Ohio.

Mr. ROBINSON. Now, Mr. Chairman, while I do not of course urge my views in opposition to those of the engineers on this commission, yet I submit——

Mr. GIBSON. I will not interrupt the gentleman now, but will merely say that when he has concluded I shall seek the floor to make some remarks in explanation of this question.

Mr. ROBINSON. Mr. Chairman, I presume this committee will wish to continue the discussion after I get through; and my friend [Mr. GIBSON] who is interested in this matter will certainly want to say something. The House will be very glad to hear him, and no one more so than myself. I hope that we shall discuss this question and this great feature presented by the bill, because, gentlemen, you are now taking the first step which is to inaugurate this work in which the people of the Mississippi Valley and of the whole country are interested. I look upon it with no disfavor or prejudice. I approach it simply in a business way, in the interest of the Treasury of the United States. We ought to discuss this question calmly.

I was saying that I would not put my opinion against that of the engineers on the commission. But I see that those gentlemen differ. I know that these levees are on the top of the banks of the river; I know that in low water the levees are high and dry in the sun; and I know that however strong and high the levees may be built they afford no improvement to navigation when the water is low. I know very well that those levees standing on the bank of the river are of no use except when the water rises above the level of the soil; and when it comes to that point you are asked to believe by this commission that the river will set to work scouring out its bed and thus deepen its own channel. That theory in itself appears to me to be reasonable and is borne out by the facts. But I ask gentlemen to bear in mind that this very same commission has said that before undertaking anything of that kind we should put into the law some provision under which the United States may take possession of the land, and may have it properly appraised. I find nothing of that kind in this meager provision in the river and harbor bill. We are left at the mercy of the land-owner. Under this bill the United States will have no jurisdiction at all on the banks of those rivers as against the power and authority of the sovereign States bordering thereon.

The levees are not on the immediate bank of the river; many of them are back at a great distance; and what will you do with the intervening space? Who owns that land? Who owns the land beyond the levee? Shall the United States go on in this way with eyes shut, taking no precaution against a policy that will surely eat in and eat in until the amount involved shall not be $50,000,000, but ten times that?

I want to drive the stake right here and now. I want to put on record the protest of this Congress against beginning a work that shall in any way commit this Government to the repair of the levees and the maintenance of them in future time out of the Treasury of the United States—I mean their repair and protection as a guarantee against the overflow of the lands; and I think this Congress is with me on this point. I do not want gentlemen who are so vitally interested in this matter, and are here urging it upon this floor, so to crowd this measure through this committee and through this House that we shall not have an opportunity to present any ordinary amendment. I think an amendment can be presented which gentlemen who are in favor of this scheme most actively will say does not strip their provision of vitality and force; which, while providing for the improvement of the navigation of the river, will not commit the United States to the reclamation and protection of the overflowed lands. In that form I am in favor of such a provision; but I want proper time for consideration. I do not want this matter put in such a position that when we get back into Committee of the Whole to-morrow or next day no gentleman shall be allowed to offer an amendment to any of the sections of the bill. What attitude are we to be in? Do gentlemen of the Mississippi Valley want to prejudice the whole country against this scheme by driving it rough-shod through this House? That is not the way to inaugurate it.

Mr. GIBSON. Far from it.

Mr. ROBINSON. Certainly; far from it. Nobody would rebel aginst such a proposition more than my fair-minded friend from Louisiana, [Mr. GIBSON.] I was with him in the adoption of the original bill; and I want to stay with him until we have inaugurated this work upon sound principles; and I do not want that either he or I shall be carried off our feet by any inconsiderate action in this House or in this committee.

I have said enough at this late hour of the day to bring this question to the attention of the committee. When the bill comes to be considered by paragraphs I will endeavor to submit an amendment, if I have the opportunity, and I will do it in entire accord with the real and proper purpose of the gentlemen who urge the improvement of the navigation of the Mississippi River.

Mr. Chairman, there are gentlemen who desire some of my time, and I will be happy to yield first to the gentleman from New Jersey.

Mr. DUNN. I suggest to the gentleman from Massachusetts to submit his amendment, and let it be printed in the RECORD.

Mr. ROBINSON. I supposed in regular order we would first consider it by paragraph, and, not believing it would come up to-day, I am not prepared to present my amendment at this time. I can prepare an amendment hurriedly, but I do not wish to do that.

Mr. ROBERTSON. I hope the gentleman will yield to me for a question.

Mr. ROBESON. How much time has the gentleman from Massachusetts left?

The CHAIRMAN. Thirty minutes. How much time does the gentleman yield to the gentleman from New Jersey?

Mr. ROBINSON. I will yield for a question to the gentleman from Louisiana.

Mr. ROBERTSON. The gentleman has referred to the minority report of the commission. Was not that minority report solely with reference to the fact that the levees had been an improvement to the navigation of the river, and that the majority of the commission had taken the ground that the closing of the gaps in the levees was an adjunct to the improvement of the high-water navigation? And was not the only difference between the majority and the minority as to the fact that the levees were not an adjunct to the improvement of the Mississippi in high water?

Mr. ROBINSON. Let me answer the gentleman. The object which lies at the bottom of this scheme is in the improvement of low-water navigation of the Mississippi River. When there is plenty of water in the Mississippi River they can float their boats. It may not be so convenient to land, but there is a plenty of water. It is the great bars forming obstructions to navigation which are desired to be removed.

Now I yield to the gentleman from New Jersey for five minutes if he wishes.

Mr. ROBESON. Mr. Chairman, I think I can say all that I desire in five minutes.

I wish to present one other consideration in regard to this question, and I premise it by saying that I am the friend and advocate of internal improvements. I recognize the fact that "the great father of waters" drains the resources of an empire and bears the wealth of a nation to the sea. I would give to it all the help and accord to it all the favor that the generous spirit of a great and wealthy community may pour into its lap, under the Constitution and laws of my country. I would rejoice to see its banks bloom and blossom like the rose; I would love to hear its cities resounding with the hum of trade and vocal with the glad music of honest industry; but I would love far more to see its people really free, prosperous, and happy.

I desire to remind my friends who live on the banks of that mighty river that great empires are not born of mere legislation and that real success does not grow up merely by the expenditure of money. These are born of the enjoyment and exercise of good government. They grow from obedience to wise laws. They develop in the acceptance of that onward and upward impulse which swells in the hearts, and lives in the energies of a free and ambitious population. And I would further remind them of the fact that wherever an insulting and impassable barrier shuts up the career of popular ambition, there all the nobler energies of the character are repressed and extinguished.

I shall perhaps vote for this bill if properly amended and guarded, but I here and now give notice, and I hope members will remember the fact and will ponder on its significance to-night and in future, that it is in accordance with the principles and the history of Anglo-Saxon government to require and enforce the observance of law by withholding supplies. I wish to remind gentlemen that there was a time in the history of Anglo-Saxon government when the "divinity that doth hedge a king" was invoked to make the provisions of law and the will of the people powerless, by the assertion that in the face of kingly prerogative there was no constitutional power in the Parliament of England to restrain the open violations of English law which took place under its notice.

We have now on the banks of the beautiful Mississippi a condition of things existing in open and daily disregard and violation of national law which few men think it worth their while to deny, but which the world understands and of which the people of your country must take notice. And we are met at every turn when we seek to remedy

the evil, by the assertion, perhaps the truthful assertion, that there is no constitutional power available for that purpose; that this great wrong is one protected by the rights of the States, and, sanctioned by the silence or ineffective action of State laws, is hedged in by the sanctity which surrounds a sovereign State. But I would suggest to my friends for their future reflection—I trust they will take my suggestion in good part as I give it—in kindly spirit I wish to remind them of this truth of political history and philosophy, (and I hope they will draw from it a moral and a lesson,) that it is in complete accordance with the principles and history of Anglo-Saxon government, and within the scope of constitutional power and political duty, to require as a condition for the granting of national supplies the recognition of the national Constitution and the observance of national law. [Applause.]

Mr. MARSH. Mr. Chairman, I do not rise for the purpose of antagonizing any proposition to appropriate money for the purpose of improving the harbors or improving the navigable streams of this country. I rise simply for the purpose of antagonizing a proposition incorporated in this bill that has neither one of these objects in view. On Monday last when this bill was before the House for consideration I went to my colleague who was a member of the Committee on Commerce and called his attention to the clause beginning at line 350, on page 15 of this bill, and stated to him that I feared the language of that clause would commit this Government not only to the construction but to the maintenance as well of the levee system which has been in vogue and which heretofore has been constructed and maintained by local enterprise and local interests. He has assured me that he had no such conception. He had no idea that the language was subject to that construction; and while the gentleman in charge of this bill, the gentleman from Texas, was upon the floor, I propounded the question to him in good faith for the purpose of ascertaining the fact whether the million of dollars that is provided for in the clause to which I have just called the attention of the committee was designed to be expended in the improvement of the navigation of the river, or whether it was to be expended for filling up the broken gaps of the levees on the southern Mississippi from Cairo to New Orleans. And the gentleman undertook to respond to me by saying distinctly that he would answer my question. But instead of answering the question he went on to tell the House that they proposed to improve the Mississippi River by reaches; and he then went on and gave the estimates that had been made by the Mississippi River commission as to what it would cost to improve certain reaches upon the river—failing to answer the question whether the money was to be used for purposes of building up the levees or for the purpose of improving the navigation of the river, as I had asked him.

I will permit no man, Mr. Chairman, in this House or elsewhere, no man in this country, to go further than I will go in making proper appropriations for the improvement of the harbors of the country and the navigable streams thereof; and above all am I anxious, and always shall be, to see reasonable sums of money appropriated for the improvement of the navigation of that great stream, the Mississippi River. Upon its banks I was born, and upon its banks I have lived all my life, and it has been the dream of my childhood and the hope of my manhood some day to see that great river, that magnificent public highway of the Mississippi Valley for the delivery of its products—I say that I have hoped to see it become the great highway that for years in the past we have been anticipating and striving for. But, Mr. Chairman, I am irrevocably opposed under the guise of an improvement of that navigation to taking public moneys out of the Treasury to reclaim the lands belonging to private individuals. And when I investigated this question further for the purpose of getting at the true facts of the case in connection with the answer of my colleague, and also with the answer received from the gentleman from Texas, I went to work and examined carefully the "plan" that is referred to in this bill. Permit me to read the clause to which I have referred:

For the improvement of the Mississippi River in accordance with the plan therefor adopted by the Mississippi River commission, to be expended by the Secretary of War with the advice and under the supervision of said commission, the sum of $1,000,000.

In that investigation, Mr. Chairman, I went to the report of that military commission to ascertain what the plan was that this bill proposes to appropriate $1,000,000 to accomplish, and I find in that plan that they recommend the adoption of what is known as the "levee system;" and they state further that it will take $2,020,000 to repair the broken links in that levee as it now exists. Not only that, but it commits them, as they say distinctly in their report, not only to the filling up of the existing gaps in that system, but commits them as well to the increasing of the height of the levees in order that they may retain within their banks the increased volume of water that under their system will be compelled to flow between them, thereby committing this Government not only to the repair of those levees upon the level as they now exist, but to the increase of their height, as experience in the past shall demonstrate may be necessary, at a cost that the commission do not even dare to submit figures to this House in support of. I say, Mr. Chairman, it commits this Government not only to the repair and construction and reconstruction of these levees, but it commits them for all time to keep and maintain them in order.

[Here the hammer fell.]

Mr. ROBINSON. How much time have I remaining?

The CHAIRMAN. Ten minutes.

Mr. ROBINSON. I yield one-half of that time to the gentleman from Connecticut, [Mr. HAWLEY,] and the other half to the gentleman from Mississippi, [Mr. CHALMERS.]

Mr. HAWLEY. My recollections and experiences are somewhat similar to those of the gentleman from Massachusetts, [Mr. ROBINSON,] but more limited. I remember very well that I advocated the appointment of the commission for the examination of the Mississippi River, and that I answered some objections to it, the chief objection being that we were embarking in a vast and expensive scheme, by saying that, as everybody knew, something, and something important must be done there, and an indispensable preliminary was to obtain a mass of information from scientific men, that we might have the knowledge upon which to base deliberate action and mature plans that would take a long time and large sums of money to carry out.

I voted for the commission in the hope that we should get such information, and supposing that when we got it we should sit down deliberately and perhaps establish a commission, give it powers and lay out a great work. Now we have received—what? This little pamphlet, [holding up the report of the commission.] That is all the report this commission has ever made, or, at least, that has been printed for us. It contains only twenty-two pages, part of which is formal. It is styled a "preliminary or partial report," and a part of the twenty-two pages is occupied by a report of the protesting minority. I supposed I should get from the commission information—of this description for example: that we should have a distinct line drawn between two classes of improvements, improvements with two distinct motives. One class of improvements would aim at the protection of lands for the general benefit of agriculture. The other motive for works would be the improvement of the channel of the river, solely for the benefit of commerce.

Now, obviously the rights and the duties of Congress with regard to those two entirely different purposes are as distinct as the purposes themselves. Have we a right to enter upon a gigantic system of land improvement? That is a great question. If we have, we must give to a well-organized commission power to condemn and appropriate lands, to assess and collect benefits, and to pay damages. But if, on the other hand, it is our sole duty and intention to improve the navigation of the river, that is a very different and more simple affair, requiring a different commission and much less labor; because we are accustomed to enterprises of that kind.

I find in this little brief, imperfect, and practically useless report no lines whatever drawn between these two classes of works. They are perhaps not purposely but actually so mingled, so confusedly referred to, that one has difficulty in perceiving what are the purposes of the commission. The protesting minority declare:

Levees are of very little value in improving the low-water navigation of the river. Of their necessity in protecting alluvial lands against destructive floods, there can be no doubt.

And the majority ask for four or five million dollars, largely for the general purposes of levees. That is an evasion of the duties imposed on the commission. To name four million dollars for a work that we are constantly told may ultimately cost fifty or a hundred is but trifling with the country. I am willing to embark on a well-considered plan that would take a good deal more than the sum asked for by the commission. But I am not willing to vote even $100,000 with this meager scrap of information before me. I desire this whole subject to be laid before us, not by engineers alone but by lawyers also, that we may act deliberately.

The CHAIRMAN. The gentleman from Mississippi [Mr. CHALMERS] is entitled to five minutes.

Mr. CHALMERS. The report of the Mississippi River commission shows distinctly that the Mississippi River bears more sediment at the time of high water than at any other. It shows too it is at that time more silt is deposited if the stream is in any way interfered with. It is then the sand-bars are mostly formed. Therefore the commission came to the conclusion that in order to prevent the deposit of silt and to prevent the forming of sand-bars, the levees are necessary to keep the water continually flowing on to the Gulf. If the levees break or if any obstruction occurs in the course of the current, the sand-bars begin immediately to form. Hence it is the levees are said to be an adjunct to the improvement of the navigation of the Mississippi River. The commission says that the levees keep the water at high-tide rolling with uniformity and bearing its silt to the Gulf; that they prevent the formation of sand-bars, which obstruct low-water navigation, and at the same time furnish incidental protection to the alluvial lands of the Mississippi Valley.

Now, many of the gentlemen who have spoken here I think are very willing to vote direct protection to iron interests, direct protection to manufacturing and ship-building interests, and yet when, for the first time, the agriculturists, the cotton and sugar planters, are about to obtain, possibly, some little incidental protection from this great Government, gentlemen say no; no protection to the farmer, no protection to the great agricultural interest, no protection to that great valley which produces more sugar and cotton per acre than any other portion of this country, and can produce still more to help pay the debts of this Government if the levees are kept up. But gentlemen from Massachusetts, [Mr. ROBINSON,] from Connecticut, [Mr. HAWLEY,] and from Illinois [Mr. MARSH] say they are not willing to give us even incidental protection; they are willing to do nothing

which will seem even to commit this Government to keep up the levees. I thank the gentleman from Illinois [Mr. CANNON] for the more kindly and statesmanlike remarks that were made by him. He spoke as an American citizen. He spoke as if the people who live behind those levees were American citizens. He did not speak of us as if we were aliens, as if we had no part and parcel in this great American Union.

Mr. ROBINSON. Will the gentleman——

Mr. CHALMERS. He recognized us as part of this great nation, and that our interests were entitled to as much protection as the manufacturing interests of Massachusetts or the iron interests of Pennsylvania.

Mr. ROBINSON. I had the pleasure of yielding to the gentleman from Mississippi while I had the floor.

Mr. CHALMERS. I will yield to the gentleman.

Mr. ROBINSON. I do not understand that the gentleman means to imply that I said anything about his being an alien, or about anybody along the river being an alien.

Mr. CHALMERS. When gentlemen talk about refusing us protection, and especially when the gentleman from New Jersey, [Mr. ROBESON,] whom I do not now see in his seat, lectured us as if we were heathens and Hottentots, as if we did not understand the Constitution of the country, and as if we were not in favor of observing the laws, I think they seem disposed to treat us as aliens. I desire to say that we are the most law-abiding, law-loving, and peaceful citizens of this country. [Laughter.]

Mr. REED. I think my friend from Mississippi, when he speaks of aliens, means only carpet-baggers; that is all.

Mr. CHALMERS. I am willing to take your carpet-baggers if they do not come down there to steal what little we have. I have in my district a man from the gentleman's own State, a carpet-bagger, if you choose, who has been an office-holder, and who is to-day a cotton-planter. He lives behind one of these levees, and we are perfectly willing that he shall be protected along with the rest of us. [Great laughter.]

A MEMBER. That certainly is magnanimous.

Mr. CHALMERS. And if the gentleman from Maine himself will come down there, we will ask that he be protected; that the waters shall not flow over him, and that the craw-fish shall not feed upon him. [Laughter.]

Mr. VAN VOORHIS. But you will duck him in the river.

Mr. CHALMERS. No, we do not propose to duck him in the river. I have not time to go fully into this question. On a former occasion I showed that so far as the constitutional power is concerned, there is certainly as much power under the Constitution in Congress to build these levees as there was to dig canals, to build railroads across the continent, or to build turn-pikes, as was done in former times. There is certainly as much power to protect the agricultural interests of Louisiana, Mississippi, Arkansas, Missouri, Kentucky, and Tennessee as there is to protect any other interest which this Government has given protection to in the past.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ACKLEN. Mr. Chairman——

Mr. REAGAN. I move that the committee now rise.

Mr. ACKLEN. I only desired to yield to the gentleman from Texas. [Laughter.]

Mr. GIBSON. I would very much like a few minutes—[cries of "Question!" "Question!"]

The CHAIRMAN. The question is upon the motion that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed without amendment House bills of the following titles:

A bill (H. R. No. 799) granting a pension to Richard P. Taylor;

A bill (H. R. No. 859) granting a pension to William H. Scribner;

A bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright;

A bill (H. R. No. 1628) granting a pension to Dalton Hinchman;

A bill (H. R. No. 1953) for the relief of Henry C. Groomes;

A bill (H. R. No. 2044) granting a pension to Martha J. Porter;

A bill (H. R. No. 2548) granting a pension to Martha Neil;

A bill (H. R. No. 3098) granting a pension to Jacob Ginder;

A bill (H. R. No. 3487) granting a pension to James Forsyth Harrison; and

A bill (H. R. No. 6451) to amend and re-enact sections 2517 and 2518 of the Revised Statutes, and changing the boundaries of a customs district, in the State of Maine.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House was requested, House bills of the following titles:

A bill (H. R. No. 192) granting a pension to Hulda L. Barnard;

A bill (H. R. No. 624) granting a pension to Robert S. Goodall;

A bill (H. R. No. 2123) granting a pension to Albert L. Jack;

A bill (H. R. No. 2331) granting pensions to the widow and minor children of Michael Meenan, deceased;

A bill (H. R. No. 3788) granting an increase of pension to William Hamill;

A bill (H. R. No. 4887) granting a pension to Rosalie Louis; and

A bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States, for the fiscal year ending June 30, 1882.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 1637) granting a pension to Ellen M. Godfrey;

A bill (S. No. 1673) granting a pension to Leonhard Weber;

A bill (S. No. 1763) granting a pension to Frank Kitzmiller;

A bill (S. No. 1826) granting a pension to Mohammed Kahn, otherwise John Ammahoe;

A bill (S. No. 1885) granting a pension to Thomas H. Canfield;

A bill (S. No. 1889) making appropriation for the purchase of ground and the erection thereon, in the city of Washington, of a building, to be used as a hall of records;

A bill (S. No. 1892) granting a pension to John Patterson; and

A bill (S. No. 2030) granting a pension to William Hazelit.

### ORDER OF BUSINESS.

Mr. CAMP. I move that the House now adjourn.

Mr. REAGAN. I desire to ask if it will be the pleasure of the House now to indicate a time when general debate in Committee of the Whole on the river and harbor bill shall cease?

Many MEMBERS. Regular order!

Mr. REAGAN. Let me make a statement. The ruling of the chairman of the Committee of the Whole makes it necessary to take up that bill by paragraphs for consideration and amendment.

Mr. CAMP. I call for the regular order.

The SPEAKER. The regular order is the motion that the House now adjourn.

### MINING RESOURCES—ALABAMA.

Pending the motion to adjourn,

Mr. CONVERSE, by unanimous consent, reported back from the Committee on the Public Lands, with a favorable recommendation, the bill (H. R. No. 5991) to exclude the State of Alabama from the provisions of the act of Congress entitled "An act to promote the development of the mining resources of the United States," approved May 10, 1872; which was placed on the House Calendar, and the accompanying report ordered to be printed.

The motion of Mr. CAMP was then agreed to; and accordingly (at five o'clock and thirty minutes p. m.) the House adjourned.

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### PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of Mrs. R. M. Goodrich, of Aurora, Illinois, for legislation to protect from accident brakemen on railroads—to the Committee on Railways and Canals.

By Mr. BALLOU: The petition of Benjamin P. Hunt, of Burrillville, Rhode Island, and 19 others, Union soldiers, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. BELTZHOOVER: The petition of Charles W. Carrigan, attorney for Hon. Thomas B. Florence, a contestant for a seat in the Forty-fourth Congress, from the first congressional district of Pennsylvania, for the payment of fees and expenses—to the Committee on Elections.

By Mr. BICKNELL: Resolution of the General Assembly of Indiana, in relation to the improvement of the Kankakee River in that State—to the Committee on Commerce.

By Mr. BRAGG: The petition of cigar manufacturers in Wisconsin, for a reduction of the tax on cigars—to the Committee on Ways and Means.

By Mr. BREWER: The petition of Elmer E. Heusted, George Campbell, and 40 others, citizens of Oakland County, Michigan, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of the same parties, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of the same parties, for the passage of the interstate-commerce bill—to the Committee on Commerce.

Also, the petition of the same parties, for an income-tax law—to the Committee on Ways and Means.

By Mr. ALVAH A. CLARK: The petition of E. S. Doughty, jr., for compensation for services rendered as a messenger for the House of Representatives, Forty-fifth Congress—to the Committee on Claims.

By Mr. COBB: Resolutions of the General Assembly of Indiana, asking an appropriation for the improvement of Kankakee River in that State—to the Committee on Commerce.

By Mr. COWGILL: The petition of Oliver H. P. Carey, late colonel Thirty-sixth Regiment Indiana Volunteers, and 33 others, soldiers of the late war, for a change in the pension laws—to the Committee on Invalid Pensions.

By Mr. DE LA MATYR: The petition of citizens of Indiana, for legislation in favor of equality in privileges of transportation—to the Committee on Commerce.

Also, the petition of A. Michael and others, that a Department of Agriculture be established—to the Committee on Agriculture.

By Mr. ERRETT: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, asking an appropriation for the erection of two or more ice-breakers on the Ohio and Mississippi Rivers—to the Committee on Commerce.

By Mr. HEILMAN: Resolutions of the Legislature of Indiana, asking an appropriation of $100,000 for the improvement of the Kankakee River—to the Committee on Commerce.

By Mr. HUMPHREY: The petition of T. W. Richards, Job Bassett, and others, of Wisconsin, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. JOYCE: The petition of citizens of Vermont, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. KLOTZ: The petition of 18 soldiers of Luzerne County, Pennsylvania, of similar import—to the same committee.

By Mr. LADD: The petition of F. L. Towne and 26 others, citizens of Dover, Maine, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of E. J. Durham and 30 others, citizens of Dover, Maine, for legislation regulating interstate commerce—to the Committee on Commerce.

Also, the petition of the same parties, for legislation to protect innocent purchasers against fraudulent venders of patents—to the Committee on Patents.

By Mr. McGOWAN: The petition of J. S. Buckley and 20 others, citizens of Branch County, Michigan, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. MYERS: Resolutions of the General Assembly of Indiana, asking an appropriation for the improvement of the Kankakee River, in Indiana—to the Committee on Commerce.

Also, the petition of Aug. Lempp and 24 others, citizen soldiers of Dayton, Ohio, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. OVERTON: The petition of G. E. McKune and 14 others, members of the Grand Army of the Republic of Pennsylvania, of similar import—to the same committee.

By Mr. THOMAS RYAN: The petition of soldiers of Larned, Kansas, for the passage of Senate bill No. 496—to the same committee.

By Mr. SAPP: The petition of citizens of Iowa, that soldiers discharged for disease receive the same bounty as those discharged on account of wounds—to the Committee on Military Affairs.

By Mr. SHERWIN: The petition of W. M. Smith and 12 others, soldiers, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. STEELE: Resolutions of the Legislature of North Carolina, asking a survey of Oregon Inlet, Dare County, North Carolina—to the Committee on Commerce.

Also, resolution of the Legislature of North Carolina, asking that the Commissioner of Agriculture be made Secretary of Agriculture and a member of the President's Cabinet—to the Committee on Agriculture.

Also, resolution of the Legislature of North Carolina, asking the passage of the bill (H. R. No. 6741) to exempt from duties all machinery used in the manufacture of cotton thread and cotton goods—to the Committee on Ways and Means.

By Mr. STEVENSON: The petition of soldiers of McLean County, Illinois, against the passage of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

By Mr. TALBOTT: The petition of certain messengers of the House of Representatives, for equalization of salaries—to the Committee on Accounts.

By Mr. WARNER: The petition of W. A. Duval and others, for the enactment of an income-tax law—to the Committee on Ways and Means.

Also, the petition of J. W. Fellows and others, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of William A. Duval and others, citizens of Ohio, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of the same parties, for the regulation of interstate commerce—to the Committee on Commerce.

Also, the petition of the same parties, for a modification of the patent laws so as to better protect innocent purchasers of patents—to the Committee on Patents.

## IN SENATE.

### FRIDAY, *February* 11, 1881.

The Senate met at twelve o'clock m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

#### EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting a report of Captain Charles B. Phillips, Corps of Engineers, made in compliance with the river and harbor act of June 14, 1880 of an examination of Cape Fear River, North Carolina, between Wilmington and Fayetteville; which was referred to the Committee on Commerce, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

Mr. McMILLAN presented a memorial of the Legislature of Minnesota, favoring an appropriation of $1,000,000, to be expended during the fiscal year ending June 30, 1882, for the improvement of the Mississippi River, one-half of the amount to be used from Saint Paul to the Des Moines Rapids, and the remaining one-half from the Des Moines Rapids to the mouth of the Illinois River, all to be expended under the direction of the Secretary of War, and also in favor of an additional appropriation of $100,000 for the construction of sheer-booms on that river; which was referred to the Committee on Commerce.

Mr. WALLACE presented resolutions of the Chamber of Commerce of the City of Pittsburgh, Pennsylvania, remonstrating against the imposition of tonnage tax on commerce through the Louisville canal or Davis Island dam, (when completed;) which were referred to the Committee on Commerce.

Mr. GROOME presented the petition of Le Compte Post, No. 14, Grand Army of the Republic, of Preston, Caroline County, Maryland, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

He also presented the memorial of W. H. Hamilton and others, of Chestertown, Maryland, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

Mr. VEST presented the petition of the Milburn Manufacturing Company, the Simmons Hardware Company, and other manufacturers and cotton dealers, of Saint Louis, Missouri, praying for the extension of what is known as the Eclipse Gin patent; which was referred to the Committee on Patents.

Mr. PADDOCK presented the petition of R. C. Eldridge and others, citizens of Nebraska, praying for the establishment of a post-route in that State, from Plainview to Fort Hartsuff; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CONKLING presented the petition of Kate Ehle Wetmore, of Canajoharie, Montgomery County, New York, praying remuneration for services rendered the Government by her father during the war of 1812; which was referred to the Committee on Claims.

Mr. SAULSBURY presented the petition of B. D. Burton and others, citizens of Delaware, praying for an appropriation for the improvement of the Indian River in that State; which was referred to the Committee on Commerce.

Mr. McMILLAN presented the petition of Thomas Allison and others, remonstrating against the passage of a bill to extend the patent on Cook's sugar evaporators; which was referred to the Committee on Patents.

#### REPORTS OF COMMITTEES.

Mr. VEST, from the Committee on Mines and Mining, to whom was referred the bill (S. No. 1034) to amend section 2334 of the Revised Statutes as to publication of mining notices, reported it without amendment.

Mr. PLATT, from the Committee on Pensions, to whom was referred the petition of S. Annie Esterbrook, praying that the pension granted to her late husband be continued to her, submitted a report thereon, accompanied by a bill (S. No. 2173) for the relief of S. Annie Esterbrook.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 660) for the relief of Mrs. Mary A. Seaborn, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. GROOME, from the Committee on Pensions, to whom was referred the petition of Annie E. Gardiner, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (S. No. 434) granting an increase of pension to Eugene O'Sullivan, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 2012) granting a pension to Gottlob Schaubel, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John Jones, of Casey County, Kentucky, praying to be allowed a pension, submitted a report thereon, accompanied by a bill (S. No. 2174) granting a pension to John Jones.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. HEREFORD, from the Committee on Mines and Mining, to whom were referred the bill (S. No. 1918) to amend section 2324 of the Revised Statutes and the bill (S. No. 1222) concerning mineral land, reported adversely thereon, and the bills were postponed indefinitely.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the petition of William Heine, praying for an increase of pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

AMENDMENT OF THE RULES.

Mr. MORGAN, from the Committee on Rules, reported adversely on the following resolution submitted by Mr. INGALLS and referred to that committee on the 14th of January:

*Resolved*, That the forty-third standing rule of the Senate be amended by striking out in line 13 the words "relating to adjournment" and inserting the words "to adjourn."

Mr. INGALLS. What is the report?

The VICE-PRESIDENT. Adverse.

Mr. INGALLS. It seems to me that must have been done without a consideration of the real purpose of the proposed amendment of the rule. Under the rule as it now stands not only a motion to adjourn is not debatable but a motion that when the Senate adjourn it adjourn to a certain day is not debatable. On several occasions heretofore that matter has resulted in great inconvenience to the Senate. The amendment was offered by me upon consultation with several members of the Senate who thought that the rule required amendment in that particular.

Under all parliamentary law that I am acquainted with the only motion relating to adjournment which is not debatable is a simple motion to adjourn; but in the nature of things a motion to adjourn to a given day, or that when the Senate adjourn it be to a certain day, ought to be debatable.

I wish that the chairman of the Committee on Rules, if the committee have not acted with great deliberation on the subject, would consent that the report be withdrawn, because on several occasions serious inconvenience has arisen by reason of the rule as it now stands.

Mr. MORGAN. The forty-third rule reads as follows:

When a question is pending no motion shall be received but—
To adjourn,
To adjourn to a day certain, or that, when the Senate adjourn, it shall be to a day certain,
To take a recess,
To proceed to the consideration of executive business,
To lay on the table,
To postpone indefinitely,
To postpone to a day certain,
To commit,
To amend;
which several motions shall have precedence in the order in which they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to executive business, and to lay on the table, shall be decided without debate.

The Senate has been acting under that rule for a long time, and it has not been found to be an inconvenient rule, because whenever a motion is made to take a recess or to adjourn to a day certain unanimous consent has not been withheld for such interchange of ideas as Senators might think fitting to the occasion. It is better, as the committee understand, to leave the rule as it is, so that the consideration of a pending question cannot be impeded by a motion, for instance, to adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain. Under the existing rules a Senator has the right to propose a motion of that kind in opposition to the pending question, and if upon a motion of that kind debate should be allowed to spring up and to be extended at the will and pleasure of the Senate, we should find ourselves in the midst of the consideration of some important question, I dare say involved in a debate as to adjournment to a day certain or to take a recess.

The committee have thought it was much more safe and quite as convenient that the rule should stand as it is rather than break down the usage under which the Senate has so long worked and worked so well, for the mere purpose of having debate on a question as to taking a recess or an adjournment to a day certain.

Mr. INGALLS. The rule as it now stands is an innovation. This is not the established rule of the Senate. It was adopted inadvertently when the last revision of the rules was made. I do not want to protract debate on an immaterial question, and I ask that the report may go over.

The VICE-PRESIDENT. The resolution will go on the Calendar with the adverse report of the committee.

BILLS INTRODUCED.

Mr. BECK asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2175) to appropriate money for the renovation of the records of the United States district court at Frankfort, Kentucky; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. CONKLING (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2176) granting a pension to Mrs. Clara A. Thompson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 157) for the relief of the Philadelphia and Reading Railroad Company; which was read twice by its title, and referred to the Committee on Finance.

INTERNATIONAL EXHIBITION OF 1883.

Mr. KERNAN asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 156) in relation to the international exhibition of 1883; which was read the first time by its title.

Mr. KERNAN. I ask that the joint resolution be read at length with a view to asking that it be passed now, if there be no objection.

The joint resolution was read the second time at length, as follows:

*Resolved by the Senate, &c.*, That whenever the President shall deem the preparations which shall have been made therefor adequate, he is hereby authorized and requested, in the name of the United States, to invite all foreign governments to be represented at and to take part in the international exhibition of arts, manufactures, and products of the soil and mine, to be held under the direction of the United States international commission, at the city of New York, in the State of New York, in the year 1883: *Provided, however*, That the United States shall not be liable, directly or indirectly, for any of the expenses attending such exhibition, or by reason of the invitation hereby authorized.

Mr. EDMUNDS. I think that the joint resolution ought to be printed and go to a committee.

Mr. KERNAN. I did not hear what the Senator from Vermont said; but I can suppose that, without explanation, he said the joint resolution should be referred to the Committee on Foreign Relations. I will say to him that I went to the chairman of that committee with the resolution and he read it and said he thought there was no need of such a reference, inasmuch as the invitations should be issued before another session, and it is desirable that the joint resolution should be acted upon now. It will be observed that it is very guarded; it is in the form of one adopted before, and provides expressly that there shall be no expense entailed by implication or otherwise. I should be glad to have the joint resolution passed now.

Mr. EDMUNDS. The invitation to a foreign government by the chief of this one to attend any of the numerous and pleasant festivities that we have in this country, with a clause at the end of the invitation "At your own expense," would be somewhat different from the invitations that among gentlemen here we receive and act upon to go and dine, and so on. Therefore, I should a little prefer that the Committee on Foreign Relations would think what sort of an invitation it would be if the foreign government were told that they must come at their own expense. A reference will not delay it much, and I should be glad to have that committee consider it.

Mr. KERNAN. I only want to say that this is the form of invitation adopted in reference to the former international exposition at Philadelphia, and it only invites the people of foreign governments to exhibit their articles; but if the Senator objects of course it must go to the committee.

The VICE-PRESIDENT. Shall the joint resolution be referred?

Mr. KERNAN. Not unless the Senator from Vermont objects to its present consideration.

Mr. EDMUNDS. I think it had better be referred. The committee can report it without delay after examination.

Mr. KERNAN. I shall make no objection to the reference.

The VICE-PRESIDENT. The joint resolution will be referred to the Committee on Foreign Relations.

Mr. CONKLING subsequently said: I ask that the reference of the joint resolution in relation to the world's fair be changed from the Committee on Foreign Relations to the Committee on Finance. The Committee on Finance had charge of the bill in which the exposition was conceived, and I do not think that the joint resolution had better go to another committee.

The VICE-PRESIDENT. The Chair hears no objection, and that change of reference will be made.

INAUGURATION COMMITTEE.

Mr. PENDLETON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That a committee of three Senators be appointed by the President of the Senate to make the necessary arrangements for the inauguration of the President-elect of the United States on the 4th day of March next.

Messrs. PENDLETON, ANTHONY, and BAYARD were appointed.

REFUNDING OF NATIONAL DEBT.

Mr. BAYARD. I desire to give notice to the Senate that on Monday next, at the expiration of the morning hour, I shall ask it to take up, consider, and finally dispose of the bill (H. R. No. 4592) to facilitate the refunding of the national debt. I do not now ask that a special order may be made of this measure to be considered on that day, because upon consultation with gentlemen in the Chamber I find that a special order may itself be set aside by a majority vote. Therefore, as the same control will affect the question whether the bill be made a special order or not, and the matter will be within the control of a majority of the Senate on Monday, and as I think a measure of this importance should be discussed in unbroken debate, I do not desire to call it up to-morrow, being Saturday, to have the interval of Sunday, but on Monday I shall ask at the time indicated that the Senate may proceed to discuss and dispose of this important measure.

Mr. MORRILL. I cannot doubt that the Senate generally will concur in the suggestion of the Senator from Delaware. There is no more important bill before the Senate, and unless it shall become a law I fear very much that we shall have an extra session.

AMENDMENTS TO BILLS.

Mr. PADDOCK submitted two amendments intended to be proposed by him to the sundry civil appropriation bill; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. BUTLER, Mr. JONAS, Mr. JOHNSTON, and Mr. SAULSBURY

submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. WHYTE and Mr. SLATER submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. BAYARD submitted an amendment intended to be proposed by him to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

ARMED TROOPS AT SEAT OF GOVERNMENT.

Mr. RANDOLPH. Mr. President, I beg leave to ask the Senate to allow me now to move——

The VICE-PRESIDENT. The Chair will first inquire if there be further morning business; and on the conclusion of the morning business will recognize the Senator from New Jersey. Resolutions are now in order.

Mr. HOAR. I submit a resolution, and ask for its present consideration.

The resolution was read, as follows:

*Resolved*, That the Committee on the Judiciary be instructed to consider and report whether the assembling at the seat of Government of large bodies of organized and armed troops not under the command of the officers of the United States, or under national authority, be not likely to prove in future dangerous in practice, and whether any legislation or declaration of opinion on the subject by Congress be desirable.

Mr. HOAR. Mr. President, the resolution is a mere direction to the Judiciary Committee to consider this question. It does not bind the Senate to any action or opinion upon the subject. I desire, however, to be permitted to say, I suppose there is no citizen of the United States who will take more pleasure and will join more heartily in the expressions of public gratification at the approaching inauguration of the President of the United States than I shall. I think that the organizations of veteran soldiers honorably discharged from the military service of the United States ought properly and appropriately to form a part in the State pageant of that day. I trust everywhere where the American people can do honor to that class of citizens, they will as they grow older receive every possible form of public honor from the country which they have saved. But it seems to me that the persons having this matter in charge will themselves see that the establishment of the precedent of assembling large bodies of armed troops, subject to no authority present in the District, might in the past have been fraught with very serious danger, and may in the future create very serious danger, in addition to those dangers which from the nature of the case may hereafter, in troubled times, attend the transfer of executive power in a country like this from one hand to another.

In 1876 the electoral count was completed at about four o'clock in the morning of the 3d day of March, and until that hour large numbers of the American people believed that the presidential candidate who was not finally found entitled to the office had been duly elected. Suppose a practice had existed in this country under which in anticipation of the inauguration of the President the militia of the different States of the Union had assembled in large numbers and were encamped about the Capitol, who can doubt that such a condition of things would have added seriously to the difficulty and danger of that trying hour? Suppose in 1861 we had succeeded to an established practice of that kind, such a thing would, in my judgment, have proved nearly fatal to the preservation of the Republic itself.

It is therefore in no spirit of unkindness to anybody charged with these preparations, and certainly in no want of a spirit of harmony with the rejoicing and pleasure of the time when the American people are peacefully and quietly to submit to the succession of the executive power, that I call public attention to this matter.

Mr. CONKLING. Mr. President——

Mr. HOAR. I forgot to say what I intended when I rose: that in some of the States of the Union such parades of bodies of men not under the control of the State executive are prohibited by law.

Mr. CONKLING. I shall ask that the resolution lie over under the rules; but before doing so I feel moved to make a remark.

I am disposed to think that the American people are chronically and habitually too much in a hurry. There is so much of activity and thrift in our countrymen that holidays and pageants and relaxations and rests are the rare exceptions of the general rule. All other peoples as far as I know, particularly those enjoying the older and more advanced civilizations, have something more than we of what a quaint British poet has called recess, interval. Therefore, I do not deplore the multiplication of holidays; and when I have seen indignation manifested sometimes at the suggestion that an additional day be made a holiday I have reflected in the train of my present suggestion.

The inauguration of a President has come to be one of the few accepted occasions, one of the very few accepted national occasions, when an occurrence takes place furnishing an inducement, an excuse, a provocation for men to break out of the unending round of local and individual endeavor and go away for a change of scene, an episode, or a jaunt.

In the little city in which I live is a military organization. It is known as the Utica Citizens' Corps. It is composed of men of patriotism, of character, of standing; men as well able to govern themselves, to regulate and conduct their conduct,—I mean to say it with great deference,—as the most distinguished or the most experienced Senator I see before me. That organization means to come five hundred miles to participate in this pageant. I hope it will. I should like to have the Senators here who are skilled in military affairs see them march; see how they disport themselves in the manual of the soldier, willing the whole country should look upon their uniforms and upon the *personnel* of the company.

I am aware that the resolution offered by the Senator from Massachusetts does not seek to disparage or affront any such inclination as I have referred to. I have no thought that the Senator in drawing the resolution or offering it meant any such thing. At the same time, it is a challenge, a reflection. It raises a doubt applicable to just this time now when all preparations have been made as to the coming inauguration, and raises a doubt applicable to all alike, whether there is not some impropriety, some disregard of what it would have been thoughtful and proper to remember, some want of consideration of some thing in the fact that these various military organizations have arranged to meet here on that day and to vie, if they please, with each other in marching and in the manifestation of that military polish and attainment which makes up the emulation between military organizations. I do not wish to see such a charge or such a criticism or such an expression of a possible doubt on the part of the Senate. A long time ago, before these arrangements had been made, circumstances would have been somewhat different; but now, within two or three weeks of the event, after I have personal knowledge in a good many instances that all the arrangements have been concluded, I think it would be a little harsh. Particularly at a time when there is no manifestation anywhere of a sentiment of discord or a disposition to make trouble which need put anybody on his guard, I think it would be inopportune, if I may say it without any possible intention of offense—I think it would be maladroit just now to have this inquiry. Four years will intervene before such another occasion occurs, and during that time I think there will be leisure to ascertain seasonably, so as to give notice to everybody in advance, whether there is any objection in this Republic governed by majorities and operating by general, I wish I could say universal, suffrage to the citizens of the Republic, although they appear in uniform, coming here in one great convention, if they please, to see the Government the robes and scepter pass from the hands of one man into the hands of another. I ask that this resolution lie over under the rule.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The resolution will lie over.

Mr. HOAR. Before the resolution passes over I should like to be privileged to add a word. I selected this occasion not with the expectation that the introduction of this suggestion would affect seriously the preparations for the coming inauguration, but it was because I was myself known to be so cordially in accord with its spirit, because I so thoroughly rejoice in the occasion which is about to take place, and because I was a political friend of the President who is about to be inaugurated, that I thought it was proper for me to make a suggestion which might be supposed to come with ill grace from gentlemen entertaining different political opinions, or who might be suspected of having different sympathies. The time seemed to me to be appropriate because of the very fact that by no possibility could there be a suggestion or a suspicion in any mind that the presence of these soldiers would be an impropriety here or accompanied with any public danger or inconvenience here on the present occasion. That seemed to be the very time when the suggestion that under different conditions of public sentiment at some other period in our history the establishment of such a practice in a time of peace and harmony and quiet in an era of good feeling might ripen into a possible public danger.

It is utterly unimportant whether this resolution lies over or whether it goes to the Committee on the Judiciary this morning. I had no expectation it would be heard of again if it went there; but it seemed to me entirely proper to make this suggestion at the time this thing was going on, so that in advance of the preparations for any future presidential inauguration the fact that this question had been now raised, though it were passed over without decision, would bring the important question to the consideration of the persons in charge.

Mr. HEREFORD. Before this resolution passes from the body, I cannot let the opportunity pass without challenging the correctness of the sentiments embodied in the resolution. I believe that this is a free country, and I believe that the various military organizations of the States under State authority for peaceful purposes have a right to go where they please. The military organizations of the various States have a right to go into any part of their State where they please for peaceful purposes; they have a right to go from State to State for like purposes without let or hinderance; but this resolution introduced this morning by the Senator from Massachusetts suggests the idea that it is highly improper for such organizations to come to the seat of Government and participate in the inauguration of the President of the United States; and that is coupled with the other

idea that it is highly proper that the regular Army may be here on such an occasion.

If the sentiments contained in this resolution had been reversed perhaps it would have met more cordially with my approbation than as it stands; that is to say if the resolution declared that on such a day as that of the inauguration of a President the regular Army should be forbidden to be here, I should certainly have subscribed to the correctness of it; but to insert in a resolution here that it is highly proper that troops under national authority, under the control of the General Government, should be here on such a great holiday and that the various military companies of the States have not that right, is an invasion of the liberty of the whole people, and is the announcement of a doctrine that endangers the liberty of this people. I have always been taught to believe that the liberties of the people are best preserved by the various State organizations and not by the regular Army.

I would commend to the Senator from Massachusetts a letter perhaps which he read a few months ago, a letter from General Winfield Scott Hancock when he said that he liked the simplicity of the inauguration of Thomas Jefferson and would commend that to the people of the United States. I commend that letter to him to-day. It meets with my hearty approval. The idea is that when the President of the United States is to be inaugurated he shall be unattended by the Army of the United States, but that the occasion shall be accompanied with all the simplicity that surrounded the inauguration of the administration of that great man.

I could not allow this resolution to pass from the Senate Chamber without challenging the correctness of the doctrines therein laid down, especially that the regular Army shall be here on such an occasion and the militia of the States forbidden to come here. Congress has no such power, and I regret to see the Senator from Massachusetts in this resolution invoke such a power as that, and I hope the resolution will not meet with the favorable consideration of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. This debate goes on by general consent, the resolution having been objected to.

Mr. CONKLING and others. Regular order!

The PRESIDING OFFICER. The resolution lies over.

Mr. INGALLS. I rise to morning business.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Kansas.

Mr. INGALLS. I ask for the consideration of the resolution offered by me yesterday relative to the hour of meeting of the Senate after Monday next.

The PRESIDING OFFICER. The Senator from Kansas calls up a resolution offered by him.

Mr. INGALLS. I should like to have the order read.

The PRESIDING OFFICER. It will be read.

The Chief Clerk read as follows:

*Ordered*, That on and after Monday next the daily hour of meeting shall be eleven o'clock a. m.

Mr. RANDOLPH. The Vice-President had recognized me as entitled to the floor, and I gave way for morning business. Do I lose my right to the floor thereby?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. RANDOLPH. I will give way for a moment to the Senator from Vermont.

Mr. EDMUNDS. I am very much obliged to the Senator from New Jersey. It is my best means of getting heard. I merely wish to say inasmuch as the resolution of the Senator from Massachusetts [Mr. HOAR] has gone over and the regular order was called up after some debate, that I wish to be counted at this present moment as in favor of considering the topic referred to by the Senator from Massachusetts, and to add that I believe what the Senator observed is in the main right, and to add also in response to my friend from West Virginia that the particular letter of the late democratic candidate for President of the United States, to which he refers, and that part of it which he has quoted, meets with my cordial approval, whatever I may think about other letters on other topics. That is all.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1102) granting a pension to John S. Corlett;

A bill (H. R. No. 6535) to allow marshals and deputy marshals to take bonds in certain cases;

A bill (H. R. No. 4610) granting a pension to Mary Leggett;

A bill (H. R. No. 3520) to establish a port of delivery at Indianapolis, in the State of Indiana; and

A bill (H. R. No. 5677) granting a pension to Stephen P. Benton.

The message also announced that the House had passed the following bills:

A bill (S. No. 201) for the relief of Somerville Nicholson;

A bill (S. No. 1193) granting a pension to Milton L. Sparr; and

A bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolutions; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 6599) to change the time for holding circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia;

A joint resolution (H. R. No. 83) granting condemned cannon to the Morton Monumental Association;

A joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of special report of the Commissioner of Agriculture relative to diseases of swine and infectious and contagious diseases incident to other domestic animals; and

A joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish-culture.

## REVOLUTIONARY BATTLE-FIELDS.

Several SENATORS. Regular order.

Mr. RANDOLPH. I ask that the bill (S. No. 2126) relative to Revolutionary battle-fields be taken up.

Mr. COCKRELL. I ask for the regular order.

Mr. INGALLS. I ask for action on the resolution I offered yesterday that has been called up, and that I have a right to call up under the rules of the Senate.

The PRESIDING OFFICER. The morning hour has expired.

Mr. INGALLS. The morning hour, I think, has not expired, with all due respect to the Chair, and if action on the resolution is to be deferred by procrastination merely, by the occupation of the time until the morning hour does expire, of course I must yield.

The PRESIDING OFFICER. The Chair is not responsible for the clock.

Mr. RANDOLPH. Mr. President, I press my motion.

The PRESIDING OFFICER. The Senator from New Jersey asks unanimous consent to proceed to the consideration of the bill he has named.

Mr. INGALLS. I object.

The PRESIDING OFFICER. Objection is made.

Mr. RANDOLPH. I move to lay aside all pending orders and take it up.

The PRESIDING OFFICER. The Senator from New Jersey moves to postpone the regular order with a view of proceeding with the consideration of the bill proposed by him.

Mr. INGALLS. That motion is not in order, Mr. President.

Mr. RANDOLPH. Why not?

Mr. INGALLS. The only motion in order is to postpone the pending question, not to consider another bill.

Mr. RANDOLPH. I make that motion.

Mr. CONKLING. What is the pending order to be postponed?

The PRESIDING OFFICER. The pending order is the Calendar.

Mr. CONKLING. Is not the Post-Office appropriation bill the unfinished business?

The PRESIDING OFFICER. Not until half past one o'clock.

Mr. RANDOLPH. This is a bill that is general in its character, that will elicit no debate, I presume. It comes from the Military Committee, and it has been delayed many weeks. I think it will meet with universal acceptance and approval. I ask, therefore, that it be taken up.

Mr. INGALLS. What is the bill?

Mr. RANDOLPH. It is the bill relative to Revolutionary battle-fields.

Mr. FERRY. Why does not the Senator move to postpone the present and all prior orders and take it up.

Mr. RANDOLPH. I have done that.

The PRESIDING OFFICER. The Senator from New Jersey moves to postpone the pending order.

The motion to postpone was agreed to, ayes 40, noes not counted.

The PRESIDING OFFICER. The Senator from New Jersey now moves to proceed to the consideration of the bill (S. No. 2126) relative to Revolutionary battle-fields, and so forth, which will be read for information.

The Chief Clerk read the bill.

Mr. CONKLING. Without discussing the merits of the bill, as the rule says I shall not, there is a question which I believe I have a right to ask. I listened to the reading of the bill and only this instant received a copy. I wish to inquire whether the design and effect of the bill will be to arrest the passage of special bills, if I may call them special, which have already received the action of the House, which have received the action of the committees of the Senate and been favorably reported and are now on the Calendar—bills which in particular instances contain provisions of their own adapted to what has been done in those instances? Under this general bill, as I catch it from the reading, those engaged in such matters may be compelled to begin again, to go over to some extent, and thus to delay works which are in progress. If such be the effect of the bill I should be glad to know it before it is taken up.

Mr. RANDOLPH. Mr. President, the effect of this bill will be to place all applicants for Government aid in the erection of memorial monuments upon a common footing. That, of course, the Senator from New York can gather from the text of the bill. That it is

intended to arrest, to use the Senator's own word, the passage of any other bill is not so; nor will that necessarily be the effect of it. The bill to which the Senator specially refers, I imagine, is the bill concerning the Saratoga monument.

Mr. CONKLING. That is one.

Mr. RANDOLPH. That bill, I may be permitted to say, has passed the House, is before the Senate, and has passed a committee of the Senate. I ought to say in parenthesis, not the committee to which these bills are ordinarily referred, but it has been passed upon favorably by a committee of the Senate, and is now before the Senate. The passage of this general bill does not by any means imply that the Saratoga bill may not be taken up and passed by itself. There is nothing in the terms of the general bill that need delay action upon the part of the Senate in regard to the Saratoga bill.

The Committee on Military Affairs have had a great many bills asking aid in behalf of the construction of Revolutionary monuments before it. After much consideration during the past session and also at the present session, it was concluded by a majority of the committee, only one or two members objecting, that the more equitable and economical way was to provide a general bill, a bill under which any association having in view the commemoration of a Revolutionary battle-field would be authorized, under well-guarded provisions, to apply directly for a sum of money from the Treasury equal to the amount which such patriotic association had itself raised and paid in.

It will be observed that under the terms of the pending bill the Saratoga Association will be as liberally provided for as under the special bill for which they have obtained the favorable action of the Committee on the Library of this body. My own opinion is that in justice to these many patriotic associations with reference to economy by the Government, a bill of this general character placing all applicants for Government aid in erecting Revolutionary battle-field monuments upon an equal footing should be passed now and become a law, thus fixing as far as possible the policy of the Government regarding this class of appropriations.

There are one or two provisions of this bill that I may as well refer to, now that I have the floor, limited as my time is under the rule of the morning hour, one of them looking to the benefit of the Washington Association of New Jersey, located at Morristown, New Jersey. That corporation owns the old Washington headquarters. That building was occupied for a longer time during the revolutionary war by Washington and his staff than any other building in America. During the long and anxious winters of 1779–'80 they spent their days and weeks and months under the broad shelter of that roof, and not only Washington and his staff, but Lafayette, Schuyler, Greene, Hamilton, Kosciusko, De Kalb, Wayne, Light-Horse Harry Lee, Putnam, Steuben, Knox, and even Benedict Arnold lived there for longer or shorter periods. More men known to revolutionary history lived under that roof during the revolutionary war than under any other roof in America.

There during the anxious months of those eventful winters was gathered from time to time almost every prominent member of the Continental Congress. The rooms they counseled in, the furniture they used have been kept in almost perfect preservation by the patriotism of Jerseymen.

It is a grand old house, freighted with grand associations, and worthy of the highest consideration by Congress. I regret that my time——

The PRESIDING OFFICER. The Chair will remind the Senator from New Jersey that it is not in order to discuss the merits of a bill on a motion to take it up.

Mr. RANDOLPH. I am aware of the indulgence of the Senate, and ask pardon for infringing the rule. I thought the present opportunity was the best one for stating why the fifth section, relating to the Washington Association of New Jersey, had been placed in the bill. I am anxious for the prompt and favorable action of the Senate, and will only repeat that, in the judgment of a majority of the Military Committee, this is the most equitable, just, and, to Government, economical measure that will probably be placed before Congress relating to the subject under discussion.

Mr. CONKLING. Mr. President, did the rules permit the merits of this bill to be discussed on this motion, I should have no word to say against its object. I asked the Senator from New Jersey whether its effect would be to arrest other bills pending in the Senate, and he answers that there is nothing in this bill which would deprive the Senate of the power to take up and act upon other bills. That of course must be true of the bill, whatever its provisions may be. The point of my question was somewhat different, and without touching upon the rules I may say that I find now in this bill provisions which in the instance referred to would require a different proceeding from that already taken. Plans having been adopted, the work having been entered upon, it would be necessary afresh to submit and get approval of the plans and *projet* of the intended monument. It was to that point that I asked the attention of the Senator from New Jersey.

At Saratoga a memorable and a decisive battle was fought and well fought, and the people of New York have contributed already a sum of money, and they ask the Government to join them in erecting a monument to perpetuate the memory of that struggle. I cannot under the rule give my reasons now; but I think after we pass this bill it could be fairly argued that a bill in that instance special should not be adopted because of the general provisions contained in this. If that should be persuasively the effect upon the Senate, I should regret the adoption of this bill.

I observe that this bill relates to battle-fields. I wonder if there be a member of the Senate who is able to mark the boundaries of battle-fields or locate them. Until I shall hear some Senator volunteer to act as geographer in that respect, I shall believe that no Senator, with or without this bill, will be able to locate and define on the map of this hemisphere its battle-fields; and I am fortified in this by the circumstance to which the honorable Senator has referred that a separate section of the bill is devoted to denoting one place, I think I may say of that conspicuously not a battle-field, which it is intended to have the bill cover. It refers to the headquarters of an army—historic headquarters. The honorable Senator from New Jersey has peopled those headquarters with denizens no more numerous and illustrious than they were, but still it was the headquarters of an army; it was not a field on which men grappled for the mastery in war, and yet it appears by special nomination in this bill because it was seen that "battle-field" would not cover an instance so conspicuously meritorious as that.

When this bill comes up for consideration, if it does, I shall venture to suggest that something is needed to designate one place from another, as many places are not designated by the simple term "battle-field." Indeed I do not know how that word would affect even instances that I have in mind which might be supposed especially to fall within it. Interested as I am in the instance of the monument at Saratoga, and interested as I am in the erection of a monument to Nicholas Herkimer, a name in which for special reasons I feel a special pride, an instance in which $500 was appropriated by the Continental Congress, which $500 and no part of it has ever yet been received, I shall hope that those bills at least may have a fair hearing, having been matured without a knowledge of any measure of this sort, before they are in any respect concluded by the adoption of any generality of provision.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey to proceed to the consideration of the bill named by him.

Mr. KIRKWOOD. Before the vote is taken I shall be glad to say a word, not on the merits of this bill, but for the purpose of indicating a bill which I think ought to have preference. I am sorry that the Senator from Virginia [Mr. JOHNSTON] is not present. I gave notice yesterday that I should press on the attention of the Senate a bill that I deem of very great importance, the bill to prevent the spread of contagious diseases among cattle; and if the motion to take up this bill should fail, I will move that that bill be taken up, so that it may have its place during the morning hour and be under consideration.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 2126) relative to Revolutionary battle-fields, &c.

Mr. COCKRELL. Mr. President, I am of the minority of the Committee on Military Affairs opposing the passage of this bill. Is this bill necessary and proper? If it be it is a direct reflection upon the intelligence and patriotism of the illustrious men who have filled the Halls of Congress from 1800 to this time. There have been periods in our history when this country did not owe one solitary dollar of indebtedness, when we had $28,000,000 of surplus money, and when illustrious statesmen and patriots filled the Halls of Congress, and it never occurred to them to spend that money in the erection of monuments upon the battle-fields of the Revolution. I do not think it is necessary, and I would regret supporting the bill and thereby casting an imputation upon the intelligence and patriotism of the great men who have preceded us.

But I think it ought not to pass for another reason, and that is that it would be a reflection upon the living. It is a direct reflection upon the American people to-day. This bill says to them, "You are so unfeeling, you are so unpatriotic, you are so void of intelligence that you will not cherish the memory of the battle-fields of the Revolution, the struggles of our Revolutionary soldiers, unless Congress taxes you to build senseless, feelingless monuments of marble or statues of bronze, to remind you of those thrilling scenes and events." I should dislike by my vote to cast an imputation, a reflection upon the living, and I am therefore, upon either one of these grounds, opposed to the passage of this bill.

But, Mr. President, what is the necessity for this bill? Look back at our history; see year by year passing by until 1880 and 1881, when this Congress is to distinguish itself as the pre-eminently patriotic and loyal Congress expending all its efforts in spending the people's money in the erection of monuments and in celebrations and festivals and carnivals at that time.

Mr. President, as I have said once before, I confess that I have not that profound admiration and respect for patriotism and loyalty that always hoists the old flag on every occasion provided there is a good round appropriation underneath its folds. I am opposed to this because it is a wanton, needless, and improper expenditure of thousands and hundreds of thousands of dollars of the people's money, while we to-day are withholding from honest creditors of this Government hundreds and thousands and hundreds of thousands of dollars justly owing to

them, and for which they are suffering. We are giving these hundreds of thousands of dollars to build monuments, when Jackson and Clay and Webster and Calhoun and Benton, and men of that class, with twenty-eight millions of surplus money in the Treasury and the Government not owing a dollar to any creditor, national or individual, refused to appropriate a dollar.

I simply desired to state my reasons for opposing this bill. I opposed it in committee; I oppose it here. I opposed the bills to which the Senator from New York refers, each and all of them.

Mr. BURNSIDE. Mr. President, I will say in answer to some remarks dropped by the Senator from New York that it has been the intention of the Senator from New Jersey and myself for several days to try to get this bill up and I knew nothing of the introduction of the bill to which he referred until this morning, so that my action on this bill has no connection whatever with any action taken on the Saratoga monument bill.

I will say in answer to the Senator from Missouri that we are doing a great many things at this centennial period that Clay and Webster and Calhoun and Benton never thought of doing and that there was no occasion for doing while they were in public service. At this particular period of our history, the centennial period, we should be moved to take a great many patriotic steps. Sir, I feel it my duty to do something to make Americans feel that they have a Government, and therefore I do not feel that I am showing any disrespect whatever to Clay, Calhoun, Webster, and Benton by offering at this centennial period my humble service in the direction in which this bill points.

Now, in regard to the disrespect to the living by indicating by this bill that there is a lack of patriotism in this country at this time, I will say that I am willing to take my share of the responsibility of making that indication. I think if we can by any means stimulate and increase the patriotism of our people it is our duty to do so. I think it is at a low ebb; I believe we are thinking too much of the affairs of every-day life, too much of ourselves, and if we can think a little more of the public good, it will be better for the country and for all of us. I speak for myself; the temptation is to think only of what immediately surrounds us, what is best for our personal interests, what most conserves our comfort, and I think if I can be inspired with more patriotism than I have had, it will be a very fortunate thing for me and a fortunate thing for the work I am trying to do as a public servant. I think if we say to any community that will raise $10,000 "We will give you $10,000 to enable you to erect a Revolutionary monument," we shall have done a very wise thing. There are probably not over half a dozen places in the United States where monuments will be erected.

I differ *in toto* with the Senator from Missouri on all the points he makes. It is no disrespect to men of the past for us to do things they were not called upon to do. On the semi-centennial anniversary of the birth of our nation men and communities were moved to great rejoicing and at this centennial period it becomes doubly our duty to interest ourselves in all the pageants, displays, and patriotic enactments and work which tend to inspire patriotism. I do not think the patriotism of the country is of such high type as to make it entirely unnecessary for us to stimulate it by all legitimate methods.

Mr. JONES, of Florida. Mr. President, without expressing any opinion just now in regard to the wisdom of this measure, I have a suggestion to make to the Senator from New Jersey who has it in charge with regard to that part of it which relates to the payment of money by this Government to the associations mentioned in the bill. Under the first section of this bill it is provided that for every dollar raised by any association the Treasury of the United States shall pay an additional dollar to aid the object——

The PRESIDING OFFICER. The hour of half past one having arrived it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. BURNSIDE. I ask unanimous consent to continue the consideration of this bill.

Mr. INGALLS and others. Regular order.

The PRESIDING OFFICER. The regular order is called for.

Mr. GARLAND. Mr. President——

Mr. CONKLING. If the Senator will pardon me a moment, let me suggest that the Senator from Florida is in the midst of a few remarks which he would like to conclude. I take it no Senator will object to that.

Mr. GARLAND. I have no objection.

The PRESIDING OFFICER. The Senator from Florida will proceed, there being no objection.

Mr. JONES, of Florida. The word "raised" here is not entirely satisfactory to me. The provision is that for every dollar raised by any of these associations the Treasury shall pay over a dollar to them. I think some more stringent provision ought to be in the bill. We know that subscriptions on paper are very frequently taken in enterprises of this kind as equivalent to actual payment. I think it ought to be provided, if it goes into operation, that for each dollar of money actually in hand the Treasury shall pay one dollar. I only make that as a suggestion.

### THE GENEVA AWARD.

Mr. GARLAND. A few days ago I gave notice that this morning I should call up the bill known as the Geneva award bill in case there was no appropriation bill to obstruct the way. The morning hour has expired now, and the order of the day is the Post-Office appropriation bill. I wish now to renew this notice for to-morrow, when the appropriation bill will be out of the way, and I hope the Senate will give me consent to-morrow morning to call up this important matter.

### PENSIONS TO SOLDIERS OF THE MEXICAN WAR.

Mr. WILLIAMS. I desire to give notice to the Senate that on Monday, after the conclusion of the morning hour, I shall move to suspend all prior and pending orders and take up the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 8th instant, approved and signed the following acts and joint resolutions:

An act (S. No. 939) to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws;

An act (S. No. 286) for the relief of John S. Cunningham;

An act (S. No. 1133) granting a pension to Michael Hayne;

An act (S. No. 1573) to provide for the furnishing of certain public documents to soldiers' homes;

An act (S. No. 1805) relative to the revolutionary battle-field of Bennington;

A joint resolution (S. R. No. 146) to provide for printing and distributing the index of the CONGRESSIONAL RECORD semi-monthly; and

A joint resolution (S. R. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug.

### THE PONCA INDIANS.

Mr. DAWES. Mr. President, I ask the attention of the Senate for a few moments to a matter which, in some aspects, is somewhat personal to myself.

The PRESIDING OFFICER. The Chair hears no objection, and the Senator will proceed.

Mr. DAWES. There was yesterday laid upon the desk of each of the Senators a printed letter of fourteen pages, directed to me personally in the Senate, dated at the Interior Department, and signed by the Secretary of the Interior. It is a criticism upon some remarks which I made here in the Senate recently, and also upon my course as a Senator. I have reread those remarks since this letter has been laid upon the desks of Senators, and I find nothing in them which I desire to qualify or withdraw; on the contrary I reaffirm everything I said on that occasion.

What I have said and what I have done has been in the discharge of a public duty from which I do not intend to be deterred by any such proceeding as this. To this body and to those who sent me here I am accountable for the manner in which I discharge my duty here; but I am not accountable to any executive officer of this Government. So far as in this letter the facts stated in those remarks are called in question, I have only to say further that they are capable of proof by the record. The records of the Interior Department and of the Senate prove them incontrovertibly. So far as those statements rest upon personal memory, this letter has only succeeded in putting the memory of one man against that of another, and no amount of allegation can carry it further or demand from me further reply. I submit a reaffirmation of them all to the judgment of the Senate and the country.

The Secretary of the Interior is restive over the public criticism of his connection with the Ponca business, and those acquainted with the facts do not wonder. I ask the indulgence of the Senate but a few moments to go once for all to the bottom of the Ponca business; the steps are few but certain; and when I shall have reached the bottom of it, the public judgment will have no difficulty in assigning to the author of this letter his proper position in that court where men on trial get their deserts; and whatever that position may be, I am certain it will not be that of public prosecutor.

One thing is admitted by everybody, and that is that a great wrong was inflicted upon the Ponca Indians by their removal to the Indian Territory. The President of the United States admits it, and that it is so grievous as to justify a special message to Congress urging redress of this great grievance during his administration. The Secretary of the Interior admits it, and in this letter boasts that he is the first discoverer of it, a boast that those who are acquainted with the facts will not be inclined to withhold from him. A commission sent by the President to the Indian Territory to inquire what justice and humanity demanded, came back with their report setting forth that great wrong. What is that wrong, and who is responsible for it, are the questions to which I ask the attention of the Senate. The key to it is found in these three lines of a statute of the United States attached to an appropriation bill:

*Provided, further*, That the Secretary of the Interior may use of the foregoing amounts the sum of $25,000 for the removal of the Poncas to the Indian Territory, and providing a home therein, *with the consent of said band*.

Subsequently $15,000 was added to this appropriation without changing its phraseology. If there has been any wrong committed by the removal, these words show what that wrong is; it could be in no

other way than because they were removed without their consent. If their change of abode, if the removal of these Indians to the Indian Territory and their retention there was with their consent, no one claims that there was any wrong committed. It is because they were removed without their consent that a wrong was inflicted upon them; and I pass to the second and only question to which I desire to call the attention of the Senate, and that is, who is responsible for that wrong?

Under this act of Congress, on the 15th day of the last January of the last administration, six weeks before it went out of power, an agent was sent with written instructions to the Ponca Indians to negotiate for that consent. He made a sorry job enough out of his negotiation. It lasted until the 4th of March, when this agent passed under the control and into the service of the present Secretary of the Interior, the author of this letter. He had accomplished on that day only enough to demonstrate that their consent could not be obtained, and that information was laid before the Department.

The Secretary pleads ignorance of the subsequent outrage which constitutes this wrong. I propose to show by the records in his own Department and the records of the Senate that he not only was conversant with every step in it but that with full knowledge of it all laid before him he ordered it to be done.

On the 5th day of March, 1877, when the present Secretary of the Interior took up the work and took control of the agent, every Ponca Indian was in his home in the Territory of Dakota and on his reservation, for which he had an indefeasible title, then and there protesting his desire to remain in his home. Every step thereafter almost daily was communicated to the Interior Department, mostly, it is true, to the Commissioner of Indian Affairs, until the process of forcing the Poncas out of their territory had come to create such a disturbance in this peaceful tribe as to attract the attention of all the peaceful inhabitants of Dakota and of Nebraska in the midst of whom this tribe had had their home for one hundred years, and thereupon they made these representations to the Secretary of the Interior and not to the Indian Bureau.

Alfred L. Riggs, a missionary among them, and now laboring in his work within a few miles of their old abode, whose letter I have before me, wrote on the 20th of March, 1877, to the agent there, setting forth that the Poncas were wholly opposed to going, that the act of Congress under which they were to be removed made the condition that the removal should be with their consent, and stating the wrong about to be inflicted upon them; and the agent on the 22d of March inclosed that letter to the Secretary of the Interior.

On the 10th of April, 1877, Mr. H. Westerman, treasurer of Knox County, in Nebraska, bordering upon this reservation, writes to the Secretary of the Interior:

SPRINGFIELD, DAK., *April* 10.

HON. CARL SCHURZ,
*Secretary of Interior, Washington, D. C.:*

The Ponca Indians do not wish to be removed. They have not made a treaty for their lands, but are to be forced off.

The treaty of 1865 cedes and relinquishes to them the lands they now occupy (see U. S. Statutes at Large, volume 14, page 675, article 1,) and gives them right and title thereto.

Please order a suspension of their removal until you receive papers already forwarded setting forth their rights in full. Answer.

H. WESTERMAN.

On the 3d day of April, he had written more fully to the same Secretary of the Interior, thus:

NIOBRARA, NEBR., *April* 3, 1877.

DEAR SIR: Allow me to call your attention to the Ponca Indians in their poor and helpless condition—about seven hundred and fifty human beings, who have a right to be heard by the Government. The Indians have lived more than a hundred and fifty years where the present reservation is, and for the past eighteen years, I know from personal observation, have been friendly to the whites and the Government. They are more advanced in civilization during this time than any other tribe of Indians I know of, although the Government has done less for the Poncas than for any other Indians.

Lately an agent came from Washington to make a treaty with the Poncas for their removal to the Indian Territory. The Indians do not want to go there. Now, why not leave them where they are? The Ponca Indians have been more protection to the settlers on the frontier of Nebraska than if a regiment of soldiers had been stationed there.

Reform is necessary, particularly in the Indian Department. I have seen agents and committees sent from Washington, who never heard any complaint, but were received by some of the "ring," who took good care that nobody could see them. They returned to Washington and reported nothing. It seems to me the removal of the Poncas is a put-up job by some who want to make money, and some parties in Yankton, Dakota, to secure a market by locating the Sioux where the Poncas are now, and prevent the development of Northern Nebraska. If we are to have Indians on our border, let them be friendly and not hostile. I hope you will issue an order to leave the Poncas on their present reservation, and appoint a committee of men who live on the frontier of Nebraska to examine and investigate this matter; among them I would suggest Joseph Holman, whose name is attached to the treaty made twenty years ago.

Very respectfully, yours,

H. WESTERMAN.

HON. CARL SCHURZ,
*Secretary of the Interior,*
*Washington, District of Columbia.*

And he asks the Secretary to inquire for his respectability and reliability of "Hon. A. S. PADDOCK, United States Senator; Hon. ALVIN SAUNDERS, United States Senator; Hon. Frank Welch, M. C.; Hon. P. W. Hitchcock; Hon. John Taffe; Hon. A. W. Hubbard, president First National Bank, Sioux City, Iowa." And then on the 10th he sent further the letter to the Secretary that I just now read. The same Mr. Riggs to whom I before referred, on the 19th day of March, 1877, wrote to the Secretary of the Interior setting out all these facts in a letter which I will read, so that the Secretary may have no difficulty in finding it:

To the Hon. SECRETARY OF THE INTERIOR, *Washington, D. C.:*

We respectfully call your attention to some facts and circumstances connected with the proposed removal of the Ponca Indians to the Indian Territory which demand your immediate attention.

1. The Poncas have a clear right to the land on which they now are; the right of original possession, guaranteed by two treaties with the United States.

2. They have never relinquished that right, any reported agreement to the contrary notwithstanding.

3. They are wholly opposed to moving to the Indian Territory. Out of deference to the wishes of the Government they were willing to go and look at it, but their visit has confirmed their determination never to move. If they must die, they will die by the graves of their fathers.

4. The act of Congress of 1876, by which their removal was authorized, and $25,000 appropriated for that purpose, expressly provides that it is to be done "*with their consent.*" The appropriation bill of the last session added $15,000 to the former sum, but did not change the condition then imposed.

5. The ostensible reason for the removal of the Poncas—the hostility of the Brule Sioux—is without good foundation; for though they are now enemies, closer neighborhood and the control of the United States authority would quickly make them at peace. The Yankton and Santee Sioux were once at war with the Poncas, when they were living at a distance; but when they came into close proximity neither party could afford war with their next-door neighbor, and they made peace.

6. The white settlements near the Poncas would rather have them than the Brule Sioux for neighbors.

7. The arrangements for their removal are being made with such haste and in such a way, without the advertisement usually required, that the popular impression is that there is something "crooked" in the transaction.

We are therefore convinced that great wrong will be done these Indians and more disgrace accrue to our country by such ruthless disregard of our obligations. And we believe that none would more deeply regret the inevitable result than the honorable officers of the bureau under whose authority the work is being done.

We ask that at least a stay be put upon this movement by telegraph until it can be properly looked into by the Government.

Your obedient servant,

ALFRED L. RIGGS,
*Missionary of the American Board, Santee Agency, Nebraska.*

MARCH 19, 1877.

At the bottom of this letter is this indorsement:

I hereby certify that (though not knowing to all the facts above stated) I do know that the Poncas as a tribe are bitterly opposed to removal. Believing it would be an outrage to drag them even to a better country, I join in the petition for further investigation. There must be some misunderstanding.

JOHN P. WILLIAMSON,
*Missionary of the Presbyterian Church, Yankton Agency, Dakota.*

MARCH 19, 1877.

To this was added:

We are glad to indorse the above, with the hope that the Department may be induced to order a delay until proper inquiry can be made.

JOSEPH WARD,
*Pastor Congregational Church, Yankton, Dakota.*
JOEL A. POTTER,
*Ex-Mayor of Yankton.*
J. C. McVAY,
*President First National Bank, Yankton.*

YANKTON, DAKOTA, *March* 21, 1877.

On the 21st day of March these same two missionaries telegraphed to the Secretary of the Interior:

[Telegram.]

YANKTON, DAKOTA, *March* 21, 1877.

The Hon. SECRETARY OF THE INTERIOR, *Washington, D. C.:*

Please order stay of proceedings in removal of Poncas until inquiry is made. Removal is against their wishes, and violates two treaties. Particulars mailed.

A. L. RIGGS,
*Missionary, Santee Agency.*
JOHN P. WILLIAMSON,
*Missionary, Yankton Agency.*

E. C. Kemble, the United States Indian inspector, on the 22d of March laid the following letter before the Department, addressed to him by Mr. Riggs:

DAKOTA MISSION, AMERICAN BOARD,
*Santee Agency, Nebraska, March* 20, 1877.

DEAR SIR: Yours of March 16 reached me last night. I thank you much for your full free letter. I am glad to hear from you, and glad to have the opportunity to give you a full explanation of my position on the Ponca question, past and present. I had nothing to do whatever with encouraging the Poncas to hold out against the Government. I have had no opinion on the case until recently, and what I have to say I say to the United States authorities, and not to the Indians. Some of the Ponca chiefs came down to see me the week you were conciling with them; but I was away at Yankton, buying lumber for my new young men's hall, and I was glad of it. They, however, sent a delegation to see me, after they had started with you, to request me to write to Washington for them, which I did and received their answer; but they have never called for the answer.

I think you are mistaken about Indians from our mission going up to stir up trouble. There is only one who could do it, and I am sure he has not been up there for a long time; I think not since your big council. I asked only last Saturday about it.

I presume the Poncas are themselves more hostile to the removal than you think. Yesterday I wrote a letter to Washington on the Ponca matter. I sent it to Rev. J. P. Williamson, asking him to sign it with me. I will tell you all there is in it. But I will first tell why I sent it at all. I had to come to the conviction that the Department is laboring under a misconception of the case, and consequently are compelling you to do things that will work wrong to the Indians, and disgrace the country. I expressly say in my letter that I believe the honorable officers of the bureau, under whom this work is being done, will regret as much as any one the inevitable result. I have written substantially as follows: "First. The Poncas have a right to the land they now occupy, the right of original possession guaranteed by two treaties." Second. They have never relinquished the right; certainly a documentary title cannot be conveyed without "signing it away," which the Poncas have not done. Nor did they understand your verbal agreement with them as you understood it. "Third. They are wholly opposed to going." "Fourth. The acts of Congress on which they are removed make the condition that it shall be with their

consent." Fifth. The ostensible reason, the hostility of the Brule Sioux, is without good foundation. You yourself urge that they have been watching against these Sioux to the detriment of their farms. Sixth. The neighboring settlements much prefer that the Poncas should be near them rather than the Brule Sioux. By this I did not mean that all were opposed, but rather that they were decidedly opposed. Seventh. The arrangements for their removal are being pushed with such undue haste and in such a way, without the usual advertising for transportation, that the popular impression is that there is something "crooked" in the transaction. It may be said in answer that haste was necessary. True enough; but there was no necessity precluding the advertisement in the Yankton Daily three or four times.

I state above that such is the popular impression, as is undoubtedly the fact. I have not, however, intended to reflect on your integrity by making such a report, and I may not have guarded it in that particular as I should; of course if the popular impression is correct it does reflect on your judgment. But if wholly incorrect you are wholly vindicated, even in that particular; that is practically so.

Now I have told you the whole—the very worst—that I have thought or said. But I fear that I am too late, and that my protest will come to nothing. It may be best for the Poncas to go south, even if half of them die, as the Pawnees have died; but they should be convinced and be brought to acquiesce in a way they have not done as yet.

If I have done you any wrong in what I have written it is because I had been thinking more of the case of the poor Poncas than of anybody else.

I had also written to some gentlemen of Yankton, my friends, to get their assistance in the matter of my protest. I have therefore sent them your letter this morning, so that they can see both sides of the case, and so that I should do you no injustice.

Allow me to say that I regret, for your own sake, that you have got into that Ponca business, and I sincerely trust you may get through with it safely and righteously.

Your friend,

ALFRED L. RIGGS.

Colonel E. C. KEMBLE.

In their distress these Indians sold thirty ponies and employed counsel to come on here to Washington and personally intercede with the Secretary of the Interior for permission to remain in their old home. That lawyer left on the 20th or 21st of April. I now read his testimony before a committee of this body:

A. I think I left there about the *20th or 21st of April*. When I got here I found Senator PADDOCK, of our State. I had expected to find Senator SAUNDERS, who had just lately become Senator. I thought that if I stated the matter to them they would have an investigation made. I brought letters of introduction with me. When I got here Senator SAUNDERS was not here.

Q. Was Congress in session then?

A. No, sir; Congress had adjourned. In the spring of 1877 there was no session of Congress after the 4th of March. Senator PADDOCK went with me, and we called on the Commissioner of Indian Affairs—Commissioner Smith. I represented the matter to him quite fully, and explained to him that I thought there was no question, and that the citizens out there thought there was no question, that advantage was being taken of these Indians; that the agent and officers there were not reporting the facts: that the Indians never had agreed to leave their lands, but, on the contrary, were very much opposed to leaving them. Whatever was the agreement at the council before the chiefs went to the Indian Territory, it was certain that at this time, after the return of the chiefs from the Indian Territory, at the time they called upon me to act for them, they had decided that they did not want to go to the Indian Territory on any consideration. I explained to Commissioner Smith that the chiefs had been to the Indian Territory, and had become greatly dissatisfied, and left the men who had them in charge, and walked back, a distance of something like five hundred miles, to the Omaha reservation, in Nebraska.

Q. You explained to the Commissioner that the Poncas were utterly opposed to going to the Indian Territory at all?

A. Yes, sir; at that time, after the return of the chiefs.

Q. What did the Commissioner answer?

A. I do not think that he made any very decided answer at that time. We then called on Secretary Schurz and explained the matter to him.

Q. Who went to call on Secretary Schurz?

A. I went with Senator PADDOCK. I think Commissioner Smith came in while we were there. I fully explained the matter to Secretary Schurz. Senator PADDOCK vouched for my respectability, and said he had letters indorsing my statements from a number of men with whom he had been acquainted ever since he had been in the State. The Secretary at the first interview promised that he would look into the matter. I think it was at this interview, after this promise, that Commissioner Smith came in; and he made some remark to the effect that the agents were the sworn officers of the Government and that their reports must be the basis of all official action. I tried to induce the Secretary and the Commissioner—I am not sure whether at this interview or the next day—to delay action and select any man or men that they might have confidence in to go out there and investigate whether the Poncas were willing to go to the Indian Territory or not. Commissioner Smith for some reason or other was very desirous of their removal. The Secretary, however, was inclined at first to delay the matter and make an investigation; but he finally made up his mind that his official information was of such a nature that he ought to act.

This gentleman says that the Senator from Nebraska on my right [Mr. PADDOCK] took him to the Interior Department, introduced him, vouched for his reliability, and seconded his request that the Secretary would stay what was called this inhuman proceeding long enough to send a commission of one or more persons in whom he had confidence to the territory, to there investigate and satisfy him. I make this statement in the presence of the Senator from Nebraska, and if I fall into an error I know that the Senator will not hesitate to correct me. I assume, therefore, that in the main I am stating this transaction as it accords with his recollection.

Mr. PADDOCK. Mr. President, it is true, as stated in the testimony given by Mr. Draper, to which my friend has referred, that I did call with him upon the Secretary of the Interior in respect to this matter; it is true that at other times, when letters and petitions were sent to me, I did call to see the Secretary of the Interior upon the same subject, and did protest against the removal of the Poncas; but it is due to the Secretary of the Interior to say in this connection that always he manifested a disposition to do what seemed to be best and proper in the case, but at the same time he uniformly said that under the law which had been enacted before he came into the office of Secretary of the Interior he felt himself obliged to take such action as the law itself seemed to require, looking to the removal of these Indians to the Indian Territory. I felt it myself to be a very great hardship. At the time the law was enacted, I so expressed myself in the Senate very emphatically. It seemed to me to be a very improper thing to do; but there was a complication growing out of the treaty of 1868, which gave the great Sioux tribes that particular reservation, wrongfully, improperly, against all law and all justice, which seemed to make it necessary for the removal of the Poncas, and that was the plea on which the legislation was had. The legislation was wrong beyond any question whatever. That I must say.

Mr. DAWES. The Senator will observe that I am on a question of knowledge, and I simply would like to ask him if he did go with this gentleman and indorse his reliability? The law is plain.

Mr. PADDOCK. I did then and do now indorse his reliability.

Mr. DAWES. Then a reliable attorney-at-law, appointed by the Poncas and paid out of the very means of their livelihood, their own ponies, came here and set forth to this Secretary of the Interior the facts in this case, implored him to stay these proceedings long enough to ascertain for himself by special commission what were the facts in the case. I think I am authorized by the Senator from Nebraska on my left [Mr. SAUNDERS] to state to the Senate that he also appeared before the Secretary of the Interior and represented to him in substance that the Poncas desired to stay in their old home, that the white people round about them desired that they should stay, and that their removal against their consent would be a great hardship upon them.

Mr. SAUNDERS. Mr. President, I did so state to the Senator, I believe, and to others. I visited the Secretary of the Interior shortly after I came into the Senate, and shortly after he was installed into that office, once, I think, if not twice, with my colleague, and at one other time alone, and asked him to stay the proceedings in the case. I told him that the white people were satisfied with these Indians; that they were a peaceable tribe of Indians; that they had made it their boast that they had never shed a white man's blood, and, inasmuch as they were more industrious than most of the other Indians, there was a disposition on the part of the people of my State to let them remain undisturbed and finally become citizens. In fact, some of them were applying at that time for homesteads.

The statement was made to me that they did not want to go, that they wanted to remain where they were, and on that account particularly—for I had no interest in them—I made an appeal to the Department not to send them to the Indian Territory at that time.

It is due to the Secretary of the Interior to state, as has been stated by my colleague, that in answer to that the Secretary said he found when he came into office a law or an appropriation that had been made for that purpose, and he felt himself instructed, therefore, to carry it out, the money having been appropriated for that particular purpose.

I will state also that the Secretary of the Interior had other evidence on that subject; that he had learned that the Indians did want to go; that some parties had so stated to him. I gave him the best information I could, and I insisted that they ought not to be sent down there against their will and that I had heard they were not disposed to go. I thought there was a mistake made at that time. I thought so then and I think so now. At the same time, I wish to do the justice to the Secretary of the Interior of saying that I believe in the main the management he has put forth in regard to the Indians has been looking to their best interest, and particularly he has advised that they be made citizens and allowed to hold lands in severalty, so that they may finally become self-supporting. I approve everything he has done in that direction. I did not approve of the other action at the time and regretted exceedingly that he felt himself bound to take the course he did.

Mr. HOAR. I would like to ask the Senator from Nebraska for my own satisfaction and that of the public, one question. As I understand, the law which provided for the removal of the Ponca Indians contained this condition, "provided they give their consent." I understand that the Secretary of the Interior has repeatedly affirmed that he is now satisfied they did not give their consent, so that their entire removal was in violation of law. Now what it is desired to know is whether it be proved that the attorney of the Indians, vouched for by the Senator's colleague as a respectable and trustworthy person, went with the Senator's colleague to the Secretary before the order to press their removal was given, and informed him that they had not given their consent? That, I understand the Senator's colleague to state. Now what I desire to know is if the Senator also stated to the Secretary that from his information, derived from information from the neighborhood, he was satisfied that they had not given their consent?

Mr. SAUNDERS. I reiterate what I said before, that I had heard from citizens living in that part of the State that the Indians did not want to go, and I said so to the Secretary.

Mr. HOAR. The Senator expressed his own belief to that effect?

Mr. SAUNDERS. I did not go with this attorney, and I do not know anything about what he may have said; but I said to the Secretary that I believed the Indians did not want to go and that we protested—those were about the words we used—against their being sent away contrary to their will.

Mr. DAWES. I do not desire to be diverted——

Mr. CAMERON, of Wisconsin. If the Senator will allow me to ask him a question, what official information, if any, was in the Department at the time the order for the removal of the Poncas was made in regard to their consent to such removal?

Mr. DAWES. If the Senator will keep me in mind of that interrogatory, I will answer it before I conclude. I am not to be diverted from the question, whether the Secretary was ignorant of the subsequent outrage or not. There was no outrage at all if the Poncas gave their consent. The law authorized their removal upon one condition, and one only, and unless that was complied with they could no more be removed from their land than I can from mine. It was because of the violation of that condition that an outrage admitted by the Secretary of the Interior was committed. I have shown that when the Secretary came into office, assumed control of this agent, and took him into his service every Ponca Indian was on his proper territory. They were removed after that. If by their own consent, no outrage was committed. If without their consent, the outrage was committed. That the Secretary knew all the facts that make up the outrage is what I am trying to impress upon the Senate. I have it from all these representations to him now on record in the Department. I have it from the statement of their own attorney, vouched to be a reliable man. I have it further from the man who did the act. He got disgusted with his work, there was so much interference with him. Although he entered with zeal into the work of removing them without their consent, yet the interference with him was so great that he became disgusted and telegraphed to the Department to stand firm. The Department at first, on the representation of this attorney, felt disposed to make investigation, but the next morning informed him that the work must go on. The agent stopped in his work and came to Washington. Let us hear what he said on the 12th day of February, 1880:

I saw the Commissioner of Indian Affairs, and with him saw the present Secretary of the Interior, before whom I stated all the facts, giving all the information in my possession, submitting to them the whole case, and asking them what should be done. I was by them told to put my communication in writing; but before doing so I learned from the Secretary that the Poncas would be removed, and that, if necessary—

I call the attention of the Senator from Wisconsin—

and that, if necessary, troops would be called upon to enforce the removal.

He put his statement in writing and signed it; it is on file in the Interior Department; and in that he declares it to be his view that they should be removed and troops used if necessary. He returned to his work, and the Commissioner telegraphs him his approval. He stops in Chicago, at the headquarters of the Army, and there learns that troops would be sent him by boat; goes back to his work and completes it with forty soldiers, between whom were marched these Ponca Indians out of their home and to the Territory.

Was the Secretary ignorant of this outrage? This is the outrage; there is no other laid to anybody's door. Who is responsible for it if the man who ordered it done is not? Out of this unlawful enforced removal of these men grew this wrong, and the purpose to do it carried along with it all the unlawful outrages that have followed. There was no authority of law for doing what was done, and Congress has in no particular ratified that act. It is an unlawful act to-day, and all that flowed from it is unlawful. There is, I answer the Senator from Wisconsin, no other evidence in the Interior Department, if we can rely on the call upon it for information, that shows any consent whatever.

I repeat that to claim that they gave their consent is to dispute the wrong itself, which is admitted by the Secretary. The purpose to, in violation of law, take these Indians to the Indian Territory runs through all subsequent acts. Out of it grew the imprisonment of the two brothers in Dakota. Out of it grew the seizing by soldiers, in the peaceable home of the Omahas, of Standing Bear and his associates. Out of it grew the imprisonment of Big Snake and his two associates, for three long months, in order to overawe his people unlawfully held in the Territory. Out of it grew the subsequent attempt by soldiers without authority of law to manacle Big Snake in the office of the agent, in which he was slain. Out of it grew the arrest of friends of these Poncas, paying them friendly visits for friendly offices, and the marching them out of the Territory. Out of it grew a determination on the part of those who inspired and did it to obtain from Congress an enactment that would fix these prisoners by a law in the Territory. In 1878 this Secretary sent to the Indian Committee a bill enacting that his prisoners should be taken off his hands and held by law in the Territory. And now that diplomacy coming in to the aid of force has proved too much for these Indians, it is boasted that fifty millions of civilized people have been more than a match for five hundred barbarous Poncas, and have wrung out of them, out of their very despair, their consent to remain in the Indian Territory. When the President, moved by a public doubt in this matter, sent a commission to the Territory to make plain the real condition of things and to report to him, (I use the words of the commission,) what justice and humanity required to be done, they, on the ground, while meeting evidence from the lips of the Indians that they were willing to stay there, felt that justice and humanity required that in any redress of grievances they should be permitted to choose their home either in the Indian Territory or in Dakota. The President, in that manly message so creditable to his head and his heart with which he communicated to Congress that report, urged upon Congress that redress, but upon the condition that the Poncas should have free choice of their home in the Indian Territory or in Dakota.

Thereupon the man who set in motion this work held these men under the strong power of the Government, to use the language of General Miles, as prisoners, undertook to arraign the commissioners before a committee of this body for recommending that these men have permission to seek their home in either the Indian Territory or in Dakota as they chose, and has prepared a bill and sent it to a committee of this body providing that it shall not be lawful for them to choose their home between the Indian Territory and Dakota, and no relief can come through Congress to them which contains that free choice except it be over the opposition of the man who signs this letter.

Sir, this is the record of the Ponca Indians; this is the true character of that proceeding out of which this great wrong was inflicted upon that people. I have shown who, with full knowledge of these facts, ordered it to be done. I have shown who, in carrying out that purpose, has laid violent hands upon human rights for the last three years; and I have shown who it is that stands now in the way of all redress to that people that does not take away from them the right to choose their home, whether it be in the Indian Territory or at their old home in Dakota.

The man who has this record upon his official acts will take his place in the court where men's acts are tried not in the prosecutor's chair. He is the last man to arraign a Senator in his place for the discharge of his official duty. To the criticisms of this Senate, in which I have had a seat for six years, and above that, to the criticisms of that Commonwealth which has trusted me so long and so much, I will ever bow; but I will not listen to the man with this record upon him who comes to arraign me for my official acts. I submit to the Senate whether it is becoming such a man to stalk into this Senate Chamber, with the mace of executive authority in his hands, and attempt to lecture a member of this body upon the manner in which he discharges his duty here.

Mr. INGALLS. Mr. President——

Mr. WALLACE. I ask for the regular order.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Chair will first lay before the Senate some bills from the House of Representatives for reference.

### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 1102) granting a pension to John S. Corlett;

A bill (H. R. No. 4610) granting a pension to Mary Leggett; and

A bill (H. R. No. 5677) granting a pension to Stephen P. Benton.

The bill (H. R. No. 6535) to allow marshals and deputy marshals to take bond in certain cases was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 3520) to establish a port of delivery at Indianapolis, in the State of Indiana, was read twice by its title, and referred to the Committee on Finance.

### KANAWHA RIVER TOLLS.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas appropriations have been made for ten years past by Congress for the improvement of the Great Kanawha River of West Virginia under the direction of the War Department; and

Whereas a company calling itself the Kanawha Board, under some pretended authority, not of Congress, assumed to levy and collect tolls on the commerce of said river from the town of Charleston to the mouth of the river flowing into the Ohio: Therefore,

*Resolved*, That the Committee on Commerce be directed to inquire into the fact and authority of the said Kanawha Board's levy of tolls on navigable waters of the United States accessible from other States and waters than those of West Virginia and to report such remedy as shall seem expedient.

### PRESIDENTIAL ELECTION.

Mr. WALLACE. I gave notice on Wednesday that I should ask the Senate to hear me this morning upon the constitutional amendment submitted by myself. I yielded the floor to the Senator from Massachusetts [Mr. DAWES] for a personal explanation, and I trust the Senate will permit me to go on now in accordance with the notice heretofore given.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. WALLACE. Mr. President, on the 28th of January last I had the honor to submit for the consideration of the Senate joint resolution No. 148, proposing an amendment to the Constitution of the United States, which is in these words:

That hereafter the President and Vice-President of the United States shall be chosen by the people of the respective States in the manner following:

Each State shall be divided by the Legislature thereof into districts, equal in number to the whole number of Senators and Representatives to which such State may be entitled in the Congress of the United States, the said districts to be composed of contiguous territory, and to contain, as nearly as may be, an equal number of persons entitled to be represented under the Constitution, and to be laid off for the first time immediately after the ratification of this amendment, and afterward at the session of the Legislature next ensuing the apportionment of Representatives by the Congress of the United States; but no alteration after the first or after each decennial formation of districts shall take effect at the next ensuing election after such alteration is made. That on the first Tuesday in the month of November of the year 1884, and on the same days in every fourth year thereafter, the citizens of each State who possess the qualifications requisite for electors of the most numerous branch of the State Legislature shall meet at the places provided by State law within their respective districts and vote by secret ballot for a President and Vice-President of the United States, one of whom at least shall not be an inhabitant of the same State with the voter; and the person receiving the greatest number of votes for President and the one receiving the greatest number of votes for Vice-President in each district shall each be holden to have received one vote, which fact shall be immediately certified to the board

of canvassers of the State, to each of the Senators in Congress from such State, and to the President of the Senate. The votes shall be canvassed and the result in each district ascertained from the returns by the governor, the chief justice of the highest court of law, and the secretary of State of the proper State, who shall constitute the board of State canvassers, and they shall certify the result in said State to the Speaker of the House of Representatiqes of the United States within sixty days after the election, and their certificate shall be conclusive proof of such result. The Congress of the United States shall be in session on the second Monday in February, in the year 1885, and on the same day in every fourth year thereafter; and the Speaker of the House of Representatives, in the presence of the Senate and House of Representatives, shall open all the certificates, and the votes shall then be counted by the two Houses in joint convention met. The person having the greatest number of votes for President shall be President, and the person having the greatest number of votes for Vice-President shall be Vice-President of the United States.

This amendment contemplates a change in that provision of the Constitution of the United States which regulates the election of President and Vice-President by substituting for the electoral colleges a direct vote of the people for the candidates themselves. The electoral college has failed to answer the purposes for which those who originated it intended it. It was thought at the time of the formation of the Constitution that the substitution of a body of intelligent and leading citizens between the people and the candidates would enable the country, in the event of difficulty, to depend upon their judgment, integrity, and high position for the solution of those difficulties. The reverse of this has proved to be the fact in practice. Party discipline, party caucus, and the recognized will of party control, compel the electors to vote for the candidates named in their party caucus. It is the purpose of this resolution to substitute the will of the people directly expressed for this system. I submit it now with no hope of its immediate adoption, but as a contribution to the agitation from which alone a change can come.

The features of the system are:

First. The division by the Legislature of each State into districts, equal in number to the whole number of Senators and Representatives to which such State is entitled in Congress. Delaware, for instance, would be entitled to 3 votes, and would be divided by its own Legislature into three districts.

Second. The people are to vote in these districts, at an uniform time, directly for their candidate for President and Vice-President, one of whom, as at present, shall not be a citizen of the State in which the voter resides.

Third. The person having the highest number of votes in each district (a plurality being sufficient) to be entitled to one vote out of the whole number to which the State is entitled. Pennsylvania having 29 votes would have probably cast 10 democratic and 19 republican votes at the recent election.

Fourth. The returns of these votes to be made to the governor, chief-justice, and secretary of State, who shall canvass and return the same, which shall be conclusive proof of how the State voted.

Fifth. The votes thus returned to be counted by the two Houses in joint convention met.

Sixth. The person having the highest number of votes from all of the districts voting (a plurality being sufficient) to be elected.

Seventh. The qualifications of voters, the division of the State into districts, and the canvass of individual votes to be under control of the State and the mode of voting to be the secret ballot.

The districts are to be formed after each census of the United States has been taken, and are first to be formed immediately after the adoption of the amendment. No change in the districts can take effect at the first election after such change.

The qualifications of electors, as now prescribed by the Constitution of the United States for members of Congress, are preserved, and the universality of a secret ballot is enforced. The votes cast in each district by the electors, when computed by the election officers, are to be returned to the State canvassing board, and whoever shall have received the highest number of votes in such district shall be held to have received one vote. The whole number of votes cast for each candidate in all the districts in any State are to be ascertained by a canvassing board, composed of the governor, chief-justice, and secretary of State, and they are within sixty days after the election to certify the number of votes by districts received by each candidate in each State to the Speaker of the House of Representatives. This return is to be the only and conclusive proof of the result in that State. The returns thus made to the Speaker of the House are to be laid before the two Houses in joint convention met, at the usual time, and they are authorized and empowered there to count the vote and determine the result. The candidate for President and Vice-President, respectively, receiving the highest number of votes out of the whole number of districts voting, shall be declared elected President and Vice-President of the United States, thus substituting the plurality vote both in the districts and of the districts for the majority rule of the States or of the electoral colleges which is now in operation.

It will be noted that this system changes, first, the electoral college to a direct vote by the people in districts; second, the plurality or majority in each district contribute one vote to the election of President and Vice-President directly; third, the State has entire control of the elections and the certificate thereof to Congress; fourth, the two Houses, acting together, are given sole power to count the votes; fifth, the necessity for a majority of the electoral college and for action in any event by the House of Representatives voting by States is dispensed with, and the plurality rule by districts adopted.

The district system is no new thought in the politics of this country. It found its origin in the constitutional convention of 1787, on the motion of Judge Wilson, of Pennsylvania, and it was initiated in Congress in the very early days of our history. It has been elaborated and enforced from time to time by leading Senators and members of the House, as an abstract of our history, which I give herewith, will prove:

This is not a process of entire and absolute consolidation by a direct vote of the whole people of all the States, but it is a vote by the people, in the districts made by the State, directly for the candidates, which votes are to be returned to State authority and conclusively certified thereby as the result of State action. In this respect it is as different from an universal vote throughout the whole country ascertaining results by its aggregate as is the present system from a direct vote by the people.

One of the leading purposes to be attained by this amendment is representation of the minority in each State, and as a consequence the destruction and absolute eradication of sectionalism. Under this system in the last election Pennsylvania would have probably chosen nineteen electors for Garfield and ten for Hancock, while Virginia would have given eight for Hancock and three for Garfield. It is simple and direct, but it professes to contain no new thought. It is the mere application of what we have come to recognize as the American system of elections to the practical working of the Federal Constitution in the election of President and Vice-President.

In the elections of our county and State officials as well as in the election of members of Congress, the person having the highest number of votes, whether he have a majority or a minority, is the chosen candidate, but at present under the Federal system a majority of the whole electoral vote, or of the States in the House of Representatives, is required. I can see no sufficient reason now for this difference, if the just voice of each State can be preserved. Our experience teaches us that there is no longer any necessity for the continuance of the rigid majority rule. State equality in the Senate and State independence in its vote are, by the district system as herein embodied, fully preserved.

I can see no practical reason for compelling a majority of all the States, as such, to be obtained either by the useless processes of the electoral colleges or, failing that, of the vote by the House of Representatives by States, with all its dangers of civil war, corruption, and anarchy. The preservation and recognition of the equal and independent voice of each State and of the minority as well as of the majority of its people is to my mind the vital thought, and although a plurality elects, my judgment is that we will as frequently elect a majority President under the district system as under the system now in operation.

There can be no good reason, as I see it, why a plurality of the American people should not control when they have fair opportunities and free suffrage in the selection of their rulers; nor can I conceive any reason why it is essential now to preserve the old thought that a majority of the States should cast their electoral votes for any candidate before there is an election, in face of the fact that he is often in a minority of the whole people. Under the present system there are many instances in which while the candidate elected has a majority of the electoral colleges he has a minority of the people. This was notably the case in 1876, as it was in 1860 and is in the recent election to a smaller extent. It seems to me better to err in the other direction if we must err at all. For all purposes needed to effect Federal results, the thought that is embodied in our every-day practice in electing township, city, county, and State officials and Congressmen can now well and profitably be embodied in the Federal Constitution.

The lesson of the election just completed by the count by the House this week is full of instruction. There are 369 electoral votes. Garfield received 214, Hancock, without Georgia, 144. If New York had cast her 35 votes for Hancock, the vote of Georgia would have been required to decide the contest, or the House would have been compelled to elect, for with New York voting for Hancock there would have been a tie at 179 votes, and a tie in the House voting by States would probably have resulted; and thus the peace of the country might have been broken by the tremendous convulsions consequent on such a condition of affairs. The plurality rule would obviate all this.

By this amendment the States are not divided into districts upon the ratio on which their representation in the lower House of Congress would be fixed, but there is given to each State as such, in addition to its representation in the lower House, her equal representation in the Senate. So that while New York has thirty-three members of the lower House, she has 35 votes for President; and while Rhode Island has but two members of the lower House, she has 4 votes for President. By this is preserved State individuality and State control, and to my mind sufficient of the Federal system, if we stand by the plain reading of the Constitution in other respects.

The correction of the vicious system of marked ballots is provided for also by prescribing a secret ballot, and although this enters the domain of State control, its wisdom as well as its necessity seem to me to be apparent.

The danger so apparent to us all in recent years of anarchy and confusion from the doubts as to the true method of counting the votes for President and Vice-President, and from disputes as to who

shall control and declare them, is provided for by the return of the State being made conclusive proof and by Congress being made the controlling power when in joint convention met.

These are some of the thoughts to which this amendment gives force. I shall endeavor now to elaborate them further and to meet some of the objections to this system toward which I have no doubt the minds of Senators are tending.

The present system of choosing electors is based upon the constitutional provision that "each State shall appoint, in such manner as the Legislature thereof may direct," its electors for President and Vice-President. The power of the State Legislatures to appoint electors themselves, to authorize the people to choose them by ballot upon general ticket, and also to choose them in districts, is given by this provision. In practice and as a result of popular opinion, they are now chosen by the people in every State upon general ticket; but our history has seen all three of these modes of choice in operation at one time. Instability and opportunity for chicane and management, therefore, exist, which, in so grave a matter, are dangerous in the extreme, and an uniform system of universal application, and under whatever control, is manifestly better under existing conditions than this complex arrangement. An uniform system is better than a triple system, as popular will is better than either electoral or legislative will. The power of party and the sectional line have made the electoral system an utter failure, and our people will not tolerate the choice of their rulers by the Legislatures. We are left, then, to but the two systems, the universal direct vote of the whole people or a direct vote of the people under State control by districts. The first and greatest difficulty in the way of an universal direct vote of the whole people of all the States is that it is utter destruction of the federative system and produces practical consolidation. By it, State lines are obliterated and State independence and equality are lost sight of. Under it a few populous States voting for a candidate popular there, would overwhelm the remainder, or by the division of their people a small State giving a large majority for one candidate would outweigh the voice of many larger ones. In the late election the majority in Texas for one candidate was greater than the aggregate majorities in New York, Pennsylvania, and Ohio for the other.

The preservation of the federative system utterly forbids the universal direct vote. It would not aid in the destruction of sectional feeling, but the very reverse, for the tendency of majorities is always to grow, and when based upon passion or interest, sectional majorities invariably increase. Such a rule would perpetuate bitterness, for the result would demonstrate that there was a nearly equal division of the people of one section and a decided preponderance of those of the other which would overcome the former. An universal direct vote can never be had, except under a new compact in which the smaller States will agree to surrender their equality and independence, and this is neither desired nor desirable.

Under the system of a direct vote by districts, each State has precisely the same relative weight as now. Pennsylvania would cast twenty-nine votes; she has now twenty-nine electors and twenty-nine members of Congress. Rhode Island would cast four votes; she has now four electors and four members of Congress. It is true that in the election by the people in districts a part of the districts would vote for one person and a part for another, so that the result would be to some extent national more than State; but this is the case with members of the House of Representatives now, and the small States have due and full weight and power in the fact that the large States are nearly all closely divided in politics, and the votes of the districts will follow in nearly the same proportion. A gerrymander is the only argument against this, but even the worst of gerrymanders is preferable to the dangers and evils of the present system.

It has been well said that—

> Under the present system, the State voting solidly, there is great temptation to fraud. Where the condition of parties is nearly balanced in a State, a successful fraud may determine the vote of the whole State. This puts the whole votes of States in the hands of the large cities. The material with which to perpetrate frauds predominates especially in large cities, such as New York, Philadelphia, Boston, Baltimore, Cincinnati, Saint Louis, and New Orleans. Under the district system the frauds in the large cities would only affect the vote in the district in which they occurred, and could not, in their consequences, extend to the vote of the whole State. But under the present system the successful city fraud may determine the vote of the whole State.
>
> Where the fraud will only affect the vote of a single district, the temptations to commit it are greatly diminished. Men will not take the risks and incur the expense of committing a great fraud to carry the vote of a single district, which they would do if the result of the fraud was to determine the vote of the whole State, and perhaps secure the election of a President.

The electoral system is an election by States and not by the people, and in effect prevents the voter from expressing his choice for President unless he follows party caucus or convention, and even then he cannot vote directly for the man of his choice. This rule works results which are more aristocratic than republican. Sectional lines will be broken up by the district system, and "a promiscuous division of sentiment extending over the whole nation and not capable of being delineated by State lines or the course of rivers" will take the place of a solid North and a solid South. Geographical locality will not so completely identify the political character of the voter as now, for each candidate will find votes in every section.

Mr. Pickens said in the House in 1814:

> By any mode of giving an *entire vote* to each State the will of the majority of the people of the Union is not certain to prevail. A State however divided will give the same united vote with a State however unanimous.
>
> A reason against any mode of giving the undivided vote of the States, of all others the most important, and most affecting the vital interests of the Union, is its tendency toward *a geographical severance of parties*. By the principle of self-defense all the States must adopt such a mode, unless a uniform plan is established; indeed, they have nearly all so acted at the late election as to give unanimous votes; and by this means a whole section of the Union, with a small exception, voted for one individual while the opposite section supported his opponent, and these sections are divided by regular *State lines*. Now does a Chief Magistrate so elected appear to represent the whole Union; and will not a small number of repetitions of such events naturally draw the opposite parties in looking toward their opponents to look directly across this divisional line?

A direct vote of the people for the candidate of their choice is their right, and the electoral system was a device of those who did not trust the people, to deprive them of this right. The electoral plan was regarded with suspicion and aversion by the adherents of Jefferson. Alexander Hamilton, the father of the federal party, who desired the establishment of a strong national government, and who favored a life tenure for the President, subject only to impeachment, was the author of the electoral system. The historical fact is that the electoral college is simply a relic of the aristocratic theory of government insisted upon by the old-time federalists. It was accepted by the earlier democrats because they were obliged to take the Constitution as a whole and could not accept or reject it in part.

Mr. Hamilton writing in the Federalist (paper No. 68) refers to the manner of choosing the President provided for in the Constitution in the following language:

> It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided. This end will be answered by committing the right of making it not to any pre-established body, but to men chosen by the people for the special purpose and at the particular conjuncture. It was equally desirable that the immediate election should be made by men *most capable of analyzing the qualities adapted to the station*, and acting under circumstances favorable to deliberation and to a judicious combination of all the reasons and inducements that were proper to govern *their choice*. *A small number of persons* selected by their fellow-citizens from the general mass will be most likely to possess the information and discernment requisite to so complicated an investigation.

Distrust of the popular will cannot be more clearly expressed than in the language just quoted. The advocates of a strong government had no faith in the ability of the people to govern themselves. Their constant aim was to concentrate the powers of government in the hands of a select few. Among other instrumentalities employed by them to carry out their purposes was the electoral college. They desired that the power to select the President should be vested in "a small number of citizens." They believed the popular mass incapable of making an intelligent choice, and therefore they devised a plan by which, to quote the language of Hamilton, the immediate election would be "made by men capable of analyzing the qualities adapted to the station." But the design of the federalists was frustrated by the democratic influences, which have finally made the electors mere agents for the registry of the popular will. Instead of exercising their own choice, as they are empowered to do by the Constitution, they simply cast their votes as they are directed by that portion of the people who choose them at the ballot-box. Nevertheless the electoral machinery itself is the same old aristocratic contrivance which now by common consent has become useless for any purpose save to thwart the people in expressing their choice, and, as we all know, is dangerous in its execution.

In the convention of 1787, Pennsylvania was the only State voting for the election of President by popular vote, and her sons, Wilson and Morris, advocated with power and eloquence the system of election in districts by the popular vote. This proposition received but the votes of Pennsylvania and Maryland. Her sons believe now, as Franklin, Morris, Wilson, Jackson, and Benton taught, "the State is the people," and the expression of their voice by their direct vote under the federative and not the national system is, I believe, their wish now. In the debate in the Virginia convention on the adoption of the Constitution, James Monroe, afterward President of the United States, said, referring to the mode of electing the President contained in the Constitution:

> The President might be elected by the people, dependent upon them, and responsible for maladministration. As this is not the case I must disapprove of this clause in its present form.

In President Jackson's first annual message he earnestly pressed upon Congress the importance of so amending the Constitution as to dispense with all intermediate agencies in the election of President and Vice-President. Said he:

> To the people belongs the right of electing their Chief Magistrate; it was never designed that their choice should in any case be defeated, either by the intervention of electoral colleges, or by the agency confided, in certain contingencies, to the House of Representatives.
>
> * * * * * * *
>
> I would therefore recommend such an amendment of the Constitution as may remove all intermediate agency in the election of President and Vice-President. The mode may be so regulated as to preserve to each State its present relative weight in the election; and a failure in the first attempt may be provided for by confining the second to a choice between the two highest candidates.

He recommended also a limitation of the presidential service to a single term of four or six years.

General Jackson renewed the above recommendation in each of his seven annual messages following; and he was especially earnest in his desire to prevent any election for President ever being determined by the House of Representatives.

The arguments in behalf of the popular vote by districts which have been made by statesmen of the past are so full and convincing

that it is only necessary to read them to be convinced. Jackson, Van Buren, Benton, Calhoun, Dickerson of New Jersey, McDuffie, Pickens, Johnson, Morton, and scores of others are on record in its advocacy, and my argument is complete when I bring to the notice of the Senate and the country their reasons for their belief through an abstract of the history of their measures for its accomplishment.

ELECTION OF PRESIDENT AND VICE-PRESIDENT.—PLANS PROPOSED IN THE FEDERAL CONVENTION.

1. By Edmund Randolph, of Virginia:

That a national executive be instituted, to be chosen *by the national legislature.*—5 *Elliot's Debates*, 128.

Adopted—eight States against two. (*Ibid.*, page 144.)

Adopted unanimously. (*Ibid.*, page 324.)

2. By James Wilson, of Pennsylvania:

That the States be divided into —— *districts*, and that the persons qualified to vote in each district for members of the first branch of the national legislature elect —— members for their respective districts to be electors of the executive magistracy; that the said electors of the executive magistracy meet at —— and they, or any —— of them, so met, shall proceed to elect by ballot, but not out of their own body, —— person in whom the executive authority of the national government shall be vested.—*Ibid.*, 143.

Negatived 2 to 8. (*Ibid.*, page 144.)

3. By Elbridge Gerry, of Massachusetts:

That the national executive should be elected *by the executives of the States.*—5 *Elliot's Debates*, 174.

Rejected—nays 9, Delaware divided. (*Ibid.*, page 174.)

4. The original draught of article 2, section 1 of the Constitution, as finally adopted, provided that in case there was no choice by the electors "the *Senate* shall choose by ballot the President" from the five highest on the list. Reported by committee of eleven. (*Ibid.*, page 507.)

5. John Rutledge, of South Carolina, proposed election of President by joint ballot of the two houses of congress. (*Ibid.*, page 472.)

6. Gouverneur Morris, of Pennsylvania, moved to strike out "national legislature" from Randolph's proposition and insert "*citizens of the United States.*" Lost—yea (Pennsylvania) 1, nays 9. (*Ibid.*, pages 322–324.)

7. By Alexander Hamilton:

The supreme executive authority of the United States to be vested in a governor, to be elected to serve during good behavior, the election to be made by electors, chosen by electors, chosen by the people in the election districts aforesaid—

i.e. by districts into which he proposed the States should be divided for the election of senators. (5 Elliot's Debates, 205.)

8. By Oliver Ellsworth, of Connecticut:

To be chosen by electors, appointed by the legislatures of the States in the following ratio, to wit: one for each State not exceeding 200,000 inhabitants; two for each above that number and not exceeding 300,000; and three for each State exceeding 300,000.

The question being divided on the first part, "shall the President be chosen by electors?" Carried—yeas 6, nays 3. On second part, "shall electors be chosen by the State legislature?" Carried—yeas 8, nays 2. (*Ibid.*, page 338.)

9. By Mr. Wilson, of Pennsylvania, (as a compromise:)

That the executive be chosen by electors to be taken by lot from the national legislature.—5 *Elliot's Debates*, 362.

10. The plan finally adopted (section 1, article 2 of the Constitution) agreed to by a vote of 10 to 1 on Sherman's motion to strike out "Senate shall immediately close" and insert "the House of Representatives shall immediately choose by ballot one of them for President, the members from each State having one vote." (*Ibid.*, pages 519, 520.)

[NOTE.—It was the almost unanimous opinion of members of the Federal Convention, that if the executive should be chosen by the national legislature he should be ineligible a second time. (*Ibid.*, page 337.)]

As a compromise and to guard against evils incident to election by Congress, Gouverneur Morris moved that choice be made "by electors chosen by the people of the several States." (*Ibid.*, page 473.)

2. ARGUMENTS IN THE FEDERAL CONVENTION.

Gouverneur Morris, of Pennsylvania, opposed a choice by Congress. Was in favor of election "by the people at large, by the freeholders of the country," on the ground that there can be no "combination of populous States;" that the people at large will always be well informed as to "the great and illustrious characters who merit their esteem and confidence," and that "if chosen by the national legislature he will not be independent of it;" and if not independent, "usurpation and tyranny will be the consequence." (5 Elliot's Debates, 322, 323, 334.)

Mr. Wilson, of Pennsylvania, favored the *district system*, and opposed election by national legislature, on the ground that "the executive in that case would be too dependent to stand the mediator between the intrigues and sinister views of the representatives and the general liberties and interests of the people." (*Ibid.*, page 323.)

Mr. Madison, in favoring a choice by electors, said:

If it be a fundamental principle of free government that the legislative, executive, and judiciary powers should be *separately* exercised, it is equally so that they be *independently* exercised. There is the same, and perhaps greater, reason why the executive should be independent of the legislature than why the judiciary should. A coalition of the two former powers would be more immediately and certainly dangerous to public liberty. * * * He was disposed, for these reasons, to refer the appointment to some other source. *The people at large* was, in his opinion, the fittest in itself. The people generally could only know and vote for some citizen whose merits had rendered him an object of general attention and esteem. There was one difficulty, however, of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States, and the latter could have no influence in the election, on the score of the negroes. The substitution of electors obviated this difficulty, and seemed, on the whole, to be liable to fewest objections.—5 *Elliot's Debates*, 337.

ARTICLE II, SECTION 1, CLAUSES 1 AND 2 OF CONSTITUTION—OUR PRESENT ELECTORAL SYSTEM.

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

Each State shall appoint, *in such manner as the Legislature thereof may direct*, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

See twelfth amendment, which supersedes and annuls clause 3 of article 2, section 1.

ARTICLE II, SECTION 1—THE TWELFTH AMENDMENT.

1. *The old system.*—The difficulties attending the election of Jefferson and Burr were anticipated as early as 1797. The mode of election provided in section 1 of article 2 was regarded as fatally defective. The election of a Chief Magistrate had provoked more discussion in the Federal Convention than any other feature of the Constitution, and the ill-digested compromise finally effected was the least satisfactory to the members of that body. As the electoral system was regarded in Congress with less favor than any other part of the Constitution its reform was the subject of the first important amendment proposed. The statesmen of that period foresaw the dangers that would result from uncertainty in the mode of electing a Chief Magistrate, and accordingly William Smith, of South Carolina, in the House, January 6, 1797, proposed an amendment to the effect that "the electors of President and Vice-President be directed to designate whom they vote for as President, and for whom as Vice-President." (Annals, Fourth Congress, page 1824.)

The same proposition was renewed in the House by Mr. Foster, of New Hampshire, February 16, 1799. (Annals, Fifth Congress, page 2919.)

And in the Senate, by Humphrey Marshall, of Kentucky, January 24, 1798, in Fifth Congress, requiring electors to write on their ballots the names of persons voted for as President and Vice-President. (*Ibid.*, page 493.)

January 24, 1800, a committee of five was appointed by the Senate to consider "what provisions ought to be made by law for deciding disputed elections of President and Vice-President, and for determining the legality or illegality of the votes given for those officers in the different States." (*Ibid.*, Sixth Congress, page 29.)

February 4, 1800, an amendment was proposed in the House requiring electors to disignate persons voted for as President and Vice-President. (*Ibid.*, page 510.)

*The district system.*—In the House, March 14, 1800, John Nicholas, of Virginia, submitted the following amendment:

That, after the 3d day of March, 1801, the choice of electors of President and Vice-President shall be made by dividing each State into a number of districts, equal to the number of electors to be chosen in such States, and by the persons in each of those districts, who shall have the qualifications requisite for electors of the most numerous branch of the Legislature of such State, choosing one elector in the manner which the Legislature thereof shall prescribe.

Then follows a clause directing the choice of Representatives in the same manner. (Annals, Sixth Congress, page 627.)

Referred to committee of five. (*Ibid.*, page 785.)

January 22, 1801, the committee of five submitted an elaborate report to the House, describing the *variety of modes* practiced in different States under article 2, section 1, declaring that "a mode of electing the President and Vice-President which might at once combine the expression of the public sentiments of the people of the respective States, with a perfect assurance of the due appointment of the electors for that important purpose, is a discovery greatly to be desired," but that it was inexpedient to change the Constitution in the manner proposed by Mr. Nicholas. (*Ibid.*, pages 941–946.)

January 30, 1801, James A. Bayard, of Delaware, submitted a joint resolution to the House providing that when two persons have an equal number of electoral votes the *House* shall immediately choose one of them for President. (*Ibid.*, page 987.)

Referred to committee of fifteen February 2, 1801. (*Ibid.*, page 990.)

Report made February 6, 1801, embracing rules on which the Jefferson-Burr contest was decided. (*Ibid.*, pages 1005 to 1011.)

[NOTE.—The election being thrown into the House, balloting began February 11, 1801, and continued until the 17th, when Jefferson received the votes of ten States and Burr those of four. (*Ibid.*, pages 1022 to 1028. See also National Intelligencer, February 13, 16, and 18, 1801.)]

Mr. Jefferson, in a letter to James Monroe dated February 15, 1801, said:

Four days of balloting have produced not a single change of a vote. Yet it is confidently believed by most that to-morrow there is to be a coalition. I know of no foundation for this belief. * * * If they could have been permitted to pass a law *for putting the Government into the hands of an officer*, they would certainly have prevented an election. But we thought it best to declare openly and firmly, one and all, that the day such an act passed *the Middle States would arm*, and that no such usurpation, even for a single day, should be submitted to. This first shook them, and they were completely alarmed at the resource for which we declared, to wit, *a convention* to reorganize the Government and to amend it. The very word

*convention* gives them the horrors, as in the present democratical spirit of America they fear they should lose some of the favorite morsels of the Constitution. Many attempts have been made to obtain terms and promises from me. I have declared to them unequivocally that I would not receive the Government on capitulation; that I would not go into it with my hands tied.—*Jefferson's Works*, volume 4, page 354.

The necessity of a change after the events of 1801 was apparent. The Legislature of New York proposed an amendment, which was submitted to the House by Mr. Walker, providing for a specific designation of persons voted for as President and Vice-President. (Annals, Seventh Congress, page 509.)

February 20, 1802, Mr. Stanley, of North Carolina, submitted resolutions by the Legislature of that State to the same purport. (*Ibid.*, page 629.)

In the House, February 19, 1802, the following amendment was proposed:

That the State Legislatures shall, from time to time, *divide each State into districts* equal to the whole number of Senators and Representatives from such State in the Congress of the United States, and shall direct the mode of choosing an elector of President and Vice-President in each of said districts, who shall be chosen by citizens having the qualifications requisite for electors of the most numerous branch of the State Legislature; and that the districts so to be constructed shall consist, as nearly as may be, of contiguous territory, and of equal proportion of population, except where there may be any detached portion of territory not of itself sufficient to form a district, which then shall be annexed to some other portion nearest thereto; which districts, when so divided, shall remain unalterable until a new census of the United States shall be taken.

SEC. 2. That, in all future elections of President and Vice-President, the persons voted for shall be particularly designated by declaring which is voted for as President and which as Vice-President.—*Annals*, Seventh Congress, page 602.

February 1, 1802, resolutions of the Legislature of Vermont, recommending this amendment, were submitted by Mr. Morris, of that State, to the House. (*Ibid.*, page 472.)

The amendment proposed February 19, 1802, (the district system,) was taken up in the House May 2, and passed—yeas 47, nays 14. (*Ibid.*, page 1,293.)

Non-concurred in by Senate—yeas 15, nays 8; two-thirds not voting in the affirmative. (*Ibid.*, page 304.)

Renewed at second session, in the House, by Mr. Huger, of New York, and referred to the Committee of the Whole. (*Ibid.*, second session Seventh Congress, page 449.)

Postponed. (*Ibid.*, page 492.)

October 17, 1803, John Dawson, of Virginia, in the House, proposed an amendment requiring designation of persons voted for as President and Vice-President. Referred. (Annals, first session Eighth Congress, page 372.)

2. THE TWELFTH AMENDMENT.

In the Senate, De Witt Clinton, of New York, on the 21st day of October, 1803, proposed the Twelfth Amendment. (Annals, Eighth Congress, first session, page 16.)

October 22, Mr. Butler, of South Carolina, moved an amendment that at next election no person should be eligible who had served eight years, and thereafter no person should serve as President more than four years in eight. Carried—yeas 16, nays 15.

The proposed amendment was then referred to a committee of five. (*Ibid.*, page 21.)

After a long and acrimonious discussion, extending through the month of November, the amendment was adopted by the Senate—yeas 22, nays 10, on the 4th of December, 1803. (*Ibid.*, page 209.)

Reported to the House December 5. (*Ibid.*, page 642.)

Passed the House December 8—yeas 83, nays 42. (*Ibid.*, page 775.)

Ratification proclaimed by the Secretary of State September 25, 1804. (See Hickey's Constitution, page 38.)

3. THE DISTRICT SYSTEM.

In the Senate, January 20, 1813, Mr. Turner, in pursuance of instructions from the Legislature of North Carolina, proposed an amendment providing that States should be divided into districts equal to the whole number of Senators and Representatives; each district to appoint one elector by popular vote; electors to have power to fill vacancies; that districts for choosing Representatives and electors shall not be changed until new census and new apportionment. (Annals, Twelfth Congress, second session, page 57.)

Referred to select committee of seven. (*Ibid.*, page 58.)

February 18, 1813, reported with amendments and passed—yeas 22, nays 9, without discussion. (*Ibid.*, page 91.)

The amendment as it passed the Senate is in the following words:

That the electors of President and Vice-President of the United States shall be chosen by districts; and for that purpose each State shall, by its Legislature, be divided into a number of districts equal to the number of electors to which the State may be entitled. Each district shall contain, as nearly as may be, equal numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. In each district the persons qualified to vote for Representatives in the Congress of the United States shall choose one elector. The Legislature of each State shall have power to regulate the manner of holding elections and making returns of the electors chosen by the people.

In case all the electors should not meet at the time and place appointed for giving their votes, a majority of the electors met shall have power and forthwith shall proceed to supply the vacancy.

The districts for choosing electors of President and Vice-President of the United States shall not be altered in any State until an enumeration and an apportionment of Representatives shall be made subsequent to a division of the States into districts. The division of the State into districts shall take place as soon as conveniently may be after this amendment shall become a part of the Constitution of the United States, and successively afterward, whenever a new enumeration and apportionment of Representatives shall be made.—*Annals*, Twelfth Congress, second session, page 91.

Reported to the House February 19, 1813. Referred to Committee of the Whole. No action. (*Ibid.*, page 1082.)

An amendment *almost identical in language* was submitted by Mr. Pickens, of North Carolina, in the House, January 18, 1813. (*Ibid.*, page 848.)

Submitted again at next session by Mr. Pickens, December 20, 1813. Referred to Committee of the Whole. (*Ibid.*, Thirteenth Congress, first session, page 797.)

ARGUMENTS IN SUPPORT OF THE RESOLUTION.

By Mr. Pickens, in the House, January 3, 1814:

The object is to establish a uniform mode of choosing electors of President and Vice-President; and that mode to be by the free, fair, and direct vote of the people in the districts, qualifying the right of suffrage by the same rules which the States have prescribed for the choice of Representatives. * * * This will secure a just equality in the relative *weight of the States*. * * * If by this rule any State will gain or lose in relation to its present comparative weight, it will lose only what in justice it ought. It illy comports with the dignity or real interests of the great Confederacy to suffer this struggling among the States for advantage over each other.

He then pointed out how, under the operation of the second clause of section 1, article 2 of the Constitution, State Legislatures may deprive the people of all power of choice, and referred to the appointment of electors by the Legislature of New Jersey "at the moment when the people were about to exercise the right of voting for electors." The same had occurred in North Carolina.

Continuing, Mr. Pickens said:

In each district the candidates will be known either in person or character to the people, and they will know the interests of the people whose opinions they propose to represent, and the persons to whom they will be responsible for faithfully performing their trust. * * * If different sentiments or interests exist in any State, those sentiments or interests should in their proper proportion be put into the national scale, and the fair results of the whole will point out the true national representation. Political parties will be less *sectional* than on any other plan. Where each single district gives a distinct vote, the political character of the voter will not be so identified by geographical sections, but more interspersed over all sections of the country.

* * * * * * *

It is a rule of policy which applies to all public measures, and more especially to the concerns of a nation, that next to the object of acting rightly is that of rendering *general satisfaction*.

Elections will be best secured against intrigue and corruption where this power is exercised *by the scattered freemen at large*.

* * * * * * *

The proposed method will arrive the nearest at a fair equality between the relative weight of the States.

By any mode of giving an *entire vote* to each State the will of the majority of the people of the Union is not certain to prevail. A State however divided will give the same united vote with a State however unanimous.

A reason against any mode of giving the undivided votes of the States, of all others the most important and most affecting the vital interests of the Union, is its tendency toward *a geographical severance of parties*. By the principle of self-defense all the States must adopt such a mode, unless a uniform plan is established; indeed, they have nearly all so acted at the late election as to give unanimous votes, and by this means a whole section of the Union, with a small exception, voted for one individual, while the opposite section supported his opponent, and these sections are divided by regular *State lines*. Now, does a Chief Magistrate so elected appear to represent the whole Union? And will not a small number of repetitions of such events naturally draw the opposite parties, in looking toward their opponents, to look directly across this divisional line.

Under the *district plan*, he argued, there would be "a promiscuous division of sentiment extending itself over the whole nation, and not capable of being delineated by State lines or the course of rivers." (Annals, Thirteenth Congress, first session, pages 828 to 835.)

Mr. Gaston, of North Carolina, supported the resolution in a lengthy speech. After describing the union of the *federative* and *popular* principles in the existing mode of choosing a Chief Magistrate, he said:

The amendment now before us is perfectly in character with the symmetry of this plan. It oversteps none of its outlines; it alters not the ratio of electors, their duration, their mode of voting, nor the materials of which they are composed. It directs only a uniform mode of apppointing them, which practically corresponds with the views of the [federal] convention. * * * It will narrow the range of faction and diminish the scope of intrigue. The political combatants will come into the field fairly.

* * * * * * *

It is by this method that the voice of the people may be fairly expressed. There may be difference between the relative strength of minorities in any two districts, but when all the districts are taken into the computation such difference must be equalized. He who obtains the suffrage of more than half of the districts must, in all human probability, have a majority of the suffrages of the people. But how is it when each State is made to throw all its votes into one scale, however much the citizens of that State may be divided? A majority of the votes thus obtained is no evidence of the sanction of a majority of the people.

When the electors of President are chosen by States, the *minority* in each State is utterly without weight. * * * Let the voice of every part of the nation be heard in the appointment of the Chief Magistrate, and the minority in each State acquires an importance which insures to them respect and political freedom.

He argued further that this plan will not deprive the State governments "of a single privilege which is necessary to their support, or to the full exercise of their peculiar powers," and continuing, said:

A mode of voting which throws the entire voice of each State into the scale of its favorite candidate, though it may bring about a co-operation of State with State, in fact disunites the people and breaks them into distinct masses. Such a co-operation of State with State, far from being productive of benefit to the nation, is scarcely less to be dreaded than the array of State against State. The opposition of individuals is harmless, and their union most salutary.—*Annals*, Thirteenth Congress, first session, pages 835-843.

The vote, January 4, 1814, in Committee of the Whole House on adopting the resolution was—yeas 57, nays 70. (*Ibid.*, page 849.)

The vote in the House, January 31, 1814, on concurring with the

Committee of the Whole in their disagreement—yeas 82, nays 64. Lost, two-thirds not voting therefor. (*Ibid.*, page 1196.)

The same proposition again introduced by Mr. Pickens at the next session—March 6, 1816. (Annals, Fourteenth Congress, first session, page 1150.)

Legislatures of Virginia and North Carolina recommend passage of the same. (*Ibid.*, pages 140–44.)

Same amendment submitted again by Mr. Pickens at next session, December 11, 1816. (*Ibid.*, second session, page 256.)

December 17 Mr. Pickens, in Committee of the Whole, made another argument in support of the resolution. He insisted that it proposed to ingraft no new principle into the Constitution:

The objection, therefore, which is urged by some, that the features of our Government should not be altered will not apply to the proposed amendment, inasmuch as it embraces no new feature, and fixes upon a uniform rule, rendering it *unalterable by the varying views of the States and the changes of factions and times.*—*Annals*, Fourteenth Congress, second session, page 301.

He argued further that the *federative* principle would not be decreased by this plan, "as there is no alteration in the distribution or number of electors." (*Ibid.*, page 305.)

Mr. Root, of New York, repeated the arguments of the opposition, which were, in brief, that the proposed amendment destroyed the federative principle, and invaded the rights of the States.

Mr. Hammond, of New York, followed in support of the resolution. He insisted that it "would increase the value of the electoral franchise." He was willing that—

The influence of the great States in their corporate capacity in the election of a President should be diminished. * * * If the people are not their own worst enemies let your electors be created immediately by and come directly from the people. When you do that, and not until then, you will be certain that your President holds his office by the consent and at the request of a majority of the people over whom he presides.—*Annals*, Fourteenth Congress, second session, pages 306-10.

John C. Calhoun, then a member of the House, in the course of his argument declared that—

The proposed amendment, if adopted, would remove evils which experience has shown to exist, and which in future time, if uncorrected, may menace the existence of the Republic.—*Ibid.*, page 311.

Discussion was renewed in the House December 18.

John Randolph, of Virginia, opposed the resolution on the ground that, in his judgment, "it contemplated an abridgment of the powers of the States;" declaring at the same time that the existing mode "was a mockery—a shadow of a shade." (*Ibid.*, page 324.)

Robert Wright, of Maryland, supported the resolution. He argued that "the adoption of this amendment will produce uniformity in the mode and stability in its duration." (Annals, Fourteenth Congress, second session, page 326.)

There was then some discussion on an amendment proposed by Mr. Jewett, of Vermont, *that* TWO *electors be chosen by the State Legislatures*, as these two would represent the independent sovereignty of the State, while the other electors would represent population in proportion to numbers, or, in other words, the popular principle. (*Ibid.*, page 329.)

Mr. Gaston, of North Carolina, was inclined to favor the latter proposition, but would support the original resolution. After referring to the fact that the Legislatures of New York, Pennsylvania, North Carolina, Massachusetts, and Virginia had each sanctioned and recommended the adoption of the *Pickens amendment*, he argued that it affects the power of the States only by narrowing their discretion as to the mode of appointing electors. It does not deprive them of any beneficial power, "or of any power available to them by way of securing an equilibrium against Federal authority. The fact is, it only takes away from them a matter of detail and regulation, onerous in itself, furnishing the materials for factious intrigue and maneuver, and productive of no advantage to the States." "If the proposed amendment should communicate some additional power to the smaller States, it would be but to restore the ratio fixed by the original compact." (*Ibid.*, page 333–36.)

Mr. Benjamin Huger, of South Carolina, argued that both the *Federal* and *popular* principles are preserved intact by the *Pickens* amendment. (*Ibid.*, page 342.)

It involved the immediate agency of the people in choosing the President, and yet left the power of the States unimpaired. Each State would have two additional electors for the two Senators. Continuing, he said:

One great and important object would be obtained. All danger from geographical divisions and jealousies on the approach of an election would be done away. Not only all the different interests of each State but all the various and complicated interests scattered throughout the vast extent of the whole United States would have a full and efficient voice in the election of the Executive. The East, the West, the North, and the South would each have its proportionate influence in the election; and no one or two geographical portions or divisions of the Union, by combination, intrigue, or otherwise, would be enabled to overwhelm the others. The Chief Magistrate would consequently be, as was intended, emphatically the choice of the whole people and of all the different interests throughout the Union, elected by the people in conformity to the ratio established upon the *Federal* and *popular* principles ingrafted on the Constitution.—*Annals*, Fourteenth Congress, second session, pages 345, 346.

The *Pickens* amendment was adopted in Committee of the Whole December 20, 1816—yeas 87, nays 51. Reported to the House and laid on the table. (*Ibid.*, pages 355, 356.)

On the 21st of January, 1817, Mr. Pickens submitted resolutions of the South Carolina Legislature urging the adoption of his amendment. (*Ibid.*, page 694.)

Mahlon Dickerson, Senator from New Jersey, in obedience to instructions from the Legislature of that State, submitted a proposed amendment, December 23, 1817, similar to the *Pickens* amendment, except that *two electors* should be appointed by each State in such manner as the Legislature might direct. (Annals, Fifteenth Congress, first session, pages 65–136.)

Referred to committee of five. (*Ibid.*, page 67.)

Called up February 11, and elaborately discussed by Senator Dickerson, who said:

I will venture to predict that whenever the dissolution of our present form of Government shall take place, it will be in consequence of a failure to come at a just expression of the public will in the choice of a President.—*Ibid.*, page 179.

He argued that it is "an inadmissible construction of section 1 of article 2 of the Constitution that the Legislatures of the States *shall direct how they themselves* shall appoint electors;" that if such practice is "an infringement of the Constitution, of which it will hardly be denied there is a well-founded doubt, then it is highly expedient that the constitutional remedy of amendment be applied."

He insisted that it had been the aim in some of the large States "to secure to the dominant party an undue influence by suppressing the voice of the minority. This system of defeating every purpose of a fair election has become an art and a science, and is known by the technical term of *gerrymandering*." (*Ibid.*, page 181.)

Mr. Dickerson then reverted to the action of the Legislature of Pennsylvania in 1801, and that of New Jersey in 1808, to show how uncertain the existing system is in its operation and how liable to abuse. Continuing, he said:

The probable result of the votes of all the districts, where numerous, would be as fair an expression of the public will as can be possibly obtained unless we resort to a general vote of the people at large.—*Ibid.*, page 184.

Perhaps the larger States will feel a reluctance to adopt a measure which will in some degree curtail their power of forming combinations with each other, and thus controlling their sister States; but the very disposition thus to combine and control is a dangerous and tyrannical principle, and if attempted would lead to counter combinations on the part of the middle size and smaller States. * * * Their combinations and their collisions are about equally to be dreaded. * * * There is great simplicity in the plan of single districts; they are but little subject to confusion and mistakes, and as they are to be modeled but once in ten years, there will be but little difficulty in their arrangement. * * * The present amendment, if adopted, introduces *no new principle* into the Constitution. * * * It does not abridge the just rights of any State, but adds to the security of all. * * * It will suppress those extensive and dangerous intrigues which agitate the Union at the approach of every presidential election.—*Annals*, Fifteenth Congress, first session, page 185.

Nathaniel Macon, of North Carolina, March 9, 1818, argued in support of the Dickerson resolution. (*Ibid.*, page 187.)

The amendment was read a third time and negatived—yeas 20, nays 13; two-thirds not voting therefor. (*Ibid.*, page 242.)

Its passage recommended by the Legislature of North Carolina. (*Ibid.*, page 114.)

Senator Dickerson at the next session (instructions having been received from New York and New Hampshire favoring its passage) again introduced his amendment, December 2, 1818. (Annals, Fifteenth Congress, second session, page 33.)

Connecticut recommends its passage. (*Ibid.*, page 42.)

Mr. Dickerson, January 13, 1819, again advocated his amendment in a speech of great length, in which he said:

This plan of dividing the States into districts is no new experiment; it is no innovation whatever upon the Constitution; it is only calculated to render permanent and uniform a regulation which has prevailed in nearly all the States, and which ought to have prevailed in all and would have prevailed in all but for the disorganizing spirit of party. Whatever mode may be adopted, it is universally allowed that it ought to be uniform throughout the United States.—*Ibid.*, page 139.

The district plan insures "that the President shall be elected by a majority and never by a minority of the people," and "will place insuperable barriers to the intrigues of ambitious individuals, who will hereafter agitate the Union at the approach of every presidential election. In the process of electing a President there ought to be more uniformity, more precision, and more certainty than in the election of any other officer; and yet, strange as it may appear, *there is less*." (Annals, Fifteenth Congress, second session, page 142.)

He argued that the variable, vague, and uncertain mode now in practice is more subject to abuse than that which obtains in choosing the meanest officer in the community, and continued:

And as to any effectual control of the Executive, (in case he be ambitious,) that must depend, as it heretofore has done, rather upon the virtues of the individual exercising the office than upon any positive regulations contained in the Constitution. The broad road to monarchy is left open—encumbered, indeed, with obstructions, but such as will easily yield to the pressure of ambition.—*Ibid.*, page 146.

Great as the danger is that some ambitious individual may gain the presidential chair against the will of a large majority of the people, the subject presents itself in another point of view not less interesting. I mean the operation of our system to enable an ambitious President to perpetuate his power and to transmit it to his posterity.—*Ibid.*, page 147.

Let us suppose that at some future period we shall have a President of forty years of age, of great talents, unbounded ambition, and an insatiable thirst of power. The period of eight years would elapse at about the period of life when ambition takes the firmest hold of the human mind. He would easily persuade himself that the public interests would suffer by his retiring from office. *The great facility of securing a re-election under our system* would be a temptation not to be resisted; and the *host of choice* spirits by whom he would be surrounded would certainly succeed in persuading him to bear the weight of government for another period and another and another to the end of his life. Suppose this President to have a son of talents and ambition like his own and of a suitable age to become his successor. The transmission of power from father to son would excite no unusual apprehension. His election would be a mere matter of form, and our Government would quietly sink into an hereditary monarchy; after which a Tiberius, Caligula, or Claudius might reign uncontrolled in America. These are not mere illusions, mere phantoms of the brain.

He then pictured the dangers which might have resulted if the House, in 1801, had chosen Burr instead of Jefferson. "He would

eagerly have seized upon the reins of government." With his great military talent, with the Treasury and Army at his back, "and his talents for intrigue, which have never been overrated and rarely equaled in any country, would he not have been able to secure a re-election, and another, and another, to the end of his life?" "And would he have dared to relinquish a power which he had held by force and fraud in spite of the will of a great majority of the people?" (*Ibid.*, pages 347, 348.)

Mr. Dickerson then took a prophetic view of the future:

Sir, the time may come when our country will be filled with an army of pensioners, always the friends of arbitrary power. The time will come when we shall have a numerous host of officers, civil and military, in every department of the Government, spread over our immense territory, looking up to the President as the source of power and emoluments. The time will come when luxury and extravagance will banish from our country every species of republican virtue; and the time will come, I fear, when this Senate will be no more than the shadow of what it was intended to be by those who framed our Constitution; when it will be no check upon the Executive; when it shall be as insignificant as the boasted senate of Rome in the time of Tiberius. The whole *patronage* of Government will center in the President, and that patronage, under our present system of choosing electors, will become *a machine* of irresistible power. The management of this power will become a matter of science. He will be deemed the greatest politician and the ablest minister who can, with a given portion of patronage, produce the greatest effect. The force of this power will be applied to effect the purposes of ambition, with as much economy and skill as water is applied to the wheel, or that of steam to the engine. It would be difficult to devise a plan better calculated to accelerate the approach of those deplorable events, or to promote the views of an ambitious President, than *the present system* of choosing electors.—*Annals*, Fifteenth Congress, second session, page 149.

James Barbour, of Virginia, opposed the amendment on the ground, as he expressed it, of "the gross inequality of its effects against the large and in favor of the smaller States," and its tendency to *nationalism*, "by abridging the power of the States." (*Ibid.*, page 151.)

Vote on engrossment and third reading—yeas 28, nays 11. (*Ibid.*, page 159.)

February 4, 1819, the proposed amendment passed the Senate by the necessary two-thirds—yeas 28, nays 10. (*Ibid.*, page 207.)

Reported to the House February 5. (*Ibid.*, page 1038.)

Laid on the table, February 26, by a vote of 79 yeas, 73 nays. (*Ibid.*, page 1420.)

Senator Dickerson submitted his amendment again at the next session, December 14, 1819. (Annals, Sixteenth Congress, first session, page 22.)

Referred to committee of five. (*Ibid.*, page 24.)

Reported back without amendment. (*Ibid.*, page 40.)

Vote on engrossment and third reading—yeas 27, nays 13. (*Ibid.*, page 233.)

Passed by the necessary two-thirds majority January 27, 1820—yeas 29, nays 13. (*Ibid.*, page 278.)

Reported to the House January 28. (*Ibid.*, page 991.)

Agreed to in Committee of the Whole, reported to the House, and ordered to lie on the table, March 28. (*Ibid.*, page 1691.)

James S. Smith, of North Carolina, moved that the House proceed to consider the resolution and argued at length in support of it. He insisted that under the district plan "the States would not be deprived of any just power. The federative principle is still preserved. By this plan you will bring the election near to the people, and, consequently, you will make them place more value on the elective franchise, which is all important in a republican form of government."

Mr. Smith's motion was rejected. (*Ibid.*, page 1912.)

Mr. Dickerson again submitted his proposed amendment at the next session, November 22, 1820. (Annals, Sixteenth Congress, second session, page 22.)

Referred to committee of five. (*Ibid.*, page 23.)

Mr. Smith, of North Carolina, in the House, November 20, 1820, submitted an amendment exactly in the words of the Dickerson resolution. Referred to the Committee of the Whole. (*Ibid.*, page 444.)

The vote in Committee of the Whole, December 5, 1820, on the engrossment and third reading was—yeas 103, nays 59. (*Ibid.*, page 504.)

January 25, 1821, the resolution being before the House on its final passage, Ezra C. Gross, of New York, spoke at length in its favor. He argued that the permanent interests of the Union demanded the adoption of the proposed amendment:

Other gentlemen thought they foresaw great evils. All their arguments [against the resolution] were directed to the same point and were of three kinds: those drawn from the sacred character of the instrument and the danger of rash amendments; those addressed to the pride and jealousy of States; and, lastly, those which result from an inquiry into the present practices of different States in choosing electors. (*Ibid.*, page 960.)

Noticing the objection that the proposed amendment would change the relative power of the large and small States, Mr. Gross remarked that he came from a great State, and continued:

What advantage will this kind of greatness be to her should jealousies be excited and discord prevail? It is a proposition that will not be controverted on this floor that the greatness of every State depends on the preservation and harmony of the Union. Why should we, under the pretense of preserving *State rights*, seek an unnatural advantage, the exercise of which can only serve to cherish faction, foment discord within, excite jealousy without, and jeopardize the best interests of the country? *It is enough that the Constitution guarantees to us the advantage of the superiority of numbers by giving us a proportionate superiority of votes.* It is a miserable ambition that seeks the temporary disfranchisement of a great minority of our fellow-citizens for the purpose of showing our power to a smaller member of the confederacy.

* * * * * * *

Uniformity and permanency in the mode of appointing electors is of more consequence than the mode itself.—*Ibid.*, page 962.

Touching executive influence on elections he said:

In my opinion the amendment proposed will, instead of increasing the influence of the Executive, curtail it in a salutary manner. * * * It is not at the polls that this kind of influence is most to be dreaded. A whole community is not to be bribed.

In conclusion he said:

I feel bound to support the amendment as well on the broad principles of justice as to secure the constitutional independence of the States and the preservation of the Union.—*Ibid.*, pages 963, 964.

The vote on the passage of the resolution was—yeas 92, nays 54; two-thirds not voting in the affirmative. (*Ibid.*, page 967.)

Senator Dickerson renewed his proposition at the next session, December 19, 1821. (Annals, Seventeenth Congress, first session, page 33.

Referred to a committee of five, (Dickerson, Lloyd, Benton, Brown of Ohio, and Holmes of Maine,) January 24, 1822. (*Ibid.*, page 155.)

Ordered to third reading—yeas 27, nays 12. (*Ibid.*, page 281.)

*Passed* the Senate, March 11, 1822, by a decisive vote—yeas 29 nays 11. (*Ibid.*, page 283.)

Reported to the House on the same day. (*Ibid.*, page 1249.)

House declined to consider. (*Ibid.*, page 1250.)

Thomas H. Benton, Senator from Missouri, on the 11th of December, 1823, proposed the following:

That, for the purpose of electing a President and Vice-President of the United States, each State shall be divided by the Legislature thereof into a number of districts, equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress; each district shall be composed of contiguous territory, and shall contain, as nearly as may be, an equal number of persons entitled by the Constitution to be represented, and on such days as Congress shall determine, which days shall be the same throughout the United States, the citizens of each State who may be qualified to vote for a Representative in Congress shall meet at such place within their respective districts as the Legislature of each State shall appoint; and each, in his proper person, shall vote for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with himself; and separate, triplicate lists shall be kept of all the voters, and of all the votes given for each person as President, and for each as Vice-President.

All the votes so given in each district shall be collected forthwith, in such manner as the Legislature of the State may direct, at some one convenient place within the district; and the votes given for each candidate shall be added together, and the person having the greatest number of votes for President and the one having the greatest number of votes for Vice-President shall be certified as duly preferred in said district, and shall be entitled to one vote each for the respective offices for which they are candidates; but if two or more persons shall have an equal number of votes in such district election for the same office, then the returning officers shall decide between them and certify accordingly.

Triplicate certificates of the whole number of votes given for each candidate shall be made out and transmitted, in such manner as Congress may direct, to the seat of Government of the United States, addressed to the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be President, if such number be equal to a majority of the whole number of electoral votes within the United States; and if no person have such majority, then the President shall be chosen by the House of Representatives from the three having the greatest number of votes for President, in the manner now prescribed by the Constitution.

The person having the greatest number of votes for Vice-President shall be the Vice-President, if such number be equal to a majority of the whole number of electoral districts; and if no person have such majority, then the Vice-President shall be chosen by the Senate from the two persons having the greatest number of votes for that office, in the manner now prescribed by the Constitution.—*Annals* Eighteenth Congress, first session, page 32.

Senator Dickerson, of New Jersey, on the 16th of December, 1823, renewed his amendment with the added provisions:

First. That when there is no choice by the electors *the two Houses by joint ballot* shall elect; a majority of members present being necessary to a choice on the first ballot, and a plurality after the first.

Second. That no person having been twice elected President shall again be eligible. (Annals, Eighteenth Congress, first session, page 43.)

All resolutions proposing amendments to the Constitution were referred to a select committee of five—(Benton, Hayne, Dickerson, Holmes of Maine, and Kelly.) (*Ibid.*, page 41.)

In the Senate, December 29, 1823, Martin Van Buren, of New York, offered an amendment providing for election by districts, equal in number to Senators and Representatives to which a State is entitled, to be formed by the State Legislatures. Citizens qualified to vote for members of the lower house of the State Legislature to chose one elector in each district; electors when met to fill vacancies; Congress to fix time of chosing electors and day for giving their votes, which shall be the same throughout the United States; State Legislatures to have *exclusive* authority to form districts, "to direct the election to be held, to prescribe the manner thereof, except as to time of holding the same and the qualifications of the voters and the place of meeting of the electors. If no person have a majority of electors chosen, the President, by proclamation, shall reconvene the electors, who shall ballot again for President, and if no choice is made the House of Representatives shall elect as now provided by the Constitution." (*Ibid.*, page 73.)

Mr. Benton, January 8, 1823, reported from the select committee an amendment similar to the Dickerson resolution of the previous session, except that the number of districts should be equal to the number of Senators and Representatives; that in case of no choice by electors, the two Houses of Congress, jointly, by ballot, shall elect from the three highest on the list; a *majority* of members present necessary to a choice *on first ballot*, and a *plurality* only afterward; the Senate to choose Vice-President when no choice is made by electors; that no person shall be again eligible after having been twice elected President. (*Ibid.*, page 101.)

On the 15th of January, Mr. Benton offered his amendment as a substitute for the above. Agreed to. (*Ibid.*, page 106.)

The resolution relating to the ineligibility of the President after his second term, having been separated from the other, was debated at length by Mr. Dickerson and others, and *passed*—yeas 36, nays 3. (*Ibid.*, page 160.)

February 3, 1823, the order of the day being the Benton resolution as a substitute for that reported by the select committee, Mr. Benton supported his amendment in a lengthy argument. He said that experience was the only infallible test of good or bad institutions; that time had shown the defects in our electoral system; and that the framers of the Constitution, "despising the arrogance of an overweening confidence in their own work," had "provided a remedy by providing the means of amendment." (*Ibid.*, page 167.)

After showing how, under the present system, electors had been chosen by districts, by legislative ballots, and by general ticket, he argued that "such deviations imply a great fault in the Constitution itself."

> The evil of a want of uniformity in the choice of electors is not limited to its disfiguring effect upon the face of our government, but goes to endanger the rights of the people by permitting *sudden alterations on the eve of an election*, and to annihilate the right of the small States by enabling the larger ones to combine and to throw all their votes into the scale of a popular candidate. These obvious evils make it certain that any uniform rule would be preferable to the present state of things. But in fixing a rule it is the duty of statesmen to select that which is calculated to give to every portion of the Union its due share in the choice of a Chief Magistrate, and to every individual a fair opportunity of voting according to his will. This would be effected by adopting the *district system*. It would divide every State into districts equal to the whole number of votes to be given, and the people of each district would be governed *by its own majority*, and not by a majority existing in some remote part of the State. This would be agreeable to the rights of individuals; for, in entering into society and submitting to be bound by the decision of the majority, each individual retained the right of being governed by *a majority of the vicinage*, and not by majorities brought from remote sections to overwhelm him with their accumulated numbers.
>
> It would be agreeable to the interests of all parts of the States, for each State may have different interests in different parts. One part may be agricultural, another manufacturing, another commercial; and it would be unjust that the strongest should govern or that two should combine and sacrifice a third.
>
> The district system would be agreeable to the intention of our present Constitution, which, *in giving each elector a separate vote* instead of giving each State a consolidated vote, composed of all its electoral suffrages, clearly intended that *each mass of persons entitled to one elector should have the right of giving one vote according to their own sense of their own interests.*
>
> The *general ticket system*, now existing in ten States, was the offspring of policy and not of any disposition to give fair play to the will of the people. It was adopted by the leading men of those States to enable them to consolidate the vote of the State. It would be easy to prove this by referring to facts of historical notoriety. It contributes to give power and consequence to leaders who manage the elections, but it is a departure from the intention of the Constitution, violates the rights of minorities, and is attended with many other evils. The intention of the Constitution is violated, because it was the intention of that instrument to give to *each mass of persons* entitled to one elector the power of giving that electoral vote to any candidate they preferred. The rights of minorities are violated, because a majority of one will carry the vote of the whole State.
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> In New York thirty-six electors are chosen; nineteen is a majority, and the candidate receiving this majority is fairly entitled to nineteen votes; but he counts in reality *thirty-six*; because the minority of seventeen are added to the majority. These seventeen votes belong to seventeen masses of people, of 40,000 souls each, in all 680,000 people, whose votes are seized upon, taken away, and presented to whom the majority pleases.—*Ibid.*, pages 169, 170.

Continuing, Mr. Benton said:

> I would be unwilling to use a harsh epithet, but I consider this case as amounting to an impressment of civil rights, more dangerous to our liberties than the impressment of our bodies by British ships of war.
>
> A further mischief of the general ticket system is, in segregating the States, drawing them up against one another, like hostile ships in battle. Out of this system has sprung the anti-social words of modern invention—"effective votes," "operative votes,"—as if the States were contending with Turks or Russians. This alienates the States from each other, and fills them with hostile feelings; and the President elected must become the President of the States which chose him, and look with coldness and resentment upon those which opposed him.—*Ibid.*, page 170.

After quoting from the Constitution the words "each *State* shall appoint, in such manner as the Legislature thereof may direct, a number of electors," &c., Mr. Benton argued that "State" and "Legislature" are not synonymous terms. The word "State" embraces *people, territory*, and *sovereignty*. "When the *State* is to do a thing the people are to do it. A legislative body is not competent to act, because it is not the State, but a department of it." Otherwise "there would be no *State* when the Legislature was not in session." "The question now to be decided turns upon the *appointing power of the State* and *the dictatorial power of the Legislature*." He argued further that the word "appoint" in the clause above quoted is synonymous with "elect," and insisted that the Constitution empowered the Legislature to direct how or in what manner—as to the mode of conducting the election, taking the votes, certifying returns, &c.—*the people should* elect. A legislative body may direct the people how to go through the forms of an election; but a legislative body cannot *direct itself*. The word *direct* "implies an address to a third party and not to one's self." (*Ibid.*, page 172.)

> Mr. Madison says "The people choose the electors." The Federalist says the same thing in twenty places. It describes the electors as "men chosen by the people" for the special purpose of choosing the President. It describes them as "a small number of persons selected by their fellow-citizens from the general mass." It says the Constitution has "referred the election of the President, in the first instance, to the immediate act of the American people, to be exerted in the choice of persons for the temporary and sole purpose of making the appointment." "All of which shows," said Mr. Benton, "that legislative bodies were not intended to choose electors, much less to erect themselves into electoral colleges."—*Ibid.*, pages 172-173.

Mr. Benton then discussed the necessity of discontinuing the use of an intermediate body of electors:

> Every reason which induced the convention to institute electors has failed. They are no longer of any use, and may be dangerous to the liberties of the people. They are not useful because they have no power over their own vote, and because the people can vote for President as easily as they can vote for an elector. * * * The elector may betray the liberties of the people by selling his vote. The operation is easy, because he votes by ballot; detection is impossible, because he does not sign his vote; the restraint is nothing but his own conscience, for *there is no legal punishment* for his breach of trust. * * * If an elector should defraud 40,000 people out of their vote, there is no remedy but to abuse him in the newspapers.
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> * * * * * * *
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> "Electors are nothing but agents in a case which requires no agent; and no prudent man would or ought to employ an agent to take care of his money, his property, or his liberty when he is equally capable to take care of them himself."
>
> He argued further that this system "gives a false direction to the gratitude of the President elected. He feels himself *indebted to the electors*, and not to the people who gave their votes to the electors."—*Ibid.*, pages 178-179.

This joint resolution in proposing a direct vote of the people, Mr. Benton contended, embraced no new project:

> It was presented and discussed in the Federal Convention of 1787, was twice put to the vote and supported by the States of Pennsylvania and Delaware. * * * I feel myself treading upon safe ground when I can say to the American people, "I am endeavoring to carry into effect the plan of Benjamin Franklin and the eminent statesmen whose names have just been read" [Jared Ingersoll, Gouverneur Morris, James Wilson, Robert Morris, and others.]—*Ibid.*, page 181.

He then argued that while the electoral colleges may be corrupted, the people at large cannot be. The corrupting influences of patronage, with all its temptations, "would become insignificant when scattered and dispersed among the millions of people which fill the Republic." (*Ibid.*, page 184.)

Mr. Benton closed his argument by insisting that the umpirage of the House of Representatives ought to be continued in cases where there is no choice by districts.

> But the House have no power to *elect* a President. They have no elective faculty, no power of choice; they are limited to the humble occupation of one out of three, each of whom may be obnoxious to them. They are nothing but arbitrators, referred to as mutual friends to settle a question of mutual interest.—*Ibid.*, page 192.

After a long discussion, covering all the proposed amendments, the whole subject was indefinitely postponed, March 22, 1824—yeas 30, nays 13. (*Ibid.*, page 417.)

December 5, 1823, a select committee of seven was raised in the House to inquire into the expediency of recommending an amendment providing for a uniform mode of electing President and Vice-President; and, also, that the election shall, in no event, devolve on the House of Representatives. (*Ibid.*, page 801.)

December 22, the committee, through George McDuffie, of South Carolina, submitted an elaborate report in favor of the *district system*, accompanied with a proposed amendment to that effect. (*Ibid.*, pages 850 to 866.)

The McDuffie amendment proposed to divide the States into districts equal to the number of Representatives in Congress, each district to elect one elector, the electors when met to choose two additional electors. In case the electors make no choice, the Senate and House, by joint ballot, shall elect, the members voting individually and not by States.

Edward Livingston, of Louisiana, in the House, January 24, 1824, proposed an amendment providing for the choice of electors by districts. In case no choice be made, the electors shall be reconvened by the President, and shall choose from the two having the highest number of votes. (*Ibid.*, page 1179.)

On the 19th January, 1826, Mr. Benton made an elaborate report from the select committee of nine accompanied by a proposed amendment.

The select committee had carefully considered *all the plans* proposed at previous sessions of Congress, and the joint resolution accompanying their report was the one which seemed best calculated to insure uniformity, certainty, and safety in the choice of a Chief Magistrate.

The committee in their report insist that the intention of the Constitution has wholly failed in two leading features, namely, "*the institution of electors, and the ultimate election by States in the House of Representatives;*" and they propose:

> First. That a uniform mode of election by districts shall be established.
>
> Second. That the institution of electors shall be abolished, and the President and Vice-President hereafter elected by a direct vote of the people.
>
> Third. That a second election, to be conducted in the same manner as the first, shall take place between the persons having the two highest numbers, for the same office, when no one has received a majority of the whole number of votes given.

For Mr. Benton's report in full see Senate Report No. 22, first session Nineteenth Congress.

Debated by Benton, Johnson of Kentucky, Macon, and Branch *for*, and by Dickerson and Van Buren against; the negative arguments being directed mainly against a second election by the people. (Congressional Debates, volume 2, part 1, pages 692-696.)

Mr. McDuffie, of South Carolina, in the House, December 9, 1825, moved that a select committee be appointed, with instructions to prepare and report an amendment providing for a uniform election *by districts*, and to prevent the election from devolving on the House. (*Ibid.*, page 797.)

Called up and debated February 15, 1826.

Mr. McDuffie argued that "the Constitution, by declaring that each State shall appoint electors in such manner as the Legislature may direct,' puts an unequivocal negative upon the idea of fixedness

and permanence, which essentially enter into the notion of constitutional regulation." (*Ibid.*, page 1367.)

He then combated the idea that the *district* system would tend to destroy *the sovereignty of the States*, or produce what is termed *consolidation*.

What do gentlemen mean by *consolidation?* That consolidation which is really dangerous to liberty, and which would destroy the federative character of our Government, is the concentration of power in the Government *here*. In this sense of the term I deprecate consolidation as much as any man, and the tendency of my proposition is to produce a result precisely the reverse of this. Instead of concentrating power in the hands of the Government here, *it diffuses the most important of all powers among the great body of the people, and fixes it there irrevocably.*

* * * * * * *

How can it be conceived that we impair the rights of a State by vesting the highest prerogative of sovereignty in the people of that State? Virginia, voting by districts, is Virginia still, divested of none of her attributes as a separate member of the confederacy.—*Ibid.*, pages 1374, 1375.

He contended that the tendency of the district system would be to restrain the power of the Executive.

There is no power more active, encroaching, and dangerous, operating as it does through the influence of its patronage, upon the hopes and fears of a large portion of the community. But, by rendering the President directly responsible to the people, we shall solve the great problem, never before fully realized, of uniting in the government of so extensive a country the elements of *liberty* and *power*.—*Ibid.*, page 1378.

In arguing in favor of dispensing with an intermediate body of electors, Mr. McDuffie said the people were as competent to vote for President as for middlemen. The present electoral system, "in a word, combines the disadvantages of both modes of election, and the advantage of neither," and in the ultimate choice by the House it gives the House "just sufficient latitude for all purposes of corruption, and not enough for any good end." (*Ibid.*, pages 1387, 1388.)

Mr. McDuffie concluded by arguing against an ultimate choice by the House, on the general ground that such an election is violative of the true principles of the mixed federal and popular system of government intended by the framers of the Constitution, and of the rights of the people. (*Ibid.*, pages 1388–1395.)

After a very lengthy discussion, a vote was taken on Mr. McDuffie's resolutions. First, the proposition to amend the Constitution by taking the election out of Congress was adopted—yeas 138, nays 52; second, for the *district* system the vote stood—yeas 90, nays 102. The first resolution was then referred to a select committee of twenty-four. (*Ibid.*, part 2, volume 2, pages 2004, 2005.)

Committee reported a disagreement. (*Ibid.*, page 2659.)

Mr. Benton again introduced his proposed amendment, December 9, 1833. (Congressional Debates, volume 10, part 1, page 20.)

Referred to a select committee. (*Ibid.*, part 2, page 1897.)

The committee reported June 11, 1834, the same amendment which accompanied Mr. Benton's report, made at the first session, Nineteenth Congress. Laid on the table. (*Ibid.*, pages 1954–1958.)

Called up at next session, January 15, 1835, by Mr. Benton. Briefly discussed and laid on the table. (*Ibid.*, volume 12, part 1, pages 216, 217.)

William Allen, of Ohio, proposed an amendment in the Senate December 14, 1837, *similar to the Benton resolution*. (Globe, second session Twenty-fifth Congress, page 25.)

Referred to select committee of nine, (Allen, Wright, Calhoun, Webster, Benton, Rives, Crittenden, and Clayton.) (*Ibid.*, page 63.)

Mr. Benton again submitted his amendment January 15, 1844, and supported the same by a speech in which he rehearsed the arguments made in his speech in 1824, and subsequent report. (Globe, first session Twenty-eighth Congress, pages 686, 687.)

Andrew Johnson, of Tennessee, in the House, on the 21st of February, 1851, proposed the *Benton amendment* so modified that when the election has been held by the people *a second time*, two or more persons having received "the greatest and an equal number of votes, the person having *the greatest number of votes* in the greatest number of States shall be President." The same rule as to Vice-President, except that when a second election of President is not necessary and there has been no choice of Vice-President the Senate shall choose a Vice-President from the two highest on the list. (Globe, first session Thirty-first Congress, page 627.)

Mr. Johnson again brought in his resolution February 2, 1852. Referred to the Committee on the Judiciary. (Globe, first session Thirty-second Congress, page 443.)

January 18, 1854, the House appointed a select committee of nine, to join such committe as the Senate may appoint, "to whom shall be referred such resolutions proposing to amend the Constitution in the mode of electing the President and Vice-President of the United States, with instructions to take that matter and *the subject generally* into consideration, and to report upon the same in such manner as to them may seem most expedient." (Globe, first session Thirty-third Congress, page 202.)

January 30, the Senate appointed a committee of five to meet the above House committee. (*Ibid.*, page 275.)

In the Senate, December 13, 1860, Andrew Johnson again submitted his proposed amendment. (Globe, second session Thirty-sixth Congress, page 82.)

December 18, Mr. Johnson called up his joint resolution and supported it in a speech of some length. He argued that the troubles then impending would have been averted if the presidential election of 1860 had been held in the manner provided in his amendment. (*Ibid.*, page 117.) A long debate followed, participated in by Benjamin, Baker, Hale, and others; but the discussion was shifted to a general view of the question of secession, and the power of the General Government to coerce the States. (*Ibid.*, pages 139–238.)

Rufus P. Spalding, of Ohio, in the House, February 1, 1869, introduced a joint resolution proposing an election by districts, "the time, place, and manner of holding the same to be prescribed by Congress." Referred to Committee on Revision of Laws. (Globe, Fortieth Congress, third session, page 768.)

Mr. Sumner, of Massachusetts, offered an amendment in the Senate, May 30, 1872, providing for the election of President by the *direct vote of the people in all the States and Territories*. Election to be held on the 1st Monday in April. A majority of the total vote necessary to a choice at first election. If the two Houses of Congress, in joint convention on third Monday in May, find that no candidate have such majority, *a second election* shall be held, when a plurality shall elect. Second election to take place on second Tuesday in October following.

In case of death or removal of President, the head of an Executive Department, senior in years, shall be the President. If Congress be in session at death or removal of President, the two Houses in joint session shall choose a President *viva voce*, each Senator and Representative having one vote; a quorum to consist of a majority of each House, and a majority present being necessary to a choice. If Congress be not in session, the acting President shall call extra session to elect President. The office of Vice-President to be abolished, and Senate to choose its own presiding officer. Presidency to be limited to a single term of four years. (Globe, Forty-second Congress, second session, page 4036.)

For Mr. Sumner's joint resolution in full, see Bills and Resolutions, Senate United States, 1872–73, part 8, Senate resolution No. 7, second session, Forty-second Congress.

Again brought forward by Mr. Sumner at next session, January 16, 1873. (Globe, third session, Forty-second Congress, page 638.)

John Lynch of Maine, proposed amendment in the House January 6, 1873, for election by direct vote of the people, a majority of whole vote cast necessary to a choice. If no choice by popular vote, House to elect, voting by States. (Globe, third session, Forty-second Congress, page 353.)

Oliver P. Morton, of Indiana, submitted a resolution in the Senate January 6, 1873, directing the Committee on Privileges and Elections to inquire and report upon the best and most practicable mode of electing the President and Vice-President. (*Ibid.*, page 340.)

January 13 Mr. Morton called up and discussed his resolution at length. He said that, under article 2, section 1 of the Constitution—

The appointment of electors is placed absolutely and wholly with the Legislatures of the States. They may choose by the Legislature, or the Legislature may provide that they shall be elected by the people at large, or in districts as are members of Congress, which was the case formerly in many States; and it is no doubt competent for the Legislature to authorize the governor, or the supreme court of the State, or any other agent of its will, to appoint these electors.

He then argued that although there might be the most monstrous frauds and unfairness in the choice of electors, the will of the people being entirely subverted, there is no provision of law in any State for settling a contest arising out of such election. (*Ibid.*, page 662.)

He criticised the present system and said there was danger of revolution growing out of its defects; that if a President should be elected by the vote of a State, secured by fraudulent or unfair means, "he would in advance be shorn of moral power and authority in his office, and would be looked upon as a usurper, and the consequences that would result from such a state of things no man can predict."

He argued that the President of the Senate had exercised an uncertain and dangerous power, but combated the proposition that the framers of the Constitution intended that he should perform other than merely ministerial functions in opening certificates at the joint meeting of the two Houses. But he insisted that the exercise of judicial and discretionary powers *may* devolve upon him *ex necessitate rei*, and if he decides corruptly or in violation of the law his decision is final, and there is no remedy provided in the Constitution. (*Ibid.*, page 663.)

He declared that "the idea of interposing an electoral body between the Chief Magistracy and the people had come down from ancient times, and had its origin in aristocratic forms of government where the nobility elected the sovereign or chief magistrate." He believed the electoral system was born of distrust in the people, as the federal convention seemed to think it unsafe to lodge such a power in their hands. He argued that the electoral system has completely failed. "The electoral colleges," he continued, "have turned out to be wholly useless. Every reason given for their original establishment has absolutely failed in practice." (*Ibid.*, page 664.)

He preferred, he said, "that the President should be elected by the people *as one community*, giving the election to the man who received the highest number of votes, without regard to State lines or municipal divisions."

He was opposed to the present system because "the dangers of *sectionalism*" are greatly increased by it. "Under the present apportionment the electoral votes of ten States out of thirty-seven may elect a President."

But I submit to the inevitable, and assume that the *smaller States* will not consent to an amendment by which the President would be elected by the people of the United States as one community. Yet I believe they can have no objection to such a change as will bring the election of the President directly to the people of the several States, each State to be divided into as many *districts* as it has Senators and Representatives, each *district* to have one vote in the election of President and

Vice-President, and the vote of that district to be counted in favor of the candidates for President and Vice-President who receive the largest number of votes in it.—*Ibid.*, page 665.

He argued further that the district system would give due weight to the smaller States, and that under the present system the *sovereignty* of great States has been strengthened at the expense of the small ones. (*Ibid.*, 665.)

Mr. Morton, in the course of his speech, adopted the same line of argument in favor of the district system pursued by Benton, Dickerson, and others. (*Ibid.*, 664, 665.)

Mr. Sumner again submitted his joint resolution at the first session Forty-third Congress. (Record, first session Forty-third Congress, page 2.)

Senator Wright, of Iowa, proposed an amendment December 15, 1874, providing for election by the direct vote of the whole people, a majority electing. If no one have a majority a second election to be held and votes cast for the two highest on the list only. Returns to be certified to the Chief Justice of the Supreme Court of the United States, and that court to determine all questions relating to validity of returns, &c. Ineligibility after *one* term of six years. (*Ibid.*, second session Forty-third Congress, page 81.)

Senator Morton reported from the Committee on Privileges and Elections, January 20, 1875, a joint resolution proposing an amendment providing for election by direct vote in *districts*. (Senate Report No. 16, second session Forty-third Congress; Record, second session Forty-third Congress, page 608.)

See, also, report of same committee submitting arguments in favor of district system. (Senate Report No. 395, first session Forty-third Congress.)

The joint resolution discussed at length by Morton, THURMAN, and CONKLING. (*Ibid.*, pages 626 to 634, and 649 to 652.)

Senator Morton again submitted his amendment at the next session, December 5, 1876. (Record, second session Forty-fourth Congress, page 17.)

Discussed by Senators Morton and EDMUNDS. (*Ibid.*, 123 to 127.)

I move the reference of the joint resolution to the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the Result of the Elections of President and Vice-President of the United States.

The motion was agreed to.

## UNIVERSITY LANDS TO TERRITORIES.

Mr. McDONALD submitted the following report:

The undersigned conferees on the part of the Senate of the United States and on the part of the House of Representatives with regard to the disagreeing votes of the two Houses on Senate amendments to the bill (H. R. No. 1327) entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes," have conferred in respect to said disagreeing votes, and have agreed and recommend that the House do agree to said amendments to said bill, and each of them, and that upon such agreement said bill do pass.

J. E. McDONALD,
J. D. WALKER,
*Senate Committee.*
GEO. L. CONVERSE,
P. DUNN,
*House Committee.*

The report was concurred in.

## POST-OFFICE APPROPRIATION BILL.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senate, as in Committee of the Whole, resumes the consideration of the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes; and the question pending is on an appeal from the decision of the Chair on the question of order as to whether the amendment of the Senator from Alabama [Mr. PUGH] is in order. The amendment will be read.

The CHIEF CLERK. It is proposed, at the end of section 1, to add:

For additional postal service to foreign countries, $1,000,000, to be expended under the direction of the Postmaster-General, in the establishment of mail steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports: *Provided*, That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted for such service.

Mr. WALLACE. I believe the pending question is upon the point of order made by myself, that the amendment reported by the Senator from Texas, [Mr. MAXEY,] the chairman of the Committee on Post-Offices and Post-Roads, was legislation, and therefore not in order. The Chair decided that point of order well taken, and an appeal was taken therefrom to the Senate. I believe that is the situation of the question.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. MORGAN. Mr. President, the amendment proposed is so very important, and it being one that should be properly matured in the Senate, I venture to submit a few observations on the question of order. The decision of the Chair yesterday was that the proposed amendment was not out of order because it increased the amount of the appropriation, and in that decision the Senate acquiesced. Then the question was raised whether the amendment was out of order under Rule 29, because it proposed general legislation.

If you can find in the statute-books general legislation covering the whole ground of this amendment, which needs only to be further regulated for the purpose of disposing properly of this appropriation of a million dollars, which is in order, then the objection raised to this proposition being in order must fall to the ground.

The Senate is considering an amendment to the bill brought in by the Committee on Post-Offices and Post-Roads, proposing to appropriate $1,000,000 for the purposes of enabling the Postmaster-General to make contracts for the transportation of the mails to foreign countries and from foreign countries to this country, in lieu of the system which has been heretofore adopted by statute and which is now in force, of giving to the persons who transmit the mails the postage-money instead of mail pay in the ordinary acceptance of the term. I do not see, after it has been determined by the Senate that this proposed amendment so far far as the appropriation is concerned is in order, how it can possibly be held that the Senate shall have no power to dispose of that appropriation in such a way as to make it more valuable or more available for the purposes of mail intercommunication between this and foreign countries. Whatever shall be added now to this million dollars in the nature of a provision for the regulation of its expenditure or its employment must be germane to the subject of its expenditure; and unless it create a necessity entirely new, to the breaking down of some established and existing system for the regulation of mail intercommunication between this and foreign countries, I cannot understand how the proposed amendment is amenable to the objection which has been raised against it. Rule 29 provides that—

No amendment which proposes general legislation shall be received to any general appropriation bill.

The object of that rule was not to cramp either House of Congress when it had the right to make an amendment to an appropriation bill so as to prevent either House from giving proper direction to that appropriation; but it was intended to prevent the introduction of new and substantive matters of legislation either not germane to the subject in hand or such matters of legislation as were entirely new and of a general or universal character.

The object of the rule found in the Manual was to prevent opportunity being afforded to any Senator or to any member of the House (to any Senator is as far as we need to discuss the subject here) of compelling the Senate to adopt some new provision of general law by fastening that provision upon an appropriation bill and threatening to stop the Department of the Government for which we were providing unless that general law should be adopted. That was the purpose intended to be prevented by the adoption of this rule; and when we look at the real reason of the rule we understand, I think, that a proposition which merely relates to the regulation of the manner of the expenditure of an appropriation that is held to be in order cannot be such general legislation as violates that rule in letter or in principle.

Upon turning to the Statutes of the United States on this subject I find that every provision contained in the amendment offered by the committee has been substantially made. Every provision of general law in reference to the transportation of mails to foreign countries is found substantially in the existing legislation upon that subject; but of course the special stipulations of this amendment and the special provisions in reference to the use of this $1,000,000 are not found in any law; but the convenient use, the just application of this amount of money which we are now asked to appropriate for the purpose of paying for the transmission of mails across the ocean is a subject properly within the power of the Senate to regulate upon a general appropriation bill. It is not necessary that we should go before a committee and have a separate bill passed authorizing us to establish foreign mails, because under existing laws the Postmaster-General has the power to establish foreign mails; or to fix rates of postage, because under the laws he has the power to fix rates of postage; or to declare that the mails shall be carried in steamships, for under the existing law he has the power to declare that the mails shall be carried in steamships. Every substantial provision in this amendment except the mere regulation of the method of its execution is found in the existing statutes. I will now call the attention of the Senate to some of these laws.

SEC. 4007. The Postmaster-General may, after advertising for proposals, enter into contracts for the transportation of the mail between the United States and any foreign country whenever the public interests will thereby be promoted.

There is a general law which makes the whole bosom of the ocean a mail-route, and leaves it to the Postmaster-General to select what ports of the United States the mails shall leave, and at what ports abroad they shall arrive. It is left entirely to his own discretionary declaration to designate those mail-routes which are established under this act as being common to all the ports of our country and all the ports of a foreign country, the ocean being the great way upon which the mails are to be transmitted.

I submit that if the Congress of the United States were to engage itself for a month in providing mail-routes across the ocean, it would not after all have made a system as full and as broad and as comprehensive as that which is contained in section 4007, for Congress in specifying the mail-routes would merely limit the number, whereas section 4007 places no limit on the number of routes or the ports to or from which the routes shall be established, but lays every port open to the access of the mails from abroad, and enables the Post-

master-General to send steamships out of any port of the United States to any port abroad.

Certainly, therefore, in the matter of the establishment of post-routes there is no new general legislation in the amendment; but the amendment falls within and is intended to complete and effectuate a provision of law which is now upon the statute-book. It does not undertake to create a new system or to create new mail-routes.

SEC. 4008. The mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, shall be transported in steamships; but the Postmaster-General may have such transportation performed by sailing-vessels when the service can be facilitated thereby.

The amendment provides that the mail shall be transported in iron steamships. Neither do the two sections that I have read nor any other sections confine the Postmaster-General to a specific manner of carrying mails abroad, but the amendment provides an additional means of carrying them abroad, which is that he shall designate the ports from which these lines are to be established, as he has the right now to do, and the mails shall be carried in iron steamships.

SEC. 4009. For transporting the mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, the Postmaster-General may allow as compensation, if by a United States steamship, any sum not exceeding the sea and United States inland postage; and if by a foreign steamship or by a sailing-vessel, any sum not exceeding the sea-postage, on the mail so transported.

The amendment provides simply that you may add to that, and appropriates $1,000,000, so that the Postmaster-General, instead of paying in postages under the discriminating rule as between American and foreign ships, may pay in money out of the Treasury of the United States, precisely as we pay a contractor who carries the mail over a railway or on a star route. It is the addition of $1,000,000 to the fund from which is to be drawn the support of our foreign mail intercommunication, and that is all that can be said of it.

The next section relates to the power of the Postmaster-General in imposing fines:

4010. The Postmaster-General may impose fines on contractors for transporting the mail between the United States and any foreign country for any unreasonable or unnecessary delay in the departure of such mail or the performance of the trip; but the fine for any one default shall not exceed one-half of the contract price for the trip.

"The contract price for the trip," says the statute. What is the contract price for the trip? Under the existing system you cannot exceed the amount of postage, to which I have just called the attention of the Senate; but under the amendment proposed the payment may exceed the amount of the postage, and money may be appropriated out of the Treasury of the United States for the purpose of adding to the contract price and thereby facilitating the carrying of the mails abroad; and as to the power of imposing fines placed in the hands of the Postmaster-General it would be just as applicable after we had passed this amendment as it is applicable to the present system of the transportation of the mails.

SEC. 4011. Every contract for transporting the mail between the United States and any foreign country shall contain, besides the usual stipulation for the right of the Postmaster-General to discontinue the same, the further stipulation that it may be terminated by Congress.

Congress maintains the power under existing laws to revoke the contract as well as to give the power to the Postmaster-General of the discontinuance of a route under which by contract the party who transported the mails is entitled to a certain remuneration. The next section provides for the transportation of mails through the United States. Here is a section in reference to offenses against foreign mails *in transitu:*

SEC. 4013. Every foreign mail shall, while being transported across the territory of the United States under the provisions of the preceding section, be deemed and taken to be a mail of the United States, so far as to make any violation thereof, or depredation thereon, or offense in respect thereto, or any part thereof, an offense of the same grade, and punishable in the same manner and to the same extent as though the mail was the mail of the United States.

It then provides for indictment for such offenses. The Statutes then provide as follows:

SEC. 4014. The Postmaster-General or the Secretary of State is hereby authorized to empower the consuls of the United States to pay the foreign postage on such letters destined for the United States as may be detained at the ports of foreign countries for the non-payment of postage, which postage shall be by the consul marked as paid by him, and the amount thereof shall be collected in the United States as other postage, on the delivery of the letters, and repaid to said consul, or credited on his account at the State Department.

SEC. 4015. The Postmaster-General, under the direction of the President of the United States, is hereby authorized and empowered to charge upon, and collect from, all letters and other mailable matter carried to or from any port of the United States, in any foreign packet-ship or other vessel, the same rate or rates of charge for American postage which the government to which such foreign packet or other vessel belongs imposes upon letters and other mailable matter conveyed to or from such foreign country in American packets or other vessels as the postage of such government, and at any time revoke the same; and all custom-house officers and other United States agents designated or appointed for that purpose shall enforce or carry into effect the foregoing provision, and aid or assist in the collection of such postage, and to that end it shall be lawful for such officers and agents, on suspicion of fraud, to open and examine, in the presence of two or more respectable persons, being citizens of the United States, any package or packages supposed to contain mailable matter found on board such packets or other vessels or elsewhere, and to prevent, if necessary, such packets or other vessels from entering, breaking bulk, or making clearance until such letters or other mailable matter are duly delivered into the United States post-office.

SEC. 4016. All letters or other mailable matter conveyed to or from any part of the United States by any foreign vessel, except such sealed letters, relating to such vessel, or any part of the cargo thereof, as may be directed to the owners or consignees of the vessel, shall be subject to postage charge, whether addressed to any person in the United States or elsewhere, provided they are conveyed by the packet or other ship of a foreign country imposing postage on letters or mailable matter conveyed to or from such country by any vessel of the United States.

Then it goes on to make a further proviso in that declaration. I have read these provisions of the statutes for the purpose of showing that we have now a thoroughly organized system of mail intercommunication with foreign countries, to show that there is no single track that a ship's keel can make upon the bosom of the ocean that will be restricted under the law of the United States if it is sailing from any port of the United States to any foreign port carrying the mails under a contract with this Government.

Mr. BAYARD. May I ask the Senator from Alabama a question? Suppose the words were interpolated in the amendment now before the Senate, "according to the provisions of existing law," does the Senator believe that the amendment would be operative?

Mr. MORGAN. I do not, because the existing law requires——

Mr. BAYARD. Is not that the crucial test of the order or disorder of the amendment in question? If it requires a change or modification of existing law to make effective the amendment which is now proposed, then the amendment is out of order. If, on the contrary, the amendment be in accordance with existing law it probably may be considered in order. I submit to my honorable friend from Alabama that if those words were interpolated they would destroy the object and effective action of the amendment, and yet if they are not in, either to be read between the lines or to be read there openly, the amendment I think will be in violation of the rule.

Mr. MORGAN. It is almost impossible to pass any appropriation bill that does not contain some change upon some existing system. If we were compelled to adhere upon appropriation bills entirely and rigidly and closely to the existing state of the law, without modification or amendment, nothing would be left open to us but to adopt for each succeeding year the appropriation bills of the preceding year. There is not an appropriation bill that has ever passed through this body that does not contain some material modifications of existing laws. But few appropriation bills have been passed through this body which did not contain new systems of legislation grafted upon them, either such as are foreign to the subject-matter of the bill or such as are relevant to the subject-matter of the bill. It perhaps would be proper upon a bill of this kind to introduce a provision "that all laws authorizing mail intercommunication with foreign countries are hereby repealed." I say possibly so, because then we should be abrogating a system by a repealing clause in this act. It would be better, wiser, and safer that such a measure should be considered in the committee selected by the Senate to take particular charge of that business, and it is only that we are providing for ourselves rules of safety in the administration of public affairs that we have resorted to this operation of adopting such a rule at all. But when you admit the system in all of its broad and full force and power, and when you preserve in that system every feature of it entirely intact, and in making an appropriation for the support of it, in addition to appropriations under existing laws you find it necessary to make some addition to, amendment of, or modification of the system, it cannot be said that we are altering the law or changing the law in that material sense which makes it new or general legislation.

The question being raised as to the admissibility of this amendment under the rule which I have quoted, I confine my remarks at the present moment to that view of the case. I will read section 3971.

Mr. WILLIAMS. Will the Senator from Alabama allow me a moment?

Mr. MORGAN. Yes, sir.

Mr. WILLIAMS. As I understand the sections of the Revised Statutes which the Senator has read, they in substance and in effect do really establish a postal line between the ports of this country and every foreign port at which we have a consul.

Mr. MORGAN. Yes, the laws of the United States authorize the Postmaster-General to have the mails carried in steamships or sailing vessels, according to his discretion, and authorize him to fix the rates of postage and make ample provision for the protection of the mail on board ships.

The laws of the United States not only protect a United States mail on board foreign ships when sailing to a foreign port, but protect that mail by legal penalties against any invasion or violation. So if any person on board the ship shall violate the mail, shall trespass upon the mail in any regard whatever, the courts of the United States have jurisdiction to punish the offense. Our system is already so far complete and perfect in this regard that we have left nothing open about it except the amount of money that we will appropriate and the manner in which we shall carry the mail. Would any Senator doubt that we have the right to use the ships of the United States Government, the naval ships that are not in commission, in the transportation of the mail if we see proper to order them to carry the mail? Yet that would be quite a change in the system; it might be regarded as an innovation; but surely we have a right to order our men-of-war to carry our mails to the port of New York, to the port of Liverpool, or elsewhere; and we have a right to do it under an appropriation bill. We have a right to save expenses, as well as the power to increase expenses.

The amendment now presented to the Senate is an arrangement for the transportation of the mails under a system already established.

It does not violate the principle of the system; it does not repeal any essential feature of it, and only adds to the efficiency of the system by providing new means of conveyance and a different mode of transportation.

Let me read further from the Revised Statutes:

SEC. 3971. The Postmaster-General may enter into contracts for extending the line of posts to supply mails to post-offices not on any established route, and, as a compensation for carrying the mail under such contracts, may allow not exceeding two-thirds of the salary paid to the postmaster at such special offices.

SEC. 3975. The Postmaster-General may, when he deems it advisable, contract for the transportation of the mails to and from any post-office; but where such service is performed over a route not established by law, he shall report the same to Congress at its meeting next thereafter, and such service shall cease at the end of the next session of Congress, unless such route is established a post-route by Congress.

Here we give to the Postmaster-General the right in a general way to establish post-routes where they do not exist, and upon which he may arrange mail service, and fix by contract or otherwise the amount of payment for the mail service, leaving it to be repealed by the succeeding Congress, or leaving it to fall if the succeeding Congress may not see proper to adopt his action in that particular.

These provisions of the statutes simply show that the Government of the United States in establishing mails, whether upon the high seas or upon the land, has given to its executive officer charged with that duty broad discretionary power, and has not undertaken to confine that discretion to routes that are already established by law.

I must confess that I have looked carefully, and so far in vain, to find what law would be repealed by this proposed amendment to this bill, or what law would be altered, except as to the method of making these contracts and paying for the transportation of the mails and the manner of their transportation. We have adopted postal cars; we have authorized the Postmaster-General to require special cars to be built expressly for the purpose of carrying the mails across this continent in one direction and another. Because we have done that, nobody, I believe, has ever complained that that was repealing any existing law, or that it was an invasion of an established system; nor can it be held that this amendment is a repeal of any existing law or the establishment of a new system. As I have remarked before, it is merely an arrangement or amendment of that system so as to make it more advantageous for the public.

Mr. JONES, of Florida. Mr. President, I desire to offer a few observations to the Senate in regard to the proposition now pending in order to show my views upon the subject. I cannot conceive how this amendment violates the rule of the Senate to which reference has been made, which provides that—

No amendment which proposes general legislation shall be received to any general appropriation bill.

There is some legislation so intimately connected with appropriations of money that it is impossible to separate them. There is legislation which does not require, in order to give it effect, any appropriation of public money. I will take the case of public buildings as an example. No one now would pretend to say that if this were the sundry civil appropriation bill instead of the Post-Office appropriation bill, and a Senator came here who had failed to persuade the committee, of which I happen to be chairman, to pass favorably upon a bill for the erection of a public building in any of the States of the Union, and offered a proposition to put the provisions of such a bill on the sundry civil bill, it would be out of order on that bill. It has never been so held, and the practice of Congress supports me in that statement. It will be found on referring to the past that numerous instances have occurred where provisions were made for the erection of public buildings on sundry civil appropriation bills, and appropriations were made to erect them.

So with regard to the Navy. Suppose we had the naval appropriation bill here, and it was thought necessary to authorize the head of that Department of the Government to build some additional ships of war different in model, style, and class from those which were recognized before, and some Senator who had at heart the interests of this country, wishing to build up this much-neglected arm of the public service, came forward with an amendment providing that the Secretary of the Navy should have placed at his disposal $1,000,000 to put the American Navy on a respectable footing, and going beyond the mere matter of appropriation, if the mover of such an amendment thought proper to designate with precision the class of ships that were to be built, would any Senator say that such an amendment would be in violation of the rule of the Senate? I think not.

Is this proposition, then, different from those that have been suggested? It is not; because the very essence of the thing is an appropriation of public money. The essence of this amendment is an appropriation. Without it you can do nothing. There is, as was stated awhile ago, some legislation that may be enacted and that may stand independent of appropriations, touching general laws; and that kind of legislation I imagine this rule was intended to prevent being incorporated into appropriation bills; but when the main object sought to be accomplished is the appropriation of public money, everything incidental to it follows the main question and is controlled by it.

To test this question, how would we proceed if we were to conform to the views entertained by the gentlemen who oppose this amendment? What course would they point out to us for accomplishing this object, if it were the sense of this body that it ought to be perfected? Would they say that it is necessary to pass an independent bill, authorizing the Postmaster-General to establish lines of mail communication between the United States and all the countries of Europe, and, after that is enacted, then to come in here with another distinct proposition to be incorporated into an appropriation bill to carry that out? The other proposition amounts to nothing by itself. You might pass fifty laws here empowering the Postmaster-General to establish lines of communication between the United States and Europe, but what would they amount to by themselves? That does not hold true, however, with respect to another description of laws which would be capable of operation and force independent of any appropriation of public money; but in this particular case the very necessities of it require that you shall couple an appropriation with the authority proposed to be given; and in a case of that kind nothing, it seems to me, is clearer than that the appropriation must control the incidents that follow it, and that they are proper to be ingrafted into an appropriation bill.

Mr. BECK. Mr. President, confessing very little accurate knowledge of the rules, I have supposed there was a certain test of the fact whether an amendment to one of the general appropriation bills was in order or not. The Committee on Post-Offices and Post-Roads of course have a clear right to consider any matter connected with the postal service and tender an independent bill for the passage of the measure they recommend. No one disputes that. They give it consideration; they state all the facts; they report it favorably to the Senate; they place it upon the Calendar and there it takes its chances. But they have another right, and that is, if they believe that it is a proper thing to do, and that an appropriation ought to be made for it, they can refer it to the Committee on Appropriations for its consideration, and after that committee have had an opportunity to act upon it one way or the other, it is in order to test the sense of the Senate relative to the measure that has been so submitted as an amendment to the proper appropriation bill.

In this particular case the Committee on Post-Offices and Post-Roads did not venture to present this as an independent measure to test the sense of the Senate upon it, as they had a right to do, and they did not venture to send it to the Committee on Appropriations while the Committee on Appropriations had charge of the bill to which they now seek to attach it as an amendment. If they had seen fit so to do, as they had a perfect right to do, then the Committee on Appropriations would have had a right to call upon the head of the Post-Office Department to know whether he desired this to be done. When this question was up before, in another form, the former Postmaster-General, Judge Key, was called upon, and he distinctly answered that it was not necessary and he could not recommend it as a postal measure; and the record that was read here two years ago, when the question was up in another form, contained a letter of that Postmaster-General saying that he was getting all the postal service he wanted done for less than 10 per cent. of the amount now sought to be given him, and that it was not a postal measure, but a commercial measure.

Mr. FERRY. If the Senator will allow me, I think that proposition applied to the case of Brazil.

Mr. BECK. I think it did in great part, and I think this does when you sift it down and get clear of the circumlocution about it.

Mr. FERRY. The Senator referred to the fact that the former Postmaster-General had expressed a certain opinion. That referred to the case of Brazil; and he stated that it was more of a commercial interest than a post-route. The proposition was to pay $100,000, I think, to concur with the Government of Brazil in appropriating $100,000 to a line established between this country and Rio Janeiro.

Mr. BECK. Will the Senator from Michigan tell us what line of American-built steamships, manned and officered by Americans, we now have to which this appropriation can apply that crosses the Atlantic Ocean to any of the great countries of Europe? I should be glad to hear.

Mr. FERRY. If the Senator asks for a reply, I will state that this is simply an appropriation left to the discretion of the Postmaster-General to apply to the improvement of the postal service upon the high seas to foreign countries anywhere.

Mr. BECK. But at the same time it requires that the mails shall be carried in American-built ships, manned and officered by American officers and sailors. Does not the Senator from Michigan know that there is not a single line that meets that requirement which crosses the Atlantic Ocean to any of the great countries of Europe, and that this is in fact as much a Brazilian subsidy as if it had been so called?

Mr. FERRY. I reply to the Senator in this wise: That simply applies to the form or the application of the service, no more and no less than it would be if it was proposed to compel the Postmaster-General to have the mails carried in postal cars rather than in baggage cars.

Mr. BECK. But is not the mail to be carried, by the very limitation of the amendment, over a route to Brazil which alone can meet the requirements of the proposition now made? Is there a single line anywhere, going to England, to France, to Germany, to the Mediterranean, to any of the great countries where our productions are going, that can by possibility apply?

Mr. FERRY. That is stating just what I stated before, that it is simply placing a sum of money in the hands of the Postmaster-General to be used in his discretion for the interests of the postal service between this country and foreign nations. The mere fact of confin-

ing it to iron ships does not affect the question of order. The amendment does not specify the size of the steamships, but says that they shall be owned in America and manned by American citizens. That is simply carrying out a form of application for the benefit and best interests of this Government. If the Senator contends that this is general legislation, merely providing how the mails shall be carried, then confining the carrying of the mails upon land in postal cars is as much general legislation as this would be.

Mr. BECK. I think the failure of the Senator from Michigan (who is so well posted upon all these matters) to answer the question that I put to him is a substantial confession that while the amendment is supposed to be in the form in which it is now placed more acceptable to the American people than if it had been called a subsidy given to a single gentleman for carrying the mails to Brazil, it is in fact that and nothing more, for there are no other American ships that meet the requirements of the law except those upon that single line; and instead of limiting, as was done in the bill that was defeated before, the discretion of the Postmaster-General to a given sum, it authorizes the Postmaster-General with this million of dollars to give whatever he thinks fit, because there can be no competition, and whatever is demanded must be given, and only one man can make the demand, and he is obliged to be the lowest bidder.

Mr. FERRY. If the Senator will allow me, he must have misapprehended the amendment if he supposes that it is confined to American ships. It only provides that they shall be manned and owned by American citizens.

Mr. BECK. And no American citizen has any right to own, and the navigation laws prohibit him from owning, anything but an American-built ship; and if this is to begin now there can be no ship built in America within eighteen months or two years from this time to carry any of the mails that this purports to provide for.

When the question comes up, after the point of order is passed on, I may have something to say on that subject; but I desire to say now that if the Committee on Post-Offices and Post-Roads desire to make this a proper amendment to a bill laid before the Senate by the Committee on Appropriations under the rule, on every consideration of fair play the Committee on Appropriations ought to have had the right to have that bill before it, to have summoned the gentlemen of the Committee on Post-Offices and Post-Roads, if necessary, to present the papers on which they acted, to have summoned the Postmaster-General, to have summoned the men who are supposed to own these ships, to have gone into the whole question, and to have considered it. Instead of that this committee deliberately held back this measure for five days after the Committee on Appropriations had reported the Post-Office appropriation bill to the Senate, after the Committee on Appropriations were powerless to consider any question connected with the bill, to call any officer of the Government to bring any paper, to call upon the Senator from Michigan or the Senator from Texas, or the Senator from anywhere else to furnish us with the information upon which the Post-Office Committee were acting; and after they had thus avoided all possibility of an adverse report, which adverse report might have been fatal to this enterprise, they now seek to bring it in, holding it back until we could no longer expose whatever was wrong in it, could no longer develop the want of necessity for it, and had no power over it, and then they say they referred it to the Committee on Appropriations.

Mr. HAMLIN. Will the Senator allow me to make a single suggestion to him?

Mr. BECK. Certainly.

Mr. HAMLIN. The Senator is laboring under a great mistake if he supposes there was any intentional delay on the part of the Committee on Post-Offices and Post-Roads. The Senator from Texas, [Mr. MAXEY,] its able and honored chairman, was absent in his own State. The Senator from Tennessee [Mr. BAILEY] was also absent from these halls. The very day that they arrived here, the chairman called a meeting of that committee; and we sought to get the amendment before the Appropriations Committee before they reported the bill; but from the absence of the members of the committee and two of them a part of a subcommittee to whom the subject had been referred, it was an impossibility. I assure the Senator from Kentucky that there was no intention on the part of the Committee on Post-Offices and Post-Roads to delay the matter.

Mr. BECK. I am not dealing with the intention of gentlemen. I am speaking of the facts on record.

Mr. MAXEY. "Deliberately withheld," I think was the charge.

Mr. BECK. They withheld it. It did not come before the Committee on Appropriations till days after the bill was reported. I presume that everything is done with deliberation in this body. We had this Post-Office appropriation bill before us in the Committee on Appropriations, and we had every officer of the Post-Office Department before the subcommittee of which I was a member and the Senator from Pennsylvania chairman. We kept it for days and consulted upon every question; we then laid it before the full committee; we held it there; we inquired whether there was to be any proposition of subsidy before us, and we had subsidy men on that committee and no man said that any such intention existed.

Mr. MORGAN. I should like to ask the Senator from Kentucky if he has any reason to suppose that the Committee on Post-Offices and Post-Roads did not give to this subject as full and fair consideration as the Committee on Appropriations would have given to it?

Mr. BECK. Well, sir——

Mr. KIRKWOOD. Mr. President——

Mr. BECK. Wait a moment. I cannot answer everybody at once. I will answer one at a time. The Senator from Alabama asked me if I did not think the Committee on Post-Offices and Post-Roads gave it as fair consideration as the Committee on Appropriations could have given it if it were before them. I have no reason to believe that they did not; but if they intended to act on their own responsibility, then they ought to have presented the bill to the Senate which they had so carefully and so well considered, placed it upon the Calendar, and given the Senate the benefit of the consideration they had given it, and not seek to put it on this appropriation bill, because they had referred it to a committee that never had a chance to consider it. If it is to be in order without referring it to the Committee on Appropriations because of the full consideration given to it by the Committee on Post-Offices and Post-Roads, well; if it is to be in order because it was sent to the Committee on Appropriations, and is to be made part of their bill because it was so sent, then I deny that the Committee on Appropriations had any possible chance to consider it, to expose its defects, to make an adverse report upon it, and give it whatever effect that adverse report would have given it.

Mr. MORGAN. There is no rule of the Senate which requires that any bill shall be considered by two committees before it can be considered by this body. No such rule is found in all this code of rules for the government of this body. The consideration of one committee is all that is required.

Mr. BECK. Is that a speech or a question?

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Senator from Kentucky declines to yield.

Mr. BECK. I do for a speech.

Mr. MORGAN. What I have said is a mere observation. These may be antagonistic committees, perhaps, and I notice that a row is raised every time any committee here is supposed to come in the slightest degree in collision with the Committee on Appropriations, of which the honorable Senator is a member, and I believe they are about to absorb all the powers of legislation of this body as I understand, if their claims be conceded.

The PRESIDING OFFICER. If the Senator from Kentucky declines to be interrupted, the Chair will protect him.

Mr. BECK. I would rather not be interrupted; and I wish to notice that last remark that we were seeking to monopolize all the powers of this Government and of the committees of this House——

Mr. MORGAN. I said the Committee on Appropriations were about to absorb them if the present claim were conceded.

Mr. BECK. Absorb!

Mr. MORGAN. Mr. President——

Mr. BECK. Let me go on if the Senator from Alabama will.

The PRESIDING OFFICER. The Senator from Kentucky is entitled to the floor.

Mr. MORGAN. Certainly.

Mr. BECK. Mr. President, if it is the rule of this body that anything can be brought before it that has been considered by one committee only, why is it necessary to have a rule of the Senate that it should be referred to the Committee on Appropriations before it can be made properly a part of their bill? That seems to be a rule requiring that it should be referred to them if it is to be made a part of a bill that that committee has under consideration. The consideration of a single committee, the Committee on Post-Offices and Post-Roads, will entitle a measure to be placed upon the Calendar and be considered in the Senate as a bill coming from that committee; but if it is to be made a part of an appropriation bill that comes from the Committee on Appropriations, then it has to be sent to that committee, and if so sent that committee ought to have a right to look at it, ought to have a chance to consider it, ought to have the facts before them, and ought to have a right to make an adverse report if they think an adverse report should be made. All these things were denied them in this case. If I said they were designedly denied, I did not mean that. The Senator from Maine and the Senator from Texas will understand me. I am not sure that I may not have used some expression which may be tortured into that; but my meaning was that it was held back after we had given ample opportunity by keeping the Post-Office bill in subcommittee for several days, by considering it in the full committee, by waiting fairly to give every person an opportunity who had anything to say.

As to the Committee on Appropriations absorbing all power, I have only to say that it is fortunate for this Government and for the Treasury of the United States, in my opinion, that there is some committee of this body and of the other House not connected with any Department of the Government. I never saw a matter come up relating to the national banks that the Comptroller of the Currency did not seek to make himself the champion of those whom he had to look after. I never saw anything relative to the Army come up that the Committee on Military Affairs did not seem to think it was an outrage on the part of the rest of the Senate if they did not do what that committee thought ought to be done with the great department they had charge of. The Committee on Naval Affairs seem to think they are the special guardians of the Navy, and that all the other members of the Senate are against it. The Committee on Post-Offices and Post-Roads seem to think that they must not only take charge of everything connected with the Post-Office Department, but they must

run the commerce of the country in the name of the Post-Office. And so it is, each one of the committees having charge of special affairs press those matters especially; and it is only when a measure comes before the Committee on Appropriations, that has to do with no Department of the Government, and has no special championship of any of them, and has nothing to do with any of them, and is not thrown in special contact with any of them, that the whole question is looked at with regard to the interests of the public. I am glad to see my friend from Massachusetts [Mr. DAWES] nodding acquiescence to that, for he and I stood side by side for six years and suffered under some of the things I am now speaking of at the other end of this Capitol.

So, when the Senator from Alabama comes to analyze the suggestion he has made, that we are absorbing everything, in my judgment he will find it is fortunate for the country that we are absorbing some of it. I have never heard this Committee on Appropriations here charged with extravagance. I have at the other end sometimes; but I think that all the action of this Committee on Appropriations shows that we are endeavoring to keep down the expenditures of the Government, and keep out of our necessary appropriation bills all legislation that is not germane to them. Here we are striving to keep out that what is foreign to the object of running the Post-Office Department. The question in regard to the great commercial relations of this country, whether with Brazil, with England, with France, or any other country, should be considered upon independent propositions, standing on their own merits, and not on bills which the rules require shall be merely to make appropriations in accordance with existing laws, and to carry out existing laws. That requirement is much better observed when outside issues and questions not provided for by law stand upon an independent footing, and when the Senate and House once pass them we never fail to appropriate money to carry them on. To have a matter of this kind put on a bill like this, when we have had no opportunity to consider it, which was laid before the Senate five days after the bill had passed from us, thereby depriving the Senate of the benefit of the investigation of the Committee on Appropriations, does not, in my opinion, give the tax-payers of the country the chance they ought to have and would have if that committee had had a chance to consider the proposition.

I have endeavored to say nothing about the merits of this proposition. Perhaps I may be heard upon them when it does come up. I do not profess to know very much of the rules, but I have stated my judgment of the matter.

Mr. MAXEY. Mr. President, the Senator from Kentucky has seen proper, in what I conceive to be not the correct or true spirit, to arraign a committee of this body, composed of gentlemen in every possible sense his equal, of having deliberately withheld an important bill, intimating thereby that that committee by some covert process was attempting to foist on the country a proposition against the best interests of the country.

Mr. BECK. I explained that.

Mr. MAXEY. A statement of that kind should never be made unless it is sustained by facts. What are the facts in regard to it? The Senator from Maine [Mr. HAMLIN]—and I am thankful for it—very properly stated the reasons. I returned from Texas on last Saturday. I found pending in the Post-Office Committee a bill presented by the Senator from Alabama effecting the object of this amendment, and one by the colleague of the Senator from Kentucky, and perhaps two others. They had not been acted on for the reason given by the Senator from Maine. As soon as I returned on Saturday, the first thing I did was to call a special meeting of the Committee on Post-Offices and Post-Roads for the purpose of considering these measures. That committee met on Monday morning. Failing to complete the work on Monday morning, we obtained an order of the Senate authorizing us to sit during the session of the Senate on Monday for the purpose of completing the consideration of the subject. The work was completed on Monday evening, and on Monday evening the report of the committee was made, the 7th of February, and it was referred by the order of the Senate to the Committee on Appropriations.

The Senator from Kentucky assumes, notwithstanding the decision of the Senate to the contrary, that the Committee on Appropriations had no opportunity to examine it. I say that is not true. The committee had not only the opportunity by the record, but notice was given to the Senator in charge of the bill that this amendment had been referred to the Committee on Appropriations, and the Senate is presumed to act with some degree of judgment and common sense; and when they made the order referring the amendment to the Committee on Appropriations, notwithstanding that committee had made its report on the appropriation bill, it was evidence that the Senate still controlled that committee and directed that committee to examine that matter.

That was on the 7th instant. The bill was not called up here until the 10th, yesterday. Three days passed by, and during all that time this committee, through the Senator from Kentucky, complain that they had no opportunity to examine it. Sir, the record of the fact overrides the assertion of any man. They had three days to examine it, and yet the Senator sees proper to arraign the Committee on Post-Offices and Post-Roads, in every sense the equal of the Committee on Appropriations, because they were by some covert process attempting to take advantage of the Committee on Appropriations; and he arraigns every committee here, the Naval Committee, the Military Committee, and every other committee as intending to do that which is against the best interests of the country, leaving only the Committee on Appropriations as the true and sole defenders of this great country.

> Upon what meat doth this our Cæsar feed,
> That he is grown so great?

Mr. President, I give to every one on this floor credit, and do it sincerely, for doing his duty, his whole duty, and nothing but his duty to the country. I believe the Senator from Kentucky, from his standpoint, endeavors to do his duty; I endeavor to do mine; and so I give credit to all men here; but I deny the right of any man to arraign one Senator for appearing to be derelict in duty, or seeking by any process to obtain an advantage and run rough-shod into the Treasury to take out money not for the general good of the country.

Mr. President, there has been enough of that kind of thing. The Committee on Appropriations constantly endeavors from the lights before it to do its duty. I have never asserted otherwise. The Committee on Post-Offices and Post-Roads endeavors to do its duty, and so I believe every committee of this body endeavors to do its whole duty to the country; and so far as I am concerned, I hold myself responsible, not to the Senator from Kentucky, but to the people of the State which sent me here and to the people of this country for my acts, and they will compare with those, I think, of the Senator from Kentucky.

Sir, the Committee on Post-Offices and Post-Roads believed this measure was a wise one and in the best interest of the country. The Senator from Kentucky thinks otherwise. Am I to charge that because his judgment does not agree with mine, therefore he is endeavoring to build up the interest of some one man as against all others? I am proud that it is not in my heart to believe all men who disagree with me are acting in bad faith. I have learned where men can best learn that fact, that honest men may honestly differ. I give to those who differ with me on this proposition credit for as much sincerity as I have in the position I take. I believe that this measure is in the best interest of the country, and therefore I advocate it; and the Post-Office Committee, of which I have the honor to be chairman, by a large majority took that view of the question and so reported, and we are willing to test the sense of the Senate and go before the country on that. Whether the Senator from Kentucky be right or whether we be right, is a question to be settled after the measure is passed.

Mr. WALLACE. Mr. President, it seems to me idle to get into a dispute over a question that is not before the Senate or to lug in here extraneous matter. The question as to whether this amendment was properly referred to the Committee on Appropriations was made by myself as a point of order to the Chair last night; it was discussed; and the Chair ruled the point of order not well taken, and the Senate acquiesced. That question was disposed of. The Senator from Texas well stated that he called my notice to the proposition that he now submits. The Committee on Appropriations were not called together to discuss the subject because I supposed that the matter would come to the Senate and they would have full control of it all. That matter has really passed out of the committee and is on the record. The only question now for the Senate and the one that we ought to approach in the proper spirit it seems to me, and with the determination to have it settled upon what is the law and the proper interpretation of our rule simply is, is this general legislation upon an appropriation bill? That is the point of order that I made to the Senate last night in the performance of my duty in charge of this bill. I endeavored to set it on its feet for the consideration of the Senate. The Chair sustained me that the point of order was well taken, and the Senator from Texas took an appeal, and that appeal is now pending; and the simple question for the determination of the Senate is, not whether the Appropriations Committee is absorbing anything, but are these words "that the Postmaster-General shall have the right to establish mail-steamship lines" general legislation? That is the question. It is not a question as to whether there is to be transportation of foreign mails by routes now in existence; but the simple question for the Senate now to determine on this bill is, has the Postmaster-General under this clause the power to establish mail-steamship lines, and if so is not that general legislation? They do not exist now. Mail-steamship lines are to be established, which implies its creation of the steamship itself, the enactment of the route on which and the ports between which the steamship is to sail, everything that is necessary to the starting of the mail from our shores and to the reception of it in another country, to the vehicle that transports the mail and all that surrounds that question. These are questions of legislation all of which are involved in this single proposition.

Mr. HILL, of Georgia. Will the Senator allow me to ask him a question?

Mr. WALLACE. Certainly.

Mr. HILL, of Georgia. Does this direct the Postmaster-General or the contracting company to carry the mail in these steamship lines?

Mr. WALLACE. When there is no route established, when there is no power of law to authorize the hire of steamships, when there is no power of law to create steamships, this is entirely a new proposition; it is not giving simply a power he expend money for the transportation of the mail, but it is voting money for the establishment of mail-steamship lines. I answer in the words of the amendment.

Mr. HILL, of Georgia. I ask the Senator, is not the whole ocean a post-route? Is not every navigable stream a post-route? If the ocean is a post-route now under the general law, does the contract by the Postmaster-General to carry the mail on it establish a line?

Mr. WALLACE. The Senator does not take the amendment in its very words in asking his question.

Mr. HILL, of Georgia. Suppose I put it, then, that the additional inducement of a mail contract would induce private corporations to establish a line for the purpose of carrying the mails, does the company establish the line, or does the Postmaster-General establish the line? Does not the company establish the line; does not the company build the steamship; and does not the Postmaster-General simply contract with that company to carry the mails?

Mr. WALLACE. If the Senator from Georgia will put the amendment in the form which it ought to be "for the transportation of foreign mails," and giving power to execute a contract under the statute as it exists, he will be within the rule, and it will not be general legislation; but I answer in the words of the amendment itself, it is for "the establishment of mail-steamship lines," and it involves the use of the ships, the creation of the ships, the ports between which they are to run; all that is to be done by the Postmaster-General, and if that be not general legislation what is it?

Mr. HILL, of Georgia. Now, I call the attention of the Senator to the law, and ask him if this amendment is any different from this, if it proposes general legislation more emphatically than this, or if it establishes a steam line more emphatically than this establishes a line?

SEC. 4002. The mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, shall be transported in steamships; but the Postmaster-General may have such transportation performed by sailing-vessels when the service can be facilitated thereby.

Does that establish steamship lines by the Postmaster-General?

Mr. WALLACE. The Senator from Georgia answers the point of order in regard to general legislation by quoting general legislation from the statute-book.

Mr. HILL, of Georgia. The very point is, is not the amendment now proposed simply a provision to enable the Postmaster-General to carry out existing law?

Mr. WALLACE. It does not contain an appropriation for the transportation of the mails upon mail-routes now in existence, and that is the point toward which appropriation bills usually go.

Mr. JONES, of Florida. Will the Senator allow me to ask a question?

Mr. WALLACE. Certainly.

Mr. JONES, of Florida. I ask him how the foreign mails are now carried under existing law; and if there is any difference between it and the propositions now pending; it is not in favor of American ships?

Mr. WALLACE. Should the Senator take the bill which has been passed through the Committee of the Whole he will find how appropriations are made, and he will find on page 8, line 184, the appropriations for foreign mails in these words:

For transportation of foreign mails, $225,000.

That is the way we make provision for the transportation of foreign mails.

Mr. JONES, of Florida. How are the mails now carried to Great Britain?

Mr. WALLACE. They are carried to Great Britain under a special contract made in reference to the amount of postage.

Mr. JONES, of Florida. In what description of ships?

Mr. WALLACE. In steamships.

Mr. JONES, of Florida. Owned abroad? That is what I want to get at.

Mr. WALLACE. Then let us come back to the question; let us hold ourselves to the single question involved in this measure. There is no use of getting excited over it. The whole, single point is, do the words "for the establishment of mail-steamship lines" involve the duty of general legislation, the creation of general legislation by the Postmaster-General? If they do, then this amendment is not in order; if they do not, it is, and that is all there is of this question.

Mr. GARLAND. Mr. President, I intend, at the invitation of the Senator from Pennsylvania, to confine myself strictly and legitimately to the question presented, which is whether the ruling of the Chair yesterday evening on this question of order is correct. The Chair ruled yesterday that the amendment offered by the Senator from Alabama to the Post-Office Appropriation bill was not in order because under clause 1 of Rule 29 of the Senate it proposed general legislation, and therefore is obnoxious to that rule. The word to be construed to get at the meaning of the rule in regard to this amendment is the word "general." Certainly this is a general appropriation bill. Now by implication under this rule which denies the power to receive an amendment that proposes general legislation, of course special legislation may be in order by way of amendment. That is as clearly to be inferred from the rule as if it was stated in so many words. Special legislation is allowed, then, to what? To the particular matter in hand. What is that? That is to the postal service of the United States. We cannot, by an amendment, put anything in reference to the distribution of pensions upon this bill. We cannot tack on the Geneva award, under this rule, to this bill. We cannot tack on the Indian serveralty bill by an amendment to this bill. Nor can we put on anything that is not germane to and connected with the postal service by an amendment to this bill.

That is all that Rule 29 attempted to provide against; that is to say, no general legislation lying outside of the subject-matter itself shall be incorporated by an amendment upon a general appropriation bill. That is all there is in the rule, because I wish Senators to observe how completely and how fairly would be emasculated the bill reported by the Committee on Appropriations itself if this were not the rule, because the committee can no more usurp this power in presenting a bill here than can any Senator violate the rule by proposing general legislation on this bill. Yesterday evening in the few remarks I made I referred to some portions of this bill. It is largely composed of general legislation, according to the definition of the Senator from Pennsylvania. There is scarcely a paragraph in it, certainly not a page in it, that is without some general legislation, according to the interpretation of the Senator from Pennsylvania, which I do not concede to be "general legislation" within the interpretation of this rule. I adverted yesterday to the provision in lines 28, 29, and coming down to line 59, which begins:

And the Postmaster-General is hereby authorized to take the necessary steps to rent a suitable building or buildings for the use of the money-order office of the Post-Office Department.

Then further on, on page 5:

And the Postmaster-General is hereby authorized to expend not to exceed $25,000 thereof for special railroad service between the Union Depot in East Saint Louis, Illinois, and the Union Depot in Saint Louis, Missouri; and such sum shall include depot room and transfer service at each terminal—

An amendment put on by the committee, I believe on the motion of the Senator from Missouri, [Mr. VEST.]

Then in line 107 I find:

Said company shall have its pay reduced 10 per cent. on the rates fixed in section 4002 of the Revised Statutes, as amended by act of July 12, 1876, entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1877, and for other purposes," &c.

There it goes on and absolutely repeals existing legislation. Now this amendment only seeks to modify the law which has been read by the Senator from Alabama, [Mr. MORGAN,] which makes the great ocean a highway for the carrying of the mails of the United States. That is all there is of it. It is not within the ingenuity of man to fritter this rule away under the clause as to general legislation, which has reference entirely to propositions and subjects-matter outside of the particular object and scope of the bill.

The Senator from Pennsylvaua says that this makes a steamship service. Very well; that question is *res adjudicata* in the Senate. In the third session of the Forty-fifth Congress the Senate had under consideration a bill (H. R. No. 6143) "making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes," just the bill we have here; and "on the question to agree to the amendment reported by the Committee on Post-Offices and Post-Roads to establish ocean mail-steamship service between the United States and Brazil, a question of order was raised 'that the amendment was not germane to the subject-matter contained in the bill, and could not properly be included in it.'" The Chair submitted the question to the Senate for its decision. It was determined that the amendment was in order—yeas 39, nays 23. A second question of order was raised, to wit: "that the amendment proposed general legislation"——

Mr. CONKLING. What instance does the Senator refer to?

Mr. GARLAND. I am referring to the decision in the Forty-fifth Congress, third session, on the Post-Office appropriation bill. "A second question of order was raised, to wit: that the amendment," that is, the amendment reported by the Committee on Post-Offices and Post-Roads to establish mail-steamship service between the United States and Brazil, was out of order under Rule 29. The first question of order was that it was not germane. The Senate said it was. Then came the second question:

That the amendment proposed general legislation to a general appropriation bill, and could not be received under the first clause of the twenty-ninth rule.

The Chair submitted the question to the Senate: "Is the amendment in order?"—

It was determined in the affirmative—yeas 33, nays 26.

That is just this question. That amendment was to establish a mail-steamship service that did not then exist, which is just what this is intended to do, and the particular limitation, between the United States and Brazil, does not take it out of the operation of this rule, because under this the Postmaster-General may establish a line from here to Brazil or from here to anywhere else. It does seem to me that the interpretation of the words "general legislation" in Rule 29 leaves no room to doubt; but if there was room to doubt, here is a case where after a long and somewhat tedious discussion, which all who were here then remember, the Senate solemnly adjudicated that such an amendment was in order to just exactly this bill from the same committee.

Mr. FERRY. Mr. President, the chairman of the Committee on Post-Offices and Post-Roads has substantially answered the point made by the Senator from Kentucky when he criticised the course pursued by that committee. I intended to obtain the floor for the purpose of restating what had been said by the Senator from Maine that so far as the chairman of the Committee on Post-Offices and

Post-Roads was concerned he had discharged fully his duty. Having arrived here at a late day, he availed himself of the very first day, last Monday, to call the committee together to consider the very subject now pending before the Senate.

Now I want to say in that regard that not only did this committee sit during its ordinary hours, but the chairman called the committee together in special session on the same day in the afternoon, and hour after hour was spent in the consideration of this subject and this alone. So then, so far as consideration is concerned, the Committee on Post-Offices and Post-Roads gave it every attention that could be demanded of them, and when they had arrived at a conclusion at a late hour on Monday evening, the chairman was directed to report to the Senate this amendment. Now a member of the Committee on Appropriations states in the hearing of the Senate that every amendment should be submitted to that committee before they have concluded their judgment upon the bill to which an amendment relates. I desire to recall the attention of the Senate to the fact and I especially call attention to the bill appropriating money for rivers and harbors, how often when that bill has been pending have amendments been submitted to the Senate and referred to the committee in order to come within the rule? No Senator upon this floor has ever contended before that an amendment of that kind should be referred before the committee had concluded its work upon the appropriation bill before it.

Our Committee on Appropriations is industrious; and in saying that I pay it the compliment that every Senator will pay it. It not only discharges its duty, but it is perhaps if not more industrious than any other at least as industrious as any committee of the Senate. I understand this committee sits every day. Is it not so? A member of the Senate before me assents to that statement, that the committee sits every day. This amendment was referred to it on the 7th, on Monday last, and to-day is Friday, the 11th; so that the Committee on Appropriations has had so many days' notice of this amendment for consideration, and if that committee has not considered it, it is not the fault of the Committee on Post-Offices and Post-Roads, nor of the chairman of that committee who moved the amendment.

Now, Mr. President, I desire to call the attention of the Senate for a few moments to the merits of this question. The amendment does not establish any steamship lines. The bill itself appropriates $225,000 for foreign postal service, and that in the judgment of the Senator from Kentucky is perfectly legitimate. This amendment provides for additional postal service and makes an appropriation of $1,000,000 for that purpose. What further does it say? Not that steamships shall be built, not that any particular line shall be established, but it simply restrains the Postmaster-General to an equitable distribution of the service upon the public waters, saying that between the Atlantic, Mexican-Gulf, and Pacific ports there shall be an equitable distribution of the postal lines to foreign nations.

What more does it say? That the service shall not be performed, except by steamships owned by American citizens—not built by American citizens, but owned and manned by American citizens; so that if there are no such steamships, not a dollar of the appropriation can be taken; and I say here to-day, that no steamship line is intimated or established by this amendment. It is simply saying to the Postmaster-General whenever you shall add to the postal service upon the great waters between this country and foreign nations, it shall be upon steamships owned and manned by American citizens, simply that and nothing else.

The Senator from Arkansas has well said that when the question of subsidy for a line between this Government and Brazil was up, when the proposition offered clearly was the establishment of a line and defining the character of the vessel that it should be a steamship of so many tons burden, built of iron, the Senate decided that it was in order as an amendment to an appropriation bill. Here is an appropriation simply adding to the appropriation for postal service. The Senator from Georgia well said that the waters of our country and between it and foreign countries are post-routes so established by law. The Postmaster-General to-day under the law is authorized to establish postal service upon the water. He can establish postal service not only there but upon land upon all railroads. There are many routes to-day where service is not placed. That matter is left entirely to the discretion of the Postmaster-General. Why? Because you limit the appropriation and it is but right and just that you should leave it to his discretion. Here you propose to vote a million dollars, and to say to the Postmaster-General that in his discretion he shall place the mails upon certain ships that shall best serve the postal interests of the country. That is the whole nature of the amendment.

I recall the attention of the Senate to a case where an amendment, I think was offered by the Senator from Louisiana, not now in his seat, [Mr. KELLOGG,] to the sundry civil appropriation bill regulating the Federal election laws and on a point of order that it was not in order and an appeal taken to the Senate from the ruling of the Chair, the Senate sustained the right to move the amendment proposed by the Senator from Louisiana. I say where there is perfect relevancy, where there is simply an additional appropriation to an appropriation for the same service in the bill, the point of order is not well taken, and I hope the Senate will overrule the decision of the Chair.

Mr. WHYTE. I only desire to say a few words upon the subject of this point of order. This bill is sought to be amended by interpolating a clause of this character:

> For additional postal service to foreign countries, $1,000,000, to be expended, under the direction of the Postmaster-General, in the establishment of mail-steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports, &c.

So that this million of dollars is not to be appropriated to pay specifically for carrying the foreign mails, but it is a lumping appropriation to be equitably distributed among steamship lines to be established by the Postmaster-General. If that is not subsidy in the broadest and baldest sense, I do not know what subsidy is. That is the proposition.

Then the proviso is:

> That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted for such service.

The objection made to that amendment is that it is general legislation, and the Senator from Arkansas refers us to the terms of the bill itself. One of his references is to the bill itself as an argument why the objection to this amendment ought not to prevail, because the bill itself contains some general legislation. That is no argument, and I was surprised to hear it come from the Senator from Arkansas. The amendment is the point, not the bill. Of course the original bill could contain general legislation. The point is that the amendment contains general legislation, and therefore is not to be adopted or received to a general appropriation bill. Now, what is general legislation?

The Senator from Arkansas, with his acuteness as a lawyer, undertakes to discriminate between general legislation and special legislation; but that is not what I understand to be meant by the use of the words "general legislation" in this rule. "General legislation" as used in this rule is understood to be that which in parliamentary usage has been so known since 1837 in the House of Representatives, and subsequently in the Senate. It is any legislation which changes existing law; that shall not be put on an appropriation bill by way of amendment. That is what it means. The appropriation bill is to carry out existing law. That is what it is for. A general appropriation bill everybody knows is a bill appropriating money to carry out that which is regulated by the existing law, and these bills are divided into several classes, I think now about thirteen appropriation bills in all general in their character. They are intended to cover expenditures regulated by existing law.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. WHYTE. Certainly.

Mr. JONES, of Florida. Wherein does this amendment change the existing law?

Mr. WHYTE. I am going to show directly. First, I want to establish the fact that that is the legislation at which the rule strikes, legislation which changes existing law, because a general appropriation bill is to carry out existing law and to provide means to pay for those expenses which are regulated by existing law. That is what I understand a general appropriation bill to be.

Mr. CONKLING. Will the Senator from Maryland permit me to interpose for a moment?

Mr. WHYTE. Certainly.

Mr. CONKLING. I see clearly the distinction the Senator states between an appropriation bill and an amendment to an appropriation bill, and I agree with him that the rule is leveled at amendments. I ask the Senator, however, in view of that distinction, what becomes of an amendment printed here on the face of the bill on page 2, and I ask him that question not because the decrees of the Appropriations Committee change or even construe the rules of the Senate, but because if this rule is to be good for anything, if it is worth contending for at all, it must be uniform in its operation. Here as I understand, on the motion to be sure of the Committee on Appropriations—which I must say I do not think makes an amendment any more competent than if it was on the motion of my friend from Maryland—is an amendment striking out what was found in the House bill and putting in I will not stop to count how many lines which change existing law and make provision for the *modus operandi* of letting mail contracts in every State, if I understand it, and in every Territory of the United States. Now what will the Senator from Maryland do with that, although the text of the bill may escape his observation under the distinction he has drawn—what will he do with the thing which is confessedly an amendment on the face of this bill which does not appropriate money and does nothing except to uproot and change existing law?

Mr. WHYTE. I do not do anything with it at all. It is a report from the Committee on Appropriations amending the character of the language of the bill itself, which had been no doubt inserted by those astute publishers of newspapers in the District of Columbia who wanted to make a recent act passed by this body apply to the Post-Office Department.

Mr. CONKLING. But does that make it any more competent under the rule?

Mr. WHYTE. Not a bit; but no objection was made to it. I am not arguing in favor of it. I think it was against the rule, as the Senator from New York no doubt saw. I agree with him.

Mr. President, the Senator from New York has very properly sug-

gested to me that the amendment of the Committee on Appropriations on page 2 of the bill may be liable to the very objection that I am now urging against the amendment proposed by the Post-Office Committee; but that does not make it any better. No question of order was raised upon that amendment; it passed *nem. con.* both in Committee of the Whole and in the Senate, and therefore it is out of the way for me to stop to discuss that. I come back to the point at which I was when the Senator from New York interrupted me.

I say that a general appropriation bill being a bill to carry out existing law, it was intended by both Houses of Congress, though the language is not exactly the same, but the spirit of the rule is the same, to prevent the tacking on to a general appropriation bill of an amendment that changed existing law, because the idea was that an appropriation bill general in its character was only executing the existing law by providing the money for it. Now, I refer to the old rules of the House of Representatives, not referring to anything that has been transacted in the House, which I have no right to do under the rule, but referring to this as a matter of parliamentary history, which is perfectly proper in debate, and the spirit of this very rule is incorporated in the rule of the House, the old rule of 1837, and the more recent rule of 1876, which provides in these terms:

No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law—

That was the old rule. You could not introduce it at all if it had not been previously authorized by law; but it went on a little further—

unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject-matter of the bill, shall—

Not increase the appropriations, but—

retrench expenditures.

That was the object. No appropriation was allowed to change existing law unless you could get it in under the theory that it reduced the appropriation instead of enlarging it. An amendment containing an appropriation increasing the amount in a general appropriation bill was out of order if it changed existing law, and it must change existing law if it increased, because the appropriation bill was supposed to be carrying out existing law.

Now, does not this change existing law? The Senators, every one of them, who have argued in favor of this amendment being in order have out of their own mouths condemned themselves by the very authority to which they have referred, the Revised Statutes. Every one of them shows that the existing law limits the Postmaster-General in the amount of money that he can pay to American steamships and limits him also to the amount he can pay to foreign vessels.

Mr. MORGAN. I ask the Senator from Maryland whether he is quoting now as the law the rule that is at present obligatory on the Senate or the rule that used to be obligatory on the House?

Mr. WHYTE. I am quoting the rule which emanated from the House and which in its spirit has been adopted in the Senate, which existed as far back as 1837, has been re-enacted in 1876 in more specific terms, but which is ingrafted in the rules of the Senate almost *in totidem verbis*. The words "general legislation" refer to the change of existing law, and have always been so understood except when a majority of the Senate in the exercise of their wisdom and their judgment have chosen to vote otherwise, and which sometimes happens, I admit.

Now, Mr. President, the law expressly provides a limitation of the amount which shall be paid, and that is for carrying the mail; it is the sea postage and the inland postage to American vessels, and sea postage to others according to this clause in the Revised Statutes:

SEC. 4009. For transporting the mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, the Postmaster-General may allow as compensation, if by a United States steamship, any sum not exceeding the sea and United States inland postage; and if by a foreign steamship or by a sailing-vessel, any sum not exceeding the sea postage, on the mail so transported.

That is to be repealed by this amendment, and in lieu of that a bonus, a distribution, a gift enterprise is to be established at the Post-Office Department and a million of dollars are to be equitably distributed between the steamship lines which the Postmaster-General may choose to establish if he can get ships owned and manned by American sailors, and they be of iron. Where are the ships? Who can get them during the time that this appropriation runs—for one year?

Mr. MORGAN. The Senator from Maryland in discussing the point of order has gone into the merits of this question. I beg to say to him that I will not vote for any amendment that does not give opportunity to American citizens who may desire to contract to carry the mail to get their ships wherever they can buy them; and so it is understood that this amendment provides.

Mr. WHYTE. No, Mr. President, I am not going now into the merits. If it is decided to be in order, I will go into the merits of the measure at the proper time, and to the full extent of my ability endeavor to defeat it. I look upon it as a subsidy of the clearest character, and I feel that it is my duty to oppose it if it comes before the Senate. I do not object to other gentlemen entertaining their views, and I will discuss it respectfully with them. I will say nothing disagreeable, I trust, to any gentleman in the discussion of this subject; but I will discuss it with all the power that I possess, because I believe it is not only reviving that which has been tried and proved a disastrous failure in the past, but that it is opening the door of the Treasury for depletion hereafter by all sorts of enterprises inaugurated for the purpose of getting into the public Treasury. But I will not dwell upon that; I am coming back for one moment longer to the point.

Mr. BUTLER. Will the Senator yield to me for a motion to adjourn?

Several SENATORS. Let us get through.

Mr. WHYTE. I shall not take five minutes.

Mr. President, I was about to call the attention of the Senate to what the Senator from Arkansas [Mr. GARLAND] had said. I have tried to demonstrate that this term "general legislation" had reference to the changing of existing law, and the Senator from Delaware [Mr. BAYARD] doubtless had that in his mind when he proposed to the Senator from Alabama the insertion of the words "under existing law." The Senator from Alabama saw at once that would not do, because the amendment changes existing law, and under this rule—the old rule of the House—under this rule, which we have adopted in spirit in the Senate, this is general legislation, in my judgment. But the Senator from Arkansas refers us to the action of the Senate in 1879, I think it was, refers us to the action of the Senate on the Brazilian subsidy. I well remember it. We had the subject under discussion then, and a majority of the Senate did decide that the amendment then proposed was in order, and that majority carried the bill through. What was the fate of the bill? It went back to the House; we had a conference on it; the conference failed to agree. Questions of order were raised upon our amendment, and dispute arose between the two Houses, and we appointed a committee of five, of which I had the honor to be one, to investigate the differences between the two Houses, and what was the result? The bill failed, and an extra session of Congress, the first session of the Forty-sixth Congress, was the consequence. It failed; it went by the board; and so I trust that a majority of the Senate will allow this appropriation bill to pass without this amendment on it.

The PRESIDING OFFICER. Shall the decision of the Chair stand as the judgment of the Senate?

Mr. EATON called for the yeas and nays, and they were ordered.

Mr. CONKLING. Before the call of the roll proceeds seeing as I do already a conflict and misunderstanding as to the effect of the vote, I ask the Chair whether I am right in saying that those who vote "nay" vote that the offered amendment is admissible under the rule, and those who vote "yea" vote to exclude the amendment.

The PRESIDING OFFICER. The present occupant of the chair understands, not having been presiding at the time when the point was made, that the pending amendment was held to be inadmissible under the first clause of the twenty-ninth rule, from which decision the Senator from Texas took an appeal, which is now pending, and that is the point which is now before the Senate, the question being, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. CONKLING. Not meaning to detain the Senate except for a moment, I shall vote that the offered amendment is admissible under the rule, and I should be glad to give that vote without in form voting to overrule the decision of the Chair, given as that decision was by a Senator who, in addition to being an accomplished parliamentarian, is always just and candid in his decisions. I shall vote that the amendment is admissible, not upon the rule alone as it stands in the print which the Presiding Officer read and on which he decided, but under that rule as it has been construed again and again in instances cited and in other instances as well by the Senate, and by the Senate after discussion and consideration I shall so vote on the rule as it stands construed not only by the Senate but by the committees of the Senate, including the Appropriations Committee now from whom this bill comes, their construction, (as I quote the distinguished Senator from Maryland when I say) being accepted *nem. con.* by the Senate in Committee of the Whole and also technically in the Senate. They report a bill containing a section which leaving the words "for advertising $35,000" proceeds with many lines to do nothing except to change existing law, confining that change to be sure to the disposition and application to be made of the money spoken of in the section.

Observing the spirit and scope of that amendment, the Senator from Arkansas says and other Senators say that the term "general legislation" as employed in the rule before us applies to legislation *dehors* the appropriation, legislation alien to that legislation, touching other topics. So the Committee on Appropriations seem to read the rule; so the Senate has given the committee repeated warrant to read the rule, as for example when on an appropriation bill sections were moved regulating the establishing of law touching the holding and verification of elections. I have not forgotten that by a vote of the Senate, after a debate which was thorough if being hot could make it thorough, it was decided that provisions such as I have referred to were not offensive to the rule under which the pending point is made.

So I cannot forget having heard the Senator recite it, although before I was not quite sure of the nature of the amendment or of the very bill to which it was proposed, I remembered, as I stated yesterday in general terms, that an amendment like this, certainly as obnoxious as this in respect of the point of order, was proposed to an

appropriation bill; it turns out to this very appropriation bill, the Post-Office appropriation bill; and it was held in order after a full discussion, because I may say without impropriety that the Senate is never so in its glory as on a question of order. Nothing ever receives at the hands of the Senate more copious and more pointed consideration than a thorough-going question of order. After such consideration such an amendment offered to this very appropriation bill was, upon the yeas and nays, ascertaining the views of the Senate member by member, deliberately held to be competent.

It was the saying of a great lawyer and a great judge, in substance—I do not quote his words—that certainty in laws is more important than philosophy; it is not so vital that the law should be right as that the law should be certain. I say that of the rules of the Senate; and if, after all the occasions on which amendments of this sort have been held by the Chair and pronounced by the Senate to be in order, it is thought they should be excluded, then change the rule and make it definite, and make it apply to all committees alike, the Committee on Appropriations as well as the Committee on Post-Offices and Post-Roads. In the language of the good book, let there be but "one law" to "him that is homeborn, and unto the stranger that sojourneth among you." If the rule is to be good for the Committee on Appropriations to report an amendment changing existing law and doing nothing else, then it seems to me it should be equally good for the Committee on Post-Offices and Post-Roads after they have considered this question as laboriously as I have heard from several members of the Post-Office Committee on this occasion; and it really gave me a sense of fatigue and exhaustion myself when I heard a recital of the way in which that committee had labored over this proposition. I say that I think it should be good for a committee so earnest, so arduous, so industrious as I cannot doubt that committee has been in perfecting and advancing the pending amendment.

Taking it altogether, whatever might be my judgment, as an original question upon this naked rule as it was presented to the Senator who presided when this ruling was made, I feel that I must either observe the repeated constructions given to the rule by the Senate or I must set myself up at a somewhat late day on an independent judgment of my own, and therefore I shall vote that this rule has come to be so in terms broad enough to permit the consideration of this amendment.

The Secretary proceeded to call the roll.

Mr. ALLISON, (when his name was called.) On this question I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. BECK, (when his named was called.) I am paired upon all questions connected with this amendment, and I suppose on the rulings as well, with the Senator from Maine, [Mr. BLAINE,] now confined to his house by sickness. I decline to vote on that account.

Mr. DAVIS, of West Virginia, (when his name was called.) On this question I am paired with the Senator from Minnesota, [Mr. WINDOM.]

Mr. McMILLAN, (when his name was called.) On this question I am paired with the Senator from Mississippi, [Mr. BRUCE.] If he were here, I should vote "yea."

Mr. MORGAN, (when his name was called.) I am paired with the Senator from Indiana, [Mr. VOORHEES,] unless my vote should be necessary to make a quorum.

Mr. SAUNDERS, (when his name was called.) On this question I am paired with the Senator from Delaware, [Mr. SAULSBURY.] If he were present, I should vote "nay."

Mr. WALLACE, (when his name was called.) On this question I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] If he were here, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 15, nays 29; as follows:

YEAS—15.

| | | | |
|---|---|---|---|
| Bailey, | Groome, | Ingalls, | Ransom, |
| Bayard, | Hampton, | Kernan, | Slater, |
| Booth, | Harris, | McDonald, | Whyte. |
| Eaton, | Hereford, | Pendleton, | |

NAYS—29.

| | | | |
|---|---|---|---|
| Baldwin, | Dawes, | Jonas, | Rollins, |
| Blair, | Farley, | Jones of Florida, | Vance, |
| Brown, | Ferry, | Lamar, | Vest, |
| Burnside, | Garland, | Maxey, | Walker, |
| Butler, | Hamlin, | Morrill, | Williams. |
| Call, | Hill of Georgia, | Paddock, | |
| Coke, | Hoar, | Platt, | |
| Conkling, | Johnston, | Pugh, | |

ABSENT—32.

| | | | |
|---|---|---|---|
| Allison, | Cockrell, | Kirkwood, | Saunders, |
| Anthony, | Davis of Illinois, | Logan, | Sharon, |
| Beck, | Davis of W. Va., | McMillan, | Teller, |
| Blaine, | Edmunds, | McPherson, | Thurman, |
| Bruce, | Grover, | Morgan, | Voorhees, |
| Cameron of Pa., | Hill of Colorado, | Plumb, | Wallace, |
| Cameron of Wis., | Jones of Nevada, | Randolph, | Windom, |
| Carpenter, | Kellogg, | Saulsbury, | Withers. |

The PRESIDING OFFICER. The decision of the Chair is not sustained. The amendment is held to be admissible by the Senate under the first clause of the twenty-ninth rule.

Mr. HAMLIN. The amendment which is now pending was very hastily drawn by the committee, and I have prepared an amendment which I think covers precisely the same ground with the amendment as offered, but with additional guards to it, and I therefore move to amend the proposition by striking out all after the words "Postmaster-General," in the third line, and inserting what I send to the Chair.

The PRESIDING OFFICER. The matter proposed to be inserted will be read.

The CHIEF CLERK. It is proposed to strike out all after the words "Postmaster-General," in line 3, and insert, in lieu of the words stricken out:

And the Postmaster-General is authorized, after due public competition, to enter into contract with the lowest responsible bidders, for terms of ten years, for such transportation between such home and foreign ports as he may in his discretion designate, in order best to promote the postal and commercial interests of the United States, in iron steamships wholly owned by American citizens and registered in American registry, such ships to be duly inspected under the direction of the Postmaster-General and Secretary of the Navy, and be equal in construction, accommodations, safety, and speed to the best vessels on the ocean carrying mails to the same ports, at a rate of compensation not exceeding $30 per mile, one way, for twelve round trips per annum, or the same proportionate rate for a quarter or less number of trips per annum; such contracts to contain all provisions for securing efficient service which may be customary and required by law in such cases. One-fourth part of the appropriation herein made shall be applicable to ports on the Pacific coast, one-fourth part to ports lying south of and including Fortress Monroe and ports on the Gulf of Mexico, and one-half to ports lying north of Fortress Monroe.

Mr. WALLACE. I reserve all points of order on this, but I ask that it be printed for the information of the Senate; and I move that the Senate do now adjourn.

Mr. HAMLIN. Let us go into executive session.

Mr. WALLACE. Very well; I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twelve minutes spent in executive session the doors were reopened, and (at five o'clock and twenty minutes p. m.) the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 11, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

### ORDER OF BUSINESS.

Mr. CLYMER. I call for the regular order.

The SPEAKER. This being Friday, the regular order is the morning hour for the presentation of reports from committees of a private nature.

Mr. KING. I rise to make a privileged report from the Committee on the Interoceanic Canal.

The SPEAKER. This is Friday, and under the rule only private business can be reported.

Mr. ATKINS. I move that the morning hour be dispensed with.

Mr. KING. I ask that the resolution which I send up be read.

The SPEAKER. The Chair cannot recognize the gentleman, because, in the first place, he presents a public proposition, and, secondly, the gentleman from New York, [Mr. HUTCHINS,] as the Chair understands, objects to the right of the gentleman to make the report at this time.

Mr. CLYMER. I renew the call for the regular order.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] moves that the morning hour be dispensed with.

The question being taken, the motion of Mr. ATKINS was agreed to, two-thirds voting in favor thereof.

The SPEAKER. The morning hour having been dispensed with, one hour will now be devoted, in accordance with the new rule, to the call of States in alphabetical order for motions to take up for consideration bills on the several calendars and on the Speaker's table. The gentleman from Florida [Mr. BISBEE] was recognized yesterday, but when the hour expired the gentleman from Michigan [Mr. CONGER] was on the floor upon a point of order.

Mr. CONGER. I wish to inquire whether the hour this morning is confined to private bills or whether general bills may be called up?

The SPEAKER. The Chair will hear the gentleman from Michigan on the point of order, and would suggest that the debate on the point be as brief as possible.

Mr. CONGER. I do not wish to indulge in any debate. I only wish to raise the point whether the call to-day is confined to private bills, or whether the member recognized may call up a public bill.

The SPEAKER. Does not the gentleman think that in vacating other rules in conflict with this new rule, the rule requiring that Friday shall be devoted to private business is also vacated?

Mr. CONGER. I think it vacates that rule.

Mr. FRYE. I think the Committee on Rules so understood it.

Mr. CONGER. I submit that in this hour bills of any kind may be called up.

Mr. FRYE. That is the way we understood it.

The SPEAKER. The Chair concurs with the views thereon as expressed by the gentleman from Maine [Mr. FRYE] and the gentleman from Michigan, [Mr. CONGER.] The point of order raised by the gen-

tleman from Pennsylvania [Mr. CLYMER] has since the adjournment of yesterday been carefully considered by the Chair in all its bearings, and he desires to state the conclusion which he has reached.

In parliamentary law, as in common law, if two rules or laws are in harmony, both must stand; if in conflict, then the last should be effective. The Chair believes these two rules are practically at variance. If it were held by the House that a bill called up under the new temporary rule, which parted with the property or money of the United States, must have its first consideration in the Committee of the Whole, then the Chair would recognize and submit immediately a motion to go into the Committee of the Whole on such bill which was allowed to come up. The House evidently had the intention and purpose to avoid the delay of the execution of such a proceeding, otherwise the limit of five minutes fixed for debate would not have been inserted in the rule, for in Committee of the Whole the rules make no such limitation. The practice of the House has been by unanimous consent to act upon bills, even though such bills should part with the money or property of the United States. In this rule five objections are required instead of one to prevent the consideration of a bill. It will be noticed that the use of this hour for the purposes stated is not permitted unless two-thirds of the House so order; and the rule further states, not that such bills if permitted to be considered shall be voted upon after five minutes' debate in the Committee of the Whole, but that such bills shall be "voted upon" in "the House."

For the reasons stated and in view of what was manifestly the purpose and intention of the House in adopting this new rule to operate during the remainder of this session of this Congress, the Chair overrules the point of order.

The gentleman from Florida [Mr. BISBEE] is now entitled to the floor for five minutes upon the bill called up by him yesterday.

Mr. BISBEE. I think there will be no objection to the bill; and I do not wish to say anything in explanation of it.

The bill (S. No. 1193) granting a pension to Milton L. Sparr was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Milton L. Sparr, as second lieutenant of Company K, Nineteenth Regiment Indiana Volunteers, from and after the passage of this act.

Mr. BISBEE. I ask a vote on the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BISBEE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### ORDER OF BUSINESS.

The SPEAKER. The next State in order under this call is the State of Georgia; and the Chair recognizes the gentleman from Georgia, Mr. BLOUNT.

A MEMBER. He is not here.

Mr. HAMMOND, of Georgia. I was not here when this new rule was adopted, and I do not know how it should be construed; but I would like to know whether in the absence of my colleague [Mr. BLOUNT] the next member in alphabetical order from that State should not be called?

Mr. KEIFER. We do not hear the gentleman.

The SPEAKER. The gentleman from Georgia is asking whether, when the member entitled to a call under the new rule is absent, the next member in alphabetical order from the same State should be called. The Chair thinks not.

Mr. CLYMER. The gentleman from Georgia [Mr. BLOUNT] is absent by permission of the House on duty for the House.

A MEMBER. That makes no difference.

The SPEAKER. The Chair thinks he has no discretion in the matter. The next State in order is the State of Illinois; and the Chair recognizes the gentleman from Illinois, Mr. ALDRICH.

Mr. ALDRICH, of Illinois. I call up from the Speaker's table Senate bill No. 1935, to confirm to the city of Chicago the title to certain public grounds.

Mr. HAMMOND, of Georgia. I would like to suggest, if I am not too late, that the object of the rule, as I understand, is to give each State an opportunity to call up a bill. The object of the privilege is not to accommodate personal preferences. Without undertaking to consume any time upon the question, I submit that the House ought to allow the State of Georgia an opportunity now to bring up one bill on this call.

The SPEAKER. Yesterday two States, each having a single Representative, lost their opportunity, and will not again be called unless by unanimous consent until all other members have been called.

Mr. HAMMOND, of Georgia. That is because there was nobody here to represent those States. There are other Representatives here from the State of Georgia.

The SPEAKER. In answer to the point raised by the gentleman from Georgia, the rule will be read.

Mr. SPRINGER. It is not necessary, I suggest, to read the whole rule. The last clause covers the point.

Several MEMBERS. Regular order!

The SPEAKER. The gentleman from Georgia rises to a question of order, and is entitled to be heard. The last portion of the rule will be read.

The Clerk read as follows:

Any member not answering as his name shall be called shall be considered to have waived his privilege.

Mr. PRICE. It does not waive the privilege of the State.

Mr. HAMMOND, of Georgia. I understand that to mean simply this, that the States and Territories shall be called in their order, and to avoid any contest as to who shall represent the State, or what bill shall be presented, the rule was adopted that the first man called alphabetically representing that State should for the time being stand as its sole representative. But the reason of the rule is that the State shall have a hearing and if the colleague first called, as Mr. BLOUNT was, is out of his place by leave of the House on public duty, it is denying the right of the State, I claim unjustly, to pass on when other members are here waiting to introduce measures in behalf of that State. My colleague waived his right, but he cannot waive the right of the State.

Mr. CONGER. This was an individual privilege to each individual member. The call of the State is merely a mode by which we shall reach more conveniently each member. Now, then, when the State is called, the individual member having the first right may present his bill as he might if they were called in alphabetical order. If he is absent, he waives it. The committee so intended, and so the rule states. Let the call now go on to other States, so other individuals may exercise their individual privilege.

The SPEAKER. The Chair is willing to submit the question, that the House may put its own construction on the rule. Shall the point of order as made by the gentleman from Georgia prevail, and control the Chair in his recognitions?

The House divided: and there were—ayes 64, noes 45.

Mr. WHITTHORNE. No quorum has voted.

The SPEAKER. The gentleman from Tennessee makes the point that no quorum has voted, and the Chair appoints the gentleman from Tennessee, Mr. WHITTHORNE, and the gentleman from Georgia, Mr. HAMMOND, as tellers.

Mr. McMILLIN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. McMILLIN. If a present decision or a decision in the affirmative prevails, will it have the effect to call over the State of Colorado, which has one Representative, ten times before a State having a delegation of ten Representatives is called? [Cries of "No!" "No!"]

The SPEAKER. That is in the nature of an argument as to the propriety of the vote to be given.

Mr. McMILLIN. I desire to know what will be the effect so as to know how to vote on the question.

The SPEAKER. When the contingency alluded to arises the Chair will decide.

Mr. HAMMOND, of Georgia. Each State should have an opportunity to be heard by somebody.

Mr. CALKINS. An affirmative vote bears the Chair out in his ruling on this question.

The SPEAKER. The Chair stated that he thought this was an individual right; that that part of the rule which provides the manner in which they should be called was for convenience; but he will submit the question to the House. Now if the House shall sustain the point of order made by the gentleman from Georgia, then another name will be called from the State of Georgia.

Mr. CONGER. What then?

The SPEAKER. If that gentleman is not present then another name from Georgia will be called.

Mr. CONGER. Then the whole State may have to be called before another State can be called.

Mr. PRICE. But the State should have at least one recognition.

The House again divided; and the tellers reported—ayes 81, noes 59.

The SPEAKER. The ayes have it, and the point of order made by the gentleman from Georgia is sustained.

Mr. KEIFER. I demand the regular order.

The SPEAKER. In consequence of this decision by the House, the Chair is required to call another gentleman from Georgia. The Chair recognizes the gentleman from Georgia, Mr. COOK.

Mr. PRICE. The intention was to give to each State the right to respond, and Georgia has responded.

The SPEAKER. The point of order raised as to the State of Georgia was affirmed. The gentleman himself voted to sustain the right of the State of Georgia to be called again, in the person of a member from that State present.

Mr. PRICE. I voted to sustain a response from every State, but only one response.

Mr. HAMMOND, of Georgia. We have not had one yet.

The SPEAKER. The gentleman from Georgia, Mr. COOK, is recognized.

### MONEY DUE THE STATE OF GEORGIA.

Mr. COOK. I move to discharge the Committee of the Whole on the state of the Union from the further consideration of a bill (H. R. No. 3560) to refund to the State of Georgia certain money expended by said State for the common defense in 1777, and to ask that it be put upon its passage.

The Clerk proceeded to read the bill.

Mr. CONGER. If there is any time when we should be able to hear all that is read it is when we are asked to grant these unanimous consents.

The SPEAKER. The Sergeant-at-Arms will personally request, without his mace, members to resume their seats and preserve order.

Mr. CONGER. I am not able to hear anything that is read at the desk.

The SPEAKER. Nor is the Chair able to hear.

Mr. CONGER. I ask that it be read again.

The SPEAKER. If gentlemen want to converse they will accommodate their fellow-members by going to the cloak room.

The bill was read.

The SPEAKER. This bill is reported from the Committee on Claims, and is in Committee of the Whole on the state of the Union. Is there objection to its present consideration? [After a pause.] More than ten gentlemen rising to object, the bill is not before the House for consideration.

PUBLIC GROUNDS IN THE CITY OF CHICAGO.

The State of Illinois being called,

Mr. ALDRICH, of Illinois, asked the consideration of Senate bill No. 1935, a bill to confirm to the city of Chicago the title to certain public lands.

Mr. WEAVER. I reserve all points of order on that bill.

The SPEAKER. The point of order on the bill will be the five objections called for to its consideration.

Mr. WEAVER. I object to its consideration.

The SPEAKER. Does the gentleman object before the bill is read?

Mr. WEAVER. I do.

The SPEAKER. The Chair will state that it requires five objections to the consideration of a bill.

Mr. TOWNSHEND, of Illinois. The bill should be first read before objections are called for.

The SPEAKER. Gentlemen evidently know what the substance of the bill is from the title; objection was made as soon as the title was read.

Mr. TOWNSHEND, of Illinois. I maintain that under the rule it is the right of the member to have the bill read before objection can be made to its consideration.

The SPEAKER. The bill will be read.

Mr. HAYES. I hope that those gentlemen who object to this bill will listen attentively to the reading of it.

The SPEAKER. The bill will be read.

The bill was read at length.

Mr. TOWNSHEND, of Illinois. It is proper now that there should be objections asked for to the reading of the bill, I presume.

The SPEAKER. The Chair will now call for objections to the consideration. Is there objection to the present consideration of this bill? [After a pause.] More than twenty gentlemen objecting, the bill is not before the House for consideration.

Mr. SINGLETON, of Illinois. Mr. Speaker, I was not objecting.

The SPEAKER. The Chair did not count the gentleman from Illinois. There were twenty and more rising without him.

INDIANAPOLIS A PORT OF DELIVERY.

The State of Indiana being called,

Mr. BAKER asked the consideration of House bill No. 3520, a bill to establish a port of delivery at Indianapolis, in the State of Indiana.

The bill was read as follows:

*Be it enacted, &c.*, That section 2568 of the Revised Statutes be amended by adding "Indianapolis, in the State of Indiana," after the words "La Crosse, in Wisconsin."

The SPEAKER. This bill is reported from the Committee on Commerce with an amendment, and is on the House Calendar. The amendment will be read.

The Clerk read as follows:

Add to the bill the words "and that section 2997 be amended by adding after the words 'Mobile, in the State of Alabama,' 'Indianapolis, in the State of Indiana.'"

Mr. HAMMOND, of Georgia. I desire to ask a question of the gentleman offering this bill.

The SPEAKER. Debate is not in order until after the bill is before the House for consideration.

Mr. HAMMOND, of Georgia. I simply wish to ask whether the sections you are amending have not been repealed under the act of June, 1880?

Mr. BAKER. I am not advised of that fact——

The SPEAKER. Debate cannot take place before the request for objections. Is there objection to the present consideration of this bill?

There was no objection.

Mr. BAKER. Mr. Speaker——

The SPEAKER. This bill has an amendment proposed by the committee.

Mr. BAKER. This is a unanimous report from the Committee on Commerce. [Cries of "Vote!" "Vote!"]

Mr. TOWNSHEND, of Illinois. Let the report be read.

Several MEMBERS. Let us vote on the bill.

Mr. TOWNSHEND, of Illinois. No harm can be done by having the report read, so that we may understand exactly what we are to vote on.

The SPEAKER. The report will be read, instead of the five minutes allowed for discussion.

The Clerk proceeded to read the report.

Mr. BAKER. Mr. Speaker, I insist that no one has a right to occupy my time.

Mr. CLYMER. It is the right of the House to have the report read.

Mr. BAKER. I am entitled to my five minutes if I choose to occupy it. If not, I can have the report read.

The SPEAKER. The reading of the report for the information of the House is proper under the rule in lieu of the five minutes' debate allowed.

Mr. BAKER. But I am entitled to have the report read myself, or to occupy the five minutes.

Mr. TOWNSHEND, of Illinois. I withdraw the request for the reading of the report.

The SPEAKER. The question is on the amendment submitted by the committee.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BAKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN S. CORLETT.

The State of Iowa being called,

Mr. CARPENTER asked consideration of the bill (H. R. No. 1102) granting a pension to John S. Corlett.

The SPEAKER. The bill will be read, after which objections will be asked for.

The Clerk read as follows:

*Be it enacted &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, from the date of December 12, 1863, subject to the provisions and limitations of the pension laws, the name of John S. Corlett, late a teamster in the service of the United States, and pay him the pension of a private from the date of the amputation of his leg by reason of injuries received in line of duty in the service of the United States in the war of the rebellion.

The SPEAKER. This bill is on the Private Calendar. Is there objection to its present consideration?

Mr. McMILLIN. For one I shall object to the consideration of it unless it is amended so as to cut off the arrears provided for in the bill.

Mr. KEIFER. The general law does that.

The SPEAKER. Is there objection to the consideration of the bill. The Chair hears but one. The question is on the engrossment and third reading.

Mr. McMILLIN. Let us have the report read.

Mr. KEIFER. Mr. Speaker, I make the point of order that the gentleman from Iowa is himself entitled to have the report read if he so desires, otherwise he may occupy the entire five minutes, to the exclusion of the reading of the report, with an explanation of the terms of the bill. He alone has the right to demand the reading of the report.

Mr. McMILLIN. I have no desire to delay the passage of the bill. I simply suggest that an amendment be incorporated in it to cut off the arrears. If that be done I shall make no objection to its present consideration. Otherwise I feel compelled to do so.

Mr. KEIFER. If the demand of the gentleman to have the report read is allowed, that would cut off the five minutes to which the gentleman from Iowa [Mr. CARPENTER] is entitled.

The SPEAKER. The gentleman from Iowa has not availed himself of the five minutes to which he is entitled under the rule; and the Chair thinks the other members of the House have some rights.

Mr. KEIFER. Not under this rule. [Laughter.]

Mr. CARPENTER. I would like to say that bill passed both Houses in the Forty-fifth Congress, and only failed to become law because it did not reach the President in time to receive his signature.

Mr. BURROWS. I ask for the reading of that portion of the new rule which relates to the reading of the report.

The Clerk read as follows:

The member making the motion shall be entitled to five minutes for explanation of his bill, or, instead thereof, to the reading of the report accompanying the same, provided the reading of such report shall not exceed five minutes.

Mr. BURROWS. Now, I submit the rule confines the right to call for the reading of the report to the member calling up the bill, and that nobody else can call for it.

Mr. CLYMER. Then we may have to vote for a bill without being in possession of the least information in regard to it.

Mr. BURROWS. That is the rule. The rule is, the member calling up the bill may use five minutes in explanation of it, or instead thereof he may ask for the reading of the report to the extent of five minutes.

Mr. FRYE. This is a matter of some little importance. My judgment of the meaning of the rule is this: if the member who presents the bill desires to occupy five minutes, he has a right to occupy the five minutes to the exclusion of any right of any other member; but if he does not occupy the five minutes, then, under the old rule that

a member is entitled to call for the reading of the report, there being no practical conflict in that respect between this rule and the old one, the old rule would prevail, and I, as a member, would be entitled to have the report read to the extent of five minutes.

Mr. BURROWS. Will the gentleman allow me to ask him a question?

Mr. FRYE. Yes, sir.

Mr. BURROWS. Does not this new rule restrict the reading of the report to five minutes?

Mr. FRYE. It does.

Mr. BURROWS. Is it not therefore in conflict with the old rule?

Mr. FRYE. It is to that extent.

The SPEAKER. The Chair, however, thinks it was not the intention of the House in adopting this rule to give a right, five minutes, to one member of the House and if not exercised by such member to deny it to two hundred and ninety-two other members.

Mr. KEIFER. It seems the committee that reported the rule does not understand it as the House does.

Mr. HATCH. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HATCH. Have not the five minutes allowed to the gentleman who presents the bill been already exhausted?

The SPEAKER. The time taken has been used on the point of order, and should not come out of the time allowed by the rule. Does the gentleman from Tennessee [Mr. MCMILLIN] insist on the reading of the report?

Mr. MCMILLIN. Yes, sir; unless I can have the amendment I suggested, I want to know the reasons for the passage of this bill.

Mr. KEIFER. Do we understand the point of order to be overruled?

The SPEAKER. The Chair thinks if the gentleman calling up the bill does not avail himself of the time allowed by the rule the right should belong to any other member to have the report read to the extent of five minutes.

Mr. KEIFER. I give notice that at some time—not upon this bill—we will make that point of order, and appeal from the decision of the Chair.

The SPEAKER. The gentleman from Ohio is at liberty to do that now or hereafter.

Mr. KEIFER. I will not do it now.

The SPEAKER. The report will be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of John S. Corlett, having had the same under consideration, respectfully present the following report:

We find from examination of the papers on file with your committee that the evidence in this case shows that John S. Corlett was sworn into the United States service, as a teamster, by G. E. D. Diamond, Government agent at Saint Louis, who took him from Saint Louis to Rolla, Missouri, where he joined a supply-train attached to a portion of the Army under General Curtis. From there he went to Batesville, Arkansas, thence to Helena; that on the way from Batesville to Helena, on or about July 1, 1862, his mule-team took fright and ran down a hill and against a bank in such a manner as to throw him between the mules and crush his leg. He was treated at the post hospital at Helena, and in the Saint Louis City Hospital, at which place his leg was amputated on December 12, 1863. The evidence shows that the injury which said Corlett received, and which caused the loss of his leg, was received while he was in the line of his duty and in the service of the United States, and that said injury was not received in consequence of any fault or negligence on his part.

A petition for the relief of said Corlett is signed by the judge of the eleventh district of Iowa, the circuit judge, and a large number of other highly reputable persons and prominent citizens of the district in which said Corlett resides.

Your committee are aware of the fact that there is nothing in the general pension laws providing for such a case as that presented herein, but we are reminded of the fact that in equity this petitioner should be entitled to the benefits of the provisions of the pension law. We are further reminded that there have been numerous cases of a similar nature admitted to pension, and in view of these precedents we report favorably upon the prayer of the petitioner, and recommend the passage of the accompanying bill (H. R. No. 1102) granting a pension to John S. Corlett.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CARPENTER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC BUILDING AT LEAVENWORTH, KANSAS.

The State of Kansas was called.

Mr. ANDERSON. I call up the bill (H. R. No. 6013) for a public building at Leavenworth, Kansas, reported by the Committee on Public Buildings and Grounds, and referred to the Committee of the Whole House on the state of the Union.

Mr. Speaker, is it in order to make a statement before objection is called for?

The SPEAKER. The Chair thinks not. The rule provides the objections shall be in order after the reading of the bill.

Mr. ANDERSON. Is it in order to call for the reading of the report before objections are called for?

The SPEAKER. The Chair thinks not.

The bill was read.

The SPEAKER. The Chair desires to state in connection with this bill that heretofore by consent the House adopted an arrangement by which bills for public buildings should be taken up in their order on the Calendar. But the rule recently adopted, the Chair thinks, destroys that arrangement to the extent of allowing a member in this hour to call up such a bill. The positive rule operates as against the understanding. Is there objection to the consideration of this bill? [After a pause.] Six gentlemen rising object to the consideration of this bill.

Mr. ANDERSON. I make the point that two gentlemen were counted who were not rising to object. I will state there is no public building in that State now.

The SPEAKER. The gentlemen who rise to object are the gentleman from Ohio, [Mr. WARNER,] the gentleman from Wisconsin, [Mr. BRAGG,] the gentleman from Alabama, [Mr. SAMFORD,] the gentleman from Wisconsin, [Mr. BOUCK,] the gentleman from Tennessee, [Mr. SIMONTON,] and the gentleman from Pennsylvania, [Mr. CLYMER]—six. The Chair is correct.

Mr. ANDERSON. All right. I have got the names, which is what I wanted.

CAPTAIN SOMERVILLE NICHOLSON.

The State of Kentucky being called,

Mr. BLACKBURN called up the bill (S. No. 201) restoring Captain Somerville Nicholson, of the United States Navy, to the active list, said bill being on the Speaker's table.

The bill was read, as follows:

*Be it enacted, &c.*, That the President of the United States be, and is hereby, authorized to restore Somerville Nicholson, now a captain on the retired list of the Navy, to the active list, to take rank next after Clark H. Welles: *Provided*, That no claim for arrearages of pay shall accrue to said Nicholson by reason of restoration under the provisions of this act.

The SPEAKER. Is there objection to the consideration of this bill at this time?

Mr. CALKINS. Let us hear the report read.

The SPEAKER. Objection to the bill, if made at all, must be made immediately after the bill is read.

Mr. PAGE. I suggest that the gentleman from Kentucky [Mr. BLACKBURN] be allowed to explain the bill.

The SPEAKER. That is not in order at this time under the rule. Is there objection to the consideration of this bill? [After a pause.] No gentleman rises to object.

Mr. BLACKBURN. I have no objection to the reading of the report.

The SPEAKER. There is no House report at the desk, this being a Senate bill on the Speaker's table. Will the gentleman from Kentucky send up the Senate report?

Mr. BLACKBURN. I do not have it here. I will state that this bill passed the House in the last Congress by more than a three-fourths vote, but failed to pass the Senate. It has now passed the Senate of this Congress, and that is the indorsement with which it comes before the House. A similar bill has been reported favorably to this House by the Committee on Naval Affairs through the gentleman from Florida, [Mr. DAVIDSON.]

The bill was ordered to a third reading, read the third time, and passed.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARINE HOSPITAL IN NEW ORLEANS.

The State of Louisiana was called.

Mr. ACKLEN. I call up for consideration House bill No. 6196, to provide for the establishment of a marine hospital in New Orleans, Louisiana. The bill is now in Committee of the Whole on the state of the Union, and was reported unanimously from the Committee on Commerce.

The bill was read.

The SPEAKER. Is there objection to the consideration of this bill at this time? [After a pause.] Seven gentlemen rise and object, which is a sufficient number.

STEPHEN P. BENTON.

The State of Maine was called.

Mr. FRYE. At the request of my colleague, [Mr. REED,] I call up from the Private Calendar House bill No. 5677, granting a pension to Stephen P. Benton.

The bill was read, as follows.

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Stephen Porter Benton, a soldier of the war of 1812, at the rate per month as provided by the act approved March 9, 1878, for survivors of the war of 1812.

The SPEAKER. Is there objection to the consideration of this bill at this time? [After a pause.] Only two members rise to object; not a sufficient number.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FRYE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was ageed to.

JAMES MONROE HEISKELL.

The State of Maryland was called.

Mr. HENKLE. I ask to take from the Speaker's table for consid-

eration at this time Senate bill No. 1191, for the relief of James Monroe Heiskell, of Baltimore City, Maryland.

The bill was read, as follows:

*Be it enacted &c.*, That James Monroe Heiskell, of Baltimore City, Maryland, be, and he is hereby, relieved from the operation of section 1218 of the Revised Statutes of the United States, being in chapter 1, title 14 of said Revised Statutes.

The SPEAKER. Is there objection to considering this bill at this time?

Mr. SPRINGER. I do not think we can understand what the bill is from the reading. I would like to have some explanation of it.

The SPEAKER. Debate is not now in order.

No objection was made to the consideration of the bill.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. HUTCHINS. What is the provision of the statute to which this bill relates?

Mr. HENKLE. It is section 1218 of the Revised Statutes, and this bill is intended to remove political disabilities and to make the party eligible for appointment in the Army or Navy.

Mr. CONGER. I did not rise to object to this bill, but I desire to state that I hope the action of the House at this time will not be cited hereafter as a precedent for other cases.

The bill was ordered to a third reading, and it was accordingly read the third time.

The question was upon the passage of the bill; and being taken, upon a division, there were—ayes 129; noes 3.

No further count being called for, the bill was passed.

Mr. HENKLE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMPORTATION OF SHIP-BUILDING MATERIALS.

The State of Massachusetts was called.

Mr. BOWMAN. I desire to call up for consideration at this time a bill which is now on the Calendar of the Committee of the Whole, reported from the Committee on Ways and Means. It is House bill No. 5969, regulating the importation of raw materials to be manufactured in the United States and used in the construction and repair of vessels employed in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, or built for foreign account.

The SPEAKER. The bill will be read.

The bill was read.

Mr. MILLS. It seems to me that that bill involves a change of the system of the tariff laws, and is too important a bill to be considered in this way.

ORDER OF BUSINESS.

Mr. CLYMER. I call for the regular order. I believe the hour has expired.

The SPEAKER. The hour for business under this call has expired, and the bill called up by the gentleman from Massachusetts [Mr. BOWMAN] will go over until the next hour for such business.

Mr. BRIGHT. I move that the House now go into Committee of the Whole on the Private Calendar.

PERSONAL EXPLANATION.

Mr. CHITTENDEN. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. CHITTENDEN. I rise to a question of personal privilege. During the debate yesterday on the river and harbor bill, I ventured to ask the chairman of the Committee on Commerce [Mr. REAGAN] a question, with perhaps the unseemly audacity of suggesting that he could not answer it. His answer as printed in the RECORD of this morning is a violent impeachment of my sagacity [laughter] and a damaging imputation of ignorance on my part. [Renewed laughter.] Since yesterday I have been studying geography, and I propose now to put the boot on the other foot. I ask the Clerk to read the imputation made by the gentleman as printed in the RECORD of this morning.

The Clerk read as follows:

Mr. REAGAN. I can answer the gentleman if he will allow me. I will tell him that Sumpawamus Inlet is on East River just within the boundary of the upper part of the city of New York. It is for the improvement of that inlet, and I am sorry to find the gentleman from New York so ignorant of the geography of his own city.

Mr. CHITTENDEN. Mr. Speaker, the honorable chairman of the Committee on Commerce and this whole House will be astonished to learn that that inlet with the Indian name is not within twenty-five, thirty, or forty miles of the city of New York. [Laughter.] It is not on the East River. It is away down below Babylon, [laughter,] on the Long Island shore, looking off upon the Atlantic Ocean. I protest that thus my original suggestion is brought to a final demonstration—that there was not a man on the Committee on Commerce who knew where Sumpawamus Inlet was; and, Mr. Speaker, in conclusion, I appeal, if any appeal is necessary in confirmation of my statement, to my colleague [Mr. COVERT] to indorse me.

Mr. COVERT. I desire to say to my colleague and the House that the inlet in question is within the collection district of New York City. It is on the coast of Long Island, but it is within the collection district of New York City; and it was very reasonable that the chairman of the Committee on Commerce, giving the hasty examination he was able to give to this matter when it was drawn in question, should say that the inlet was near the city of New York, which is true in point of fact.

Mr. HUMPHREY. If in order, I move a committee of investigation on this subject. [Laughter.]

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Tennessee [Mr. BRIGHT] moves that the House resolve itself into Committee of the Whole for the consideration of business on the Private Calendar.

Mr. COX. I raise the question of consideration as against private business.

The SPEAKER. The object the gentleman has can be reached by the House voting down the motion.

Mr. COX. I desire to have the House understand that if this motion be voted down——

The SPEAKER. The rule provides that in order to dispense with the consideration of private business on Friday a two-thirds vote shall be required; and a motion of that sort would properly precede the motion of the gentleman from Tennessee.

Mr. CARLISLE. In order to test the sense of the House, I submit the motion to dispense with the private business for to-day. This will enable the House to decide the question directly.

The SPEAKER. The gentleman from Kentucky [Mr. CARLISLE] moves to dispense with private business for to-day. This requires a two-thirds vote.

Mr. SPRINGER. I rise to a parliamentary inquiry. If the House should refuse to agree to the motion of the gentleman from Tennessee to go into the Committee of the Whole on the Private Calendar, would not the question then be on dispensing with private business so as to enable the House to go on with general business?

The SPEAKER. There is an evident conflict between the rules touching this subject. The Chair has always given precedence on Friday to the motion to dispense with private business, that motion requiring a two-thirds vote; but the Chair has no knowledge how he can enforce the consideration of private business if a majority of the House should be unwilling to consider it.

Mr. PRICE. Why, Mr. Speaker, Rule XXVI provides in specific terms that private business shall be considered on Friday unless by a two-thirds vote it be dispensed with.

The SPEAKER. The Chair recognizes that fact; and he has entertained the motion of the gentleman from Kentucky in obedience to that rule. But if that motion should not be adopted, what power has the Chair to enforce the consideration of private business against the will of a majority of the House?

Mr. PRICE. I think the rule itself settles the question.

Mr. KEIFER. If the House should refuse to dispense with private business, it would have to go on with it or do nothing.

Mr. VALENTINE. That is the rule.

Mr. SPARKS. The motion to go into Committee of the Whole to proceed to the consideration of bills on the Private Calendar requires of course a majority vote for its adoption; and if the majority vote is against it, that defeats the motion, of course.

Mr. CARLISLE. Yet the rule says there must be a two-thirds vote in order to dispense with private business; and for the purpose of relieving the House from the very dilemma in which it would find itself, if the motion of the gentleman from Tennessee were first voted on and negatived, I submit the direct motion to dispense with the consideration of private business.

The SPEAKER. That is the natural and reasonable course of proceeding, the Chair thinks. Rule XXIV, section 6, clause 3, reads:

On Friday of each week, after the morning hour, it shall be in order to entertain a motion that the House resolve itself into the Committee of the Whole House to consider business on the Private Calendar; and, if this motion fail, then public business shall be in order as on other days.

Mr. BRAGG. It seems to me that another consideration enters into this question. The regular motion being to proceed to the consideration of bills on the Private Calendar, if the House should refuse to do so then the next question would be to proceed to the consideration of bills of a private nature not on the Private Calendar, which would give preference to House bills, private in their nature, which have been made special orders. These, I submit, would be entitled to come in and take precedence over any other business.

The SPEAKER. The Chair will consider that view of the question, if that point should be reached in this controversy.

The question being taken on the motion of Mr. CARLISLE to dispense with the consideration of private business, it was agreed to, two-thirds voting in favor thereof.

The SPEAKER. The Chair now recognizes the motion of the gentleman from Tennessee, [Mr. BRIGHT,] that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The House divided; and there were—ayes 95, noes 65.

Mr. SPARKS demanded tellers.

Tellers were ordered; and Mr. SPARKS and Mr. BRIGHT were appointed.

The House again divided; and the tellers reported ayes 91, noes 69.

ENROLLED BILL AND JOINT RESOLUTIONS.

Pending the announcement of the result of the vote, by unanimous consent the following business was transacted:

Mr. WARD, from the Committee on Enrolled Bills, reported that

they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

A bill (H. R. No. 6599) to change the time for holding circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia;

Joint resolution (H. R. No. 83) granting condemned cannon to the Morton Monumental Association:

Joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of special report of the Commissioner of Agriculture, relative to diseases of swine and infectious and contagious diseases incident to other domestic animals; and

Joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish culture.

IRISH NATIONAL LAND LEAGUE.

The SPEAKER laid before the House resolution of the Roxborough branch of the Irish National Land League expressing the thanks of that association to the Congress of the United States for the sympathy expressed for the suffering of the Irish people; which was laid on the table.

FIRST COMPTROLLER'S DECISIONS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting copies of the decisions of the First Comptroller; which were laid on the table, and ordered to be printed.

TORPEDOES.

The SPEAKER also laid before the House a communication from the Secretary of the Navy in answer to the resolution of the House of January 28, 1881, regarding torpedoes; which was referred to the Committee on Naval Affairs.

CONFIRMED SUSPENDED PRE-EMPTION ENTRIES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting lists of suspended pre-emption entries confirmed by board of equitable adjudication for the year ending June 30, 1880; which was referred to the Committee on the Public Lands.

SURVEY OF EMPIRE BAY AND SWAN CREEK.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the survey of Empire Bay and Swan Creek; which was referred to the Committee on Commerce, and ordered to be printed.

TALLAPOOSA RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the survey of Tallapoosa River; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. MCKENZIE, by unanimous consent, was granted indefinite leave of absence on account of sickness in his family.

STATUE OF JACOB COLLAMER.

Mr. STEPHENS. I wish to make an announcement and a request. The delegation from Vermont wish to take up at some time the resolution from the Senate accepting the statue of Jacob Collamer presented by that State. I request by unanimous consent that resolution be taken up to-morrow immediately after the morning hour.

The SPEAKER. After the hour under the new rule.

Mr. STEPHENS. Yes, sir.

The SPEAKER. And that the ceremonies attending the acceptance of the statue shall then be proceeded with.

Mr. STEPHENS. Yes, sir; and they will not probably take more than an hour.

Mr. ATKINS. Why not do it to-day?

The SPEAKER. The House has already resolved itself into Committee of the Whole House on the Private Calendar.

Mr. REAGAN. I hope it will be done to-day, for if it goes over until to-morrow I must object.

The SPEAKER. Is there objection?

Mr. REAGAN. Yes, sir; and I demand the regular order.

Mr. ATKINS. I ask the gentleman to agree to fix the time at three o'clock to-day.

Mr. STEPHENS. I cannot be here at three o'clock.

Mr. ATKINS. Then do it now.

Mr. STEPHENS. The delegation is not ready now.

Mr. BRAGG. I object to the consideration of the subject now.

ASA WEEKS.

The House resolved itself into Committee of the Whole House on the Private Calendar, Mr. MCMILLIN in the chair.

The CHAIRMAN. The first business on the Private Calendar is a bill (H. R. No. 3784) to compensate Asa Weeks for his labor and expenses in perfecting torpedoes, torpedo machinery, and the art of torpedo warfare for the sole and exclusive benefit of the United States, and for other purposes.

Mr. HARRIS, of Massachusetts. I move, by unanimous consent, that bill be passed over for the present.

There was no objection, and it was ordered accordingly.

JANE STOUT.

The next business on the Private Calendar was the bill (H. R. No. 4257) granting a pension to Jane Stout.

The bill, which was read, authorizes and requires the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Jane Stout, of Schuylkill County, Pennsylvania, widow at the time of his death of Robert Divine, deceased, who was a private in Company E, Forty-eighth Regiment Pennsylvania Volunteers, and pay her a pension of $8 per month from and after the death of the said Robert Divine, her late husband.

Mr. BROWN. I move to strike out the words "and pay her a pension of $8 per month from and after the death of the said Robert Divine, her late husband."

Mr. RYON, of Pennsylvania. I have no objection to that amendment.

The amendment was agreed to.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 4257) granting a pension to Jane Stout, have had the same under consideration, and beg leave to make the following report:

Robert Divine was a private in Company E, Forty-eighth Regiment Pennsylvania Volunteers, a regiment raised in Schuylkill County, Pennsylvania, at the commencement of the war of the rebellion, and continued in service until the close of the war, when it was mustered out of the service. The regiment was engaged in many battles, many of them the most obstinately contested battles that were fought during the war. Its ranks were frequently decimated in action. No regiment in the Union Army saw more active service in the field and none stood higher or achieved more distinction for bravery and courage.

Robert Divine was a faithful and brave soldier, and enjoyed to a high degree the confidence and respect of the officers of the company and regiment to which he belonged. He was especially conspicuous for bravery in the battles of the Wilderness, Spottsylvania, North Ann River, Cold Harbor, and in front of Petersburgh.

While the Union forces were in front of Petersburgh, Divine was connected with the detachment employed in driving tunnels and laying mines to blow up the fortified defenses of that city. While engaged in these operations he was constantly exposed to dampness and the inclemency of the weather, and contracted disease which he thought and said to his captain would prove fatal.

In the summer of 1864, while sick as aforesaid, he secured a furlough and went home to his family at New Philadelphia, near Pottsville, Schuylkill County, Pennsylvania, reported to Dr. Howell Halberstadt, United States surgeon at Pottsville, and received medical treatment from him, and also Dr. Heidenright, a medical practitioner near New Philadelphia. Dr. Heidenright notified Captain Bowen, the provost-marshal of that district, and the marshal agreed that Divine should remain at home until he had so far recovered from sickness that it would be perfectly safe for him to return to his command, no matter how long it might be beyond the time granted in his furlough.

When Divine arrived at home his wife, Jane Divine, was dangerously sick with typhus fever, and three of his small children were sick with small-pox. Divine never recovered his health, but continued ill notwithstanding he received faithful medical attention.

On the 7th of November, 1864, in violation of the previous promise of the provost-marshal, Divine was taken from his sick bed, charged as a deserter, and confined in the guard-house at Pottsville, but transferred from there to the United States post hospital at Pottsville. He remained in the hospital sick with pneumonia until the 15th of November, when, by order of the provost-marshal, he was sent to his command, then in the vicinity of Richmond, Virginia, under arrest. His captors succeeded in getting as far as Alexandria, Virginia, with him, when they were obliged, on account of his sickness and exhaustion, to leave him, where he very soon after died. In fact it may be safely assumed, under the sworn testimony in the case, he was virtually in a dying condition when he was taken from the hospital at Pottsville.

After the death of her husband, Jane Divine, his widow, made application to the War Department for the back pay and bounty which she supposed to be due her late husband, and on the 24th day of October, 1865, received notice that her claim was disallowed upon the ground that the record showed that her late husband was a deserter, was arrested as a deserter, and died before he reached his command. Mrs. Divine, finding herself thus left destitute, with a family of small, helpless children solely dependent upon her labor for support, accepted an offer of marriage from a man by the name of Stout. Within two years after her marriage with Stout he was accidentally killed in the mines, and she was left again to struggle for the support of her children.

She comes now to the Congress of her country and asks, in consideration of the service of her husband and the father of her children, for a pension, which the justice of the case would have given her years ago.

The committee are of the opinion that the claimant should be granted a pension, and they recommend that the accompanying bill be passed.

Mr. BREWER. Mr. Chairman, I do not rise for the purpose of opposing the passage of this bill, but merely to call the attention of the committee to the fact that by the passage of this bill we will establish a new precedent.

The Committee on Pensions in the Forty-fifth Congress considered the question whether they should put upon the pension-roll the widows of deceased soldiers who had remarried, but no action was taken at that time.

Now, I suppose there are 50,000 cases of a like character in the United States to-day, and if we are to open up all these cases it seems to me we should pass a general bill to cover all of them, and not make this an exceptional case. I do not dispute the proposition that this lady is entitled to a pension if it was not for the fact that she had remarried after the death of her husband; but when she did remarry, under the present pension law she forfeits her right and has no right to a pension; and it is also true that if she was drawing a pension up to the time of her marriage it would have ceased from that day. This proposition, therefore, simply establishes a new precedent, and if the committee or if the House is desirous of doing that, and shall vote for this bill, I think it is right that they should know exactly what the effect of it will be. My opposition to it is on the ground, not of the merits of the bill itself, of which I know nothing, but because in my judgment we should not take this claim and make it an exceptional case; and if we are to do it now for this one case, then that whole class of citizens who come under provisions similar to this

would have equal grounds for claiming and receiving relief. I simply suggest this to gentlemen who are advocating the passage of this bill.

Mr. BROWNE. Mr. Chairman, I desire to move a further amendment, to insert:

*Provided*, That this provision shall cease when the claimant of the present pension shall remarry.

Mr. RYON, of Pennsylvania. That amendment, I will suggest, is wholly unnecessary, because the pension would cease in any event if the claimant remarried. She is a widow now, and——

Mr. BROWNE. That is true; but when the act of Congress gives a pension that peculiar clause of the law does not apply. Under the ordinary pension laws if a pension is granted by the Department it would cease if the claimant remarried. But a pension by a special act of Congress continues; it does not cease.

Mr. HAZELTON. That provision of the pension laws only applies to claims granted by the Pension Office.

Mr. BROWNE. That is what I understand. But if the pension is granted by act of Congress it places it upon a different footing.

Mr. RYON, of Pennsylvania. I have no objection to the amendment which the gentleman suggests.

Mr. HENDERSON. I wish to inquire whether this is not a bill to grant a pension to a widow who has remarried since the death of her first husband, who was a soldier; and if it is——

Mr. RYON, of Pennsylvania. If the gentleman from Illinois will allow me to answer his question I will give him the information, for I am familiar with all the facts in this case. This lady now applying for a pension was a widow who remarried after the death of her first husband. After the death of her husband who was a soldier, she made an application for a pension, but her application was rejected in the Pension Office. Finding herself in a destitute condition, with a family of little children to rear, she accepted an offer of marriage from this man Stout and was married to him. Within less than two years after that marriage, this man was killed in the mines. She has remained single ever since, struggling as best she may to rear her children.

Mr. BROWNE. Will the gentleman allow me to ask him a question?

Mr. RYON, of Pennsylvania. Certainly.

Mr. BROWNE. I would like to ask why the bill, then, is not made in favor of the infant children, who are clearly entitled to a pension if any one is.

Mr. KEIFER. I would like to inquire if they do not receive a pension now?

Mr. RYON, of Pennsylvania. No, sir.

Mr. COFFROTH. They are all over sixteen years of age?

Mr. RYON, of Pennsylvania. They have never applied for a pension.

Mr. BREWER. Let me state——

Mr. HENDERSON. I believe I have the floor.

Mr. BREWER. I simply want to answer a question. I hope the gentleman will yield to me for a moment. The gentleman from Ohio asks if the children were not receiving a pension. I answer they are not receiving a pension, and this is the reason, as the report shows: because the widow was unable to procure a pension for herself, or was refused on the ground that the records of the War Department showed that her husband was a deserter from the Army, and hence she was denied a pension. Of course she being denied a pension the children could not obtain it, the same reason applying also to them.

Mr. HENDERSON. Mr. Chairman, I have understood it to be the policy of our Government not to grant pensions to the widows of soldiers any longer than they remain such widows, and if there has been any precedent heretofore where a pension was granted to a widow who had remarried after the death of her first husband, he being a soldier, I am not aware of it. But I do know there are many cases like this in the country, and if we are going to establish a principle by granting a pension in such a case, I think in justice to all parties it should be done by the establishment of a general law. And I am opposed to establishing any such precedent until we have first decided whether we will make other widows who have remarried since the death of their first husbands and again become widows pensioners, whether we will establish a rule covering such cases, and grant pensions to all alike, making no discrimination or distinction.

Mr. COFFROTH. I would like to ask the gentleman a question. Suppose this woman had been put upon the pension-rolls by the act of the Commissioner of Pensions on her first application, and had remarried, and her husband had died, would not she be restored to the rolls?

Mr. HENDERSON. I think not; but if so, I have never understood the law. On the contrary, I believe it has been the uniform policy of the Government to refuse pensions in all cases after a remarriage.

Mr. RYON, of Pennsylvania. I desire to say a word now in reply to what has been said by the gentleman from Illinois [Mr. HENDERSON] and in explanation of this case.

The record shows, and it is now before this House, that the husband of that woman served more than three years in the Army of the United States, was a brave soldier, and fought in all the campaigns between the Potomac and Richmond. It shows that he lost his life while in the service of the Government; and that he left a destitute widow and children dependent upon the widow. And now if my friends upon the other side of the House, with a case that is as meritorious, that appeals as deeply to our feelings of humanity as this case does, can oppose such a bill as this, then I can see no merit in any special legislation that may be accomplished by this Congress to relieve that class of claimants.

Mr. THOMAS. Will the gentleman allow me to ask him a question?

Mr. RYON, of Pennsylvania. If I have but three or four minutes I cannot yield; because I desire to call the attention of the House to a circumstance connected with this case, and a part of the history of this country, with which every gentleman on this floor is familiar. This man was sick and furloughed. He went home to a sick family and was sick in his family until he was arrested and brought back to the city of Alexandria where he died. Now, sir, it is in proof among the papers submitted that by some means or another his name went upon the record as a deserter. I know how that happened. When he went home he was placed in charge of a Government surgeon. That surgeon said and the provost-marshal said that he should remain there, although it exceeded the period of time in his furlough, until his health had been restored. But, sir, we had in that country a class of men, as you had everywhere, that were seeking the twenty-five dollar bounties that were given by the Government; and they were industriously looking out every man who had exceeded by one hour the furlough granted him by his commanding officer. They were men of that class that seized this man in his own house after the surgeons, Drs. Habberstadt and Carpenter, and the provost-marshal, Captain James Bowen, had his case under consideration, and had told his doctor, Dr. Heidenright, that he should remain at home until he could safely return to the Army. But these men went to his house and took him out from a sick bed and brought him to the town of Pottsville; and he was sent by order of the provost-marshal into the hospital there, in charge of Dr. Habberstadt, where he remained some eight days. Then these men took him again from a sick bed in the hospital and got him as far as the city of Alexandria, and he died on their hands; the whole constituting a case of inhumanity such as I never witnessed or heard of in all my career.

There are in possession of the Committee on Invalid Pensions letters from Captain Winlack, the captain of that company, asserting again and again it was a wonder to him how this man got on the records here as a deserter. Those letters are among the papers referred to the committee. Captain Winlack again and again tried to procure a pension for this widow woman. He again and again asserted that this man was no deserter. The reason why that went on the records was that when those men came here for their blood-money they had to return the man as a deserter, and they did return him as a deserter after they had left him in the hospital in the city of Alexandria to die.

This is the case which is presented. This woman applies for a pension with this record staring her in the face, and she comes to the Congress of her countrymen and she asks that she, as the widow of a brave soldier that spent three years and a half at the front doing battle for his country, shall not be turned away from the Halls of Congress without that little pittance which may ease and console her declining years.

Mr. THOMPSON, of Iowa. Will the gentleman from Pennsylvania yield to me for a question?

Mr. RYON, of Pennsylvania. Yes, sir.

Mr. THOMPSON, of Iowa. How could those men return this soldier as a deserter unless the captain approved the report on which his name appeared as a deserter?

Mr. RYON, of Pennsylvania. I do not understand the *modus operandi* at all. But I do know there are letters which were referred to this committee, and which are among the records in this case, from Captain Winlack, the captain of that company, who says he never returned this soldier as a deserter; that, on the contrary, he knew he was not one.

Mr. HUMPHREY. Will the gentleman allow me a word?

Mr. RYON, of Pennsylvania. Yes, sir.

Mr. HUMPHREY. I want to state, Mr. Chairman, there are hundreds of cases where men were got away from their company in time of battle into hospitals, were lost sight of, and were returned as deserters. I can show any number of such cases in the records of the War Department to-day.

Mr. THOMPSON, of Iowa. My question was how they came to return him as a deserter.

Mr. HUMPHREY. When they did not know anything about it they returned the man as a deserter.

Mr. HENDERSON. I wish to say to the gentleman from Pennsylvania [Mr. RYON] that I do not antagonize this bill on its merits at all. I make no opposition to the pension being granted in this individual case. All I desire the House and the committee to understand is whether we are going to enter upon a new departure in regard to the granting of pensions to the widows of soldiers who have remarried.

Now, I stated that I understood the rule to be that whenever the widow of a soldier receiving a pension married again her pension ceased. I know that since I have been a member of this House there has been opposition to the granting of a pension to a widow under such circumstances, although her second husband had died and she was the second time a widow. I have three cases in my district just as hard as this, just as much entitled to a pension as I think this

widow is, because they are destitute and are the widows of soldiers who served their country faithfully; but after the death of the soldier, their first husband, they remarried, and then again became widows. Now, we ought to provide a general law for these cases, it seems to me, if we are to admit at all the principle of granting pensions to widows of soldiers who marry a second time.

Mr. HUMPHREY. Why not grant the pension up to the time of the second marriage?

Mr. HENDERSON. I have no objection to that. I only desired to call attention to the precedent we were about to establish.

Mr. HUMPHREY. I understand that is all there is in this case.

Mr. BREWER. I was perhaps the first who made the suggestion, and I wish to state my reasons for so doing. During the last four years I have received many letters from persons situated similar to the person in this case, and I have invariably written to them that Congress had refused to grant pensions in cases of this kind. If this bill had passed without my raising this point I felt that I should be very much embarrassed when I met those persons again. I know it has been against the policy of this House, as it has been against the policy of the Senate, during the last four years, to grant a pension in any case to the widow of a soldier who had remarried. There is no law authorizing it.

I wish to state this further fact, that the very moment the widow of a soldier remarries she ceases to be the widow of that soldier, and thereby relinquishes her claim to the pension to which she might before have been entitled. There are, of course, many cases where the widows of soldiers are receiving pensions. When they voluntarily enter again into the marriage relation they thereby declare that they prefer that relation rather than the amount of pension they are receiving. They enter into that relation voluntarily. When they do so, if the widow was previously drawing a pension, the orphan children of such widow draws the pension to which she was entitled until they respectively reach the age of sixteen years.

As I have already stated, the widow in this case, according to the rule of the Pension Office, was not entitled to a pension. It might be that the records in the Department were incorrect; I apprehend that may have been the case. I make no assertion that the widow was not at the time entitled to a pension. But if she had been receiving it, under the laws of the country she could not continue to receive it after she remarried.

Now, if we pass this bill, what can I say to my constituents at home in my district who have appealed to me to present their bills here in just such cases as this, just as meritorious, and to whom I have said that it was contrary to the policy not only of the House but of the Senate? I feel that I would be embarrassed if I did not raise my voice here and present the question for the consideration of this committee.

If we are to grant pensions simply as a matter of sympathy, as my good friend from Pennsylvania [Mr. RYON] seems to argue here, I know a thousand persons in my own State who are undoubtedly in as poor circumstances, having large families of children to support, as is the person to which this bill relates. Let us have a fixed policy. If the Committee on Invalid Pensions thinks this is a policy which should be adopted by the Government, why have they not during the two years of this Congress presented a general bill to this House, so that all might be treated alike?

Mr. COFFROTH. If there had been any law which would have authorized the granting of this pension, there would have been no necessity for this widow to come to Congress. The Committee on Invalid Pensions took into consideration the fact that this was a case for which the law granted no relief.

Mr. BREWER. I understand your position, and I am not controverting it.

Mr. COFFROTH. And the committee in examining the cases presented before them, if they find that they are such cases as should receive relief, report bills placing them on the pension-roll, as a gratuity.

Mr. HAZELTON. Why do you not report a general bill?

Mr. COFFROTH. We cannot report any general law which will cover all these cases. We have to report upon each case presented to us.

Mr. RYON, of Pennsylvania. There is not a case presented to this House for action which is provided for by general law.

Mr. BREWER. I have defined my position, and do not desire to take up the attention of the committee further.

Mr. KELLEY. I desire to say that I know nothing of the merits of this particular case. I find myself in the position of the gentleman from Michigan, [Mr. BREWER.] I have been writing to remarried women that the law prohibits the granting of pensions to them. I have even gone beyond what the gentleman from Michigan [Mr. BREWER] says he has done: I have endeavored to illustrate to them the wisdom of such a provision of law, by showing that there would be no justice in pensioning a man who had not himself been in the war, simply because he had married the widow of one who had been in the war.

I cannot for my life see where the end will be if we determine that we will pension every man who marries the widow of a worthy soldier.

Mr. BREWER. This proposition is to pension the woman when she has become a widow again.

Mr. KELLEY. The gentleman from Michigan suggests that this bill proposes to pension the woman when she has become a second time a widow. But she is no longer the widow of a soldier; she is the widow of another man. She is not the Widow Smith, if Smith was the name of the soldier, but is the Widow Jones, if the second marriage was with Mr. Jones. I trust, be the merits of this particular case what they may, that the House will vote down this bill, and not involve in the suspicion of falsehood or neglect all those Representatives here who have fairly and frankly stated to applicants for pensions the law and the principle upon which it rests.

The CHAIRMAN. The question is upon the amendment of the gentleman from Indiana, [Mr. BROWNE,] which will be read.

The Clerk read as follows:

After the word "volunteers" insert:

"*Provided*, The pension shall cease upon the marriage of the said Jane Stout."

The CHAIRMAN. The gentleman from Pennsylvania has signified his willingness to accept the amendment. If there be no objection it will be considered as adopted.

There was no objection.

Mr. THOMAS. I submit the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "the," in the fifth line, and insert "names of the children of Robert Divine, deceased, who are under the age of sixteen years;" so that the bill will read:

"*Be it enacted*, &c., That the Secretary of War be, and he is hereby, authorized and required to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the children of Robert Divine, deceased, who are under the age of sixteen years."

Mr. THOMAS. I desire to say a few words in support of this amendment. All pensions allowed by special act of Congress are based upon equities arising out of the service of the soldier. The widow of a deceased soldier succeeds to the equities existing in his favor at the time of his discharge from the service or from his death. Those equities are released by the widow upon her remarriage, and they descend then to the children of the deceased soldier who may be at that time under the age of sixteen years. It is claimed here that this soldier was not pensioned in his lifetime, in fact that he died while in the service. It is claimed that the widow has not been pensioned because there was an entry of "desertion" opposite his name, an entry wrongfully made, it is alleged, and that it was wrongfully made I have no doubt. That is stated as the obstacle which prevented the pensioning of the widow. Yet there are equities in this case. In whose favor? In favor of the minor children. Then I say, if the liberality of Congress is to be invoked in this case, let it be invoked in favor of those children who have inherited the equities arising from the distinguished and gallant services of their father, the deceased soldier, and not in favor of the widow of another man, she having voluntarily forfeited her equities by remarrying.

Mr. RYON, of Pennsylvania. Mr. Chairman, I have no doubt that the gentleman from Illinois [Mr. THOMAS] is actuated by the purest motives of patriotism and earnestly desires to pension the children of the deceased soldier Divine. But, sir, he overlooks one important fact—that Divine died in 1864, and as a matter of course no child of his could now be under the age of sixteen. Then, if there are no equities in the case, as the gentleman says, he can vote against the bill. But I do not believe in a surreptitious attempt to defeat a bill by indirection. I never believe in insinuations; I believe in direct acts. If the gentleman wants to face the principle of hostility to this bill which provides for pensioning that widow, he has a perfect right to do it; and I am the last man in the world to challenge his motives. But he has no right, while professing to favor the principle of the bill, to defeat it by an amendment which would necessarily preclude the payment of any pension.

This widow labored for years to rear those children—to give them by her hard work, her daily and nightly toil, that which her Government withheld from her upon a record that did not speak the truth. If there ever was a meritorious measure, one appealing to the Representatives of the people in the Congress of the United States, it is a measure in favor of the widow of a man who gave his life to save his country, that widow having toiled for years for the support of her family, and having been denied by her Government that remuneration which her husband earned. It is upon this basis that I place this claim.

Gentlemen say that this woman forfeited her right to a pension by voluntarily remarrying. If she had obtained her pension from the Government and then remarried, I would admit the force of the argument. But she came here for a pension, and it was denied her. Then, surrounded by eight helpless children, she married, not voluntarily, but because she found it necessary to procure for those children the means of an honest living.

Mr. EWING. I hope the gentleman from Illinois [Mr. THOMAS] will withdraw his amendment. It is mere mockery. This soldier died during the war, and as a matter of course there are now no children of his under sixteen years of age.

Mr. THOMAS. Then, Mr. Chairman, if there are no children of his under sixteen years of age, I submit that all equities in this case have lapsed, and the parties claiming here are at the end of their string. The placing of this widow upon the pension list, however meritorious she may be, would be the institution of a civil list—a thing that has not been known thus far in this country, and a thing which every member of this House should set his face against.

No man on this floor is more in favor of granting pensions in meritorious cases than I am. Having been a soldier myself, I know exactly what it is to render service to the country in time of war. I think that all meritorious cases should be favorably passed upon without quibble and without delay. But granting pensions to meritorious soldiers, or to the widows and children of meritorious soldiers, is quite a different thing from granting a pension by special act of Congress to "Becky Sharp" simply because "Bill Jones" was a good soldier.

Mr. HUMPHREY. Mr. Chairman, just a word on this bill. The principle involved is an important one. In all the Western States the widow, on the death of her husband, succeeds to the homestead of forty or eighty acres, as the case may be, and it is subject to the demand of no debt so long as she remains in widowhood; but the moment she remarries it goes to the heirs, and is subjected to the payment of debts and the appointment of an administrator to settle the estate. The same principle arises in this case. This widow by her own act deprived herself of the benefit under the pension law. Whatever the circumstances may have been under which she remarried, the fact is that by her own act she forfeited the right given to her under the pension laws.

The principle is an important one. If we were to give this widow our sympathy, then we would vote to her this amount of money; but in my district, and every other district represented on the floor of this House, there are probably some whom we have been compelled to tell that by their remarriage they have deprived themselves of the benefit accorded to them by the pension law. If we do not abide by the pension law as it now stands, the result would be to set us afloat on an ocean of doubt and difficulty. Not to abide by the precedents which have been established would be to carry us too far. We might not be able to retrace our steps. The result inevitably would be the expenditure of a large sum of money in carrying into effect the establishment of any such bad precedent.

Mr. WILSON. I desire to offer an amendment to the amendment.

Mr. THOMAS. I withdraw my amendment.

Mr. WILSON. As the gentleman has withdrawn his amendment, there is nothing to which mine would apply.

Mr. BURROWS. Mr. Chairman, I have an amendment to offer, which I ask the Clerk to read.

The Clerk read as follows:

*And provided further*, That the said pension shall only be paid from the death of her first husband to the time of her marriage to said Stout.

Mr. BURROWS. Now, Mr. Chairman, gentlemen on the other side seem to misconceive the ground upon which opposition is made to the passage of this bill, and all this talk about the widow and her necessity, to excite the sympathy of the committee, has no bearing on the case. It seems to me we ought to adhere to the line of policy marked out by the law. The law very properly grants a pension to the widow whose husband served his country and was either shot in battle or died from disease contracted in the service, because that country took from the wife her support, her husband, and seeks by this means to make compensation therefor. It also provides when she shall remarry her pension shall cease, the obligation on the part of the Government having ceased. If she deliberately enters into the marriage relation, knowing the bounty the Government furnishes her for the loss of her husband will be taken from her by reason of that remarriage, it seems to me afterward, if the marriage turns out disastrous, either by reason of death of the second husband, or by reason of his injury, or any other reason it does not prove beneficial to her, we ought not to step in and give her a pension.

I therefore insist the amendment I submit is a proper one, and I shall most heartily support it in giving this person a pension, and placing her on the pension-roll from the death of her first husband to the time of her remarriage. It seems to me that is proper.

Mr. HAZELTON. Does that provide for arrears?

Mr. BURROWS. During the time of her widowhood.

Mr. RYON, of Pennsylvania. I do not think it gives her arrears at all.

The amendment was agreed to.

Mr. THOMAS. I desire to offer an amendment providing that said pension shall be paid to the children of Robert Divine until they shall reach the age of sixteen years.

Mr. WILSON. That will defeat the whole thing.

Mr. THOMAS. No, it will not; but it will continue her pension after the second marriage to the children of the soldier up to the time they come to sixteen years of age.

Mr. COFFROTH. That is right.

Mr. RYON, of Pennsylvania. Yes, that is a proper amendment. It should provide that from the date of her second marriage the pension shall be continued to the children of Robert Divine till they reach sixteen years of age.

Mr. THOMAS. I have drawn the amendment up and ask the Clerk to read it.

The Clerk read as follows:

*Provided further*, That said pension shall be paid to the minor children of Robert Divine from the date of the second marriage until they shall become respectively sixteen years of age.

The amendment was agreed to.

Mr. RYON, of Pennsylvania, moved that the bill, as amended, be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

MARY A. CASTERWELLER.

The next business on the Private Calendar was a bill (H. R. No. 1467) granting a pension to Mary A. Casterweller.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Casterweller, widow of John Casterweller, late a private in the Fourth Regiment of Pennsylvania Cavalry, and pay her a pension from the passage of this act.

Mr. WARNER. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1467) granting a pension to Mary A. Casterweller, widow of John Casterweller, private in Company C, Fourth Regiment Pennsylvania Cavalry, have had the same under consideration, and beg leave to make the following report:

The Committee on Invalid Pensions of the Forty-fourth Congress made the following report on this application, and the present committee see no reason to change the report, but adopt the same:

"That the said parties were duly married, and that the said John Casterweller died June 10, 1865, in or near Lynchburgh, State of Virginia, in the line of duty."

The committee recommend the passage of the bill.

Mr. WISE. It will be seen by the reading of the report, Mr. Chairman, that this bill passed this House in previous Congresses, and only failed for want of time. I move it be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

JESSE T. MYERS.

The next business on the Calendar was the bill (H. R. No. 4028) granting a pension to Jesse T. Myers.

The bill was read, as follows:

*Be it enacted*, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Jesse T. Myers, late a private in Company A, Sixth Regiment of Maryland Infantry Volunteers, and to pay him a pension at the rate of $8 per month from the date of his discharge from the Army.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 4028) granting a pension to Jesse T. Myers, respectfully report that they have examined the case and find the claimant was enlisted as a private in Company A, Sixth Regiment of Maryland Infantry Volunteers, on the 10th day of August, 1862, to serve three years or during the war, and was discharged from the service on the 11th day of March, 1865, at United States General Hospital Emory, Washington, District of Columbia, by reason of the surgeon's certificate of physical disability; which disability, it appears from the evidence, has been permanent and now incapacitates the claimant from earning a support for himself and family.

The committee therefore recommend the passage of the bill.

Mr. BROWNE. I move to strike out all after the word "pension," in line 7, and insert "subject to the provisions and limitations of the pension laws of the United States."

The amendment was agreed to.

Mr. COFFROTH. I move that the bill, as amended, be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

LEWIS BLUNDIN.

The next business on the Private Calendar was the bill (H. R. No. 2550) granting a pension to Lewis Blundin.

The bill was read, as follows:

*Be it enacted*, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lewis Blundin, of Company C, Twenty-eighth Regiment Pennsylvania Volunteers, who was stricken down by disease during Sherman's campaign from Atlanta to the sea, which resulted in paralysis; the said pension to commence from the 29th day of March, A. D. 1866, the date of his discharge from the military service of the United States, at the rate of $8 per month.

Mr. GODSHALK. Mr. Chairman——

Mr. BROWNE. I move an amendment.

The CHAIRMAN. The Chair will first recognize the gentleman from Pennsylvania.

Mr. GODSHALK. I move to strike out all after the word "volunteers," in the seventh line.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the following words:

Who was stricken down by disease during Sherman's campaign from Atlanta to the sea, which resulted in paralysis; the said pension to commence from the 29th day of March, A. D. 1866, the date of his discharge from the military service of the United States, at the rate of $8 per month,

Mr. BROWNE. That meets the object I had in view. I do not desire to move a further amendment.

Mr. COFFROTH. There is no objection on the part of the committee to the amendment suggested by the gentleman from Pennsylvania.

The amendment was agreed to.

Mr. GODSHALK. I move that the bill as amended be laid aside with a favorable recommendation.

The motion was agreed to.

JANE STOUT.

Mr. HAZELTON. Mr. Chairman, on examination of the bill for the relief of Jane Stout passed a few moments ago, it appears that the amendments are entirely inconsistent with each other and render the bill imperfect and defective.

Mr. WILSON. Let the correction be made in the House.

Mr. HAZELTON. It can be done by general consent in a few moments if the gentleman from Indiana [Mr. BROWNE] will withdraw his amendment.

The CHAIRMAN. The Clerk will report the amendment to which the gentleman refers.

The Clerk read as follows:

*Provided*, That the pension shall cease upon the marriage of the said Jane Stout.

Mr. BROWNE. I hope that there may be unanimous consent given for the withdrawal of the amendment. My object was simply to perfect the bill. I only wanted to perfect the bill.

Mr. WARNER. Let the bill be reported as it will read if amended as proposed.

The Clerk read as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and required to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Jane Stout, of Schuylkill County, Pennsylvania, widow at the time of his death of Robert Divine, deceased, who was a private in Company E, Forty-eighth Regiment Pennsylvania Volunteers: *Provided*, That said pension shall only be paid from the death of her first husband to the time of her marriage to said Stout: *And provided further*, That said pension shall be paid to the minor children of Robert Divine from the date of said second marriage until they shall respectively become sixteen years of age.

The CHAIRMAN. Is there objection to the withdrawal of the amendment?

There was no objection; and it was ordered accordingly.

EDWARD H. MITCHELL.

The next business on the Private Calendar was the bill (H. R. No. 2549) granting a pension to Edward H. Mitchell.

The bill was read. It is as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Edward H. Mitchell, of Company I, Seventy-first Pennsylvania Volunteers, who was wounded at the battle of White Oak Swamp, July 30, 1862; the said pension to commence from the date of his discharge from the military service of the United States, at the rate of $8 per month.

Mr. GODSHALK. I ask to strike out all after the word "volunteers," in the seventh line.

The CHAIRMAN. The amendment will be read.

The Clerk read as follows:

Strike out the following: "Who was wounded at the battle of White Oak Swamp, July 30, 1862; the said pension to commence from the date of his discharge from the military service of the United States, at the rate of $8 per month."

Mr. COFFROTH. The Committee on Pensions will accept that amendment.

Mr. BURROWS. Let the bill be reported as it will read if amended.

The bill was again read.

Mr. BURROWS. Let the report be read.

The Clerk read as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2549) granting a pension to Edward H. Mitchell, have had the same under consideration, and beg leave to submit the following report:

On March 11, 1863, one Edward H. Mitchell filed a claim for pension as late private in Company I, Seventy-first Pennsylvania Volunteers; swears he was discharged February 11, 1863, by reason of a wound received on or about June 30, 1862, while in action at the battle of White Oak Swamp, Virginia, having been shot in both legs by poisoned buckshot, and also by reason of his musket having been struck by a volley and being bent, striking him in the breast and injuring him severely.

Mr. BURROWS. From the reading of the report so far it appears that this soldier was wounded in battle. If so, I withdraw the demand for the reading of the report.

Mr. BROWNE. I would like to know, if he was wounded in battle, why the pension was denied. If some gentleman will explain the reason to the committee, I think it will be satisfactory without the necessity of reading the report.

Mr. COFFROTH. What is the question of the gentleman?

Mr. BROWNE. I wish to know why, if he was wounded in battle, and his disability must have been noticeable, how it happens that his pension was denied by the Pension Office?

Mr. COFFROTH. I do not know that I can answer the gentleman from memory. The report will show, however.

Mr. WARNER. Then let us have the report read.

The Clerk resumed, and concluded the reading of the report, as follows:

In a subsequent application, he swears he was injured in the right leg by a fall while making a charge on the enemy, which ruptured the veins of his legs and terminated in a running sore, rendering him unfit for manual labor; was also wounded in the leg by buckshot supposed to be poisoned, the result of the injury being varicose veins. In a third application he swears he was injured in the back and right leg at same battle, by falling on his back and injuring the same, while in the act of getting over a fence; was rendered unfit for the service, placed in a field hospital, where he lay until the next day, when he was captured by the enemy. That during his service as aforesaid, from fatigue and other causes, he contracted varicose veins, with which he is afflicted up to the present time. Filed with this third paper is an affidavit of one William W. Mannington, who swears he was in the same company, and of his own personal knowledge knows the statements of Mitchell to be correct and true.

The records of the War Department show claimant to have been enlisted June 2, 1861, mustered in June 28, 1861, missing in action at White Oak Swamp June 30, 1862. Also absent, taken prisoner at Malvern Hill, June 31, 1862. Company was in action June 30, 1862. They furnish no evidence that he was wounded. Prisoner-of-war records show him captured June 30, 1862. The records show claimant to have been present with company from enrollment to date of capture, June 30, 1862. Certificate of disability shows him to have been discharged because of "disability caused by varicose veins."

The records of the Surgeon-General's Office show him admitted to field hospital at Newport News, Virginia, July 27, 1862, with "gunshot wound." That he was admitted to camp hospital, paroled prisoners' camp, Annapolis, Maryland, with urticaria (nettle-rash.) His records furnish nothing further as to the disability.

Martin Rizer swears he was late surgeon Seventy-second Pennsylvania Volunteers, chief surgeon second brigade, second division, Second Corps; was present at the above battle; that he is cognizant of the fact that claimant while crossing the bridge fell and injured his back and leg, and was sent to hospital, where he came under his care; was unable to leave and was captured the next day. Makes this statement from his knowledge of the facts.

William P. Tomlinson certifies that he is captain of the company; that claimant was injured in both legs by poisoned buckshot, and also by his musket striking him in the breast, it having been struck by a volley from the enemy; that claimant was in the United States service and in the line of his duty; that the disability incurred has disqualified claimant from performing the duties of a soldier.

The records of the War Department and of the Second Auditor show Rizer and Tomlison to have been present on June 30, 1862, and that their signatures are genuine.

Richard Dingee, M. D., swears he knew claimant prior to his entering the service; that he was a sound, healthy man when he entered the service, free from any injury to the back or right leg; that he has known him professionally since discharge, and that his disabilities have been continuous since discharge.

On July 6, 1863, Wilson Jewell, examining surgeon for pensions, reports claimant as incapacitated one-half for obtaining his subsistence by manual labor; cause, varicose ulcer and veins; that it is his belief it was contracted in the service and in line of duty; that the disability is permanent; that his varicose ulcer and veins should entitle him to one-half disability, provided they were in existence and he was discharged for them.

On April 18, 1876, W. H. Kirk, examining surgeon, reports claimant almost entirely incapacitated from obtaining his subsistence by manual labor, by reason of disability resulting from injury to back and varicose veins. It is his opinion that the disability originated in the service.

This claim was investigated by the secret service division of Pension Office. The investigation cannot be considered a complete one, as the majority of the witnesses do not testify directly, but seem to qualify their replies. They, however, agree to the fact that claimant was able to earn his living prior to enlistment; that they knew of him having a sore on his leg, but never knew of his being affected with varicose veins.

The witnesses generally state he is a temperate man, and some of them in addition state he is a reliable man. It would also appear from the testimony that claimant was examined by a surgeon prior to enlistment and was passed by the surgeon. The special agent states that all the witnesses are intelligent and reliable men, personally known by him, and states that Mitchell never did have any regard for the truth, is now of no account, and never will be. It would appear from the animus of the special agent's statement that he entered upon this examination with prejudice against the claimant and summoned such witnesses as suited his feelings.

Affidavits are filed in the case from various parties, who state of their own knowledge that they were acquainted with him and never knew him to be affected with varicose veins or with weak spine.

On February 20, 1877, a petition, signed by fifty-three citizens of his vicinity, requests the Commissioner of Pensions to grant the pension; that they know the variocose veins were incurred in the service.

The committee are of the opinion that the accompanying bill should pass

Mr. WARNER. Mr. Chairman, the report just read does not show at all that this claimant was wounded in the service or that he claims a pension on that account; but shows that the claim is made on the ground of other disabilities of which, from the report I take it, there is no record evidence. I understand further that this is a case which has been made the object of a special examination by the Commissioner of Pensions, and the granting of the pension has been reported against. It seems to me that this report shows clearly that there was no disability on the part of this claimant received in the line of duty, and therefore that he is not entitled to a pension; and it is one of those cases that ought not to come here at all. If he is entitled to the relief sought it ought not to require a special act.

Mr. GODSHALK. It is the old story in regard to this pension claim. This man entered the service in 1861. He was wounded; but owing to the loss of records he could not make out his claim technically before the Pension Office. His claim was rejected from time to time. Finally, the Department sent up to the neighborhood where the man lived a special agent or a secret agent to inquire into the truth of these statements and find out all he could in reference to this case. Now, while this agent reported Mitchell was not a man whose word was to be believed, I know from my own personal knowledge that that special agent would not be believed on his oath, and that Mitchell stands a hundred-fold better in the estimation of the community than the special agent who went up there to investigate his case. I know of my own knowledge this man is believed in the neighborhood where he lives to be a truthful man. He is known to be a man of feeble intellect in some respects and may have been induced in some way to make contrary statements. But it is known to every one there that he went into the service an able man for the service. He was examined prior to his enlistment and passed by the surgeon, and it is known to every one there that he came out of the service a wounded and broken-down man and that he is unable to earn a living.

Mr. WARNER. Does the report show this man was wounded in action?

Mr. GODSHALK. It appears he went into hospital to be treated. This is recorded here in the report.

Mr. WARNER. The report shows he was missing from action.

Mr. GODSHALK. It shows he was taken to hospital.

Mr. BURROWS. I will say in answer to the gentleman from Ohio [Mr. WARNER] it appears in the report that the captain of the company testified—

That claimant was wounded in both legs by poisoned buckshot, and also by his musket striking him in the breast, it having been struck by a volley from the enemy; that claimant was in the United States service and in the line of his duty.

That is what is said by the captain of the company.

Mr. WARD. It appears, also, in the report that the certificate of disability shows him to have been discharged because of "disability

caused by varicose veins." And one of the affidavits, as I understand it, alleges that he was wounded with poisoned buckshot and that the varicose veins were a result of the wound so received; and the record follows him up to the point of the issuing of his discharge by reason of disability caused by that wound. It seems to me there is made out a complete case of disability incurred in the service and in the line of duty.

Mr. BURROWS. There can be no question of that.

The amendment was agreed to.

Mr. GODSHALK. I move that the bill, as amended, be laid aside and reported favorably to the House.

The motion was agreed to.

JAMES B. FURMAN.

The next business on the Private Calendar was the bill (H. R. No. 1452) for the relief of James B. Furman, reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of James B. Furman, late a private of Company C, of the Seventh Regiment of Pennsylvania Volunteer Infantry, on the pension-rolls, at the rate of $8 per month, from the date of his discharge from the military service of the United States, in the late war of the rebellion, on account of disease contracted while in the line of duty in said service.

Mr. BROWNE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "rolls" and insert in lieu thereof "subject to the provisions and limitations of the pension laws of the United States;" so that it will read:

"*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of James B. Furman, late a private of Company C, of the Seventh Regiment of Pennsylvania Volunteer Infantry, on the pension-rolls, subject to the provisions and limitations of the pension laws of the United States."

Mr. WARNER. I had risen to propose the same amendment and to say I thought it was understood in the last session that all these bills were to be made to conform to the principle embodied in that amendment.

Mr. COFFROTH. I will inform the gentleman from Ohio [Mr. WARNER] that these bills were all reported as early as the 20th of February of last year, before the time when the House adopted the rule to which he refers. All the bills reported since that time have conformed to the rule adopted by the House. The committee make no objection to the amendment of the gentleman from Indiana.

Mr. WARNER. The statement by the gentleman from Pennsylvania is satisfactory. I ask that the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1452) granting a pension to James B. Furman, late private in the United States military service, have had the same under consideration, and beg leave to submit the following report:

After examination, they have adopted the report made by the Committee on Invalid Pensions to the third session of the Forty-fifth Congress, as follows:

"That the said Furman enlisted into the service March 14, 1864, and was discharged August 23, 1864, for an injury received while in the service and in the line of his duty.

"On the 26th of July, 1864, he was detailed to draw some timber for a block-house, at bridge No. 13, near Columbia, Tennessee, and while so engaged he was struck a very violent blow with a lever or pry in the side, which threw him upon a log, causing a very severe hernia. In consequence of this injury he was sent home on a furlough; and the medical evidence shows that when he returned home at that time he was suffering from said injury, and was treated for it. The evidence also shows that he has suffered from said injury ever since his discharge, and that he is now wholly unfitted for labor.

"The committee consider the claimant richly deserving of a pension, and therefore recommend the passage of the bill."

The amendment offered by Mr. BROWNE was agreed to; and the bill, as amended, was laid aside to be reported favorably to the House.

JOHN A. INNES.

The next business on the Private Calendar was the bill (H. R. No. 1885) for the relief of John A. Innes, reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted*, That the Secretary of the Interior be, and he is hereby, authorized and directed to restore the name of John A. Innes, late a private of Company B, Fifty-first Regiment of Pennsylvania Volunteers, to the pension roll; and he shall be paid in the same manner and to the same amount that he would have been if payment had not been suspended or his name dropped from the roll.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1885) granting a pension to John A. Innes, late of the United States military service, have had the same under consideration, and beg leave to submit the following report:

Having examined the lengthy and exhaustive report made by the Committee on Invalid Pensions to the third session of the Forty-fifth Congress, the committee have adopted the same, as follows:

"John A. Innes, of Easton, Pennsylvania, enlisted September 16, 1861, at Easton, as a private in Company B, Fifty-first Regiment Pennsylvania Volunteers, and was discharged August 25, 1862, at New Berne, North Carolina, on surgeon's certificate of disability. He rendered subsequent service during the invasion of Pennsylvania as a volunteer in Company C, Thirty-eighth Regiment Pennsylvania Militia, from June 30 to August 7, 1863; and again, in Company A, Twenty-eighth Regiment Pennsylvania Volunteers, from February 14 to May 23, 1865.

"Mr. Innes contracted hemorrhage of the lungs at the battle of Roanoke, North Carolina, February 8, 1862, was sent to the Hammond general hospital at Beaufort, North Carolina, and was discharged therefrom August 25, 1862, possessed of a seemingly permanent disability in a disease of the heart and lungs. He was, in due course of time, recognized by the Pension Office as a worthy applicant for an invalid pension, and was pensioned at $8 per month, commencing October 20, 1875, and at $18 per month, commencing September 1, 1876. The last payment was made to include December 4, 1877. On December 10, 1877, Innes was dropped from the pension-rolls in consequence of the report rendered by a special agent of the Pension Office, which stated that the disability for which he drew his pension existed prior to enlistment.

"From the very voluminous array of papers submitted with this case, your committee have selected a few, to which they invite the attention of the House in connection with their report.

"The first of these is an anonymous communication, addressed, presumably, to the Commissioner of Pensions, and dated 'Easton, Pennsylvania, October 1, 1877.' The writer signs himself 'An old citizen,' and makes a brief but pointed attack upon the character of Mr. Innes, declaring him not entitled to a pension. The Pension Office, in consequence of this anonymous charge or charges, ordered an investigation, by a special agent, of the case of Mr. Innes, which inquiry resulted in the suspension of the pension as already noted. The second of the selected papers in the case to which your committee especially refer is a letter addressed to the Pension Office, under date of February 7, 1878, by George E. Lemon, Esq., the attorney for claimant, in which is noted the allegation of Mr. Innes that his married sister was the principal witness examined by the special agent in the conduct of his investigation of the case of Mr. Innes, and that her adverse testimony was due to a bitter personal hostility existent between the pensioner and herself. The third particular reference is the combined affidavits of Mrs. Elizabeth Innes, the mother of the claimant, and three intimate friends of the Innes family, who each declare, on oath, that they know that John A. Innes and his married sister have been on unfriendly terms for six years past, the enmity being bitter, and its cause being the fact that the mother of the claimant allows him to occupy, rent free, a house belonging to her.

"Brief reference is now made to the fourth of these papers, wherein is found the evidence given before the special agent by Mrs. Sallie Cornell, the married sister of Mr. Innes. Her testimony is of an indefinite, hesitating character, and tends to show that the idleness of her brother previous to enlistment was induced by lung complaint and laziness. This idea is conveyed in a very doubting, equivocal manner, as a perusal of the evidence must show.

"Attention is now called to the sworn affidavits of Mrs. Elizabeth Innes, mother of the claimant, and of the following-named persons—each and all of them certifying to the entire health of Mr. Innes prior to his enlistment, this being the point on which was based the adverse report to the special agent. The affiants spoken of are: G. B. Slough, M. D., a physician of Easton, Pennsylvania, whose standing in the community is certified to by the prothonotary of the county court; Henry Ludwig, A. F. Hellet, Cornelius Brunner, E. H. Heckman, D. F. Davis, J. H. Genther, and Charles I. Frey, all being residents of Easton, the home of claimant. J. H. Genther was the first lieutenant of Company B, Fifty-first Regiment of Pennsylvania Volunteers, the command in which Mr. Innes served.

"The last of these special papers in this case is a letter written the Pension Office by Frank Reeder, commander of the Pennsylvania department of the Grand Army of the Republic, and dated 'Easton, April 12, 1872.' This is written in commendation of Mr. Innes as an original claimant; but its language can now be quoted as staunch testimony for Mr. Innes. Mr. Reeder says: 'It [the claimant's case] is one of the saddest cases I ever knew of, and one of the most deserving.'

"Beyond this your committee feel it perfectly useless to proceed. They have shown, by the strongest attainable evidence, that the claimant in this case has been debarred his pension by reason of bitter personal hostility, and the very fact that the investigation which resulted in robbing him of his pension was started by an anonymous letter, wherein charges were preferred against the claimant, seems to lend additional coloring to our verdict in the case.

"After a most thorough inspection of the multitude of papers submitted, your committee feel it incumbent upon them—always bearing in mind the equity of the case—to report favorably upon the bill.

"They recommend, therefore, that the said bill do pass."

Mr. COFFROTH. I move that the bill be laid aside to be reported favorably to the House.

The motion was agreed to.

JAMES R. GORDON.

The next business on the Private Calendar was the bill (H. R. No. 1453) for the relief of James R. Gordon, reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of James R. Gordon, late a private in Company D of the Sixteenth Regiment of Pennsylvania Cavalry Volunteers, on the pension-roll, at the rate of $8 per month from the date of his discharge from the military service of the United States, in the late war of the rebellion, on account of disease contracted while in the line of duty in said service.

Mr. BROWNE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "roll," and insert in lieu thereof the words, "subject to the provisions and limitations of the pension laws of the United States."

Mr. COFFROTH. The committee has no objection to that amendment.

The amendment was agreed to; and the bill, as amended, was laid aside to be reported favorably to the House.

ALBERT O. MILLER.

The next business on the Private Calendar was the bill (H. R. No. 1455) granting a pension to Albert O. Miller, introduced by Mr. OVERTON, and reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Albert O. Miller, late a seaman on board the United States steamship Bienville, and pay him a pension at the rate of $50 per month from and after the passage of this act.

Mr. BROWNE. I move to amend the bill by striking out the clause fixing the rate of pension—that is, the words "and pay him a pension at the rate of $50 per month from and after the passage of this act."

The amendment was agreed to.

Mr. WARNER. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1455) granting a pension to Albert O. Miller, late of the United States Navy, have had the same under consideration, and beg leave to submit the following report:

That Albert O. Miller enlisted as a seaman in the United States Navy on the 23d

day of September, 1864; that on the 15th day of January, 1865, while in such service and in line of duty, he participated in the capture of Fort Fisher; that after the capture of the fort the boats from which he and others had disembarked were found beached and partly filled with sand and water; that an attempt was made to bail the boats and prepare them for use, in which said Miller became drenched with the surf, and that he remained on the beach all night thoroughly wet by the exposure; that in consequence he suffered a severe attack of neuralgia and rheumatism, and that he has since suffered continuously from such rheumatism so contracted up to the present time; that his physical condition is now such by reason of said disease that he requires the regular aid and assistance of some other person, on account of total physical disability; that said Albert O. Miller was honorably discharged from the naval service of the United States; that he has made due and regular application for a pension (naval claim No. 3286) and has fully established his right to a pension of the amount named in the bill, save that he has failed to establish the facts of the time, place, and circumstances under which he contracted his said disability; that on account of such failure his application has been rejected by the Interior Department; that such failure has been by reason of the inability of said Miller to ascertain the whereabouts of his mates, the seamen who were present and had actual knowledge of said facts, and such failure has been notwithstanding diligent efforts on the part of said Miller to ascertain the whereabouts of such persons.

The committee, believing the case to be meritorious, recommend the passage of the accompanying bill.

Mr. COFFROTH. I move that the bill with the amendment be laid aside to be reported favorably to the House.

The motion was agreed to.

PHINEAS GANO.

The next business on the Private Calendar was the bill (H. R. No. 1259) granting a pension to Phineas Gano, introduced by Mr. WILSON, and reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll, subject to the provisions of the pension laws, the name of Phineas Gano, late a first lieutenant and regimental quartermaster of the Twenty-fifth Regiment Ohio Veteran Volunteer Infantry, with proportionate pay as first lieutenant to that now received by said Gano as private; said pension as first lieutenant to commence and be paid from the 18th day of July, 1865, the date of the final discharge of said Gano from the military service of the United States, deducting therefrom the amount heretofore received by said Gano on pension as a private.

Mr. WARNER. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom the accompanying bill (H. R. No. 1259) was referred, having had the same under consideration, respectfully submit the following report:

The committee find that Phineas Gano, late first-lieutenant and regimental quartermaster, while a private in Company B, Twenty-fifth Ohio Veteran Volunteer Infantry, and in the line of duty, contracted rheumatism, which disease was very much aggravated by his continuous field service and consequent exposure as a lieutenant and regimental quartermaster, to which rank he had been subsequently promoted on account of many gallant services.

After his discharge he never recovered from this disability, and the rheumatism gradually became chronic, preventing him from performing manual labor, and, of course, from procuring a subsistence thereby. He was pensioned at the rate of $4 per month, and on applying for an increase he received $6 per month, and subsequently, on the recommendation of Dr. Charter, the examining surgeon of the Pension Department, who reported him as suffering from total and permanent disability as a result of the rheumatism contracted while in the service of the United States, he received $8 per month, the full pension of a private soldier.

It appears that the Pension Department has established a rule by which, when an injury is received or a disability is contracted, a pension is granted only at the rate proportioned to the rank of the soldier at the time of receiving the original injury or contracting the original disability; therefore, although Gano was suffering from total disability and left the service as an officer, the Department would not allow him other than the full pension of a private for total disability, because, as is alleged, the disability was originally contracted while serving as a private soldier.

Whatever may be the policy of this rule it does not seem to work well when applied to the claims of a deserving pensioner. The committee are of opinion that this case should not have been embraced under the rule, inasmuch as the original disability must necessarily have been aggravated by Gano's subsequent service in the higher rank; and as he is now suffering from total and permanent disability, as is shown by the report of the examining surgeon of the Pension Office, it is but just that he should receive the full rate to which his rank entitles him.

The committee therefore recommend the passage of this bill.

Mr. WARNER. I ask that the bill be again read.

The bill was again read.

Mr. BRAGG. Does this bill make provision for the pay of this applicant as an officer independent of his pension?

Mr. WILSON. It simply provides a pension for him as an officer.

Mr. BRAGG. From what committee does this bill come?

Mr. WILSON. From the Committee on Invalid Pensions.

Mr. BRAGG. Does the Committee on Invalid Pensions have charge of bills providing for the pay of officers of the Army? If I heard the bill correctly, it provides that this person shall in addition to his pension draw pay as an officer for a certain period of time when he had not been properly mustered into the service as such officer. This is a bill relating to the pay of an officer of the Army, and properly belongs to the Committee on Military Affairs.

Mr. WILSON. I think it is too late to raise such a point.

The CHAIRMAN. The Chair is informed that the bill provides for the payment of a pension from the date of discharge at the rate that would have been given him had he been pensioned as a lieutenant, deducting therefrom the pension he has already received as a private.

Mr. BRAGG. It occurred to me that the bill was subject to the other construction.

Mr. COFFROTH. Let the bill be again read.

The bill was again read.

Mr. COFFROTH. I move to amend by striking out the word "pay" and inserting the word "pension;" so that it shall read "with proportionate pension as first lieutenant to that now received by said Gano as private."

The amendment was agreed to.

The bill, as amended, was then laid aside to be reported favorably to the House.

MARGARET R. COLONOY.

The next business on the Private Calendar was the bill (H. R. No. 4609) granting arrears of pension to Margaret R. Colonoy, reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he hereby is, authorized and directed to pay Margaret R. Colonoy, widow of Josiah B. Colonoy, late major of the First Regiment of Maryland Infantry Volunteers, arrears of pension at the rate of $8 per month, from the 12th day of October, 1864, the death of her husband, to the 22d day of March, 1878, up to which time she was pensioned as the widow of a first lieutenant, and at which time she was placed on the pension-roll as the widow of a major.

Mr. BROWNE. Let the report in this case be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Margaret R. Colonoy, widow of Major Josiah B. Colonoy, First Maryland Volunteers, have had the same under consideration, and submit the following report:

Margaret R. Colonoy, widow of Josiah B. Colonoy, was inscribed on the pension-rolls at the rate of $17 per month from the date of her husband's death, at the rank of first lieutenant. On the 22d of March, 1878, her pension was increased to rate as of the rank of major by special act of Congress. She now claims the difference between the pension of a first lieutenant's widow and that of the widow of a major from the death of her husband to the passage of the special act—to wit, the sum of $8 per month.

It is shown by the records in the case that Josiah B. Colonoy was mustered into the First Maryland Volunteers May 27, 1861, as a first lieutenant and adjutant, and served as such until September 6, 1864, when he was commissioned as major, and died while holding said rank, October 12, 1864, of wounds received in action August 21, 1864.

It is shown by the records in the case that a vacancy existed in the rank of major from May 19, 1864, until December 2, 1864.

Francis M. Smith swears that he was a first lieutenant and adjutant of said regiment, having been promoted to succeed said Colonoy, who was promoted to the rank of major. Said Colonoy was acting as major before and at the time of his being wounded, August 31, 1864, at which date he was sent to hospital in consequence of said wounds. His commission as major was received at the regiment after his removal to hospital, and by reason of said wounds, and without any fault or neglect on his part, he was unable to be mustered on his commission as major.

The committee are of the opinion that the widow is entitled to the arrears, as her pension should have originally been granted to her at the rate of the pensions granted to widows of persons holding the rank of major, and they therefore recommend that the accompanying bill do pass.

Mr. BROWNE. I would inquire if the original pension in this case was by a special act of Congress?

Mr. COFFROTH. It was, and ought to have been at first the pension of a major instead of a lieutenant. This bill covers only four years.

Mr. BREWER. Why was this woman granted a lieutenant's pension instead of a major's pension, if it was granted by Congress?

Mr. COFFROTH. It was a mistake in the bill passed in 1878. The bill was reported for a lieutenant's pension, and General Rice, of Ohio, then the chairman of the committee, afterward discovered the mistake, and at the same session, I believe, introduced a bill increasing the pension, which was not passed.

Mr. BRAGG. I think this bill should not be passed. If we pass this bill we will be doing very great—I do not know exactly what term to use—perhaps I should say very great violence to the military laws as well as the pension laws of the country. If I understand the report correctly, this officer who was pensioned by act of Congress received the wounds for which he was pensioned when he was a lieutenant.

Mr. COFFROTH. No, when he was a major.

Mr. BRAGG. And after he was taken to the hospital, suffering from those wounds, he was commissioned as a major. The rule in regard to pensions is that a person shall be granted the rate of pension which belongs to the rank that he held at the time the injury was received for which he is pensioned.

If we pass this bill we will change the entire system of our pension laws. We will provide, at least in principle, that if a man has been wounded while a lieutenant, which may have been in 1861 or 1862, and subsequently becomes a major-general, he shall draw a major-general's pension under his subsequent commission for wounds received by him when he held a lieutenant's commission. That would be doing injustice to hundreds and thousands of pensioners, and change the entire rule upon which pensions are granted. For that reason it seems to me this bill ought not to pass.

Mr. COFFROTH. I will state to the gentleman from Wisconsin [Mr. BRAGG] that this officer was wounded while acting as major, on the 31st of August, 1864, and was sent to the hospital on account of said wounds and died shortly thereafter.

Mr. STONE. Was he commissioned as major at that time or simply acting as major?

Mr. COFFROTH. Acting as major.

Mr. STONE. He was not commissioned as major?

Mr. COFFROTH. Not at that time.

Mr. BRAGG. In answer to the gentleman from Pennsylvania, [Mr. COFFROTH,] I will say that it is always the duty of the senior officer in rank, whether he be a fifth corporal or a major, to take command of the detachment to which he belongs, it may be a major's command, a lieutenant-colonel's command, a colonel's command or a brigadier-general's command. His grade and rank are not changed because for

the time being, under the rules regulating military organizations, he is the senior officer in command.

In hundreds of cases colonels commanded brigades; but does that fact make them brigadier-generals under the pension laws? Whoever is the senior officer for the time being takes command of the troops; he is obliged to do it. But that does not change the rank or grade of the officer at all. He simply discharges the duty which attaches to the office he holds. It does not make him a lieutenant-colonel if he be a major, or a colonel if he be a lieutenant-colonel.

Mr. COFFROTH. I desire to inform the gentleman from Wisconsin [Mr. BRAGG] that this man was commissioned on the 6th of September, 1864. He was wounded August 31, 1864, and a few days afterward was commissioned. After he was commissioned he died from the effects of the wound. A vacancy had occurred in which he was acting until the 6th of September, 1864, when he was commissioned. His death occurred after he had received the commission.

Mr. BRAGG. Of course; but the wound occurred before.

Mr. COFFROTH. But he died from the effects of the wound.

Mr. BRAGG. Of course; and he was entitled to a pension according to the rank which he held when he received the wound.

Mr. BROWNE. I wish to make a suggestion to the gentleman from Pennsylvania, [Mr. COFFROTH.] It appears that this pension was originally granted by special act of Congress. The pension was originally that of the surviving widow of a lieutenant; but by subsequent act of Congress it was increased to that of the surviving widow of a major.

Now, if we were asked to pass an act to-day for the first time, the bill, according to all the precedents we have been setting ever since the question of pensions has been pending before Congress, would not operate retroactively. We have in every instance struck out in these pension bills all provisions looking toward arrearages. So that, if this were pending to-day as an original question, we would not go back and grant arrearages. At the time of the passage of the act of 1878 arrearages, as a matter of course, would not have been allowed.

Now, what is this proposition? Although as an original act we would not grant arrearages at all, the proposition is that because some years ago we granted a pension of a particular kind and subsequently increased it by special act we shall now make that special act retroactive, so as to take in arrearages.

Mr. COFFROTH. I will explain if the gentleman will yield a moment.

Mr. BROWNE. Certainly.

Mr. COFFROTH. This woman was put on the pension-rolls in 1874 as the widow of a lieutenant, and drew pension at the rate of $17 a month. On the 2d of March, 1878, this special act was passed putting her on the roll as the widow of a major. She now asks for arrears of $8 a month for those four years, being the difference between the pension she received as the widow of a lieutenant and that which she should have received as the widow of a major. She insists that the Commissioner of Pensions made a mistake and that she ought to have been pensioned originally as the widow of a major.

Mr. BROWNE. I understand now that the original pension was granted by the Pension Bureau, and it was under the law the pension of the widow of a lieutenant.

Mr. COFFROTH. Yes, sir.

Mr. BROWNE. Subsequently, by an act of Congress, the pension was increased to that of the widow of a major. The Pension Office did all it could under the law. This man, according to the report, never was a major; so far as appears from the report he was never entitled to be mustered as a major; and the act of Congress of 1878 was an act of grace. Under the cold letter of the law this widow was not entitled to the relief granted by that act. I do not now controvert the propriety of that legislation; but if we pass this bill it simply gives this woman arrearages which she could not now get under the law—arrearages which would not have been granted to her when the act of 1878 was passed. Why is she any more entitled to arrearages for those years than the fifteen or twenty men and women in whose favor we have passed special bills in Committee of the Whole this afternoon?

I regret to oppose a pension for any person. I believe this is the first time I have done so. But it strikes me that this is simply a proposition to give this widow arrearages of pension after Congress in its magnanimity has put her on the pension-rolls at a rate to which she was not entitled under the general law.

Mr. WARNER. I think it would be quite within bounds to say that there are now on the pension-rolls 10,000 cases in which the pension was granted for the rank held at the time the disability was incurred, although afterward the soldier was advanced in rank. It has been the universal rule, as already explained, that pensions should be granted according to the rank held by the soldier at the time the wound was received. This case, as my friend from Indiana [Mr. BROWNE] has said, has been made an exception. Congress has taken it out of 10,000 similar cases and allowed a pension in accordance with a rank not held by the soldier at the time the disability was incurred. Now it is proposed to add arrearages. I think this is one case at least which the Committee of the Whole might very rationally refuse to lay aside for favorable report to the House.

Mr. COFFROTH. Now, Mr. Chairman, it is not arrearages, but it is to pay her the difference between what she received and what she was entitled to as the widow of a major who was regularly commissioned and mustered in before his death.

Mr. WARNER. But she was never entitled to that under the law, but only to the pension attached to the rank held by her husband at the time of his disability.

Mr. BROWNE. Do I understand the gentleman to claim, under the circumstances of this case and under the law, that the Commissioner of Pensions should have placed her originally on the pension-roll as the widow of a major?

Mr. COFFROTH. Undoubtedly. Here is the evidence.

Mr. BROWNE. Then I understand the gentleman to insist that one who was never mustered into the United States service with the rank of major was a major?

Mr. COFFROTH. He was commissioned, mustered in, and acted as major before his death. He died within twenty days after receiving this wound. He was wounded on the 21st of August, and he was mustered into service before his death.

Mr. BROWNE. Does the report state he was mustered into the service?

Mr. COFFROTH. I do not know in reference to that, but the fact is that he was mustered in. He was commissioned, and died while holding said rank.

Mr. BROWNE. Does the report state, or is it the fact, that he was ever mustered into the service as major?

Mr. COFFROTH. The report, I believe, does not state, but the fact really is that he was mustered into the service as major.

Mr. STONE. While in the hospital?

Mr. BROWNE. The report gives an excuse why he was not mustered into the service as major.

Mr. COFFROTH. It has been reported to me by the parties that he was mustered in.

Mr. BRAGG. I call attention to the fact that the report states his commission as major was received at the regiment after his removal to the hospital. He never got his commission until after he was wounded.

Mr. COFFROTH. He got it before he died.

Mr. BROWNE. The question I put to the gentleman is this: Was it the duty of the Commissioner to have recognized this man as having been mustered in as a major? Does the gentleman assume it was the duty of the Commissioner of Pensions to have placed on the pension-roll this woman as the widow of a deceased major, he not having been mustered into the service at all? If it is to cure a mistake made by the Commissioner of Pensions, I will vote for the bill.

Mr. COFFROTH. It most undoubtedly is the spirit of the law that the widow should receive the pension of the rank held by her husband at the time of his death.

Mr. BRAGG. Is that the law? Is it not of the rank held at the time he received the disability?

Mr. COFFROTH. Yes, of the rank held by him at the time he received the disability which caused his death.

Mr. BRAGG. Of course.

Mr. COFFROTH. I move the bill be laid aside to be reported to the House with the recommendation that it do pass.

The committee divided; and there were—ayes 5, noes 34.

Mr. SINGLETON, of Illinois. No quorum has voted.

Mr. ATKINS. I hope that question will not be raised by the gentleman from Illinois.

Mr. SINGLETON, of Illinois. Very well, I will withdraw the division.

Mr. ATKINS. The bill has been defeated.

The CHAIRMAN. The noes have it and the bill will be laid aside to be reported to the House with an unfavorable recommendation.

### JOSEPH CARTWRIGHT.

The next business on the Private Calendar was the bill (H. R. No. 3123) to authorize the Secretary of the Interior to place upon the pension-roll the name of Joseph Cartwright.

The bill, which was read, authorizes and requires the Secretary of the Interior to place upon the pension-roll the name of Joseph Cartwright, late a private of Company G, Twenty-seventh Regiment of Ohio Volunteer Infantry.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred House bill No. 3123, entitled "A bill to grant a pension to Joseph Cartwright," ask leave to submit the following report:

We find from the papers in the original pension case filed in the Pension Office at various times since December 2, 1872, the date of filing the original declaration, that the petitioner enlisted as a private in Company G, Twenty-seventh Ohio Volunteers, August 3, 1861; was mustered into the service August 14, 1861, and was honorably discharged December 23, 1861. The testimony in the case shows that on the 2d of November, 1861, the claimant, with others, was being taken from hospital at Kansas City, Missouri, to join his regiment, the detachment being under command of a strange officer, detailed for the special duty, and whose whereabouts cannot now be ascertained; and while at Little Blue, Missouri, the detachment was attacked by the enemy and claimant, in the fight, was struck by a Minie ball in the forehead; that the ball remained in the wound, he receiving no medical treatment, being a prisoner in the hands of the enemy. He was finally paroled and received his discharge, returning to his home early in December, 1861, when he received medical treatment and the ball removed from the wound. The proof of the facts alleged was placed before the Pension Office as best they could be, and consist of the testimony of comrades who were with the claimant, of an officer who from report knew of the wounding, and from the home physician at Ironton, Lawrence County, Ohio, who removed the ball and rendered claimant medical service on his return to his home. The case was rejected by the Pension Office on the

ground of there being "no record and of his inability to furnish satisfactory evidence showing that the wound was received in service and line of duty."

The claimant states that it is utterly impossible to furnish further proof, as the officer before mentioned cannot be found. He therefore appeals to Congress to be pensioned by special act.

While under the pension laws the Pension Office must necessarily require the full amount of proof, and its action in this case seems proper, there is full and sufficient evidence before this committee to prove the merit of the claim. The soldier was in service but a few months at the beginning of the war, when but slight attention was paid to the proper keeping of records. The fact that his discharge was ordered by the War Department shows there were grounds for it. Although the record does not mention the wounding, his comrades present prove his being hit and taken prisoner, and the physician gives evidence as to his relieving him of the ball. In 1873 and again in 1877 examining surgeons of the Pension Office, before whom he was sent, find the claimant disabled from the effects of the wound, one rating him at $6 per month in 1873, the other, in 1877, fixing his degree of disability at $4 per month. Your committee would therefore recommend the passage of the bill.

Mr. UPDEGRAFF, of Ohio. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

WYATT BOTTS.

The next business on the Private Calendar was the bill (H. R. No. 802) granting a pension to Wyatt Botts.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, at the rate of $8 per month, subject to the provisions and limitations of the pension laws, the name of Wyatt Botts, late a private in Company B, Eighty-eighth Regiment Infantry Ohio Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 802) granting a pension to Wyatt Botts, having had the same under consideration, respectfully submit the following report:

We find, upon an examination of the papers originally filed in the Pension Office, that the petitioner enlisted as a private in Company B, Eighty-eighth Ohio Volunteers, on the 14th of August, 1862; was mustered September 24, 1862; was discharged July 3, 1865; and filed his application for pension September 29, 1876. He alleges that he is disabled by disease of the lungs and loss of sight of left eye, contracted at Camp Chase, Ohio, in December, 1862. The testimony shows that the petitioner was a sound man at date of enlistment. That he contracted typhoid fever as alleged is shown by the evidence of his captain. His family physician says "that in the spring of 1863 petitioner was home on furlough for fever and inflammation of the eyes. The lungs were also involved."

The petitioner when called upon by the Pension Office to produce evidence of medical treatment after his discharge, stated his inability to do so up to 1871, but submitted the sworn statement of a man and wife that they had lived with him in the same house from the time of his discharge up to 1871, and that he was constantly suffering from disease of the lungs and eyes and treated himself with patent medicines.

The evidence of a reputable physician is filed in the Pension Office September 29, 1876, to the effect that he had been the family physician of the petitioner for five years prior thereto; that when first called to see him he found him suffering from pulmonary phthisis, from typhoid fever, also loss of one eye, resulting from erysipelas. The records of the War Department, Adjutant-General's Office, show no evidence of alleged disability on the rolls or returns, but show that his company was stationed at Camp Chase December 31, 1862. The evidence of the Surgeon-General's Office shows that he was admitted to Chase general hospital October 31, 1862, and was transferred and admitted again January 5, 1864, with general debility, and returned to duty February 19, 1864. The records of the Surgeon-General give no other information. He was examined by a surgeon of the Pension Office, at Champaign, Illinois, January 20, 1877, who found him not incapacitated from obtaining a subsistence by manual labor, but rated him at $8. His description is as follows: Height, six feet; weight, one hundred and sixty; age, thirty-eight; pulse, eighty-four; respiration, twenty; sight of left eye gone; no apparent sympathetic affection of right eye; slight trouble with lungs and heart.

In a sworn statement petitioner alleges that he can furnish no other evidence as to his disability. The claim was rejected February 27, 1878, by the Pension Office, on the ground "claimant unable to show connection of present disability with the service by medical testimony from discharge to 1871, there being no record of disease alleged."

Your committee believe that, in view of the time which has elapsed, the petitioner may be unable to obtain the testimony which the Pension Office deems necessary to establish his right to a pension under the laws; but your committee is of the impression, from the evidence before it, that the petitioner was disabled while in the service, that he is still disabled, and that his present disability proceeds from disease contracted while in the Army; and they therefore report favorably, and recommend the passage of the bill (H. R. No. 802) granting a pension to Wyatt Botts.

Mr. DAVIS, of Illinois, moved that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

JAMES P. HUNTER.

The next business on the Private Calendar was the bill (H. R. No. 2773) granting a pension to James P. Hunter.

The bill is as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James P. Hunter, late a private in First Illinois Light Artillery.

The report was read, as follows:

The Committee on Invalid Pensions report:

That from an examination of the papers originally filed in the Pension Office, it appears that the petitioner enlisted and was mustered into the United States service in Company F, First Illinois Light Artillery, January 11, 1864, and was discharged on July 10, 1865; that while in the line of duty at Chattanooga, Tennessee, he contracted sore eyes, and was treated in hospital for such disease. The petitioner states in his claim that he is unable to furnish the evidence of the Army surgeon who treated him, as he did not know his name, and that he is unable to furnish the evidence of a commissioned officer of his company at the date of the contraction of his disability. He presents evidence from a number of comrades showing that the disease of the eyes was contracted while the petitioner was doing fatigue duty May 1, 1865, at Chattanooga, Tennessee; also evidence showing his freedom from any disease of the eyes at the time of his enlistment, and the fact of his eyes being sore when he came out of the Army. He was examined by the examining surgeon of the Pension Office January 15, 1873, when he was rated at "one-half" pension for disease of the eyes, which the physician then found as "chronic conjunctivitis with granulated lids." He was examined again April 15, 1879, by another examining surgeon, who found him suffering with disease of the eyes, and rated him at "one-half" disability—$4 per month. The Pension Office declines to admit the case to pension, in the absence of medical evidence of treatment in the service, which the petitioner claims he is unable to furnish for the reasons stated.

Your committee can understand the action of the Pension Office under the law, but is of the impression that the facts and equities of the case indicate the meritorious nature of the claim to pension. The proof is clear that he went into the service free from any disability of the eyes; that he came out of the Army with his eyes affected, and they have continued so affected up to the present time. They therefore believe him entitled to pension, and, in view of the evidence presented, report favorably, and recommend the passage of the bill (H. R. No. 2773) granting a pension to James P. Hunter.

Mr. DAVIS, of Illinois. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

HENRY MILLS.

The next business on the Private Calendar was the bill (H. R. No. 2439) granting a pension to Henry Mills.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Henry Mills, late a private, Company D, of the Ninety-eighth Regiment Illinois Volunteers, to date from the 6th day of July, A. D. 1865.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2439) granting a pension to Henry Mills, having had the same under consideration, ask leave to submit the following report:

That it appears in evidence that Henry Mills enlisted and was mustered into the United States military service on or about the 30th day of August, A. D. 1862, as a private soldier in Company D, Ninety-eighth Regiment Illinois Volunteer Infantry. It also appears that said Mills was in continuous service until July 6, A. D. 1865, at which time he was mustered out of service with his regiment at Camp Bolton, Springfield, Illinois; that said Mills was in sound, robust, and vigorous health at date of muster in, and that he was broken down, his constitution impaired, and had lost the sight of one eye when mustered out.

It further appears in evidence that while in the service and in the line of duty he was taken sick with the measles and sent to hospital; that upon recovering from this disease he was stricken with the small-pox. Upon his recovery from the small-pox, not being able for field duty, he was detailed and retained at the small-pox hospital as an orderly or messenger; he was occupied most of the time in procuring from the general hospital headquarters rations, medicines, and other supplies, and conveying same to the small-pox hospital; that in performing this service he was directed by the surgeon in charge to use a mule team, and in his attempt to secure the mules upon one occasion he was severely kicked upon the side of the head by a mule, and the sight of his left eye was instantly destroyed and has been lost to him ever since. The degree of his disability by reason of the loss of his left eye, and his impaired health caused by the diseases heretofore referred to, is classified by the medical examiner as one-half incapacitated for obtaining his subsistence by manual labor. The disability is declared permanent by the same party.

Your committee believe this to be a worthy and meritorious case, and report said bill back and respectfully recommend that it do pass.

Mr. DAVIS, of Illinois. Mr. Chairman, I move to amend by striking out all after the word "volunteers" in line 7.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the words "to date from the 6th day of July, A. D., 1865.

The amendment was agreed to.

Mr. DAVIS, of Illinois. I move that the bill, as amended, be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

CAROLINE STIEF.

The next business on the Private Calendar was the bill (H. R. No. 853) granting a pension to Caroline Stief.

The bill is as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls the name of Caroline Stief, widow of Frederick Stief, late a member of the Missouri militia, subject to the provisions and limitations of the pension laws, and that her pension shall be paid from and after the 31st day of December, 1870.

The report was read, as follows:

The Committee on Invalid Pensions report:

That we find, upon examination of the papers in the pension case originally filed in the Pension Office, that the petitioner is the widow of Frederick Stief, who was a private in Company B, Sixth Battalion Missouri State Militia, and who, in the battle of Boomfield, Missouri, in 1861, was severely injured by being struck in the side by the butt of a musket, from the effects of which injury he suffered continually, and finally demised in Boomfield, Missouri, December 30, 1870; that his widow applied for a pension within a year after his death, and that it was pending in the Pension Office until completed in 1877; that the delay in its completion was caused by the inattention and carelessness of her first attorney, and that the last attorney who had the claim in hand furnished the bulk of the evidence to complete it; that it was rejected in 1877 by the Pension Office, under the third clause of section 4693 of the Revised Statutes, which recites that "no claim of this character shall be valid unless prosecuted to a successful issue prior to the 4th day of July, 1874."

Your committee, after examining the testimony and the statement of the petitioner made to them, are constrained to believe that the delay in completing the claim cannot justly be attributed to the petitioner; that she was made the victim of inattention and carelessness on the part of her attorney, and that under all the circumstances of the case she should not be made to suffer.

Under the law the Pension Office was obliged to reject the claim, but your committee deem that it is a proper case for the interposition of Congress. We therefore report favorably upon the petition and recommend the passage of the bill (H. R. No. 853) granting a pension to Caroline Stief.

Mr. DAVIS, of Illinois. I move to amend the bill by striking out all after the word "laws," in line 7.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the following:

"And that her pension shall be paid from and after the 31st day of December, 1870."

The amendment was ageeed to.

Mr. DAVIS, of Illinois. I move that the bill, as amended, be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

WILLIAM G. THOMPSON.

The next business on the Private Calendar was the bill (H. R. No. 2764) granting a pension to William G. Thompson.

The bill is as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William G. Thompson, son of William G. Thompson, who was a captain in the First Regiment of Massachusetts Artillery, and was killed in the battle of Petersburgh, Virginia, May 20, 1864, and pay him a pension at the rate of $22 per month.

Mr. CRAPO. If the committee will allow me a word it will render unnecessary the reading of the report in this case.

A bill in behalf of this claimant was introduced in the Forty-fifth Congress, and was favorably reported by the Committee on Invalid Pensions, but did not receive the action of the House. It was introduced very early in this Congress—in the first session of this Congress—and had reasonably prompt attention from the Committee on Invalid Pensions, who reported favorably upon it, and it has been for over fourteen months pending on the Private Calendar without action by the House. This, Mr. Chairman, was a very meritorious case. It was a case of a poor, helpless cripple, whose father was shot dead as Petersburgh. But while we have been delaying action here upon this claim in the transaction of public business——

Mr. BRAGG. Will the gentleman allow me to make an inquiry of him?

Mr. CRAPO. Certainly.

Mr. BRAGG. I understand this bill provides for a pension at the rate of $22 per month?

Mr. CRAPO. Yes, sir. I was going on to say that while we have been delaying, and delaying for three years, action upon a case as meritorious as this, on account of public business, during all of which time this poor boy has been waiting and waiting for some aid from the Government for which his father gave his life, death has intervened and thereby relieved him of his pain and helplessness and the Government from any burden for his support. It is unnecessary now to pass the bill. And that suggests to us, Mr. Chairman, that there should be some method provided by which meritorious cases like this can have more prompt action than they now receive.

Mr. WARNER. Will the gentleman from Massachusetts pemit me to ask him why the pension was not granted by the Pension Office?

Mr. CRAPO. The case is this: he did have his pension, but it expired when he became sixteen years of age.

Mr. WARNER. And it requires a special act to renew it, of course.

Mr. CRAPO. The Pension Office could not grant it. It must have been granted, if granted at all, by special act of Congress. But it is now too late.

Mr. WHITE. Do I understand the gentleman from Massachusetts not to want this bill acted upon?

Mr. CRAPO. It is unnecessary now.

Mr. DAVIS, of Illinois. I move that the bill be laid on the table.

The CHAIRMAN. The Chair would suggest to the gentleman that that motion can be made after the committee rises.

Mr. WHITE. Then strike out the enacting clause.

The CHAIRMAN. The Chair would suggest to the gentleman from Pennsylvania that the proper motion would be that it be reported to the House with a recommendation that it be laid upon the table. This will attain the object the gentleman has in view in making the motion.

Mr. WHITE. I am not particular.

The CHAIRMAN. The question is on the motion to report the bill to the House with a recommendation that it be laid upon the table.

The motion was agreed to.

JOHN MURPHY.

The next business on the Private Calendar was the bill (H. R. No. 59) for the relief of John Murphy.

Mr. ROBINSON. I will save the committee the trouble of having this bill read by stating that while it has been pending upon the Calendar the Pension Office has taken up the case and granted the pension. Nothing is now to be asked from Congress. I therefore move that it be reported to the House without recommendation, and when there I will move to lay it on the table.

The motion was agreed to.

AMANDA J. M'FADDEN.

The next business on the Private Calendar was the bill (H. R. No. 2075) granting a pension to Amanda J. McFadden, reported from the Committee on Invalid Pensions by Mr. DAVIS, of Illinois.

The bill was read, as follows:

*Be it enacted, &c.*, That the Commissioner of Pensions be, and he is hereby, authorized and directed to place upon the pension-roll the name of Amanda J. McFadden, widow of George McFadden, deceased, who received a pension up to his death on account of service and wounds as a soldier of the United States in the Black Hawk war; and that the said Commissioner is hereby directed to pay the said widow all arrearages of pension from the date of the death of her said husband.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill H. R. No. 2075, having had the same under consideration, respectfully submit the following report:

We find upon an examination of the papers originally filed in the pension claim of the petitioner at the Pension Office that she is the wife of George McFadden, who was a soldier in the Black Hawk war in 1832, (captain of the Illinois Mounted Volunteers;) that he was wounded by the hostile Indians June 24, 1832; that he was discharged from service June 29, 1832; that he died April 20, 1852; that he was pensioned for his wound, and received such pension up to the time of his death.

The widow's application was filed October 31, 1853, and was completed March 4, 1879. The case was rejected by the Pension Office on the opinion of the medical referee of that office that the disease from which the soldier died was not the result of the wound he received in battle.

Your committee find that the evidence in the case shows that the wound received by the soldier was a gunshot above the ankle, which fractured the bone and caused the leg to become much shorter than the other; the bone was rendered "carious;" and that the wound remained unhealed, and as a running sore, up to a few years before the soldier died.

The evidence of neighbors and associates shows that he was much afflicted, but that his health was better before the wound healed than afterward; that after the healing of the wound his health became very poor, and he was affected in various ways. The medical evidence in the case, as to death, is that of Dr. William W. Fox, submitted May 22, 1879, who says: "While he could not state positively that the death, which occurred in the prime of the soldier's life and while he was under his care, was directly the result of the wound in his leg, he can state that the said wound troubled him a great deal, and did not heal up until a few years previous to his death; and after said wound healed up, his general health never was as good as it was previous. He was troubled with dyspepsia, which was attributable to the healing up of the wound. The dyspepsia continued, and ultimately what seemed to be cancer of the stomach became fully developed, and after a lingering illness caused his death. There is no doubt that had his death not been so hastened he would have continued to receive his pension until the present time."

Your committee, upon the evidence of the facts in the case, are constrained to believe that the death of this soldier was in a manner attributable to his wounding, and that, notwithstanding the technical objection of the Pension Office, the petitioner is properly entitled to the consideration of Congress. They therefore report favorably upon the petition, and recommend the passage of the bill (H. R. No. 2075) granting a pension to Amanda J. McFadden.

Mr. WHITE rose.

Mr. DAVIS, of Illinois. I claim the floor as having reported the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois.

Mr. DAVIS, of Illinois. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "war," namely, the words "and that the said Commissioner is hereby directed to pay the said widow all arrearages of pension from the date of the death of her said husband."

Mr. WHITE. I am appealed to by gentlemen all around me not to oppose this bill. I say with deference to them they do not know anything about it. They are yielding to their hearts instead of following their judgments as legislators.

What is this bill? It is a bill to give a pension to the widow of George McFadden, as to whom the committee report that he was a soldier in the Black Hawk war in 1832, (captain of the Illinois Mounted Volunteers;) that he was wounded by the hostile Indians June 24, 1832; that he was discharged from service June 29, 1832; that he died April 20, 1852. Think of it. He died in 1852. How many years ago? Twenty-nine years ago is it not, or thereabout? Very well; this has been slumbering from that time to this. Why have they delayed making this application all this time?

During the life-time of the deceased soldier he received a pension—that was all right—for a wound he received above the ankle. I have read this report carefully to discover any plausible right in the widow to receive a pension on account of the death of her husband. Her application was made to the Pension Bureau, and they refused it. It is perfectly clear if her husband had died as the consequence of the wound he received, if he had died in 1852 in consequence of a wound received in 1832, she would have received the pension. There is no evidence at all that this death was the consequence of the wound.

An appeal is made to my heart and the hearts of other gentlemen here that this old lady ought to be pensioned because she is an old dependent woman. That is all right. That appeals to my heart. But there is not even plausible evidence here of any connection between the death of the husband and the wound received in 1832. What does the doctor say? The only evidence reported here is the following, being the evidence of Dr. William W. Fox:

While he could not state positively that the death, which occurred in the prime of the soldier's life and while he was under his care, was directly the result of the wound in his leg, he can state that the said wound troubled him a great deal, and did not heal up until a few years previous to his death; and after said wound healed up, his general health never was as good as it was previous. He was troubled with dyspepsia, which was attributable to the healing up of the wound. The dyspepsia continued, and ultimately what seemed to be cancer of the stomach became fully developed, and after a lingering illness caused his death.

I submit there is no evidence here at all showing that this man died as the consequence of the wound. There is an effort to pass this bill allowing large arrearages of pension without any evidence whatever. I for one want to go on the record as being against this bill, and I move that it be reported to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. There is an amendment pending. The gentle-

man from Pennsylvania [Mr. WHITE] will be recognized in due time to submit his motion.

Mr. MANNING. I would be glad to appeal successfully to the heart of the gentleman from Pennsylvania, but I would not desire him to do violence to his judgment. Let him be ever so exacting. Let him look ever so critically into the case. Let him read ever so narrowly what is in the report and what is found much more elaborately in the testimony submitted to the committee. The gentleman read Dr. Fox's testimony in part. He stopped, however, just where he could have found the evidence which he says is wanting.

Mr. WHITE. Where is it? That is what I was looking for.

Mr. MANNING. I will accommodate the gentleman. He has the report in his hand, and he stopped reading at the word "death," just two lines from the bottom of the page. The testimony of Dr. Fox given in the report goes on—

There is no doubt that had his death not been so hastened he would have continued to receive his pension until the present time.

Mr. WHITE. Oh, certainly; if he had not died he would have received the pension to the present time.

Mr. MANNING. That is not what Dr. Fox says. That is the testimony of the gentleman from Pennsylvania, [Mr. WHITE.] Dr. Fox says his death was hastened on account of this wound which he received in the Black Hawk war; and but for his death as the result of this wound he to-day would have been a pensioner of the United States Government.

I submit, if we are going to be just in this matter, we would say it is much more important the pension given to the husband in his life-time should go to the widow, after her support in life is taken from her, than it was that it should go to him in his life-time, she being the beneficiary, as the widow, to a partial extent.

The committee has examined this case; it has reported upon the testimony; and I regard it as highly persuasive and conclusive, if not to the gentleman from Pennsylvania, at least to myself and other members of this House.

But the gentleman says this has been slumbering for twenty years. That is not true. The fact is, immediately after the death of George McFadden this application, in 1853, was made to the Commissioner of Pensions; and it was followed up.

The evidence would develop the facts more fully than they will be found in this report. It shows that one thing after another was required of this widow, and she endeavored to respond. Some of the papers were missing; she was unable to follow the case up, being a widow and in great destitution and living in the distant West, and the case was not concluded until within the past year or so. But is it to be said that because of the lapse of time, because justice is delayed until 1881, therefore it is not to be given at all?

I would suggest to the gentleman that he ought to get upon higher grounds than that of antagonizing the merits of this widow's application when the Committee on Invalid Pensions recommend that she shall have this pension. I have personally examined the papers in this case, and I know there has not been one hour since she filed her application (twenty-six years ago, to be sure) that she has not endeavored as well as she could in her crippled condition, being a woman and not able to prosecute the case with that vigor with which a smart man or an active attorney would have done—not one hour during which she has ever abandoned her cause or permitted it to slumber, as the gentleman says; and I submit that such a statement as he has made is not in accordance with the facts of the case.

Mr. WHITE. The gentleman from Mississippi, [Mr. MANNING,] I fancy, does not desire to do me injustice, and will not knowingly do his own case injustice. I said, and said truthfully, that this case slumbered for twenty-six years before final action was demanded upon it. The application seems to have been made October 31, 1853. There was no decision made upon the case until March 4, 1879, nearly twenty-seven years.

Mr. MANNING. Let me ask my friend where he gets authority for asserting that there was no action demanded of the Commissioner of Pensions until the past year or so? I beg to inform the gentleman that the contrary is true.

Mr. WHITE. Very well; the presumption is that every man will pursue his rights diligently. *Vigilantibus non dormientibus leges subveniunt.*

Mr. MANNING. Yes; but there has been no sleepiness on the part of this widow. There has been sleepiness on the part of the Commissioner; but this widow is entitled to the pension because she has been vigilant.

Mr. WHITE. I am glad that the gentleman seems to understand the language which I employed. I repeat that there seems to have been unexcusable negligence in this case, having been left without insisting upon final action or without completing it for twenty-six years. I will read what the report says. I have not time, and we here have not time, to go through all the evidence in the case, and I will refer to the epitome of the evidence contained in the report:

The widow's application was filed October 31, 1853, and was completed March 4, 1879.

Mr. MANNING. By the Commissioner of Pensions.

Mr. WHITE. One moment. It does not say, "by the Commissioner;" it says "was completed March 4, 1879." I assume that the final evidence was completed in 1879, but I will not be hypercritical about that. I do not care whether it was completed at that time by the action of the Commissioner or of the applicant. It was inexcusable and unexplained negligence.

The case was rejected by the Pension Office on the opinion of the medical referee of that office that the disease from which the soldier died was not the result of the wound he received in battle.

First we have this evidence of negligence, and then we have this positive testimony.

Mr. MANNING. No; the positive testimony is from the physician attending this soldier in his last illness, and is directly against the position which the gentleman takes.

Mr. WHITE. One moment. If the gentleman will restrain his impatience he will understand my position. I say that, in addition to this negligence, we have the positive statement of the medical referee of the Pension Bureau that the death of this soldier was not the result of the wound he received in battle. Is not that correct?

Mr. DAVIS, of Illinois. That is merely an opinion.

Mr. WHITE. Very well; what does the judge give when he charges a jury or discharges an application for a rule or makes a decree? It is but the recording of the opinion of the magistrate. So this is the positive opinion of the medical referee that the death was not the result of the wound.

I see nothing in the report in this case to overthrow the evidence of the careful examination, and the final and proper decision which the Pension Office seems to have made in this case; and with all deference to the gentleman from Mississippi who is representing his constituents——

Mr. MANNING. No, not my constituent at all; she lives in Illinois.

Mr. WHITE. Very well. The heart of the gentleman has been moved, possibly, by the appeals made to him—and I do not blame him for it; I compliment him for it—by the appeals made to him on behalf of this old lady by some of her friends. But I submit that those appeals should not be allowed to overcome the positive testimony in the case. There is no evidence here that would justify us in overthrowing the decision of the Pension Bureau, and therefore I have made the motion which I have submitted.

The CHAIRMAN. The first question is upon the amendment to the bill proposed by the gentleman from Illinois, [Mr. DAVIS.] The Clerk will read the portion of the bill which it is proposed shall be stricken out.

The Clerk read as follows:

And that the said Commissioner is hereby directed to pay the said widow all arrearages of pension from the date of the death of her said husband.

Mr. DAVIS, of Illinois. I desire to add to my motion that in lieu of the words stricken out there shall be inserted the words "subject to the provisions and limitations of the pension laws."

Mr. WHITE. How will the bill then read?

The CHAIRMAN. The Clerk will read the bill as proposed to be amended.

The Clerk read as follows:

That the Commissioner of Pensions be, and he is hereby, authorized and directed to place upon the pension-roll the name of Amanda J. McFadden, widow of George McFadden, deceased, who received a pension up to his death on account of service and wounds as a soldier of the United States in the Black Hawk war, subject to the limitations and provisions of the pension laws.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The question now recurs upon the motion of the gentleman from Pennsylvania, [Mr. WHITE,] that this bill be laid aside to be reported to the House with an adverse recommendation.

The motion of Mr. WHITE was not agreed to.

Mr. DAVIS, of Illinois. I now move that the bill, as amended, be laid aside to be reported favorably to the House.

The motion was agreed to.

JOHN T. NEALE.

The next buisiness on the Private Calendar was the bill (H. R. No. 3309) for the relief of John T. Neale.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to inscribe upon the permanent pension-rolls, subject to the provisions and limitations of the pension laws, the name of John T. Neale, an employé of the Provost-Marshal-General's Department in 1861, for a pension, payable at the rate prescribed by law for the loss of a leg below the knee-joint by an enlisted man in the Army in actual battle, said pension to commence from the 11th day of September, 1861: *Provided*, That from the arrears due hereunder there shall be deducted the sum heretofore paid him, the aforesaid John T. Neale, by the Secretary of the Treasury, pursuant to the act for his relief approved March 3, 1879.

The report was read, as follows:

The Committee on Invalid Pensions, to whom were referred House bill No. 3309 and the petition accompanying it of John T. Neale, having had the same under consideration, respectfully report:

We find that the petitioner was late an employé of the Provost-Marshal's Department, and has heretofore been before Congress in the character of a petitioner for benefit of the pension law. The case has been examined by committees of both Houses of Congress, and your committee, after examining the papers in the case and the reports heretofore submitted, find that said Neale came to Washington in 1861 as a member of a company of engineers, attached to the Seventy-ninth New York Volunteers, better known as the "Seventy-ninth Highlanders," Colonel James Cameron. There was no law permitting an infantry regiment to embody a company of engineers, and all those composing said company were disappointed in their desire to join the Army. Neale, a veteran of the Mexican war, having come to fight, made a personal appeal to Hon. Simon Cameron, Secretary of War, who sent Neale to General Andrew Porter for employment, if possible. General Porter, being in need of courageous and experienced scouts, enrolled Neale.

The evidence sustains the following facts: that John T. Neale, a citizen of the State of New York, at the outbreak of the late war for the suppression of the rebellion, enrolled himself in a volunteer company raised for the service in the Engi-

neer Corps; that the company thus raised and in which he was enrolled not being accepted by the Government, he tendered his services to Brigadier-General Andrew Porter, provost-marshal of the District of Columbia, by whose authority he was assigned to duty, bearing arms as a scout and detective, acting in conjunction with regularly organized armed forces of the United States; that while in the performance of such duties, and while under the immediate orders of General W. W. Averill assistant adjutant-general of the Provost-Marshal's Department, and on the occasion being mounted on an unruly and unmanageable horse, the property of the Government, and used by said Neale in the discharge of duties to which he had been assigned by orders aforesaid, said Neale was thrown against a rock by said horse, near Long Bridge, in the State of Virginia, then one of the States in rebellion against the Government, and so injured and wounded thereby as to crush his leg above the ankle, by reason of which wound and injury amputation of the fractured limb was necessitated, and the said Neale was rendered a cripple for life. The amputation of said limb was performed by a surgeon in the United States Army, at the United States General Hospital in the city of Washington, on the 11th day of September, 1861, about the date of the wound and injury. These facts are shown by the testimony of General Andrew Porter, Provost-Marshal General; General W. W. Averill, assistant adjutant-general of that department of the military service; and J. W. Gawley, assistant surgeon, United States Army, then in charge of said hospital. On the 28th day of February, 1876, General Averill addressed a letter to Hon. S. S. COX, who introduced said bill, from which your committee quote the following:

"Mr. Neale was a zealous, daring man, who was employed on special duty in the Provost-Marshal-General's Department in 1861, and lost a leg while performing his duty, and something should be done for him."

It also appears that Mr. Neale at one time sought relief under the pension laws by application for pension in due form to the Commissioner of Pensions. His application was rejected, because there is no provision in the general pension law for a pension to a person not a regularly-enlisted soldier except for wounds or injury received in battle, and because he did not receive the injury which resulted in his disability in battle.

Mr. Neale subsequently sought relief by a bill for pension (H. R. No. 1833) first session Forty-first Congress, which was referred to the Committee on Invalid Pensions; but as its passage would conflict with paragraph 3, section 4693 of the Revised Statutes, relating to pensions, and limits the time for the admission of claims of this character, that committee did not recommend the passage of said bill.

Your committee submit that while it is true that under the pension laws there is no relief afforded in this case, and that relief can only be obtained by special act of Congress, this case is of such a just and meritorious character as to entitle Mr. Neale to the relief asked for in the bill. The fact that he was not a regularly enlisted soldier, and did not receive the injury which resulted in his disability in battle, ought not to deprive him of the relief sought if he was in the discharge of the duties to which he had been assigned by competent authority in acting in conjunction with regularly organized armed forces of the United States, and that while in the performance of said duties and under the orders aforesaid the wound or injury was received, which facts are abundantly sustained by the testimony.

In view of the facts stated, and that the injury was incurred in the faithful performance of duty at the theater of war, within the boundaries of a rebellious State; that Mr. Neale has also rendered honorable service to his country as a soldier in the Mexican war; that he is aged and is permanently disabled by said injury so as to be unable to pursue any active duty, and that a similar case may not arise, your committee believe that the relief asked for should be granted as a matter of justice to a man in declining years, rendered helpless for life by reason of injuries received while in the faithful discharge of his duty to his country; and therefore report said bill (H. R. No. 3309) and recommend the passage of the same.

Mr. WHITE. I move to amend this bill by striking out all after the word "battle" down to the word "provided." This will strike out the provision for the payment of arrearages of pension. I see that the bill refers to an act heretofore passed for the relief of this man. Does any gentleman know what that act provided?

Mr. MASON. I have prepared and send to the desk an amendment which I think will meet the gentleman's views. It is in the form of a substitute for the whole bill.

The CHAIRMAN. The amendment sent up by the gentleman from New York [Mr. MASON] will be read, after which the gentleman from Pennsylvania, [Mr. WHITE,] if he so desires, will be entitled to recognition upon his amendment.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to provisions and limitations of the pension laws, as an enlisted private, the name of John T. Neale, late a scout under General Andrew Porter, provost-marshal of the District of Columbia, in the war for the suppression of the rebellion."

Mr. WHITE. As the committee will observe, the pending bill makes reference to an act passed in 1879. I have that act before me and will read it:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and is hereby, authorized and directed to pay unto John T. Neale, late an employé of Brigadier-General Andrew Porter, provost-marshal of the District of Columbia, (by whom said John T. Neale was assigned to duty as a special detective police officer, and sustained an injury while engaged in said service which resulted in making him a cripple for life,) out of any moneys in the public Treasury not otherwise appropriated, a sum equal in amount to that which he would have been entitled to had said John T. Neale been an enlisted man in the Army, for a permanent specific disability, to wit, the loss of one leg below the knee-joint; and that said amount be computed in accordance with the present allowance for such disability, to date from the 11th day of September, 1861.

This man did get arrearages, it seems.

Mr. MYERS. He is not now asking for arrears, but to be placed permanently on the pension-roll.

Mr. WHITE. I do not understand clearly the effect of the amendment of the gentleman from New York, [Mr. MASON.]

The CHAIRMAN. It will be again read.

The Clerk again read the amendment.

Mr. WHITE. That is all right. I withdraw my amendment.

The amendment of Mr. MASON was agreed to.

Mr. MASON. I move that the bill, as amended, be laid aside to be reported favorably to the House.

The motion was agreed to.

Mr. BRIGHT. I move that the committee rise.

Mr. HUNTON. I ask the gentleman from Tennessee to withdraw that motion and yield to me for a moment.

Mr. BRIGHT. I have promised to yield first to the gentleman from Ohio, [Mr. CONVERSE.]

THOMAS WORTHINGTON.

Mr. CONVERSE. I ask the Committee of the Whole by unanimous consent to take up the case of poor old Tom Worthington, on page 62 of the Calendar. Its consideration will detain the committee but a moment. He is now between seventy and eighty years of age, and can enjoy his pension only a short time. He saved the fortune of Shiloh.

Mr. WILSON. I hope the request of the gentleman from Ohio [Mr. CONVERSE] will be agreed to.

There being no objection, the House proceeded to the consideration of the bill (H. R. No. 6291) granting a pension to Thomas Worthington.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior is instructed to place the name of Thomas Worthington, late colonel Forty-sixth Ohio Volunteer Infantry, on the pension-rolls, and that he be entitled to a pension at the rate of $30 per month.

The CHAIRMAN. Is the reading of the report demanded?

Mr. WHITE. Yes, sir.

The Clerk proceeded to read the report, which is as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Thomas Worthington, late colonel of the Forty-sixth Ohio Volunteer Infantry, having had the same under consideration, would respectfully report:

That Colonel Worthington graduated with distinction at West Point July 1, 1827, and was appointed brevet second lieutenant of artillery, and resigned October 15, 1828. His resignation was accepted to take effect December 31, 1828. In March, 1846, he re-entered the military service, and aided in raising Company D, Second Ohio Volunteer Infantry, for the Mexican war, and was elected its captain July 3, 1846. He was subsequently appointed adjutant of the regiment. It appears that he got leave of absence September 1, 1846, for two months, and was unable to return within the time by reason of sickness, but was granted an honorable discharge to take effect from January 1, 1847.

July 29, 1861, he was authorized by the Secretary of War to raise and organize a regiment of volunteers, and he became colonel of the regiment January 30, 1862. His regiment was in the battle of Shiloh, 6th and 7th of April, 1862, and rendered valuable service in resisting the assault of the enemy on the extreme right of the Federal Army. He was arrested in August, 1862, and tried by court-martial and found guilty of intoxication and printing certain extracts from his diary, and was sentenced to be cashiered; but subsequently, on the 8th of January, 1867, the Secretary of War revoked the sentence of dismissal, and directed Colonel Worthington to be honorably discharged from the service on tender of resignation to date November 21, 1862, to which date he had been paid. This appears to have been done on the recommendation of General Grant. He was accordingly honorably discharged the service. He published a book of tactics in April, 1862, which was very useful to the western troops. His services at Shiloh were undoubtedly of great utility. He is now old, helpless, and very poor. Your committee believe, in view of all the facts and circumstances, that the Government ought to grant him a pension of $30 a month, and therefore they report a bill for that purpose and recommend its passage.

Before the reading of the report was concluded,

Mr. BARBER moved that the further reading of the report be dispensed with.

The motion was agreed to.

Mr. BARBER. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. BREWER. I move that the committee rise.

Mr. HUNTON. I hope the gentleman will yield to me a moment.

Mr. DAVIS, of Illinois. I ask unanimous consent for the consideration of a bill.

Mr. TALBOTT. The gentleman from Tennessee [Mr. BRIGHT] who made the original motion yields to me.

Mr. BREWER. I cannot yield. There are half a dozen other gentlemen desiring the same thing.

Mr. TALBOTT. I wish to bring up a bill which was before the House only a day or two ago, and was carried over on account of one objection.

The CHAIRMAN. The gentleman from Michigan [Mr. BREWER] moves that the committee rise. If gentlemen do not desire that the committee should rise, the remedy is to vote down the motion.

Mr. BRIGHT. Before that motion is put, I wish to state that the gentleman from Wisconsin, [Mr. BRAGG,] chairman of the Committee on War Claims, desires unanimous consent to take up the bill reported from his committee allowing claims under the act of 1864. It is important the bill should be passed promptly and go to the Senate, so that the Committee on Claims there may investigate these cases and put the bill on its passage.

Mr. BREWER. I withdraw my motion.

CLAIMS REPORTED BY TREASURY ACCOUNTING OFFICERS.

Mr. BRAGG. Mr. Chairman, I ask, by unanimous consent, to take up for consideration at this time the bill (H. R. No. 6717) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department. The amendments reported from the Committee on War Claims are clerical, in order to make the bill conform to the report of the accounting officers of the Treasury, save one.

The CHAIRMAN. The gentleman will indicate the page of the Calendar where the bill is to be found.

Mr. BRAGG. The bill is to be found on the last page of the Calendar. The one amendment other than clerical is that allowing a

claim at $800 instead of $575. The reason of that amendment is this: The accounting officers find the property taken to be of the value of $800. They certify the loyalty of the party and that the property was taken for the use and was used by the Army; but the quartermaster's jurisdiction did not extend beyond the line of Tennessee, and one mule and one horse were over the line. So a portion of the property was across the line in Mississippi, and they find its value, but say they are prevented from taking jurisdiction of it further than making report to Congress for its action.

Mr. WHITE. Will my friend answer me a question?

Mr. BRAGG. Certainly.

Mr. WHITE. Am I to understand that this mule was started from Tennessee? [Laughter.]

Mr. BRAGG. I think the gentleman mistakes me. I should have said, if I had spoken my views on the subject, that mules are very apt to start from Pennsylvania and go to Tennessee and elsewhere. [Laughter.]

Mr. BRIGHT. I move the further reading of the bill be dispensed with, as it is a very voluminous one.

Mr. BRAGG. That is true; the bill is a very long one, and I move to dispense with its reading.

There was no objection.

Mr. BRAGG. I now move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The CHAIRMAN. The amendments will be considered as agreed to, and the bill will be laid aside to be reported to the House with the recommendation that it do pass as amended.

There was no objection, and it was ordered accordingly.

Subsequently, on motion of Mr. BRAGG, the accompanying report was ordered to be printed in the RECORD. It is as follows:

The Committee on War Claims, to whom was referred the letter of the honorable Secretary of the Treasury, dated ——— —, 1880, transmitting a list of claims reported by the accounting officers of the United States as allowed under the provisions of the act of July 4, 1864, respectfully report:

That this committee prepared a bill from the list so transmitted, and reported the same to the House, (H. R. No. 6717), and the same was printed and recommitted to this committee.

That this committee has carefully compared the said bill with the record of the cases allowed, and find many errors therein, and report the bill back with sundry amendments.

The amendments to the bill, in so far as they apply to the payment of claims, are simply to correct errors in spelling, errors in name, and in some few instances errors in amount, and in the description of the person when the allowance is to a person in a representative capacity.

In no case has there been any change from the amount actually allowed by the accounting officers, except in the case of Richard H. Parham, jr.—lines 1533 and 1534 of the original bill.

The accounting officers report an allowance of "$517," while the amendment of the committee makes the allowance of "$800."

The reasons for this additional allowance are these: by an examination of the record from the office of the Quartermaster-General it will be seen that the finding of that Department finds the value of the quartermaster's stores belonging to the claimant and taken and used by the Government to be $800; and they find all the other conditions to exist which entitle him to payment of the whole amount, save one, and that one is a question of jurisdiction, and affects two items of his claim, to wit, one mule worth $100, one horse worth $125 = $225.

The question of jurisdiction was, in the opinion of your committee, correctly determined by the Quartermaster-General, and these two items were rejected from the amount otherwise found claimant's due.

The question of jurisdiction arises under the terms of the act conferring certain jurisdiction upon the Quartermaster's Department to determine claims for property taken and used in certain defined territory. (See act of July 4, 1864.)

This claimant was a resident of Tennessee, and all the property for which he made claim, except these two items, was taken in Tennessee; the horse and mule, though belonging to the claimant, as found by the Department, were, in fact, taken beyond the Tennessee line and within the State of Mississippi, and that Department held rightly, as we think, that they could not, under the act of July 4, 1864, make allowance for these items.

But the Quartermaster's Department having found all the facts in favor of the claimant and against the Government, and the whole case being before us for revision, where the jurisdictional question is not binding and conclusive, the committee deemed it but simple justice to correct the allowance, and give the claimant the amount found his due.

The committee recommend the passage of the bill as amended.

The amount appropriated by this bill is $251,108.72.

PAYMENT OF CERTAIN AWARDS.

Mr. BRAGG. I wish to ask unanimous consent to take from the Calendar a bill (H. R. No. 6248) directing the payment of certain awards in favor of parties therein named. The total amount appropriated by this bill is $9,563.65. The awards were made by a military board organized by Major-General George H. Thomas for the purpose of appraising the value of property taken from Union citizens of East Tennessee and used by the Army.

The CHAIRMAN. The Chair hears no objection, and the bill is before the committee.

Mr. BRIGHT. I move to dispense with the reading of the bill.

Mr. HOSTETLER. I ask that the bill be read, so we may know what we are voting on.

The bill was read, as follows:

That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to the following-named persons in the State of Tennessee, the sums found to be due them by a court of claims created by Major-General George H. Thomas, in the year 1864, composed of Colonel H. C. Gilbert, of the Nineteenth Michigan Regiment of United States Volunteers, as president, and Captain Hubbard, Lieutenant Colville, Dr. John B. Armstrong, and S. L. Colville, members, to wit:

J. M. Bragg, $323; R. C. Belcher, $259.60; John G. Brown, $65; Will Cummings, $125; J. Collier, $120; Stephen Cope, $15.20; G. P. Cummings, $180.50; Nancy Clendennin, $63; John Evans, $25.60; W. R. Eddings, $10; James M. Evans, $260; George Flanegan, $533; W. Faulkner, $75; Robert Gamble, $98.60; Micajah Gillettine, $52.50; Isaac Grizzel, $102; John H. Hopkins, $110; Tempa Hays, $198; Dickson Hillier, $73.20; J. Hooten, $100; J. A. Jones, $264.84; Jesse Locke, $125; Cyrus Lytle, $110; Thomas B. Locke, $522; G. C. Moffitt, $277; J. and G. R. Macon, $471; J. E. Medley, $270.80; G. P. Moffit, $338; Andrew W. Martin, $32.40; G. W. McDaniel, $100; Thursay A. Nebbit, $30; J. Purser, $57; Harden Patterson, $188.75; Lucinda Plumly, $570; Watson Riggs, $97.80; William Reader, $24; Samuel Ramsey, $423; G. W. Ramsey, $10; James R. Shelton, $150; Thomas Stegall, $32; W. R. Stegall, $85; A. Stone, $292; Malinda Stipes, $89.50; J. M. Smallman, $25; Moses Sparkman, $240; W. O. Smith, $68; Henry Thomas, $272.40; B. C. Thomas, $280; Nathan Wheeler, $250; Edward B. Wheeler, $354.66; Henry E. Ward, $75; Matilda Young, $141.20; Le Roy T. Fustan, $161.10; Dial Brown, $15; Rachael Hennesse, $125;

The said several sums so awarded being in full for quartermaster and commissary stores taken and used by the United States Army from the said persons respectively, and the receipt of the same shall be taken and accepted in such case as a full and final discharge of the several claims so examined and allowed by the said military board.

Subsequently, on motion of Mr. BRAGG, the report was ordered to be printed in the RECORD. It is as follows:

The Committee on War Claims, to whom was referred the bill (H. R. No. 3510) directing the payment of certain awards in favor of parties therein named, submit the following report:

It appears from the records and evidence in reference to the subject-matter of this bill, obtained from the War Department and filed in this case, that Major-General George H. Thomas, commanding the Department of the Cumberland, on the 8th day of February, 1864, issued the following order, namely:

"[Special Field Orders No. 39.—Extract.]

"HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
"*Chattanooga, February 8, 1864.*

"XVI. A board of claims, consisting of four officers and two citizens, is hereby appointed to meet at McMinnville, Tennessee, to fix the damage sustained by loyal citizens of that vicinity by military occupation.

"Colonel H. C. Gilbert, Nineteenth Michigan Infantry; Captain John W. Moore, Twenty-third Missouri Infantry; Captain Charles M. Hubbard, Nineteenth Michigan Infantry; Mr. Samuel L. Colville; Mr. James M. Thompson; Lieutenant Henry A. Forde, Nineteenth Michigan Infantry, recorder.

"The board will meet at the call of the president.

"By command of Major-General Thomas.

"W. D. WHIPPLE,
"*Assistant Adjutant-General.*"

This order was issued in pursuance of the policy of the Government recognizing individuals who were public enemies by laws of war by reason of their residence as friendly to the Government for the purpose of encouraging a sentiment of loyalty to the Federal Government within the insurrectionary territory.

Before any proceedings were had under the order, except the receipt of claims for adjudication, a supplementary order was issued as follows:

"[Special Field Order No. 81.—Extract.]

"HEADQUARTERS DEPARTMENT CUMBERLAND,
"*Chattanooga, March 21, 1864.*

"XI. The following-named officers and citizens are relieved from further duty as members of the board of claims instituted by Par. XVI, S. F. O. No. 39, (C. S.) from these headquarters: Captain J. W. Moore, Twenty-third Missouri Infantry; Lieutenant H. A. Ford, Nineteenth Michigan Infantry; Mr. J. P. Thompson.

"XII. The following-named officers and citizens are detailed as members of the board of claims instituted by Par. XVI, S. F. O. No. 39, (C. S.) from these headquarters: Major E. A. Griffin, Nineteenth Michigan Infantry; Lieutenant Leroy Cahill, Nineteenth Michigan Infantry; Dr. John B. Armstrong.

"By command of Major-General Thomas.

"W. D. WHIPPLE,
"*Assistant Adjutant-General.*"

The docket of cases heard by and before this board and the awards made therein, obtained from the War Department and filed as a part of this case, shows that there was filed with such board for hearing one hundred and ninety claims.

The hearing before the board commenced March 28, 1864, and seems to have been concluded April 18, 1864; and there was awarded for quartermaster stores and commissary supplies to the several persons included and named in this bill the sums which the bill provides shall be paid to them respectively.

The committee do not regard the payment of these awards as a question submitted to their decision upon the original facts on which the awards are based. They have been determined and allowed by a military board, called under the apparent sanction of the Government, and whose action seems to have been approved not only by the major-general commanding, but by the War Department, and they have not been paid. The committee use the term "seem to have been approved," because the papers and records remaining in that Department show no disapproval, which may be said to be a negative pregnant, almost as strong as affirmative proof.

This board was composed of officers in actual service whose sympathies may not be suspected of leaning overmuch to the claimants. It held its sessions in the vicinage of the claimants, and its facilities for proof were better than any civil tribunal that has been constituted to hear such claims; and your committee think its findings are entitled to credit.

It may be said, in addition, the Government afterward furnished tribunals to hear this class of claims. These claimants, presumably relying on the awards made by this board, have not prosecuted their claims elsewhere, and statutes of limitations have run against them. But the committee do not care to rest the allowance on an estoppel *in pais* or anything analogous to it. They prefer to stand upon the awards made as an adjudication of a court created by authority of the Government to hear and adjudicate claims of individuals against it and to hold such adjudications not formally disapproved by the authority convening the court as final.

But the committee find that the bill is incorrect and does not conform accurately to the awards made, and therefore report a substitute for the entire bill and recommend the passage of the substitute.

Mr. BRAGG. I move the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

WILLIAM R. WILMER.

Mr. TALBOTT. I ask unanimous consent to take up for consideration at this time a bill (H. R. No. 301) for the relief of William R. Wilmer.

There was no objection.

The bill, which was read, authorizes the Secretary of the Treasury in adjusting the accounts of William R. Wilmer, late collector of internal revenue for the fifth district of Maryland, to credit him with the sum of $1,813.54, that being the amount in value of internal-revenue stamps and cash of which the safe in his office was robbed by burglars on the night of the 27th of April, 1875, and which have

not been recovered: provided it shall appear to the satisfaction of said Secretary that said Wilmer was robbed without any collusion or privity on his part.

The report of the committee was read, as follows:

The Committee on Ways and Means, to whom was referred the bill (H. R. No. 201) for the relief of William R. Wilmer, late collector of internal revenue for the fifth district of Maryland, have had the same under consideration, and submit the following report:

William R. Wilmer was appointed collector of internal revenue for the fifth district of Maryland, on the 1st day of May, 1872, and continued in said office until the 1st day of January, 1876, and during said term had his office at Saint Denis, in the county of Baltimore.

On the night of April 27, 1875, his office was entered by burglars, and his safe blown open and robbed of United States beer-stamps of the value of $5,446.75; cigar stamps, $581.25; tobacco-stamps, $18; cash, $1,026.66; in all, $7,072.66; the property of the Government.

Immediately on the discovery of the robbery he telegraphed the Commissioner of Internal Revenue to send some person to investigate the case, which was done, and a thorough investigation made by an agent, who reported the facts to the Commissioner, and acquitted the collector of all fault. Wilmer offered a reward of $1,000 for the recovery of the property and the conviction of the burglars, and at once placed the matter in the hands of experienced detectives. Suspected parties were several months afterward arrested in New York, in whose possession was found a large portion of the stamps, amounting in value to $5,250.12, which were recovered.

The committee find that the robbery was perpetrated through no fault, collusion, or privity of said Wilmer, and in consequence of no want of reasonable diligence or care on his part for the protection of the property; that he made every proper effort for its recovery, in doing which he subjected himself to considerable personal sacrifice and expense. He stands charged on the books of the Internal Revenue Office with $1,813.54, which is the difference between the amount stolen and that recovered, and can obtain no settlement of his account without paying that amount from his private funds, unless the Secretary of the Treasury is authorized to credit him with it.

The committee are of the opinion that, under the established policy of Congress to furnish relief in cases of loss occurring in such manner, he is entitled to the redress which he seeks, and therefore recommend the passage of the bill.

Mr. TALBOTT. I move the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

EMMA A. PORCH.

Mr. BREWER. I move that the committee rise.

Mr. PHILIPS. I wish to appeal to the gallantry of the House for just two minutes.

The CHAIRMAN. The Chair will state to the gentleman from Michigan that there are two or three gentlemen on each side of the House who have been promised recognition if the motion to rise is not made. Recognition will be equally bestowed on the two sides of the House.

Mr. BREWER. I withdraw my motion.

Mr. PHILIPS. I ask to take up for action at this time a bill (H. R. No. 4367) granting a pension to Emma A. Porch.

There was no objection.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll the name of Emma A. Porch, of Cole County, Missouri, subject to the provisions and limitations of the pension laws.

The report of the committee was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 4367) to place on the pension-roll the name of Mrs. Emma A. Porch, of Cole County, Missouri, beg leave to report:

That the committee find that Mrs. Porch during the war was employed by the military authorities of the Federal Army as dispatch-bearer and spy; that in this capacity she was most active, and rendered important and valuable service to the Army of the Department of Missouri. The Government recognized these services, and Congress, by special act approved June 14, 1878, paid her a moderate compensation therefor, after many years of impatient waiting. The evidence submitted to the committee from her neighbors, the county officials, and her attending physicians, abundantly establishes the fact that when she entered into the military service she was and had always been possessed of a robust constitution and perfect health; that during her said military service she was much exposed to hunger, cold, and rain; that since the war her physical strength and health have been greatly impaired, and have continued to decline, until a few years ago she was stricken with paralysis, which has partially destroyed the use of one side. She is now quite nigh helpless and unable to work, and is a subject of charity, being without any property of consequence, and in constant need of medicine and medical treatment.

You committee think her case appeals most strongly to the Government, which she served with such heroic spirit and fortitude in the day of its need, to help her now in her infirmity resulting from military services. No good reason is apparent for her exclusion from the bounty of the Government because she was not an enlisted soldier. Her sex prevented the enlistment, but it enabled her to gain access to the enemy, to pass safely by and through their lines, and thereby to render to the Government a service as valuable as the soldier who bore a musket. Your committee therefore recommend the passage of the accompanying bill.

Mr. PHILIPS moved the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. WARNER. I give notice that I shall hereafter insist upon following the Calendar in its regular order.

Mr. DAVIS, of Illinois. Mr. Chairman——

Mr. WHITE. I move that the committee do now rise.

Mr. DAVIS, of Illinois. I hope that motion will not be pressed. I would like to ask unanimous consent to make a statement not exceeding one minute.

Mr. WARNER. I insist on following the Calendar, and shall not yield to anybody for any motion that attempts to take up a bill out of the regular order as they come upon the Calendar.

Mr. WHITE. That being the case, I insist upon the motion that the committee do now rise. [Cries of "Regular order!"]

The CHAIRMAN. The Chair will state the present attitude of business before the committee as well as the several motions which are being made and in their order. The Chair recognized the gentleman from Illinois in pursuance of a statement that he would alternate between the sides to ask——

Mr. WARNER. Is this the first bill on the Calendar?

The CHAIRMAN. For consideration of a bill out of its order.

Mr. WARNER. Then I object.

The CHAIRMAN. Pending that the gentleman from Ohio interposes an objection; and pending that objection the gentleman from Pennsylvania moves that the committee do now rise.

Mr. HASKELL. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HASKELL. When the Chair stated his proposition, and he did state it after or before one or two gentlemen were recognized, he stated that if he was allowed to do so he would recognize gentlemen according to promise. Unanimous consent was then and there given to do so. I hold now that the objection of the gentleman from Ohio comes too late; that the consent was given and the committee is bound by it. That being the case, the recognition of the Chair which has been given to the gentlemen from Illinois on this side of the House must hold.

Mr. WARNER. I make my objection without reference to the side of the House to which recognition is to be given, whether the proposition comes from this or the other side.

Mr. HUNTON. I wish to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUNTON. I wish to inquire whether this committee will rise now in face of the fact that the Chair has stated that a partial agreement which received the unanimous indorsement of the committee——

Mr. MORRISON. To which objection ought not now to be made.

Mr. HUNTON. And the departure from that agreement will cut off a pension to a poor old colored man who lost two legs in the service of the country.

The CHAIRMAN. The Chair, in response to the parliamentary inquiry of the gentleman from Virginia, would state that he had indicated an intention to recognize one or two gentlemen on the other side, and would be very glad if he could be permitted to make perfect the recognition promised. But the Chair is bound to hold that the motion that the committee rise is always in order and must be recognized by the Chair.

Mr. DAVIS, of Illinois. I understand that the motion that the committee rise is withdrawn.

Mr. WHITE. It is withdrawn with the understanding that the gentleman from Ohio does not insist upon his objection.

The CHAIRMAN. If the motion is withdrawn the Chair will recognize the gentleman from Illinois.

Mr. WHITE. What does the gentleman from Ohio say?

Mr. WARNER. I have said all I desire to say, and that is that I do not withdraw my objection. I have taken that position advisedly. I am opposed to passing bills in this way, and I insist that we go by the Calendar in the regular order of the bills.

Mr. ATHERTON. Then I move that the committee rise.

The CHAIRMAN. The Chair will state that, having made the agreement prior to the objection of the gentleman from Ohio, and having recognized the gentleman from Illinois to offer a bill for consideration, the Chair will permit the title of the bill to be read, after which objection will be asked for. The Clerk will report the title of the bill to which the gentleman from Illinois refers.

The Clerk read as follows:

A bill (S. No. 752) granting an increase of pension to Crafts J. Wright.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. WARNER. I object.

Mr. WHITE. Then I renew the motion that the committee now rise.

Mr. ALDRICH, of Illinois. I insist it is now too late to object. This agreement which has been made by consent of the committee is now being carried out.

The CHAIRMAN. However much the Chair's inclination may lead him to carry out his recognition, he is compelled to recognize the motion that the committee rise. [Cries of "Regular order!"]

Mr. WARNER. In view of the fact—[cries of "Regular order!"]

The CHAIRMAN. The motion is that the committee rise.

The committee divided; and there were—ayes 38, noes 54.

So the motion was not agreed to.

Mr. ATHERTON. I wish to make a parliamentary inquiry. I want to understand how far this agreement is to go. Does it extend to anybody else than one or two gentlemen on the other side to whom promises have been made?

The CHAIRMAN. There have been three recognitions since the regular order on the Calendar was abandoned, but one of these was for the purpose of transacting business in which the party moving for recognition had no personal interest, and therefore that, the Chair supposes, should not be counted. There have been two recognitions—to the gentleman from Maryland [Mr. TALBOTT] and the gentleman from Missouri, [Mr. PHILIPS.]

Mr. ALDRICH, of Illinois. Now, let us have two on this side.

Mr. WARNER. I made my objection without any knowledge of any arrangement whatever between the Chair and the two sides of the House. I objected on principle to jumping away from the order on the Calendar to requests for unanimous consent. But if there was an arrangement of that kind and my objection would interfere with it, I will yield just to allow two cases, that there may be fairness.

Mr. HUNTON. Let the recognitions be continued till I get through my bill for the colored man.

CRAFTS J. WRIGHT.

Mr. DAVIS, of Illinois. I call up the bill (S. No. 752) granting an increase of pension to Crafts J. Wright.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Crafts J. Wright, late colonel Thirteenth Regiment Missouri Volunteers, a pension at the rate of $30 per month, in lieu of that which he now receives, to take effect from and after the passage of this act.

The bill was laid aside to be reported favorably to the House.

ORDER OF BUSINESS.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SMITH] is now recognized.

Mr. HUNTON. I understood I was next on the list of recognitions.

The CHAIRMAN. Not of the recognitions on the side to the left of the Chair.

Mr. COX. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. COX. Has the Chair asked the consent of the committee to take up these bills out of their order? I have been waiting all afternoon for an opportunity to call up a bill on behalf of a friend who is now in the gallery and looking down upon us.

The CHAIRMAN. We will reach the gentleman's friend in the gallery, if possible. [Laughter.]

REBECCA REYNOLDS.

Mr. SMITH, of Pennsylvania. I call up the bill (H. R. No. 6423) granting an increase of pension to Rebecca Reynolds.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed, subject to the provisions and limitations of the pension laws, to increase the pension of Rebecca Reynolds, widow of the late Rear-Admiral William Reynolds, from $30 to $50 a month, said increase to take effect from and after the passage of this act; and the Secretary of the Treasury is hereby directed to pay to the said Rebecca Reynolds the sum of money necessary to carry into effect the provisions of this act, out of any moneys in the Treasury of the United States not otherwise appropriated.

The bill was laid aside to be reported favorably to the House.

ORDER OF BUSINESS.

Mr. WARNER. Now I insist there shall be no more granting of requests for unanimous consent. I yielded for the two recognitions on the other side to make it fair.

Mr. WHITE. I move that the committee rise.

Mr. HUNTON. I ask that the bill which I hold in my hand, the bill (H. R. No. 4761) granting a pension to George Foster, be read. I am sure no human being would object to it if he understood the case.

Mr. WARNER. Is that the next bill on the Calendar?

The CHAIRMAN. The Chair is informed it is not.

Mr. WARNER. Regular order!

The CHAIRMAN. The question is on the motion of the gentleman from Pennsylvania that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MCMILLIN reported that the Committee of the Whole had had under consideration the business on the Private Calendar, and had directed him to report sundry bills to the House with various recommendations.

BILLS PASSED.

The SPEAKER. Two bills reported by the Committee of the Whole on a former Friday have not been acted on by the House. The Clerk will read the title of the first of those bills.

The Clerk read as follows:

A bill (H. R. No. 936) relinquishing the right of the United States to an island therein named.

The SPEAKER. This bill last Friday was laid over by agreement.

Mr. THOMAS. It was laid over at my request. An examination of the facts in the case has convinced me there is really no substantial objection to its passage inasmuch as all rights are reserved by the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CLARDY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The title of the next bill reported from the Committee of the Whole on the 28th of January was read, as follows:

A bill (H. R. No. 1563) for the relief of Mrs. Fannie S. Conway, of Louisville, Kentucky.

Mr. WHITTHORNE. The amount named in this bill, $700, is not the proper amount. It ought to be $270. The amount named in the bill is there by mistake. I ask that the bill be amended by substituting $270 for $700.

There being no objection, the amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILLIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The bills reported from the Committee of the Whole to-day will now be submitted.

Bills of the following titles, reported from the Committee of the Whole with a favorable recommendation and without amendment, were severally ordered to be engrossed and read a third time; and were accordingly read the third time, and passed:

A bill (H. R. No. 1467) granting a pension to Mary A. Casterweller;
A bill (H. R. No. 1885) for the relief of John A. Innes;
A bill (H. R. No. 802) granting a pension to Wyatt Botts;
A bill (H. R. No. 2773) granting a pension to James P. Hunter; and
A bill (H. R. No. 6201) granting a pension to Thomas Worthington.

Bills of the following titles were reported from the Committee of the Whole with amendments; the amendments were agreed to, and the bills, as amended, were ordered to be engrossed and read a third time; and they were accordingly read the third time, and passed:

A bill (H. R. No. 4257) granting a pension to Jane Stout;
A bill (H. R. No. 4028) granting a pension to Jesse T. Myers;
A bill (H. R. No. 2550) granting a pension to Lewis Blundin;
A bill (H. R. No. 2549) granting a pension to Edward N. Mitchell;
A bill (H. R. No. 1452) for the relief of James B. Furman;
A bill (H. R. No. 1453) for the relief of James R. Gordon;
A bill (H. R. No. 1455) granting a pension to Albert O. Miller;
A bill (H. R. No. 1259) granting a pension to Phineas Gano;
A bill (H. R. No. 2439) granting a pension to Henry Mills;
A bill (H. R. No. 853) granting a pension to Caroline Stief;
A bill (H. R. No. 2075) granting a pension to Amanda J. McFadden; and
A bill (H. R. No. 3309) for the relief of John J. Neale.

Mr. COFFROTH moved to reconsider the various votes by which pension bills had been passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole was the bill (H. R. No. 6717) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

The bill was reported with amendments.

The SPEAKER. If there be no objection, the amendments will be voted on in gross.

There was no objection.

The amendments were agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRAGG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 6248) directing the payment of certain awards in favor of certain parties therein named.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRAGG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 301) for the relief of William R. Wilmer.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TALBOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 4367) granting a pension to Emma A. Porch.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PHILIPS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (S. No. 752) granting an increase of pension to Crafts J. Wright.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DAVIS, of Illinois, moved to reconsider the vote by which the

bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 6423) granting an increase of pension to Rebecca Reynolds.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SMITH, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BILLS LAID ON THE TABLE.

The bill (H. R. No. 59) for the relief of John Murphy was reported from the Committee of the Whole without recommendation.

Mr. DAVIS, of Illinois. I move that the bill be laid upon the table.

The motion was agreed to.

The bill (H. R. No. 3123) to authorize the Secretary of the Interior to place upon the pension-roll the name of Joseph Cartwright was reported from the Committee of the Whole with a favorable recommendation.

Mr. UPDEGRAFF, of Ohio. Since we were in Committee of the Whole I have ascertained this case has passed the Pension Office. I move that the bill be laid on the table.

The motion was agreed to.

Bills of the following titles, reported from the Committee of the Whole with adverse recommendations, were severally laid upon the table:

A bill (H. R. No. 4609) granting arrears of pension to Margaret R. Colonoy; and

A bill (H. R. No. 2764) granting a pension to William G. Thompson.

BUREAU OF ANIMAL INDUSTRY.

Mr. HATCH, from the Committee on Agriculture, reported a bill (H. R. No. 7159) for the establishment of a bureau of animal industry, to prevent the exportation of diseased cattle and the spread of infectious and contagious diseases among domestic animals; which was read a first and second time, ordered to be printed, and recommitted to the Committee on Agriculture.

JOHN H. TEMPLETON.

Mr. STONE, from the Committee on the Post-Office and Post-Roads, by unanimous consent, reported a bill (H. R. No. 7160) for the relief of John H. Templeton, postmaster at Millerton, New York; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM A. NOBLE.

Mr. STONE, from the same committee, also reported back, with a favorable recommendation, the bill (H. R. No. 6665) for the relief of William A. Noble; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Z. E. KOON.

Mr. STONE, from the same committee, also reported back, with a favorable recommendation, the bill (H. R. No. 6990) for the relief of Z. E. Koon; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LOAN OF UNITED STATES FLAGS, TENTS, ETC.

Mr. WILLIS, by unanimous consent, introduced a joint resolution (H. R. No. 393) authorizing the Secretary of War to loan certain tents, flags, &c., to the Masons at Louisville, Kentucky; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FUNDING DISTRICT OF COLUMBIA EIGHT PERCENTS.

Mr. NEAL, by unanimous consent, from the Committee on the District of Columbia, reported back, with an amendment, the bill of the Senate No. 1681, to provide for funding the 8 per cent. indebtedness of the District of Columbia; which, with the accompanying report, was ordered to be printed, and recommitted to the Committee on the District of Columbia.

Mr. WARNER. I move that the House now adjourn.

The motion was agreed to upon a division—ayes 61, noes not counted; and accordingly (at four o'clock and thirty-five minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of certain citizens of Oberlin, Ohio, relative to the method of counting the votes of electors for President and Vice-President—to the Committee on the state of the laws respecting ascertainment and declaration of Result of Election of President and Vice-President.

By Mr. BREWER: The petition of B. P. Conn, M. L. Bagg, and 44 others, citizens of Clinton County, Michigan, for an income tax—to the Committee on Ways and Means.

By Mr. CARPENTER: The petition of Frederick Bock, R. B. Taylor, and others, of West Side, Iowa, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. COBB: The petition of Bryant Cobb, administrator of the estate of W. R. W. Cobb, deceased, that the amount due said estate for property taken and furnished the United States Army during the late war be paid—to the Committee on War Claims.

By Mr. CROWLEY: The petition of the bar of Niagara, Monroe, and Erie Counties, New York, that the salaries of the United States judges in the State of New York be increased—to the Committee on the Judiciary.

By Mr. ERRETT: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, against a reimposition of tolls on the Louisville Canal—to the Committee on Commerce.

By Mr. FINLEY: The petition of citizens of Ohio, for the passage of an interstate-commerce bill—to the same committee.

Also, the petition of citizens of Ohio, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of citizens of Ohio, for the amendment of the patent laws—to the Committee on Patents.

By Mr. GILLETTE: The petition of J. C. Peacock and 43 others, ex-soldiers of the late war, citizens of Iowa, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. N. J. HAMMOND: The petition of Morgan Rawls, for reimbursement of expenses in a contest for a seat in the House of Representatives of the Forty-third Congress—to the Committee on Elections.

By Mr. HEILMAN: The petition of 60 soldiers of Pike County, and of 60 soldiers of Gibson County, Indiana, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. HOUK: The petition of soldiers of East Tennessee, of similar import—to the same committee.

By Mr. McGOWAN: The petition of J. W. Breakey and 30 others, citizens of Homer, Michigan, for the enactment of an income-tax law—to the Committee on Ways and Means.

Also, the petition of A. B. Sabin and 26 others, citizens of Homer, Michigan, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of J. W. Breakey and 40 others, citizens of Homer, Michigan, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of A. Cunningham and 27 others, citizens of Homer, Michigan, for legislation regulating interstate commerce—to the Committee on Commerce.

By Mr. PHISTER: The petition of Duncan Harding and 59 others, citizens of Robertson County, Kentucky, for interstate-commerce legislation to prevent discrimination as to freights, and to secure equality in rates in proportion to services rendered—to the same committee.

By Mr. SAWYER: The petition of D. K. Morton and others, of Clay County, Missouri, for the passage of a law to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of S. H. Soper and others, of Clay County, Missouri, for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of A. F. Means and others, of Clay County, Missouri, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of J. L. Hodges and others, citizens of Clay County, Missouri, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

By Mr. STEVENSON: The petition of citizens of San José, Illinois, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. P. B. THOMPSON: Papers relating to the claim of Smith and Pulaski Counties, Kentucky—to the Committee on Commerce.

By Mr. URNER: The petition of J. M. Norris and others, of Allegany County, Maryland, for bounty for drafted men—to the Committee on Military Affairs.

Also, the petition of Le Compte Post No. 14, Grand Army of the Republic, of Preston, Maryland, for the passage of Commissioner of Pension's bill for sixty surgeons—to Committee on Invalid Pensions.

Also, the petition of Charles P. Seuffin and others, of Washington County, Maryland, against the passage of the sixty-surgeons pension bill—to the same committee.

By Mr. WASHBURN: The petition of Samuel Bloomer and others, for the passage of the amendment proposed to Senate bill No. 496—to the same committee.

Also, the petition of E. H. Atwood and 50 others, citizens of Stearns County, Minnesota, for legislation to protect innocent purchasers against the impositions of fraudulent venders of patents and patent rights—to the Committee on Patents.

Also, the petition of E. H. Atwood and 46 others, citizens of Stearns County, Minnesota, for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. WEAVER: The petition of Paul Bishop and 50 others; of Alvion Gates and 18 others, citizens of Maine; of D. W. Dyer and 180 others, citizens of Maine; of H. C. Diehl and 50 others, of Great Bend, Kansas; of Lyman Birch and 69 others, citizens of Fond du Lac, Wisconsin; and of J. N. Chidester and 250 others, of West Virginia,

against refunding the public debt, and for the payment of the same—to the same committee.

Also, the petition of L. F. Stowe and 302 others, and of Joseph C. Doud and 15 others, citizens of Wisconsin, of similar import—to the same committee.

Also, the petition of Rev. J. G. Hull and 15 others, citizens of Wisconsin, that Congress pay off the public debt in legal tenders at the rate of $50,000,000 per month—to the same committee.

## IN SENATE.

### SATURDAY, *February* 12, 1881.

The Senate met at twelveo'clock m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

Mr. CONKLING presented the credentials of Thomas C. Platt, chosen by the Legislature of New York a Senator from that State for the term beginning March 4, 1881; which were read, and ordered to be filed.

The VICE-PRESIDENT presented the credentials of THOMAS F. BAYARD, chosen by the Legislature of Delaware a Senator from that State for the term beginning March 4, 1881; which were read, and ordered to be filed.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting copies of letters from the Commissioner of Pensions relative to the condition of the working force of his office and his appropriation for "contingent expenses;" which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Secretary of War, transmitting a communication from the Chief of Engineers relative to the wants of navigation and commerce at the head of Lake Superior; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. CONKLING presented the memorial of Henry S. Distin and others, of East Jewett, New York, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

He also presented a petition of the leading mercantile and other firms of the city of New York and marine insurance companies, through their officers, praying for an appropriation of money for widening and deepening the channel in Gowanus Bay, in the harbor of New York; which was referred to the Committee on Commerce.

Mr. BAYARD presented the petition of Walton, Whann & Co. and other manufacturing firms of Wilmington, Delaware, praying for an appropriation for the improvement of the Christiana River, Delaware; which was referred to the Committee on Commerce.

He also presented the petition of Peter Robinson and 28 others, citizens of Delaware, and the petition of Ebe Townsend and 28 others, citizens of Delaware, praying for an appropriation for the improvement of the Indian River in that State; which were referred to the Committee on Commerce.

Mr. CAMERON, of Wisconsin, presented the memorial of James R. Luce and others, of Stevens Point, Wisconsin, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

Mr. VOORHEES. I present, perhaps in the nature of a memorial, a resolution adopted by the fourth general conference of the American Library Association, held in this city on the 10th of this month, and I ask that it be read in consideration of the high character of the gentlemen who compose the conference. The resolution is signed also by the librarians of the foremost libraries in the United States, and I ask that the signatures may be published in the CONGRESSIONAL RECORD.

The resolution was read, and referred to the Committee on the Library, as follows:

At the meeting on February 10, 1881, of the fourth general conference of the American Library Association, held in Washington, the following resolution was adopted:

"*Resolved*, That the American Library Association of librarians, assembled in annual conference at Washington, share the conviction of the United States of America, that the Library of Congress is emphatically the one National Library, the only one in the country destined to be encyclopedic and universal in its comprehensiveness, like the government libraries of the Old World; and it therefore reaffirms the spirit of the resolution adopted at its last meeting, that it is desirable that provisions should speedily be made for the Library by a new building, to be commensurate with its present necessities and future magnitude."

JUSTIN WINSOR,
*President American Library Association.*
MELVIL DEWEY,
*Secretary.*

This librarians' convention was attended by the following-named librarians: President, Justin Winsor, librarian of Harvard University; A. R. Spofford, Librarian of Congress; William F. Poole, Chicago Public Library; Henry A. Holmes, New York State Library; Lloyd P. Smith, Library Company of Philadelphia; Daniel C. Gilman, president Johns Hopkins University; S. S. Green, Worcester Free Public Library; J. N. Larned, Buffalo Young Men's Library; C. A. Cutter, Boston Athenæum; F. Jackson, Newton, Massachusetts; J. S. Billings, Surgeon-General's Office; Mellen Chamberlain, Boston Public Library; John Eaton, United States Commissioner of Education; John Edmunds, Philadelphia Mercantile Library; Weston Flint, United States Paetut Office; C. M. Hewins, Hartford Library; S. B. Noyes, Brooklyn Library; Lucy Stevens, Toledo Public Library; C. W. Merrill, Public Library, Cincinnati; W. T. Peoples, Mercantile Library, New York; H. W. Haynes, trustee Boston Public Library; G. W. Harris, Cornell University Library; A. P. Massey, Case Library, Cleveland, Ohio; Fred. Vinton, College of New Jersey Library; A. W. Tyler, Indianapolis Public Library; H. T. Carr, Grand Rapids, Michigan; T. Leypoldt, Library Journal; T. P. W. Rogers, Free Library, Burlington, Vermont; W. M. Griswold, Bangor, Maine; R. B. Pool, Young Men's Christian Association, New York; H. F. Bassett, Bronston, Waterbury, Connecticut; O. H. Robinson, Rochester University, New York; D. L. Shovey, late president Public Library, Chicago; K. A. Lindefelt, Milwaukee Public Library; W. E. Foster, Public Library, Providence, Rhode Island; E. J. Nolan, Academy Natural Sciences, Philadelphia; S. B. Maxwell, Iowa State Library; J. M. W. Lee, Mercantile Library, Baltimore; P. R. Uhler, Peabody Institute Library, Baltimore; W. H. Browne, Johns Hopkins University Library, Baltimore.

Mr. VOORHEES presented the petition of Peter Schultz and others, citizens of Indiana, praying for the enactment of an income-tax law in order that the burden of taxation may be equally and justly imposed on the wealth of the country; which was referred to the Committee on Finance.

He also presented the petition of T. B. Barkley and others, citizens of Indiana, praying for the passage of the bill now before Congress making the Commissioner of Agriculture a member of the President's Cabinet; which was referred to the Committee on Agriculture.

He also presented the petition of Alfred Miller and others, citizens of Indiana, praying for such legislation upon the subject of interstate commerce as will secure equality of privileges for all our citizens in the matter of transportation; which was referred to the Committee on Transportation Routes to the Seaboard.

He also presented the petition of George M. Fowler and others, citizens of Indiana, praying for the enactment of a law that will protect innocent purchasers against the imposition of fraudulent venders of patents and patent rights; which was referred to the Committee on Patents.

Mr. ALLISON presented the memorial of James W. Moore and others, citizens of Maquoketa, Iowa, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

INTERNATIONAL EXHIBITION OF 1883.

Mr. KERNAN. I am authorized by the Committee on Finance, to whom was referred the joint resolution (S. R. No. 156) in relation to the international exhibition of 1883, to report it without amendment. I think it will take but a moment to pass the joint resolution; and I venture to ask unanimous consent that it be acted upon now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COUNT OF ELECTORAL VOTES.

Mr. MORGAN. I am directed by the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the Result of the Elections of President and Vice-President of the United States, to say that in view of the very few legislative days of the session remaining they are of the opinion that it will not be of any value to consider the measures that are now pending before that committee any further during the present session, unless the Senate should be pleased otherwise to direct. The committee feel very anxious, indeed, to bring forward some propositions for the consideration of the Senate in reference to this very important subject, but feel that their effort would be entirely in vain if they should attempt to do so at this late day of the session.

BILLS INTRODUCED.

Mr. HEREFORD. I ask leave to introduce a bill, and in connection with it I wish to have read a joint resolution of the Legislature of West Virginia.

The Chief Clerk read as follows:

STATE OF WEST VIRGINIA,
*Office of Clerk of the House of Delegates.*

Joint resolution No. 6, instructing our Senators and requesting our Representatives in Congress to introduce a bill ceding to the State of West Virginia the vacant lands and water-power at Harper's Ferry, in the county of Jefferson.

*Resolved by the Legislature of West Virginia*, That our Senators be instructed and our Representatives be requested to introduce a bill into their respective bodies, asking the United States to cede to the State of West Virginia the vacant lands, water-power, or any other property belonging to the United States in the town of Harper's Ferry or county of Jefferson, the proceeds from the sale of which shall be applied to educational purposes as directed by the Legislature of this State; that the governor shall cause a copy of the foregoing resolution, immediately upon its passage, to be transmitted to each Senator and Representative in Congress from this State.

Adopted by the Legislature of West Virginia January 24, 1881.

Attest:

J. B. PEYTON,
*Clerk of the House of Delegates.*

Mr. HEREFORD asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2177) to cede certain property in the county of Jefferson to the State of West Virginia; which was read twice by its title, and referred to the Committee on Education and Labor.

Mr. WALLACE asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. No. 158) to admit free of duty a monument to General Washington; which was read twice by its title, and referred to the Committee on Finance.

Mr. THURMAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2178) to authorize the construction of a fire-proof building at Columbus, Ohio; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

WITHDRAWAL OF PAPERS.

On motion of Mr. CAMERON, of Wisconsin, it was

*Ordered*, That the claimant in the matter of the claim of Reuben S. Jones, of Memphis, Tennessee, have leave to withdraw his papers from the files of the Senate.

HOUR OF DAILY MEETING.

Mr. DAVIS, of Illinois. If there is no further morning business——

Mr. INGALLS. I ask action on the order I introduced on a previous day relative to the hour of meeting of the Senate on and after Monday next.

The VICE-PRESIDENT. The order will be reported.

The Chief Clerk read the following order, submitted by Mr. INGALLS on the 10th instant:

*Ordered*, That on and after Monday next the daily hour of meeting shall be eleven o'clock a. m.

The VICE-PRESIDENT. The question is, Will the Senate agree to this order?

The order was agreed to; there being on a division—ayes 32, noes 9.

Mr. DAVIS, of West Virginia. In connection with that order I desire to make an inquiry. When we meet at eleven o'clock will the morning hour cease at twelve o'clock, or will it continue to one? It is a question as to what was the intention of the mover.

The VICE-PRESIDENT. The Chair supposes the proportionate time would be allotted to the morning hour.

Mr. DAVIS, of West Virginia. That I think would be the proper understanding of the order.

Mr. INGALLS. I did not understand the question of the Senator from West Virginia.

Mr. DAVIS, of West Virginia. The order of the Senate is now that the morning hour begins at twelve o'clock and runs for the purpose of considering the Calendar until half past one. Now that the Senate is to meet at eleven, will an hour and a half still be retained as the morning hour, or will it extend to half past one?

Mr. INGALLS. The whole subject will be under the control of the Senate. My own judgment would be that the public interest would be promoted by the consideration of the cases on the Calendar until half past one; but the whole subject will of course rest with the Senate.

The VICE-PRESIDENT. The Chair is informed by the Secretary that that was the course last year. He was not present when it was adopted.

Mr. DAVIS, of West Virginia. I did not hear the Chair.

The VICE-PRESIDENT. The morning hour ran under the Anthony rule until half past one. Shall that be the understanding of the Senate under the order just agreed to?

Mr. EDMUNDS. I do not wish to agree to any such understanding as to the time when the morning hour ends with the vast amount of unfinished business there is of great public importance, appropriation bills, funding bill, and other bills.

The VICE-PRESIDENT. The whole matter is in the power of a majority of the Senate.

DEBATE ON MOTIONS TO TAKE UP.

The VICE-PRESIDENT. Is there further business for the morning hour?

Mr. COCKRELL. I call for the regular order.

The VICE-PRESIDENT. The regular order is demanded.

Mr. MORGAN. I desire to call up the resolution I submitted a few days ago limiting debate. The Senator from Kansas [Mr. INGALLS] then made objection to it; I do not know on what ground. I think the resolution ought to be adopted.

The Senate proceeded to consider the following resolution, submitted by Mr. MORGAN on the 10th instant:

*Resolved*, That on a motion to take up a bill or resolution for consideration at the present or at a future time debate shall be limited to fifteen minutes, and no Senator shall speak to such motion oftener than once or for a longer time than five minutes.

Mr. CONKLING. Is that a report?

Mr. MORGAN. It is not a report.

Mr. CONKLING. The resolution does not come from the Committee on Rules?

The VICE-PRESIDENT. The Chair understands not.

Mr. MORGAN. I offered the resolution in the Senate a few days since, and it was objected to, and went over under objection.

Mr. CONKLING. I was not aware that the resolution had been submitted. I should like to inquire, does it so change the rule that on a motion to take up, debate on any subject pertinent to the merits is in order?

Mr. MORGAN. Not at all. It does not affect the rule, as I understand. The resolution provides that on a motion to take up a bill or resolution for present or fixing a time for future consideration the debate shall be limited to fifteen minutes.

Mr. CONKLING. Does the Senator remember any instance in which without violating the rule a Senator has been able to talk fifteen minutes on a motion to take up?

Mr. MORGAN. I think during the last week I have heard a debate extending over an hour upon a question whether the Senate would take up one bill or another.

Mr. CONKLING. I submit to the Senator (I have not noticed what he speaks of) that if the rule as it stands is enforced, namely, that no debate shall occur and no reference be made to the merits of a measure on a motion to take up, it would be impossible that fifteen minutes should be consumed upon such a motion as that.

Mr. MORGAN. Notwithstanding that rule, debate has not only run over fifteen minutes frequently: it has run over half an hour, and over an hour. My purpose is that debate shall be limited by the Chair to fifteen minutes on motions to take up bills for present consideration or to be considered at a future time, fixing a special order.

Mr. CONKLING. The Senator is quite clear that this resolution, being of later date, will not supersede the rule which prohibits debate upon the merits?

Mr. MORGAN. By no means; it is entirely in harmony with that rule.

Mr. INGALLS. I should like to ask the Senator from Alabama if this is intended to be a standing rule of the Senate, to act for all subsequent sessions until repealed?

Mr. MORGAN. It is not so framed. There is no phraseology making it a standing rule of the Senate. It will only apply during this session, unless the Senate should hereafter renew it.

Mr. INGALLS. Unless there is some limitation placed in the body of the resolution, until it be repealed at some subsequent session of the Senate, it would continue to be operative.

Mr. MORGAN. I think it would require an express order that it should be put among the standing rules to give it the effect the Senator from Kansas supposes. The resolution, if adopted now, would be a provision that might be repealed to-morrow; it could be set aside at any time.

Mr. INGALLS. I should be unwilling to agree to any resolution that would have the effect of making that a standing order of the Senate, although I think that during the remainder of this session it might be advisable perhaps to apply it in the manner designated by the Senator from Alabama.

Mr. MORGAN. I am entirely willing to put in words limiting the resolution to this session.

Mr. INGALLS. I think the words should be inserted.

Mr. MORGAN. "For the remainder of the session."

The VICE-PRESIDENT. The resolution will be thus modified, and the question is on agreeing to it as modified.

Mr. PENDLETON. Let it be reported.

The VICE-PRESIDENT. The resolution as modified will be reported.

The Chief Clerk read the resolution as modified, as follows:

*Resolved*, That for the remainder of the session, on a motion to take up a bill or resolution for consideration at the present or at a future time debate shall be limited to fifteen minutes, and no Senator shall speak to such motion oftener than once or for a longer time than five minutes.

Mr. CONKLING. The word "present" should be inserted before "session," so as to read "for the remainder of the present session."

Mr. MORGAN. Very well.

The VICE-PRESIDENT. That modification will be made.

Mr. INGALLS. The resolution practically limits debate to three Senators.

The VICE-PRESIDENT. Will the Senate agree to the resolution?

The resolution was agreed to; ayes 28, noes not counted.

SUITS AGAINST GOVERNMENT OFFICERS.

Mr. DAVIS, of Illinois. I hope the Chair will recognize me as soon as morning business is over.

Mr. GARLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Arkansas rise to morning business?

Mr. GARLAND. No, sir.

The VICE-PRESIDENT. The regular order has been demanded by the Senator from Missouri, [Mr. COCKRELL,] which is the consideration of the Calendar of General Orders under the standing order.

Mr. COCKRELL. I withdraw the demand for the regular order so far as the measure which the Senator from Illinois wishes to have considered is concerned.

Mr. DAVIS, of Illinois. I move to take up the bill (S. No. 2075) to amend section 989, Revised Statutes, so as to extend its provision to all officers of the United States in the performance of official acts in which the United States is a party or has an interest. The Judiciary Committee reported the bill unanimously, and the Treasury Department is very anxious to have it passed. I can explain it in a minute.

By unanimous consent, the Senate, as in Commitee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and to insert:

That section 989 of the Revised Statutes of the United States be amended so as to read as follows:

"SEC. 989. When a recovery is had in any suit or proceeding against a collector or other officer or employé of the United States for any act done by him in the performance of official duty in which the United States is a party or has an interest, or for the recovery of any money exacted by or paid to him, and by him paid into the Treasury, in the performance of his official duty, and the court certifies

that there was probable cause for the act done by the collector or other officer or employé, or that he acted under the direction of the Secretary of the Treasury, or other proper officer of the Government, the court may stay proceedings under such judgment against such officer or employé for a period not exceeding twelve months; and the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury."

Mr. CONKLING. I ask the Senator from Illinois to state the change the bill makes in the existing law.

Mr. DAVIS, of Illinois. Section 989 of the Revised Statutes provides that collectors and other officers of the revenue, where the United States is a party in interest, shall be protected in the performance of their official duty if the court certifies that there was probable cause for the act done by the collector or other officer; and that no execution shall issue against such collector or other officer, but upon final judgment the amount shall be paid out of the Treasury.

There are two amendments made to that section by the bill. One is to extend it to other officers and employés of the United States as well as revenue officers. A great many instances were called to the attention of the Judiciary Committee where officers of the mint at San Francisco, the postmaster at New York, and various other officers of the Government were sued. There is no reason why the law should be confined to revenue officers, but it should be extended to all officers who are acting under the direction of the Secretary of the Treasury or other head of Department, when the court will certify that there is probable cause for the conduct of the officer. The statute at present says that no execution shall issue in such a case where a recovery is had, but after the final judgment the amount shall be paid out of the Treasury. The Judiciary Committee doubt very much whether there is authority in a civil suit to say that the execution shall not issue, but they have provided that it shall be suspended long enough for the Government to provide for the payment. That is a statement of the change made in the existing law by the bill.

Mr. CONKLING. There is no other change?

Mr. DAVIS, of Illinois. There is no other change.

Mr. McMILLAN. Do I understand the Senator to say that the amendment extends to the officers and employés of the Government?

Mr. DAVIS, of Illinois. To officers and employés of the Government who act under the direction of the Secretary of the Treasury, or other head of Department.

The VICE-PRESIDENT. The question is on agreeing to the amendment reported from the Committee on the Judiciary.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend section 989, Revised Statutes, relating to suits against officers of the United States."

ORDER OF BUSINESS.

Mr. ROLLINS. Mr. President——

Mr. COCKRELL. The regular order is called for.

The VICE-PRESIDENT. The regular order is demanded.

Mr. ROLLINS. Will the Senator from Missouri allow me to state the request which I desire to make to the Senate? I wish the Senate to take up and consider Senate bill No. 404, to amend section 14, chapter 1, title 2 of the Revised Statutes. The bill was taken up on a former occasion, and I think it will occupy but a few moments more. If any action whatever is to be had on the subject, it is necessary that it should be done at once. If the Senate will agree to allow the bill to be read—it is very brief, only a few lines—Senators will see at once the propriety of immediate action upon it.

The VICE-PRESIDENT. Is the call for the regular order withdrawn?

Mr. COCKRELL. I ask for the regular order. We are now at order of business No. 573; we can soon reach the bill referred to by the Senator from New Hampshire.

Mr. ROLLINS. Does the Senator from Missouri object to the reading of the bill?

Mr. COCKRELL. I call for the regular order, and that bill, when reached in regular order, will be read.

Mr. ANTHONY. I gave notice day before yesterday that at the close of the morning business to-day I should ask the indulgence of the Senate to make some remarks upon the report of the two committees that visited Rhode Island to inquire into alleged violation of the law in that State. If it be the pleasure of the Senate, I will now proceed.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Rhode Island? The Chair hears none.

ELECTIONS AND APPOINTMENTS IN RHODE ISLAND.

Mr. ANTHONY. I enter a formal motion that the report of the Committee on Civil Service and Retrenchment, to which was referred the resolutions of the Senate of May 29 and of June 18, 1879, be recommitted to that committee.

The VICE-PRESIDENT. That motion is pending, and the Senator from Rhode Island has the floor.

DEFENSE OF RHODE ISLAND.

Mr. ANTHONY. Mr. President, there are persons within and without, mainly without the State, who are calling upon Congress to interpose its authority in guaranteeing a republican form of government in Rhode Island, on account of our constitutional limitations upon the suffrage. Those who clamor on this matter from without the State are clearly meddling with what is not their proper concern; those within have mainly come from other States and countries, attracted by the advantages of a residence in Rhode Island, and belong to a class which has been happily described as composed of men who came among us uninvited, and "on whose departure there is no restraint."

Those persons are just about ninety-one years too late in their demand. It should have been made when the State entered the Union; and then would have been referred to the representatives of the other States, most of which placed equal or greater restriction upon the suffrage, and some of which do still; for the constitution of Rhode Island is more liberal now, in respect to suffrage, than it was at that time, and was then a more liberal government, generally, than prevailed in most of the States which preceded her in ratifying the fundamental law.

DEFINITIONS OF REPUBLIC.

A republic is not necessarily a democracy. It may be as far removed from that as from a despotism. It is not essential to a republican form of government that the suffrage should be universal. If it were, none of the States had in the beginning, and none of them have now, a republican form of government.

Noah Webster defines a republic:

A State in which the sovereign power is exercised by representatives elected by the people.

Worcester defines it:

That form of government in which the supreme power is vested in the people, or in representatives, elected by the people; a commonwealth. A republic may be either a democracy or an aristocracy. In the former the supreme power is vested in the whole body of the people, or in representatives elected by the people; in the latter, it is vested in a nobility, or a privileged class, of comparatively a small number of persons.

Ogilvie defines a republic as—

A commonwealth; a political community in which several persons share the sovereign power, or that form of government in which the supreme power is vested in the people, or in representatives chosen by them. A republic may be either an aristocracy or a democracy; the supreme power in the former being consigned to the nobles, or a few privileged individuals, as was formerly the case in Venice and Genoa; while in the latter the supreme power is placed in the hands of rulers chosen by and from the whole body of the people, or by their representatives assembled in a congress or national assembly.

Montesquieu, in his *L'Esprit des Lois*, gives this definition:

A republican government is that in which the body, or only a part of the people, is possessed of the supreme power.

Macaulay says:

The Roman Emperors were republican magistrates, named by the senate.

Lord Brougham, in his Political Philosophy, says:

The name of a republic has also been applied to a monarchy, as in the case of Poland; nor, indeed, could the principalities into which the Italian republics declined, and the mixed government of the united provinces, though termed republics, be considered in any other light than as a species of monarchy.

George Cornewall Lewis, in his "Remarks on the use and abuse of some political terms," says:

Commonwealth, or republic, is a general name for all governments in which the sovereign power resides in several persons, whether they be few or many. Thus we speak of the commonwealths or republics of Rome in early times, Venice, &c., which were aristocracies; of Athens, of Rome in later times, &c., which were democracies.

Johnson, who was the accepted authority at the time when the Constitution was framed and ratified, defines a republic:

Commonwealth: State in which the power is lodged in more than one.

Madison, in the Federalist, defines a republic as—

A government in which the scheme of representation takes place.

This was the meaning of the word republican then, and is its meaning now. Rome, in a part of her history, Venice, Genoa, Florence, Pisa, were anciently republics, and are recognized as such in history. They had a republican form of government, with institutions highly aristocratic, and as far removed from real democracy as the monarchies around them. If it be said that the significance of the word "republican" has changed with new ideas, that have been introduced in government, since the formation of the Constitution, the reply is that the instrument is to be interpreted by the significance of the language at the time when it was employed. Otherwise it is saying too much, for since that time the word has twice been employed as the designation of a party; and, by that interpretation, the Constitution must be construed as guaranteeing a government of the republican party, which, I think, would hardly be accepted by those who adduce this argument.

SUFFRAGE IN THE SEVERAL STATES AT THE TIME OF ENTERING THE UNION.

The suffrage of Rhode Island, when she entered the Union, was limited to the holders of real estate of the value of $134, or of the annual rental of $7, and to the eldest sons of such land-holders. No additional qualification was required of the governor, general officers, and members of the General Assembly; neither was any man disqualified from holding any office on account of his religious belief, or because he was a minister of the Gospel. Now, let us see what were the qualifications for suffrage and eligibility to office in the twelve States that preceded Rhode Island in entering the Union.

New Hampshire required the payment of a poll-tax as a qualification

for suffrage, and that the governor and members of the Legislature should profess the Protestant religion; that the senators should have a property qualification of £200 and the representatives of £100.

Massachusetts required as a qualification for suffrage a freehold estate of £60 or the annual value of £3; that a senator should own real estate to the value of £600 at least, or personal estate worth £600 at least, and have been an inhabitant of the Commonwealth for five years preceding his election; that a representative should own real estate to the value of £100, or personal property worth £200; and that the governor should own real estate to the value of £1,000 and have been an inhabitant of the State for seven years preceding his election; and further required of any person elected governor, lieutenant-governor, councilor, senator, or representative, the declaration of a belief in the Christian religion and a firm persuasion of its truth, as preliminary to entering upon the duties of his office.

Connecticut required a freehold of the annual value of $7, or the performance of duty in the enrolled militia, or the payment of a State tax.

New York required a freehold of £20 or of the annual rental of forty shillings; and all ministers of the Gospel were declaredineligible for holding any civil or military office.

New Jersey required a clear estate of the value of £50, proclamation money, and a year's residence; it was also required that legislative councilors should be worth at least £1,000, proclamation money, of real or personal estate, and members of the Legislative Assembly £500.

Pennsylvania required, and still requires, that the elector should be a tax-payer; and also, by implication, authorized the disqualification of infidels and atheists. It was necessary that a member of the house of representatives should have resided in the city or county for which he was chosen for two years preceding his election.

Delaware required the members of the upper branch of the Legislature to be twenty-seven years of age and possessed of a freehold of two hundred acres of land or £1,000 in other property.

Maryland required, as a qualification for suffrage, a freehold of fifty acres of land, or an estate of £30 current money. For members of the Legislature she required a property qualification of £500; and the bill of rights authorized the requirement of a declaration of belief in the Christian religion, as a qualification for any office of trust or profit, while ministers of the Gospel were excluded from the general assembly and the council.

Virginia limited the suffrage to freeholders and tax-payers, and I believe that as late as our day electors were allowed to vote for members of one branch of the Legislature, in every district in which they owned real estate.

North Carolina required a qualification of three hundred acres of land for a senator and one hundred for a representative; the qualification for a voter for senator was fifty acres of land, of a voter for representative that he be a tax-payer. Clergymen were excluded from membership in the senate, the house of commons, and the council of state; and any person was disqualified from holding any civil office who should deny the being of God or the truth of the Protestant religion, or the divine authority of the Bible, or who should hold religious principles incompatible with the freedom and safety of the State.

South Carolina required, as a qualification for suffrage, a freehold of fifty acres of land or a town lot, or the payment of a tax of three shillings sterling the preceding year. For member of the house of representatives a freehold of five hundred acres of land and the ownership of ten negroes was required—a pretty qualification this for a republican form of government according to the ideas of those who dispute the republican form of Rhode Island—or a freehold estate of the value of £150; for senator, a freehold of £300 value, clear of debt. In case of non-residents in the election district a larger qualification was required. For governor, an estate of the value of £1,500 was required, a great sum in those days, fully equal in its purchasing power to $15,000 in our time.

The constitution under which South Carolina ratified the Constitution of the United States and came into the Union required, as a qualification for suffrage, a belief in God and in future rewards and punishments; and a freehold of fifty acres of land. For senator was required the qualification of a freehold of £2,000, if resident in the district, and of £7,000 if a non-resident. For representative was required a qualification of £1,000 of residents, and £3,500 of non-residents, in the respective districts, a belief in the Protestant religion, and three years' residence in the State. For governor, lieutenant-governor, and privy councilor a freehold qualification of £10,000 was required, an enormous sum at that time, and which must have restricted the persons from whom those officers could be selected to a very small part of the people. Moreover, they were required to profess the Protestant religion, which was declared to be the established religion of the State, and there were enumerated in the constitution five cardinal articles of faith which must be professed, in order to entitle a church to corporate privileges.

Georgia affixed to the right of suffrage the qualification of being a tax-payer, or of having a mechanical trade.

This was a republican form of government, according to the ideas of those who object to our Rhode Island limitations upon the suffrage.

These were the States that agreed, in the fundamental law, to guarantee to each other a republican form of government. What were their ideas of a republican form of government in respect to suffrage is shown by their own constitutions. The Federalist, (No. 42,) written by Mr. Madison, is very explicit and quite conclusive on the nature and extent of the constitutional guarantee. It says:

It may possibly be asked what need there could be of such a precaution, and whether it may not become a pretext for alterations in the State governments, without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the General Government should not be needed, the provision for such an event will be a harmless superfluity only in the Constitution. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues and influence of foreign powers? To the second question it may be answered, that if the General Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no farther than to a *guarantee* of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions, a restriction which, it is presumed, will hardly be considered as a grievance.

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Is it true that force and right are necessarily on the same side in republican governments? May not the minor party possess such a superiority of pecuniary resources, of military talents and experience, or of secret succors from foreign powers as will render it superior also in an appeal to the sword? May not a more compact and advantageous position turn the scale on the same side, against a superior number so situated as to be less capable of a prompt and collected exertion of its strength? Nothing can be more chimerical than to imagine that in a trial of actual force victory may be calculated by the rules which prevail in a census of the inhabitants or which determine the event of an election. May it not happen, in fine, that the minority of CITIZENS may become a majority of PERSONS, by the accession of alien residents, of a casual concourse of adventurers, or of those whom the constitution of the State has not admitted to the rights of suffrage? I take no notice of an unhappy species of population abounding in some of the States, who, during the calm of regular government, are sunk below the level of men, but who, in the tempestuous scenes of civil violence, may emerge into the human character and give a superiority of strength to any party with which they may associate themselves.

OFFICIAL RECOGNITION OF THE REPUBLICAN FORM OF GOVERNMENT IN RHODE ISLAND.

The republican form of government in Rhode Island was recognized by the President of the United States, in 1842, when an insurrection against its authority was organized, on the very ground of an extension of suffrage, and with specious pretenses that it had the support of a majority of the people. The insurgents attempted to take possession of the government, which they claimed by virtue of a pretended vote of the people, and armed themselves for that purpose. The constituted authorities of the State appealed to the President, in the mode pointed out by the Constitution of the United States, under the guarantee of a republican form of government, by protection against invasion and domestic violence. On this very ground, under the obligation of this very provision of the Constitution, President Tyler addressed a letter, dated May 5, 1842, to the governor of Rhode Island, from which the following is an extract:

I shall not adventure the expression of an opinion upon those questions of domestic policy which seem to have given rise to the unfortunate controversies between a portion of the citizens and the existing government of the State. They are questions of municipal regulation, the adjustment of which belongs exclusively to the people of Rhode Island, and with which this Government can have nothing to do. For the regulation of my conduct, in any interposition which I may be called upon to make between the government of a State and any portion of its citizens who may assail it with domestic violence, or may be in actual insurrection against it, I can only look to the Constitution and laws of the United States, which plainly declare the obligations of the Executive Department, AND LEAVE IT NO ALTERNATIVE AS TO THE COURSE IT SHALL PURSUE.

By the fourth section of the fourth article of the Constitution of the United States, it is provided that the United States SHALL GUARANTEE TO EVERY STATE IN THIS UNION A REPUBLICAN FORM OF GOVERNMENT, and shall protect each of them against invasion; and on the application of the Legislature, or executive, (when the Legislature cannot be convened,) *against domestic violence*. And by the act of Congress, approved on the 28th February, 1795, it is declared that in case of an insurrection in any State *against the government thereof* it shall be lawful for the President of the United States, upon application of the Legislature of such State, or of the executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States as may be applied for, as he may judge sufficient to suppress such insurrection. By the third section of the same act, it is provided that whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a reasonable time.

By the act of March 3, 1807, it is provided "that in all cases of insurrection or obstruction to the laws, either of the United States, or any individual State or Territory where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ for the same purposes such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect."

This is the first occasion, so far as the government of a State and its people are concerned, on which it has become necessary to consider of the propriety of exercising these high and most important constitutional and legal functions. By a careful consideration of the above-recited acts of Congress, your excellency will not fail to see that no power is vested in the Executive of the United States to anticipate insurrectionary movements against the government of Rhode Island so as to sanction the interposition of the military authority, but that there must be an actual insurrection manifested by lawless assemblages of the people or otherwise, to whom a proclamation may be addressed, and who may be required to betake themselves to their respective abodes. I have, however, to assure your excellency, that should the time arrive (and my fervent prayer is that it may never come) when an insurrection shall exist against the government of Rhode Island, and a requisition shall be made upon the Executive of the United States to furnish that protection which is guaranteed to each State by the Constitution and laws, I SHALL NOT BE FOUND TO SHRINK FROM THE PERFORMANCE OF A DUTY WHICH, WHILE IT WOULD BE THE MOST PAINFUL, IS, AT THE SAME TIME, THE MOST IMPERATIVE. I have also to say that in such a contingency the Executive could not look into real or supposed defects of the existing government in order to ascertain whether some

other plan of government proposed for adoption was better suited to the wants and more in accordance with the wishes of any portion of her citizens. To throw the executive power of this Government into any such controversy would be to make the President the armed arbitrator between the people of the different States and their constituted authorities, and might lead to an usurped power, dangerous alike to the stability of the State governments and the liberties of the people.

*It will be my duty, on the contrary, to respect the requisitions of that government which has been recognized as the existing government of the State through all time past, until I shall be advised in regular manner that it has been altered and abolished, and another substituted in its place by legal and peaceable proceedings, adopted and pursued by the authorities and people of the State.*

And, in a subsequent letter, dated May 7, 1842, he said:

I freely confess that I should experience great reluctance in employing the military power of this Government against any portion of the people; but, however painful the duty, I have to assure your excellency that if resistance is made to the execution of the laws of Rhode Island by such force as the *civil posse* shall be unable to overcome, *it will be the duty of this Government to enforce the constitutional guarantee*, a guarantee given and adopted mutually by all the original States, of which Rhode Island was one, and which in the same way has been given and adopted by each of the States since admitted into the Union. And if any exigency of lawless violence shall actually arise, the Executive Government of the United States, on the application of your excellency, under the authority of the resolutions of the Legislature already transmitted, will stand ready to succor the authorities of the State in their efforts to maintain a due respect for the laws.

At the date of these letters Daniel Webster was the Secretary of State, and his authority is added to that of Madison.

The States generally have enlarged their suffrage, but they have done this voluntarily and in their own discretion, without compulsion, or advice, or suggestion by the Federal Government, except in the fifteenth amendment of the Federal Constitution. No pressure has been applied by the Federal Government, nor has it ever been pretended that the Federal Government had the right to interpose its authority, other than in the case provided by the fifteenth amendment, by which our suffrage was not affected.

If Rhode Island was not republican when she entered the Union, the other States were not; and if she was republican then, she is now, for the changes in her suffrage have been in the direction of liberality. Many of the Northern States adhered to their discrimination against colored citizens, till the results of the war compelled its abandonment, and all the Southern States retained or established it. In New York the proposition to admit colored citizens to equal rights of suffrage was submitted to a separate vote, with the constitution of 1846, and was rejected. It was submitted again, in an amendment in 1860, and again in 1868, and was both times rejected. It was not adopted till 1874, when the fifteenth amendment to the Federal Constitution had removed the disqualification and established the equality of the whites and the blacks in the suffrage. New Hampshire resisted, through all parties, the repeal of the religious test, in discrimination against the Roman Catholics, till 1877.

The right of a State to fix her own suffrage is as well settled as anything in our form of government. It existed at the formation of the Government, and it has not been impaired since, except by the fifteenth amendment, to which our suffrage was already in conformity. That the fourteenth amendment does not affect our suffrage was determined by the unanimous report of the Judiciary Committee of the United States Senate, of which committee, and concurring in the report, was my distinguished friend, the senior Senator from Ohio, [Mr. THURMAN,] and by the unanimous decision of the Supreme Court of the United States in the case of Minor *vs.* Happersett.

Many of the States still require the payment of assessed taxes as a qualification for voting. Rhode Island requires, for native citizens, only a voluntary tax of $1, to be applied to the support of public education; and even this is waived in the case of performance of militia duty; and, assuredly, an assessed tax in any State must be on property of the value of $134, which makes our suffrage for citizens of foreign birth as liberal as the general suffrage in those States, except in the character of the property assessed. Nor is Rhode Island the only State that discriminates between the native and the foreign-born citizens. New York requires that a naturalized citizen shall have been naturalized ten days before voting. Pennsylvania requires thirty days. Michigan requires of citizens of foreign birth a residence of two years and six months after declaration of their intention of naturalization, while for native citizens a residence of only three months is required. Massachusetts required from 1859, when the provision was adopted as an amendment to her constitution, till 1863, when it was repealed, two years. So that a naturalized landholder, while that provision was in force, could not vote as soon, by two years, as he could and can, in Rhode Island. If the right to discriminate at all be conceded, the States themselves must be the judges of the limits of the discrimination; and it is not less truly a violation of republican form of government in New York to require ten days, and in Pennsylvania to require thirty days, in Michigan to require two years and three months, and in Massachusetts to have required two years additional residence of citizens of foreign birth, than it is in Rhode Island to require the possession of one hundred and thirty-four dollars' worth of real estate.

SUFFRAGE IN RHODE ISLAND NOT AFFECTED BY THE FOURTEENTH AND FIFTEENTH AMENDMENTS.

But the case is too plain for argument or illustration. It is settled by the facts, it is confirmed in the exposition of the Constitution by James Madison, in the Federalist, and by Daniel Webster, in the case of the Rhode Island insurrection; by the unanimous report of the Judiciary Committee of the Senate; by the unanimous decision of the Supreme Court of the United States. The committee, referring to the effect of the fifteenth amendment of the Constitution of the United States, say:

The Committee on the Judiciary, to whom was referred the petition of citizens of Rhode Island setting forth, by reference, the fourteenth and fifteenth articles of amendment to the Constitution of the United States, and stating that "the State of Rhode Island, notwithstanding the provisions of the above-named amendments, persists in and by the first section of article 2 of the constitution of said State, in denying and abridging the right of about ten thousand citizens of the United States to vote at any and all elections holden in said State," and praying that Congress will "pass such appropriate legislation as may be found necessary to obtain for, and secure to, the citizens of the United States resident in Rhode Island all the rights, privileges, and immunities guaranteed to them by the Constitution of the United States," respectfully report:

That the constitution of Rhode Island, adopted in 1842, prescribes two alternative classes of qualifications for voting. The first gives to *all* male citizens of the United States of a certain age, &c., the right to vote, if they own real estate of the value of $134 or which shall rent for $7 per annum. The second gives to every male *native* citizen of the United States of a certain age, &c., the right to vote, if he pays a tax of one dollar a year, &c., although he may not own real estate. No man or party has ever questioned the right of the people of Rhode Island, and of every other State, to establish such a constitution of government as may be agreeable to their views of the public welfare in that State, although its provisions as to suffrage may not conform to the opinions of citizens of other States. At the time when this constitution of Rhode Island was adopted the right to regulate the qualifications of voters belonged exclusively to the respective States. The petition under consideration fully recognizes this, but it raises the question (although studiously framed in such a manner as not to declare or insist upon such a conclusion) whether, by the fourteenth and fifteenth amendments to the Constitution of the United States, natives of foreign countries who may have become citizens of the United States are not entitled to vote in Rhode Island, without regard to the qualifications imposed by her constitution?

The committee is unanimously of the opinion that this question must be answered in the negative.

The "privileges and immunities of citizens of the United States," mentioned in the petition as secured by the fourteenth amendment, do not include the right of suffrage. If they did, the right must necessarily exist in *all* citizens of the United States, from the mere fact of citizenship, without the power in any State or in Congress to abridge the same in any degree; and in such case, therefore, no qualification of any kind could be imposed, and all persons, (being citizens,) males and females, infants, lunatics, and criminals, without respect to age, length of residence, or any other thing, would be entitled to participate directly in all elections. Every provision in every State, which experience has proved to be essential to security and good order in society, would thereby be overthrown. It is enough to say that the rights secured by this amendment to the Constitution are of an altogether different character.

The fifteenth amendment does apply to rights of suffrage, and to those only. By it the State of Rhode Island, in common with every other State, is forbidden to deny or abridge the right of citizens of the United States "to vote on account of race, color, or previous condition of servitude." But, plainly, the constitution of Rhode Island does not preclude any citizen from voting on either or any of the grounds thus prohibited. No fact of race, or color, or previous servitude prevents any citizen from voting in Rhode Island. Neither of these qualities depends in any degree upon the *place* of his *nativity*. This seems too obvious to need discussion. It is also a fact, appearing in the public records of Congress and doubtless known to the petitioners, that when the fifteenth amendment was under consideration by Congress it was proposed to embrace in it a prohibition of any denial of suffrage on account of "nativity," and that this proposition was not agreed to, for the reason that Congress did not think it expedient to restrict the ancient powers of the States in those respects any further than appeared to be absolutely needful to secure to the whole people the great results of the overthrow of the rebellion.

The committee is therefore of opinion that there is nothing in the provisions of the constitution of Rhode Island referred to in conflict with the Constitution of the United States.

Whether these provisions are wise or right in themselves is a matter over which neither the committee nor Congress has any control. That subject belongs to the people of Rhode Island, who, it must be presumed, will correct any and all errors that may, from time to time, be found to exist in her internal affairs.

And again, in the unanimous report of the same committee in its report on the memorial claiming the right of female suffrage, the committee says:

By the Constitution of the United States, prior to the fourteenth and fifteenth amendments, the power to regulate suffrage, even in the election of President and Vice-President, Senators and Repepresentatives in Congress, was possessed by the States composing the Union, so that Congress could make no affirmative provision concerning the same; nor could Congress alter or amend regulations made upon this subject by the respective States. Article I, section 2, provides as follows:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Section 3 of the same article provides:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote."

Article III, section 1, provides:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

From these provisions of the Constitution it is apparent that the States possessed the sole power of determining the qualifications of electors therein. And, so far as these provisions are concerned, it is manifest that each State had the power to make such discrimination as it pleased between its own citizens in regard to their participation in the elective franchise. Each State might admit all citizens, male and female, over a prescribed age, or only some classes of them, or might require a property qualification, which would, in effect, exclude all citizens not possessing the required amount of property. Each State might discriminate in this particular between its citizens on account of race, color, servitude, or upon any other ground. And under this Constitution the several States established various and incongruous regulations upon this subject. In Massachusetts no distinction on account of color was recognized, while in other States all persons having even admixture of African blood, however slight, were excluded; and some States required a property qualification, while others did not.

There is, however, another provision of the Constitution which merits consideration in this connection. Article IV, section 4, provides:

"The United States shall guarantee to every State in this Union a republican form of government."

Under this provision it is insisted, with some plausibility, that a State government which denies the elective franchise to a majority of the citizens of such State is not "a republican form of government." But your committee are not satisfied

that this proposition can be maintained. In construing the Constitution we are compelled to give it such interpretation as will secure the result which was intended to be accomplished by those who framed it and the people who adopted it. The Constitution, like a contract between private parties, must be read in the light of the circumstances which surrounded those who made it. The history of the colonies, the history of the Confederation, and the circumstances under which the Constitution itself was framed and adopted, must all be taken into account; and then we must ascertain by reading the whole instrument together the sense in which particular provisions and phrases were employed. If any State government which to-day excludes from suffrage a majority of its citizens is not in form a republican government, then a State government which did the same thing at the time the Constitution was adopted was not in form a republican government. The exclusion of all female citizens from the suffrage cannot impair the republican form of an existing State government, unless the same thing worked the same result upon the State governments in existence when the Constitution of the United States was adopted.

It was assumed on all hands that the governments of the thirteen States which framed and adopted the Constitution were in form republican; and this provision was intended to keep them so, and make it impossible for any State to change its government into a monarchy. The construction of this provision now contended for would have made it the duty of the Government of the Union, during the first year of its existence, to enter upon the reconstruction or remodeling the governments of the States by which the Union itself had been spoken into existence. In view of the history of those times, it cannot be maintained that the States or the people intended to confer such a power upon the Government of the Union; and no one can doubt that such an attempt on the part of the Union, in regard to the thirteen States, would have been condemned by the unanimous voice and resisted by the united force of the people. If such a power did not then exist under the Constitution of the United States, it does not now exist under this provision of the Constitution which has not been amended. A construction which should give the phrase "a republican form of government" a meaning differing from the sense in which it was understood and employed by the people when they adopted the Constitution, would be as unconstitutional as a departure from the plain and express language of the Constitution in any other particular. This is the rule of interpretation adopted by all commentators on the Constitution, and in all judicial expositions of that instrument; and your committee are satisfied of the entire soundness of this principle. A change in the popular use of any word employed in the Constitution cannot retroact upon the Constitution, either to enlarge or limit its provisions.

There is another provision of the Constitution which is generally referred to in this connection, but which, in the opinion of your committee, has no application to the subject. Article 4, section 2, provides:

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

It has been much discussed whether the right to vote and hold office in a State was within the privileges and immunities protected by the provision above quoted. But it is unnecessary to consider that question here, because, even if the right to vote and hold office be considered as embraced within this provision, still it was in the power of the State to which a citizen might remove to determine what class of citizens should or should not vote or hold office in such State; and the citizen removing to such State was only entitled to the privileges and immunities possessed by the class of citizens to which such removing citizen belonged under the constitution and laws of the State to which he had removed.

We come now to consider the fourteenth and fifteenth amendments to the Constitution, under which, also, the right of female suffrage is claimed. The fourteenth amendment, so far as applicable to this subject, is as follows:

"All persons born and naturalized in the United States, &c., are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

The second section of this amendment provides that—

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the *right to vote* at any election, &c., is denied to any of *the male inhabitants* being twenty-one years of age, &c., the basis of representation therein shall be reduced in the proportion which the number of such *male citizens* shall bear to the whole number of *male citizens* twenty-one years of age in such State."

It is evident from the second section of this amendment above quoted that the States are considered to possess the power of excluding a portion of their male citizens from the right to vote upon grounds or reasons to be determined by themselves; because this section determines that, in case the State shall exercise this right so as to exclude citizens of the United States, except for commission of crime, the basis of representation for such State shall be correspondingly reduced.

And the Supreme Court of the United States, in the case of Minors. Happersett, has settled the same question.

Upon this question the Chief-Justice leaves no room to doubt as to what is the opinion of the court. He says that at the adoption of the constitution every State, except Rhode Island,* had a constitution of its own, in no one of which were all its citizens permitted to vote. Each State determined for itself who should vote, and in this state of the laws there can be no doubt if it had been intended by the framers of the Constitution to make all citizens voters that the instrument would have said so, and not left it for implication. That such was not the intention is to be found in the provision that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States, and if suffrage is a part of citizenship, then the citizens of each State, while retaining their original citizenship, may vote in any State—a claim not yet set up.

Another reason for believing that it was never intended that suffrage and citizenship should be coextensive is found in the fourteenth amendment itself; where, after providing that Representatives in Congress shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, (excluding Indians not taxed,) the amendment declares that "when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation shall be reduced in the proportion which the number of male citizens shall bear to the whole number of male citizens twenty-one years of age in such State." The Chief-Justice adds:

Why this, if it was not in the power of the Legislature to deny the right of suffrage to some male inhabitants? And if suffrage was necessarily one of the absolute rights of citizenship, why confine the operation of the limitation to male inhabitants? Women and children are, as we have seen, "persons." They are counted in the enumeration upon which the apportionment is to be made; but if they were necessarily voters because of their citizenship, unless clearly excluded, why inflict the penalty for the exclusion of males alone? Clearly, no such form of words would have been selected to express the idea here indicated if suffrage was the absolute right of all citizens. And, still again, after the adoption of the fourteenth amendment, it was deemed necessary to adopt a fifteenth, as follows: "The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude." The fourteenth amendment has already provided that no State should make or enforce any law which should abridge the privileges or immunities of citizens of the United States. If suffrage was one of these privileges or immunities, why amend the Constitution to prevent its being denied on account of race, &c.? Nothing is more evident than that the greater must include the less, and if all were already protected, why go through with the form of amending the Constitution to protect a part?

Previously to this, Judge Deady, of the United States district court in Oregon, had arrived at the same decision. He says:

Under the fifteenth amendment of the Constitution, and the act of May 1, 1870, to enforce it, all persons declared citizens of the United States by the fifteenth amendment are entitled to vote in the States where they reside, at all elections by the people, without distinction of race, color, or previous condition of servitude; but the several States, notwithstanding the amendment, have the power to deny the right of suffrage to any citizen of the United States on account of age, sex, PLACE OF BIRTH, vocation, WANT OF PROPERTY or intelligence, neglect of civic duties, crime, or other cause not specified in the amendment.

The senior Senator from Pennsylvania, [Mr. WALLACE,] in a speech at the first session of the Forty-sixth Congress, arguing that the whole matter of the suffrage, except the provisions of the fifteenth amendment, is exclusively of State concern, said:

It is thus settled upon principle and by authority, as well as from the history of our institutions, that the voters under our systems are the people qualified by State laws and constitutions, and that the Federal Government has no voters of its own creation. Suffrage is under State control except in the single case of race, upon which subject the States can make no rule of discrimination. If there be such a thing, then, as a "national election," it wants the first element of an election—a national voter. The Federal Government, or (if it suits our friends on the other side better) the nation, has no voters; it cannot create them, it cannot qualify them. The depositary of absolute sovereignty and power is in the people, the people of the States, *qualified as electors by State constitutions and State laws*; and all authority of every kind comes from them by representation, and this vital principle of democracy permeates every part of the Government.

National power over the voter as such, or national elections as such, are new forms of old federal theories. In the laws we propose to repeal, and in kindred enactments in 1870 and 1871, the revamped doctrines of the federalism of 1798 first finds statutory existence. The universal practice of the Government since 1801 has been against any such theory as is found in these statutes. National electors would require national citizenship for qualification. How absurd a theory, that a man may be a citizen of the State and not of the United States and yet be a national voter. Yet I propose to show that such would be the legitimate result of this teaching as to national elections. This subject is rightly and absolutely controlled by State law and State constitutions in almost every State. There are no national voters. Voters who vote for national Representatives are qualified by State constitutions and State laws, and national citizenship is not required of a voter of the State by any provision of the Federal Constitution nor in practice. Under the constitutions of Kansas, Nebraska, and Colorado an unnaturalized foreigner who has declared his intention to become a citizen may vote for members of Congress and State officers if he has resided six months in the State, and in Indiana, Minnesota, Oregon, and Wisconsin after a residence of twelve months, while in Massachusetts* he must have resided in the State two years after he has been naturalized. Does the new gospel as to control of elections by *national* authority contemplate making the rule of seven years' residence, required by Massachusetts, or that of six months, required by Kansas, the test of qualification as a "national" voter for a foreign-born citizen? Which is the doctrine? Is it that of Massachusetts or that of Kansas? The foreign-born citizen declaring his intention, after six months' residence in Kansas, is a voter, and may vote for a member of Congress and governor of the State, while in Massachusetts he must carry a parchment certifying that he is a citizen of the United States and must have resided two years in Massachusetts. The whole difference is the difference between seven years in one State and six months in another as applied to foreign-born citizens.

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A naturalized foreigner can vote in California after a residence of six months; Connecticut, after a residence of one year and able to read any article of the constitution or any section of the statutes of the State; Delaware, after one year's residence and having paid taxes; Illinois, after one year's residence; Iowa, six months' residence; Kentucky, two years' residence; Louisiana, one year's residence; Maine, three months; Maryland, one year; Michigan, three months; Mississippi, six months' residence; Nevada, six months; New Hampshire and New Jersey, one year; North Carolina, one year; Ohio, one year; South Carolina, one year; Tennessee, one year; Vermont and Virginia, one year; and West Virginia, one year in the State. The same residence is required in those twenty-one States of the native-born citizens.

In these States residence is superadded by State authority as a qualification to voting for all officers, State as well as Federal. In Massachusetts two years, in Pennsylvania thirty days, and in New York ten days are added by State authority to the qualification of five years; and in Rhode Island ownership of real estate must be in the naturalized foreigner before he is a voter.

Are all these distinctions, are all the restrictions imposed by State authority and State constitutions as to residence, naturalization, qualification, registration, age, tax, and property to be obliterated in this effort for the "universality of the security of equal suffrage" in this renewed and earnest effort for a consolidated government?

It has been argued that the right to restrict the suffrage by a landed qualification might allow the practical denial of the right by exaggerating the value of the qualification, and it is asked, triumphantly, why may not the same power that limits the qualification to $134 extend it to $10,000, which would be less in purchasing power than the ancient qualification for governor, lieutenant-governor, or privy coun-

*The colonial charter of Connecticut was not superseded by a constitution till 1818.

*This requirement has been repealed by an amendment to the constitution of the State.

cilor of South Carolina? This could only be done by the people, who would not be likely thus to disfranchise themselves, however they might have the sovereign right to do so. But the argument drawn from the liability of abusing the restriction is an argument against any qualification for voting. What is to prevent the people from forming a constitution that shall limit the suffrage to men of seventy years of age? Therefore should there be no limitation of age? What is to prevent them from limiting it to men who have resided fifty years in the State? Therefore should there be no qualification of residence? What is to prevent the Legislature from assessing a tax of 50 per cent. upon property? Therefore should it not have the power of taxation? What is to prevent the Legislature from making Sabbath-breaking and profane swearing capital crimes? Therefore should it not have the power to define crimes, and to affix the punishment of them? No power can be wholly protected from abuse, but power must be granted for the purposes of government, and the supervision of the people over their servants, to whom they delegate it, must be relied upon to restrain it within reasonable limits, and to prevent any exercise of that power for extravagant purposes.

MODE OF AMENDMENT.

During the investigation of the committee appointed by the Senate to inquire into alleged frauds in the late elections, and which, in Rhode Island, took the form of an inquiry into the provisions of our State constitution, in matters pertaining exclusively to the State; in other words, into the right of the people of Rhode Island to manage their own affairs in their own way, much stress was laid by witnesses summoned to give eager testimony against the State in which they lived, and the laws whose protection they enjoyed; laws which were enacted by the people and to which the people have adhered, with patriotic persistency, upon the conservative mode of amending our constitution, and which was held up as anti-republican. The mode prescribed is the passage of a resolution proposing amendments by a majority of all the members elected to each house of two successive Legislatures, and the ratification by a vote of three-fifths of the people voting upon it.

Without going into a defense of the reasonableness of this mode of amendment, which assumes that something more than a mere majority, which may be accidental, may be fairly required in so grave a matter as a change of the fundamental law; without dwelling upon the evident argument that those who abstain from voting may be fairly counted as content with the existing constitution, and not favorable to a change, it is quite enough to compare our mode of amendment with the modes of other States, the republican form of whose government is not disputed, and with the mode prescribed in the Federal Constitution itself, that guarantees a republican form of government to all the States.

In the initiation of amendment Rhode Island is more liberal than most of the States. She requires only a majority of the members elected to two successive Legislatures to propose amendments for the consideration of the people. Alabama, Colorado, Florida, Georgia, Illinois, Kansas, Louisiana, Maine, Massachusetts, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, Texas, and West Virginia require the assent of two-thirds of their Legislatures, some of them the assent of two-thirds of two successive Legislatures, to the adoption of a proposition for submitting amendments to the people. Maryland requires the assent of three-fifths of all the members elected to each house of the Legislature. Nevada requires two-thirds of all the members elected to each house to call a convention for the revision of the constitution, and the approval of a majority of the people, not merely of those voting upon it, but a majority equal to the majority given for any candidate, or upon any question voted upon at the election. Massachusetts, in the original instrument which was in force at the adoption of the Federal Constitution when the guarantee of the republican form of government was made, required the assent of two-thirds of the people, given in town meeting, to a revisal of the constitution. She now requires the assent of a majority of the senate and two-thirds of the house to propose amendments for the ratification of the people. Delaware requires two-thirds of each house of the Legislature and the approval of the governor and three-quarters of each house of the next Legislature to amend the constitution, and does not require the submission of the amendment to the people. Vermont requires two-thirds of each house and a majority of each house in the next Legislature to propose amendments, and limits the right of proposing to once in ten years. New Hampshire requires the sense of the people to be taken once in seven years on the question of amending or revising the constitution, and that a vote of two-thirds of the people shall be necessary to the ratification of amendments.

The constitution of Indiana requires propositions of amendment to pass two successive Legislatures by a majority of the members elected to each house, then to be submitted "to the electors of the State, and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this constitution." Yet, by a judicial decision, certain amendments that were submitted to the electors, under this provision, and ratified by an immense majority of the popular vote, were declared invalid, on the ground that they had failed to receive a majority of the whole number of votes given for any candidate, or on any question voted upon, at the same election. This decision practically makes the constitution of Indiana perpetual, for such is the character of our people that a proposition to change the fundamental law hardly ever brings out as large a vote as an election of officers, and if more than one amendment be submitted at the same time, only that on which the largest vote was given on both sides would be likely to receive a majority of all the votes cast. This decision appears to me, and I think to everybody else outside of those for whose partisan benefit it was made, as atrociously absurd. Yet it concerns the people of Indiana alone, and any criticism upon it here would be impertinent. It is none of my business, no more than the questions of the internal government of Rhode Island were the business of the committee which, under the chairmanship of the Senator from Pennsylvnia, assumed to inquire into, in the summer of 1879.

Without conceding the right of Congress to take cognizance of the matter, I submit that the provisions of constitutional amendment are more liberal in Rhode Island than in a majority of the States, and far more liberal than in some of them. The requirement of two-thirds of the Legislature to submit propositions of amendment is a greater impediment to change than the requirement of three-fifths of the popular vote to their ratification; and, when we consider the unequal representation of many of the States, in their Legislatures, gives a far greater negative power to the minority. But look at the mode of amendment provided in the Federal Constitution. Two-thirds of each House of Congress and the assent of three-fourths of the States are necessary to the ratification of amendments to that instrument, or the application of two-thirds of the States to call a convention for proposing amendments and the like assent of three-fourths of the States. One more than a quarter, in number, of the smaller States can prevent any amendment. One more than a third can prevent even the proposition of amendment.

The population of the thirty-seven States, by the census of 1870, was 38,015,641. An amendment to the Constitution might be proposed by the unanimous vote of both Houses of Congress and receive the ratification of twenty-seven States, including a population of 35,877,062, and be defeated by the votes of the following States, whose aggregate population is 2,238,579:

| | |
|---|---|
| Nevada | 42,491 |
| Oregon | 90,923 |
| Nebraska | 122,993 |
| Delaware | 125,015 |
| Florida | 187,748 |
| Rhode Island | 217,353 |
| Vermont | 330,551 |
| New Hampshire | 318,300 |
| Kansas | 364,399 |
| Minnesota | 439,706 |
| Total | 2,238,679 |

If this be republican, in the judgment of the objectors to republican form of government in Rhode Island, I do not see how they can call even the Federal Constitution republican.

The administration of the power of amendment in Rhode Island has been most liberal. No less than eight times has the General Assembly, by large votes in both houses, often approaching to unanimity, submitted propositions of amendment. Those proposing the enlargement of the suffrage have been uniformly voted down, both political parties swelling the majorities against them. An effort was made to show before the committee that these propositions have sometimes been submitted in bad faith, that whig and republican members of the General Assembly voted for the submission to appease popular clamor, and then opposed them at the polls. The effort to prove this utterly failed. The testimony of the members of the General Assemby who voted to submit the amendments shows that they supported them at the election. But even if it was so, it would be only a proof of the liberality of the Government. A man may consistently vote to submit to the judgment of the people propositions that he does not approve. He votes to consult the popular will, content to abide by its verdict, and to live under such institutions as a constitutional majority of his fellow-citizens may choose. It does not follow that his own judgment approves of the decision of the majority, but only that he will not set it up against such decision. He votes to ask the people, whose elected servant he is, if they desire a change. As one of the people, he votes against it, and so far from being discreditable, this is an evidence of his respect for the will of the people. Had this point been sustained—as it clearly was not—it would have been an evidence of the elasticity and liberality of our constitution. And whether the amendment was put out in good faith or not, if the people had desired it, they could have adopted it.

THE RESTRICTION ON THE SUFFRAGE IN RHODE ISLAND NOT A PARTY MEASURE.

I have said that the propositions for enlarging the suffrage were voted down by both parties. They found supporters in both parties; but at no time anything like the entire strength of either. Had they received from the democratic party anything like the support that it gave to its candidates they would have prevailed. The first proposition to revise the constitution by a convention was voted down by nearly a two-thirds vote, although the State was then democratic; the next attempt—the State still democratic—was voted down by more than two to one. The last two attempts were made in 1871, at a special election, and in 1876, at a presidential election. It is to be observed that equal complaint has been made of the submission of the amendments, at a special and at a general election; that at

the first there was nothing to call out the popular vote, and that at the second the popular mind was so much occupied with the immediate question of the day, that it had not the leisure to dwell upon the grave question of changes in the fundamental law. In 1871 the proposition for a general enlargement of the suffrage was voted down by more than two to one; and received but little more than half the votes that were given to the democratic candidates at the preceding election in April. At that election Gloucester, the democratic Gibraltar of the State—more than the Gibraltar, for it has never been captured—gave 40 votes for the amendment, and the following year it gave 171 for the democratic candidate for President; Cranston gave 70 for the amendment, 158 for the democratic ticket; New Shoreham, none for the amendment, not a vote, 24 for the democratic ticket; Exeter, not one for the amendment, 27 for the democratic ticket; Hopkinton, 6 for the amendment, 92 for the democratic ticket; Warwick, 49 for the amendment, 208 for the democratic ticket. This is the way in which the democratic party in Rhode Island vote for opening the suffrage, unrestricted, to all the citizens of the State. In 1876 the proposition was only to admit to the right of suffrage, without the landed qualification, citizens of foreign birth who had served in the war. The republican constituencies of Providence, Newport, Pawtucket, Woonsocket, (the largest in the State,) and the republican towns of Bristol, Warren, and Smithfield, embracing together more than half the population, gave majorities for the amendment. At that election, which was held on the day of the presidential vote, Gloucester gave 211 votes for Tilden and 20 for the amendment; West Greenwich, generally a democratic town, although at that election it gave a republican majority, returned 16 votes for the amendment, 46 for Tilden; Tiverton gave 2 votes for the amendment and 80 votes for Tilden; Exeter gave 6 for the amendment, 46 for Tilden. I think that at that trial the republican votes for the amendment were about equal to the democratic. It is certain that if the democrats had given it a unanimous or even a general support it would have prevailed.

It is not a republican doctrine or a democratic doctrine; it is a Rhode Island doctrine; a doctrine with which the people of all parties are deeply interested, and to which they are sincerely attached. It arises from the peculiar character of our population, which is singularly deficient in that class where experience proves that political power is most safely deposited, the agricultural class. A limited territory and an ungrateful soil restricts our farming population; the restless activity, the aggressive enterprise, and the ingenuity of the people have diversified our industry, and attracted a large manufacturing and mechanical population, much of it transient in its residence, and with less of local attachments than the natives of the soil. We believe that if we had the suffrage of New York City we should have the government of New York City; worse, that we should have such a government as that city would have if freed from the restraint of the rural population. At any rate the suffrage suits us, and it is no concern of outsiders.

RESTRICTIONS ON FOREIGN SUFFRAGE IN OTHER STATES.

Nor is ours the only State that discriminates against people of foreign birth.

Besides, the discrimination in the constitutions of New York, of Pennsylvania, and of Michigan, which, although lesser in amount, are the same in character, the State of California discriminates against a whole race, refusing them the hospitality of its shores; and this the race that inherits the oldest civilization extant, the subjects of that Emperor whose representatives were received in this Chamber with highest honors, whom your predecessor descended from the chair to welcome, and as a mark of respect to whom the Senate took a recess.

The people of California have lately voted against permitting the continuance of Chinese immigration, and have voted against it with a preponderance greater than that of some of the democratic towns in Rhode Island that I have quoted against free suffrage; no, not greater, for out of the 155,521 voters of California, 883 declared for the Chinese. But in two of the towns in Rhode Island not a vote was given for the extension of the elective franchise. I received, as we all did at the time of its date, the following communication from the governor of California:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT.

SIR: The Legislature of this State, assuming that it was desirable that the wishes of the people of the State, upon the subject of Chinese immigration, should be unmistakably expressed, passed an act, approved December 21, 1877, entitled "An act to ascertain and express the will of the people of the State of California on the subject of Chinese immigration." This act provided for the submission to the electors of the State, at the next general election, the question of the continuance or prohibiton of Chinese immigration. It provided that such electors as should desire the continuance of Chinese immigration might express such desire by placing on their ballots the words "For Chinese immigration;" and that such electors as should desire the prohibition of Chinese immigration might place on their ballots the words "Against Chinese immigration."

This question was submitted to the voters of the State, in pursuance of the act above mentioned, at the general election held on the 3d day of September, 1879. At said general election there were chosen all State and county officers and members of the United States House of Representatives. The total vote cast at such election was 161,405 votes, which is several thousand more than the votes cast at any previous election in the State. It is probable, therefore, that the vote was as nearly full as it would be possible, under any circumstances, to secure. The vote was:

| | |
|---|---|
| For Chinese immigration | 883 |
| Against Chinese immigration | 154,638 |
| Voters who did not express any wish on the subject | 5,884 |

The conclusion from this vote is unavoidable, to wit: that the citizens of the State are substantially unanimous against the continuance of Chinese immigration.

The act above referred to further provides that the governor shall, after the vote on the question of Chinese immigration shall have been taken, make a statement of the question submitted to the electors and of the vote thereon, and forward copies of such statement, properly certified, to the President and Vice-President of the United States, to each Cabinet minister, Senator, Member of the House of Representatives, and to the governor of each State and Territory.

Now, for your information as to the actual sentiment of the citizens of this State touching the question of the continuance of Chinese immigration, and in pursuance of law, I have the honor to transmit to you the foregoing statement.

Very respectfully,

WILLIAM IRWIN,
*Governor.*

THE LARGE FOREIGN IMMIGRATION IN RHODE ISLAND.

A political system is to be judged mainly by its results. If it works well upon those to whom it is applied, this is the strongest argument in its favor. It was attempted to be shown, before the committee, at Providence, that the restriction upon the foreign suffrage discouraged immigration. All the arguments, all the speculations, all the opinions to this effect are dissipated by the invincible arithmetic of the census. Under our suffrage laws the foreign-born population of the State has increased in a greater ratio than in any other of the "Old Thirteen," being 25.5 per cent. of the total number. New York exceeds it in this respect nominally by one-half of 1 per cent., the ratio in that State being 26 per cent. But New York contains the great port of immigration, and there are always present in that State thousands of immigrants, newly arrived, and only temporarily resident. Of the permanently resident, Rhode Island undoubtedly has a greater proportion than New York, and no other State equals it, even nominally. The following table furnishes the actual and relative number of persons of foreign birth in each of the Old Thirteen for the three last censuses. Previously to 1850 no account was taken of the nativity of the population in the enumeration of the census. I take the figures of the ninth census, as the returns of the census just concluded are not accessible:

| States. | 1870. | | | 1861. | | | 1850. | | |
|---|---|---|---|---|---|---|---|---|---|
| | Total population. | Foreign-born. | | Total population. | Foreign-born. | | Total population. | Foreign-born. | |
| | | Absolute. | Per cent. | | Absolute. | Per cent. | | Absolute. | Per cent. |
| Connecticut | 537,454 | 113,639 | 21.1 | 460,147 | 80,696 | 17.5 | 370,792 | 38,518 | 10.4 |
| Delaware | 125,015 | 9,136 | 7.3 | 112,216 | 9,165 | 8.2 | 91,532 | 5,253 | 5.7 |
| Georgia | 1,184,109 | 11,127 | .9 | 1,057,286 | 11,671 | 1.1 | 906,185 | 6,488 | .7 |
| Maryland | 780,894 | 83,412 | 10.7 | 687,049 | 77,529 | 11.3 | 583,034 | 51,209 | 8.8 |
| Massachusetts | 1,457,351 | 353,319 | 24.2 | 1,231,066 | 260,106 | 21 | 994,514 | 164,024 | 16.5 |
| New Hampshire | 318,300 | 29,611 | 9.3 | 326,073 | 20,938 | 6.4 | 317,976 | 14,265 | 4.5 |
| New Jersey | 906,096 | 188,943 | 20.9 | 672,035 | 122,790 | 18.3 | 489,555 | 59,948 | 12.2 |
| New York | 4,382,759 | 1,138,353 | 26 | 3,880,735 | 1,001,280 | 25.8 | 3,097,394 | 655,929 | 21.2 |
| North Carolina | 1,071,361 | 3,029 | .3 | 992,622 | 3,298 | .3 | 869,039 | 2,581 | .3 |
| Pennsylvania | 3,521,951 | 545,309 | 15.5 | 2,906,215 | 430,505 | 14.8 | 2,311,786 | 303,417 | 13.1 |
| Rhode Island | 217,353 | 55,396 | 25.5 | 174,620 | 37,394 | 21.4 | 147,545 | 23,902 | 16.2 |
| South Carolina | 705,606 | 8,074 | 1.1 | 703,708 | 9,986 | 1.4 | 668,507 | 8,707 | 1.3 |
| Virginia and West Virginia | 1,667,177 | 30,845 | 1.9 | 1,596,318 | 35,058 | 2.2 | 1,421,661 | 23,985 | 1.6 |
| | 16,875,426 | 2,570,193 | 15.2 | 14,800,090 | 2,100,416 | 14.2 | 12,269,520 | 1,357,220 | 11.1 |

Without drawing invidious comparisons with other States, it is enough to say that the foreign-born population of Rhode Island is unsurpassed by that of any other State in intelligence, in industry, in thrift, and in respectability. More than five thousand of them, males above the age of twenty-one years, are the holders of landed estates; and the possession of land is a most respectable thing in any man. The man who has bought a lot of land has acquired the habits of frugality. He casts about him for the means to erect upon it a

home for himself and family. He sends his children to school; he improves himself and them, and sets an example to his fellow-citizens, which raises them as well as himself in the scale of respectability. Nor has there been any prejudice against electing foreign-born citizens to high trusts of honor and profit. They have been chosen to both houses of our General Assembly, to Congress, and to the general offices of the State. Our present secretary of State, eleven times successfully elected, is of foreign birth.

The deposits in the savings banks are regarded as a good criterion of the thrift and prosperity of the laboring classes of a community. In Rhode Island these deposits are largely held by the foreign-born citizens, who form a great part of our laboring population. These deposits in several of the most prosperous States are as follows:

| | |
|---|---|
| In New York the average deposit to population is | $65 15 |
| In Massachusetts the average deposit to population is | 128 95 |
| In Connecticut the average deposit to population is | 134 35 |
| In Rhode Island the average deposit to population is | 203 40 |

THE LIMITATION ON THE SUFFRAGE IN RHODE ISLAND DOES NOT PRACTICALLY AFFECT HER REPRESENTATION IN CONGRESS.

I think I have shown that neither the limitation upon the suffrage nor the mode of amendment provided in the constitution takes from Rhode Island the claim to a republican form of government, which the Federal Constitution guarantees to every State. Equally unfounded is the objection that our limitation upon the suffrage endangers our representation in the House of Representatives. The fourteenth amendment to the Constitution of the United States provides that if the right to vote is denied to any of the male inhabitants of a State twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State. This undoubtedly reduces our representation in the proportion which the naturalized citizens disqualified by reason of the freehold requirement bears to the whole number of our male population of the requisite age. The number of naturalized citizens thus disqualified, as ascertained by the census, is a little over two thousand; and counting these against us, *and not counting various other disqualifications which should equally reduce the representation in other States*, the population of Rhode Island was found to be still sufficient to entitle us to a second Representative.

*Number of male citizens of the United States residing in the State of Rhode Island June 1, 1870, who were reported in the United States census returns as "of twenty-one years of age and upward, whose right to vote is denied or abridged on other grounds than rebellion or other crime."*

| | | |
|---|---|---|
| Bristol County: | | |
| Barrington | 1 | |
| Bristol | 63 | |
| Warren | 2 | |
| | | 66 |
| Kent County: | | |
| Coventry | 64 | |
| East Greenwich | 2 | |
| Warwick | 29 | |
| West Greenwich | 9 | |
| | | 104 |
| Newport County: | | |
| Jamestown | 6 | |
| Little Compton | 15 | |
| Middletown | 2 | |
| Newport | 30 | |
| New Shoreham | | |
| Portsmouth | 11 | |
| Tiverton | 101 | |
| | | 165 |
| Providence County: | | |
| Burrillville | 12 | |
| Cranston | 31 | |
| Cumberland | 21 | |
| East Providence | 84 | |
| Foster | 12 | |
| Gloucester | 11 | |
| Johnston | 15 | |
| North Providence | 60 | |
| Pawtucket | 9 | |
| Providence | 1,157 | |
| Scituate | 7 | |
| Smithfield | 47 | |
| Woonsocket | 105 | |
| | | 1,571 |
| Washington County: | | |
| Charlestown | 1 | |
| Exeter | 5 | |
| Hopkinton | 32 | |
| North Kingstown | 10 | |
| Richmond | 50 | |
| South Kingstown | 43 | |
| Westerly | 13 | |
| | | 154 |
| Total for the State | | 2,060 |

**Almost or quite every State disqualifies citizens under this provision of the Federal Constitution. The requirement of the payment of a tax, of residence, of the ability to read and write, all deny or abridge the right to vote, for other reason than participation in the rebellion or other crime; and the number of citizens disqualified by these requirements must be deducted from the number of citizens of full age, in making the apportionment for the States in which these disqualifications prevail. Certainly if the representation of Rhode Island be reduced, at the next apportionment, in consequence of the limitations upon the suffrage in that State, a similar reduction must apply to Delaware, Pennsylvania, Tennessee, Massachusetts, New Hampshire, Georgia, and Virginia, which require the payment of a tax as a qualification for suffrage; to Vermont, which requires the voter to take a freeman's oath that he will cast his vote with a regard to the best interests of the State; to Massachusetts, which requires the ability to read and write; to Connecticut, which requires the ability to read, and that the voter shall be of good moral character. In estimating the representative ratio of these States, the number failing to fulfill these conditions must be deducted.**

Again, the qualification of residence differs largely in the several States. In most of them it is one year, but in Iowa, Nebraska, Kansas, and Nevada, it is six months; in Kentucky it is two years; in Maine it is three months; in Minnesota it is four months. Michigan discriminates largely against citizens of foreign birth. The residence qualification in that State is three months for native citizens and two years and six months for foreigners, who have declared their intention to be naturalized. Pennsylvania discriminates not only against citizens born out of the country, but against citizens of the United States born out of Pennsylvania. The residence qualification for suffrage in Pennsylvania is one year, except for citizens of foreign birth, who must have been citizens of the United States for at least one month, and six months for natives of the State who have removed from it and returned.

Now, how shall all these differences be marshaled, so as to ascertain a standard by which to fix the suffrage, a standard of departure from which to estimate the disqualification? To require any term of residence is to abridge the right of suffrage; but if all the States required the same term the question would be easy of solution. Shall we take the standard of Maine, which is three months, and reckon, as an abridgment of the right of suffrage, all those who have resided three months in Kentucky, but are denied the right because they have not resided there two years? And shall we, in the States that require one year's residence, thus reckon those that have a residence of three months, but who lack the full term of one year? Shall we likewise reckon in Pennsylvania the naturalized citizens, otherwise qualified, who lack the requirement of thirty days' citizenship, and in New York those that lack ten days, and in Michigan those that lack that of two years and six months?

And shall we take the standard of that State, (Michigan,) which permits civilized Indians, natives of the United States, to vote, and take account of all persons of this class who are excluded from the suffrage in other States, and cut down the representative ratio accordingly? It will be readily seen that it is quite impossible to carry out this provision in all the States. And, if it cannot be carried out in all, it is manifestly unequal and unjust to apply it to one.

The law for taking the ninth census, the returns of which I have quoted, made no provision for taking the enumeration of the persons thus disfranchised. A constitutional provision does not generally execute itself; it requires the aid of an act of Congress or of the Executive. The very imperfect enumeration of these classes of citizens was undertaken, without the requirements of the law, which made no provision for it, and only because the Constitution seemed to require what the law had failed to prescribe the mode of doing.

The Superintendent of the Census and the Secretary of the Interior furnish official testimony to the worthlessness of the returns for the purpose of the fourteenth amendment. The Superintendent of the Census says in his report:

To schedule No. 1 two inquiries were added (Nos. 19 and 20) in compliance with what was believed to be the requirements of the fourteenth amendment to the Constitution. The first was intended to obtain the number of male citizens of the United States in each State of twenty-one years and upward. The second, to obtain the number of such citizens whose right to vote is denied or abridged on other grounds than rebellion or other crime. No anticipations were entertained that the results of these inquiries would be of value for the purpose for which directly they were introduced into the schedule, but it was believed that, in the absence of any legislative provision for determining these two classes of the population, in order to carry out the requirements of the fourteenth amendment, the Department would not be clear if it neglected to make the attempt, it being the only executive organ through which, without such special provision, the information could be obtained, and the present being the only time in ten years when the attempt could be made.

The census is not the proper agency for such an inquiry. The questions of citizenship and of the denial of suffrage to rightful citizens are mixed questions of law and fact, which an assistant marshal is not competent to decide. No particular value is attached to the results of these questions, so far as the original object is concerned, but incidentally it is believed information of value has been obtained. The count thus required of the total number of male citizens above twenty-one in each State, and in the United States, while it perhaps has not authority enough to be used in reducing the representative rights of a sovereign State, has yet been carefully made, and is believed to be as exact as most statistical results. The information is of a kind never before obtained in the country and has certainly an important bearing upon political philosophy and political history in the United States.

And the Secretary of the Interior fully indorses this in a communication to the House of Representatives, in which he says:

It is necessary to state, in transmitting these tables, that the Department is disposed to give but little credit to the returns made by assistant marshals in regard to the denial or abridgment of suffrage. The unfavorable judgment of the Department in respect to this single class of statistics is formed, first, from the application of certain statistical tests, and, second, from a consideration of the agencies employed, which are not deemed adequate to the determination of the numerous questions of difficulty and nicety which are involved.

DISQUALIFICATION OF CITIZENS.

Any reduction of our representation, in consequence of our peculiar

suffrage, must equally apply to the States which require the payment of a tax as a qualification for voting, or exceptional length of residence, or education, or a good moral character. I should like to see the enumerator taking the census of the persons disqualified by that requirement. A distinguished citizen of Massachusetts has declared that the tax and educational qualifications in that State disfranchised a hundred thousand of its inhabitants, fifty times as many as the census returns render as disqualified by the real-estate qualification in Rhode Island. This gentleman estimates that, by the enforcement of the fourteenth amendment, the representation of Massachusetts would be reduced from eleven to eight. What reduction the strict application of the fourteenth amendment might make in the representation of other States, it would be difficult to calculate. It was estimated, in the debate on the last apportionment, that it would reduce the representation of two great States about one-half. On this point the late Mr. Kerr, afterward Speaker of the House of Representatives, said, (Congressional Globe, second session, Forty-second Congress, page 106:)

The fourteenth amendment was declared ratified on the 16th of June, 1866. Negro suffrage did not then exist in the States. It was denied by the States of the South. It became the policy of the Republican party and of Congress to require its adoption. The party and Congress hesitated at first to propose to enforce it directly. Hence the resort to the indirect mode contained in the section under consideration. It is punitive in its character and object. It practically said to the States, "Grant negro suffrage, or your representation here shall be reduced." It was the application of a sort of force to the States to compel them to accept the views of Congress. It was then never pretended by any one, in or out of Congress, that this section was intended to affect any States except such as might deny suffrage to some classes of its citizens on some ground of race, color, nationality, or other quality which inheres in and constitutes a part of the identity or individuality of the voter, on some ground which was a part of the man, was permanent and fixed in his person, in contradistinction from a mere regulation concerning the exercise of the right, such as previous residence, or registration, or the payment of taxes. Such is the history of its enactment.

It is proper further to appeal to contemporaneous construction in order to explain the doubtful or ambiguous language used in this section. It will thus appear that, after June 16, 1866, and long before the ratification of the fifteenth amendment, several States of the South were reorganized; new constitutions were formed by them; and those constitutions were submitted to the Congress of the United States for its ratification or approval. Those constitutions involved many provisions which, under the construction to-day put upon the second section of the fourteenth amendment, are in direct conflict with it. Notably, the constitution of the State of Georgia requires that electors, before they shall be allowed to vote, shall not only be registered, but shall have paid a certain tax. Other constitutions of the Southern States contain somewhat similar but not quite the same provisions. Those constitutions so framed and adopted by those people have been approved by Congress; they have been by you in this House solemnly adjudged to be not only "republican in form," but also in entire harmony with the Constitution of the United States, including the fourteenth amendment. It was never suggested by way of objection to any of them that their ratio of representation in this body ought to be reduced because they required the citizen to reside a certain length of time in the State before voting, or to go and have himself registered or lose his vote, or to pay a small poll-tax or be denied his vote. It was never intimated against them that such regulations of suffrage by any such States amounted to a denial or abridgment of the rights of suffrage for other causes than participation in rebellion, or for other crime.

On the 30th day of March, 1870, after nearly all of these constitutions had been framed, the fifteenth amendment was declared to have been ratified by three-fourths of the States of the Union. Why was the fifteenth amendment proposed to the States at all? I submit, Mr. Chairman, that the entire and single object of the fifteenth amendment was to accomplish by more direct, effective, and speedy means the very end proposed to be accomplished under the second section of the fourteenth amendment. The only difference is that under the second section of the fourteenth amendment it was proposed that by a sort of punitive regulation in the Constitution of the United States the States should be forced to grant suffrage to all their people without any distinctions based upon color or race or nationality, or any other cause or qualities that inhere in and constitute a part of the individuality of the voter. The adoption of this policy was considered to be too slow under the second section of the fourteenth amendment. The States did not receive very kindly the suggestion made in that section. Some of the States were not willing to follow it. They were willing possibly to suffer a reduction in their representation here rather than voluntarily adopt universal suffrage. Hence, the policy conceived and forced upon the country by the republican majority in Congress, of compelling by a fifteenth amendment the giving of suffrage to the negroes, was a practical abandonment of this second section, as ineffective and insufficient to accomplish the establishment of their policy on this subject in the South. Does not this latter amendment, therefore, in legal effect, supersede the second section of the fourteenth amendment?

I have looked in vain through the entire discussions that took place upon the fourteenth amendment to find one single utterance from the mouth of any gentleman on either side of this House which indicates an understanding in his mind at the time that the purpose of this second section was to require the States of this Union to surrender or cease to exercise their constitutional right without any consequent loss of representation here, to regulate the manner in which the suffrage should be enjoyed and exercised by their citizens, or to require that there should be certain previous residence in the State, district, and voting precinct, or that there should be a previous registration of the voters, or a previous payment of a poll-tax by the voter, or *compliance with any other domestic regulation* intended to regulate suffrage, protect the ballot-box, secure the purity of elections, and keep persons from voting who are not *bona fide* residents and citizens. Every State of the South and of the whole country does these things, and no question was ever before raised.

Viewing this section, then, in the light of these contemporaneous acts and constructions and expressions of opinion, intent, and purpose, I hold it to be clear that the sole object of this second section, both in the minds of its framers and in the light of its history and of sound reason, was and ought now to be held to be merely to prohibit the States of this Union from denying suffrage to any class of their citizens on any ground of race, or color, or nationality, or any other quality which inheres in the person and constitutes a part of the individuality of the voter. This construction is consistent with the idea of leaving some powers to the States, and not entirely sponging them out or reducing them to mere slavish dependence on the will of Congress.

When you give to the constitutional provision this construction you make it easy for the Congress of the United States to observe and enforce it. So long as you have reference alone to those limitations upon the right of suffrage which are of the character to which I have referred you find that the determination of the number of electors in each of the States thus deprived of suffrage becomes not only practicable, but easy and simple.

The census takers can then have no trouble in determining how many persons are denied the right of suffrage, and on what grounds—of race, color, nationality, or other cause pertaining to or existing in the persons of the voters. But if you hold, for example, that no State shall require the payment of a poll-tax as a condition-precedent to the exercise of suffrage, and then a State, as it appears now that the States of Georgia and Pennsylvania in fact do, declares that no citizen shall vote until he pays the required tax, and you attempt to determine the numbers of electors whose right is thus denied or abridged, how will you proceed, and what rule will you adopt? Will you say to those States that they shall have no representation here because the right of suffrage of all their citizens is abridged? Or will you attempt to ascertain the actual numbers who do not or cannot pay the required tax, and then reduce the representative rights of those States in Congress in that proportion? Or, take the State of Massachusetts, in which there is an intelligence qualification, and of Rhode Island, in which there is a property qualification required of voters. Will you attempt to ascertain how many voters in those States do not possess the requisite ability to read and write, or own the required amount of property, and then reduce their representation here proportionately?

But the men who cannot read and write to-day may do so a week hence, or at the next election; so the poor man may acquire the requisite property. It appears to me that any attempts of this kind would be most unsatisfactory and unsafe modes by which to settle the representation of a State in this House. But if these forbidden qualifications are limited to such as I have mentioned, the process becomes easy and simple. It must not be inferred that I approve the policy of the States of Massachusetts and Rhode Island in the regulation of suffrage there. I do not, *but I think they retain the power to so regulate it without violation of the second section of the fourteenth amendment.* I think this the better and safer construction of it. If, under this section, no disqualifications are considered as forbidden except such as relate to race, color, nationality, or other quality of the person, then there is no trouble, for these matters are permanent, fixed, and palpable, and easily ascertained. When a State requires of the voter residence, payment of taxes, ownership of some property, or previous registration, it does not absolutely deny or abridge suffrage, but only prescribes a mode by which the elector shall come into the actual enjoyment of it, shall exercise it, and leaves it always in the power of the elector by compliance to attain and exercise it. These regulations are in the nature of police regulations and only touch the manner of enjoyment.

This construction—not free from doubt, I agree—seems to me to be most in harmony with the spirit of the whole Constitution, the particular language in this section, and the rights and dignity of the States. It secures to the States the right to regulate their own domestic policy according to their own judgment.

Mr. Chairman, this construction enables us to proceed at once on the information we now have to make a just and fair apportionment. We need no delay, no further statistics, no angry attack upon any States, no departure from the golden rule of numbers in apportioning Representatives to the several States. It best maintains relations of equality and harmony among them. The statistics sent us from the Census Bureau of the number of persons in each State denied suffrage or abridged in its enjoyment for other reasons than participation in rebellion, or for other crime, are wholly unreliable and in my judgment of no value in this business. They do not inform us what the grounds of denial are in the respective States. They only inform the House that in each State there are certain numbers of persons who are denied the right of suffrage for reasons other than participation in crime or in the rebellion. For example, in my own State of Indiana this report shows six hundred and nine persons are denied the right to vote for other reasons than those named. When I state to gentlemen of this House why those six hundred and nine are denied the right to vote I think they will agree that it was never intended by this amendment that you should deduct those persons from the basis of representation. Those six hundred and nine persons are idiots or insane persons disqualified by the laws of nature.

Are we to be punished in our representation here for the State of Indiana because we do not suffer those insane and idiotic persons to go to the polls and vote? It is equally true, I have no doubt, that a large per cent. of all these denials in all the other States is for these same reasons of idiocy and insanity. And shall it be said that a State shall be denied representation here because it prescribes the qualification of sanity as a basis for a right to vote—because its law recognizes sanity as needful for the safe and proper exercise of the sacred franchise of suffrage? Surely that will not be attempted.

It may be said by gentlemen on the other side that if we concede the right of a State to require the payment of a tax at all it follows logically that a State may require the payment of a tax of any amount it pleases, and thus may make the amount of the tax an engine of oppression and tyranny. In reply I have only to say that from arguments of that kind Congress does not and cannot acquire power. We must get our power from the letter and from the intent and meaning of the Constitution. If a State government attempts an act of that kind, it will become instantly odious in the State itself, and its own people will combine and agitate against it, and require that such legislation shall be reversed, and that the popular rights of the people of the country in the matter of suffrage shall be protected and maintained under all circumstances. But I say that those regulations to which I have referred, including this one, are not intended to deny to any classes the right of suffrage absolutely or unconditionally. It appears to me fair to assume that the effect, the legal and constitutional effect, of the ratification of the fifteenth amendment, as I before said, is to supersede and practically to do away with the second section of the fourteenth amendment; because, under the fifteenth amendment, no State hereafter can do any of those things which would involve a denial of the right of suffrage to classes of its people for reasons based upon color, or race, or nationality, or any qualities that belong to them personally.

The PRESIDING OFFICER, (Mr. WHYTE in the chair.) The morning hour has expired.

Mr. GARLAND. I move that the Senator have leave to conclude.

The PRESIDING OFFICER. The Senator from Arkansas asks that unanimous consent be granted to the Senator from Rhode Island to conclude his remarks. Is there objection? The Chair hears none, and the Senator from Rhode Island will proceed.

Mr. ANTHONY. Mr. President, I agree with Mr. Kerr, that the construction which he puts upon the constitutional provision is "not free from doubt." Nor can any construction, practicable of execution, be put upon it that is free from doubt. It requires the advice of a lawyer, in each individual case, and is a matter far beyond the capacity of an ordinary census enumerator; nor would it be at all practicable to obtain a just and legal enunciation of the disqualification under it. Mr. Kerr's construction is rather an exposition of what the provision should be, or is intended to be, than what it really is. Yet it is the best that seems to be obtainable. We have no reason, therefore, to apprehend that the denial or abridgment of the right of suffrage, in our State, will work against us in the apportionment more than similar denial or abridgment, for other reasons, will work against other States; nor that any reduction will thereby be made in our representation that will not apply in as great or greater degree to most of the other States.

In the course of the debate upon the resolution, which is the foundation of these reports, something was said upon this question of the right of Rhode Island to the representation which she enjoys in the other House of Congress; and Senators representing larger States saw fit to sneer at her for the narrow limits of her territory and the paucity of her population. Her territory is as large as it was when she entered the Union; *entered* it, not admitted into it, by the grace of Congress, as were some of the larger States, whose representatives on this floor have not deemed it in bad taste to make themselves merry at her size; not acquired by purchase, without consulting the population whose allegiance was violently transferred; not wrung, by conquest, from a neighboring power; but entered it, of her own free will, and of her own right, as one of the Old Thirteen, that together achieved the independence of the country, and made us a nation.

EQUAL REPRESENTATION SECURED BY THE CONSTITUTION.

Her equal representation in this body is secured to her by the common Constitution, on which the largest States depend for the definition of their rights and the protection of their liberties. Her representation in the other House is given to her by the law made in pursuance of that Constitution. I do not deem it needful to defend her rights to either. Comparison between States, never decorous in either branch of the Government, are especially inappropriate in this Chamber, where the Senators are the equal representatives of equal States. But the discussion is forced upon us, and we meet it. Claiming nothing for myself, personally, yet as representing, in part, the State of Rhode Island, I deem myself the peer of any Senator, however numerous his constituents, and spread over however many miles of territory, he may have at his back. It has been said that our suffrage includes but 24,000 voters, and that, therefore, we are not entitled to two Representatives in the House. Representation is not based by the Constitution upon voters, but upon numbers, with the restriction of the fourteenth amendment, which, I have already shown, does not cut down our representative population, below the limit that entitles us to a second Representative, not even when the reduction made by this amendment is applied to us, and not to other States, to which it is equally applicable. We are entitled, therefore, to our two Representatives by the strict construction of the Constitution and the law. The ratio of representation is 134,675, and the fraction of Rhode Island, after deducting this number from her representative population, was found to be sufficient to entitle her to a second Representative under the law. Holding one Representative by virtue of a fraction, she is not expected to have the same number of voters as a State that receives two Representatives on a full ratio.

But while I utterly deny the pertinency of the argument adduced against the representation of Rhode Island, I may ask, why is a rule suggested against that State which is not applied to other States? If the representation in the House were based on voters, instead of on population, the political majority would be largly reversed, for the number of persons who voted for the Republican minority in that body exceed the number who voted for the majority by more than two hundred thousand. I have here a list of congressional districts, every one of them democratic, that gave less than ten thousand votes each at the last election of Representatives:

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| Alabama: | |
| First district | 9,516 |
| Third district | 7,075 |
| Fifth district | 9,271 |
| Seventh district | 2,747 |
| Georgia: | |
| Third district | 2,628 |
| Sixth district | 3,192 |
| Eighth district | 3,413 |
| Arkansas: | |
| First district | 8,863 |
| Fourth district | 7,326 |
| Kentucky: | |
| Sixth district | 7,778 |
| Mississippi: | |
| Third district | 4,040 |
| Fourth district | 4,671 |
| Fifth district | 5,413 |
| Virginia: | |
| Third district | 9,959 |
| North Carolina: | |
| Sixth district | 5,166 |
| Seventh district | 8,403 |
| Eighth district | 2,894 |

And the tenth district of Tennessee returned 10,078 votes.

Here are eighteen districts that returned an average of 6,246 votes. Why is it not complained that the States in which these districts are situated are overrepresented? But Senator after Senator, from those States, rose and said that in those districts there was practically no opposition. Does it not occur to them that this may be true in Rhode Island? In the first district of Rhode Island, the more populous, but where the vote was the smaller, there was practically no contest. The vote might have been doubled with a severe contest.

The whole number of voters in Rhode Island is 42,741. The number returned as voting for members of Congress was 18,461. Bristol County, with a voting population of 1,871, returned a vote of 830; Coventry, with a voting population of 901, returned 494; Warwick with 1,775 voters, returned 1,154; Newport, with 2,232, returned 716; Burrillville, with 772, returned 501; Cranston, with 995, returned 395; East Providence, with 812, returned 370; Lincoln, with 1,124, returned 569; Pawtucket, with 2,757, returned 1,471; Scituate, with 882, returned 348; Providence City, with 16,631, returned 5,636; North Kingstown, with 893, returned 460; South Kingstown, with 979, returned 472, and Westerly, with 1,001, returned 495.

The State census of 1875 returns the number of votes at 42,741, of whom 5,364 were of foreign birth. The Senators from the States to which I have referred say that their voters have a right to stay at home and refrain from voting. Have not the voters of Rhode Island an equal right? And in Rhode Island no voter is kept from the polls by violence or intimidation. Can the Senators from those States say the same?

Nor is Rhode Island the only State that receives an additional Representative by virtue of a fraction? Sixteen other States are represented in the same way. They are:

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| Connecticut | 133,429 |
| North Carolina | 128,630 |
| Wisconsin | 111,943 |
| Massachusetts | 110,601 |
| Kentucky | 108,930 |
| Maryland | 107,519 |
| Ohio | 106,423 |
| Illinois | 105,741 |
| Missouri | 105,193 |
| Iowa | 104,399 |
| New Jersey | 98,046 |
| Michigan | 97,459 |
| Kansas | 95,049 |
| Maine | 88,915 |
| Rhode Island | 82,678 |
| Arkansas | 80,440 |
| New York | 73,158 |

The basis was 134,675 representative population.

Additional Representatives were allowed to the following States by the supplemental apportionment act, approved May 30, 1872: Vermont, New York, Pennsylvania, Indiana, Tennessee, Louisiana, Alabama, and Florida.

LIMITATIONS OF THE SUFFRAGE LEFT TO THE STATES.

The limits of the suffrage, within the provisions of the Federal Constitution, are left to the States; they prescribe its bounds and fix its conditions. These conditions vary in the different States, according to the pleasure of each, and so long as they do not violate the Constitution of the United States—as the suffrage of Rhode Island clearly does not—the other States and the General Government have no concern in them. Especially do the qualifications for the suffrage of citizens of foreign birth differ in the different States, as I have already shown. In some, not even naturalization is required, and only a residence of three months. This I regard as a shameful abuse of the right of suffrage; but it is no concern of mine or of any other persons, without the States where it prevails. In New York City, the chief port of immigration, when an emigrant ship arrives on the day of election, it is said that the passengers march, or did march, before the passage of the supervisor law, from the ship to the polls, and with forged naturalization papers put into their hands, vote before they have learned to perjure themselves in intelligible English.

But while I hold that this discussion is wholly impertinent to this Chamber, while I base the right of Rhode Island to her representation upon the Constitution and the laws, and deny the right of any one, here or elsewhere, to question it, I will, since the question has been raised, present some facts to show that she is not unworthy of the Union of which she is a member. Her territory is to the area of the Union as 1 to 1,361; her population is as 1 to 175. Her territory is well filled, and she is the most densely populated State in the Union, her population being 206 to the square mile—I take the census of 1870, with the extent of territory corrected; that of 1875 returns 244—while that of the whole country, Territories excluded, is 21 to the square mile, of the Old Thirteen 49 to the square mile. This exceeds in density the population, not only of any other State in the Union, but of Spain, Austria, Prussia, or France, and very largely of the average of Europe. She is the thirty-eighth State in respect to territory, the thirty-second in respect of population, and when the internal taxes were highest, she was the tenth in her return of internal revenue to the Federal Government. With a population of 217,353, by the census of 1870, her contribution to the Treasury from internal taxes was greater than those of California with 560,247; than Indiana with 1,680,637; than Kentucky with 1,321,011; than Michigan with 1,184,059; lacking but $75,875.27 of as much as Louisiana with a population of 726,915; more than double the amount returned by Tennessee with 1,258,520; four times as much as West Virginia with more than double her population. With one-twentieth the population of New York she returned more than one-twelfth as much internal revenue; with one-tenth the population of Pennsylvania she returned more than one-seventh as much revenue; with one-eleventh the population of Illinois she returned more than one-third, nearly 40 per cent. as much internal revenue. The congressional district in which I live returned a greater amount than either one of twenty-

three States of the Union. When the city of Chicago was devastated by the awful visitation of fire, and the sympathies of the whole people were aroused, Rhode Island, although the thirty-second State in population, and, although her insurance offices suffered, some of them to their ruin, by the disaster, and although her whole business community shared, directly and indirectly, in the terrible calamity, she was the eighth State in the amount of her contributions for the relief of her distressed fellow-citizens; and when the pestilence broke out in the South her heart and her hand were alike open.

I refer to these statistics, not to justify the right of Rhode Island to her representation in the House of Representatives—her right to that rests on the law, and she would be equally entitled to it if none of these were true—but I refer to them to show that she is not unworthy of the privileges that she enjoys. National greatness is not reckoned by the square mile, nor are State rights computed by the acre.

Thus, at greater length than I have expected, yet leaving many points untouched and others slightly elaborated, I have endeavored to defend the institutions of the State which I have the honor in part to represent, and which have been assailed by those who have no authority over them, and misrepresented by those who have no concern in them. Our institutions may be peculiar; our people are peculiar, and they have the right to enjoy their peculiarities. They are satisfied with the government which their fathers ordained, and which they have maintained. That this government is not distasteful to others is proved by the large addition made to our population, from the neighboring States and from foreign countries, till it has become the most densely populated State in the Union. When the people become weary of their form of government they will, in their own way, in their own time, and at their own pleasure, change it; but so long as they are content with it, and it does not infringe upon the Constitution, which is the supreme law over us all, they will not alter it at the dictation of those who neither enjoy its benefits nor suffer its evils.

### GENEVA AWARD.

Mr. GARLAND. I gave notice of a motion to take up the Geneva award bill to-day, but the Senator from Vermont [Mr. EDMUNDS] has been called out of his seat on account of sickness, and he desires to be here when it is taken up. I now give notice that I will call up the bill on Tuesday.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 301) for the relief of William R. Wilmer;
A bill (H. R. No. 802) granting a pension to Wyatt Botts;
A bill (H. R. No. 853) granting a pension to Caroline Stief;
A bill (H. R. No. 936) relinquishing the right of the United States to an island therein named;
A bill (H. R. No. 1259) granting a pension to Phineas Gano;
A bill (H. R. No. 1453) for the relief of James R. Gordon;
A bill (H. R. No. 1452) for the relief of James B. Furman;
A bill (H. R. No. 1455) granting a pension to Albert O. Miller;
A bill (H. R. No. 1467) granting a pension to Mary A. Casterweller;
A bill (H. R. No. 1583) for the relief of Mrs. Fanny S. Conway, of Louisville, Kentucky;
A bill (H. R. No. 1885) for the relief of John A. Innes;
A bill (H. R. No. 2549) granting a pension to Edward H. Mitchell;
A bill (H. R. No. 2550) granting a pension to Lewis Blundin;
A bill (H. R. No. 2773) granting a pension to James P. Hunter;
A bill (H. R. No. 2075) granting a pension to Amanda J. McFadden;
A bill (H. R. No. 2439) granting a pension to Henry Mills;
A bill (H. R. No. 3309) for the relief of John T. Neale;
A bill (H. R. No. 4028) granting a pension to Jesse T. Myers;
A bill (H. R. No. 4257) granting a pension to Jane Stout;
A bill (H. R. No. 4367) granting a pension to Emma A. Porch;
A bill (H. R. No. 6201) granting a pension to Thomas Worthington;
A bill (H. R. No. 6248) directing the payment of certain awards in favor of parties therein named;
A bill (H. R. No. 6423) granting an increase of pension to Rebecca Reynolds; and
A bill (H. R. No. 6717) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

The message also announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 6719) making appropriations for the support of the Army for the fiscal year ending June 30, 1882, and for other purposes, and had concurred in the second amendment of the Senate, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. No. 752) granting an increase of pension to Crafts J. Wright.

### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 799) granting a pension to Richard P. Taylor;
A bill (H. R. No. 859) granting a pension to William H. Scribner;
A bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright;
A bill (H. R. No. 1628) granting a pension to Dalton Hinchman;
A bill (H. R. No. 1953) for the relief of Henry C. Groomes;
A bill (H. R. No. 2044) granting a pension to Martha J. Porter;
A bill (H. R. No. 2548) granting a pension to Martha Neil;
A bill (H. R. No. 3098) granting a pension to Jacob Ginder;
A bill (H. R. No. 3487) granting a pension to James Forsyth Harrison;
A bill (H. R. No. 6451) to amend and re-enact sections 2517 and 2518 of the Revised Statutes, and changing the boundaries of a customs district in the State of Maine;
A bill (S. No. 201) for the relief of Somerville Nicholson;
A bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland;
A bill (S. No. 1193) granting a pension to Milton L. Sparr; and
A bill (S. No. 1487) to restore the lands included in the Fort Reading and Fort Crook military reservations, in the State of California, to the public domain, and for other purposes.

### POST-OFFICE APPROPRIATION BILL.

Mr. WALLACE. I ask that the pending order, the Post-Office appropriation bill, be taken up, and I give notice to the Senate that I shall ask them to "sit it out" to-day; I want it disposed of this afternoon.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes, the pending question being on the amendment proposed by Mr. HAMLIN to the amendment of Mr. PUGH, to strike out all after the words "Postmaster-General," in line 3, and in lieu thereof to insert:

> And the Postmaster-General is authorized, after due public competition, to enter into contract with the lowest responsible bidders, for terms of ten years, for such transportation between such home and foreign ports as he may in his discretion designate, in order best to promote the postal and commercial interests of the United States, in iron steamships wholly owned by American citizens and registered in American registry, such ships to be duly inspected under the direction of the Postmaster-General and Secretary of the Navy, and be equal in construction, accommodations, safety, and speed to the best vessels on the ocean carrying mails to the same ports, at a rate of compensation not exceeding $30 per mile, one way, for twelve round trips per annum, or the same proportionate rate for a quarter or less number of trips per annum; such contracts to contain all provisions for securing efficient service which may be customary and required by law in such cases. One-fourth part of the appropriation herein made shall be made applicable to ports on the Pacific coast, one-fourth part to ports lying south of and including Fortress Monroe and ports on the Gulf of Mexico, and one-half to ports lying north of Fortress Monroe.

Mr. HAMLIN. Mr. President, I beg to say a very few words in relation to the amendment which I have proposed. It does not materially vary from the committee's amendment in its scope, but I have offered it in the belief that it is a little better guarded and is a little better calculated to effect the object than the amendment reported from the Committee on Post-Offices and Post-Roads. That amendment provides no manner in which the Postmaster-General shall enter into his contracts; the amendment which I have offered does provide that it shall be on public competition, and then to the lowest bidder. I propose to modify my amendment by adding after the word "public," in the second line, the words "advertisement and;" so as to read:

> And the Postmaster-General is authorized, after due public advertisement and competition, to enter into contracts, &c.

It varies from the amendment of the Post-Office Committee in that it provides for public advertisement and then that the contract shall be let to the lowest bidder; and it varies from the amendment of the Post-Office Committee again in the condition that no contract exceeding $30 per nautical mile shall be entered into by the Postmaster-General, making that the maximum amount, while the amendment of the Post-Office Committee names no sum and leaves it entirely discretionary with the Postmaster-General. This makes a limitation.

I always mean to be frank in my legislative capacity, and I will state distinctly what my understanding of the amendment which I offer is. It would comport more with my judgment if the word "built" was inserted, so that these iron steamships should be required to be built and wholly owned by American citizens. I excluded that, however, from the amendment, and with a purpose. There are propositions to allow ships to be purchased by citizens of this country built in foreign countries. I think it would be a disastrous thing to allow that to be done. That proposition is not now before us, and I am not going to discuss it; but, supposing a majority of Congress should be of the opinion that it is a wise thing to do and it should be done, if the words "American built" were here, they could not participate in this mail service; but if the words "American built" be not here, then if the principle of "free ships" be adopted they would come within the language of this provision. There is that latitude to Senators who are in favor of "free ships." If we adopt this amendment and that at any time it shall be deemed a wise policy, or if the Government shall at any time enact a law by which foreign-built vessels may be admitted into this country, they would come in then on equal terms with other vessels under the provisions of this amendment. Otherwise than in guarding the manner of the exercise of power by the Postmaster-General as to making contracts under advertisement and limiting him in the amount of compensation which shall be paid, I believe my amendment is in essence and in spirit the amendment of the Committee on Post-Offices and Post-Roads, and for this reason I have offered it.

Mr. MORRILL. Before the Senator from Maine sits down I desire to get a little information, because I am anxious to vote for something of this kind. I desire in the first place to ask him whether he proposes to increase the amount that shall be left in the hands of the Postmaster-General above a million dollars?

Mr. HAMLIN. I do not.

Mr. MORRILL. Then, as it seems to be confined one-half of the sum, that is, $500,000, to places above the port of Norfolk, I desire to ask the Senator how much of service that would get? As I figure it, it would give six trips of one vessel from New York to Liverpool and no more. The amendment provides that the pay shall be not over $30 per mile; it being at least 3,000 miles from the port of New York to Liverpool, it would consequently require $90,000 for each trip. Therefore it would pay for only about six or less than six trips for one vessel from New York to Liverpool. I may not understand the amendment aright, but if I do that is the result of it.

Mr. HAMLIN. The amount of money appropriated here is a very little portion of that for which I would gladly vote. I would triplicate it; I would add largely to it; and I would do so in the belief that I was subserving the best interests of a common country in all its parts, believing that those sections of the country who are owners of the lesser portion of the navigation are still more interested than the Northern Atlantic States; but we are seeking to inaugurate a policy which we believe is in the very best interests of the country, a policy which we think will be a commencement of the revival of our commercial marine. Whether we be erroneous in our opinions or not, such is our belief. We take this small sum to try to inaugurate a policy; and if we do not get all of the service which we would desire and all which we want and all which I believe is actually needed, we can at least make a commencement. But my friend from Vermont puts his figures at the full sum. Under competition, I am in the hope that a less sum than $30 a mile may be found sufficient to commence this service; but if we get only a monthly service once a month, performing but six trips in the year each way, I am for it. We favor this sum only as a commencement of a system. We may succeed with this, while we might not with a larger sum.

Mr. WALLACE. Mr. President——

The PRESIDING OFFICER, (Mr. WHYTE in the chair.) The Senator from Pennsylvania reserved all points of order yesterday when this amendment was proposed.

Mr. WALLACE. I raise the point of order under the twenty-ninth rule that I raised to the other amendment, and this is more in the nature of general legislation than that was; indeed, on its face it is nothing but legislation. I shall not attempt to debate it before the Senate, but simply submit the question to the Senate, and ask the ruling of the Chair.

Mr. HAMLIN. I will only say in relation to my amendment, that it is in order precisely as every amendment is in order that is reported by the Committee on Appropriations. It is just as much in order as all the amendments which that committee offer that change an existing law. It may be said that no question of order has been raised on that committee's amendments. My answer is, that the long practice of the Senate settles the meaning of the rule to be that on an appropriation bill an amendment pertinent to the bill is proper. The Committee on Appropriations have so regarded it in this bill, and in all other bills, and hence have added so much legislation as is necessary to shape and direct the expenditure of the appropriations in the bill. This amendment does that; it does no more, and it is therefore in order.

Mr. WALLACE. The answer of the Senator from Maine perhaps would be a correct one if this did not do what the appropriation bill does in no regard. It extends to a contract for more than one year; it provides that the Government shall be bound for ten years by a contract to be entered into, and therefore it is much more obnoxious to the charge of general legislation than the other provisions, which relate solely to the appropriation for the year 1882.

Mr. HAMLIN. Now, let me ask my friend, as he passes along, if it is not rather a limitation than an extension of the original proposition? The Postmaster-General might make a contract for twenty years under that, as there is no limitation, while this does limit him.

Mr. WALLACE. But the amount of money expended under the enacting words of the bill is to be confined to money appropriated for the service of the Post-Office Department for the next fiscal year; and at the end of that fiscal year, unless the provisions of the bill itself authorize an extension beyond the fiscal year, the appropriation drops; but here is a provision which carries into effect for ten years this contract, and binds the Government for the whole of the money to carry it out. I suppose that after this amendment goes on, the next movement of the Senator will be to increase the amount of the appropriation. If it is to be retained simply at the amount of $1,000,000, with all these ports to be supplied, and to extend over a period of ten years, there would be rather a homeopathic dose of subsidy. It would not amount to very much in regard to caring for our commerce to foreign ports.

But it does seem to me, Mr. President, that the whole of this proposition is broadly within the rule, and in the performance of my duty I raise the point that it is general legislation.

The PRESIDING OFFICER. The Chair is of the opinion that this amendment is out of order, but at the request of any Senator he will submit the question to the Senate.

Mr. HAMLIN. I ask the Chair to submit the question to the Senate.

The PRESIDING OFFICER. Objection has been made to this amendment under the twenty-ninth rule, and the question is submitted to the Senate whether the amendment is in order or not. Those in favor of the reception of the amendment as in order will say "ay," those of the contrary opinion "no."

Mr. INGALLS. This is the same question, I suppose, that was raised on the amendment reported from the Post-Office Committee by the Senator from Texas that was voted upon last evening, and on which I voted to sustain the decision of the Chair, that the amendment was not in order. During the debate upon the subject, the Senator from Arkansas, who is not now in his seat, [Mr. GARLAND,] quoted with approbation and as having the force of law a previous decision of the Senate upon the same question that has been raised at other sessions, and he read from a "compilation" of the clerk "upon questions of order and decisions thereon under the rules of the Senate since their adoption, January 17, 1877."

I advert to this subject for the purpose of expressing the hope that no Senator will be restrained from voting as he may see fit on this amendment upon the ground that any precedent has been established by previous action of the Senate; for if the Senator from Arkansas had taken the trouble to have read a dozen more lines on the same page from which he quoted he would have found that the same question proposed by the same Senator under the same rule was decided exactly the opposite way. I read from page 4 of this compilation. The Senator from Arkansas quoted as follows:

> Mr. EDMUNDS raised a question of order, namely, that the amendment proposed general legislation to a general appropriation bill, and under the twenty-ninth rule of the Senate was not in order.
>
> The PRESIDING OFFICER submitted the question of order to the Senate.—*Senate Journal*, second session Forty-fifth Congress, page 504.
>
> Determined in the negative—yeas 23, nays 32.

Below, upon the same page and under the same subdivision, appears the following:

> Whereupon,
>
> Mr. EDMUNDS raised a question of order that the amendment proposed general legislation to a general appropriation bill, and could not be received under the first clause of the twenty-ninth rule. Question submitted to the Senate and determined in the affirmative—yeas 33, nays 26.—*Senate Journal*, third session Forty-fifth Congress, page 319.

So that at different sessions of the same Congress the same question submitted by the same Senator was decided in exactly the opposite way. I make this remark for the purpose of relieving any Senator from the question of propriety or of consistency that may arise, and for the purpose of saying further that any Senator who will examine the precedents upon these questions of order will find an elaborate number of very able-bodied decisions upon both sides of every question that can be raised under the rules.

I am clearly of opinion, as I was upon the question that was raised last night, that the amendment is not in order under the twenty-ninth rule and that the decision of the Chair is correct and should stand as the judgment of the Senate.

Mr. HILL, of Georgia. I have said heretofore and on several occasions that we can show a precedent for any ruling by this Senate, especially on the standing rules. The same is true also of the House and of all legislative bodies. According to our practice, a decision made by this Senate is authority only in the case decided, and only for that vote. A contrary decision and a contrary vote is in order the next day. The Senate makes no decision on rules which the Senate is bound to respect. I believe I may say, judging by our practice, that nothing is *res adjudicata* in this Senate but a vote which tramples on the Constitution and denies to a State her equal suffrage in this body. Such a vote as that, I believe, is held to be sacred and utterly beyond review. Nothing else is binding on the Senate. Everything else can be changed, modified, reviewed, and corrected at will; but a decision or vote, with or without investigation, that a mob is a Legislature can never be reviewed or reversed, however absurd and against facts and the Constitution it may be.

It has been ruled by the Senate that the amendment to which this is an amendment is in order. That was the decision of the Senate yesterday. I thought the amendment offered by the Senator from Alabama, [Mr. PUGH,] which was reported from the Committee on Post-Offices and Post-Roads by the Senator from Texas [Mr. MAXEY] originally, was in order; I so voted, and the Senate has concurred by a large majority, a vote of 29 to 15, in saying that that amendment is in order. Under the rules and under parliamentary law an amendment to an amendment is always in order. This amendment offered by the Senator from Maine [Mr. HAMLIN] is not an amendment to the original bill; it is not an original amendment; it is an amendment to an amendment, as I understand; it is an amendment offered to an amendment, which has been ruled to be in order.

Mr. INGALLS. But does the Senator from Georgia mean to be understood that therefore, on that account, because it is offered as an amendment to an amendment that has been held to be in order, the amendment is necessarily in order under the rule?

Mr. HILL, of Georgia. I have not said so.

Mr. INGALLS. I beg pardon. I thought the Senator so held.

Mr. HILL, of Georgia. I only suggest that either that or this will follow, to wit: that you cannot move to amend an amendment to an appropriation bill. A proper amendment to an amendment ought to be in order if the original amendment is in order. I do not see

exactly the answer to that. I am simply calling the attention of the Senate and of the Senator from Kansas to that point. Is the amendment offered by the Senator from Maine a proper amendment under the general parliamentary rule to the amendment offered by the Senator from Alabama? If the amendment offered by the Senator from Alabama is not obnoxious to the twenty-ninth rule, how is an amendment to that amendment obnoxious to the same rule? That is the point I make.

I do not know that I care particularly how this vote goes. I have no special feeling one way or the other. I scarcely know how I myself will vote on the amendment to the amendment; but on the simple question of order, the point I propose to the gentleman who was doubting whether this amendment was in order, is that this is not an amendment to the original bill; it is an amendment to an amendment, and that original amendment has been ruled by the Senate to be in order. Now, I believe, under parliamentary rules, an amendment to an amendment is always in order where the amendment itself is properly receivable, where it is germane. Now, the Senate having ruled the original amendment moved by the Senator from Texas in order, how does it happen that there is anything to prevent the application of the other rule, the general rule that an amendment to an amendment is in order? If the amendment to the amendment proposed by the Senator from Maine is itself a proper amendment under the general rule, how can you make this amendment to the amendment out of order under the twenty-ninth rule, when under the twenty-ninth rule the original amendment is held to be in order?

Mr. CONKLING. May I ask a question to understand the Senator from Georgia?

Mr. HILL, of Georgia. Certainly.

Mr. CONKLING. Does the Senator maintain that an amendment being offered to an appropriation bill which is manifestly in order, against which no point of order could be made, then to that amendment any amendment whatever is in order, provided it falls within general parliamentary law, notwithstanding the rule of the Senate? Perhaps I do not make myself understood.

Mr. HILL, of Georgia. The Senator has asked precisely the same question which the Senator from Kansas has already asked.

Mr. CONKLING. I beg the Senator's pardon; I have been out of the Chamber for a moment and I had not heard the previous debate. My purpose was to understand the Senator myself. Doubtless the Senator from Kansas already understands him. I should like to know whether the argument of the Senator is that an amendment being in order to an appropriation bill, notwithstanding the rules of the Senate, any amendment to that amendment is in order provided the general parliamentary law does not exclude it?

Mr. HILL, of Georgia. I will say to the Senator from New York, as I said to the Senator from Kansas, I have not decided whether that could be so or not. I am simply calling the attention of the Senate to the point. It is a new point to me, I confess. It is one I have never seen raised before. That is the reason why I call the attention of the Senate to it, and I am glad the distinguished Senator from New York is taking an interest in it. I have never seen this condition of things exist before in the Senate or in any other legislative body. Here is an appropriation bill. Under the twenty-ninth rule an amendment is prohibited which proposes general legislation. An amendment has been offered which was objected to because it proposed general legislation. The Senate has ruled distinctly, by a vote of nearly two to one, that that amendment is not obnoxious to Rule 29, which prohibits that specific character of amendment. Then the Senator from Maine offers an amendment to that amendment which, under the general parliamentary law, is a proper amendment to that amendment. The objection is made that the amendment to the amendment is not in order under the twenty-ninth rule.

Mr. CONKLING. How, under the Senator's argument, can that point be made? If an amendment to an amendment does not fall within the rule, how could the question be raised against the Senator from Maine?

Mr. HILL, of Georgia. That is precisely what I am inquiring. The Senator will understand me. I am only making my point as one of inquiry. I want to see how it can be raised. That is the very point. How can it be raised?

My point is, the original amendment being in order you cannot raise the point of order on the amendment to the amendment. If you could, this state of things might arise: suppose the point of order was not made on the amendment to the amendment, and it should be adopted as an amendment to the amendment, then if it is held to be general legislation it becomes immediately obnoxious under the twenty-ninth rule, and the Senate would defeat the whole proposition to amend, and thereby defeat by one amendment proper in itself another amendment which the Senate had previously held to be proper. By this process an amendment which has been declared by the Senate to be in order gets out of order by being amended in a proper parliamentary way. Is not this giving an effect to Rule 29 which was not intended?

Mr. KERNAN. Will the Senator allow me to put an inquiry for information?

Mr. HILL, of Georgia. Yes, sir.

Mr. KERNAN. Assuming that the Senator believed that the original amendment from the Committee on Post-Offices and Post-Roads did not propose general legislation, and therefore that it was in order, and supposing the Senator believed that an amendment to that amendment is one proposing general legislation, is not the amendment to the amendment out of order?

Mr. HILL, of Georgia. That is the very question I am asking. The junior Senator from New York, the senior Senator from New York, and the Senator from Kansas have all asked me questions that I am asking the Senate to answer.

Mr. EATON. Will my friend permit me to say a word to him? I suggest that the great difficulty is here, that the amendment reported from the Committee on Post-Offices and Post-Roads was taken into consideration at all. An amendment has been offered; the Senate has said that amendment is in order; a proposition is made to amend the amendment. The only question is, is the amendment of the Senator from Maine in order without any regard to the previous amendment whatever? In other words, if this were an independent proposition which is offered by the Senator from Maine it must be determined whether it is obnoxious to the rule without any regard to the original amendment which has been offered. Such, I apprehend, is a fair version of this whole matter, and will take us all out of the trouble.

Mr. HILL, of Georgia. I seriously question that conclusion, and for this reason: I do not think that the twenty-ninth rule was intended for any purpose but to secure the consideration by the Committee on Appropriations to a proposed amendment. That consideration has been secured to the amendment proposed by the Senator from Texas and it has been ruled in order. If you rule that the amendment of the Senator from Maine is not in order, you thereby rule that an amendment to an amendment is not in order, although it is germane and proper in itself.

Mr. FERRY. If the Senator will allow me, I am in favor of the amendment in question, but in regard to the doctrine that the Senator is advancing as regards the proposition that an amendment in the second degree is not covered by Rule 29, I think the Senator labors under the mistake of not keeping in mind the fact that the rule does not consider the degrees of the amendment but simply applies to amendments whether in the first or second degree. If the Senator's proposition is correct, any amendment could be put upon an appropriation bill by first moving an amendment that is in order and then moving to amend that, which would be in the second degree, by a proposition which is out of order.

Mr. HILL, of Georgia. No, I do not hold any such thing, but I think it reasonable to hold that any amendment which under the general parliamentary law is a proper amendment to an amendment which has been ruled in order could be put in. That is what I suggest and that is all. I do not hold that any amendment could be moved. I do not say myself that the view I suggest is conclusive. Indeed I have said it is one of inquiry. It is a new point. I never heard it raised in a legislative body before, and I am willing for Senators to dispose of it as they please.

Mr. HARRIS. I desire to call the attention of the Senator from Georgia to the language of rule 29:

> No amendment which proposes general legislation shall be received to any general appropriation bill.

In the decision pronounced by the Senate yesterday evening the Senate must have decided that the amendment reported by the Senator from Texas did not contain general legislation. Hence, it seems to me, the only question involved in the amendment proposed by the Senator from Maine is, whether it does or does not contain general legislation, wholly independent of the amendment reported by the Senator from Texas, because if the amendment of the Senator from Texas contains general legislation, it was directly in violation of the first clause of Rule 29 to have received it at all. Therefore the Senate must have decided by the vote of yesterday evening that that amendment contained no general legislation. The question now is, does the amendment of the Senator from Maine contain general legislation?

Mr. GARLAND. Yesterday evening the Senate determined that the amendment reported by the Senator from Texas did not propose general legislation. The Senator from Pennsylvania having in charge this bill, as a matter of course, accepted the decision of the Senate, and admitted that to be true. The Senator from Maine [Mr. HAMLIN] proposed an amendment, "to strike out after the words 'Postmaster-General,' in line 3, all of the amendment and insert as follows," which his amendment is. Upon that the Senator from Pennsylvania says, "While I accept the decision as to the amendment offered by the Senator from Texas, and agree that in the judgment of the Senate it does not propose general legislation, yet the amendment of the Senator from Maine does not propose general legislation." That is all there is in the question.

If the suggestion made by the Senator from Georgia is correct, and you get your amendment in, you may strike out all after the first word and put in the Geneva award bill, the Indian severalty bill, and all the rest of the bills—the pension bills, too—and the Ten Commandments, my friend from Pennsylvania suggests. There is no difficulty in this question, according to my understanding of it.

Mr. HARRIS. The question of relevancy or whether germane or not would arise.

Mr. GARLAND. That might arise; but I am speaking now of this particular point, and that is all I can discuss at one time. The Senator from Pennsylvania says now, and as I state the proposition there is

no difficulty about it: "I accept the decision of the Senate and agree that the amendment of the Senator from Texas contains no general legislation." So far so good. The Senator from Maine now proposes this amendment. But, says the Senator from Pennsylvania, "I think that does contain general legislation, and I object to it under Rule 29." I am very much afraid the Senator from Pennsylvania is right about it, coming now to the question before the Senate, because it makes a general provision for ten years in reference to this specific business, and goes beyond the period of the appropriation. I am rather afraid that he is correct about it.

The PRESIDING OFFICER. The Chair so decided the point of order upon that view of the case, and then submitted the question to the Senate.

Mr. HAMLIN. I want to say one word and but one word. The amendment which I have offered is a limitation upon every single thing that is contained in the amendment offered by the Post-Office Committee. It confines the Postmaster-General to ten years; the other leaves the term of the contract indefinite. The Post-Office Committee amendment authorizes the Postmaster-General to enter into the service; my amendment provides the mode and manner in which he shall do so. The amendment of the Post-Office Committee has no limitation as to what shall be paid for the service; my amendment prescribes the amount, fixes a maximum. There is not a single thing in my amendment that is not a limitation on the Post-Office Committee's amendment.

Mr. MORGAN. As I shall vote that this amendment is in order, I will state very briefly the reasons why I do so, inasmuch as some question has been made on the floor of the Senate by gentlemen with whom I am in the habit of concurring on questions of this kind.

When the Senate ruled that $1,000,000 might be added to this bill for additional postal service to foreign countries, it then declared, in my opinion, that it was competent to make such regulations as to the expenditure of that $1,000,000 as might be found convenient and proper for the benefit of the mail service and the benefit of the country. That $1,000,000, if expended under existing laws without any change or modification, would have to be expended in the payment of postages and not under contracts, as I understand; or at least that construction might be given. There is no regulation which precisely bears upon this question in the existing statutes, because the existing statutes authorizes the appropriation of postages only to mail pay for sea service.

We now add to that fund a million dollars in money; and the question is, how shall we apply that million dollars which we add to the postages, for I do not understand that this amendment if adopted or this bill when passed will supersede the existing regulation or law which authorizes the Postmaster-General to contract for the carrying of mails from any port of the United States to any foreign port, and paying for the transportation of the mails by the postages that shall be received upon that route. That system will stand. That system authorizes the mails to be carried in steamships or in sailing-vessels, according as the Postmaster-General may determine to be the best method. That system is not affected by this provision of law which we now propose to enact, as I understand it, but this is a new provision, adding to the mail facilities of the United States. It is a provision for the extension of the mail service to the high seas under the contract system, and that is all. We undertake to extend this service to the high seas under the contract system, and yet it is not mentioned in the proposed law that it shall be under the contract system.

The real point upon which I understand objection is made to this amendment is that it authorizes contracts to be made for a period of ten years for carrying the mail. That is the substantial part of it, because in other respects the amendment of the Senator from Maine is very much in harmony with the amendment to the bill proposed by the Senator from Texas. Section 3956 of the Revised Statutes provides that—

> No contract for carrying the mail shall be made for a longer term than four years, and no contract for carrying the mail on the sea shall be made for a longer term than two years.

A contract for carrying the mail on the sea, under the provisions of this statute, is a contract to be paid for by transferring the postages, and those contracts are limited to two years. The Senate has now declared that contracts may be made to be paid for, not in postages, but in money, to be paid out of the Treasury of the United States, precisely as mail pay is granted from the Treasury upon contracts on land.

Having so far held that we have the right to appropriate this million of dollars, then two questions arise: shall we appropriate this million dollars under contract; and shall we extend the time of the contract from two to ten years? In order to appropriate it by contract we have merely to grant the appropriation, because the provision of law is here now that contracts may be made for two years, to be paid for in postages. If we add money to it, that provision of law stands to warrant the contract to be paid in money to be appropriated out of the Treasury. The only remaining question, therefore, is, have we the right, in the appropriation of this million dollars, so to regulate the appropriation of that sum of money as that it shall apply to contracts to be made for ten years?

I really can see no difficulty in the rule of the Senate. The Senate may proceed to put that condition upon the expenditure of the money if it sees proper to do so. It might not choose to risk a million dollars in the hands of the Postmaster-General from which so little of public permanent benefit might be expected as would be derived if the contracts were to last for only two years, and it might be a wise provision of law if in the application of this million dollars the contract should be made for a longer period than two years. What general legislation is there in that? What else is there in it than the removal of difficulties that exist under the law to the efficient use of this money in the public service?

I think there is a misconception in the Senate as to the scope and purposes of this measure generally. It is not a measure to create a new system. Under the Constitution of the United States it is confided exclusively to the Congress of the United States to establish mail service anywhere and everywhere. No one has ever dreamed that mail service might not be extended to foreign countries over the seas. We have passed laws which are upon the statute-books to provide for it, and in order to make the service only the more efficient we propose so to modify the application of those laws to the particular arrangement that we are making now as to authorize a contract to be made for ten years instead of for two.

I very much prefer, if we are undertaking a system of this kind, that both sides should have a fair opportunity to test it; that both sides should have a fair chance, the contractor and the Government; for it is no small matter to get up an iron steamship for the purpose of transporting mails. A man would scarcely be likely to do a thing of that sort knowing his contract was to be ended under the law in two years.

Therefore I shall vote with the Senator from Maine that his amendment is in order.

Mr. WALLACE. I want the Senate to understand fully the point I make in regard to this amendment. When we carefully consider it, examine it in all its details, it certainly initiates contracts for the transmission of the mails for a period of ten years and pledges the Government to the contracts thus made by the Postmaster-General. The amount appropriated by the amendment will perhaps be but the beginning of that to which we are pledged by the contracts, for this million dollars would be used for the coming fiscal year. The Postmaster-General by this provision is authorized to make contracts—

> For terms of ten years, for such transportation between such home and foreign ports as he may, in his discretion, designate in order best to promote the postal and commercial interests of the United States, in iron steamships wholly owned by American citizens and registered in American registry, such ships to be duly inspected under the direction of the Postmaster-General and Secretary of the Navy, and be equal in construction, accommodation, safety, and speed to the best vessels on the ocean carrying mails to the same ports, at a rate of compensation not exceeding $30 per mile one way for twelve round trips per annum.

He may contract for half a dozen lines for twelve round trips per annum at $30 per mile one way, and by those contracts thus entered into under this power the Government is pledged to all the money that is needed to carry them out. That is the whole of this proposition. The legislation that this amendment contemplates pledges the Government to ten years of this policy, and if it does not amount to general legislation under the provision of the twenty-ninth rule, there is no such thing as making use of words which can make general legislation. It covers the whole field, it embraces the whole scope of the proposition to carry mail for ten years at twelve trips per annum in steamships, and when the contracts are made you are bound to carry them out, and it involves an expenditure of I know not whether five million, or ten million, or fifty million dollars, but the discretion is a frightful one to give to any man. I trust the Senate will not give it.

The PRESIDING OFFICER. The question is on the point of order made against the reception of the amendment proposed by the Senator from Maine [Mr. HAMLIN] to the amendment reported from the Committee on Post-Offices and Post-Roads. The Chair submits the point of order to the Senate.

Mr. HAMLIN. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. BROWN. I desire to understand the question now to be voted on. The Chair has ruled, as I understand, that this proposition is out of order. Are we voting on the ruling of the Chair, or is the Chair submitting to a vote of the Senate whether it is in order or not?

The PRESIDING OFFICER. The Chair submitted that to the Senate; and the yeas and nays are ordered on the question, and those who are in favor of this amendment being in order will vote "yea;" those opposed, "nay."

Mr. BROWN. Then the question is not to sustain or overrule the decision of the Chair?

The PRESIDING OFFICER. There is no appeal taken from any decision of the Chair. The question was submitted early to the Senate.

Mr. HAMLIN. "Shall the amendment be admitted," is the question, "yea" or "nay."

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) I am paired upon the subsidy question with the Senator from Vermont, [Mr. EDMUNDS,] who is called home by illness. I believe I ought to differ from him on the point of order, but it is differing from very high authority.

Mr. HOAR, (when Mr. BAYARD'S name was called.) I am paired with the Senator from Delaware, [Mr. BAYARD.] I suppose he would vote against the amendment.

Mr. DAVIS, of West Virginia, (when his name was called.) On all questions relating to this bill I am paired with the Senator from Minnesota, [Mr. WINDOM.]

Mr. GROOME, (when his name was called.) On all political questions and upon this question I am paired with the Senator from New Hampshire, [Mr. BLAIR.] If he were present, I should vote "nay."

Mr. PUGH, (when the name of Mr. JONES, of Florida, was called.) The Senator from Florida [Mr. JONES] is detained at home by the dangerous illness of his son, and is paired with the Senator from Tennessee, [Mr. BAILEY.]

Mr. MCMILLAN, (when his name was called.) On this question I am paired with the Senator from Mississippi, [Mr. BRUCE.] If he were present, I should vote "nay."

Mr. SAUNDERS, (when his name was called.) On this question I am paired with the Senator from Delaware, [Mr. SAULSBURY.] If he were here, I should vote "yea."

Mr. WALLACE, (when his name was called.) On this question I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] If he were here I should vote "nay."

The roll-call was concluded.

Mr. COCKRELL (after having voted in the negative.) Inadvertently I voted, having forgotten that I had at the instance of my good friend from Maine [Mr. HAMLIN] paired with the Senator from Kansas, [Mr. PLUMB.] Were the Senator from Kansas present he would vote "yea" and I should vote "nay." My vote is withdrawn.

Mr. BECK. On this and all other questions relating to the original amendment and all amendments thereto I am paired with the Senator from Maine [Mr. BLAINE] who is now at home sick. I should vote "nay" if I could vote.

Mr. BAILEY. I am informed that a statement has been made to the effect that I am paired with the Senator from Florida, [Mr. JONES.] That is a mistake. An agreement of that kind was made, but the pair was transferred, I believe, to the Senator from New Jersey, [Mr. MCPHERSON.]

Mr. BECK. I received a dispatch from the Senator from New Jersey [Mr. MCPHERSON] and that change of the pair was made.

Mr. BAILEY. I am not paired at all, and vote "nay."

The result was announced—yeas 17, nays 26; as follows:

YEAS—17.

| | | | |
|---|---|---|---|
| Allison, | Conkling, | Kirkwood, | Rollins, |
| Baldwin, | Dawes, | Morgan, | Williams. |
| Brown, | Ferry, | Morrill, | |
| Burnside, | Hamlin, | Paddock, | |
| Cameron of Wis., | Kellogg, | Platt, | |

NAYS—26.

| | | | |
|---|---|---|---|
| Bailey, | Farley, | Kernan, | Vance, |
| Booth, | Garland, | McDonald, | Vest, |
| Butler, | Hampton, | Maxey, | Voorhees, |
| Call, | Harris, | Pugh, | Walker, |
| Coke, | Hereford, | Ransom, | Whyte. |
| Davis of Illinois, | Ingalls, | Slater, | |
| Eaton, | Jonas, | Teller, | |

ABSENT—33.

| | | | |
|---|---|---|---|
| Anthony, | Davis of W. Va., | Jones of Nevada, | Saunders, |
| Bayard, | Edmunds, | Lamar, | Sharon, |
| Beck, | Groome, | Logan, | Thurman, |
| Blaine, | Grover, | McMillan, | Wallace, |
| Blair, | Hill of Colorado, | McPherson, | Windom, |
| Bruce, | Hill of Georgia, | Pendleton, | Withers. |
| Cameron of Pa., | Hoar, | Plumb, | |
| Carpenter, | Johnston, | Randolph, | |
| Cockrell, | Jones of Florida, | Saulsbury, | |

The PRESIDING OFFICER. The amendment to the amendment is decided to be out of order. The question recurs on the amendment proposed by the Committee on Post-Offices and Post-Roads.

Mr. MORGAN. I move to amend the amendment by adding to it:

When vessels built in other countries are so accepted and employed, the same shall be entitled to all the rights and privileges secured by law to vessels built in the United States of America, except the privilege of engaging in the coastwise trade.

I offer the amendment for the purpose of getting a more distinct expression than I think is contained in the amendment reported by the Committee on Post-Offices and Post-Roads as to the character of vessels in which the mails may be carried. I am in favor of opening to American capital the right to purchase vessels built anywhere of the description mentioned in the committee's amendment for the purpose of carrying into effect the appropriation of this million dollars; and as I do not understand that the amendment proposed by the committee very distinctly presents that view, although I believe the Senator who proposed the amendment believes that it does, I desire to have a more distinct expression on that point.

I do not propose to debate it at all. The question has been debated, on this side of the Chamber at least, by several Senators, especially by my colleague [Mr. PUGH] and the Senator from Kentucky, [Mr. BECK,] so fully that I do not feel disposed to add anything to what has been said on that head, even if I had the ability to do so, which I do not pretend that I possess. I do not see that I could cast any new light on the proposition; but I will say that I think this is a fair compromise between those who are in favor of having the commerce of this country and its mails carried in American-built ships and those who are not. I am in favor of extending the postal convenience and service of this country upon the high seas, and in that respect I am inclined to extend the law now on the statute-book; and I think the postal service will be greatly facilitated if capitalists of this country are permitted to build ships in American ship-yards or to buy them elsewhere and offer them for this service.

I hope that gentlemen who differ with us in respect to the general policy of the repeal or modification of the navigation laws will find themselves willing on this occasion to meet us on the half-way ground and let us start this matter by an experiment which cannot do any harm, and may result in very great good. I think that all ships built abroad engaged by special contract in the service of the United States in the transportation of its mails ought to be entitled, in consideration of that fact, to an American register. They are on a footing with the vessels of the Navy and various other transports which are employed exclusively in the service of the United States in the transportation of its troops, munitions of war, and crossing upon the high seas. These ships, employed in the service of the United States under a special contract, should be required, it seems to me, to be put under no greater restriction in reference to all lawful privileges than a ship-of-war. Each of them is an agency of the Government of the United States in carrying on a constitutional operation, and I think we might as well require that a postal car that conveys the mail across this continent on the Union and Central Pacific Railways should be built in the United States and owned in the United States as to require that a ship chartered under a contract for carrying the mail between the ports of our country and ports of other countries should be built in the United States. The Government of the United States should have the opportunity of obtaining the facilities needed at the cheapest possible rate for carrying its mails to all parts of the world.

While I am in favor of giving every due protection to American industry where that protection is of any service to it, I think a fair opportunity is now presented to gentlemen on both sides of the Chamber to commence in this way an experiment which will be advantageous to the country.

Mr. WALLACE. I raise the point of order—I feel it my duty in regard to this bill—that this is general legislation of the most radical kind.

Mr. MORGAN. Not radical; it is democratic.

Mr. WALLACE. It repeals the navigation laws, so far as these steamships are concerned, and opens up a very large subject. It is very clearly obnoxious to the twenty-ninth rule, it seems to me, and I raise the point of order upon it.

Mr. PUGH. Mr. President, I do not rise for the purpose of making any further argument on this question, as I had the privilege of making one on a former occasion. All I desire to say is that the amendment of my colleague is entirely acceptable to me. I suppose it will not be out of order for me to state my position in the Committee on Post-Offices and Post-Roads, from whom the original amendment came. I am willing to make this appropriation of a million dollars for carrying our mail across the ocean in iron ships owned exclusively by citizens of the United States, but I am not willing to make any further limitation. I am opposed to confining the appropriation to ships constructed in American ship-yards. I now repeat what I said on a former occasion, that all I am willing to do is to make an appropriation for ships owned exclusively by citizens of the United States wherever purchased, and let us try the experiment. I stated to the committee of which I am a member that I should vote to make the amendment reported from the committee plain upon that subject, and for that reason I favor the amendment of my colleague; and if the clause that this appropriation is for the benefit of American-built ships is not excluded from the amendment, I shall not be able to support it.

Mr. KERNAN. Mr. President, I ask that the amendment proposed by the Committee on Post-Offices and Post-Roads be read.

The Clerk read as follows:

For additional postal service to foreign countries, $1,000,000, to be expended under the direction of the Postmaster-General in the establishment of mail steamship lines equitably distributed among the Atlantic, Mexican Gulf, and Pacific ports: *Provided*, That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted to such service.

Mr. KERNAN. Mr. President, I am opposed to this amendment proposed by the Post-Office Committee. As a provision for the carrying of our mails to foreign countries, I do not think that it is necessary to appropriate this million of dollars. The Postmaster-General asks for no such appropriation of money to carry the mails to foreign countries. In his last report he speaks of our ocean mail service, and he does not ask, as I understand, any larger amount for the same than the $225,000 already appropriated by the bill as reported from the Committee on Appropriations. In his report at page 517 he gives the cost of ocean mail transportation for the year ended June 30, 1880, as $196,684.08.

Mr. MORGAN. I will ask the Senator from New York how that money is spent?

Mr. KERNAN. That which is appropriated by the bill is expended for carrying the mail on the system that now prevails to foreign countries.

Mr. MORGAN. Does not the law require the vessel which carries the mail to receive the postages?

Mr. KERNAN. I understand that; but have you heard any complaint from our commercial community anywhere that the present system does not give adequate mail facilities with foreign countries?

Mr. MORGAN. Now, if the honorable Senator will allow me, I do

not so hear from anybody but the Postmaster-General; and even he requires more money for the purpose of transporting the foreign mails.

Mr. KERNAN. The appropriation is increased in the bill as reported by the Committee on Appropriations over last year.

The PRESIDING OFFICER. The Chair would suggest that the question before the Senate is the point of order. By consent of the Senate the Senator from New York may proceed.

Mr. KERNAN. I rose to speak on the merits of the amendment proposed by the Post-Office Committee. This has been decided by the Senate to be in order; but if I am out of order at this time I will wait until that amendment comes up.

On page 517 of the volume containing the last annual report of the Postmaster-General I find this:

*Statement showing the amounts recognized in payment of ocean mail transportation performed during the fiscal year ended June 30, 1880.*

TRANSATLANTIC.

| | | | |
|---|---|---|---|
| By Cunard line, 53 trips from New York | $27,389 29 | | |
| By Cunard line, 52 trips from Boston | 1,227 69 | | |
| | | $28,616 98 | |
| By Hamburg line, 53 trips from New York | | 20,539 97 | |
| By Liverpool and Great Western line, 46 trips from New York | | 30,518 50 | |
| By North German Lloyd's line, 60 trips from New York | $22,444 63 | | |
| By North German Lloyd's line, 10 trips from Baltimore | 5 75 | | |
| | | 22,450 38 | |
| By White Star line, 52 trips from New York | | 24,806 20 | |
| By Inman line, 52 trips from New York | | 20,350 67 | |
| By Anchor line, 52 trips from New York | | 2,655 58 | |
| By Canadian line, 51 trips from New York | | 614 54 | |
| By American line, 33 trips from New York | | 1,964 28 | |
| By National line, 1 trip from New York | | 1,390 79 | |
| | | | $153,907 89 |

TRANSPACIFIC.

| | | | |
|---|---|---|---|
| To Japan and Hong-Kong, China, and the East Indies via Hong-Kong: | | | |
| By Pacific Mail line | $1,206 85 | | |
| By Occidental and Oriental line | 1,515 49 | | |
| | | 2,722 34 | |
| To Shanghai, China: | | | |
| By Pacific Mail line | 303 38 | | |
| By Occidental and Oriental line | 394 40 | | |
| | | 697 78 | |
| To Australia, New Zealand, Fiji Islands, &c.: | | | |
| By Pacific Mail line | | 9,206 97 | |
| | | | 12,627 09 |

MISCELLANEOUS.

| | | | |
|---|---|---|---|
| To and from the Isthmus of Panama, Central America, and the South Pacific: | | | |
| Outward mails | $7,457 41 | | |
| Inward mails | 6,806 95 | | |
| | | 14,264 36 | |
| To Mexico | | 2,531 18 | |
| To Cuba and Porto Rico | | 5,644 31 | |
| To and from other West India Islands: | | | |
| Outward mails | $2,482 66 | | |
| Inward mails | 871 59 | | |
| | | 3,354 25 | |
| To Brazil | | 2,875 40 | |
| To Venezuela | | 455 75 | |
| To Canada | | 789 51 | |
| To Newfoundland | | 81 90 | |
| From Uruguay | | 152 44 | |
| | | | 30,149 10 |
| Total | | | 196,684 08 |

JOSEPH H. BLACKFAN,
*Superintendent of Foreign Mails.*

I remember very well that in 1878, when a provision like the amendment under consideration was before the Senate, the opinion of the Postmaster-General was called for and his letter was read, in which he said he did not ask for any such provision. Therefore I do not think as legislators we can justify ourselves in appropriating a million more money if we are looking only to the proper carrying of our mails to foreign countries. I believe this is done now to the satisfaction of the commercial community. There has been no petition, no resolutions from boards of trade, that I have heard of, asking us to appropriate more money for ocean mail service or saying that the service is not well performed by the present system of carrying the mails on the ocean.

The Senator from Maine [Mr. HAMLIN] and other Senators have intimated that the real purpose of this amendment is to inaugurate a system by which our ship-building industry will be promoted and our ocean carrying trade restored by subsidies paid from the Treasury to the owners of American-built steamships. Do I not state it fairly? Is not this the real object? That is a great question, and one that I wish to have considered not as a part of an annual appropriation bill, but as a distinct measure, and when Congress has time to fully examine and discuss it, in the belief that there may be such legislation as will restore the ocean carrying trade which we have lost.

I shall be brief, for I realize the importance of time at this short session of Congress. As a measure to restore our foreign carrying trade I do not think this proposed amendment is in the right direction at all. The idea of building up our ocean carrying trade by taxing our people to pay subsidies to a few steamship lines is fallacious, in my judgment. This will never restore our lost carrying trade, nor will it materially increase our export trade. We have had some experience on this point, and we have had it within a few years past. I will briefly allude to it.

In 1864 a law was passed—a distinct law, not a rider to an appropriation bill—with a view to aid by this kind of legislation our carrying trade and our commerce with other countries. That law was in these words:

That the Postmaster-General be, and he is hereby, authorized to unite with the general post-office department of the Empire of Brazil, or such officer of the government of Brazil as shall be authorized to act for that government, in establishing direct mail communication between the two countries by means of a monthly line of first-class American sea-going steamships, to be of not less than two thousand tons burden each, and of sufficient number to perform twelve round trips or voyages per annum between a port of the United States north of the Potomac River and Rio de Janeiro, in Brazil, touching at Saint Thomas, in the West Indies, at Bahia, Pernambuco, and such other intermediate port or ports as shall be considered necessary and expedient: *Provided*, That the expense of the service shall be divided between the two governments; and that the United States' portion thereof shall not exceed the sum of $150,000 for the performance of twelve round trips per annum, to be paid out of any money appropriated for the service of the Post-Office Department.

What was our experience under this law? The measure was adopted, doubtless honestly, by Congress, with the expectation of largely increasing our export trade with Brazil and other countries in South America, and not merely for the purpose of carrying the mails. A contract was made with the owners of American-built steamers by the Postmaster-General. There was but one party who had the required vessels to execute the contract, as I am informed, and he contracted that for ten years he would carry the mail as required by the statute for the price of $150,000 per year, to be paid by the Government of the United States. He performed the contract. How much did it aid us in creating a market for our products in Brazil, or how much did it aid us in increasing the carrying trade with foreign countries? I will state as briefly as I can the results of this experiment, made at an expense of one million and a half of dollars to the Treasury.

It will be found on examination that for the six years prior to 1865, when this contract took effect, our domestic exports to Brazil had averaged annually $5,713,000. That was what the exports averaged annually before we established this line of steamships running to that country. During the ten years of this subsidized line up to September, 1875, how much had our domestic exports to Brazil increased? That was the inducement that carried that bill. The purpose was to open a market for our products, to increase our domestic exports. During those ten years the average annual value of our domestic exports to Brazil was only $6,364,000. They increased only about half a million per year; and yet we were paying $150,000 per annum to have a line of steamships making a round trip every month between New York and Rio. Did this expenditure tend even to build up a permanent carrying trade by American-built ships between the United States and Brazil or other parts of South America? It did not. When the contract expired and the subsidy ceased, in 1875, the steamship line was discontinued. Not a vessel of that line made a single trip between New York and Rio after the subsidy ceased.

What further was the experience? for I was able to examine it a little further. It will be found that the subsidized line broke down other carrying lines that received no subsidy and that the freights were not made any cheaper. The line which had the subsidy broke down other lines, and freights were not reduced even while the subsidized line was in existence.

What happened after the subsidized steamers were withdrawn to which we had paid one million and half of dollars during the ten years? You will find that after that was withdrawn, and in 1876, there was established a line of iron steamers not American-built or owned by American citizens—I wish they could have been—which line ran between New York and Rio regularly each month. They were foreign-built steamers of a thousand tons burden each, run by agents residing in New York, but not under our flag, for they were not built in our country; and our laws would not permit our citizens to own them and sail them as American ships under our flag in transporting our own commerce. During the next two years this line of steamers carried our mails to and from Brazil for about one hundred dollars a month, and there was no complaint made that this mail service was not satisfactory. The export trade to Brazil increased during those two years to over seven million dollars annually. I am insisting that this subsidized line did not increase our export trade and did not materially tend to restore our carrying trade to American merchants or American vessels.

In 1878, when I asked the Senate to hear me briefly on this subject, I had all the papers before me showing the exact figures. I will read from what I then said a paragraph:

That line stopped in September, 1875. What has been our experience since we have ceased to pay the subsidy? Has our export trade diminished? The average annual value was $6,300,000 while the line ran. I find from statistics that since that line stopped and during the past two years our export of domestic products to Brazil have been of the average annual value of $7,463,596, having increased about a million a year under the natural laws of trade more than with the subsidy.

In the chief mercantile city of the Union I have inquired of merchants and business men whose opinions have great weight with me, and they expressed themselves against the idea that we can build up our American mercantile marine or our export trade to foreign countries or our ocean carrying trade by subsidizing a few lines of ocean steamers. The effect of such subsidized lines is to break down other lines and to discourage private enterprise, and the moment you

cease to pay subsidies the lines receiving them stop and we have no American vessels, either sail or steam, engaged in the foreign carrying trade. That is the result of our experience, and I submit to Senators that we must adopt some other measure than drawing from the tax-payers money to subsidize a few lines of steamships to run on the ocean to build up our mercantile marine and restore to our own citizens the carrying trade. It will not succeed. You will have a few lines, there will be great complaint and jealousy that there is favoritism, and you will bring about our Federal Legislature an atmosphere that none of us wish to have surround it. The pressure for these special contracts or subsidies comes from owners of particular lines of steamships. As far as I know no petition from the people has come to us for this kind of legislation. There are no boards of trade recommending it. This amendment, if adopted, places a million of dollars in the hands of the Postmaster-General that he, in his discretion, may establish mail steamship lines among our different ports; it is all left to his discretion.

But I am not now criticising the mere language of the amendment, I am insisting that we cannot build up our carrying trade by subsidies to a few steamship lines.

I submit that this is not the remedy, it is not a move in the right direction to build up our ocean mercantile marine or our carrying trade upon the seas. It is, in the language of a Senator, [Mr. HAMLIN,] "an entering-wedge" to appropriate next year a larger sum, and the next year a still larger sum for these subsidies; and soon you will have no one running steamships except those who get a subsidy from the Treasury. The subsidized lines can easily combine and drive from the ocean competing lines not subsidized, and when the subsidy ceases we will be without any American vessels in the ocean carrying trade. There were complaints in 1878, when this question of subsidizing was before us, by the owners of ships in Baltimore that the prior subsidized line to Brazil had been detrimental to the carrying trade they were carrying on to and from Brazil in their sailing-ships; that it had driven them out of this trade, and when they were driven out of the trade, during eight or ten years, the subsidized line stopped when it could get no more money from the Treasury.

I object to the measure as an entering-wedge to open the Treasury for millions of the people's money to flow out of it into the pockets of a few persons without any substantial benefit to the mass of the people. I am as much in favor as any one can be of trying to regain our carrying trade by legislation, matured with care and the advice of the best-informed men of the country. I venture to say that on a full examination of this subject, so important to our country, we will be satisfied that the granting of large subsidies to a few ocean steamship lines for carrying our foreign mails will not prove efficacious in restoring to our merchants our proper share of the ocean carrying trade in American-built ships. Some other measure than subsidies to a few steamship owners is necessary to re-establish our mercantile marine upon the ocean.

In my judgment our navigation laws should be revised and materially changed. We have had navigation laws in force, which are claimed to be for the protection of American ship-builders and for the protection of American laborers, until we have ruined our ship-building business for the foreign ocean carrying trade. Let me give some statistics on that point. I take them from a table in the annual report of the Chief of the Bureau of Statistics on the foreign commerce of the United States for the fiscal year ended June 30, 1880. Table F, on page 61 of this report, is headed "Nationality of the tonnage entered at sea-ports of the United States from foreign countries from 1856 to 1880, inclusive." In this table the total tonnage entered at our ports for each year, and also the portion of it which was American and the portion of it which was foreign, is given. For the year ended June 30, 1856, the total tonnage entered at ports of the United States from foreign countries was 4,464,038 tons, of which the American-built ships constituted 3,194,275 tons, and the foreign-built ships only 1,259,762 tons. How was it during the year ending June 30, 1880? For the year ending June 30, 1880, the total tonnage from foreign countries entered at American sea-ports was 15,240,534 tons. How much of this was American-built ships? Only 3,128,374 tons, being 65,901 tons less than it was for the year ending June 30, 1856. We have been by our navigation laws protecting, as is claimed, American ship-building and the American foreign carrying trade during all these years; and yet our American-built ships engaged in the foreign trade, which in 1856 constituted three-fourths of all the tonnage entered at our ports from foreign countries, in 1880 constituted only about one-fifth of all the tonnage entered at our ports from foreign countries. In 1880 the foreign tonnage was 12,112,160, the American only 3,128,374. From 1856 to 1880 the tonnage entered at our ports from foreign countries had increased from 1,269,763 to 12,112,160 tons, and the American had decreased to 3,128,374 tons.

Now, let us see how the merchant marine of other countries has increased while ours has decreased. On page 43 of his report the Chief of the Bureau of Statistics speaks of the decline of our foreign carrying trade, while that of other countries has increased. He says:

> The decadence of that branch of American shipping which is employed in our foreign trade is more clearly indicated, however, by the statistics of the movement of tonnage hereinbefore presented. The table showing the nationality of tonnage entered indicates that since the year 1856 there has been an increase in the tonnage entered at American sea-ports of vessels of every nationality except those carrying the American flag. American tonnage alone has exhibited a decline. The increase in British tonnage entered amounted to 6,967,173 tons; the increase in German tonnage amounted to 922,903 tons; the increase in Swedish and Norwegian tonnage amounted to 1,214,098 tons; the increase in Italian tonnage amounted to 596,907 tons; the increase in French tonnage amounted to 208,412 tons; the increase in Spanish tonnage amounted to 164,683 tons; the increase in Austrian tonnage amounted to 204,872 tons; the increase in Belgian tonnage amounted to 226,277 tons; the increase in Russian tonnage amounted to 104,009 tons, whereas there was a decrease in the American tonnage entered of 65,901 tons.

And is it true that it can be materially increased and built up by a system of subsidies granted to a few ship-owners from year to year? I want to call attention to the value of the exports and imports of this country from 1856 down to this time. By whose ships have they been carried? That will be found in this report, Table G, at page 62, in detail; and the percentage of our total exports and imports for each year from 1856 to 1880 carried in American-built vessels is there stated.

In the year ending June 30, 1856, the value of the total exports and imports from this to other countries, and from foreign countries to us, amounted to $641,604,850. What portion was carried in foreign vessels, and what portion in American vessels, built in America, owned by Americans, commanded by American officers, and manned by American sailors? American vessels carried $482,268,274 in value of this total of exports and imports in 1856. In foreign vessels there were carried only $159,336,576 in value. How is it to-day? For the year ending June 30, 1880, the value of our total exports and imports to and from foreign countries amounted to $1,613,770,633. Of this there was carried in foreign vessels in value $1,309,466,596; in American ships in value only $280,005,497. In 1856 the amount of our total exports and imports was $641,604,850, and of this amount there was carried in American vessels $482,268,274 in value. Now we carry in American ships only $280,005,497 of a total value of $1,613,770,633 of our exports and imports.

The following, taken from Table G above referred to, shows the total value of the exports and imports of the United States in each year, and the percentage of the same carried in American-built ships:

| Fiscal years. | Total imports and exports. | Percentage carried in American vessels. |
|---|---|---|
| 1856 | $641,604,850 | 75.2 |
| 1857 | 723,850,823 | 70.5 |
| 1858 | 607,857,571 | 73.7 |
| 1859 | 695,552,592 | 66.9 |
| 1860 | 762,288,550 | 66.5 |
| 1861 | 584,995,066 | 65.2 |
| 1862 | 435,710,714 | 50.0 |
| 1863 | 584,928,502 | 41.4 |
| 1864 | 669,855,034 | 27.5 |
| 1865 | 604,412,996 | 27.7 |
| 1866 | 1,010,938,552 | 32.2 |
| 1867 | 877,020,391 | 33.9 |
| 1868 | 848,527,647 | 35.1 |
| 1869 | 876,449,384 | 33.1 |
| 1870 | 991,896,979 | 35.6 |
| 1871 | 1,132,472,098 | 31.2 |
| 1872 | 1,212,398,233 | 28.5 |
| 1873 | 1,340,902,221 | 25.8 |
| 1874 | 1,312,680,640 | 26.7 |
| 1875 | 1,219,434,544 | 25.8 |
| 1876 | 1,242,904,312 | 33.1 |
| 1877 | 1,194,045,627 | 26.5 |
| 1878 | 1,210,519,399 | 25.9 |
| 1879 | 1,202,708,614 | 22.6 |
| 1880 | 1,613,770,633 | 17.4 |

This same report, on page 42, says:

> The building of ships and barks employed in our foreign commerce fell from an annual average of two hundred and thirty-three during the ten years from 1851 to 1860 to an annual average of fifty-six during the ten years from 1871 to 1880. There were only twenty-three ships and barks built (for foreign commerce) during the year ending June 30, 1880.

We were building from 1851 to 1860 two hundred and thirty-three ships and barks annually for our foreign carrying trade. For the ten years from 1871 to 1880 we built only an annual average of fifty-six vessels; and during the year ending June 30, 1880, we built only twenty-three ships and barks for the ocean carrying trade. The Chief of the Bureau says in his report, pages 42, 43:

> The iron steamship is now the controlling vehicle of commerce on the ocean.
> The tonnage of iron vessels built in this country during the last five years amounted to only 101,823 tons, almost entirely for our coastwise or home trade, in which no foreign competition is allowed under the provisions of our navigation laws, whereas the iron ship building of Great Britain during the last five years reported amounted to 1,800,193 tons.

These facts prove clearly that under our present policy and laws we cannot successfully compete with foreign countries in building ships for the ocean carrying trade, nor are our citizens able to engage successfully in the ocean carrying trade. Our ship-building industry, so far as ships for the foreign carrying trade is concerned, amounts to nothing; and our own citizens are really excluded from engaging in the carrying trade between our own and foreign countries.

There should be a remedy for this; I believe there is; but I do not believe the granting of subsidies by the Government to the owners of a few lines of steamers will prove to be a remedy.

In my judgment the remedy is to change our policy and laws as to

ship-builders and ship-owners; relieve both from restrictions and burdens which prevent them from competing successfully with the ship-builders and ship-owners of other countries.

In addition to the exclusive right to build vessels for our coastwise and inland trade which our ship-builders now enjoy, let our laws be changed so that they shall have free from import duty or tax everything which they use in building, equipping, or repairing ships for use by American citizens in the foreign carrying trade. Then if they cannot furnish us ships for the ocean carrying trade at as low prices as they can be bought of foreign build, they cannot complain if our citizens are allowed to buy ships built in foreign countries and employ them as American ships in the carrying trade with foreign countries.

We should revise and change our navigation laws so that our citizens shall be permitted to buy ships wherever and from whomsoever they can buy them cheapest, and obtain for such ships an American registry and employ them under American officers as American ships in the foreign carrying trade no matter where they were built. Our citizens certainly should be allowed to have as cheap vessels to transport our exports and imports as foreigners. If not, they cannot compete successfully with foreigners in the carrying trade.

Permit vessels owned by American citizens and engaged in the foreign trade to take their stores out of bond duty free; and change our consular system and laws so that American vessels shall not be subject in foreign ports to any consul fees or charges, or if to any, not in excess of those paid by British ships.

Adopt for American vessels a new tonnage measurement based on actual carrying capacity and excluding the space occupied by engines and boilers and for the accommodation of officers and crew, and thus place American ships on an equality with foreign ships as to tonnage dues.

Abolish compulsory pilotage in the United States. Modify our laws as to seamen so that the owners of American ships shall not be burdened and annoyed by needless restrictions. So far as it can be done exempt from taxation all vessels employed in the foreign carrying trade. In a word, we should relieve American owners and ships employed in the foreign carrying trade from all restrictions and burdens which place them at a disadvantage in competing with foreign ships and owners. Legislation of this character will aid our ship-builders and will enable our citizens to become again carriers on the ocean.

Mr. President, I have indicated why I oppose this subsidy system. It will not, in my judgment, materially aid in restoring the carrying trade in American ships owned by American citizens. It will not enable the American ship-builders to compete successfully in building ships for the American foreign carrying trade, for they cannot do so now. Twenty-three ships and barks only were built during the last year for foreign commerce. I am opposed to this amendment proposed by the Committee on Post-Offices because I think it means nothing but a system of subsidies to a few owners of steamships. This will not remedy the difficulties under which American ship-builders labor or restore our mercantile marine. I think Congress should turn its attention to revising and changing our navigation laws so as to relieve our citizens from restrictions and burdens which have driven them out of the foreign carrying trade. If this is done we shall soon begin to carry a large portion of our exports and imports in American ships owned by American citizens and navigated by American officers and sailors.

### HOUSE BILLS REFERRED.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The Chair asks the indulgence of the Senate to lay before it some bills from the House of Representatives for the purpose of reference:

The bill (H. R. No. 301) for the relief of William R. Wilmer was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 936) relinquishing the right of the United States to an island therein named was read twice by its title, and referred to the Committee on Public Lands.

The following bills were severally read twice by their titles and referred to the Committee on Claims:

A bill (H. R. No. 1583) for the relief of Mrs. Fanny S. Conway, of Louisville, Kentucky;

A bill (H. R. No. 6248) directing the payment of certain awards in favor of parties therein named; and

A bill (H. R. No. 6717) for the allowance of certain claims reported allowed by the accounting officers of the United States Treasury Department.

The following bills were severally read twice by their titles and referred to the Committee on Pensions:

A bill (H. R. No. 802) granting a pension to Wyatt Botts;
A bill (H. R. No. 853) granting a pension to Caroline Stief;
A bill (H. R. No. 1259) granting a pension to Phineas Gano;
A bill (H. R. No. 1452) for the relief of James B. Furman;
A bill (H. R. No. 1453) for the relief of James R. Gordon;
A bill (H. R. No. 1455) granting a pension to Albert O. Miller;
A bill (H. R. No. 1467) granting a pension to Mary A. Casterweller;
A bill (H. R. No. 1885) for the relief of John A. Innes;
A bill (H. R. No. 2075) granting a pension to Amanda J. McFadden;
A bill (H. R. No. 2439) granting a pension to Henry Mills;
A bill (H. R. No. 2549) granting a pension to Edward H. Mitchell;
A bill (H. R. No. 2550) granting a pension to Lewis Blundin;
A bill (H. R. No. 2773) granting a pension to James P. Hunter;
A bill (H. R. No. 3309) for the relief of John T. Neale;
A bill (H. R. No. 4028) granting a pension to Jesse T. Myers;
A bill (H. R. No. 4257) granting a pension to Jane Stout;
A bill (H. R. No. 4367) granting a pension to Emma A. Porch;
A bill (H. R. No. 6201) granting a pension to Thomas Worthington; and
A bill (H. R. No. 6423) granting an increase of pension to Rebecca Reynolds.

### ARMY APPROPRIATION BILL.

The Senate proceeded to consider the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 6719) making appropriations for the support of the Army for the fiscal year ending June 30, 1882.

Mr. DAVIS, of West Virginia. The Senator who has charge of the Army bill, the Senator from Virginia, [Mr. WITHERS,] is not in his seat, and I move in his absence that the Senate insist on its amendments and ask a committee of conference with the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to.

### THOMAS WORTHINGTON.

Mr. THURMAN. I wish to have the Senate consider one of the bills that came over from the House, a bill granting a pension of $30 a month to Thomas Worthington. It passed the House unanimously and I do not think there will be the least objection to granting to that poor old soldier who performed such meritorious service for his country this little pittance to keep him from absolute poverty. I ask unanimous consent to have the bill acted on at once.

The PRESIDING OFFICER. If there be no objection, the order by which the bill was referred to the Committee on Pensions will be reconsidered. The Chair hears no objection.

The bill (H. R. No. 6201) granting a pension to Thomas Worthington was considered, as in Committee of the Whole, reported to the Senate, ordered to a third reading, read the third time, and passed.

### AMENDMENT TO A BILL.

Mr. TELLER submitted an amendment intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

### POST-OFFICE APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes.

Mr. MAXEY. Mr. President——

Mr. HAMLIN. With the consent of the Senator from Texas, who is entitled to the floor, I want to make a correction, or rather to add a word or two to what I said in reply to an interrogatory put to me this morning by the Senator from Vermont, [Mr. MORRILL.] I had in my mind the idea that the amount of one million appropriated would furnish us with only a very small proportion of the mail facilities to foreign countries that are desirable. As I now understand, he put to me the question whether the $30 per mile was not too much for each trip. I did not catch the precise scope of his question at the moment. The $30 is for the twelve trips per annum, not for one trip; but if a contract were made for twelve trips a year this rate was to be only on the nautical mile of the route one way for the whole twelve trips, and the amendment which I offered so read.

Mr. MORRILL. In reading the amendment I thought the language was ambiguous at least, and probably open to the interpretation which I gave it.

Mr. MAXEY. The Senator from Alabama offers an amendment to the amendment reported by the Committee on Post-Offices and Post-Roads. To that the Senator from Pennsylvania interposes a point of order, on the ground that it is, as he terms it, radical legislation. The question, then, and the only question before the Senate at this time, is, is the amendment of the Senator from Alabama in order?

I call the attention of the Senate to the text of the amendment which is proposed to be amended by the amendment of the Senator from Alabama.

*Provided*, That the vessels employed for such service shall be owned and manned by American citizens, &c.

The expression is "owned and manned," not "built." That has been decided by the Senate to be in order. Now, the purpose, and the only purpose, of this amendment of the Senator from Alabama is to make clear and plain the right of vessels thus employed, owned, and manned by American citizens to be registered as American vessels.

But it is insisted by the Senator from Pennsylvania that that is a repeal of the navigation laws. I submit that it is not so, nor does it touch the navigation laws in any regard except in so far as Congress has the right to do it. The Constitution grants to Congress the power to establish post-offices and post-roads, and there goes necessarily with that grant the power to do anything to effect or accomplish the object of the grant. Hence if Congress sees proper to except out of the operation of the navigation laws vessels employed by virtue of an act of Congress in the carrying of the mail, Congress has a perfect right to except those vessels thus employed out of the operation of the navigation laws without in the slightest degree affecting the navigation laws themselves.

That is what this says; not that the navigation laws shall be repealed, but that vessels which are employed by the Government in the carrying of the mail shall be owned and manned by American citizens; and the amendment offered by the Post-Office Committee, and which is proposed to be amended by the Senator from Alabama, applies alone to vessels employed by the Government in the execution of a constitutional duty and without the slightest interference with the navigation laws as I consider. Therefore I think that it is in order. Besides, it simply perfects the text of that which the Senate has decided to be not in contravention of the twenty-ninth rule.

Mr. WHYTE. Mr. President, I wish I could vote conscientiously for the amendment proposed by the Senator from Alabama, but I have an unfortunate propensity for being consistent in my votes, and having objected yesterday to this original amendment as changing existing law and therefore liable to objection under the twenty-ninth rule, I feel compelled to vote against this amendment upon the same ground.

It strikes me that it is a repeal *pro tanto* of the navigation acts. I should like to see them repealed. I think the amendment of the Senator from Alabama is the best thing that has been presented to the consideration of the Senate since this Post-Office appropriation bill has been up, and if it were a substantive proposition I should vote for it with cheerful alacrity. I cannot vote for it now because I do not think it is in order, and therefore I shall vote to sustain the theory that it is out of order.

But see what it would accomplish if it were only in order. It would destroy the hope, and the view, and the anxiety of that distinguished public benefactor, Mr. John Roach. It would be distressing to his sensibilities if such an amendment as this should be tacked onto an amendment which in reality, however intended, is to redound entirely and exclusively for his benefit. Mr. Roach does not want "free ships;" he wants American-built ships to be engaged in this traffic. Why? Because Mr. Roach is the only man who has got the American-built ships to comply with this requirement and this demand. Mr. Roach comes here and says that anybody that opposes him—so I read from his testimony before the Committee on Finance—is a selfish man; and he described me, (I do not object to it,) because I opposed his subsidy two years ago, as a currier, a leather-man, in some anecdote which he detailed to the Committee on Finance, because I was in favor of building the ruined town in leather, being a currier, and that I did not want anybody but myself and my own town to succeed. Mr. Roach must have been cutting my cloth according to his own measure. He is selfish, and wants no free ships; he wants only ships of his own build to be used in this carrying trade. If you adopted this proposition look how distressed he would be. In this testimony he says:

> I have here a paper that appears in the hands of nearly every shipping man of New York once a month or once in three months. (H. E. Moss & Co.'s Ocean Steamship Circular,) and in this list here published are four hundred and six iron ships of all ages and of all tonnage, tied to the docks of Liverpool, Glasgow, and other places, for sale.

No wonder he is horrified at a proposition for free ships. No wonder he dreads our opening wide the doors to American capitalists to go abroad and do as Germany has done and as other nations have done that have increased their tonnage upon the ocean and buy ships where they can buy them cheapest. No wonder he is horrified at our ability to go to Glasgow and other ports in Great Britain and buy some of these four hundred and six iron ships and bring them over here to run in competition with him for a subsidy.

> Here is over forty million dollars' worth of property for sale at a low valuation.

Can any comment stronger than that be made upon our navigation laws, against which the junior Senator from Alabama [Mr. PUGH] so well inveighed the other day, that here is forty million dollars' worth of property in steamships lying tied to the docks of British ports open for sale to American citizens and we are not able to go out and buy them and run them in the American ocean service? What a commentary it is upon our shortsightedness! We are asked to imitate England in regard to subsidizing vessels, and yet we turn our backs upon what England did in former years. To build up her tonnage, to increase her ship-sailing facilities, she came to America and bought our Baltimore clippers and other sailing-vessels in those days when we outstripped the world in the way of fast-sailing ships. England did that. England permitted its people to come here and buy these ships as cheaply as they could buy them and take them back to British ports to sail under the British flag; but we in our wisdom will not permit our citizens to do any such thing.

I wish I could vote for this amendment; but I cannot vote for it under my view of the rules of the Senate. Therefore I only desire to explain that while I favor this proposition, one of the very best, in my judgment, which has been proposed—while I approve of it entirely, under my views it is impossible for me to give it my support upon this occasion.

Mr. PUGH. Will the Senator from Maryland allow me to ask him if he would not support this amendment if the Senate should hold that it is in order?

Mr. WHYTE. I would not; because I do not think a majority of the Senate ought to control my judgment.

Mr. McDONALD. Mr. President, the merits of the proposition before the Senate have so far been discussed upon questions of order, first, as to the amendment reported by the Senator from Texas, [Mr. MAXEY,] representing the Committee on Post-Offices and Post-Roads, and now upon the amendment offered by the Senator from Alabama, [Mr. MORGAN.] I voted to sustain the Chair in deciding that the amendment first offered was not in order. I voted more upon the ground that I did not favor the proposition than upon the abstract question of order. Since I have been in the Senate I have found that upon this class of questions Senators have usually voted that that was in order which they were in favor of, and that that was not in order which they were opposed to. If the amendment offered by the Senator from Alabama were addressed to a proposition which I favored, it would certainly meet my favor. If the proposition submitted by the Committee on Post-Offices and Post-Roads through their chairman to add $1,000,000 to the Post-Office appropriation bill, to authorize the Postmaster-General to establish ocean mail lines, was one which I felt ought to be adopted at this time, I should certainly desire that it should be adopted with the amendment offered by the Senator from Alabama, made perhaps a little clearer in its terms than that amendment now stands.

This discussion has run into the question of how our commercial marine has gone down to its present point and how it may be re-established. It is a lamentable fact that of our foreign commerce but little in proportion is carried by American vessels; that while twenty years ago three-fourths of it was carried in American vessels, but 17 per cent. of it is so carried now. The statistics show the additional fact, not very encouraging to us, that if a disturbance should take place in Europe between two of the commercial nations of that hemisphere, by which their commercial marine might become locked up by the dangers of war, almost our entire surplus would remain upon our hands; that of the eight hundred and odd million dollars of our exports, as shown by the reports for the last current year, we should have the capacity to carry but 17 per cent., and should have to find some means of obtaining a shipment of the remainder until we could create the power within ourselves, or we should have to keep it on hand.

Many speculations as to the cause of this decadence of American shipping have been indulged in, and I do not think the statistics give any very clear exposition of it. That it could be remedied to some extent by a change in our policy in reference to the licensing and registration of vessels, I have no doubt. At one time it was supposed by our Government that it had greatly injured us during the late civil war for our commercial marine to be compelled in a great measure to take down the American flag and to take protection under foreign governments. That was certainly at one time regarded as a very great injury to us. It will be found in what is called the American case, in connection with the proceeding of the Geneva tribunal, that it was made one of the substantive grounds of complaint under which we sought to recover damages from Great Britain, that our vessels had been thus compelled to abandon the protection of our own flag and take protection under foreign governments.

While contemplating that fact, when we look into our statute-books we find that at the close of the war, in 1866, just after this great damage and wrong had been suffered in the revision of our navigation laws, a distinct and substantive section was inserted by which those vessels that had thus, for the time being, denationalized themselves were declared expatriated and prohibited from ever again returning; and that was put alongside of other legislation by which the right of registration and license was limited not merely to vessels owned by American citizens but to American-built vessels. These two facts do not go very well side by side, and yet they are prominent facts in connection with this branch of our industrial interests.

Mr. President, I am of those who do not believe that the remedy is to come by the class legislation that is proposed in the amendment submitted by the Committee on Post-Offices and Post-Roads. In the first place, a million dollars is here to be placed at the discretion of the Postmaster-General for the establishment of marine lines for the transportation of our mails. This, it is stated in the amendment, is to be equitably distributed between the ports of the Atlantic, the Gulf of Mexico, and the Pacific; but every dollar may be expended in six months or a year, or in any other period that in the discretion of the Postmaster-General he may see proper to expend it. He is not required to enter into contracts for any determinate period of time. He is simply vested with authority to expend $1,000,000 in an experiment to establish ocean mail lines from the different ports of the United States, which he may select under the very general limitation contained in this act.

I am perfectly willing to provide for carrying our mails to foreign countries, and to provide liberally for it. I am also willing that in selecting the modes of conveyance there shall be discrimination in favor of our own citizens; but I am not willing that this Government shall pay any portion of the freight bills of those who may ship produce from our country to foreign countries. If subsidies are to be resorted to I would rather go at once to the freighter than to the ship-owner, and give any direct subsidy to those who might ship to foreign countries with which our trade at present is limited, by way of building it up, and subsidize upon the amount of their shipments or give drawbacks upon the amount of the freights that they have to pay. I would prefer to go to that directly rather than to undertake to subsidize lines of transportation.

The objection that has been stated to this proposition it seems to

me is unanswerable. Whenever you subsidize a line between any port in the United States and a foreign port, you necessarily limit the amount that is to be transported between those ports to the capacity of that line and exclude competition from it. The subsidized line has the advantage. It has the patronage of the Government, the countenance and support of the Government, and the Government money. The statistics read by the Senator from New York [Mr. KERNAN] in reference to the experiment made some years ago in regard to the trade and commerce between the ports of New York and Rio de Janeiro are but a simple illustration of that fact. A subsidized line of limited capacity carried a certain amount of freight for ten years, and when the subsidy ended the line ended, and as a matter of course until volunteers came in, until others came forward to engage in the trade upon their own account, the intercourse in the shape of commerce almost ceased between those points. But during all that time the stream did not rise above the fountain, and could not rise above it from the very nature of the transaction in which the Government was thus engaged.

If this experiment is to be tried, if this million dollars is to be thus put at the option of the Postmaster-General, I certainly hope and trust that all limitation and restriction in regard to the selection of vessels, so that they shall be owned by citizens of the United States, will be taken off, and that not merely one establishment in this country, but the constructors of vessels of this class everywhere may have the opportunity to sell them to American citizens to be used in this experiment. But I shall be compelled to vote against the entire experiment, because I do not believe it is the proper mode of restoring our lost condition upon the ocean, or of remedying the evils under which we are now suffering in that regard.

Mr. EATON. Mr. President, I will confine myself entirely to the amendment offered by my friend from Alabama, and I would not say a word except for the fact that I shall be compelled to vote against that amendment while the principles involved in it meet my entire approbation. Three or four years ago on this floor I announced my desire to vote for measures changing our navigation laws; further than that, even to abrogate treaties if necessary in order to give a rebate to American bottoms. I have not changed my opinion upon that subject. In my judgment, it is the only way that we can bring back to us the commerce which we have lost. But we cannot do it by an amendment of this character, which, in my judgment, is plainly out of order. Therefore, while seemingly I should vote for an amendment of this character, I shall be compelled to vote against it because I believe it to be entirely out of order. While I would be very glad to join with my friend from Alabama in the passage of any measure which would give to American citizens the right to buy ships wherever they may choose to buy them, I would discriminate in favor of American bottoms after the ships become American bottoms, and in that way rebuild, if possible, our commerce.

Mr. BAILEY. Mr. President, I concur in what has been expressed so briefly by the Senator from Connecticut, [Mr. EATON.] The principle that is embodied in the amendment offered by the Senator from Alabama [Mr. MORGAN] meets with my approbation. I would give to an American citizen the right to buy a ship wherever he may find it to his interest to make the purchase, and bringing it to this country make it an American ship; for unless we do away with the navigation laws of the United States which exclude vessels of foreign origin from the benefits and advantages pertaining to ownership by an American citizen, I have no hope of seeing American citizens enjoying the advantages of the carrying trade of the products of our country.

The destruction of this carrying trade is to my mind one of the most remarkable facts that we have witnessed in this remarkable age. Twenty-four years ago there belonged to American citizens almost altogether the carrying of American products and the bringing to this country the articles that our people bought abroad. The ratio carried by American vessels has diminished, as has been stated this afternoon, from 75 per cent. of the entire foreign trade of the country to 17 per cent., while in every other department of industry we have grown in a manner that is almost miraculous. While our population in twenty-four years has increased almost or quite a hundred fold, while our territory has been enlarged—I mean that which is brought under the hand and control of man—while our domestic productions of every kind have increased from one hundred to five hundred fold, we find the remarkable fact that the carrying trade of American citizens has been diminished in the ratio I have mentioned.

There is a cause for this, and I do not think that it has been fully stated here. I do not propose to go into the discussion, however, because the measures that are necessary, in my opinion, to correct the evil are not to-day before the Senate; but there is a variety of causes. First, we have protected the ship-building interests out of existence; we have forbidden American citizens to buy any other than American-built vessels to engage in the foreign trade, and the building of vessels has diminished from an average of two hundred and fifty per year to twenty-three per year. Protection has strangled this industry. That is one of the causes, and why has it so operated? People engage in buying ships and in operating them for the purpose of making a profit; and if they are compelled to buy ships at an advanced price; if, in other words, they are compelled to pay more than others are compelled to pay, they cannot enter into free competition with the other people who buy them cheaper than they. So I regard it as indispensable if we are to enter upon legislation looking to a correction of this evil, that we should abolish our navigation laws.

But that is not, in my opinion, the only cause of the decadence of American shipping. In the past twenty years we have been afflicted in this country with what is called so familiarly here the war of the rebellion. There was an immense waste of capital and of wealth in the North and in the South. There was an accumulation of debt, which is resting still upon the country. There was an enlargement of the pension-roll, which requires to-day forty or fifty million dollars annually, the interest upon our debt being seventy or seventy-five million dollars annually. For the ten years past it has averaged $100,000,000 annually, and is now not less than seventy-five or eighty million dollars. All this waste we have had to supply.

More than that, in the years that have rolled by since 1865 the Government has endeavored to build up the manufacturing interests of the country and every inducement and every persuasion that Government could offer has been offered to the capitalists of the country to invest their money in manufactures. Our manufacturing interest has increased greatly beyond anything that had been before known in the history of this country. More than that, we have invited immigrants to come here from abroad. We have built great lines of railroad penetrating the wilds of the West and opening up to the use of our people and of those who come from abroad the vast territories that lie beyond the Mississippi River. Homesteads have been given to the people. Bounties have been given by the Government to corporations to enable them to build railroads to penetrate into the western country and to carry there all the arts of civilization. The capital, the enterprise, the energies of our people have thus been engaged in opening up the great West and giving to the country, I may say, and to the world, the magnificent productions of the soil of the West, and thus our foreign trade has been increased. From this cause and from this source there has been brought about that remarkable change in our foreign exchanges enabling us to resume specie payments and bring into the country one, two, or three hundred millions a year in the shape of gold, the value of our products exported over the value of the products that we have brought from abroad.

I say the wealth of the country, the enterprise of our people, the energies of our people have been in a different direction, and we to-day, in consequence of the well-directed efforts of the citizens of the United States, are the most prosperous people on the face of the globe. No other people are fed and clad and enjoy the comforts that the American people enjoy. Great Britain has a large commerce; so has Germany; so has Spain; so has every European power; but still do the subjects of those governments enjoy the comforts accorded or that, I might almost say, belong to every American citizen? Not at all. We are a rich people, and we are growing richer every day, North, South, East, and West. There is an improvement and an advance in wealth. Can we expect, does any reasonable man expect, that we can surpass all the peoples of the world in every department of industry? Have we any reason to expect that we shall surpass our English friends, or our German friends, or the French, a people who have a civilization equal to our own, a people who are advanced in the arts, a people who are our equal in respect to the sciences and in everything that civilization can bring? I certainly do not expect it.

I have no doubt there will be disappointments whatever measure we may adopt in the Congress of the United States to restore the carrying trade to American citizens. There will be disappointments, because I do not think that we have taken a broad enough view of this whole subject. I should vote for the amendment offered by the Senator from Alabama to the amendment that comes from the Post-Office Committee if it were broad enough, if it would at once abolish the navigation laws of the United States, with a view to make an experiment, not believing that in one year, or in five years, or in ten years, or indeed in twenty years, we can recover our lost carrying trade, but with a view to make the effort and to diversify the industries of our people, to take away some part of their capital which is now invested in manufactures, some part of their enterprise and their energy that is now directed to the development of the country that is west of us, and save something for the children and grandchildren of those who are living to-day, for I believe that we are settling up our great domain much too rapidly. I believe the American people are making a mistake in encouraging to come from abroad 300,000, or 500,000, or 1,000,000, as they would be welcome should they come, to settle up our vacant territories. We are saving nothing for those who come after us. We have a population to-day in the United States sufficient for every purpose that we should desire. We have enough to make us one of the strongest governments upon earth. We have enough to give us an internal commerce the most magnificent that the world has ever seen. We have population enough and territory enough already opened up to the industries of our people to make us, as I said a while ago, the richest people in all the comforts that can accompany civilization upon the globe. I think in that we are making a mistake. I would wish to diversify still further our industries. I should like to see a part of that capital, I should like to see some of that enterprise and some of the great energies of the American people turned in the direction that is now desired.

But I cannot vote for the amendment, because it means nothing. It seems to me, I say so respectfully, that it is nothing more than empiricism. It undertakes, by establishing three or four lines of

steamers and putting upon the ocean ten or twelve ships, to restore that lost carrying trade, amounting to hundreds of millions of dollars, to bring it up to 50, 60, or 75 per cent. of the entire foreign commerce of the country, and place it where it was twenty-five years ago. That reminds me very much of the story that is told of Mrs. Partington, who undertook with her broom to sweep back the rolling billows of the ocean that were threatening to overwhelm her. You can do nothing in that way. It is a mere drop in the bucket; it will amount to nothing. Your million of dollars thus expended will pay you, what? As has been said by other Senators here to-day, it will but build up a few capitalists at the expense of those who are competing with them. You establish a line of these steamers from New York to Rio Janeiro, and what will be the effect upon the commerce of Baltimore? I remember a few years ago thirty or forty sailing-vessels, not steam-vessels, where sailors were trained, were employed in the Baltimore and Rio trade. What was the effect of the bounties that were paid by the Government to a line of steamers? It was almost to destroy the interests connected with that shipping. That will be the effect and the only effect of it. I think that the remedy must be more radical; you must go to the very root of this thing.

I agree with what the Senator from Connecticut has said, that if you expect to restore the ocean carrying trade by legislation you must abolish your navigation laws, and you must extend to all the American people (not to a few, not to the builder of an iron vessel upon the Delaware, excluding everybody else) the advantages that are to be derived from legislation, and you must have freedom of competition. In other words, let there be a rebate of duties on all dutiable articles brought into this country in American bottoms. I do not know what rate per cent. would be required, but if I to-day were voting for any subsidy system my mind would take that direction and make it free and equal to everybody. I cannot vote for this amendment.

Mr. President, I beg pardon of the Senate for detaining it as long as I have. I intended when I rose to say only one word.

Mr. MORGAN. Mr. President, I think it would be entirely fair, as the mover of this amendment——

Mr. CONKLING. As it is Saturday afternoon and well-nigh five o'clock, I ask the Senator from Alabama whether he will yield to a motion to adjourn?

Mr. MORGAN. I will in a very few moments, I will say to the Senator from New York.

It would be entirely fair, I was about to remark, as the mover of this proposition, that I should be allowed some latitude upon the merits of this proposition, which have been brought into this debate very much contrary to the views of the Senate under the fortieth rule, because as I understand it the Chair has not yet decided, but Senators have taken the liberty to express a very wide and reverential loyalty to the rules of the Senate. I prize that, particularly as our precedents, as was shown by the Senator from Kansas this morning, are revolutionized whenever the judgment of the Senate changes upon a particular proposition, especially under the rules relating to the bringing in of amendments to appropriation bills. You can find almost any kind of decision by the Senate upon those rules you choose to look for. The fact is that the Senate in ruling matters in order or out of order upon appropriation bills under the two rules which have been quoted here is frequently moved, as has been confessed by Senators on the floor this afternoon, by the consideration that it bestows upon the amendment itself and not upon the question of order that is involved in it. Whenever the Senate has seen proper to introduce a subject into an appropriation bill, it has always found a reason for doing so; and in truth no one decision made by the Senate is a precedent for another unless the cases are precisely alike.

The case that is now presented is not like any that has heretofore been presented. I desire to state to the Senate substantially the grounds upon which I think this amendment is in order, and then I shall have said on this subject all I desire to say at this time.

On page 8, line 184, under the head of "Office of Superintendent of Foreign Mails," the Committee on Appropriations, following what the House had done, appropriated "for transportation of foreign mails, $225,000," without saying anything as to how they shall be transported, or in what kind of ships. When we turn to the statutes on that subject we find that the Postmaster-General has a right to contract with ships built in America, or to contract with ships built abroad, for the expenditure of that sum of money; so that we have both classes already in the provisions of the law; and the money is appropriated out of the Treasury to pay the expenses of transporting foreign mails to be carried in American-built ships or in foreign-built ships, as the Postmaster-General may see proper. This amendment adds to that sum $1,000,000, and that is the whole effect of it; so that the appropriation stands on the statutes at $1,225,000 for carrying foreign mails, with this addition:

For additional postal service to foreign countries, $1,000,000, to be expended, &c.

The additional postal service is not provided for under the laws of the United States in reference to the manner in which it shall be expended. Therefore it is proper when we vote the money for that additional service that we should indicate the channels through which that money is to be used; and inasmuch as the existing laws authorize the Postmaster-General to contract with foreign-built ships and also with American-built ships for the transportation of these mails, there can be no violation of the rules of the Senate and no repeal of the statutes by saying to what particular classes of ships this particular appropriation of a million dollars shall be applied. Nor can there be any violation of law or repeal or alteration of law by saying that the vessels which are employed, as the Senator from Texas so well remarked, to carry these mails back and forth, shall be entitled to the privileges of American-built ships; that is, to wear our flag and to have an American register while they are engaged in the service, not permanently, but while they are thus employed.

It would be a strange thing if the Postmaster-General under existing laws can employ foreign-built ships to carry the mails of the United States, and if the Senate of the United States in increasing the appropriation has no right to say that those vessels shall be accepted in this country for registration as if they had been built in this country. Senators talk about consistency as if they felt that they were really very consistent; but there is no consistency in action of this kind.

Some remarks have been made about the doctrine of subsidy contained in this amendment. If you leave it to stand where it is as offered by the committee, Senators claim that it is a subsidy. If you put my amendment upon it, then you say it is not quite so much of a subsidy, but yet some argue that it is a subsidy even after that is put upon it. Let us see what Senators who have been so anxious about subsidies have done on this very bill, and let us see what democrats in the House and in the Senate, who as yet have a majority of both bodies, have done in reference to the matter of voting subsidies to foreign ships and foreign countries. I will read a proviso in the appropriation bill which follows the appropriation I have just read:

*Provided*, That the Postmaster-General is authorized to pay to the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the British closed mails to and from Australia as he may deem just, not to exceed one-half of said cost; and the sum of $40,000 is hereby appropriated for that purpose.

What is that? The two colonies of New Zealand and New South Wales have made by colonial legislation a subsidy of $450,000 per annum to two lines of steamships sailing between those colonies and San Francisco. One of the lines is an American-owned line, and the other is a British line. The American mails are carried upon these steamships, and we pay the sea postage under this very appropriation to those ships for carrying that mail. In addition thereto we subsidize them to the extent of paying one-half of the cost of the transportation of the British mails clear across this continent upon our railroads, in order that we may compensate the British Government for having extended to them such a large amount of subsidy.

Something has been said about John Roach and Brazil. John Roach did receive a subsidy from Brazil, and the Brazilian Government made it a condition of that subsidy that the American Government should pay an equal sum—$100,000 I think it was. We refused to do that upon the ground that we were subsidizing John Roach, an American ship-builder. What have we done in this bill except to subsidize a British line to convey the mails from New Zealand and New South Wales to San Francisco by paying half the expenses of the transportation of the British closed mails across this continent?

Mr. WALLACE. It is not a British, but an American line.

Mr. MORGAN. That makes it only so much the worse. We are subsidizing an American line, then, that carries the British mails.

Mr. WALLACE. We are not subsidizing them; we simply give them the mails to carry.

Mr. MORGAN. We give them the sea postage for the transportation of these mails, and this bill provides for that. In addition to that, we give $45,000 for the transportation of those mails closed across this continent in order to give them that advantage. It cannot be that that is a special subsidy. It is nothing but a subsidy, and Senators who put that on the bill and recommend it here rise on this floor and inveigh against an amendment which does contain no feature of a subsidy, but leaves these mail contracts open to competition in bidding just as much as the star-route contracts are left open to all American citizens. We confine what we are doing to American citizens as contractors, but we say they ought to have the right to buy their ships wherever they can buy them for this particular purpose, and after they have been bought for this particular purpose and while they are employed in this particular service they ought to have the liberties, rights, and privileges of American-built ships.

I beg pardon on my part for having violated this fortieth rule. I really feel that I am loyal to the rules of the Senate, and I try to obey them as I go along usually; but older Senators than I am, who have been here much longer, have taken the liberty this afternoon of discussing this question out of order.

Mr. BURNSIDE. I move that the Senate adjourn.

Mr. WALLACE. I trust the Senator will not press that motion now.

Mr. KIRKWOOD. I hope not. We want to get more work done yet to-day.

Mr. BURNSIDE. We have been here a long time, and the Senate is not in a condition to go on further to-day. I insist on my motion.

Mr. WALLACE. I hope the Senator will allow me to make a statement.

Mr. BURNSIDE. I withdraw the motion to allow the Senator to make a statement, if he will renew it.

The PRESIDING OFFICER. The Senator from Rhode Island withdraws the motion.

Mr. WALLACE. I am only anxious that the Senate should dispose of the question of order to-day. We can do it by a vote immediately, and the main question as to whether this proposition shall go upon the bill I am content shall go over until Monday, and we can dispose of the question on Monday.

Mr. ALLISON. Sitting it out.

Mr. WALLACE. Sitting it out Monday if it takes a night session.

Mr. KIRKWOOD. Can we not fix some time Monday at which we shall get through with this bill and get to other things which are pressing upon the attention of the Senate?

Mr. WALLACE. It is very difficult to get an understanding of that kind in the Senate; but I desire to give notice that I shall ask the Senate to finish the bill on Monday. I hope we shall have a vote on the question of order now.

The PRESIDING OFFICER. The question before the Senate is, is the amendment of the Senator from Alabama [Mr. MORGAN] in order?

Mr. BUTLER. Let it be reported.

The PRESIDING OFFICER. The Secretary will report the amendment.

The CHIEF CLERK. It is proposed to add at the end of the amendment proposed by the Committee on Post-Offices and Post-Roads:

When vessels built in other countries are so accepted and employed, the same shall be entitled to all the rights and privileges secured by law to vessels built in the United States of America, except the privilege of engaging in the coastwise trade.

Mr. MORRILL. I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont, to lay the amendment just reported on the table.

Mr. CONKLING. Does that carry the original amendment with it?

Mr. WALLACE. Let us understand what the effect of the motion is.

The PRESIDING OFFICER. The present occupant of the chair would hold that under the rules of the Senate, it would carry the amendment of the Senator from Texas, which has been ruled in order. It would not affect the bill. The question is on the motion made by the Senator from Vermont to lay the amendment on the table.

The question being put, there were on a division—ayes 15, noes 21; no quorum voting.

Mr. HARRIS. I ask for the yeas and nays.

Mr. TELLER. I will vote "no" to make a quorum. I am paired but will vote the same way as my pair.

The PRESIDING OFFICER. The Senator from Tennessee asks for the yeas and nays.

Mr. CONKLING. Pending that call I move that the Senate adjourn.

The question being put, there were on a division—ayes 12, noes 34.

The PRESIDING OFFICER. The Senate refuses to adjourn, and the question recurs on the motion of the Senator from Vermont to lay the amendment on the table.

Mr. WALLACE. I call for another vote by a division on that question.

Mr. BUTLER. I simply desire to say that if the yeas and nays are called on the motion to amend made by the Senator from Alabama, I shall vote that the amendment is not in order. I desire, however, to say that I am in entire accord with the principle of that amendment, and if my friend from Alabama will bring it in as a separate proposition I shall vote for it with a great deal of pleasure. But I do not believe it is in order, and therefore shall vote that it is not in order.

Mr. BURNSIDE. I suggest to the Senator from Pennsylvania that after the pairs are taken out there is no quorum present, and I ask that he allow the bill to go over until Monday.

Mr. KIRKWOOD. Cannot we have an understanding that we shall have it ended some time on Monday?

Mr. BURNSIDE. I am ready for that, but there is no quorum present after the pairs are taken out.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont, to table the amendment, upon which the Senator from Tennessee has called for the yeas and nays.

Mr. HARRIS. I have no objection to a division if there is a quorum present. I will withdraw the demand for the yeas and nays.

The PRESIDING OFFICER. The Chair will put the question again and take another count by a division.

Mr. McDONALD. I should like to understand the force of that vote. Would it carry with it the amendment offered by the Senator from Texas himself?

The PRESIDING OFFICER. The ruling of the present occupant of the chair is that tabling this amendment tables the amendment of the Senator from Texas. The question is on the motion of the Senator from Vermont, to table the amendment of the Senator from Alabama.

Mr. BECK. Before that vote——

The PRESIDING OFFICER. Debate can only proceed by consent, the motion being to lay on the table.

Mr. BECK. I only desire to state I am not at liberty to vote at all, being paired. I am paired with the Senator from Maine [Mr. BLAINE] and cannot vote at all.

The PRESIDING OFFICER. The question is on the motion to lay the amendment on the table.

The question being put, there were on a division—ayes 17, noes 21; no quorum voting.

Mr. TELLER and others. Let us have the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont, to lay on the table the amendment of the Senator from Alabama.

Mr. COCKRELL. I did not vote upon the last question because I was paired with the Senator from Kansas, [Mr. PLUMB,] at the instance of the Senator from Maine, [Mr. HAMLIN.] I am also paired upon this question which is now about to be submitted to the Senate, and I shall not vote. If the Senator from Kansas were here, he would vote, I presume, as I am informed by the Senator from Maine, "nay" and I should vote "yea."

Mr. INGALLS. Did not the last vote disclose the want of a quorum?

The PRESIDING OFFICER. The last vote did.

Mr. INGALLS. And can the yeas and nays be ordered when there is no quorum present?

The PRESIDING OFFICER. It was being done by unanimous consent. If the Senator from Kansas objects it cannot proceed.

Mr. CONKLING. To what has unanimous consent been given?

The PRESIDING OFFICER. The Chair thinks unanimous consent was given to the ordering of the yeas and nays upon the motion to lay upon the table.

Mr. CONKLING. My consent was not given, and I was here. I demand the regular order.

The PRESIDING OFFICER. The Secretary will proceed to call the roll to ascertain whether there is a quorum present.

The Secretary proceeded to call the roll.

Mr. WHYTE, (when his name was called.) I have been paired with the Senator from Michigan, [Mr. FERRY,] but with the understanding that I should vote if there was not a quorum at any time.

Mr. BURNSIDE. I see by the roll-call that there are just forty Senators here. Taking out the pairs, it is manifest that there is no quorum present, and I think it would be wise to adjourn.

The PRESIDING OFFICER. The roll-call discloses forty-six Senators present.

Mr. WALLACE. With the understanding that immediately after the disposition of the routine morning business—not after the close of the morning hour—on Monday I shall ask the Senate to take up and finish the bill before the Senate adjourns on Monday, I move that the Senate do now adjourn.

The motion was agreed to; and (at five o'clock and two minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### SATURDAY, *February* 12, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

#### TAX ON WEISS BEER.

Mr. CARLISLE, by unanimous consent, from the Committee on Ways and Means, reported back, with an amendment, House bill No. 6983, to regulate the collection of the tax on weiss beer; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

#### ORDER OF BUSINESS.

Mr. KING. I rise to a privileged report.

Mr. TUCKER. I have a report to make from the Committee on Ways and Means.

The SPEAKER. The Chair will endeavor to recognize gentlemen in the order of their committees. The Chair will recognize the gentleman from Virginia, [Mr. TUCKER.]

#### ALL SOULS CHURCH, WASHINGTON.

Mr. TUCKER, from the Committee on Ways and Means, reported back, with a favorable recommendation, the joint resolution (H. R. No. 349) authorizing the remission or refunding the duty on a painted glass window from London, England, for All Souls church, in Washington; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

#### EXPORT TAX ON TOBACCO, ETC.

Mr. TUCKER, from the same committee, also, by unanimous consent, reported, as a substitute for House bill No. 6592, a bill (H. R. No. 7161) to repeal so much of section 3385 of the Revised Statutes as imposes an export tax on tobacco, &c.; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

#### ORDER OF BUSINESS.

Mr. KING. I desire to make a privileged report.

Mr. PAGE. I call for the regular order.

Mr. WARNER. I call for the regular order. Let us have a morning hour in which these reports can be made.

Mr. ATKINS. If the regular order is demanded, I will move to dispense with the morning hour.

Mr. CLYMER. I desire to report from the Committee on Appropriations the Army appropriation bill with the Senate amendments thereto.

The SPEAKER. The Chair thinks that unanimous consent should be given for that purpose.

Mr. ATKINS. Does it require unanimous consent?

The SPEAKER. The Chair hardly thinks that it does.

Mr. CONGER. If it is a privileged report, then it can come in at a time when other business is not so pressing.

The SPEAKER. The object of the Chair is to facilitate the transaction of the most important business by the House, and if forced to do so the Chair would recognize the gentleman from Pennsylvania [Mr. CLYMER] as entitled at this time to make the report as a privileged report.

Mr. ATKINS. There will be no objection, I suppose.

ARMY APPROPRIATION BILL.

Mr. CLYMER, from the Committee on Appropriations, reported back, with the Senate amendments thereto, the bill (H. R. No. 6719) making appropriations for the support of the Army for the fiscal year ending June 30, 1882, and for other purposes.

The Committee on Appropriations recommend concurrence in amendments of the Senate numbered 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 16, and 17.

The committee recommend non-concurrence in the amendments of the Senate numbered 1, 11, 12, and 15.

The committee recommend that Senate amendment number 2 be concurred in with an amendment; to strike out the last four words, "and length of service."

Mr. CLYMER. I desire to explain briefly to the House wherein the Committee on Appropriations recommend concurrence and wherein they recommend non-concurrence with the Senate amendments, and the reasons therefor.

The first amendment of the Senate in which concurrence is recommended is the amendment numbered 3. It is a mere transfer of a provision in the bill as it passed the House from one portion of the bill to another.

The next amendment in which concurrence is recommended is amendment No. 4, in lines 59 and 60 of the printed bill. As the bill passed the House it provided for one retired ordnance sergeant. Since the bill passed the House it has been ascertained that there are two retired ordnance sergeants, and the Senate amendment is to provide for two retired ordnance sergeants, instead of one.

Amendment No. 5 of the Senate is merely a verbal amendment. Amendment 6 of the Senate relates to the transfer of a provision of the bill from one portion to another. It is the transfer of the following provision to a preceding portion of the bill:

And for payment of any such officers as may be in service, either upon the active or retired list, during the year ending June 30, 1882, in excess of the numbers for each class provided for in this act.

The next amendment in which concurrence is recommended is amendment No. 7, commencing in line 83 of the bill. It is to insert a provision allowing to the Lieutenant-General of the Army $100 per month for commutation of quarters.

The next amendment in which concurrence is recommended is amendment No. 8, in line 123 of the printed bill, to insert the words "and lights" before the words "for offices," &c. It is in the portion of the bill making appropriation for quartermaster supplies, and is intended to provide lights for offices, enlisted men, hospitals, &c.

The next amendment of the Senate in which concurrence is recommended is an amendment numbered 9, in line 136 of the printed bill, increasing the appropriation for the regular supplies of the Quartermaster's Department from $3,250,000 to $3,500,000. It is an increase of the appropriation by $250,000. It is made by the Senate for this reason: When the bill passed the House it contained a reappropriation of the amount of $564,714.25. The Senate disagreed with the House in making that reappropriation and determined that it was better to allow the law to stand as it is, and to appropriate directly what was needed instead of reappropriating any unexpended balance, so that the unexpended balances in the Quartermaster's and other departments of the Army shall be covered into the Treasury at the end of two years, according to the law as it now stands.

While the Committee on Appropriations of the House, when they prepared this bill, thought it would be well, as there were large amounts which had been appropriated in former years for the Quartermaster's Department still unexpended, to reappropriate a portion of that money, still that committee does not deem it expedient to differ with the Senate in regard to this question of reappropriations, especially as the Senate Committee on Appropriations seemed to be unanimously of the opinion that instead of making any reappropriation we had better make direct appropriations. The House committee therefore recommend concurrence in that amendment of the Senate.

The next amendment of the Senate in which concurrence is recommended is amendment No. 10, commencing in line 138 of the printed bill. It is to insert the following:

*Provided*, That there shall be no discrimination in the issue of forage against officers serving east of the Mississippi River, provided they are required by law to be mounted, and actually keep and own their animals.

In 1879, in the Army appropriation bill of that year, it was provided that forage should not be allowed to officers serving east of the Mississippi River. Complaint was made that great injustice was done by that provision of the Army appropriation bill of 1879. The Senate Committee on Appropriations unanimously hold that there was no well founded reason why officers serving east of the Mississippi River should not receive forage while those serving west of the Mississippi River should receive it. There seemed to be no reason why an officer of the Army serving in Saint Louis should receive forage while an officer serving on the opposite bank of the Mississippi should not receive it. It was deemed a merely arbitrary line for which no good reason could be given. After full consideration of the subject, the House Committee on Appropriations felt that justice required us to accede to this proposition. The provision is guarded as well as we could guard it. I will read the provision which the Senate attached:

*Provided*, That there shall be no discrimination in the issue of forage against officers serving east of the Mississippi River, provided they are required by law to be mounted, and actually keep and own their animals.

We do not see why officers who are required to keep horses, and who actually do own them and pay for their feed, should receive no allowance for such expenses while serving east of the Mississippi, although officers serving west of the Mississippi receive such allowance under precisely similar circumstances. This consideration has commended itself to our sense of justice; and therefore we have recommended concurrence in the amendment.

Mr. DUNNELL. How long has this discrimination existed?

Mr. CLYMER. Since 1879. It has created great dissatisfaction, causing a feeling that gross injustice was done to officers serving east of the Mississippi River.

The thirteenth amendment (in which the Committee on Appropriations recommend concurrence) increases the appropriation for clothing $100,000. This comes under the same considerations as the amendment increasing by $250,000 the appropriation for Quartermaster's supplies.

The fourteenth amendment strikes out in lines 227 to 234 the provision as passed by the House for the reappropriation of unexpended balances. In this, as I have already stated, we recommend concurrence.

The fifteenth amendment (in which we recommend non-concurrence) provides that $50,000 may be used, under the direction of the Secretary of War, for the manufacture or purchase of magazine guns.

The sixteenth and seventeenth amendments, in lines 301 to 302, are merely verbal.

We have recommended non-concurrence in the first amendment, increasing from $75,000 to $97,000 the appropriation for expenses of recruiting and transportation of recruits. We have made this recommendation for the purpose of being able to confer with the Senate committee as to the necessity there may be for this increase. This is a mere matter of precaution, which we deem proper on the part of the House.

The amendment numbered 11 is with reference to the provision in lines 200 to 202 on the subject of land-grant railroads. The provision as passed by the House was submitted by the Quartermaster-General of the Army, and we deemed it a proper one. The Senate has inserted an amendment as to the propriety of which the House Committee on Appropriations were not determined. We felt it to be the safer course to non-concur, so that in conference with the Senate committee, and upon consultation with the Quartermaster-General and the Auditor of Railroads, we may agree upon some provision which shall absolutely protect the rights of the Government under any circumstances. The twelfth amendment of the Senate adds at the end of line 210 a provision with reference to this same subject of land-grant railroads, and we have recommended non-concurrence for the same reason.

The second amendment is to insert after the word "pay," in line 48, this provision:

And the actual time of service in the Army or Navy, or both, shall be allowed all officers in computing their pay and length of service.

We deemed it entirely equitable that the actual time served by an officer in the Army or Navy should be allowed in computing his pay; but it was not deemed wise that this should in every case be counted in determining length of service, as it might create great confusion and give rank which would not be right. The committee did not deem it just that service at the Naval Academy or at West Point should be counted in giving rank. Therefore we recommend that the House concur in this amendment, with an amendment striking out the words "and length of service."

Now, Mr. Speaker, I ask for a vote on the amendments.

Mr. VALENTINE. What is the recommendation of the committee with reference to the amendment referred to in regard to computing length of service?

Mr. CLYMER. We recommend the striking out of the words "and length of service," because otherwise the provision would change, as we think improperly, the relative rank of officers.

Mr. VALENTINE. I think the Senate is right on that point; and I want to vote that way.

Mr. HAWLEY. I believe the gentleman, if he considers the question, will find that he is mistaken. Suppose two young men are commissioned as first lieutenants on the same day—one of them appointed from civil life and the other coming from West Point. We do not

think it proper that in such case the young man appointed from West Point should have four years' advantage by reason of his service at the Military Academy.

Mr. CLYMER. It would work great inequality, which we think was not intended by the Senate. To prevent misconstruction we have recommended an amendment striking out the words "and length of service."

The Senate amendments in which concurrence was recommended were concurred in; those in which non-concurrence was recommended were non-concurred in; and the amendment of the Senate to which an amendment was reported from the Committee on Appropriations was concurred in as amended.

PERSONAL EXPLANATION.

Mr. ANDERSON. I rise, Mr. Speaker, to a question of personal privilege. Yesterday when the bill authorizing the erection of a public building at Leavenworth, Kansas, was under consideration, the following proceedings occurred:

The State of Kansas having been called.

Mr. ANDERSON said: I call up the bill (H. R. No. 6013) for a public building at Leavenworth, Kansas, reported by the Committee on Public Buildings and Grounds, and referred to the Committee of the Whole House on the state of the Union.

Mr. Speaker, is it in order to make a statement before objection is called for?

The SPEAKER. The Chair thinks not. The rule provides the objections shall be in order after the reading of the bill.

Mr. ANDERSON. Is it in order to call for the reading of the report before objections are called for?

The SPEAKER. The Chair thinks not.

The bill was read.

The SPEAKER. The Chair desires to state in connection with this bill that heretofore by consent the House adopted an arrangement by which bills for public buildings should be taken up in their order on the Calendar. But the rule recently adopted, the Chair thinks, destroys that arrangement to the extent of allowing a member in this hour to call up such a bill. The positive rule operates as against the understanding. Is there objection to the consideration of this bill? [After a pause.] Six gentlemen rising object to the consideration of this bill.

Mr. ANDERSON. I make the point that two gentlemen were counted who were not rising to object. I will state there is no public building in that State now.

The SPEAKER. The gentlemen who rise to object are the gentleman from Ohio, [Mr. WARNER,] the gentleman from Wisconsin, [Mr. BRAGG,] the gentleman from Alabama, [Mr. SAMFORD,] the gentleman from Wisconsin, [Mr. BOUCK,] the gentleman from Tennessee, [Mr. SIMONTON,] and the gentleman from Pennsylvania, [Mr. CLYMER]—six. The Chair is correct.

Mr. ANDERSON. All right. I have got the names, which is what I wanted.

Mr. TOWNSHEND, of Illinois. Mr. Speaker, nobody can hear what is going on in the Hall.

The SPEAKER. It is because members will not preserve order. The Sergeant-at-Arms will request members to resume their seats and preserve order.

Mr. ANDERSON. The new rule provides that a bill shall be considered unless five members rise in their seats to object. Yesterday upon the announcement by the Chair that the requisite number of gentlemen had objected, I asked for a recount by making the point that two gentlemen were counted who were not rising to object. Some time afterward I was surprised at the intimation by a gentleman that this request for a recount was being construed on the floor as a reflection by me upon the personal veracity or fairness of the Speaker, in which view I found that gentleman to concur; and upon examining the RECORD there is foundation for such construction.

Now, Mr. Speaker, I have too much respect for you personally, and too square an opinion of the non-partisan fairness which characterizes your rulings in the chair, to be capable of intentionally laying a foundation for any such reflection; and I have altogether too much respect for my own sense of justice to permit an injustice done by me to anybody to remain uncorrected. So far from having any desire to question your count or to place the Chair in an unpleasant light, the thought never even entered my mind that I was so doing. If it had, I would not have made the point. And on reading my language I find that it may convey an impression wholly different from the only one which I designed to convey.

This new rule is so new, and the constructions placed upon it are so various, that none of us exactly know just what is proper and what is not. I believed yesterday that I had an undoubted right to ask for a recount, and that the exercise of this right could in no proper way be construed as an imputation upon either the accuracy or impartiality of the Chair. And that is precisely my belief to-day after an examination of the matter.

Take the instance of a *viva voce* vote and of the demand for a division, does anybody construe such a demand by a member as a reflection upon the Chair? Or take the instance, exactly analogous to the case in point, where, after a rising vote, and after the Chair has counted members standing in their places, tellers are demanded; is such a demand construed as an imputation upon the Chair? Most certainly not. And after a division by tellers nothing is more common than a call for yeas and nays; but nobody ever supposed that the object in calling for yeas and nays is that of reflecting on either the honor or the fidelity of the tellers. These several demands are made from wholly different motives and to effect wholly different objects, such as gaining time to explain a subject to members, or for the purpose of seeing how they vote, or to put them on record. It was from such motives, and not at all with the purpose of questioning the fidelity of the Speaker's count, that I asked for a recount.

It often happens in a rising vote that members are standing who do not know what question is pending or that a vote is being taken, and who therefore certainly cannot intend to vote; yet the Chair is compelled to count them.

Now, yesterday I noticed gentlemen over the way standing, but in earnest conversation, one of whom I thought to be the gentleman from Ohio, [Mr. WARNER,] and whom, of course, the Speaker was bound to count. One purpose I had in asking for a recount was to avail myself of the hope that my friend from Ohio was expounding his views on the silver question and was not opposed to allowing the House the simple chance of voting one way or the other on a bill authorizing the erection of a public building in the largest city in a State having a million of people. But, unfortunately for me, my esteemed friend had not gotten started on finances so early in the day. I express my sincere regret that he had not.

Another purpose I had in requesting a recount was because, owing to the rapidity of the proceeding, I had not seen all of the gentlemen who objected, and I wanted to know who they were, as a matter of curiosity and as reliable data for a careful study of human nature. The science of psychology is as interesting as it is exhaustless; and there are some data to be obtained on this floor respecting those forces which shape the actions of men that are rarely met elsewhere. I am fond of that science, and pounced upon the opportunity of yesterday just as an entomologist does on a new bug. And I am glad that the data has been preserved—preserved in the RECORD—though at the time I only wished personal information.

The reason for that, Mr. Speaker, was this: there is no district in the Union more vigorously republican than the one for which I appear; nor is there any republican on this floor who is more sincerely stalwart than am I. All of the gentlemen who objected were democrats. One was from Alabama, one from Tennessee, two from Wisconsin, one from Ohio, one from Pennsylvania, and one from New York.

Mr. BRAGG. Mr. Speaker, I rise to a question of order. Is it permissible under the rules, when a gentleman rises to make an apology to the Chair, to conclude his remarks by making attacks on other members of the House?

Mr. ANDERSON. I have not concluded my personal explanation, and am exactly in the line of it. I am showing why I did not intend to say what it was supposed I had said.

The SPEAKER. The gentleman will confine himself to his personal explanation.

Mr. ANDERSON. I am doing that just exactly.

The SPEAKER. The gentleman from Wisconsin is making the point it is not a part of a personal explanation to attack other members.

Mr. ANDERSON. I am not attacking anybody.

The SPEAKER. In their representative capacity.

Mr. ANDERSON. I am not attacking them.

The SPEAKER. The Chair thinks the point well taken.

Mr. ANDERSON. I am not attacking them. I am simply stating a fact. [Laughter.]

Now, Mr. Speaker, two years ago, out of the thirty-one counties then voting in my district, there was only one of them in which the democrats had a majority, and that one was the identical county in which this building was to be erected.

Mr. HOUSE. I do not think the speech the gentleman is now making is connected in any respect with what may be deemed properly to be a personal explanation. He is discussing the question of the political complexion of his district. We have no time to spend on that, and I object to his proceeding in that line.

The SPEAKER. The gentleman will confine himself to the question of personal privilege.

Mr. ANDERSON. I am; and I submit I am in order, Mr. Speaker. I frankly believe that or I would not do it.

The SPEAKER. The Chair has no doubt the gentleman believes it, and yet it is not in order under the unanimous consent granted.

Mr. ANDERSON. I do not understand it is by unanimous consent. I understand I have the right to this explanation.

The SPEAKER. It would require unanimous consent if the gentleman were to speak outside of the personal matter complained of.

Mr. ANDERSON. I am not speaking outside of it. I know what I am going to say, and these gentlemen do not. [Laughter.]

The democratic vote in the city of Leavenworth gave my opponent a majority of 29.

Mr. BRAGG. I insist the gentleman is not in order.

Mr. YOUNG, of Tennessee. I hope the gentleman will be permitted to go on as I wish to reply to him. I have a grievance myself.

Mr. CAMP. Let the gentleman from Kansas finish his remarks.

Mr. SIMONTON. I am one of the gentlemen alluded to as objecting yesterday. I feel no sensitiveness at all, and I desire the gentleman should proceed. I wish merely to say I did not object to his bill because he was a republican, but was actuated by motives arising from my duty as a Representative upon this floor.

Mr. ANDERSON. Nor do I make this personal explanation for the reason that gentlemen fear I am making it. I want to plead with them. [Cries of "Go on."]

Mr. BRAGG. It is on that point I make my point of order. The gentleman had permission to rise to a question of personal privilege, which was to explain the action of yesterday. Now he announces his purpose in continuing his remarks to plead with us to procure the passage of the bill. He has confessed himself this is not a question of personal privilege, and is now arguing in favor of the bill.

The SPEAKER. The Chair would like to hear the gentleman from Kansas; but the point of order having been made, the Chair holds that he must confine himself to the point of order.

Mr. ANDERSON. I am confining myself to the point of order, and I have been doing it all along.

And that city of Leavenworth is the one which the democratic gentlemen punished yesterday. It is true that a majority of twenty-nine is not very much; but when it is cast by the only county in a district four hundred and twenty-five miles long, that county ought to be encouraged.

Mr. BRAGG. I insist, Mr. Speaker, upon the point of order which I have made.

The SPEAKER. The Chair must rule that anything that does not relate to the question of privilege directly involved is out of order.

Mr. ANDERSON. Well, I will ask consent to print two pages, as gentlemen object so much.

Mr. FINLEY. I object.

Mr. ANDERSON. All right, then, I will read them.

Mr. BRAGG. But I insist on the point of order that the gentleman has no right to go beyond a question of privilege.

The SPEAKER. The gentleman from Wisconsin insists upon the point of order. The Chair is bound to rule that the gentleman from Kansas confine himself directly to the question.

Mr. ANDERSON. I have but a few more words to add. I was about to say that they will feel toward you as Cæsar did toward Brutus, and they will use strong adjectives. Would it not be better for the democratic majority of this House, in the few remaining hours of its life, to pass this bill as a mere matter of party gratitude, if not as an act of fairness to a million of people in whose State but one other building is authorized, and it has not been erected——

Mr. BRAGG. I must insist on the point of order.

The SPEAKER. The gentleman will confine himself to the question of privilege.

Mr. ANDERSON. Very well, then, I will come at once to the point, as I have no desire to complicate the Chair.

If I was unfortunate in using language capable of a construction which was not intended, it may be that the democrats were far more unfortunate in punishing their own friends, even though Kansas is a gloriously republican State.

After this statement, the House will see that I had no intention whatever of questioning the rectitude and fair play of the Chair; and I assure you, Mr. Speaker, that nothing could be more foreign to my own feelings and convictions.

The SPEAKER. The Chair is very much obliged to the gentleman from Kansas, and entirely satisfied with his statement.

REPORTS FROM COMMITTEE ON INTEROCEANIC SHIP-CANAL.

Mr. KING. I desire, Mr. Speaker, to make some privileged reports from the Committee on Interoceanic Ship Canal.

Mr. VALENTINE. I demand the regular order.

The SPEAKER. This is the regular order.

The Clerk will report the title of the bills reported from the Committee on Interoceanic Ship Canal.

The Clerk read as follows:

A bill (H. R. No. 6609) to incorporate the Maritime Canal Company of Nicaragua.

The SPEAKER. The bill is reported favorably from the Committee on Interoceanic Ship-Canal, and will be referred to the House Calendar and the accompanying report printed.

Mr. KING. There is also another bill reported from the committee.

The Clerk read as follows:

A bill to incorporate the Interoceanic Ship-Railway Company, and for other purposes.

Mr. PAGE. I object to the reception of that report. I do not object to the first, but to the second.

Mr. WARNER. I demand the regular order.

The SPEAKER. This is the regular order.

Mr. ATKINS. The gentleman from Ohio objects to the reception of any of these reports, as I understand.

Mr. WARNER. We always get along better when we follow the regular order of business in the House. I therefore demand the regular order.

The SPEAKER. This is a privileged report. The Chair understands this is a bill in reference to a railway——

Mr. PAGE. I do not object to the first, but to the second bill presented.

Mr. KING. On what ground does the gentleman object? This is a privileged report.

Mr. ATKINS. The gentleman from Ohio objects to all of them.

Mr. WARNER. If this is in pursuance of the regular order of business of the House I do not object, but under any other circumstances I do object.

The SPEAKER. The gentleman from Louisiana claims the right to report as a question of privilege. The Chair will cause to be read the authority given to that committee by the House.

The Clerk read as follows:

*Resolved*, That a select committee of eleven members be appointed, whose duty it shall be to examine into the subject of the selection of a suitable route for the construction of an interoceanic ship-canal across the American Isthmus; that all petitions, memorials, resolutions, bills, and reports on such canal or other mode of facilitating communication between the Atlantic and Pacific Oceans be referred to that committee; and that they have authority to report to the House at any time such legislation as may be best adapted to secure such communication between said oceans.

Mr. KING. Now, what point does the gentleman from California make against that?

Mr. PAGE. The point that I make is that this is not a report coming from a majority of the Committee on Interoceanic Ship-Canal.

Mr. KING. The gentleman has no right to question that. I do not know how the gentleman can make that statement.

The SPEAKER. The gentleman from California will state his point of order.

Mr. PAGE. My point of order is that the bill or substitute purporting to be a report from that committee in reference to the Eads interoceanic ship-canal was never adopted, as the record will show, by a majority of the committee.

Mr. KING. What record?

Mr. PAGE. And I call for the reading of the report of the committee to see if it is signed by a majority of the members.

Mr. KING. That is entirely out of order.

The SPEAKER. That is unusual.

Mr. PAGE. I ask for the reading of the report.

The SPEAKER. The Chair will cause to be read a ruling which covers this ground.

The Clerk read as follows:

If it is disputed that a report has been ordered to be made by a committee the question of receiving must be put to the House.—*Journal*, second session Twenty-seventh Congress, page 1410.

Mr. WARNER. Does the Chair rule that this is a privileged report?

The SPEAKER. The Chair goes by the authority which the House gave to the committee, which has been read. That order gives this committee the right to report at any time touching a ship-canal across the Isthmus, and the right to report at any time carries with it the right to consider, but of course the right to consider subject to the rules.

Mr. VALENTINE. But this refers to a ship railway, as I understand.

Mr. CONGER. It refers to a ship-canal or other means of communication. I ask for the reading of the order.

The SPEAKER. The Chair will cause it to be again read.

The order creating the committee was again read.

The SPEAKER. Under the authority given the Chair has recognized the gentleman from Louisiana. The point made by the gentleman from California now is that this is not a report from the committee, and under the practice of the House the Chair will submit the question to the House.

Mr. CONGER. I ask that the name of the chairman of that committee be announced to the House.

The SPEAKER. Mr. KING, of Louisiana, is the chairman of the committee.

Mr. CONGER. And that is the gentleman who proposes to report the bill. I do not see how his right can be questioned if he is chairman of that committee.

Mr. REAGAN. The point of order was that this was not the report of the majority of the committee. It is not necessary it should be the report of a majority of the committee. It is the report of a majority of a quorum.

The SPEAKER. The Chair is not to judge as to whether a report is the report of a committee. That belongs to the committee. But the members of the committee having raised the issue, the question as to the reception of the report must be determined by the House.

Mr. KING. I state this is the report of that committee.

Mr. ATKINS. I ask the gentleman to state if it is the report of a majority of a quorum.

Mr. KING. The report is made under the authority and by the order of a majority of a quorum of the committee.

Mr. ATKINS. Then there is a direct issue between the gentlemen.

Mr. PAGE. I desire to say to the gentleman from Tennessee that five members of the committee voted for and five against reporting the bill.

Mr. SINGLETON, of Illinois. I call the gentleman to order. I say no gentleman, a member of a committee, has a right to refer to what has taken place in that committee until the report is received and before the House.

The SPEAKER. The report has been received.

Mr. SINGLETON, of Illinois. To make such a reference is against parliamentary practice everywhere.

The SPEAKER. The report has been received.

Mr. COX. I desire to inquire of the Chair what is the pending proposition?

The SPEAKER. The point of order is made by the gentleman from California [Mr. PAGE] that this is not the report of a majority of the committee, and the Chair has caused to be read what has been the practice of the House in such cases.

Mr. KING. And as the chairman of the committee I state this is a report from the majority of a quorum of that committee and presented by their order.

The SPEAKER. The Chair has no knowledge other than what he hears in connection with the case. He recognized the chairman of the committee to make a report by virtue of the authority given by the resolution creating the committee; and the report was brought

to the desk and received, but is now questioned on a point of order, as has been stated.

Mr. SINGLETON, of Illinois. I wish to say one word on the point of order.

The SPEAKER. The Chair has recognized the gentleman from California, [Mr. PAGE.]

Mr. PAGE. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PAGE. How can a report be objected to but by a member of the committee?

The SPEAKER. There is too much confusion prevailing. The House will come to order. Gentlemen will please take their seats.

Mr. KING. I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KING. Is it competent for a member of this House to bring up and discuss on the floor of the House all that has occurred in a committee?

The SPEAKER. There have been cases where it has been questioned whether a report presented was the report of the committee.

Mr. KING. I have before me a precedent which I ask may be read to the House. I ask only for information on this point, whereby I may be guided. I should be glad to have the minutes of the committee on this entire point read to the House.

Mr. FRYE. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. FRYE. The chairman of the Committee on the Interoceanic Ship-Canal reported a bill to incorporate the Nicaragua Canal Company. That is now hanging in mid-air as I understand.

The SPEAKER. It is not. That was received without objection.

Mr. FRYE. Has it gone to the Calendar?

The SPEAKER. It has gone to the House Calendar.

Mr. FRYE. All right. I did not understand it had.

The SPEAKER. The Chair will cause to be read the decision to which the gentleman from Louisiana refers.

The Clerk read as follows:

It is not in order to allude on the floor to anything that has taken place in committee, unless by a written report sanctioned by a majority of the committee.—*Journals*, 1, 26, page 418; 1, 31, page 393.

Mr. KING. Upon that I caution the gentleman from California against endeavoring to bring before the House except upon that written report any statement of his own regarding transactions that may have occurred in that committee.

The SPEAKER. The very point here is whether this is a report from the committee. The gentleman from California rises to contend against that proposition.

Mr. KING. My statement, as the chairman of the committee, is that it is the report of the committee, and I would like to know from the Chair what more he would require as authority. The precedent cited seals my lips further as to transactions in the committee.

The SPEAKER. Under the authority of the decision read a few moments ago the question whether a report has been ordered to be made by a committee may be disputed.

Mr. PAGE. I understand I have been recognized.

Mr. HASKELL. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HASKELL. I think the gentleman from California will permit the interruption. If I understand the decision of the Chair it is when a report is objected to the House is called upon to decide whether or not it is to be considered. Am I correct in that?

The SPEAKER. The Chair will cause to be read in the hearing of the House the action of the House on a former occasion referred to in the decision which has already been read. That will be the shortest way.

The Clerk read as follows:

Mr. Gentry, from the Committee on the Public Lands, proposed to report a bill to repeal the proviso to the sixth section of the act entitled "An act to appropriate the proceeds of the sales of public lands, and to grant pre-emption rights," approved September 4, 1841.

When the bill was about to be handed in, Mr. Wise objected to its reception as a report of the committee, for reasons which he stated in writing, as follows:

"That a quorum of that committee was not present when the report was ordered to be made. The facts, as stated by three of the members of the committee, were that but five of the members of the committee were in the city; that these five members met in the committee-room on the morning of this day; that they discussed this report until after the meeting of the House; that, after the meeting of the House, and before any vote was put or taken in committee upon the bill, one of the members [Mr. Thompson of Mississippi] retired, to leave the committee without a quorum, because he could not obtain a postponement to a fuller meeting of the committee, and actually left the committee to consist of but four members; and, after his retiring, these four members decided to make this report, and accordingly have done so, to the House. Mr. Wise, on this statement of facts, submitted to the House, without disagreement, by Messrs. Gentry, Thompson, and Howard, of the committee, objected that this was no report, on the ground, first, that there was no quorum when the report was ordered by the four members of the committee only; and secondly, that the committee, even though there was a quorum present at the time of the decision to report, had no authority to sit during the session of the House without its special leave."

Mr. Howard stated "that before Mr. Thompson left the committee-room three of the five members present had given their opinions in favor of reporting the bill to the House, and two (one of whom was Mr. Thompson) against reporting it."

The Speaker stated that no question of order was involved; that the question Shall the bill be received as the report of the committee? was for the House alone to decide; and as the reception of the bill was objected to, that question would be put to the House.

The question was then put, under the operation of the previous question, And passed in the affirmative—yeas 90, nays 78.

The SPEAKER. The Chair desires also to have read another decision on the same subject, by Mr. Speaker Banks.

Mr. KING. The case just read does not touch the question.

The SPEAKER. It does touch the question as to the reception of the report.

Mr. KING. It does not touch the point as to the reception of this report, which is made by the order of a majority of the committee when there was a quorum present, and which quorum voted.

Mr. SINGLETON, of Illinois. A majority of a quorum.

Mr. HASKELL. I rose to a parliamentary inquiry which I have not completed.

The SPEAKER. Will the gentleman from Kansas allow the Chair to have read an extract from the proceedings of the House on July 1, 1856?

Mr. HASKELL. Certainly.

The Clerk read as follows:

Mr. Howard, from the select committee, appointed under the resolutions of the House of the 19th of March last, to inquire into and collect evidence in regard to the troubles in Kansas, &c., submitted as a question of privilege a report in writing.

Mr. Houston made the point of order that inasmuch as it had been admitted that the paper presented had not been acted upon at a full meeting of the committee, it would not be received as the report of the committee.

The Speaker overruled the point of order on the ground that it was competent for a majority of the committee to act.

From this decision of the Chair Mr. Hendley S. Bennett appealed.

Pending which,

On motion of Mr. Lewis D. Campbell,

*Ordered*, That the said appeal be laid on the table.

Mr. PAGE. Mr. Speaker——

Mr. HASKELL. Now, if the gentleman from California will allow me to conclude my inquiry, it will aid him in the point of order he desires to make.

Mr. PAGE. Allow me to get through. I have not stated the reason why I objected. If the gentleman will allow me to do so, I will yield the floor to him for any parliamentary inquiry or anything else.

Now, Mr. Speaker, the only question of difference between the gentleman from Louisiana, [Mr. KING,] the chairman of the committee, and myself is this: if that is the report of the majority of the committee, he has the right to make it; but I am here as a member of that committee to deny that it is in my judgment a report of the majority of the committee.

The SPEAKER. The Chair is clear on the point that a majority of a quorum of the committee has the right to report a bill.

Mr. PAGE. I claim that on Saturday last——

Mr. SINGLETON, of Illinois. I call the gentleman to order.

Mr. PAGE. I hope the gentleman will allow me to proceed.

Mr. SINGLETON, of Illinois. I send to the desk the authority upon which I rely in making my point of order.

The SPEAKER. The gentleman from Illinois rises to a point of order, that the gentleman from California has no right to proceed.

Mr. SINGLETON, of Illinois. I do.

The SPEAKER. And the gentleman from Illinois in support of his point of order cites what will be read.

The Clerk read as follows:

When the report of a committee has been made, it is irregular, even though the report itself is under consideration, to allude to or introduce the committee or their proceedings in debate, except so far as they appear in the report itself, unless there is a motion made or to be made that the report be recommitted. The report of the committee appointed to inquire into the state of the impeachment against Governor Hastings having been brought up and read, and a motion made thereupon, one of the members of the committee proceeded to make some remarks upon the committee and its proceedings; but the speaker [Mr. Addington] called him to order and informed him that he could not regularly state to the house anything upon the subject of the report that was not in the report itself, unless he intended to move for its recommitment.—*Cushing's Law and Practice of Legislative Assemblies*, section 1732.

Mr. SINGLETON, of Illinois. Now, Mr. Speaker, I wish to speak to my point of order.

The SPEAKER. The point of order involved here is simply whether——

Mr. SINGLETON, of Illinois. Permit me one word. The point of order I make is that before the action of the committee can be inquired into, there must be a motion made to recommit, and then a motion to bring into the House the minutes of the committee. You cannot question the action of the committee in this collateral way.

Mr. OSCAR TURNER, (to Mr. SINGLETON, of Illinois.) Why is the gentleman unwilling the House should know how the vote stood in the committee or what the proceedings were on that bill? Five of the committee are against that bill and I among the number.

Mr. SINGLETON, of Illinois. I have the floor. I will tell the gentleman when the time comes. I will make the gentleman understand when the time comes.

Mr. KING, (addressing Mr. OSCAR TURNER.) There is no effort here to suppress evidence of any nature——

Mr. OSCAR TURNER. I cannot hear the gentleman's remarks. The noise is so great——

The SPEAKER. The Chair desires to ha order. The Chair is very clear in the opinion that a majority of a quorum of a committee has the authority to make a report.

Mr. KING. I ask the consent of the House that the journal of the Committee on Interoceanic Canal, showing the order under which I am acting, be read.

The SPEAKER. The point of order made by the gentleman from

Illinois [Mr. SINGLETON] is that proceedings in committee cannot be alluded to.

Mr. SINGLETON, of Illinois. That is my point.

Mr. KING. If direct or tentative charges are to be made by the gentleman from California [Mr. PAGE] and the gentleman from Kentucky [Mr. OSCAR TURNER] against the majority of this committee, I think it a matter of personal privilege to have the record of the action of the committee placed before the House.

The SPEAKER. The gentleman from Louisiana asks that the record of the committee be read.

Mr. SPRINGER. I do not understand there is any dispute as to the question of fact. The question is whether a majority of a quorum of the committee agreed to the reporting of this bill to the House.

The SPEAKER. They have such power, and having such power the report can be received, but the Chair does not think that was the point of order made by the gentleman from California. The gentleman disputes the fact that this is the report of the committee.

Mr. COX. I reserve all points of order.

Mr. PAGE. If the House will only hear me, I will state my point of order.

Mr. KING. I rise first as to a matter of personal privilege.

The SPEAKER. The Chair has heard almost everybody else but the gentleman who makes the point of order, and he thinks it is now about time the gentleman from California should be heard.

Mr. PAGE. Certainly.

Mr. COX. Now, Mr. Speaker, if this question is to come in——

Mr. PAGE. I hope I will not be interrupted.

Mr. COX. I wish to say if this is to be received, then I reserve all points of order. There is money in it, and I want it to go to the Committee of the Whole House on the state of the Union.

The SPEAKER. The Chair at the proper time will recognize the gentleman on that point.

Mr. PAGE. I state on my authority as a member of the committee that if the Chair rules I have a right to refer to anything that occurs in committee——

The SPEAKER. The Chair does not so rule.

Mr. PAGE. Does he rule, then, that I have not?

The SPEAKER. The Chair thinks the practice has been to deny the right on the part of any member of a committee to allude in the House to what has occurred in the committee. These points, in the judgment of the Chair, should be settled in the committee.

Mr. PAGE. If I am ruled out from stating why this is not a report from the majority of the committee, that the committee stood five and five when the whole committee except myself who was absent on that occasion should have been recorded, then I withdraw my point of order and move to recommit this bill to the Committee on the Interoceanic Canal with instruction to strike out the $50,000,000.

Mr. KING. There is no $50,000,000 subsidy in it. If the gentleman states that, he states what is not in accordance with the facts. I further say he makes a misstatement when he says that five members of that committee voted for and five against the order to report this bill. Upon the same ground of privilege on which he stands in saying so, I state that the committee consists of eleven members; five voted for and four against ordering me to make that report, as the journal of the committee shows, and if the House will, it can see for itself.

Mr. PAGE. There is no question of veracity between the gentleman and myself.

Mr. KING. I hope not.

Mr. HASKELL. It is entirely easy, Mr. Speaker, to settle this matter if the honorable gentleman on my left will only hold a moment and allow the House to take cognizance of a simple fact. Under the rules of parliamentary proceeding of course it is impossible for the interior workings of a committee to be disclosed on this floor; but there is on the journal of that committee an accurate transcript of all the facts as they occurred in the committee. The gentleman from California will admit it, everybody will admit it, and I ask now in the interest of a settlement of this question that the journal of the committee may be read here in the House and then it will become apparent what the point is which the gentleman from California makes, and what point the gentleman from Louisiana makes, and then the House may come to an intelligent decision.

Mr. PAGE. As the Speaker ruled I had no right to reveal what occurred in the committee I shall certainly object to the transcript of the proceedings being read; for, without explanation, it would be of no use to the House. My point of order has been withdrawn, and while I am recognized by the Speaker I move to recommit to the committee with instructions to strike out that part of the bill which proposes a subsidy of $50,000,000 to these ship railways.

Mr. KING. I object to the motion and I deny there is any such clause in that bill.

Mr. HASKELL. Let it be done by unanimous consent.

The SPEAKER. The Chair will ask for unanimous consent.

Mr. PAGE. I object.

Mr. SINGLETON, of Illinois. I deny he has the right to object.

The SPEAKER. The Chair will ask unanimous consent that each side shall have an opportunity to be heard.

Mr. SINGLETON, of Illinois. Give me a moment. I say under the charges which have been made it is a right which follows the motion to recommit to demand that the minutes shall be read. It is a right which follows that motion and accompanies it under the circumstances. I want it read for the purpose of refuting the slander of the statement that there is a subsidy of $50,000,000 in this bill.

The SPEAKER. The gentleman will be in order.

Mr. COFFROTH. I move to lay the whole subject upon the table.

Mr. FRYE. I want to ask the attention of the chairman of the committee——

Mr. KING. The gentleman from Pennsylvania should permit this matter to come before the House, as it involves a question of importance, national and international.

The SPEAKER. The gentleman from Louisiana will please give his attention.

Mr. FRYE. I ask the gentleman's attention for a few moments, as there evidently is a little misapprehension or misunderstanding here, which is liable to end in a great deal of personal feeling and heat, if not explained. Now, as an opponent of the Eads's bill, I desire to state to this House that there is no question of fact at issue between the chairman of the Committee on the Interoceanic Ship-Canal and the gentleman from California, [Mr. PAGE.] There is nothing which calls into question the personal integrity of either gentleman in this issue. It all comes purely and simply from a difference of opinion as to the construction of parliamentary law bearing upon it. That is all there is of it.

Mr. KING. There is no room even for that question. I am acting under a positive order of a majority of a quorum of the committee.

Mr. PAGE. Now, Mr. Chairman, I have moved to recommit this to the Committee on the Interoceanic Ship-Canal, with instructions to strike out from it all that part of the bill with reference to a guarantee on the part of the United States of the interest upon the bonds or stocks of any such corporation. I do not desire to make a speech upon it, and therefore will move the previous question upon my motion.

Mr. KING. I object to any motion while the motion I have made is pending.

The SPEAKER. The Chair will state to the gentleman from Louisiana that this motion comes in under authority of the rules of the House, and at the proper time must be regarded and entertained by the Chair.

Mr. KING. I object to any amendment at all. I want the report accepted or rejected as a whole.

Mr. PAGE. The House can do that if it desires. My motion is to test the sense of the House upon the question.

Mr. KING. If it is in order, I ask as a matter of personal privilege that the order of the committee to report this bill, or the order authorizing me as chairman of the committee to report it, may be read in justice to myself.

The SPEAKER. The Chair desires to state to the gentleman from Louisiana that a motion is pending which will obviate the necessity of reading the proceedings in committee.

Mr. KING. But I ask that this be read in justice to myself, as my orders from a committee have been called into question.

Mr. PAGE. Mr. Speaker, the motion that I have made is to recommit to the committee.

The SPEAKER. The Chair will recognize that motion in a moment. The Chair thinks, however, that the gentleman from Louisiana should be allowed to make his explanation.

Mr. KING. What I ask is as a matter of personal privilege, that the order directing the chairman of the committee to make this report be read to the House.

The SPEAKER. That has been objected to on both sides of the House, and also the reading of the record of the committee has been objected to. The Chair must recognize the objections, as the gentleman from Louisiana will perceive.

Mr. ATKINS. What does the gentleman from Louisiana want to do with it?

Mr. KING. I want to have it printed and placed upon the Calendar.

Mr. ATKINS. I hope that will be allowed. There should be no objection to that.

Mr. PAGE. I have no objection to its being printed; if that is all.

Mr. KING. And placed upon the Calendar.

Mr. PAGE. I certainly object to its going upon the Calendar. I insist upon the motion that it be recommitted to the committee with instructions to strike out all of that part of it which guarantees the interest of the stock or bonds by the Government.

The SPEAKER. That motion the Chair thinks is in order.

Mr. PAGE. Then I demand the previous question upon it.

Mr. CONGER. I move that the bill——

Mr. PAGE. I have not yielded the floor.

Mr. CONGER. But I have a right to be heard on my motion.

Mr. PAGE. I am still occupying the floor.

Mr. CONGER. The gentleman has made his motion. I move now as a privileged motion under the rule that the bill be committed to the Committee of the Whole on the state of the Union, which motion must be first put under the rule.

Mr. PAGE. I ask the parliamentary question if this motion is in order after I have called the previous question and have not yielded the floor?

The SPEAKER. The Chair will hear the gentleman's parliamentary question.

Mr. PAGE. I say is it in order for the gentleman to move the reference of this matter to the Committee of the Whole on the state of the Union while my motion for the previous question is pending and while I still occupy the floor?

Mr. KING. I think I still have the floor as chairman of the committee in charge of this measure. The gentleman from California has no right to it.

The SPEAKER. The Chair will cause the rule to be read.

The Clerk read as follows:

XIII, 2. The question of reference of any proposition, other than that reported from a committee, shall be decided without debate, in the following order, viz: A standing committee, a select committee; but the reference of a proposition reported by a committee, when demanded, shall be decided according to its character, without debate, in the following order, viz: House Calendar, Committee of the Whole House on the state of the Union, Committee of the Whole House, a standing committee, a select committee.

The SPEAKER. The Chair will now cause to be read the rule regulating the previous question.

The Clerk read as follows:

XVII, 1. It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

The SPEAKER. The gentleman from California made his motion and demanded the previous question.

Mr. KING. I made a motion previously that the bill be reported to the House and printed and placed on the Calendar, and I call the previous question on that.

Mr. PAGE. The gentleman from Louisiana had not the floor to do that.

Mr. KING. I had the floor in personal charge of the bill as coming from the committee.

Mr. PAGE. I had the floor to make a motion to recommit, which I have made and on which I have called the previous question.

The SPEAKER. If the motion was made by the gentleman from Louisiana and the previous question was called, the motion of the gentleman from California would be in order to recommit under the rules. The rule provides that this motion is in order either before or after the previous question is demanded.

Mr. CONGER. I admit the right of the gentleman from California to make his motion and demand the previous question, which was entertained; but pending the demand for the previous question I availed myself of the right under the rule to move to commit to the Committee of the Whole on the state of the Union.

Mr. PAGE. During which time I was on the floor, and still occupied it, and the gentleman had no power or right to make the motion.

Mr. CONGER. The gentleman could not be on the floor after his motion was submitted.

The SPEAKER. The Chair recognizes the gentleman from Louisiana [Mr. KING] who has charge of the bill. He now moves——

Mr. COX. I rise to a parliamentary question. I move to lay this whole subject on the table.

Mr. KING. I object.

The SPEAKER. The Chair will entertain the motion. The Chair recognizes the gentleman in charge of the bill to make his motion; that is, to print and refer to the Committee of the Whole on the state of the Union, and on that the gentleman demands the previous question. The gentleman states that was his object.

Mr. KING. That was my object.

The SPEAKER. And the Chair recognizes the gentleman when he so states.

Mr. PAGE. What does the Chair do with the gentleman from California? [Laughter.]

The SPEAKER. The gentleman from California moves to commit with instructions. Pending that the gentleman from New York [Mr. COX] moves to lay the whole subject on the table.

Mr. ACKLEN rose.

Mr. COX. There can be no debate on the motion to lay on the table.

Mr. ACKLEN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ACKLEN. If the motion of the gentleman from New York shall prevail, does that dispose of this subject entirely?

The SPEAKER. It does.

The question having been taken on a *viva voce* division,

The SPEAKER said: The Chair thinks the ayes have it. The ayes have it, and the subject is laid on the table.

Mr. COX moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. ATKINS. I move that the morning hour of to-day for the call of committees for reports be dispensed with.

The question being taken on Mr. ATKINS's motion, there were—ayes 114, noes 26.

So (two-thirds having voted in the affirmative) the motion was agreed to.

The SPEAKER. The morning hour for the call provided for in the new rule now begins at twenty minutes past twelve o'clock; and the gentleman from Massachusetts [Mr. BOWMAN] is recognized on the unfinished business in that hour.

Mr. BLOUNT. I desire to make a request for unanimous consent.

The SPEAKER. The gentleman will state what is his request.

Mr. BLOUNT. On yesterday I was absent by leave of the House assisting in the preparation of the sundry civil appropriation bill. I inadvertently let the time pass when this call commenced, and not coming to the House till half past eleven was not here to avail myself of my privilege under the new rule. I desire to call up a bill which is the unanimous report of a committee.

The SPEAKER. The Chair would prefer to recognize the gentleman from Georgia to request unanimous consent after this hour shall have expired, so as not to interfere with the call proceeding in regular order. The Chair has no doubt the House will, under the circumstances, the gentleman having been absent on official business under the direction of the House, then give him the opportunity he desires.

The gentleman from Massachusetts [Mr. BOWMAN] is recognized.

IMPORTATION OF SHIP-BUILDING MATERIALS.

Mr. BOWMAN. I call up the unfinished business of the morning hour of yesterday under the new rule, being the bill (H. R. No. 5989) regulating the importation of raw materials to be manufactured in the United States and used in the construction and repair of vessels employed in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, or built for foreign account.

The bill was read, as follows:

*Be it enacted, &c.*, That all materials or articles wholly of foreign growth or production which are manufactured in the United States and used in the construction, equipment, and repair of vessels to be employed in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, or built for foreign account, may be imported in bond, under such regulations as the Secretary of the Treasury may prescribe; and upon proof that such materials have been manufactured and used for the duties aforesaid no duties shall be paid thereon.

SEC. 2. That sections 2513 and 2514 of the Revised Statutes of the United States, and so much of section 5 of the act of February 8, 1875, as is inconsistent herewith, be, and the same hereby are, repealed.

The SPEAKER. Is there objection to considering this bill at this time?

Mr. CLYMER and Mr. RYON, of Pennsylvania, rose to object.

Mr. FRYE. I ask the House to give me one moment before gentlemen object. The Committee on Ways and Means authorized me whenever this bill came up for consideration by unanimous consent to offer a substitute for the bill. This bill is too broad in its terms. I ask the gentleman from Massachusetts to accept the substitute.

Mr. BOWMAN. I accept the substitute and ask that it be read.

Mr. CLYMER. The bill and substitute being still open to objection?

The SPEAKER. The Chair will recognize the right of objection. The Chair thinks it is no more than fair that the substitute should be read which the gentleman from Massachusetts accepts, with a view to the House voting on it.

Mr. KELLEY. I desire to say I hope the substitute will be passed. I should have objected to the original bill.

The Clerk read the proposed substitute, as follows:

Strike out all after the enacting clause and insert as follows:

"That copper and spelter of foreign growth or production which are manufactured in the United States and used in the construction, equipment, and repair of vessels to be employed in the foreign trade or built for foreign account may be imported in bond under such regulations as the Secretary of the Treasury may prescribe; and upon proof that such materials have been manufactured and used for the purposes aforesaid no duties shall be paid thereon.

The SPEAKER. Is there objection to the consideration of this bill?

Mr. BUCKNER. Is that an amendment which has been read?

The SPEAKER. It is an amendment in the nature of a substitute. Is there objection? The Chair sees no one rising to object, and hears no voice objecting.

Mr. BOWMAN. I claim my five minutes. [Cries of "Vote!" "Vote!"]

The SPEAKER. The Chair hopes that gentlemen will not interrupt the gentleman from Massachusetts, who is on the floor and entitled to five minutes.

Mr. BOWMAN. I yield my time to the gentleman who reported the substitute from the Committee on Ways and Means.

Mr. VALENTINE. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. VALENTINE. I want to know if the substitute is objected to whether we can pass the original bill? Is the substitute the only bill before the House?

The SPEAKER. The original bill is still before the House, and if the substitute should be voted down the original bill would then come up.

Mr. VALENTINE. Would an opportunity be then offered for explanation of the original bill?

The SPEAKER. The Chair thinks that would be fair if five minutes for debate is not previously exhausted.

Mr. BOWMAN. I accepted the substitute, and understand that is the only thing before the House.

The SPEAKER. The gentleman from Mississippi called up a particular bill. That bill is before the House. But the gentleman yielded to the gentleman from Maine, [Mr. FRYE,] who said on behalf of the Committee on Ways and Means he proposed a substitute for the bill called up by the gentleman from Massachusetts.

Mr. BOWMAN. I yield my five minutes to the gentleman from Maine, [Mr. FRYE.]

Mr. FRYE. I will not occupy three minutes. By the act of 1872 copper and composition metal were admitted free of duty for the construction and repair of certain ships. The Treasury Department construed that to be yellow-metal sheathing. Subsequently, in 1875, yellow-metal sheathing was admitted free of duty by name. There were $2,000,000 invested in manufacture of yellow-metal sheathing in Massachusetts alone. Those manufacturers were compelled to pay five cents a pound duty on copper and one and one-half cents per pound duty on spelter. When metal sheathing was admitted absolutely free of duty that shut the doors of those manufactories and turned out of work every employé in them.

This bill simply provides that the copper and spelter which these manufacturers use to make yellow-metal sheathing shall be admitted free of duty, still leaving yellow-metal to come in free. The bill is fair and just.

The SPEAKER. The question is upon agreeing to the substitute.

Mr. HATCH. Before the vote is taken I desire to ask the gentleman from Maine [Mr. FRYE] if this is the unanimous report of the Committee on Ways and Means? We could not distinctly understand over here what the gentleman said on that point.

Mr. FRYE. The Committee on Ways and Means unanimously consented that this substitute should be put in place of the original bill, the committee being opposed to the original bill.

The SPEAKER. And the committee favors the passage of the substitute?

Mr. FRYE. The committee favors the passage of the substitute.

Mr. CARLISLE. I desire to state that the Committee on Ways and Means unanimously agreed that the gentleman from Maine [Mr. FRYE] should move this substitute in lieu of the original bill; but some members of the committee are opposed to the substitute.

The SPEAKER. The Chair understands the gentleman from Missouri [Mr. HATCH] to inquire whether this substitute meets the unanimous approval of the Committee on Ways and Means.

Mr. FRYE. As an amendment to the original bill.

Mr. BRIGHT. I desire to move an amendment to the substitute.

Mr. SPRINGER. Is that in order?

The SPEAKER. No previous question is pending.

Mr. ATKINS. Can an amendment be offered under this new rule?

The SPEAKER. Undoubtedly.

The amendment of Mr. BRIGHT was read, as follows:

Add to the substitute the following:

"That salt imported into the United States shall be admitted free of duty from and after the 1st day of May next."

Mr. BOWMAN. I make the point of order that that amendment is not germane to the subject-matter of the bill under consideration, and the further point that there is a bill upon the same subject now pending before a committee of this House.

Mr. FRYE. That amendment is clearly not germane. There are a half dozen bills before the Committee on Ways and Means for the purpose of the amendment.

The SPEAKER. Clause 4 of Rule XXI will be read.

The Clerk read as follows:

No bill or resolution shall at any time be amended by annexing thereto or incorporating therewith the substance of any other bill or resolution pending before the House.

The SPEAKER. Is there a bill pending before this House or any committee upon the subject of the amendment of the gentleman from Tennessee, [Mr. BRIGHT?]

Mr. CONGER. There is another bill pending before the Committee on Ways and Means, perhaps two or three of them, to admit salt free of duty.

The SPEAKER. The Chair sustains the point of order.

Mr. MILLS. Does the Chair rule that it is in the power of any member to prevent legislation by this House simply by introducing a bill?

The SPEAKER. The Chair does not so rule.

Mr. MILLS. The bill now before the House proposes to put certain articles on the free list. The gentleman from Tennessee [Mr. BRIGHT] proposes to extend that list so as to include salt. It is certainly germane to add a single item to such a proposition as is pending before the House.

Mr. CONGER. The five minutes allowed under the new rule for debate has expired, and I call for a vote.

The SPEAKER. The Chair will hear the gentleman from Texas on the point of order.

Mr. MILLS. A bill is introduced to put salt on the free list; other bills are introduced to put other articles on the free list. The bill now before the House proposes to put certain articles on the free list, which articles are perhaps embraced in other bills. Now is the House to be prohibited from amending any bill which embraces one of the items that may be contained in other bills? The gentleman who offers this amendment [Mr. BRIGHT] takes one solitary article from another bill, the article of salt, and proposes to add it to this bill.

The SPEAKER. The Chair understands the gentleman from Texas [Mr. MILLS] to admit that there is another bill for this purpose pending before the House.

Mr. MILLS. I admit that there is a bill pending to put salt on the free list.

The SPEAKER. Then the rule which has just been read is imperative, and the Chair is compelled to rule the amendment out of order.

Mr. BOWMAN. I now demand——

Mr. TOWNSHEND, of Illinois. I desire to offer an amendment.

Mr. BOWMAN. I demand the previous question.

Mr. VALENTINE. I desire to make an inquiry of the Chair.

The SPEAKER. The Chair will hear the gentleman.

Mr. VALENTINE. Under the new rule can this hour be used up by members offering amendments to the bill?

The SPEAKER. The Chair does not think that the new rule cuts off amendments. It confines the debate to five minutes.

Mr. VALENTINE. Then the whole hour may be occupied on one bill.

The SPEAKER. That is a matter for the House to determine.

Mr. TOWNSHEND, of Illinois. Let my amendment be read.

Mr. BOWMAN. I have called the previous question.

The SPEAKER. The gentleman from Massachusetts [Mr. BOWMAN] must be recognized by the Chair as having control of the pending proposition.

Mr. TOWNSHEND, of Illinois. The gentleman from Tennessee [Mr. BRIGHT] offered an amendment——

The SPEAKER. The gentleman from Massachusetts [Mr. BOWMAN] calls for the previous question.

Mr. TOWNSHEND, of Illinois. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. The gentleman from Tennessee [Mr. BRIGHT] offered an amendment, the demand for the previous question not having been then made. The Speaker ruled the amendment out of order, and I instantly rose and offered another amendment before the previous question was called.

The SPEAKER. The Chair always takes the word of a member on a question of this sort. The gentleman from Massachusetts [Mr. BOWMAN] states that he called the previous question before the gentleman from Illinois was recognized.

Mr. HORR. So he did.

Mr. TOWNSHEND, of Illinois. I do not think the gentleman from Massachusetts will make that statement.

The SPEAKER. He does so state; and the gentleman from Michigan [Mr. HORR] confirms the statement.

Mr. BOWMAN. Before the gentleman from Illinois [Mr. TOWNSHEND] was recognized, I called the previous question.

Mr. CHALMERS. I rise to a parliamentary inquiry. If the previous question should be voted down, will that leave the bill before the House subject to amendment?

The SPEAKER. It would. The member introducing a proposition, having the right to its control, has the right to test the sense of the House upon ordering the previous question; but if the sense of the House is against that proposition, then the measure is open to amendment.

The question being taken on ordering the previous question, there were—ayes 105, noes 49.

Mr. TOWNSHEND, of Illinois. I call for tellers.

Tellers were not ordered.

The main question was ordered; and under the operation thereof the substitute was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and was accordingly read the third time.

Mr. BOWMAN called for the previous question on the passage of the bill.

Mr. ATKINS. I rise to a question of order. I do not believe that this House understood when the rule was adopted that bills coming up in this way would be subject to amendment, because that would open the door to all sorts of legislation. Now, do I understand the Chair to decide that the rule does permit the offering of amendments?

The SPEAKER. The Chair decides that the rule gives the right to the member recognized, whenever five members do not object, to call a bill up for consideration, and that the debate shall be limited to five minutes; but there is nothing in the rule which precludes the offering of amendments. In this case the gentleman from Massachusetts himself admitted an amendment, and of course that brought it under the general rule which allows further amendment not beyond the second degree. This is the reason the Chair has entertained amendments.

Mr. ATKINS. That virtually defeats the object of the rule.

Mr. CONGER. Of course any amendment offered must be submitted to objection by five members, otherwise a bill introduced without objection might afterward be changed entirely by way of amendment.

Mr. ROBESON. The Chair did decide that the right of objection applied to the substitute which was the first amendment. Of course it follows that when another amendment comes in, presenting substantially a new bill, the right of objection will still remain.

The SPEAKER. On this point the Chair will hereafter make a closer examination, and if he should think he is not absolutely correct will review his decision; but he would now express the opinion, not as a finality, that a bill coming before the House under the new rule is subject to amendment.

Mr. SPRINGER. I rise to a parliamentary inquiry. Would not the Chair recognize the gentleman calling up a bill to move the previous question——

The SPEAKER. Certainly; and the Chair has done so.

Mr. SPRINGER. Would not the member calling up the bill be

recognized for that purpose immediately after objections had been called for, so that upon the reading of the report the previous question might at once operate?

The SPEAKER. The House, if it so wishes, can cut off amendment by the operation of the previous question.

Mr. SPRINGER. Then the member controlling the bill has the right to move the previous question.

The SPEAKER. Of course; but if the House should not sustain the demand, the bill would be open to amendments; as the Chair has stated in response to the inquiry of the gentleman from Mississippi, [Mr. CHALMERS.]

Mr. ATKINS. I wish to make a further inquiry. Does the Chair decide that after an amendment is offered the right of objection applies to the amendment?

The SPEAKER. The Chair has not so decided.

Mr. ATKINS. Then the rule is a farce.

The SPEAKER. It may be a farce; but the House adopted it.

Mr. CONGER. I desire to give notice that unless that be the decision, I shall object (and I have no doubt a sufficient number of others will join with me in objecting) to the bringing up of any bill that can by any possibility be amended so as to present to the House a substantially different proposition.

The SPEAKER. The Chair is quite willing at any time to submit to the House any question as to the construction of this rule, as he did yesterday; and the Chair will hold himself absolutely bound by the decision of the House, even though it may differ from his own judgment.

The question recurring on ordering the main question upon the passage of the bill, the main question was ordered; and under the operation thereof the bill was passed.

Mr. BOWMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DAVID W. BELL.

The SPEAKER. The next State is the State of Michigan; and the first gentleman in alphabetical order is Mr. BREWER.

Mr. STONE. In the absence of my colleague [Mr. BREWER] I call up——

The SPEAKER. The Chair thinks that in the absence of the member called (although this rule may in some cases operate as a hardship, as the gentleman from Georgia explained this morning it did in his case) the rule would require that the Chair should pass to the next member in alphabetical order. The gentleman from Michigan, Mr. BURROWS, is next in order.

Mr. BURROWS. I yield to my colleague [Mr. STONE] that he may call up his bill.

The SPEAKER. No yielding is necessary. The gentleman will be considered as calling up the bill in his own right. The bill will be read.

The Clerk read as follows:

A bill (H. R. No. 5832) for the relief of David W. Bell.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officer of the Post-Office Department is hereby authorized and directed to credit David W. Bell, postmaster at Oxford, Michigan, with the sum of $363.68 in his account as postmaster as aforesaid with said Department; said sum being the amount of postal money and postage-stamps stolen from said post-office on the night of the 23d of March, 1880.

The SPEAKER. This bill has been reported from the Committee on the Post-Office and Post-Roads. The question is on discharging the Committee of the Whole House on the Private Calendar from the further consideration of the bill and passing it at this time. Is there objection to the present consideration of this bill?

Mr. WARNER. Let the report be read.

Mr. BURROWS. My colleague [Mr. STONE] reported it, and I yield to him.

Mr. STONE. It has been some months, in fact a year, since I made the report. It is a unanimous report from the Committee on the Post-Office and Post-Roads, and I ask the Clerk to read it. It is a case of burglary of a post-office.

The report was read, as follows:

The Committee on the Post-Office and Post-Roads, to whom was referred the bill (H. R. 5832) for the relief of David W. Bell, would respectfully report:

That the said David W. Bell is now, and has been for a number of years past, the postmaster at Oxford, Oakland County, Michigan. He is also the township treasurer of his township, and the agent of the American Express Company at that place. The post-office is kept in the store of the said Bell, as is also the express office. The funds of the township, of the post-office, and also money and valuables held by Mr. Bell as express agent, were kept in an iron safe furnished him by said express company, supposed to be burglar-proof, and weighing about eighteen hundred pounds. This safe was kept in the store and post-office.

It is clearly established by competent evidence, and your committee find, that on the night of the 23d day of March, 1880, the store building containing the post-office was entered by burglars through the back door. The thieves effected an entrance by breaking a glass in the upper part of the door, and unlocking the door with the key which was in the lock on the inside, and had free access to the inside of the building. The safe containing postage-stamps, postal and other funds, was locked. The burglars drilled into the safe just below the combination, charged it with powder, and blew the door open and stole the contents. Besides $2,520 belonging to the township and express company and others, there were also in the safe, and stolen, $200 of postal funds, and postage-stamps amounting to $163.68, making a total of postal funds and stamps stolen $363.68.

There was no person sleeping in the store, but as the safe had been used for a number of years and was considered secure, we attach no blame to the postmaster.

Your committee, being satisfied that this loss occurred as above stated, and through no fault, negligence, or connivance of the postmaster, recommend the passage of the bill, believing it to be a case in which the postmaster should be relieved.

We append, as a part of this report, a copy of the letter of the special agent of the Post-Office Department who investigated the case; also a statement from the Post-Office Department showing the probable amount of postage-stamps, &c., on hand at the time of the burglary.

CHICAGO, *May 6, 1880.*

SIR: I herewith return case No. 43045 B, pertaining to the robbery of the post-office at Oxford, Oakland County, Michigan.

According to your instructions, I proceeded at once to Oxford, Michigan, and investigated the robbery of the post-office at that place thoroughly. I found, upon a careful investigation, the following facts:

That between the hours of two and three o'clock on the morning of the 24th day of March, 1880, the post-office at Oxford, Michigan, was entered by thieves through the back door in which the post-office was located. The door having a window in the top part, the thieves broke a glass in window. The key being left in the lock on the inside of the door, they reached in, unlocked the door, and had free access to inside of the building back of the boxes. The postmaster had, in this part of the office, a safe sent him by the American Express Company (he being their agent at this place) for the safe-keeping of their money and other valuables. In this safe the postmaster kept postage-stamps, money-order funds, box and stamp funds, and the books belonging to the office. These were all in the safe at the time of the robbery. This safe was thought to be burglar-proof, but was drilled into just below the combination, charged with powder, and door blown open.

The postmaster, being very much excited when he found that he had been robbed, forgot to count the stamps left in office, and therefore cannot give an exact account of the loss.

| | |
|---|---|
| Amount of postage-stamps taken, as stated by the postmaster | $163 68 |
| Amount of money-order funds taken | 200 00 |
| Total amount of loss | 363 68 |

Finding from the best citizens of Oxford, Michigan, that the postmaster at that place is an honest, upright, and very careful business man, and that all has been done and will be done in his power to ascertain the whereabouts of the thieves, I therefore recommend that no blame be attached to the postmaster.

Very respectfully,

G. W. PORTER,
*Special Agent Post-Office Department.*

Captain J. E. STUART,
*Special Agent Post-Office Department, Chicago, Illinois.*

OXFORD, MICHIGAN, D. W. BELL, POSTMASTER.

| | |
|---|---|
| Reported amount of postage-stamps, &c., on hand January 17, 1880, as per report made on postmaster's requisition | $117 32 |
| Amount sent on requisition, filled January 23, 1880 | 344 10 |
| Total | 461 42 |
| Deduct estimated sales for 67 days, average daily sales being $3.30 | 221 10 |
| Leaving the probable amount on hand at close of business March 23, 1880 | 240 32 |

The SPEAKER. Is there objection to the consideration of this bill at this time? No member rises to object, and the Committee of the Whole House on the Private Calendar is discharged from its further consideration, and it is before the House at this time for action.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STONE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM BLAISDELL.

The State of Minnesota was called.

Mr. DUNNELL. I ask that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of a bill (H. R. No. 7030) regulating the pension of William Blaisdell, and that the bill be passed.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William Blaisdell, late of Company F, Fifth Regiment Minnesota Volunteers, and pay him a pension at the rate of $24 per month from the 4th day of June, 1872, deducting therefrom any sums that may have heretofore been paid him since said date under any pension certificate issued to him.

The report was read, as follows:

It appears that William Blaisdell was enlisted as a private in Company F, Fifth Regiment Minnesota Volunteer Infantry, on January 24, 1862, and discharged therefrom September 6, 1865.

Claimant alleges that he contracted sciatic rheumatism and kidney troubles during his term of service, and soon after the war he applied for and was granted pension at the rate of $2 per month, which was subsequently increased at various times and to various amounts till May 4, 1880, when he was placed on the pension-roll at the rate of $24 per month.

The claimant asks Congress to correct the unjust rating and grant him a pension at said rate from the date of his application for pension filed September 26, 1868.

That claimant suffered with the above-mentioned diseases is clear from the evidence and from the fact that he was pensioned therefor; that he is now in a deplorable state is equally clear.

The testimony further discloses the fact that the examining surgeon—one Everheart—was at enmity with claimant and prejudiced against him. Other surgeons report his case as deserving higher rate.

Dr. R. Wilson states that he attended claimant in 1868 and 1869; that he was then suffering from sciatica and unable to perform but the slightest labor.

Dr. L. F. Cose states that he treated claimant in 1873-'74-'75, and that he had not been able to perform any labor since 1865.

Dr. E. M. Moorehouse states that he knew claimant before the war; that he was then sound and healthy, and that he treated him for sciatic rheumatism in 1866, and that he was then totally unable to perform manual labor.

The committee are of opinion that the relief sought ought to be granted, and report to the House the accompanying substitute for the bill, and recommend its passage.

There was no objection; and the Committee of the Whole House on the Private Calendar was discharged from its further consideration.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DUNNELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

The State of Mississippi was called.

Mr. CHALMERS. I ask to take from the Speaker's table for consideration at this time Senate bill No. 711, amending the charter of the Freedman's Savings and Trust Company, and for other purposes.

The bill was read, as follows:

*Be it enacted*, &c., That so much of the seventh section of the act entitled "An act amending the charter of the Freedman's Savings and Trust Company, and for other purposes," approved June 20, 1874, as authorizes the selection and appointment of three commissioners, be, and the same is hereby, repealed.

SEC. 2. That the Secretary of the Treasury is hereby authorized and directed to appoint the Comptroller of the Currency a commissioner, who shall execute a bond to the United States, with good securities, in the penal sum of $20,000, conditioned for the faithful discharge of his duties aforesaid, and take an oath faithfully to perform his duties, which bond shall be executed in the presence of said Secretary and approved by him, and by him safely kept; and when said bond shall have been executed, and oath taken, then said commissioner shall be invested with the possession and legal title to all the property of said company for the purposes of this act and the said act of June 20, 1874, and shall have all the rights, prerogatives, and privileges, and perform all the duties that were conferred and enjoined upon the three commissioners in said act of June 20, 1874; and from and after the qualification of said Comptroller as said commissioner the duties, rights, and authority of said three commissioners shall forthwith cease and determine: *Provided*, That nothing contained in this act shall in any way impede or delay any case or cases instituted in any court by or against the commissioners appointed under the provisions of the act to which this act is amendatory, but every such case shall, upon suggestion of the appointment of the Comptroller aforesaid, and due entry of the change on the docket of the court in which said case may be pending, be proceeded with in the name of such Comptroller in the same manner as if such change had not been made.

SEC. 3. That said commissioner, with the approval of the Secretary of the Treasury, shall have the right and authority to compound and compromise debts due to and liabilities of the company.

SEC. 4. That said commissioner, with the approval of the Secretary of the Treasury, shall have the right and authority to sell any of the real and personal property of said company at public or private sale, as in his judgment he may deem best, and to buy in for the benefit of the company any property which may be offered for sale to pay debts and liabilities to said company, if in his judgment said property is being sacrificed by said sale, and to make to the purchasers of property sold by him deeds of conveyance for their respective purchases.

SEC. 5. That said commissioner shall, by the 10th day of each annual session of Congress, make a written report to Congress of his proceedings up to the first day of said session; and for his service as commissioner aforesaid, he shall, in addition to his present salary as Comptroller, receive an annual salary of $1,000, to be paid out of the funds of said institution.

SEC. 6. That whenever said commissioner is prepared to make a dividend to the depositors, he is authorized and directed through the United States Treasurer to place in the various depository banks of the United States which are convenient to said depositors an amount sufficient to pay them, and the officers of said banks shall pay the depositors or their assignees, and take receipts from them in such way and manner as shall be prescribed by said commissioner and the Secretary of the Treasury; and said evidences of payment shall be returned by said officers to the commissioner, and by him preserved: *Provided*, That where there are no depository banks of the United States, then said commissioner may, with the approval of the Secretary of the Treasury, pay the depositors in said localities in such way as he may deem best.

SEC. 7. That said commissioner, with the approval of the Secretary of the Treasury, may prescribe such form as he may deem right and proper for the depositors to transfer their claims: *Provided*, Every such transfer shall state the amount of the claim transferred, and the amount actually received for the same.

SEC. 8. That said commissioner shall make payments to those depositors only whose pass-books have been properly verified and balanced, unless said pass-books have been lost or destroyed; then, upon satisfactory proof of such loss or destruction, and the amount due them, he may pay as though they had pass-books. But all claims founded on pass-books or otherwise not presented to said commissioner for examination and credit within six months from and after the passage of this act, as well as all dividends declared upon audited accounts not called for within two years from the date of their declaration, shall be barred, and their amounts shall inure to the benefit of the other depositors of the company.

SEC. 9. That it shall be the duty of the solicitor of the Treasury, under the direction of said commissioner, to investigate the manner in which said company has been managed by its trustees and others having control thereof; and if, in the judgment of said solicitor, the affairs of said company have been mismanaged, or managed fraudulently and corruptly, then said solicitor, under the direction of said commissioner, shall cause such civil and criminal proceedings to be instituted in the courts against those participating in said mismanagement or fraudulent and corrupt management as he shall deem right and proper to attain the ends of justice. He shall pay fees and costs of suits out of the funds in his hands as commissioner aforesaid; and said solicitor shall attend to all the suits in the courts held in the District of Columbia in which such company is in any manner a party, and he shall be the legal adviser of such commissioner in all matters in which such company is interested.

SEC. 10. That if from any cause there shall be any considerable delay in making a dividend to the depositors, then said commissioner shall, under the direction of the Secretary of the Treasury, invest the funds on hand in United States bonds, until such time as he may be prepared to make a dividend, as directed under the act of June 20, 1874.

The SPEAKER. Is there objection? The Chair hears none, and the bill is taken from the Speaker's table and is now before the House for consideration.

Mr. CLYMER. Let the report be read.

Mr. O'CONNOR. That will consume a great deal of time, and I will state for the information of the gentleman from Pennsylvania, as well as for the other members of the House, that I had the honor at the last session of this Congress to introduce a joint resolution of similar tenor and substance to the Senate bill now under consideration.

This resolution was referred to the Committee on Ways and Means, and was unanimously reported back favorably to the House by the chairman of that committee. The whole subject under consideration is in a nut-shell. The bill abolishes the commission of the three commissioners appointed under the act of 1874, who in six years have consumed in expenses and charges over three hundred and thirty-five thousand dollars of the savings deposits of the freedmen, paying to themselves each the sum of $3,000 per annum, when one commissioner did the whole work of the three. The bill stops this waste and provides for an officer of the Treasury closing up at once the institution and distributing the proceeds of its assets and property among the needy depositors. That is all there is in the bill beyond certain details in consummating the close of the institution, and the bill should be passed at once and without dissent.

Several MEMBERS. What committee reported it in the Senate?

Mr. O'CONNOR. It came from the special committee in the Senate on the Freedman's Saving and Trust Company, of which Senator BRUCE was chairman. I now move that the bill be put upon its passage.

The Senate bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. CHALMERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SALE OF LEAF-TOBACCO WITHOUT SPECIAL TAX.

The State of Missouri was called.

Mr. BLAND. I ask that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 933) to repeal so much of the sixth clause of section 3244 of the Revised Statutes of the United States as prohibits farmers and planters from selling leaf-tobacco at retail directly to consumers without the payment of a special tax, and to allow farmers and planters to sell leaf-tobacco of their own production to other persons than manufacturers of tobacco without special tax, and that it be put upon its passage at this time.

The bill was read, as follows:

*Be it enacted by the Senate and House of Representatives*, &c., That all of that portion of the sixth clause of section 3244 of the Revised Statutes of the United States embraced in the following words: "*Provided*, That nothing in this section shall be construed to exempt from a special tax any farmer or planter who, by peddling or otherwise, sells leaf-tobacco at retail directly to consumers, or who sells or assigns, consigns, transfers, or disposes of, to persons other than those who have paid a special tax as leaf-dealers or manufacturers of tobacco, snuff, or cigars, or to persons purchasing leaf-tobacco for export," be, and the same is hereby, repealed.

SEC. 2. That no farmer or planter shall be required to pay a special tax as a dealer in leaf-tobacco for selling tobacco of his own production or tobacco received by him as rent from tenants who have produced the same on his land; and they may sell the same to persons other than those who have paid a special tax as leaf-dealers or manufacturers of tobacco, snuff, or cigars, or to persons purchasing leaf-tobacco for export.

SEC. 3. That all laws and parts of laws inconsistent herewith are hereby repealed.

Mr. FRYE. Before objection is asked I should like to inquire what committee this bill comes from, and whether it is upon the Calendar?

Mr. BLAND. It comes from the Committee on Agriculture.

Mr. FRYE. Is there a report accompanying it?

Mr. HATCH. There is no report. It was reported before the new rules went into effect.

Mr. CAMP. Objections have not been asked for to the consideration of that bill.

The SPEAKER. Is there objection to its present consideration?

Mr. BLAND. If there is objection to it, gentlemen should be counted, as I should like to know who they are.

The SPEAKER. Several gentlemen have risen, among them the chairman of the Committee on Agriculture, [laughter,] more than enough to defeat the consideration of the bill.

SOLDIERS' REUNION, LINCOLN, NEBRASKA.

The State of Nebraska being called,

Mr. VALENTINE asked the consideration of Senate joint resolution No. 152.

The SPEAKER. The title of the resolution will be read.

The Clerk read as follows:

Joint resolution to grant the use of artillery, tents, &c., to be used at the soldiers' reunion to be held at Lincoln, Nebraska, in September, 1881.

The SPEAKER. The joint resolution will be read.

The resolution was read. It is as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized to send, from some convenient fort or arsenal, to be used at the soldiers' reunion at Lincoln, Nebraska, to be held in the month of September, 1881, such cannon, tents, muskets, &c., as can be conveniently spared; said cannon, tents, muskets, &c., to be returned after the holding of said reunion meeting in as like good condition as when received: *Provided*, That all transportation of said articles to and from the place of the reunion to the fort or arsenal shall be without expense to the Government: *Provided further*, That the adjutant-general of the State of Nebraska, or other proper accounting officer, shall receipt for said arms, ammunition, and camp equipage, in the name of said State, and that such of them as shall not be returned shall be charged to said State against its quota.

The SPEAKER. The question is on the third reading of a Senate resolution.

The resolution was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. VALENTINE moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN M. DORSEY AND WILLIAM F. SHEPARD.

The State of Nevada being called,

Mr. DAGGETT asked the consideration of Senate bill No. 212.

The SPEAKER. The title of the bill will be read; after which the Chair will ask for objections.

The Clerk read as follows:

A bill (S. No. 212) for the relief of John M. Dorsey and William F. Shepard.

The SPEAKER. This bill is on the Private Calendar, and reported from the Committee on Claims. Is there objection to its present consideration? [After a pause.] Several members having objected, the bill is not before the House for consideration.

PETER GROTTAN.

The State of New Hampshire being called,

The SPEAKER. The gentleman from New Hampshire [Mr. BRIGGS] not being in his seat, the Chair will recognize the gentleman from New Hampshire, [Mr. HALL,] under the decision of the House made yesterday.

Mr. HALL. I ask consideration of House bill No. 1830.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (H. R. No. 1830) granting a pension to Peter Grottan.

The SPEAKER. This bill comes from the Committee on Invalid Pensions, and is on the Private Calendar. The bill will be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Peter Grottan, father of John L. Grottan, late second lieutenant of Company G, Sixth Regiment United States Infantry.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. CLYMER. Let the report be read.

Mr. HALL. I wish to state, Mr. Speaker, that there is a typographical error in the title of the bill as also in the body of it. It should be "Grattan" in place of "Grottan."

The SPEAKER. The Chair will submit the amendment after the report is read. The gentleman from Pennsylvania demands the reading of the report.

Mr. HALL. I wish to say that this is a unanimous report from the Committee on Invalid Pensions.

Mr. CLYMER. Then I withdraw the demand for the reading of the report if it is a unanimous report.

The SPEAKER. The question is on the amendment to correct the typographical error in the bill by substituting "a" for "o" in the name of the beneficiary of the bill.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The title of the bill will be changed to conform to the amendments made by the House in the body of the bill.

TAX ON WEISS BEER.

The State of New Jersey being called,

Mr. BLAKE asked the consideration of House bill No. 6983.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill to regulate the collection of the tax on weiss beer.

Mr. CARLISLE. This bill was reported this morning from the Committee on Ways and Means with an amendment.

The SPEAKER. The bill will be read, after which the amendment will be read.

The bill was read. It is as follows:

*Be it enacted, &c.*, That brewers of weiss beer may bottle that liquor upon the premises where the same is brewed or made, in bottles containing not more than one pint or one quart each, and such bottled liquor may be removed from the brewery for consumption or sale, and upon payment of the tax, in boxes containing each either two dozen pint bottles or one dozen or two dozen quart bottles, and not otherwise. The stamps provided by this act shall be affixed to the boxes when sold or removed from the brewery in such manner as the Commissioner of Internal Revenue may by regulation prescribe; and such boxes, in addition to the other brands now required by law upon packages containing fermented liquors, shall be branded upon the side, in letters not less than one inch in length, with the words "weiss beer." Brewers of weiss beer shall also enter in the book required by law to be kept, and in the monthly statement made to the collector, in addition to the entries now by law required, the actual quantity of such liquors sold or removed for consumption or sale in bottles, specifying the number and size of such bottles.

SEC. 2. That there shall be paid hereafter on weiss beer, brewed or manufactured, and sold or removed for consumption or sale in bottles, within the United States, in lieu of the tax of $1 for every barrel containing not more than thirty-one gallons, a tax of three cents per gallon, without any allowance or deduction whatever. For the payment of the tax the Commissioner of Internal Revenue shall cause to be prepared suitable stamps denoting the tax required to be paid on two dozen pints and on one dozen or two dozen quarts of such liquor, respectively; and the same shall be furnished to collectors of internal revenue, and sold and accounted for, as is now provided by law respecting other stamps for fermented liquors.

SEC. 3. That whenever any stamped box containing bottles of weiss beer is emptied, it shall be the duty of the person in whose hands the same is to utterly destroy the stamp or stamps thereon; and any person who neglects or refuses to do so shall, for each such offense, be fined $100 and imprisoned for not more than one year. And any person who gives away or accepts from another, or who sells, or buys, or uses, for holding bottles of weiss beer, any such stamped box shall, for each such offense, be fined $100 and imprisoned not more than one year. And any wagon, cart, or conveyance, and its contents, and all horses or other animals, and all things used in the conveyance of such a stamped box which has been emptied of its contents without the stamp thereon being utterly destroyed, shall be forfeited to the United States.

The SPEAKER. The amendment proposed by the Committee on Ways and Means will be read.

The Clerk read as follows:

Strike out all after line 12 down to and including the words "weiss beer," in line 16, and insert "and such box shall have printed upon the side in letters not less than one inch in length——

Mr. WARNER. I make the point of order, Mr. Speaker, that the hour has expired. The time for making objections has passed. This is a long bill and should have careful consideration.

The SPEAKER. The Chair sustains the point of order. The time has expired. The bill will go over. The gentleman from Georgia [Mr. BLOUNT] sought the floor to ask unanimous consent, and will now be recognized.

ORDER OF BUSINESS.

Mr. BLOUNT. I now repeat my request for unanimous consent.

Mr. REAGAN. I move that the House resolve itself into Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from Texas demands the regular order by making the motion that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. BLOUNT. Will the gentleman from Texas yield to me that I may make a statement?

Mr. REAGAN. Yes, sir.

Mr. BLOUNT. I was absent yesterday by leave of the House engaged in the preparation of the sundry civil bill when my name was reached in the call under the new rule. I was in a mistake as to the time and did not get here so as to avail myself of the privilege. I ask that under the circumstances I be allowed to call up a bill for present consideration.

Mr. STEPHENS. It will not take more than five minutes.

Mr. VALENTINE. I have no desire to object to the consideration of the bill of the gentleman from Georgia. But I would like to ask unanimous consent that the same privilege be extended to the gentleman from Colorado who is absent at this moment, and who was necessarily absent yesterday when his State was called.

The SPEAKER. Is there objection?

Mr. WHITE. What is the bill called up by the gentleman from Georgia?

Mr. BLOUNT. It is a bill for the relief of W. A. Reid. It is a unanimous report of the Committee on Claims.

The SPEAKER. The gentleman from Nebraska [Mr. VALENTINE] asks unanimous consent that the same privilege be granted to the gentleman from Colorado, [Mr. BELFORD.]

Mr. McMILLIN. Before agreeing to that we want to know what bills are to be called up.

The SPEAKER. The gentleman from Tennessee [Mr. McMILLIN] objects. The bill which the gentleman from Georgia [Mr. BLOUNT] asks unanimous consent to have considered at this time will be read.

W. A. REID.

Mr. BLOUNT. I send the bill to the desk.

The Clerk read as follows:

A bill (H. R. No. 1996) for the relief of W. A. Reid.

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to W. A. Reid, of Eatonton, Georgia, the sum of $194.50, out of any money in the Treasury not otherwise appropriated, for advertising done for the Government in 1867, by direction of the Secretary of War.

The SPEAKER. Is there objection to the consideration of this bill at this time?

Mr. YOUNG, of Tennessee. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. YOUNG, of Tennessee. Two days ago when I was endeavoring to pass a bill that required an appropriation, as was alleged, of Government property, the point of order was strenuously insisted on by the gentleman from Pennsylvania [Mr. CLYMER] that it must first be discussed in Committee of the Whole. I desire to know whether that point of order has yet been decided by the Chair? I do not object to the bill of the gentleman from Georgia.

The SPEAKER. The Chair decided that point of order on yesterday. This is not under that call at all. This is a request for unanimous consent, outside of that rule altogether.

Mr. YOUNG, of Tennessee. That would not affect the rule which requires a bill making an appropriation of money or property to go to the Committee of the Whole. I do not insist, however, on the point of order. I wish the gentleman from Georgia to have an opportunity to pass his bill.

The SPEAKER. This is not a bill under the new rule as to the morning hour.

Mr. YOUNG, of Tennessee. The same rule should apply to all.

Mr. WHITE. Do I understand the gentleman from Georgia is seeking to pass a bill under a different rule——

The SPEAKER. The gentleman has asked unanimous consent that this bill be considered.

Mr. WHITE. I ask the Chair to hear my question. It is: If the gentleman from Georgia is seeking to pass a bill outside of the morning hour by a different rule from that to which it would be subject if it were called up under the new rule?

The SPEAKER. The bill the gentleman is now seeking to pass only requires under the rules a single objection to prevent its consideration. [Cries of "Vote!" "Vote!"]

Mr. WHITE. I should like all to be subject to the same rules.

Mr. ATHERTON. Was not a bill called up yesterday by another gentleman from Georgia?

The SPEAKER. That was under a construction which the House made of the rule.

Mr. ATHERTON. If the gentleman from Georgia [Mr. BLOUNT] be recognized, then two gentlemen from that State will have had that privilege.

The SPEAKER. Only one in the call under the new rule. Is there objection to the present consideration of the bill which has been read?

There was no objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLOUNT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. ELAM. I ask unanimous consent——

Mr. McMILLIN. I demand the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Texas, [Mr. REAGAN,] that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. ATKINS. I hope the gentleman will allow me to make one or two motions to expedite the public business.

Mr. REAGAN. I yield to the gentleman from Tennessee for that purpose.

PENSION APPROPRIATION BILL.

Mr. ATKINS. I ask that the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, with amendments by the Senate, be taken from the Speaker's table and referred to the Committee on Appropriations, and that the Senate amendments be printed.

There was no objection, and it was so ordered.

ARCTIC EXPLORING EXPEDITION.

Mr. ATKINS. I am directed by the Committee on Appropriations, under an order of the House, to report back with a favorable recommendation the bill (H. R. No. 7156) appropriating money to be used under the direction of the Navy Department to prosecute a search for the steamer Jeannette, of the arctic exploring expedition.

Mr. KEIFER. Let that bill be considered now.

Mr. WHITTHORNE. I hope it will be passed. It will take no time.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. THOMPSON, of Kentucky. I object to its present consideration.

Mr. ATKINS. Then I move that the bill be referred to the Committee of the Whole on the Private Calendar.

The motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. THOMPSON, of Iowa, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 201) for the relief of Somerville Nicholson;

A bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland; and

A bill (S. No. 1193) granting a pension to Milton L. Sparr.

Mr. ALDRICH, of Illnois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. No. 1487) to restore the lands included in the Fort Reading and Fort Crook military reservations, in the State of California, to the public domain, and for other purposes.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 799) granting a pension to Richard P. Taylor;

A bill (H. R. No. 859) granting a pension to William H. Scribner;

A bill (H. R. No. 1107) granting a pension to Mrs. Elisabeth Upright;

A bill (H. R. No. 1628) granting a pension to Dalton Hinchman;

A bill (H. R. No. 1953) for the relief of Henry C. Groomes;

A bill (H. R. No. 2044) granting a pension to Martha J. Porter;

A bill (H. R. No. 2548) granting a pension to Martha Neil;

A bill (H. R. No. 3098) granting a pension to Jacob Ginder;

A bill (H. R. No. 3487) granting a pension to James Forsyth Harrison; and

A bill (H. R. No. 6451) to amend and re-enact sections 2517 and 2518 of the Revised Statutes, and changing the boundaries of a customs district in the State of Maine.

EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair asks consent to lay before the House sundry executive communications, that they may be promptly referred to their appropriate committees.

There was no objection.

STATISTICAL ABSTRACT.

The SPEAKER accordingly laid before the House a letter from the Secretary of the Treasury, transmitting the third number of the Statistical Abstract of the United States; which was referred to the Committee on Ways and Means, and ordered to be printed.

PRIVATE LAND CLAIM IN ARIZONA.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting papers in the Arizona private land claim "Aribac;" which was referred to the Committee on Private Land Claims.

EASTERN CHEROKEES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relating to the desire of the eastern band of Cherokees for assistance to enable them to join their brethren in the Indian Territory; which was referred to the Committee on Indian Affairs.

MARINE HOSPITAL, WILMINGTON, NORTH CAROLINA.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, relative to the marine hospital building at Wilmington, North Carolina; which was referred to the Committee on Appropriations.

REGISTRATION OF TRADE-MARKS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a report of the Commissioner of Patents relative to the registration of trade-marks; which was referred to the Committee on Patents, and ordered to be printed.

FORCE IN PENSION OFFICE.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Pensions relative to the condition of the working force in his office; which was referred to the Committee on Appropriations.

NAVIGATION AT THE HEAD OF LAKE SUPERIOR.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report on the wants of navigation at the head of Lake Superior; which was referred to the Committee on Commerce, and ordered to be printed.

CONSULAR REPORTS.

The SPEAKER also laid before the House a letter from the Secretary of State, relative to an appropriation for printing consular reports; which was referred to the Committee on Appropriations.

CLAIMS OF REVOLUTIONARY LINE OFFICERS.

Mr. SIMONTON, by unanimous consent, from the Committee on War Claims, reported back adversely the bill (H. R. No. 4480) to provide for the settlement of the unpaid claims of those officers of the line of the Revolutionary army who served to the close of the war of Independence, and were so returned on the books of the Treasury; which was laid on the table, and the accompanying report ordered to be printed.

INDEPENDENT SCHOOL DISTRICT, BURLINGTON, IOWA.

Mr. VOORHIS. I am instructed unanimously by the Committee on Private Land Claims to report to the House, with an amendment, the bill (H. R. No. 4206) confirming and vesting the title to a certain tract of land in Burlington, Iowa, "in the independent school district" of said city. It is merely to correct a verbal error in one of the statutes, and I ask that it be now considered.

The SPEAKER. That requires unanimous consent.

Mr. REAGAN. I have no objection if it will not lead to debate.

The SPEAKER. The Chair is advised that it is merely to correct a clerical error.

Mr. McCOID. That is all.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Whereas it is claimed that the word "west," after the words "Valley street," in the "act confirming the title to a tract of land in the city of Burlington, Iowa," approved July 4, 1868, (volume 15, page 82, United States Statutes at Large,) is a clerical error, and that the word "east" should be inserted in lieu thereof: Therefore, in order to properly confirm the title to the lot which was intended to be confirmed by such act,

*Be it enacted, &c.*, That the act entitled "An act confirming the title to a tract of land in Burlington, Iowa," approved July 4, 1868, be, and the same is hereby, amended so as to read as follows: That all of the title of the United States in and to a certain tract of land in the city of Burlington, Des Moines County, in the State of Iowa, described as being west of lot No. 978 in said city, south of Valley street, east of Ninth street, and north of Market street, as laid down on the plat of said city certified under the act of Congress of March 3, 1837, by William W. Connell and George Cubbage, commissioners, and now on file in the General Land Office, and which was originally reserved from sale by the United States and dedicated to public burial purposes, be, and the same is hereby, confirmed to and vested in the "independent school district" of said city, to be forever dedicated to and used by said school district for public-school purposes, and for no other purpose whatsoever.

There was no objection, and the bill was before the House for consideration.

The SPEAKER. The first question is upon the amendment reported from the committee.

The amendment was, in line 10 of the printed bill to strike out the word "Ninth" and insert in lieu thereof the word "Boundary;" so that it will read: "East of Boundary street and north of Market street."

Mr. McCOID. That is to make this bill conform in language with the original act.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

ORDER OF BUSINESS.

Mr. WHITE. I now call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Texas, [Mr. REAGAN,] that the House now resolve itself into Committee of the Whole for the purpose of further considering the river and harbor appropriation bill.

Mr. BELTZHOOVER. I rise to make a privileged report from the Committtee on Elections.

The SPEAKER. The Chair will recognize the gentleman for that purpose.

HON. RANDALL L. GIBSON.

Mr. BELTZHOOVER, from the Committee on Elections, submitted a report on the petition of Hon. Randall L. Gibson to be allowed for his expenses in an election contest in the Forty-third Congress; which report was ordered to be printed, and referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

By unanimous consent, indefinite leave of absence was granted to Mr. JOYCE.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. WHITE. I call for the regular order now.

The SPEAKER. The regular order is the motion of the gentleman from Texas, to go into Committee of the Whole on the river and harbor appropriation bill.

Mr. REAGAN. Before the question is taken on that motion, I desire to move that all general debate upon that bill in Committee of the Whole be closed in thirty-five minutes. I will state that it is my intention to give fifteen minutes of that time to the gentleman from Massachusetts, [Mr. RUSSELL,] a member of the Committee on Commerce, and fifteen minutes to the gentleman from Louisiana, [Mr. GIBSON,] a member of the Committee on Commerce, reserving five minutes to myself to close general debate.

Mr. ACKLEN. I ask the gentleman to make the time one hour.

Mr. REAGAN. I would be glad to accommodate my friend, but I am acting under instructions of the Committee on Commerce.

Mr. ACKLEN. I desire to say that although there was, as I understand, a meeting of the Committee on Commerce this morning, it was not the day for the regular meeting of that committee, and I was not advised that there would be any such meeting. On Thursday last, when this bill was under consideration in Committee of the Whole, the then occupant of the chair, the gentleman from Kentucky, [Mr. CARLISLE,] expected to recognize me to address the committee, and I yielded to the gentleman from Texas [Mr. REAGAN] for a motion that the committee rise, expecting that when the subject was again resumed I would have a few minutes at least to explain my views upon this bill. The effect of limiting debate to thirty-five minutes will be to cut me off from any opportunity to speak.

Many MEMBERS. Regular order!

The SPEAKER. The regular order is the motion of the gentleman from Texas to limit general debate on the river and harbor appropriation bill to thirty-five minutes.

Mr. VAN VOORHIS. I move to amend that motion so as to limit general debate to four hours. There are a great many members here who want to say a word on this bill.

The question being taken on the amendment of Mr. VAN VOORHIS to limit general debate to four hours, it was not agreed to.

Mr. ACKLEN. I move an amendment to limit debate to three-quarters of an hour. That is but ten minutes in excess of the time indicated by the gentleman from Texas.

Mr. TOWNSEND, of Ohio. It is understood that after general debate is closed, which I hope will be in thirty-five minutes, the bill will then be considered by paragraphs, and there will be an opportunity for every member desiring to be heard to make a five-minute speech.

The amendment of Mr. ACKLEN was not agreed to.

The question recurring on the motion of Mr. REAGAN, that general debate in Committee of the Whole on the river and harbor bill be limited to thirty-five minutes, it was agreed to.

Mr. REAGAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurring on the motion of Mr. REAGAN, that the House resolve itself into Committee of the Whole for the consideration of the river and harbor appropriation bill, it was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. CARLISLE in the chair,) and resumed the consideration of the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes.

The CHAIRMAN. By order of the House all general debate on this bill has been limited to thirty-five minutes.

Mr. REAGAN. I yield fifteen minutes to the gentleman from Massachusetts, [Mr. RUSSELL.]

The CHAIRMAN. The gentleman from Texas, [Mr. REAGAN,] who, by reservation made the other day without objection, has thirty-five minutes remaining, yields to the gentleman from Massachusetts for fifteen minutes.

Mr. RUSSELL, of Massachusetts. Mr. Chairman, the opposition so far developed against the passage of the river and harbor bill reported to the House by the Committee on Commerce and called up for consideration by Mr. REAGAN on Monday, under the suspension of the rules, is based on the following reasons:

First. That a bill of this character and magnitude should be first considered in the Committee of the Whole, where each item can be discussed and subject to amendment.

Second. That the committee had not equitably distributed the appropriations territorially.

Third. That the stipulation in regard to the appropriation for the improvement of the Lower Mississippi "in accordance with the plan therefor adopted by the Mississippi River commission, to be expended by the Secretary of War, with the advice and under the supervision of said commission, the sum of $1,000,000; and it shall be the duty of said commission to take into consideration and of the Secretary of War to extend operations under their supervision to tributaries of the Mississippi River to the extent, and no further, that may be necessary in the judgment of said commission to the perfection of the general and permanent improvement of said Mississippi River," is not sufficiently guarded to prevent the use of this appropriation to build up the levees for the protection of the alluvial lands lying along the Mississippi River.

In answer to the first objection I wish here to state in behalf of the Committee on Commerce that we have obeyed the instructions of the House in formulating this bill in committee, and it was called up on Monday for consideration and action under the suspension of the rules by Mr. REAGAN, a member of the committee, in conformity to a custom which seemed well established by the action of the past six or seven Congresses. Formerly when the bill was considered in the Committee of the Whole and subjected to amendment it never grew smaller, and that the amendments urgently and eloquently presented and adopted always increased the bill and generally to such proportions that it failed altogether.

In answer to the second objection, that the appropriations in the bill are not equitably distributed among the States, the committee affirm that they have by a long and careful consideration of the merits and demands of each item in the bill faithfully and conscientiously recommended appropriations which in their judgment the merits and necessities of the work demanded. The reports and recommendations of the Engineer Department which has these works in charge have necessarily been to a great extent our guide. These reports give the character and probable cost of the works, and show to what extent the improvement may facilitate commerce.

The charge that certain States or particular works in the States had been favored without reference to the necessity of the improvement is unjust and without foundation in fact. Texas, which has been referred to, has large appropriations in the bill, but has not received a larger proportion to the amount recommended by the Engineer Department for the works going on in that great State than other States have received; no more than the State of California, though the gentleman from California [Mr. PAGE] complains that the Pacific coast has not received fair consideration at the hands of the committee.

I commend to the consideration of this House the remarks of the honorable gentleman from Minnesota, [Mr. DUNNELL,] whose inland State receives very little in this bill, but he, having served on the Committee on Commerce, has, through familiarity with the needs of commerce, been led to support the bill making liberal appropriations for the improvement of our navigable waters.

The committee have, with such light as they had before them, and with a due regard to the size of the bill, dealt justly with every section of the country.

Another feature of the objections which develop under this head and which has been presented by members on this floor is, that their States had better make their own improvements to their rivers and harbors (in view of what they get in this bill and the population of the State) rather than share in the general bill. This is a narrow and limited view to take of the question of river and harbor improvement. But a sufficient answer to this suggestion is in the fact that all the navigable waters belong to and are under the control of the United States.

What we want in this country is cheap transportation, the very best facilities for handling and transporting from point to point the products of field, forest, mines, and our manufactures; and while we live and have gained and enjoy so high a state of civilization through the system of an exchange of commodities, you cannot improve transportation in one section of the country without its being felt equally in every other section. It is the strength and beauty of this country

that we have a diversified soil and climate, each section producing commodities peculiar to itself; and while the cotton from the fields of the South can be more cheaply transported to the seaboard over the long and narrow rivers which traverse the low lands of that section by the removal of stumps and overhanging trees, it may be, (improvements so much criticised in the House,) the benefit is not alone to the cotton-grower nor to the cotton-spinner in our great manufacturing cities, Lowell, Lawrence, and Fall River, but to every person who uses manufactures of cotton. The coal-miners who can more cheaply transport their products over the improved rivers that flow through the coal-mining regions are not alone benefited, but the consumers of that indispensable commodity also, wherever they may be.

The improvement of the rivers and lakes for the transportation of lumber and the cereals of the great West affords no local advantages that are not felt in the remotest part of our country. The cost of transportation from the wheat-fields of the West to the consumers in the East and South is an important item in the cost of our breadstuffs, and whatever can be saved by superior facilities in transportation is a gain both to the producer and consumer.

There are three great forces which underlie and constitute our success and which are essential to the permanent prosperity of any country, namely: First, fertility of soil; second, the industry and ingenuity of the people to take advantage of what nature affords them; third, and not the least important, cheap transportation. The first we have, for no country has a more fruitful soil, and our people are industrious and ingenious.

They lead all nations in fashioning implements for agriculture and machinery for manufactures. And now, what have we done and what can we do in the interest of cheap transportation? In the early settlement of the country and until a very recent date we have been obliged for the want of sufficient capital to build our railroads on a cheap and unsubstantial basis. Iron rails, cheap road-beds, and light motive power, together with local and conflicting managements of short lines of railway, though links in a great chain reaching from the North to the South and from the East to the West, did not afford facilities for cheap transportation. But within the last few years great advances have been made in land transportation. Steel rails have been substituted for iron, the road-beds have been improved and greater motive power used; large engines of fifty tons weight having been substituted for those of thirty tons. Through connections have been so perfected that merchandise is now transported from one section of the country to the other over our railroads for one-half what it cost seven or eight years ago. And while this change has been going on by land like improvements of no less importance are going on in water transportation. The ships of 1,000 and 2,000 tons burden, which were of the largest class a few years ago, are now yielding to the larger ships of 4,000 and 5,000 tons burden; and what the improvement of the railroads has done for the land carriage of the country the large ships have done for the ocean and river carrying trade, so that the freight rates from point to point on our own coast and from our ports to foreign ports are reduced nearly one-half; and shall Congress now hesitate to follow the example of private enterprise among our own people on the one side and foreign nations on the other in improving our national water-ways so as to facilitate the union of these instrumentalities in the cheapening of freight transportation? Our harbors and rivers are certainly inadequate now for this purpose and ships are constantly increasing in size, and the sum proposed in this bill will not, spread upon the total inland and foreign tonnage carried on within our borders, amount to one cent per ton; and who can doubt that we shall reap a tenfold advantage to our people in cheapening transportation by this expenditure? This sum seems a paltry one for the repair of old and the opening of new water-ways when compared with the estimated expenditure of $400,000,000 annually for the repair of our railways.

I have learned through a somewhat extended business experience the truth of the saying, "Nothing ventured, nothing gained," and we must, to compete with our rivals, always on the alert, have the best of facilities in all departments of business. It is estimated that we pay to foreigners alone $100,000,000 annually for the transport of our exports and imports. I believe that we would save annually in transportation, on this item alone, brought about by the introduction of these large vehicles of transportation, which can only enter our harbors and great rivers by an expenditure by the Government to deepen their channels, more than is appropriated in this bill, to say nothing of the improvements upon our inland rivers and lakes and the building and repairing of our harbors of refuge, which serve the double purpose of saving life and property.

The third objection, which was raised by my colleague [Mr. ROBINSON] and the gentleman from Illinois, [Mr. MARSH,] is that the appropriation for the improvement of the Lower Mississippi may be expended for building up the levees, and that consequently the alluvial lands lying alongside the river may be thereby improved.

The committee examined carefully the report of the commission, and also had the commission before them, and these gentlemen explained their plan of operations, which satisfied the committee that they would confine their experiments for the improvement of the navigation of the river to the system known as the jetty system, which has proved so successful at the mouth of the river at New Orleans.

I quote from the report of the commission under the head "Plan of improvement recommended:"

It would seem, therefore, that the plan of improvement must comprise, as its essential features, the contraction of the water-way of the river to a comparatively uniform width, and the protection of caving banks, and this is presumed to be the plan referred to in the act as the "jetty system." It is known, from observation of the river below Cairo, not only that shoals and bars, producing insufficient depth and bad navigation, are always accompanied by a low-water width exceeding three thousand feet, but that wherever the river does not exceed that width there is a good channel. In other words, bad navigation invariably accompanies a wide low-river water-way, and good navigation a narrow one.

The work to be done, therefore, is to scour out and maintain a channel through the shoals and bars existing in those portions of the river where the width is excessive, and to build up new banks and develop new shore-lines, so as to establish as far as practicable the requisite conditions of uniform velocity for all stages of the river.

It is believed that this improvement can be accomplished below Cairo by contracting the low-water channel-way to an approximately uniform width of about three thousand feet, for the purpose of scouring out a channel through the shoals and bars, and by causing, through the action of appropriate works constructed at suitable localities, the deposition of sand and other earthy materials transported by the water upon the dry bars and other portions of the present bed not embraced within the limits of the proposed low-water channel. The ultimate effect sought to be produced by such deposits is a comparative uniformity in the width of the high-water channel of the river.

It is believed that the works estimated for in this report will create and establish a depth of at least ten feet at extreme low stages of the river over all the bars below Cairo, where they are located.

It is the opinion of this commission that, as a general rule, the channel should be fixed and maintained in its present location, and that no attempt should be made to straighten the river or to shorten it by cut-offs.

There is no intimation by the report or the testimony of the commission that the War Department through the counsel of the commission will not carry out in good faith the proposition to improve the navigation of the river, and that only; and that no part of this appropriation would be used for the direct or indirect recovery of overflowed lands only so far as that result might follow the closing of gaps, which might be found necessary as an adjunct to the improvement of the navigation of the river. The committee believe that the language of the bill is sufficiently guarded to keep them within those limits, and that these gentlemen in calling the attention of Congress and the country to the provisions connected with this item in the bill have created an unnecessary alarm, for the plan adopted by the commission looks to the same auxiliary aid which my colleague [Mr. ROBINSON] foreshadowed and promised to support if adopted. My colleague was a member of the committee which introduced a bill to form the commission. I send to the Clerk's desk to be read an extract from his speech made at that time:

The Clerk read as follows:

Mr. SPARKS. I understood the gentleman to say that he was in favor of the nine first sections of the bill.

Mr. ROBINSON, of Massachusetts. Of the first nine sections.

Mr. SPARKS. Is the gentleman in favor of this portion of the fourth section of the bill, namely, "and for the protection of the alluvial lands of the Mississippi Delta from overflow from said river?"

Mr. ROBINSON, of Massachusetts. My impression is either that the gentleman from Illinois [Mr. SPARKS] has not been present while I have been addressing the committee, or that I have been singularly deficient in making myself understood.

Mr. SPARKS. That provision is in section 4. Are you in favor of that?

Mr. ROBINSON, of Massachusetts. I will answer the gentleman. This bill is intended to provide a commission to devise a plan for the improvement of the Mississippi River and the protection of the alluvial lands combined. If, as a part of the whole plan for the improvement of the river for purposes of navigation and incidental thereto, the lands of that valley may be protected—I am in favor of it. But if the result of the work of the commission should be only a report for the protection or reclamation of the lands alone, then as I now stand, as I am at present advised, I could not advocate or vote for such a proposition.

Mr. RUSSELL, of Massachusetts. I call attention to this to show that the committee of Congress who gave this matter considerable attention at the time and the gentleman himself fully believed that some of the gaps in the banks of the river would have to be closed as an adjunct to the new plan or jetty system proposed, and that he declared his readiness to vote appropriations which might incidentally reclaim land lying alongside the river if such work were necessary for the improvement of the navigation of the river.

But, Mr. Chairman, while the committee believe that the bill is properly guarded as it is, the immediate friends of the project and the committee are perfectly willing that this appropriation shall be so guarded as to satisfy the legal critics of this House and the country, and the committee now give notice that when this item is reached they will support any amendments that are offered in good faith to draw additional safeguards around this appropriation.

Mr. Chairman, there is clearly a majority of this House in favor of this bill, and I am sorry to see factious opposition developing to defeat its passage. There is now and then a man from the business walks of life who finds his way to a seat on this floor. He is not only struck with the facility with which the business of the country can be retarded under the rules, but disappointed to find that when a purely business measure is presented in this House which cannot be defeated by the ordinary tactics under the intricate rules of the House, members are ready to inject into the discussions partisan politics and sectionalism and deprive the country of the best judgment of its legislators. We saw that demonstrated in the passage of the funding bill. When that measure was brought into the House there was a difference of opinion on both sides of the House as to the rate of interest and the length of bonds for the new loan. But, sir, after a few days' discussion, political considerations gained control and influenced the action of the House, and in the final passage of the bill the lines were strictly drawn between the political parties.

If no better rules can be made to facilitate public business it would be well if we could eliminate from practical business questions political considerations. Very little business has been or will be transacted in the Forty-sixth Congress. There are more than a thousand private and public bills which have been considered by the committees of the House now on the Calendar, a great many of them meritorious, which, failing to be enacted into law, will do injustice to both public and private interests.

Mr. Chairman, I wish to say in reference to the further action of the House in regard to this bill that there are in it three hundred and fifty items of appropriation. If there is an attempt to amend many items in the bill, with the usual discussion, it will consume more time than there is left in this Congress. We hope, therefore, in the interest of the passage of the bill and the other public business demanding attention, that no amendments will be offered other than this I have referred to in connection with the appropriation for the improvement of the Lower Mississippi. There is not an appropriation in this bill for the improvement of any waters which have not first been surveyed by Government engineers and the surveys and estimates revised by the Chief of Engineers and indorsed by the Secretary of War.

While some of them are less meritorious than others, all will facilitate commerce. These works are in no sense local but national, and when fully understood will be supported by broad and liberal-minded men of the country. I am for liberal appropriations for internal improvements, and believe I should misrepresent my people should I not support this bill, which is in the direction of American progress and development. As to the power of Congress to appropriate money for internal improvements, I quote from one of our most able commentators, Judge Story, (volume 2, page 162:)

> So far as regards the right to appropriate money to internal improvements generally, the subject has already passed under review in considering the power to lay and collect taxes. The doctrine there contended for, which has been in a great measure borne out by the actual practice of the Government, is that Congress may appropriate money, not only to clear obstructions to navigable rivers; to improve harbors; to build breakwaters; to assist navigation; to erect forts, lighthouses, and piers; and for other purposes allied to some of the enumerated powers; but may also appropriate it in aid of canals, roads, and other institutions of a similar nature existing under State authority. The only limitations upon the power are those prescribed by the terms of the Constitution, that the objects shall be for the common defense or the general welfare of the Union. The true test is whether the object be of a local character and local use, or whether it be of general benefit to the States. If it be purely local, Congress cannot constitutionally appropriate money for the object. But if the benefit be general, it matters not whether in point of locality it be in one State or several; whether it be of large or of small extent; its nature and character determine the right, and Congress may appropriate money in aid of it, for it is then in a just sense for the general welfare.

Which shows the wisdom and forethought of the framers of our Constitution to provide for this class of important public improvements.

Mr. REAGAN. I now yield fifteen minutes to the gentleman from Louisiana.

Mr. GIBSON. Mr. Chairman, gentlemen have addressed the committee in behalf of the tributaries of the Mississippi River. They have urged appropriations for the Ohio, for the Missouri, and for all the great rivers that form finally the Father of Waters. There are forty-three great rivers draining the continent from the Alleghanies to the Rocky Mountains emptying into this vast basin from Cairo to the mouth of the Mississippi River. It is, I would say to the gentlemen who speak for the Missouri River, but the continuation of that river, and if the magnitude of the two rivers had determined the appellation it should be called the Missouri River and not the Mississippi River from Cairo to its mouth.

I say, then, will no one here speak for the Mississippi? Since we purchased the territory embracing this river survey after survey has been made, report after report from the most learned, eminent, and scientific engineers of the country who have been appointed to ininvestigate the phenomena of this river have been made, and their recommendations will be found in the libraries and committee-rooms of Congress. The veteran and distinguished member from Virginia himself, who served upon the Committee on the Improvement of the Mississippi River, told that committee that he himself, under orders of this Government, had given much time to the investigation of the phenomena that this river presents. In the Forty-fourth Congress, when I may say there was a reunion of the sections, the proposition was made for the formation of a commission to investigate and report upon that river.

It was again proposed in the Forty-fifth Congress, but failed in the Senate for want of time. Finally in the Forty-sixth Congress it became a law. The President of the United States, in obedience to that law, appointed the ablest engineers of the United States upon the commission, many of whom had rendered themselves illustrious in the service of the Government. He also appointed upon that commission Mr. Eads, whose success at the mouth of the Mississippi River entitles him to be regarded as one of the benefactors of mankind. That commission, Mr. Chairman, made an accurate and thorough report after an elaborate survey of the Mississippi River, and they have submitted their report to this House. That report was presented to the Committee on the Improvement of the Mississippi River. Nay, more than that, under the rules of this House the Committee on the Improvement of the Mississippi River was instructed to visit the Mississippi River personally to look into the subject-matter of this report, in order that, by actual investigation and observation, they might verify the report of the commission. They came back and reported. Such men as Judge HARRIS of Massachusetts, Mr. PRESCOTT of New York, Mr. HUMPHREY of Wisconsin, and Mr. MYERS of Indiana. These gentlemen went there, examined the river for themselves, came back, and reported that the recommendations of that commission were useful, wise, and ought to be adopted. In addition to that, the report, under the rules of this House, was referred to the Committee on Commerce, because, under the revision of the rules, authority to consider this question was taken away from the Committee on the Improvement of the Mississippi River and intrusted to the Committee on Commerce. It was therefore brought before that committee. They summoned the members of the Mississippi River commission before them. They heard them. They questioned them. They became satisfied from their testimony that the report was correct and that it was entitled to consideration, and they brought in a bill to carry out in part the recommendations of that commission.

Mr. Chairman, I have no earthly objections to the placing of any safeguards that the House may choose to throw around this appropriation. I wish to say frankly to the committee that we do not propose to build a levee, dike, or jetty, or anything of any character whatever on the Mississippi River for the purpose of protecting the alluvial lands on the border of that stream. Not a dollar of the money is contemplated to be expended for that purpose. Not a dollar of this appropriation is to be used in the reclamation of the alluvial lands in the Mississippi bottoms. This bill stands upon the power given under the Constitution to Congress to regulate commerce between the States, and any limitation that the gentleman from Massachusetts, who has always given friendly assistance to this measure, any limitation, I say, that he may deem necessary or proper to throw around this appropriation will be cordially accepted and adopted by the Representatives of that section of the Union. Let me, then, gentlemen, disabuse your mind on that subject. This proposition is simply to improve the channel, the navigation, the commerce of the Father of Waters, embracing a coast line of over two thousand miles, from Cairo to its mouth.

In reference to the phenomena that this great stream presents, this inland sea, the engineers hitherto have been baffled and thwarted. They have united easily in recommendations for the improvement of harbors on our eastern borders, because the propositions were simple and the conditions few. They have united without difficulty in improving upland streams, because all the books they studied at West Point and all the teachings of the schools embraced the phenomena of upland or ordinary streams. But the Mississippi River cannot be so readily explained or understood. Where is there another Mississippi River? Where is there a river that forms its own bed flowing through a vast region of alluvial material? The phenomena are novel and difficult. We have had attention given by the ablest engineers of this Government to the investigation of these phenomena, and we have their report before us. That report has received the sanction of two great committees of this House, upon which are gentlemen of experience and high character and sound conservative views, biased by no sectional jealousy. Mr. Chairman, I delight to say in the presence of this committee that the gentleman from Massachusetts, [Mr. ROBINSON,] if he opposes this item at all, is not actuated by a single sentiment of sectional feeling. I know him too well for that, and I say, therefore, that in support of the report of this commission I shall stand by him in any legitimate, wise, and prudent safeguard that he may propose to protect every dollar of this money which is to be expended for the improvement of the channel and navigation of this great river.

Why, gentlemen, do you know what the difficulties of that river are? Do you know that at many points below Cairo for three, four, and five months of every year there are only three and a half feet or four feet of water; that the great granary of the West is choked up; that the great vehicles of communication on that river are tied up for three, four, and five months of the year because of these vast "reaches," as the engineers call them, some of them forty miles long with only three and a half feet and four feet water?

Are you not willing to vote to remove these obstacles to the great granary of the West? Are you not willing to allow to the hard-working people of the great valley of the Mississippi some of the profits, the legitimate profits that they may achieve if they can only get cheap transportation? Are you not willing to sweeten the toil of the laboring-men who till that great valley from the Rocky Mountains to the Alleghanies? This is no local question; it is no sectional question. It is a question which embraces, in one aspect, the cause of humanity itself. It relieves the burdens upon the distressed people of Europe who are wanting bread and meat; and it will bring to the vigorous, industrious, and intelligent population living upon the tributaries of this great river cheaper transportation and, therefore, increased wealth.

I will not, Mr. Chairman, fatigue this committee by any extended remarks. I know, when I look in the faces of the intelligent gentlemen who sit before me, that, following in the footsteps of Calhoun and Gadsden and Guthrie and Clay and Benton and Douglas, they will appreciate the importance of doing something to remove the impediments to commerce on this the grandest feature of the American continent.

Mr. Chairman, I could wish that the gentleman who is President-

elect might be here once more to raise his voice upon this floor in favor of the improvement of the Father of Waters. No man appreciated the necessity of that more than he did when the matter was here for discussion, insisting upon the establishment of this Mississippi River commission; and in his letter of acceptance he goes further and says not only the interests of commerce but the interests of agriculture require this improvement. He declared that the Government should devise measures not only to facilitate its commerce, but to prevent its being any longer in seasons of great floods a "terror" to the people dwelling upon its banks. These words have touched the hearts of many a man in his cabin on the banks of the Mississippi River.

It must be remembered that every acre tilled and drained in the valley, that every stream opened and improved, precipitates in the aggregate an enormous flood upon the basin into which pour the waterfalls from the Rocky Mountains to the Allegheny. The engineers declare that the outlet theory would prove ruinous to the river. It does appear to be against common sense to propose to improve the river by taking all the water out of it. It will be clear to every one who shall examine carefully the surveys and remarks of the commission that the difficulties and impediments of the low-water navigation arise mainly from the vast floods that overflow the banks and fill the channel with sand-bars as they decline. It is the conviction of the commission that in order to improve the channel in low water, prevent the formation of these "reaches," at all seasons the water must be confined to its channel, that the increased velocity would diminish deposit and scour away the sand-bars. But we do not ask for levees or dikes or anything except such methods and plans as will improve the channel and navigation of the river. We are willing to leave these questions, the instrumentalities, to the engineers.

I am here to-day to speak in favor of the commerce of the Mississippi River. I am here to speak in favor of cheapening transportation to the people dwelling in the great valley. The district I have the honor to represent, and that has been so constant to me, may be called the jetty district, for we hold the gateway to the sea, and I hope my voice in behalf of the millions in the valley may find a responsive echo in the hearts of the inhabitants of the great Northwest and of their honored Representatives upon this floor.

It was a consolation to Sir Robert Peel when the corn laws were repealed and he was so harshly condemned by the great landed proprietors of England that he had cheapened the bread and sweetened the toil of the laboring people of England. I tell the Representatives here assembled that those who shall come forward to the support of this measure, destined to bring peace and comfort and security and blessings to the people of the Mississippi Valley, will long be remembered by them with grateful hearts.

The CHAIRMAN. The gentleman from Texas [Mr. REAGAN] has six minutes of his time remaining.

Mr. VAN VOORHIS. The gentleman from Louisiana has yielded to me.

The CHAIRMAN. The gentleman from Louisiana had but fifteen minutes allowed him by the gentleman from Texas, and he has consumed fourteen minutes.

Mr. VAN VOORHIS. Then I have but one minute. I yield that minute to the gentleman from Texas, who has occupied so little time on this bill.

Mr. REAGAN. I hope gentlemen will now consent that we take up the bill by sections for amendment and dispose of it. I think we all concur in the importance of economizing time.

Mr. SAPP. We cannot hear a word the gentleman from Texas is saying.

The CHAIRMAN. The committee will come to order.

Mr. REAGAN. We all feel the necessity of expedition in the business of the House with a view to transacting the business before us in the short time we have. I hope it will be the pleasure of members of the committee to try to reach for themselves the conclusion that when an amendment is offered the gentleman who offers it having had five minutes, and five minutes having been occupied by some one who desires to oppose it, we shall then vote on each amendment without prolonging the discussion on the paragraph. I suggest this in the sincere wish to get this measure as speedily as possible out of the way of other business.

The CHAIRMAN. The Chair finds he was mistaken as to the time. The thirty-five minutes to which the gentleman from Texas was entitled began at twenty minutes before two, and his time has now expired. The Clerk will report the bill by paragraphs for amendment.

The Clerk proceeded to the reading of the bill by paragraphs and read the following:

That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the direction of the Secretary of War, for the construction, completion, repair, and preservation of the public works hereinafter named.

Mr. VAN VOORHIS. I offer the amendment which I send up to the Clerk's desk.

Mr. RANDALL, (the Speaker.) Before we enter upon the consideration of the paragraphs of this bill containing appropriations, I desire to offer an amendment, to come in at the end of the paragraph just read, and which has no application whatever to the amounts proposed to be appropriated by the bill.

Mr. VAN VOORHIS. I desire to offer an amendment proposing that this work shall be done by contract.

Mr. RANDALL, (the Speaker.) The gentleman and myself are on the same line.

The CHAIRMAN. The amendment of the gentleman from New York [Mr. VAN VOORHIS] will be read.

The Clerk read the amendment, which was to add to the pending paragraph the following:

All work done under the provisions of this bill shall be let by contract to the lowest responsible bidder in accordance with regulations to be prescribed by the Secretary of War.

Mr. RANDALL, (the Speaker.) I move to amend that amendment by substituting therefor that which I ask the Clerk to read.

The Clerk read as follows:

The Secretary of War shall cause to be let by contract all public works authorized under this act except for surveys and estimates. Such contracts shall be made after sufficient public advertisement for proposals in such manner and form as the Secretary of War shall prescribe. Such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution of the work according to such contract, and for the proper payment of all liabilities incurred in the prosecution thereof, for labor and material: *Provided*, That the interests of the Government shall not be actually injured thereby.

Mr. RANDALL, (the Speaker.) It may be necessary to strike out of the paragraph of the bill the words "and to be expended under the direction of the Secretary of War," and to add to the paragraph that which has just been read by the Clerk.

Mr. REAGAN. I am not sure but what we had better leave in the paragraph the provision for the appropriations to be expended under the direction of the Secretary of the Treasury.

Mr. RANDALL, (the Speaker.) I am not strenuous as to that.

Now, one word on the amendment. As will be observed, it is drawn with great care. I believe it is almost a copy of the provision inserted by the Committee on Commerce in the river and harbor appropriation bill of last session, and which passed this House without objection. It recognizes, as I think, an important principle; that where the public interests are not actually interfered with the lowest bidders shall receive the awards to perform this work.

In addition, allow me to say that, with such a provision as this in the law, I believe we shall obtain at a low estimate as much as 10 per cent. additional work, which will be for the interest of the people and of the commerce of the country.

Mr. CALKINS. Will the gentleman permit me to make a suggestion?

Mr. RANDALL, (the Speaker.) Certainly.

Mr. CALKINS. If this amendment shall prevail, there ought also to be given the Government authority to sell the dredges and other property now owned by the Government which is fitted for use in this work.

Mr. RANDALL, (the Speaker.) I do not desire to enter upon that matter now. I would be glad to have the gentleman from Indiana [Mr. CALKINS] offer a separate amendment to that effect.

Mr. CALKINS. I suggest that the amendment should come in here. The Government owns a large amount of property which, should the amendment of the gentleman from Pennsylvania [Mr. RANDALL] become a law, will become entirely useless to the Government or to any one else, unless some such provision as I have suggested be inserted in the bill.

Mr. RANDALL, (the Speaker.) I desire to state that the principle of the amendment which I have offered was recognized in the river and harbor appropriation bill passed for 1866, one of the first bills of this kind after the war. I do not understand that the Committee on Commerce or any one else objects to this amendment, and I therefore ask a vote upon it.

Mr. VAN VOORHIS. A word, Mr. Chairman. I see no difference in principle between the amendment offered by the gentleman from Pennsylvania [Mr. RANDALL] and the one I have offered. I shall therefore not contend about the phraseology of the amendment, but will accept the one he has offered in lieu of mine.

Mr. TOWNSEND, of Ohio. The Secretary of War, as I understand it and as I believe, has authority under present provisions of law to advertise for proposals and to give out contracts for this work where it can be done to advantage.

I desire to say that there is much work provided for in this bill which it is almost impossible to contract for; such as dredging, removing snags and trees, and such work as that, which it is almost impossible to estimate for. The present provisions of law authorize contracts to be made where it can be done safely and with advantage.

A provision substantially the same as the one proposed here was incorporated in the river and harbor bill of last session as it passed the House. It was stricken out by the Senate at the earnest request of General Wright, who said that with that restriction much of the money appropriated by the bill could not be expended.

Mr. RANDALL, (the Speaker.) I have put in a proviso to reach such cases as those which probably General Wright had in view when he objected to the provision of the bill as it passed the last House.

Mr. TOWNSEND, of Ohio. I failed to notice it.

Mr. RANDALL, (the Speaker.) I ask that the proviso of my amendment be again read.

The Clerk read as follows:

*Provided*, That the interests of the Government shall not be actually injured thereby.

Mr. TOWNSEND, of Ohio. I understand that to have reference only to the lowest bidders.

Mr. RANDALL, (the Speaker.) No; it applies to the letting of the contracts. If, in the opinion of the Secretary of War, the interests of the Government will be interfered with by letting the work under contract, the work shall then be done by the Government employing laborers and not by contract.

Mr. WARNER. That is exactly the modification I asked the gentleman from Pennsylvania [Mr. RANDALL] to make.

Mr. RANDALL, (the Speaker.) I accept that.

Mr. TOWNSEND, of Ohio. I have no objection to that. It is, as I understand, just the provision of the existing law.

The CHAIRMAN. The proviso as modified will be read.

The Clerk read as follows:

*Provided*, In the opinion of the Secretary of War, the interests of the Government shall not be actually injured thereby.

Mr. MURCH. Mr. Chairman, I move as a substitute for the pending amendment the following:

*Provided*, That all the money herein appropriated for labor shall be expended under the supervision of the employés of the Government by employing day laborers and mechanics at the prevailing rates of the community in which said expenditures are to be made, and no contract shall be given out except where the employment of day labor on the part of the Government is absolutely impossible.

Mr. Chairman, I am induced to offer this amendment by the knowledge which I possess that the contract system now in vogue with reference to public works has resulted in great robbery to the Government as well as great oppression to the workingmen. I am familiar with the facts on this subject; and I know that in many cases contracts made by the Government with individuals or corporations have been used as means of crowding down the prices of labor, notwithstanding the contractors themselves were reaping a profit of from 50 to 300 per cent. A resolution which I introduced at the extra session of this Congress calling for a committee to investigate the method of constructing public buildings in this country looked to an investigation of the contract system; but by reason of parliamentary tactics well known to all members of the House I have not been able to reach that resolution upon the Calendar. If such an inquiry had been instituted I could have demonstrated to the House and the country that through the contract system now prevailing in the construction of Government buildings and other public works the Government has been robbed of hundreds of thousands of dollars.

I want this amendment adopted for the protection of laboring-men who will be employed on these improvements of rivers and harbors. Without a provision of this kind they will be at the mercy of contractors; and we know too well by the experience of the past what that means. Under the contract system laborers are crowded down until they barely receive enough to keep soul and body together. I speak from intimate knowledge of the facts, having been myself a workingman engaged for a number of years on Government works and having myself suffered from the evil of which I now speak.

Mr. RANDALL, (the Speaker.) I suppose the object of the gentleman from Maine [Mr. MURCH] is to require that work done by the Government shall be done under the eight-hour law.

Mr. MURCH. Not exactly that. I want to protect the workingmen, no matter how many hours they work.

Mr. RANDALL, (the Speaker.) What authority have we to interfere with the contractor, either as to the amount of wages he pays his employés or the length of their service per day? I do understand we have a perfect right to say that for employés of the Government eight hours shall constitute a day's labor.

Mr. MURCH. That is not my proposition at all. I contend that Congress has the right to direct how the public work of this country shall be done, either by day labor or by contract. I know that the contract system has been a curse not only to the Government but to every workingman employed on public works.

Mr. REAGAN. We have now before us a resolution proposing to substitute the contract system for the plan of allowing the work to be done under the direction of the engineer officers. The proposition submitted by the gentleman from Maine is, I understand, directly in conflict with that. I wish to say, however, that the amendment of the gentleman from Pennsylvania [Mr. RANDALL] contains a provision which may have escaped attention, looking in the line of the purpose of the gentleman from Maine. I mean the provision—not very usual but very necessary—that in giving bonds for the performance of work the contractors shall bind themselves to pay their employés. That goes far in the line of protecting the laborers; and I think it a most wise provision.

Mr. MURCH. That is not the object of my amendment at all. I want to make it obligatory upon the Government in entering into contracts with corporations or individuals to put in the contract a provision that workmen shall be employed by day labor, not by piecework.

Mr. REAGAN. That would very materially interfere with the contract system.

Mr. MURCH. I want to interfere with the contract system, for it has proved in many instances a curse.

Mr. O'NEILL. I want to make a single suggestion. Does it not appear to the committee on examining this amendment and the proviso that we had better leave the clause just as it is? It is now certainly in the power of the Secretary of War to order this work to be done by contract or not, as he may deem best; and of course on this point he will take the advice of the Engineer Department of the Army, which will be advised by the engineer detailed to attend to the particular work. It seems to me that, in view of this confusion about amendments and provisos, it would be best to leave the clause as it stands.

Mr. RANDALL, (the Speaker.) There is no confusion about the question. The amendment I have offered was adopted, I think unanimously, by the Committee on Commerce last year.

Mr. O'NEILL. In certain respects and for certain works.

The question being taken on the amendment of Mr. MURCH, it was not agreed to.

The CHAIRMAN. The question now recurs on the amendment of the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. COX. I move to strike out the last word.

Now, whatever may be the effect of this contract system or any other system, this whole thing needs regeneration. I believe in certain portions of the country, from information I have received, the Government would by the contract system reduce the cost of this internal improvement business perhaps one-quarter. I was so advised by an intelligent man as to one portion of the district, Shrewsbury River, represented by my friend from New Jersey. I was so informed by an intelligent correspondent. I wrote to him to give me detailed information for the benefit of Congress as to that particular place. He writes me back the following letter, which I ask to have read, and the accompanying editorial made a part of my remarks:

The Clerk read as follows:

RED BANK, N. J., *February* 10, 1881.

DEAR SIR: In answer to your inquiry for facts in regard to the Shrewsbury River improvements, I inclose slip from the Register of December 9, 1880. The statements made in the article are true and can be verified at any time. The work done by the Government could have been performed by private capital at about one-fourth the cost, or even less.

In regard to Cheesequake Creek: Last summer I made a trip up this stream to hunt up information in regard to the traffic, and the proposed improvements. I was told that the amount of freight carried was very small, being only one or two boat-loads of clay and molding sand per week, with an occasional load of wood. I was further informed that in case the river was improved it would benefit none save one or two firms interested in clay-pits. The stream is from sixty to seventy-five feet wide, and in the three-fourths of a day which I spent there I did not see one vessel passing either up or down the river. It may be claimed that great quantities of clay have been shipped from this section, but the greater portion is shipped at Amboy and has nothing to do with Cheesequake Creek.

Of the other streams in the district I have no knowledge.

Respectfully, yours,

JOHN H. COOK.

Hon. S. S. COX,
*House of Representatives, Washington, D. C.*

Mr. COX. The object of that letter and the article which the gentleman sends to me from the paper of which he is editor is to show these improvements are wasteful; are not made with good judgment; that they do not improve the navigation, and, as was said at the last session by my colleague who represents a district up the Hudson River, they are a positive injury sometimes to navigation. My argument, therefore, not only goes to the contract system, but to the whole system of improvement as now carried on by the Government.

The CHAIRMAN. The gentleman's time has expired.

Mr. COX. I ask to have printed with my remarks the editorial to which I have referred.

The CHAIRMAN. The Chair hears no objection.

The editorial is as follows:

*"Improving" the rivers—How the Shrewsbury is being permanently injured—A bar forming at Rocky Point—The Inside or Neptune Club Channel closed—The channel at the Highlands draw-bridge filling up—Real's Channel becoming impassable—The larger sailing-vessels of the river being sold off.*

The parties who contracted to remove a quantity of sand and mud from the bed of the Shrewsbury River have stopped work for the winter. Since the alleged improvements have been begun the river has been filling up more rapidly and more bars have been formed across the channels than ever before in so brief a period.

The damage which is at present being caused through the agency of the alleged improvements is the formation of a bar across the main channel of the Neversink River, about midway between Upper Rocky Point and the Neptune club-house; the closing of the inside or Neptune-club channel by the formation of a flat reaching from Lower Rocky Point to the large flat in the middle of the river; the filling up of the channel on the eastern side of the Highlands draw-bridge; and the closing of the channel which leads from the Highlands to Seabright, known as Real's channel. All this injury to navigation has been done recently, and the sailors of the river, with the exception of those who profit either directly or indirectly by the alleged improvements, are almost unanimous in their condemnation. Even of those who are pecuniarily interested in the alleged improvements, many admit among themselves that the river has been seriously injured.

The bar which is formed across the main channel of the Neversink between Upper Rocky Point and the Neptune club-house is the most serious obstruction to navigation in the river, and threatens in time to entirely prevent the larger class of vessels from reaching parts of the river above this point. This bar has been formed since the dikes which constitute parts of the alleged improvements were built. During the past season the Sea Bird has grounded on this bar and remained there for a longer or shorter period at nearly every trip. On Saturday, November 20, Captain John P. White, who oversees the prosecution of the alleged improvements, came home to Red Bank in the tug-boat belonging to the dredging machine, and on Sunday afternoon, November 21, attempted to return to the mud-digger. Although the propeller was of light draft, and although Captain White is more familiar with the river than any other sailor on the Shrewsbury and knew exactly where the channel was, yet the boat ran aground and remained fast on the bar until Monday afternoon, when it was pulled off with the assistance rendered by a passing sail-boat. It is very seldom, and only under the most favorable circumstances, that the packet vessels can pass this point without striking bottom.

The flat which has formed at Lower Rocky Point, and which has completely

closed the inside or Neptune Club channel, has been caused by dredging in other parts of the river. Before the alleged improvements were begun, the Sea Bird used to use this channel in her trips up and down the river. At the present time neither the steamboats nor the trading vessels can use this channel, and even pleasure craft get aground when trying to cross the flat. This obstruction was formed by the sand and mud loosened by the dredging-machine, which was carried thither by the current.

The eastern side of the Highlands draw-bridge has been filling up rapidly since the alleged improvements were begun, until at the present time the water is too shallow to permit the packet vessels to pass through. Vessels which attempt to make this passage almost invariably get aground. On Saturday afternoon, November 13, an oyster sloop from Fire Island got aground when passing through this side of the draw, and a few hours afterward the George Hume grounded in the same place and could not get off, although it was high tide at the time. The anchor was carried ahead of the vessel, and efforts were made to "kedge" through, but without avail. The vessel remained aground until Sunday, the draw remaining open all this time. The filling up of the channel at this point is attributed solely to the dredging which has been done further up the river. The dredging-machine, in digging the sand and mud from various parts of the river, loosens a large quantity of dirt, which is carried along with the current and deposited where the nature of the river will permit.

Real's channel, through which vessels pass to reach Seabright, has become so filled up during the last summer that only small vessels can now pass through it, and then only when the conditions are favorable. Many parties in Seabright are injured by this, as they are in want of material, which they can not get except by paying increased freight charges. Most of the vessels of the Neversink River can not get up this channel, and the few that can refuse to do so on account of the time which would necessarily be lost in getting aground and in afterward kedging off. The Emry Ireen, a light-draft vessel, owned by Mead & Taft, a firm of contractors who are building cottages at Seabright, gets aground whenever she makes a trip. The William T. Parker, Captain Edwin Ervin, the smallest schooner which plies the Neversink River, while making a trip to Seabright, got aground in this channel on Friday night, November 12, and remained fast until the following Monday, although an additional crew were procured, and every effort made to kedge the vessel off. The filling up of this channel is also caused by the dredging-machine, which for some time past has been digging a new channel through the large flat which lies between Real's channel on the one side and the Sea Bird's channel and the dyking on the other.

Several of the larger sailing vessels have been sold during the past summer Among them are the John H. Patterson, the Laura Maps, the A. J. Collins, the J. B. Voorhis, and the Gracie Hoffmire. These are all of the larger class of vessels, and they have been taken to other parts. The assumption is that vessels of this size cannot longer be profitably used in the river, and it is probable that the increased difficulty in navigation, caused by the rapid filling up of the river, is one of the factors which makes boating less profitable than formerly.

Mr. RANDALL, (the Speaker.) One word in reply. The amendment I have offered goes to the extent of giving private capital the opportunity of competing for this work. It not only goes to that extent but even further, for it provides that the contractor shall give bond for the faithful performance of his duties under the contract. It provides that the Government may recover from the owner of private capital who contracts for the construction of any one of these works, for any failure to carry out the conditions of his contract. It is really in the line of a remedy for the complaints which gentlemen make in reference to these works. It gives to the Secretary of War the discretion if in his opinion the interests of the Government are not served by letting the work out to contract, that then he may have it done by day's work.

Mr. ROSS. I am ready to stake my reputation as a member of Congress that there has not been a day's work or an hour's work upon the Shrewsbury River but what has been done under contract, no matter what may be said in the Red Bank Register.

Mr. COX. I withdraw my formal amendment.

Mr. GILLETTE. I offer the following:

That one condition of each contract shall be that all employés shall be paid before the contractor is paid.

Mr. REAGAN. That amendment offered by the gentleman from Iowa is not necessary, because under the amendment of the gentleman from Pennsylvania [Mr. RANDALL] these contractors are required to give bonds for the faithful performance of their duty under the contract, and that includes, of course, all debts incurred in the construction of the work in the way of pay to employés.

Mr. GILLETTE. I did not understand that provision. I withdraw the amendment.

The CHAIRMAN. The question now recurs on the amendment moved by the gentleman from Pennsylvania, [Mr. RANDALL.]

The committee divided; and there were—ayes 103, noes 5.

So the amendment was agreed to.

Mr. VAN VOORHIS. I move to insert after the amendment that has just been adopted the following:

No work shall be begun for the completion of which the sum appropriated to it is not sufficient.

Mr. Chairman, one great objection to the system of internal improvements as now conducted is, that it is carried on in violation of law. This bill provides not that certain work shall be begun, but for completing what has been begun already and constructing new works and completing them. It provides for the construction, completion, and repair of these public works. The Secretary of War or somebody else under him, in violation of the law, has begun between three and four hundred pieces of work and left them unfinished. What I propose by this amendment is, that when we undertake a work of this sort we shall find out exactly what it is and what it will cost, and then vote money enough to complete it, so that Congress will not need to make appropriations for it during a long succession of years.

Let me take an example, Mr. Chairman. I will take Elk River, in West Virginia.

Mr. KENNA and other gentlemen. Vote!

Mr. VAN VOORHIS. I do not blame the gentleman from West Virginia [Mr. KENNA] for crying out "vote," as I have something to say in reference to his State which perhaps he does not wish to hear.

Mr. KENNA. I beg the gentleman's pardon. I merely wanted to vote, thinking he had concluded his remarks.

Mr. VAN VOORHIS. Take Elk; $5,000 were appropriated for it last June. What was it for? It was to enable a party to go down the river and remove overhanging boughs and snags. Five thousand dollars was voted last year for that purpose and $5,000 is appropriated for the same purpose in this bill. The engineer says it will take $100,000 to complete the work. That will be $5,000 every year for twenty years to remove the snags and rocks and boughs from overhanging trees in that little rivulet called Elk River, in West Virginia.

What I wish to say is this: if that river needs $5,000, then let it be voted, and let the contract be made; but let it be insisted that the work is to be finished, and after that has been done, let the gentleman from West Virginia hold his peace. Do not let us every year grant an appropriation of $5,000 for twenty years to go for the same purpose.

All the appropriations in this bill for West Virginia amount to $306,000. I have not had time to look at any other State, and take that State as a sample for the sake of convenience. That sum only is appropriated. The Engineer's estimates, however, show that it will take nearly six millions of dollars to finish these various works. Now, assuming that State to be a fair sample, assuming that my friend from West Virginia has not more than a fair share in proportion to what the other States get, it will take, according to these figures, $200,000,000 to finish the works already begun. My friend [Mr. KEIFER] says we are able to pay, but, for one, I am unwilling to see the public money expended in this way. I do not believe that is the way to dispose of Government funds. Let us establish a fixed price or a fixed limit to moneys to be expended for this character of work, and go to that extent and no further. I have observed, Mr. Chairman, in the Engineer's Report, for I have not had an opportunity of seeing it before this morning, that there are many places where the Secretary of War has not seen proper to do anything because the appropriation, in his judgment, was not adequate to do anything of importance. That was the exercise of a laudable discretion on his part, and I think we ought to establish a general principle, that a rule should be adopted like that intended by this amendment.

I would not oppose any just appropriation for the improvement of the navigable rivers and harbors of the United States. This, in my judgment, is not such a bill. It needs to be radically amended before it will be acceptable to the country, and before it can receive my vote. There are three hundred and fifty separate and distinct appropriations in this bill, ranging from $1,000 to $1,000,000 each. It consists of three hundred and fifty bills conglomerated into one. No two of these appropriations have any relation to each other, and altogether they amount to the sum of $10,179,000. There are many items in this bill which are meritorious and ought to pass on their merits. There are many other items of little merit and which ought not to pass. There are many items that are mere swindles and frauds. The two latter classes of items are put into this bill for the sole purpose of making it go through. If there is any one thing which the American people disapprove, it is log-rolling legislation. It was intended to force this bill through the House under the spur of a suspension of the rules and without debate. That scheme failed. The necessary two-thirds could not be secured.

The usual course has been with the river and harbor bill to prepare it in secret and rush it through this House without giving any opportunity for debate. This year, having failed to do that, the chairman of the Committee on Commerce brings the bill into the Committee of the Whole and calls on his adherents to permit no amendments and pass the bill just as it came from the hand of this committee. In this he has again been thwarted. Amendments have been offered in spite of him, and I trust will be adopted.

We are not obliged to be blind to the fact that the chief motive for combining these three hundred and fifty bills in one is to get votes enough to pass the bill.

Does any one believe that if the $750,000 which the State of Texas gets by this bill were stricken out of it that the gentleman from Texas [Mr. REAGAN] would be anxious to improve Sumpawamus Inlet at a cost of $5,000? Does any one believe that he would support the bill at all if the items it gives his State were stricken out of it, even though every other item should remain just as it is? I cannot stretch my belief to that extent. My faith in him is not strong enough for that.

Texas supports the items in the bill which go to other States because the other States can give Texas votes on the passage of the bill. The chairman of the Committee on Commerce is no better and no worse than any other member of that committee. Every member of this committee has feathered his own nest. The States from which this committee come take over one-half of the money appropriated by this bill. Having glutted themselves, the committee then set about distributing the rest in such a way as to secure the passage of the bill. No money was appropriated in any locality which could not help it on its way. The work of improving rivers and harbors is assumed

to be a continuing work. The gentleman from Texas [Mr. REAGAN] has asserted that great injury will result to this Government if we fail to make appropriations to continue work which has been already begun.

Who authorized the beginning of any work which the appropriations already made are inadequate to complete? There is no law authorizing any such work. This bill is complete in itself. It does not on its face authorize any work beyond the amounts appropriated. The money appropriated by this bill is "for the construction, completion, repair, and preservation" of the public works. This is the language of every river and harbor bill. And yet the engineers, in violation of law, have sought to mortgage the revenues of the Government for all time to come by expending the immense sums appropriated, not for the "construction, completion, repair, and preservation" of the public works, but for the commencement of vast public works which will never be completed, and which require the expenditure of many millions annually to keep them in progress.

What should be done in the case of any given needed improvement is to appropriate enough money to do the work and finish it promptly. This work should be let by contract to the lowest responsible bidder, and should be finished by a given time. Upon the plan of the engineers nothing is ever finished. Each year the demand increases. On the 14th of June, 1880, we appropriated $8,951,500. Now, in less than eight months comes this bill appropriating $10,179,800 more. Within a single year, if this bill passes, Congress will have voted away $19,131,300 of the people's money.

To recur for a moment to West Virginia. There are eight appropriations in this bill for that State. They amount to $306,000 or about 47 per cent. of the estimates of the engineers for this year. The aggregate of these estimates is $630,500. The cost of the work now in progress in these eight localities is very nearly $6,000,000.

What I desire to accomplish by my amendment is to keep the work within the sums appropriated by Congress.

Mr. HAYES. Mr. Chairman, I rise to oppose the amendment of the gentleman from New York. I do not care to consume very much of the time of this committee. I stand here simply to say that I am opposed to all amendments to this appropriation bill, except the amendments that may be offered to guard the improvements which we propose to make in the Mississippi River.

Mr. SAPP. You do not know what they are yet.

Mr. HAYES. I desire to say that in my judgment this is one of the fairest and most equitable appropriation bills that has ever been presented to this House for its consideration. We have the assertion of the gentleman from Texas [Mr. REAGAN] in charge of the bill that every item in it has been not only carefully considered by fifteen gentlemen who make up his committee, as honest and faithful as any other fifteen gentlemen upon the floor, but every item has been carefully considered at the War Department, and has been recommended by the engineers who had charge of and who have made the surveys, as well as by the Department itself, and I say that this bill coming before us at this time and with that indorsement it becomes us to take it and take it substantially as it comes from the committee. There may be now and then a little item for which an appropriation ought perhaps not to be made. But let me ask if there has ever been an appropriation bill of any kind put through this House which did not contain some such item? Why, we put through the other day in two hours the legislative, executive, and judicial appropriation bill, and I will venture the assertion, Mr. Chairman, that there were items in that bill that would not meet the approbation of every member of this House on mature reflection.

Gentlemen have complained that $10,000,000 is too large a sum to be appropriated for our rivers and harbors. Why, Mr. Chairman, gentlemen who make that assertion fail to comprehend, I imagine, the magnitude and importance of the great work for which these appropriations are being made. Look at our great sea-coast, extending from Maine down the Atlantic across the Gulf of Mexico up the Pacific to Alaska. Look at the vast number of bays, inlets, and harbors all along that coast line, and the hundreds of rivers that flow from the interior of our country and empty into the Atlantic, the Gulf of Mexico, and the Pacific Ocean; many of them, Mr. Chairman, navigable for hundreds of miles. Look at the grand chain of lakes on our northern borders, with their splendid harbors and their vast commerce. Look at the mighty Mississippi and the Missouri, that carry the products of a vast empire in itself down through the Valley of the Mississippi into the Gulf of Mexico, and thence to the world, and tell me, with all of these mighty factors in the commerce of this country, if you regard $10,000,000 too much for their improvement, repair, or preservation? Is it too much to promote the interest of our vast commerce, both internal and foreign, which is to be preserved and stimulated by such an appropriation as this?

Our external commerce last year, according to the report of the Bureau of Statistics, was $1,613,000,000, and the Chief of the Bureau of Statistics told me yesterday that our inland commerce was twenty times as much. This would give a grand aggregate of this commerce of over thirty-five billion dollars, and add to that the external commerce, and we have the immense total external and internal commerce of this country reaching the enormous sum of about thirty-seven billion dollars; and yet we are told, notwithstanding the fact that this stupendous sum represents our commerce, that ten million dollars is too much to improve, increase, or maintain that commerce. We are told that it is too much to be appropriated for our rivers and harbors.

[Here the hammer fell.]

Mr. RUSSELL, of Massachusetts. I ask consent to print some remarks in connection with this subject in the RECORD.

There was no objection, and it was ordered accordingly. [See page 1522.]

Mr. HAYES. Mr. Chairman, I make the same request.

There was no objection. [See Appendix.]

Mr. COX. Mr. Chairman, I ask the privilege to print in the RECORD a compilation, made carefully, of how much each State gets in this bill, as my former calculation was hurriedly made and crude, and I ask this in order to make it perfect.

Mr. O'NEILL. If it is a correct calculation I shall not object.

The CHAIRMAN. Is there objection?

There was no objection to the request.

The table is as follows:

| | |
|---|---|
| **ARKANSAS.** | |
| Arkansas | $20,000 |
| Arkansas | 20,000 |
| Black | 5,000 |
| Le Ferre | 2,000 |
| Ouachita | 10,000 |
| Salome | 4,000 |
| White | 6,000 |
| White and Saint Francis | 6,000 |
| Total | 73,000 |
| **ALABAMA.** | |
| Mobile | 90,000 |
| Alabama | 20,000 |
| Warrior, &c | 25,000 |
| Total | 135,000 |
| **CONNECTICUT.** | |
| Bridgeport | 10,000 |
| New Haven | 15,000 |
| New Haven | 60,000 |
| Norwalk | 5,000 |
| Southport | 2,500 |
| Stonington | 30,000 |
| Connecticut River | 30,000 |
| Housatonic | 2,000 |
| Thames | 30,000 |
| New London | 4,300 |
| Total | 188,800 |
| **CALIFORNIA.** | |
| Oakland | 60,000 |
| Wilmington | 12,000 |
| Petalumas | 8,000 |
| Sacramento | 30,000 |
| San Joaquin | 20,000 |
| Total | 130,000 |
| **DELAWARE.** | |
| Pier | 10,000 |
| New Castle | 20,000 |
| Broad | 10,000 |
| Duck | 3,000 |
| Mispillion | 3,500 |
| Rancocas | 10,000 |
| Christiana | 10,000 |
| Total | 66,500 |
| **DAKOTA.** | |
| Missouri | 15,000 |
| Missouri | 40,000 |
| Red River, one-half | 9,000 |
| Yellowstone, one-half | 10,000 |
| Total | 74,000 |
| **DISTRICT OF COLUMBIA.** | |
| Harbors, &c | 50,000 |
| **FLORIDA.** | |
| Apalachicola | 10,000 |
| Tampa | 10,000 |
| Apalachicola | 1,500 |
| Choctawachee | 7,000 |
| Cumberland Sound | 100,000 |
| Escambia | 5,000 |
| Saint John's | 100,000 |
| Suwanee | 3,000 |
| Volusia | 5,500 |
| Pensacola | 20,000 |
| Total | 262,000 |
| **GEORGIA.** | |
| Brunswick | 5,000 |
| Savannah | 25,000 |
| Chattahoochee | 20,000 |
| Coosa | 60,000 |
| Flint | 15,000 |
| Ockmulgee | 5,000 |
| Oconee | 2,500 |
| Oostanemle, &c | 1,000 |
| Savannah | 8,000 |
| Savannah | 15,000 |
| Total | 156,500 |

| IOWA. | |
|---|---|
| Fort Madison | $2,500 |
| Muscatine | 2,500 |
| Mississippi | 5,000 |
| Des Moines | 40,000 |
| Missouri, one-half | 10,000 |
| Missouri, one-half | 7,000 |
| Missouri | 7,000 |
| Total | 74,000 |

| ILLINOIS. | |
|---|---|
| Calumet | 20,000 |
| Chicago | 150,000 |
| Galena | 12,000 |
| Rock Island | 6,000 |
| Waukegan | 15,000 |
| Illinois | 250,000 |
| Mississippi | 600,000 |
| Mississippi | 10,000 |
| Mississippi | 6,000 |
| Total | 1,069,000 |

| INDIANA. | |
|---|---|
| Michigan City | 30,000 |
| Wabash | 25,000 |
| White | 20,000 |
| Total | 75,000 |

| KANSAS. | |
|---|---|
| Missouri | 20,000 |
| Missouri | 8,000 |
| Total | 28,000 |

| KENTUCKY. | |
|---|---|
| Kentucky | 100,000 |
| Big Sandy | 30,000 |
| Tradewater | 3,000 |
| Cumberland | 10,000 |
| Louisville and Portland Canal | 42,000 |
| Louisville and Portland Canal | 40,500 |
| Total | 225,500 |

| LOUISIANA. | |
|---|---|
| New Orleans | 75,000 |
| Amite | 5,000 |
| Courtebleau | 7,500 |
| Bayou Teche | 20,000 |
| Terre Bonne | 8,800 |
| Red River | 10,000 |
| Tangipahoa | 2,000 |
| Vermillion | 4,900 |
| Calcasieu | 12,000 |
| Calcasieu | 3,000 |
| Bartholomew | 8,000 |
| Tensas | 3,000 |
| Boeuf | 5,000 |
| Tchefuncta | 1,500 |
| Tickfaw | 2,000 |
| Bayou Teche | 25,000 |
| Bayou La Fourche | 500 |
| Total | 193,200 |

| MISSOURI. | |
|---|---|
| Saint Louis | 10,000 |
| Mississippi | 6,000 |
| Mississippi | 10,000 |
| Mississippi | 175,000 |
| Mississippi | 20,000 |
| Cuivre | 2,000 |
| Gasconade | 10,000 |
| Missouri | 15,000 |
| Glasgow | 20,000 |
| Missouri | 20,000 |
| Missouri | 10,000 |
| Missouri | 15,000 |
| Missouri | 20,000 |
| Mississippi | 10,000 |
| Improvement current | 2,000 |
| Total | 345,000 |

| MISSISSIPPI. | |
|---|---|
| Mississippi | 50,000 |
| Big Sunflower | 4,000 |
| Noxubee | 8,000 |
| Pascagoula | 4,000 |
| Pearl | 25,000 |
| Pearl | 2,500 |
| Tallahatchee | 3,000 |
| Tombigbee | 1,000 |
| Yazoo | 6,000 |
| Mississippi | 50,000 |
| Yallabusha | 3,500 |
| Tchula Lake | 3,000 |
| Total | 160,000 |

| MARYLAND. | |
|---|---|
| Baltimore | 150,000 |
| Annapolis | 5,000 |
| Breton | 3,000 |
| Cheptank | 5,000 |
| Elk | 5,000 |
| Secretary | 3,000 |
| Thread haven | 3,000 |
| Wicomico | 2,000 |
| Susquehanna | 15,000 |
| Total | 191,000 |

| MISCELLANEOUS. | |
|---|---|
| Ohio River | $350,000 |
| Milwaukee | 100,000 |
| Mississippi, Missouri, and Arkansas | 150,000 |
| Mississippi River | 1,000,000 |
| Mississippi | 200,000 |
| Mississippi, gauging | 5,000 |
| Mississippi, snag-boat | 25,000 |
| Mississippi, Rock Island Rapids | 8,000 |
| Osage, Kansas, and Missouri | 20,000 |
| James B. Eads | 10,000 |
| Repairing breakwater | 4,000 |
| Reservoirs, Mississippi | 150,000 |
| Surveys | 100,000 |
| Total | 2,122,000 |

| MICHIGAN. | |
|---|---|
| Muskegon | 10,000 |
| Ontonagon | 20,000 |
| Pentwater | 6,000 |
| Portage Lake | 10,000 |
| Saint Joseph | 8,000 |
| Saugatuck | 5,000 |
| South Haven | 5,000 |
| White River | 7,500 |
| Au Sable | 4,000 |
| Charleroix | 10,000 |
| Cheboygan | 6,000 |
| Frankfort | 10,000 |
| Grand Haven | 50,000 |
| Black Lake | 6,000 |
| Great Marais | 20,000 |
| Lake Huron | 50,000 |
| Luddington | 10,000 |
| Manistee | 10,000 |
| Manistique | 1,000 |
| Monroe | 1,000 |
| Detroit | 50,000 |
| Saginaw | 10,000 |
| Saint Clair | 5,000 |
| Saint Mary's | 150,000 |
| Saint Mary's | 50,000 |
| Total | 514,500 |

| MINNESOTA. | |
|---|---|
| Great Marais | 10,000 |
| Duluth | 25,000 |
| Mississippi | 10,000 |
| Saint Anthony | 15,000 |
| Red River, one-half | 9,000 |
| Total | 69,000 |

| MONTANA. | |
|---|---|
| Missouri | 30,000 |
| Yellowstone, one-half | 10,000 |
| Total | 40,000 |

| MASSACHUSETTS. | |
|---|---|
| Hyannis | 5,000 |
| Newburyport | 40,000 |
| Nantasket | 25,000 |
| Plymouth | 10,000 |
| Provincetown | 5,000 |
| Boston | 100,000 |
| Merrimac | 9,000 |
| Taunton | 25,000 |
| Scituate | 10,000 |
| Wareham | 10,000 |
| Total | 239,000 |

| MAINE. | |
|---|---|
| Richmond | 3,000 |
| Cathance | 6,000 |
| Gut | 5,000 |
| Kennebunk | 2,000 |
| Lubec | 20,000 |
| Portland | 20,000 |
| Moosabec | 10,000 |
| Richmond | 10,000 |
| Total | 76,000 |

| NEBRASKA. | |
|---|---|
| Missouri | 10,000 |
| Missouri, one half | 10,000 |
| Missouri, one half | 7,000 |
| Total | 27,000 |

| NEW YORK. | |
|---|---|
| Buffalo | 90,000 |
| Charlotte | 2,500 |
| New Rochelle | 3,000 |
| Flushing | 10,000 |
| Great Sodus | 5,000 |
| Little Sodus | 7,500 |
| Olcott | 3,000 |
| Port Jefferson | 4,000 |
| Pultneyville | 2,000 |
| Wilson | 10,000 |
| Waddington | 2,500 |
| Ticonderoga | 5,000 |
| Oswego | 50,000 |
| East River and Hell Gate | 200,000 |
| Buttermilk | 40,000 |
| Hudson | 15,000 |
| Niagara | 5,000 |
| Canarsie | 5,000 |
| Sheepshead | 5,000 |
| Sumpawamus | 5,000 |
| Total | 469,500 |

| NEW HAMPSHIRE. | |
|---|---|
| Portsmouth | $20,000 |
| Exeter | 5,000 |
| Winnipiseogee | 2,500 |
| Total | 27,500 |

| NEW JERSEY. | |
|---|---|
| Rahway | 10,000 |
| South | 6,000 |
| Woodbridge | 5,000 |
| Raritan | 25,000 |
| Shrewsbury | 86,000 |
| Cheesequake | 5,000 |
| Cohansey | 7,000 |
| Elizabeth | 4,000 |
| Passaic | 50,000 |
| Mattawan | 15,000 |
| Raritan | 50,000 |
| Salem | 3,000 |
| Total | 266,000 |

| NORTH CAROLINA. | |
|---|---|
| Cape Fear | 10,000 |
| Currituck | 30,000 |
| Broad | 5,000 |
| Neuse | 15,000 |
| Pamlico Harbor | 3,000 |
| Scuppernong | 1,000 |
| Trent | 2,000 |
| Pasquotank, one-half | 2,500 |
| Total | 68,500 |

| OHIO. | |
|---|---|
| Ashtabula | 20,000 |
| Black | 7,000 |
| Cleveland | 200,000 |
| Fairport | 10,000 |
| Huron | 3,000 |
| Muskingum | 30,000 |
| Port Clinton | 5,000 |
| Sandusky | 10,000 |
| Toledo | 40,000 |
| Vermillion | 2,000 |
| Sandusky River | 7,500 |
| Total | 334,500 |

| OREGON. | |
|---|---|
| Canal | 100,000 |
| Upper Columbia | 15,000 |
| Lower Willamette | 45,000 |
| Upper Willamette | 15,000 |
| Yaquima | 10,000 |
| Total | 185,000 |

| PENNSYLVANIA. | |
|---|---|
| Erie | 20,000 |
| Marcus Hook | 30,000 |
| Allegheny | 25,000 |
| Schuylkill | 40,000 |
| Delaware | 100,000 |
| Delaware | 10,000 |
| Delaware | 100,000 |
| Delaware | 40,000 |
| Chester | 3,000 |
| Susquehanna | 15,000 |
| Total | 383,000 |

| RHODE ISLAND. | |
|---|---|
| Narraganset | 5,000 |
| Providence | 40,000 |
| Newport | 25,000 |
| Total | 70,000 |

| SOUTH CAROLINA. | |
|---|---|
| Charleston | 175,000 |
| Ashley | 1,500 |
| Great Pedee | 6,000 |
| Waccemaw | 5,000 |
| Altamaha | 5,000 |
| Wappoo | 10,000 |
| Wateree | 8,000 |
| Santee | 22,000 |
| Total | 232,500 |

| TENNESSEE. | |
|---|---|
| Memphis | 15,000 |
| Big Hatchee | 3,500 |
| Caney Fork | 4,000 |
| Clinch | 3,000 |
| Cumberland | 10,000 |
| Cumberland | 15,000 |
| Duck | 3,000 |
| French | 3,500 |
| Hiawassee | 1,500 |
| Obed's | 2,500 |
| Tennessee | 7,000 |
| Tennessee | 250,000 |
| Total | 318,000 |

| TEXAS. | |
|---|---|
| Galveston | $250,000 |
| Aransas Pass | 80,000 |
| Brazos | 40,000 |
| Pass Cavallo | 60,000 |
| Galveston | 50,000 |
| Neches | 3,000 |
| Sabine | 150,000 |
| Sabine | 7,000 |
| Trinity | 10,000 |
| Buffalo | 25,000 |
| Brazos San Diego | 75,000 |
| Total | 750,000 |

| VERMONT. | |
|---|---|
| Burlington | 10,000 |
| Swanton | 2,500 |
| Otter | 2,000 |
| Total | 14,500 |

| VIRGINIA. | |
|---|---|
| Mount Vernon | 1,500 |
| Rappahannock | 15,000 |
| Staunton | 5,000 |
| Totusky | 2,500 |
| Urbana | 4,000 |
| York | 25,000 |
| Norfolk | 75,000 |
| New | 20,000 |
| Appomattox | 10,000 |
| Black Water | 1,500 |
| Chickahominy | 2,000 |
| Pamunkey | 2,500 |
| Dan | 8,000 |
| James | 60,000 |
| Mattaponi | 3,300 |
| Namoni | 2,000 |
| North Landing | 7,500 |
| Pagan | 5,000 |
| Neabasco | 5,000 |
| Pasquotank, one-half | 2,500 |
| Archer's | 5,000 |
| Total | 262,300 |

| WISCONSIN. | |
|---|---|
| Ahnapee | 8,000 |
| Green Bay | 5,000 |
| Kenosha | 5,000 |
| Manitowoc | 4,000 |
| Sheboygan | 25,000 |
| Superior Bay | 5,000 |
| Sturgeon Bay Canal | 10,000 |
| Two Rivers | 15,000 |
| Menominee | 12,000 |
| Milwaukee | 5,000 |
| Port Washington | 17,000 |
| Racine | 6,000 |
| Chippewa | 10,000 |
| Saint Croix | 8,000 |
| Fox | 125,000 |
| Kewaunee | 5,000 |
| Total | 262,000 |

| WEST VIRGINIA. | |
|---|---|
| Wyandotte | 3,500 |
| Little Kanahwa | 20,000 |
| Monongahela | 25,000 |
| Shenandoah | 2,500 |
| Elk | 5,000 |
| Great Kanahwa | 200,000 |
| Total | 256,000 |

| WASHINGTON TERRITORY. | |
|---|---|
| Cowlitz | 1,000 |

The CHAIRMAN. The question is on the adoption of the amendment proposed by the gentleman from New York, [Mr. VAN VOORHIS.]

The committee divided; and there were ayes 3, noes not counted.

So the amendment was not agreed to.

Mr. UPDEGRAFF, of Iowa. I desire to offer an amendment, to be inserted immediately after the pending paragraph.

The Clerk read as follows:

Insert at the end of the paragraph:

"*Provided*, That no money appropriated by this act shall be expended in the improvement of any stream, notwithstanding the sum be designated by name and appropriated for herein, which in an ordinary stage of water is not capable of floating vessels of fifty tons burden for a length of thirty consecutive miles, and which does not intersect or form part of a State line."

Mr. UPDEGRAFF, of Iowa. I desire to say a few words in connection with this subject. In the ordinary business reported to this House by committees it usually happens that there are some members of the committee who are able to give some reasons why a measure should not pass or why it should be modified. In this instance, as I understand it, every single member of the Committee on Commerce is in favor of the bill as it stands without the dotting of an *i* or the crossing of a *t*. The members of this House have been practically without information on this subject. The report of the engineers has been inaccessible to all except the members of the committee, or practically so. Day after day have I endeavored to procure a copy, and day after day I have been unsuccessful until yesterday, when by blandishments and—I will not say what else——

A MEMBER. Not bribery.

Mr. UPDEGRAFF, of Iowa. In some way I succeeded in obtaining a copy from the room of the Senate Committee on Commerce. That report is entirely without an index. What you get in it you have to get by accident, or you have to read two thousand or more pages.

I opened the report, and accidentally, as it were, I fell upon this description of one of the streams for which this bill appropriates money. It is Secretary Creek, Maryland. Here is a report by the engineers. But before I read the extract I will premise it with this remark. These gentlemen who make these reports live upon the money appropriated in this bill, and of course they will make it appear to be necessary if possible. They will magnify their office and magnify their work. This has reference to Secretary Creek, Maryland. There is a secretary bird, too, and I do not know but it was born and had its origin on this creek. The engineer says:

The whole length is not much over three miles. It is entirely in Dorchester County; its course is almost due west; the declivity of the stream is little or nothing; the currents slow; rise of tide about one and a half feet; the volume of the stream dependent mainly on the tide.

This creek is the water outlet for the trade of the town of East New Market and the surrounding territory, fertile and thickly settled, of about eighty square miles.

Not eighty miles square, but eighty square miles; a territory about equal to two of our congressional townships. And this is introduced as a national measure.

Furthermore, a few pages on, at page 197, I fell across the following, which relates to the Little Kanawha, West Virginia:

The present plan of improvement was adopted in 1877, having for its object the *attainment of raft and push-boat navigation.*

How is that for national navigation? Now, mind you, the raft and push-boat navigation does not now exist. The object of the bill is to create a raft and push-boat navigation. I read further from this report about the Little Kanawha:

The attainment of raft and push-boat navigation at lower stages than was then practicable, and generally facilitating both classes of navigation, especially the former, from Bull Town to the present slack water. These objects have already been largely secured, and it only remains to carry to completion the present plan to effect all the improvement of the river practicable under it.

And the amount estimated as necessary for completion of this work is $900,000. And this is not the stream that commands the Choptank trade, which comes next to this.

The next is the Big Sandy River, West Virginia and Kentucky. I read from page 196:

The present project so far as improving the natural channels was adopted in 1878, and as to the instituting of slack-water navigation in 1880, the object of the first named plan being to better *the raft and push-boat navigation* in low stages, and of the second to afford a permanent five-foot navigation. The natural channels are narrow, obstructed, and with as little as three inches of water in them at low stages over shoals and ripples. The amount expended has considerably widened and deepened these channels—

For which God be thanked—

and rendered the navigation easier. The appropriation of $66,000 asked is for constructing the first or test lock and dam $60,000, and for continuing improvements of natural channels $6,000.

The whole amount estimated to be necessary for the completion of the existing project is $1,872,000. [Laughter.]

[Here the hammer fell.]

Mr. OSMER. If I am recognized, I yield my time to the gentleman from Iowa, [Mr. UPDEGRAFF.]

The CHAIRMAN. Is there objection?

Mr. CHALMERS. Is not debate on the amendment exhausted?

The CHAIRMAN. The Chair will state what is the rule. Five minutes are allowed in advocacy of the amendment and five minutes against it. The gentleman from Iowa has occupied five minutes for the amendment, and now the gentleman from Pennsylvania [Mr. OSMER] proposes to yield him five minutes, and the Chair asked for objections.

Mr. CHALMERS. I object to anything outside of the rule.

The CHAIRMAN. Objection is made, and the enforcement of the rule is insisted on.

Mr. UPDEGRAFF, of Iowa. The gentleman from Pennsylvania [Mr. OSMER] is against the amendment.

Mr. WASHBURN. I am in favor of it, and if recognized will yield my time to the gentleman from Iowa.

The CHAIRMAN. But the gentleman from Mississippi objects. In that case ten minutes would be consumed in advocacy of the amendment, leaving no time for opposition.

Mr. McLANE. I rise to oppose the amendment. No amendment could be more injurious to the best interests of the country than that offered by the gentleman from Iowa. The western and southern commerce is developed by the deepening of the shallow streams that lead into the deep streams. And the population of the country interested in these shallow streams perhaps are most deserving of the sympathies of this Congress. If you take the State of Iowa and the State of Missouri, you will find the appropriations asked for are quite as often for the small streams as for the big streams.

Mr. SAPP. I will tell the gentleman that there is not a dollar appropriated for anything in Iowa except for the Mississippi and Missouri Rivers.

Mr. McLANE. The gentleman from Iowa has complained that the Missouri is not provided for. I want his attention specially to the fact that no part of the Missouri River, which he desires to have improved, could be improved if the amendment of his colleague was adopted.

Mr. SAPP. Certainly not. I am aware of the fact that the committee entirely ignore the Missouri.

Mr. McLANE. They do no such thing. They are very liberal, and I hope the committee will find very judicious appropriations made for the Missouri River.

Mr. SAPP. How much is appropriated for the Missouri River?

Mr. McLANE. Much more than the gentleman states; I will answer his question in my own time. I am now dealing with his colleague who proposes that we shall fix a depth of water, and shall improve no river containing a less depth. I say that the adoption of his amendment would prevent improvement of the Missouri and of the Upper Mississippi River and in many respects the Lower Mississippi. It is to that point that I ask the attention of the gentleman who stands here and complains that his Missouri River has not been provided for; and yet he is ready to support his colleague who would have us adopt an amendment which would exclude all appropriations for the Missouri River for which and its immediate tributaries the bill appropriates between three and four hundred thousand dollars.

Mr. SAPP. Why so?

Mr. McLANE. One of the important improvements upon the Missouri River is at a point where there is not half the depth fixed by this amendment as the minimum, and near the mouth of the Missouri the navigation is in danger of being altogether closed.

Mr. SAPP. Not three inches of water for the Missouri River?

Mr. McLANE. I say to the gentleman from Iowa [Mr. UPDEGRAFF] that if the committee shall adopt his amendment it will destroy those very features of this bill which gentlemen from his section have taken the most interest in, and I tell him further, that some of the improvements on the Missouri are at points where the depth is at low water only about twenty-three inches, I think, and therefore I say to him that the amendment of his colleague directed against creeks in Virginia and Maryland, in fact assails the Missouri River improvements.

[Here the hammer fell.]

Mr. COX. I move to strike out the last word.

Mr. CHALMERS. I object to that; it is a formal amendment only.

The CHAIRMAN. The gentleman from New York [Mr. COX] has a right to move the amendment, but he has no right to withdraw it except by unanimous consent.

Mr. COX. I hope my friend from Mississippi will allow me——

Mr. McLANE. I ask for a vote on the amendment of the gentleman from Iowa, [Mr. UPDEGRAFF.]

Mr. COX. I have offered a formal amendment, as has been done many times before. I do not know why I should be made an exception. I want to have the compliment, if there is any compliment in it, of following my distinguished friend from Maryland, [Mr. McLANE.] He is here evidently to advocate that little Secretary Creek in his State.

Mr. McLANE. I call the gentleman from New York to order.

Mr. COX. For what?

Mr. McLANE. The item for Secretary Creek is not now before the committee.

Mr. COX. Well, I am before the committee. [Laughter.] I am like Secretary Creek. I am not very large in dimensions. [Great laughter.]

Mr. McLANE. I want the gentleman from New York to direct his attention to the pending amendment.

The CHAIRMAN. The Chair understands the gentleman from New York to move a formal amendment for the purpose of addressing the committee on the subject before the committee.

Mr. COX. The gentleman from Maryland will gain nothing by these little snapperadoes of practice. I am used to meeting them. I want to answer my friend from Maryland, and why will he not allow me to do so? He said that I was not right when I said that democratic precedents favored something else than this peculiar line of legislation. He said he could show more democratic Presidents or statesmen—I am not certain which.

Mr. McLANE. Two to your one. Two democratic Presidents who signed river or harbor improvement bills for every one that vetoed such bills. I can say three for one.

Mr. COX. I did not make the point two to one; but I will give you two Presidents who based their vetoes of such measures as this on democratic precedents and doctrines. The first which I quote is the famous veto measure of President Polk, of August 3, 1846, in which he said:

The Constitution has not, in my judgment, conferred upon the Federal Government the power to construct works of internal improvement within the States, or to appropriate money from the Treasury for that purpose. That this bill assumes for the Federal Government the right to exercise this power, cannot, I think, be doubted. The approved course of the Government and the deliberately-expressed judgment of the people have denied the existence of such a power in the Constitution.

Mr. CHALMERS. Was not General Cass the author of that, and was he not afterward nominated by the democratic party for President?

Mr. COX. I ask my friend from Tennessee, [Mr. WHITTHORNE,] who was at that time connected with the executive office while Mr. Polk was President, to state if this clear enunciation of democratic principle did not come direct from the occupant of the White House

to Congress? Indeed, it is within my knowledge that my friend copied that very message——

Mr. CHALMERS. The bill which President Polk vetoed was introduced by General Cass, who was afterward nominated for President by the democrats.

Mr. COX. Yes, and got beaten. [Laughter.] Here is more of the wisdom that came from the South and its true democratic statesmen in the earlier and better days of the Republic, when the dangerous practice prevailed of combining all these measures, good and bad, for big and little objects in one bill. I read from the same message; and the quotation is but the echo of democratic sentiment and platforms up to and until the desire for local improvement submerged the landmarks of the Constitution.

The wisdom of the framers of the Constitution in withholding power over such objects from the General Government and leaving them to the local government of the States becomes more and more manifest with every year's experience of the operation of our system. In a country of limited extent, with few such objects of expenditure, (if the form of government permitted it,) the common treasure might be used for the improvement with much less inequality and injustice than in one of the vast extent which ours now presents in population and territory. The treasure of the world would hardly be equal to the improvement of every bay, inlet, creek, and river in our country which might be supposed to promote the agricultural, manufacturing, or commercial interests of a neighborhood.

There is both constitutional interpretation and human sagacity in these ideas, and if they only came from one statesman of the democratic type they justify my vote and action on a miscellaneous and multifarious measure like this ten-million bill.

President Polk asks and demands what President Pierce afterward asked and demanded. As a safeguard against these mischievous bills he urged that these measures should each be placed in a separate bill. He demanded that each item should be determined on its intrinsic, independent merits. What endless wrangle and bickering would be saved by such a prudent system. It would be wise beyond our later experience. I stand here on that ground, believing that to yield to such pernicious practice is to ignore our best democratic instruction and make an example of wasteful excess for a troubled future.

Why not bring in your separate bill for the Missouri River? Why not bring in your separate bill for the Mississippi River? Why not bring in your separate bill for Secretary Creek? Why not bring in your separate bill for your shallow push-pole and brush-impeded streams and railroad-tie, hoop-pole, and raft navigation? Then we can decide each one on its own merits or demerits when it comes up for debate, comparison, and consideration. I ask permission to print some more of the wisdom of democratic statesmen.

Mr. CHALMERS. I object.

Mr. COX. Does the gentleman object to my printing further extracts?

The CHAIRMAN. The Chair understands that objection is made.

Mr. COX. Then I must take advantage of some other opportunity to get them before the House.

Mr. ATKINS. I hope the gentleman will print the approval by President Jefferson of the Cumberland-road bill.

Mr. COX. I will give you the real old Jeffersonian doctrine before I am done; and it will go to the foundation of our polity as a Federal system and its reserved and delegated powers.

Mr. McLANE. I rise to oppose the amendment.

The CHAIRMAN. The pending amendment is to strike out the last word—a formal amendment.

Mr. McLANE. But it is an amendment which the Chair entertained, and is debatable. If the gentleman from New York [Mr. COX] had the right to speak for five minutes in favor of it, I have the right to occupy an equal time in opposition.

The CHAIRMAN. The gentleman will proceed; the Chair will not undertake to restrict him.

Mr. TOWNSEND, of Ohio. I rise to a question of order.

Mr. McLANE. I waive my right to the floor.

Mr. TOWNSEND, of Ohio. My point of order is that the discussion should be confined to the amendment of the gentleman from Iowa, so that we may vote upon it and get it out of the way. These great underlying questions of constitutional law which my friend from New York alludes to may come up another time. Let us now dispose of these practical questions.

The CHAIRMAN. As no one is claiming the floor now to discuss the amendment, the point of order is not applicable to anything before the committee; but if it should be made hereafter, the Chair will endeavor to confine members to the pending question.

The question being taken on the amendment of Mr. COX, to strike out the last word, it was not agreed to.

The question was then taken on the amendment of Mr. UPDEGRAFF, of Iowa; and there were—ayes 51, noes 91.

Mr. UPDEGRAFF, of Iowa, called for tellers.

Tellers were ordered; and Mr. UPDEGRAFF, of Iowa, and Mr. McLANE were appointed.

The committee divided; and the tellers reported ayes 47, noes 108.

So the amendment was not agreed to.

Mr. UPDEGRAFF, of Iowa. I move to amend by inserting the following:

*Provided*, That no money appropriated by this act shall be expended in the improvement of any stream, notwithstanding the same be designated by name and appropriated for herein, which in an ordinary stage of water is not capable of floating vessels of fifty tons burden for a length of thirty consecutive miles, and which does not intersect or form a part of a State line: *Provided*, That this restriction shall not apply to tide streams emptying into the ocean.

Mr. Chairman, I said something to-day, if I remember aright, about the Big Sandy and its character. I now want to call attention to the Guyandotte, which is one of the streams I desire to have excluded by this amendment. In the report of the Engineer Department I find the following language respecting this stream:

The present plan of improvement for this river was adopted in 1878, and has been carried on in accordance with this to date, the object being to improve the whole river *for raft navigation* primarily, and *for push-boat navigation* at certain special points; for both species of navigation the river was practically closed save on rises of considerable height.

It has not been possible to combine these two species of navigation on the Guyandotte. "Push-boat" navigation was too much for it, provided raft navigation were added. [Laughter.]

So much for the Guyandotte. Now I come to the Elk River, West Virginia. This is one of the streams which I think ought to be excluded. Here is what the Engineer's Report says on page 691:

The obstructions are rocks, snags, and overhanging trees.

Think of a great navigable stream obstructed by "overhanging trees." My friend from Indiana knows that the Wabash could not be obstructed by "overhanging trees." Think of an "overhanging tree" obstructing the navigation of the Mississippi River or the Missouri. Here is a stream upon which the commerce of the nation is to float; and unfortunately there are "overhanging trees" which obstruct it. [Laughter.]

Before the river can be considered properly prepared for the full development of the trade upon it which the resources of the country will probably produce and maintain—

It is prepared now for all the trade there is—

some or all of the private mill-dams should certainly be removed or modified.

Now, let the country understand, let this House permit the country to understand, that $10,000,000 is appropriated, in part at least, in order that the national commerce can be push-boated over modified mill-dams. Just think of it—rafts and push-boats carrying the great commerce of this mighty nation over modified mill-dams. I can see the Committee on Commerce, (for whom I have the highest respect, and I have heard some of them talk in magnificent phrase about the rich wealth of the products of this country and its magnificent commerce,) I can see that committee with push-boats pushing that mighty commerce over a modified mill-dam, provided the "overhanging trees" are removed. That is the character of the Elk River.

The Engineer's Report says:

The money thus far has been spent in conformity with the idea of making an open navigation of ten or twelve inches in depth.

How is that for the mighty commerce of America? Ten to twelve inches in depth. Not now, but it is expected to be secured in order that the mighty commerce of the country may be pushed over these modified mill-dams. [Laughter.]

Now, what is going to be the cost of it? The report goes on to state:

The unexpected cheapness and success, however, of the work of the last season lead me to conclude that what remains can be done for very much less than the amount of that estimate, which was $100,000.

The estimate is now modified to $90,000.

I come next to the Kentucky River. Here is a stream that has some title to respect. The Engineer's Report says:

The present project for the improvement of this river is that proposed by Major W. E. Merrill, corps of engineers, in his report of August, 1879, on the survey of the river, contemplating slack-water navigation of six feet depth, with permanent dams for the main river, i. e. up to Three Forks, or for two hundred and fifty-eight miles. There is at present no regular or permanent navigation, the five old locks or dams on the lower eighty-two miles of the river having become, by disasters and neglect, practically useless, and above them there is but little water in low stages without ripples and bars of rock and gravel scattered along the channel.

The first appropriation for this river was $100,000. The amount appropriated in this bill, if I have got my figures right, is $100,000.

[Here the hammer fell.]

Mr. COX. I move to add to the amendment the following:

Provided no money shall be appropriated in this bill for any river exclusively in one State.

I beg to support that amendment by further extracts from the messages of democratic Presidents. My friend from Tennessee [Mr. ATKINS] said that Jefferson signed the Cumberland-road bill. So he did; but upon the ground that it was a post-route. He considered it, I suppose, somewhat constitutional on that ground. But for a statement of the *rationalia* of the Jeffersonian ideas of government on this head let me refer to the message of President Pierce, to be found on page 2079 of the Statesman's Manual, volume 3. Gentlemen cannot comprehend the cogent reasoning in pure diction—the genuine democracy as illustrated by the analyses of our fundamental authority and limitations—except by a perusal of the whole document. I beg, I plead with them to read it. Only by its thoughtful reading can gentlemen do justice to the sentiment which inspires my opposition to this measure.

The doctrine which gentlemen advocate is nowhere more pertinently denounced than in this extract:

Annual and special messages of successive Presidents have been occupied with it, sometimes in remarks on the general topic, and frequently in objection to particular bills. The conflicting sentiments of eminent statesmen, expressed in Congress, or in conventions called expressly to devise, if possible, some plan calculated to relieve the subject of the embarrassments with which it is environed, while they have directed public attention strongly to the magnitude of the interests

involved, have yet left unsettled the limits, not merely of expediency, but of constitutional power, in relation to works of this class by the General Government.

* * * * * * * *

It is quite obvious that if there be any constitutional power which authorizes the construction of "railroads and canals" by Congress the same power must comprehend turnpikes and ordinary carriage-roads; nay, it must extend to the construction of bridges, to the draining of marshes, to the erection of levees, to the construction of canals of irrigation; in a word, to all the possible means of the material improvement of the earth by developing its natural resources anywhere and everywhere, even within the proper jurisdiction of the several States. But if there be any constitutional power thus comprehensive in its nature, must not the same power embrace within its scope other kinds of improvement of equal utility in themselves, and equally important to the welfare of the whole country? President Jefferson, while intimating the expediency of *so amending the Constitution as to comprise objects of physical progress and well being*, does not fail to perceive that "other objects of public improvement," including "public education," by name, belong to the same class of powers. In fact, not only public instruction, but hospitals, establishments of science and art, libraries, and, indeed, everything appertaining to the internal welfare of the country, are just as much objects of internal improvement, or, in other words, of internal utility, as canals and railways.

The admission of the power in either of its senses implies its existence in the other; and since, if it exists at all, it involves dangerous augmentation of the political functions and of the patronage of the Federal Government, we ought to see clearly by what clause or clauses of the Constitution it is conferred.

* * * * * * * *

There being no specific grant in the Constitution of a power to sanction appropriations for internal improvements, and no general provision broad enough to cover any such indefinite object, it becomes necessary to look for particular powers, to which one or another of the things included in the phrase "internal improvements" may be referred.

Failing to find such general or particular powers, he exercised his prerogative at the same time, laying down a civic lesson from which we have wofully departed. The bill which he vetoed was over a million. Since then, in spite of his special warnings, we have reached ten times that amount per annum.

Now, sir, I desire once more to put upon record this decision of President Pierce, following the decisions of democratic Presidents:

In view of all this, it is not easy to estimate the disastrous consequences which must have resulted from such extended local improvements being undertaken by the General Government. State legislation upon this subject would have been suspended and private enterprise paralyzed, while applications for appropriations would have perverted the legislation of Congress, exhausted the national Treasury, and left the people burdened with a heavy public debt beyond the capacity of generations to discharge.

Mr. Chairman, ponder this wisdom in the light of new facts of our physical progress! We have now in this country, constructed partly by the aid of States and private capital, or at least we had up to 1878, four billion four hundred and eighty million dollars' worth of railroads. It is many millions more this year, 1881. We had also of canals built by States—Delaware Canal, Maryland Canal, Illinois Canal, Indiana Canal, New Jersey Canal, New York Canal, and Ohio Canal—at least $120,000,000, all ordered by State legislation and paid for out of taxes upon the counties and upon the States. Other States perhaps have not the same advantages. Is it right to tax the States which built, at their own expense, their own communications, to pay for the improvements of other States not so generous and wise?

Mr. BRAGG. I desire to ask the gentleman from New York a question.

Mr. COX. Well, sir, ask it.

Mr. BRAGG. Does not the gentleman from New York know since that doctrine was maintained that the Federal courts which then had admiralty jurisdiction only up to ebb and flow of the tide, have extended that jurisdiction over the great lakes, over the Ohio River, over the Missouri River, over all the streams leading into the waters that empty out of the Saint Lawrence River; that that jurisdiction has been taken by the Federal courts and those streams are under Federal jurisdiction?

Mr. COX. That may be all true; but I ask you, whether or not every time there is a decision of the Supreme Court extending tide-water or other Federal jurisdiction, the gentleman will come forward and vote for these "log-rolling" bills with their millions of mixed measures? He will not do it. He is, I know, an economist on certain matters, a very strict one.

What is log-rolling? You men of the West know. It is well to recur to it for the illustration. You know that in early times the pioneer went to seek his home not upon the prairies, but into the woods where there was plenty of water and timber. They and their neighbors may not have combined their labors to cut down the trees and to hew out the logs or split the rails; but when it came to rolling the logs together in heaps for burning or to be lifted into their places for the cabin or barn, they had many hands to aid the necessary works. Woe then to the man or neighbor who refused or who failed to come and assist in the log-rolling. He never got help to have his cabin built, his land cleared, or any outside assistance unless he helped others. That is what log-rolling means. Is it not a good figure for just such a bill as this? You get together all the States you need, all the strength and interests in one bill you require, and all the indispensable votes that you can in its favor. You have combined them altogether here. You have their aid. Why? Because you return the favor to them which they show you.

As these precedents which I have quoted show you, there is danger here. It intrenches upon true economy. Is it a dishonesty or any implication of unfairness on the part of the committee, when I can quote from these democratic precedents, to show that this system is wrong from top to bottom?

Mr. THOMAS TURNER. Mr. Chairman, I rise to say a word in connection with this matter.

Mr. BLACKBURN. I hope my colleague will yield to me for a moment, to make a suggestion to the gentleman from New York. I propose that he amend or modify his amendment by inserting after the word "river" the words "or harbor," so that it will read, "no money herein appropriated shall be expended upon any river or harbor exclusively within any one State."

Mr. COX. I prefer not to accept that. [Laughter.]

Mr. BLACKBURN. I thought it would simply complete the absurdity of the amendment.

Mr. COX. The gentleman knows very well that I do not accept my absurdities from that quarter.

Mr. BLACKBURN. The gentleman need not go to any quarter for that.

Mr. COX. I take my absurdity from another quarter; that is from myself. [Laughter.]

Mr. BLACKBURN. Nature has furnished the gentleman with enough without seeking elsewhere. [Laughter.]

Mr. COX. I do not see why the gentleman should make this personal assault upon me, this violent attack. I had enough of that the other day, when I was kicked by a mule or something else. [Great laughter.]

Mr. BLACKBURN. Did you get a pension?

Mr. COX. No; but I ought to have one for endeavoring to rescue the Government from a dangerous enemy.

Mr. THOMAS TURNER. Mr. Chairman, it does not come in good grace from a member representing a Western State to oppose slight appropriations to be given for improving streams in the State of Kentucky. It is not fair, Mr. Chairman, because our State happens to have no very considerable rivers, and because she is an internal State, and has neither coast line nor harbor to improve, that she is to be cursed with the fact that she is not to have a dollar for improving her internal streams. It is neither fair nor just. Gentlemen have forgotten that the Western Reserve gave over two hundred million acres of land to be expended in improvements at tide-water, and the State of Kentucky and Tennessee because they have no coast lines or harbors are to be deprived of all benefits under this system of improving rivers and harbors. I say, it comes with bad grace from the gentleman from Iowa, whose State has received so much, to object to a trifling appropriation for the State of Kentucky. Under that doctrine we could not expend one dollar in improvements there, and that great State could never get anything, while the Western region combines together and makes a just claim for the development of their resources, and that they should have a larger portion of these immense amounts annually appropriated for those works. They forget, sir, that Kentucky has to bear its due share of the burden of paying them. During all the years that these appropriations have been made, Kentucky has contributed more than any other State toward the building up of our commercial resources. Kentucky has been in the Union for eighty-nine years, and has never received from the Federal Treasury for improvements but the pitiful sum of $311,000, not one-twentieth of the amount annually devoted to the development of the resources of these States.

The gentleman talks about the depth of water in those rivers being only so much, and that no money shall be appropriated for the improvement of the Kentucky River because the depth of water is so slight, and speaks of it being only six feet. Mr. Chairman, if I were to go to Wisconsin, I could point out the fact that at Port Washington they commence with from nine to twelve inches of water and now they have five feet, and expect to improve it so as to make it twelve. I might go to Ahnepee, Wisconsin, and it is the same thing. We have more water in the Kentucky River than they had at Port Washington even with its improvements. Now Port Washington has a commerce of over ten thousand tons, because it has been developed. Thousands and thousands of dollars have been expended upon these harbors and others, while we with our great commerce and vast inland trade have never received our share, or anything like even a small fraction of it. The doctrine contended for here is the doctrine that the people who have the misfortune of not living upon these great streams should pay their part of the money into the Treasury but should not have a dollar out of it for improvements. You will give those who have harbors and navigable streams and who happen to be favored, vast sums of money to extend the depth of water from twelve feet to sixteen feet or above; but where you have one or two or three feet you have nothing to give because it is not a great stream and you do not believe it possible they can improve it.

But, Mr. Chairman, the bulk of this commerce is on the small streams. The streams of a small country and the productions of a small country are just as dear to the people as though they lived on a great stream and represented the commerce of a great country, and they should have a proper proportion of the money which is expended for that purpose. This great State, which has contributed its millions of dollars into the Treasury, a State which pays annually some thirteen millions of dollars into the Treasury, gets not a dollar of public money expended within its border for public improvements. Is that fair? Ought not there to be some consideration for the money which she pays into the Treasury? Of the $475,000,000 expended by this Government for public buildings for internal improvements and for educational purposes, $399,000,000 of it have gone to Northern

States and, sir, only $76,000,000 to the Southern States, when, according to their population and area and wealth and the amount they pay into the Treasury, they should be entitled to at least two hundred and ten million dollars. For years and years they have contributed on an average of 44½ per cent. of the whole amount——

[Here the hammer fell.]

Mr. WILSON. I ask that the amendments be again reported.

The amendments were again read.

Mr. WILSON rose.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. COX. I withdraw my amendment.

Mr. WILSON. I move to strike out the last word. As I was called out of the House temporarily I had not the pleasure of hearing the whole of the remarks made by the gentleman from Iowa, [Mr. UPDEGRAFF.] But I heard some of his criticisms on the streams of West Virginia. I will say to that gentleman that he at least is laboring under a very egregious error. As I understand the object of this river and harbor bill, it is for the development of the resources of the country, and to throw into the markets of the several States and the markets of the world the rich commodities now locked up in the regions to which those rivers furnish an outlet.

The gentleman referred to one of those streams, the Little Kanawha. I desire to say that in my opinion there is no river of the same length and size in all these United States of America the improvement of which is so valuable and which will contribute so much to the general welfare of the country. Let me enumerate some of the commodities of the district through which that river flows. Its timber finds a market (as shown by papers accompanying the Engineer's report) everywhere from New York to New Orleans. In consequence of the small improvement made in it a few years ago, timber has been floated down to Parkersburgh, shipped thence by rail to Baltimore, and from there sent to Europe. The valuable hard lumber of West Virginia finds a market in California. It is shipped by rail three hundred miles to Baltimore, and from there is shipped sometimes to California and sometimes to Europe. Its oil finds a ready sale in all the markets of the world. The oil produced in that country, the outlet of which is this Little Kanawha River, adds something to the balance of trade in favor of this country against foreign nations. And that oil has been floated down this river to market.

The sawed lumber of the Little Kanawha reaches more than a dozen States in the Union. There are vast coal-fields and vast iron-fields there; and the coal from the country along that river, by reason of the improvements now being made, will be shipped and will reach the people of the western and southern cities.

This is the best bill we can have to regulate interstate commerce. It gives cheap fuel, cheap food, and cheap transportation. It opens up competing lines, and can never be governed by monopolies. It is the farmer's improvement, and enables his productions, the fruits of his honest labor, to reach markets without the skinning process of pooling, rebates, &c.

Mr. SAPP. I desire to offer an amendment.

The CHAIRMAN. There are two amendments now pending.

Mr. WILSON. I withdraw the formal amendment.

Mr. UPDEGRAFF, of Iowa. I object to the withdrawal of the formal amendment. I want to say a few words before it is withdrawn.

The gentleman from West Virginia [Mr. WILSON] says I have been mistaken in my remarks about the Little Kanawha. My remarks in regard to that stream were read from the report of the Engineer; the official report. The chairman of the Committee on Commerce, when he was arguing against permitting discussion or amendment on this bill, and portraying the labors of the committee, said they had read this report and studied it day after day for I do not know how long. Then I am justified in saying this bill was reported in the light of this report; and the report as to the Little Kanawha says the only object of its improvement is to attain a raft and push-boat navigation; and the estimate of the amount necessary to complete the project is stated at $900,000.

Now, I put this to the gentleman, that the appropriation, though small in itself, will not be worth one fig, and might as well be sunk in the Potomac unless it is followed up by appropriations large enough to complete the project, which, it is estimated, will cost $900,000.

Mr. WILSON. The gentleman from Iowa [Mr. UPDEGRAFF] will understand——

Mr. UPDEGRAFF, of Iowa. The gentleman has his quarrel with the engineers, the men who make their living out of these appropriations, and who, as we all know, will magnify their office.

Mr. WILSON. You do not have——

The CHAIRMAN. The gentleman will address the Chair.

Mr. WILSON. We are only having a little *tête-à-tête*. [Laughter.]

Mr. UPDEGRAFF, of Iowa. Whatever light we can get against these appropriations comes in unconsciously, for not one of these engineers would permit such remarks to be made as I have read if he dreamed that the use would be made of them that is now being made. Other engineers in other districts—and I have examined the reports enough to learn that—do not appear to have made such remarks. But here was a man who was a subordinate and did not have any more sense than to tell a part of the truth. [Laughter.]

These engineers are divided and subdivided into strata. There is first the boss engineer, and then a stratum below him; then another stratum and so on down until you get to the local engineers. It reminds me of the old distich:

Big fleas have little fleas,
And lesser fleas to bite 'em;
And these fleas have other fleas,
And so *ad infinitum*.

[Laughter.]

Mr. WILSON. Now one word——

Mr. UPDEGRAFF, of Iowa. So these reports come up from the "little fleas" to the "big fleas;" and in a few instances the "little fleas" have told the truth. What I have referred to has been found by accident. How much more could be found by careful examination I cannot tell.

Mr. THOMAS TURNER. That shows how much you know about it.

Mr. UPDEGRAFF, of Iowa. If I can do so well with the little knowledge I have, how much could I do if I had as much as you claim to have? [Laughter.]

Mr. WILSON. Just a word. Because the gentleman does not obtain the appropriation he desires, he seems to be willing to form a combination with his friends over there to defeat proper appropriations. He is playing the game:

Tickle me, Toby, oh, tickle, do;
You tickle me and I'll tickle you.

[Laughter.]

The CHAIRMAN. The time for debate upon the pending amendment has expired.

Mr. WILSON. I withdraw my formal amendment.

Mr. SAPP. I desire to offer an amendment to the amendment of my colleague, [Mr. UPDEGRAFF.]

The CHAIRMAN. The Clerk will read the amendment.

The Clerk read as follows:

But the amount so appropriated shall be used in removing snags out of Missouri River and in completing the survey of the same.

Mr. REED. Now we have the real milk in the cocoanut.

Mr. SAPP. Now I ask that the amendment be read as it will stand if my amendment should be adopted.

The Clerk read as follows:

*Provided*, That no money appropriated by this act shall be expended in the improvement of any stream, notwithstanding the same be designated by name and appropriated for herein, which, in an ordinary stage of water, is not capable of floating vessels of fifty tons burden for a length of thirty consecutive miles, and which does not intersect or form a part of a State line: *Provided*, That this restriction shall not apply to tidal streams emptying into the ocean; but the amount so appropriated shall be used in removing snags out of the Missouri River and in completing the survey of the same.

Mr. SAPP. A word or two upon that amendment. I do not know that I would have engaged in this discussion at all but for what was said by the gentleman from Maryland, [Mr. MCLANE.] It is insisted by him that so far as the Missouri River is concerned she has been liberally dealt with by the Committee on Commerce. That I must emphatically deny.

I desire to call the attention of this committee to the amounts appropriated in this bill for the Missouri River for general purposes, and the items of appropriation so specified. There is $45,000 appropriated for the removal of snags in the Missouri River; then $40,000 for the improvement of the Missouri River, above the mouth of the Yellowstone; then $30,000 to complete the survey of over three thousand miles of that river. That is all that is appropriated for the Missouri River for general purposes in this bill.

Now, a word or two in relation to the importance of that river as a navigable stream. I need not call the attention of this committee to the fact that the Missouri River is navigable for nearly four thousand miles. I need not call attention to the fact that the Missouri River drains a territory sufficient in extent for a great empire. I need not call attention to the fact that that river runs through the richest agricultural country on the face of the globe, a country now thickly peopled by industrious and enterprising citizens. I maintain that the claims of the Missouri River have been very greatly overlooked by the Committee on Commerce.

Now, one word in regard to the local appropriations which are made in this bill. Whenever anything is said by any of us in relation to the appropriations made for the Missouri River, we are met with the assertion that sundry appropriations are made for local purposes and benefits. How is that? It is true that some appropriations are made for the improvement of the channel of the Missouri River at various points. What is the character of those appropriations? Are they such as are deserved? Not at all. A mere pittance is appropriated for some particular point, and when the ice runs out of that great stream in the spring of the year all the work done by that little appropriation is rendered useless by the results of the spring flow.

Mr. BARBER. What is the aggregate amount of these local appropriations?

Mr. SAPP. The gentleman can examine the bill for himself. Twenty thousand dollars was appropriated to be expended at Council Bluffs and Omaha, while the engineers recommend some sixty thousand dollars for that improvement. So in regard to Brownsville, Nebraska, Saint Joseph, Missouri, Fort Leavenworth, and various other places along the Missouri River. I say that there is not sufficient appropriated for these local improvements to complete the work as recommended by the engineers—only enough really to begin work, so that in the course of three, four, five, or six months after work has ceased all that has been done is swept away. Money spent in this manner might just as well be thrown into the channel of the river.

Mr. REAGAN. I suggest to the gentleman from Iowa [Mr. UPDEGRAFF] that the form of his amendment might do injury; that if he desires to get the judgment of the House upon streams appropriated for, as he deems improperly, in this bill, he should move to strike out those items as we reach them. In that way we shall act upon each question directly.

Mr. SAPP. I want to say to the gentleman that the difficulty is this: if I were to undertake——

Mr. REAGAN. I cannot yield. I am now speaking of what the gentleman's colleague proposes.

Mr. SAPP. I hope the gentleman will withhold his suggestions if he does not want a reply.

Mr. REAGAN. The gentleman has made his speech, and I propose in a moment to reply to him; but I am now replying to his colleague and am making the suggestion that if he considers any of these items objectionable he should move to strike them out as we reach them, and not by an amendment of this sort run the risk of injuring really meritorious works.

Now, the gentleman from Iowa who has just taken his seat, [Mr. SAPP.] has taken occasion several times to speak of the absence of appropriations in this bill for the Missouri River. He urges now that the appropriations ought to be sufficient to complete the work. Why, sir, that is said with reference to every work provided for in this bill. To have made the appropriations upon that idea would have involved the necessity of reporting a bill appropriating $25,000,000.

But let me show that the gentleman cannot have examined the bill carefully. It will be seen how much justice there is in his complaint that the Missouri River has been neglected when I give some of the items of appropriation for that river: For Atchison, Kansas, $20,000; Brownsville, Nebraska, $10,000; Cedar City, $15,000; Council Bluffs, Iowa, $20,000; Eastport, Iowa, $14,000; Fort Leavenworth, $8,000; Glasgow, $20,000; Kansas City, $20,000; Lexington, $10,000; Saint Charles, $15,000; Saint Joseph, $20,000; Sioux City, $7,000; Vermillion, Dakota, $15,000; above the mouth of the Yellowstone, $40,000; and for the continuation of the systematic survey of the Missouri from the mouth to Fort Benton, $30,000. Then of the appropriation of $150,000 for removing snags from the Mississippi, the Missouri, &c., $45,000 is assigned to the Missouri, and $20,000 to the Yellowstone, thus making $329,000 for that poor, neglected Missouri River.

Mr. SAPP. Only $115,000 is appropriated for general purposes.

Mr. REAGAN. I think the gentleman cannot have examined the bill. I have shown that $329,000 is given for that river besides the improvement of its various tributaries, to say nothing of the interest which the State of Iowa has in the appropriations for the Mississippi River. The appropriation for the Mississippi River from the mouth of the Illinois to the Des Moines Rapids is $175,000. Then, Iowa is interested in the $600,000 proposed to be appropriated, between the mouth of the Ohio and the mouth of the Illinois. She is also interested in the $200,000 which we recommend to be expended between the Des Moines Rapids and Saint Paul. Yet the gentleman complains on behalf of the State of Iowa and the Missouri River! Why, sir, that great central region of country which depends so much for the value of its agricultural products and the other interests of its people upon navigation and commerce has received the chief attention in this river and harbor bill.

Mr. SAPP. How can we get to the Mississippi River from the Missouri, if you do not take out the snags?

Mr. REAGAN. I have shown that $329,000 is given by the bill for the improvement of the Missouri River.

Before the hammer falls I will repeat that if the gentleman from Iowa can point out any rivers unworthy of an appropriation, he should move to strike them out when we reach them. I hope he will not insist on his present amendment, which may do real harm.

The question being taken on the amendment of Mr. SAPP to the amendment of Mr. UPDEGRAFF, of Iowa, it was not agreed to.

The question then recurred on the amendment of Mr. UPDEGRAFF, of Iowa.

Mr. VAN VOORHIS. I move that the committee rise. It is now four o'clock, and it is time for us to adjourn.

The question being taken on the motion of Mr. VAN VOORHIS, there were—ayes 35, noes 90.

Mr. VAN VOORHIS. I call for tellers.

Mr. CAMP. No quorum has voted.

The CHAIRMAN. The point is made that no quorum has voted; and the Chair will appoint tellers.

Mr. REAGAN. I submit that a quorum is not necessary on a motion that the committee rise.

The CHAIRMAN. But the Chair thinks the Committee of the Whole would be very much embarrassed in the transaction of any business if it should go upon the record that no quorum is present. The Chair appoints as tellers the gentleman from New York, Mr. VAN VOORHIS, and the gentleman from Texas, Mr. REAGAN.

The committee divided; and there were—ayes 21, noes 129.

So the committee refused to rise.

The CHAIRMAN. The question recurs on the adoption of the amendment of the gentleman from Iowa, [Mr. UPDEGRAFF.]

Mr. DAVIS, of Illinois. I move to amend that amendment by striking out the words "for thirty consecutive miles."

The amendment to the amendment was rejected.

The question again recurred on the amendment of Mr. UPDEGRAFF of Iowa.

The committee divided; and there were—ayes 31, noes 91.

Mr. VAN VOORHIS. No quorum has voted.

The CHAIRMAN ordered tellers; and Mr. UPDEGRAFF, of Iowa, and Mr. REAGAN were appointed.

The committee again divided; and the tellers reported—ayes 32, noes 121.

So the amendment to the amendment was rejected.

Mr. VALENTINE. I wish to have my amendment read.

Mr. REAGAN. I move that the committee rise for the purpose of closing debate on the pending paragraph and amendments thereto in one minute.

The CHAIRMAN. The Chair will state there is an amendment pending of the gentleman from Nebraska, [Mr. VALENTINE.]

Mr. REAGAN. I demand a vote on my motion.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

Mr. WHITE. I move that the House do now adjourn.

The House divided; and there were—ayes 52, noes 107.

Mr. CAMP. I demand the yeas and nays on the motion.

The House divided; and there were—ayes 21.

The SPEAKER. That is not one-fifth of the last vote, and the yeas and nays are not ordered.

So the House refused to adjourn.

Mr. REAGAN. I move the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering the river and harbor appropriation bill; and pending that motion I move that all debate on the pending paragraph and the amendments thereto be closed in one minute.

The motion was agreed to.

Mr. REAGAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. VAN VOORHIS. I now move the House adjourn.

The House divided; and there were—ayes 41, noes 104.

Mr. VAN VOORHIS. No quorum has voted.

Mr. CAMP. I demand tellers.

Mr. VAN VOORHIS. I demand the yeas and nays.

The yeas and nays were not ordered, and tellers were not ordered.

So the House refused to adjourn.

### ENROLLED BILL.

Mr. KENNA, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a bill (S. No. 752) granting an increase of pension to Crafts J. Wright; when the Speaker signed the same.

### RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I now move that the House resolve itself into the Committee of the Whole House on the state of the Union to go on with the river and harbor appropriation bill.

Mr. CAMP. I demand a division.

The House divided; and there were—ayes 123, noes 4.

Mr. VAN VOORHIS. No quorum has voted.

The SPEAKER appointed Mr. VAN VOORHIS and Mr. REAGAN as tellers.

The House again divided; and the tellers reported—ayes 140, noes 9.

So the motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. By order of the House all debate on the pending paragraph and the amendments thereto is limited to one minute. [Cries of "Vote!" "Vote!"]

Mr. CAMP. There is an amendment pending.

The CHAIRMAN. The gentleman from Nebraska sent up an amendment which has not been read.

Mr. VALENTINE. It is not applicable to the pending section, and I withdraw it.

Mr. VAN VOORHIS. I have an amendment which I desire to have read.

The Clerk read as follows:

Add at the end of paragraph 1:

"*Provided*, That no new work shall be begun unless the sum hereby appropriated for that work shall be sufficient to finish and complete the same."

Mr. REAGAN. There is one minute left for debate on this paragraph and amendments thereto. I wish to say but one word, and it is this: that I have no more interest in the success of this bill than others, and if it be the purpose of members of the House merely to wear out the time by filibustering—and it looks like that—then there is not much use in trying to go on with it. I am willing to give a reasonable time to see whether it is the purpose to defeat this bill by filibustering, and if it is, then I shall get out of the way and let it be done.

Mr. VAN VOORHIS. I have the right to offer an amendment, and the gentleman from Texas has no right to charge me with filibustering.

The CHAIRMAN. The time for debate has expired.

The amendment was again read.

Mr. REAGAN. I believe that amendment has been voted on once before.

Mr. COX. Is it in order now to move to amend an amendment?

The CHAIRMAN. It is.

Mr. COX. Then I move to strike out the last word. Is it in order to debate that?

The CHAIRMAN. It is not.

Mr. COX. Then I withdraw the amendment.

Mr. HOUSE. Has not the amendment just proposed by the gentleman from New York been once voted upon to-day and rejected?

Mr. VAN VOORHIS. I want the gentleman from Texas to understand that this amendment is limited to new work. The other applied to all work appropriated for. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The amendment, the Chair will state, is almost the same as the preceding one, which was rejected. But there is some difference, and the Chair prefers to submit the question to the committee.

Mr. VAN VOORHIS. On the point of order I desire to say a word.

The CHAIRMAN. The Chair has overruled the point of order. The question is on agreeing to the amendment.

The amendment was not agreed to.

Mr. MURCH. I offer the following amendment, to come in between lines 10 and 11 in the second paragraph.

The CHAIRMAN. The Chair will state that the committee have not reached that paragraph yet. The Clerk will read the next paragraph.

The Clerk read as follows:

Improving Richmond Island Harbor, Maine: Completing improvement, $3,000.

Mr. MURCH. I now offer the following amendment—

Mr. COX. I make the point of order on that paragraph of the bill.

The CHAIRMAN. The amendment proposed by the gentleman from Maine will be read.

The Clerk read as follows:

For improving Rockland Harbor, Maine, $25,000.

The CHAIRMAN. Before the gentleman from Maine proceeds the gentleman from New York makes the point of order against the paragraph just read.

Mr. REAGAN. I desire to ask if the amendment proposed by the gentleman from Iowa has been voted upon?

The CHAIRMAN. The amendment was rejected.

Mr. COX. I made the point of order because I want to inquire whether any appropriation for this purpose has been heretofore made. I wish to know whether it is in the continuation of appropriation for work there or whether it is new work?

Mr. REAGAN. Twenty thousand dollars was appropriated for this work last year.

Mr. COX. Then the point of order probably will not lie on this paragraph.

Mr. UPDEGRAFF, of Iowa. Was that money expended?

Mr. REAGAN. Three thousand dollars I find has been expended.

The CHAIRMAN. The Chair overrules the point of order upon the statement made without undertaking to decide now what may be the character of the bill, because on that question the Chair may want to hear the views of gentleman on the floor.

Mr. MURCH. Mr. Chairman, I went before the Committee on Commerce for the purpose——

Mr. REAGAN. Let the amendment be reported again.

The amendment was again read.

Mr. CLYMER. I make the point of order upon that.

Mr. MURCH. I will state to the gentleman from Pennsylvania that there was an appropriation made last year for this purpose.

Mr. CLYMER. Then I withdraw the point of order.

Mr. MURCH. Mr. Chairman, I went before the Committee on Commerce during one of its sittings urging this appropriation, but they rejected the application on the ground that the board of engineers had made no report upon this. Since issuing their annual report a plan has been adopted for the construction of this breakwater at Rockland. Twenty thousand dollars was appropriated for this purpose last year, and the local engineer there has already advertised for proposals to construct the breakwater. I could have the reports of the engineers read here as far back as 1856 showing the great necessity for this improvement..

Mr. Chairman, this is a harbor, and the only one which can be reached by vessels within a range of seventy-five miles on that coast. In our semi-arctic region the fall and winter navigation of that section of our State is exceedingly difficult and dangerous. We have located now a life-saving station within ten miles of this place, there being no harbor in which a vessel of any proper dimensions can enter for the purpose of shelter from storms. There is, as I have stated, no adequate harbor in a range of seventy-five miles on that coast. The work there is ready to be begun.

The local engineer in charge has planned a breakwater, and in such a manner that every appropriation which may be made for it is utilized, and if discontinued for any purpose no bad results will follow and no loss accrue to the Government. I come before this committee, Mr. Chairman, urging that the river and harbor bill be increased, and I know that the idea is unpopular among members here. I do not think that this, however, is a great amount to be appropriated for such purposes. I regard this bill as one of vital importance to the interests of the country, and I am in favor of appropriating $50,000,000 for the improvement of the rivers and harbors of this country if it can be done honestly and where needed. Besides, this bill has no terrors for me if the money is honestly expended; and, when the Government of the United States is receiving an annual surplus of $90,000,000 of revenue, it is time to include the repairs and improvements of our rivers and harbors in our general legislation. Neither the gentleman from Iowa nor any other gentleman upon this floor can make the point of order upon this appropriation for the reason that it is a continuing one. Neither can it be made upon the ground that it is for an improvement of some small, shoal stream. It is a large harbor, one of the finest in the country, and our people have been trying since 1856 to get an appropriation for a breakwater there for the protection of its shipping. Thirty thousand vessels, according to the report of the light-house keeper there, pass by and enter that harbor annually. It is, as I have stated, the only available harbor on the coast along the line of seventy-five miles where the navigation is difficult and dangerous.

The winds from the east and northeast have a range of forty miles and bring upon our harbor a great overflow of water which destroys our docks and shipping. The Ulysses, a new steamer, not long ago broke from her moorings during one of the storms prevalent on that coast, and was wholly destroyed. A large bark was driven ashore and badly damaged. Our docks are inundated by every gale of wind we have. Rockland has been a very important ship-building port. At times we have had as many as twenty-seven ships on the stocks at once being built.

[Here the hammer fell.]

Mr. DE LA MATYR. I move to strike out the last word, for the purpose of giving more time for the gentleman from Maine to complete his statement, which is of importance.

The CHAIRMAN. The gentleman from Indiana proposes to take the floor and yield his five minutes to the gentleman from Maine. Is there objection?

Mr. BROWNE. I object. The same proposition was made for gentlemen on this side and was objected to.

Mr. KENNA. If the gentleman from Maine occupied other five minutes, would not that exhaust the time allowed for debate?

Mr. MURCH. I hope the members of the Committee on Commerce will make no objection.

The CHAIRMAN. Objection is made.

Mr. MURCH. Then I ask consent to print the remainder of my remarks.

There was no objection.

Mr. KING. I would like to ask the gentleman from Maine one question. Who is responsible for and under whose direction are these expenditures made?

Mr. MURCH. If I could hear the gentleman's question I would endeavor to answer it.

When the hammer fell, Mr. Chairman, I was saying that we were a ship-building city, and this, coupled with our large production of the best lime manufactured in the country, makes this port very important in a local sense.

But, Mr. Chairman, I will let the board of engineers testify on this subject. In 1852 Lieutenant J. Newton, (now General Newton,) of the United States Engineer Corps, made a report to the Chief Engineer of the Army, from which I make the following extracts:

It is the only harbor for the larger class of vessels between Townsend and Belfast, embracing an extent of coast of nearly seventy-five miles. These headlands—Owl's Head and Jameson's Point—are two miles nine hundred yards from each other and may be said to form the entrance to the harbor, which is thereby exposed to the winds that range from north-northeast to south-southeast. The wind being east-northeast traverses from twenty to thirty miles of the Penobscot Bay before entering the harbor, which, with the great depth of water, occasions a very heavy sea. When the winds are more easterly the sea is less on account of the interposition of the Fox Islands, which, in the direction due east, are only eight or nine miles distant from the entrance to the harbor. When east by south, or east-southeast, or near these points, a heavy sea is thrown in from the ocean which is said to be more destructive than any other to which the bottom is exposed, though it passes into the harbor in a rather indirect manner between the Fox and Monroe Islands. These winds bring in a vast body of water, with a heavy ground swell washing the wharves and causing vessels to drag their anchors.

* * * * * * *

The harbor is accessible with all winds as long as a vessel can carry sail and is free from obstructions. * * * The bottom is of blue clay and forms a most excellent holding ground. * * * Vessels running down the bay, with a storm threatening from the usual quarter, after passing Rockland * * * find no safe harbor until they reach Herring Gut, fifteen miles distant from the latter place; but this place being small is often crowded, and incapable of holding more; so that they are obliged to continue this course fifteen miles more to Townsend, which furnishes a safe and spacious anchoring ground. Again, vessels bound up the bay, with a storm threatening, would not leave Townsend or Herring Gut unless there was a good harbor at Rockland. * * * Besides the protection to general commerce by a breakwater at Rockland, there is a large local interest involved in this matter, three hundred vessels, coasters and fishing craft, are owned here, and about two hundred more are estimated as trading with the place. Rockland, from a very small village, has grown into a large town of 7,000 inhabitants within the space of ten years, and is deservedly considered one of the most flourishing places in Maine. Its prosperity flows from a source which will probably not fail it, to wit, the manufacture of lime.

The number of barrels of lime manufactured is now 1,000,000 per annum, for the

burning of which 70,000 cords of wood are required. The value of property annually afloat and consequently exposed is—

| | |
|---|---|
| 1,000,000 barrels of lime at eighty cents per barrel | $800,000 |
| 70,000 cords of wood at $3 per cord | 210,000 |
| Total | 1,010,000 |

To this must be added the value of vessels, (over one million more.) Besides the support of its own population Rockland supplies a large back country, and by this induces other branches of trade which are continually augmenting. In fine Rockland is increasing rapidly, and bids fair to increase for a long time.

* * * * * * *

For the above reasons I recommend Rockland Harbor for the proposed breakwater.

This report, Mr. Chairman, was made twenty-eight years ago. Let us see what more modern engineer investigations show. I take the following from the report of Generals Tower and Newton, addressed to the Chief of Engineers, United States Army, under date of September 10, 1880:

The harbor of Rockland, an indentation of the coast at the southwest extremity of Penobscot Bay, is formed by the projecting headlands of Owl's Head and Jameson's Point. It is exposed to the direct action of the winds from N. 22° E. to S. 69° E.; from N. 22° E. to N. 70° E. The winds generally have the whole sweep of the bay, with a rake of twenty-three miles, throwing in a heavy sea.

When the wind is east-southeast, or about that point, it is said that a heavy ground-swell is thrown into the harbor, more destructive than any other to which the bottom is exposed, though it passes into the harbor in an indirect manner. * * * The harbor has a wide entrance and good anchorage, is deep and spacious, and with competent protection would prove valuable as a harbor of refuge. From the returns made by the light-keeper at Owl's Head, it appears that between sunrise and sunset, from January 1 to December 31, 1879, the number of vessels passing his station amounted to 21,539, including barks, brigs, schooners, sloops, and steamers. This enumeration excludes vessels passing outside through the Fox Island Channel. If to the above be added those passing after sunset, the number might be estimated at nearly thirty thousand.

No convenient harbor of refuge exists for a long stretch of coast, the contiguous harbor at Owl's Head being exposed to winds from N. 28° E. to E.

Now, Mr. Chairman, it seems to me that in view of the facts embraced in the foregoing extracts from the reports of engineering experts, and in the fact that we have a line of ocean steamers every day in the week from Boston, and a line of steamers from Portland touching nearly every day, with two lines of steamers running from Rockland to Mount Desert, with a number of smaller steamers running to the adjacent islands, that we present almost as meritorious claim for improvements as is presented for the improvement of the Little Kanawha in West Virginia.

The neglect to appropriate for the breakwater at Rockland may occasion great loss of life and property. Our hardy seamen need this protection. Our commerce that now exists demands the construction of this breakwater. The Government can well afford it and this Congress will be remiss in its duties if it refuses the small amount of $25,000 asked for.

The question being taken on Mr. MURCH'S amendment there were—ayes 38, noes 76.

Mr. MURCH. A quorum has not voted.

The CHAIRMAN. A quorum not having voted, the Chair appoints as tellers the gentleman from Maine, Mr. MURCH, and the gentleman from Texas, Mr. REAGAN.

The committee again divided; and the tellers reported—ayes 46, noes 106.

So the amendment was not agreed to.

The Clerk read the following paragraph:

Improving harbor at Portsmouth, New Hampshire, $20,000.

Mr. VAN VOORHIS. I move to strike out the last word in the paragraph just read. I am prepared to vote for the proposition if it is a proper one; but I do not know anything about it. The committee have told us nothing about it, but have merely put it in the bill. I want the chairman of the Committee on Commerce to explain why the harbor at Portsmouth, New Hampshire, requires $20,000.

The CHAIRMAN. The chairman of the committee in giving that explanation would have to confine his remarks to the amendment, which is, to strike out the last word. The gentleman from New York might reach his object by moving to strike out the whole clause.

Mr. VAN VOORHIS. Then I move to strike out the paragraph. And I ask the chairman of the committee if he can give any good reason why the appropriation should be made? [After a pause.] If the chairman of the committee is to sit down and give no answer because he can give none, I withdraw my amendment.

The Clerk read the following paragraph:

Improving harbor at Provincetown, Massachusetts, $5,000.

Mr. COX. Are these new or old works?

Mr. RUSSELL, of Massachusetts. They are old works.

Mr. REAGAN. I think all these paragraphs make appropriations for continuing old works.

The Clerk read the following:

Improving Oakland Harbor, California, $60,000; and the sums of money heretofore appropriated for this improvement and unexpended are hereby reappropriated; but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training-walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War.

Mr. PAGE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out $60,000 and insert $100,000.

Mr. PAGE. Mr. Chairman, it is not my purpose to criticise or find fault with the amount of money appropriated for any of the rivers and harbors outside of my own State. But I wish to urge upon the committee the necessity and importance of this work situated in my own State, with the wants and necessities of which I am familiar. I do not object to this bill because it appropriates too much money. I base my objections to it upon the fact that it has not discriminated in favor of the important works, and has made appropriations, large appropriations, for what in my judgment are unimportant works.

My idea of the duties devolving upon the Committee on Commerce is that they should take into consideration first the question as to what is absolutely necessary for the improvement of a certain river or harbor, and what are the obstructions which have to be removed in the interest of commerce. The next question to be considered should be the importance and the amount of commerce carried upon the river or entering the harbor.

I speak, Mr. Chairman, in behalf of Oakland Harbor, a portion of the bay of San Francisco. Oakland Harbor is on the east side of the bay of San Francisco. The Government has already appropriated some two hundred and fifty thousand dollars or more for the improvement of this harbor to which is brought the commerce of the Asiatic countries, and of the whole interior portion of my State. The people in the great producing valleys of the Sacramento and the San Joaquin find that Oakland Harbor is the point from which the wheat produced in the State should be shipped to foreign markets. And the commerce coming from China and Japan by sea ought to be landed at the Oakland wharf for reshipment over the great overland highway of the country. Oakland is the terminal point of the two great transcontinental railroads.

My amendment is to appropriate $100,000 instead of $60,000 for the purpose of continuing this improvement. The State of California, let me say to the committee, is entitled to some little consideration. I find upon consulting the records and the statistics that the bay and the harbor of San Francisco, of which this improvement is a part, in the amount of money collected as custom duties is the fourth harbor in the United States; only three other ports collecting more than is collected at the harbor and port of San Francisco. I find that in the payment of internal revenue California stands ninth on the list of States; only eight States paying more than California pays into the Treasury of the United States. In the Public Lands Department California pays more money into the Treasury than any other State. In point of tonnage it is the third of all the States in the Union. It is this harbor which must receive the commerce of Asia. There is not a port more important, not only to the Pacific coast but to the entire country. The tea and coffee shipped from foreign ports ought to have their reshipment from this harbor. We propose to remove the obstructions that are there.

I see the chairman is about to let the hammer fall. I hope some gentleman will take the floor and yield me five minutes.

Mr. ANDERSON. If I am recognized I yield five minutes to the gentleman from California.

The CHAIRMAN. Is there objection?

Mr. SPARKS. Oh, we cannot agree to that.

The CHAIRMAN. Objection is made.

Mr. ANDERSON. No gentleman rises in his place to object.

Mr. CLYMER. I move to strike out the last word, and will give the gentleman my time.

Mr. PAGE. Am I permitted to go on?

The CHAIRMAN. No gentleman having risen in his place to object, the gentleman from California may proceed.

Mr. BARBER. I wish to ask the gentleman from California how much is the unexpended appropriation?

Mr. PAGE. The amount appropriated last year was $80,000, and of that $60,000 was tied up by a foolish provision attached to the appropriation.

Now, this is the first opportunity that California has ever had upon the floor of this House, in the eight years that I have been a member of it, to present her claims before the people of this country for appropriations of this character. This is the first river and harbor bill that during that time has ever been before the House for discussion.

Consequently the time of the Committee on Commerce is very much taken up with their own matters. I acquit them of any intention to do any injustice to any one. But that committee has really not time to hear the two hundred and ninety-three members of this House separately in presenting their claims for consideration. My judgment is that this is the proper way in which a bill of this kind should be considered; in Committee of the Whole on the state of the Union. If two hundred and ninety-three members cannot be depended upon to pass upon the question of properly distributing over ten million dollars, how can it be expected that a committee of only fifteen members can do it?

I have never asked and I do not now ask for one dollar of appropriation that is not of general interest, not simply for the people of one locality, but for the people of an entire State. The State of California will export this year in wheat alone over fifty millions of bushels. It is a State that produces more wool for exportation than any other State in the Union, and also more wine. The harbor on the east side of the bay of San Francisco is the terminal point of two great transcontinental railroads, where ship and car can meet and exchange the commerce not only of the State of California and of

the Pacific coast as well as of the Indies, but of the Eastern States also.

The people of the eastern portion of this country are interested that the commerce which they send to and receive from the Pacific coast shall not be landed on the San Francisco side of the bay, where they are compelled to pay storage and wharfage, &c., and then to take it in cars across the ferry to Oakland. It is for their interest that the ship as it comes in from foreign ports shall be able to sail up to the wharf, there to meet the car which will take the commodities it bears and carry it for three thousand miles across to the eastern portion of this country.

I ask that the appropriation I have indicated be made, and I desire to say that later on I shall move to strike out the proviso in this paragraph, and I think I can give good reasons why that proviso should be stricken out.

Mr. COX. I rise to oppose any increase of appropriation in this bill, and I do so upon a ground which I think the people will approve and which I trust this House will confirm. We are piling up taxes inordinately upon the people of this country and their industries. The men who favor a high protective tariff are also and always in favor of these large expenditures; and those who will act wisely as to lessening our taxes will disfavor these large expenditures, such as are contained in this bill, for all sorts of improvements.

We have now two modes of collecting the revenues for the support of this Government. About three-fifths of the amount for the support of the Government is collected on imported commodities; about two-fifths internal revenue, mostly on spirits, tobacco, &c. A large amount of taxes collected on imported commodities is collected from articles of absolute utility, not upon luxuries.

Under our present tariff laws (see Spofford's Almanac, 1879) over eighty-six million dollars is collected upon cotton manufactures, wool and its manufactures, flax and its manufactures, hemp and its manufactures, iron and steel manufactures, earthen and crockery ware, glassware, leather fabrics, breadstuffs and provisions, rice, salt, wood manufactures, sugar and molasses, and tin and its manufactures. Last year we raised nearly a hundred millions of dollars from such sources. What are these immense sums raised for? To pay these contractors or somebody for these works on streams, in harbors, &c.—unconstitutional purposes, according to democratic authority.

Now, where one dollar of the amount raised under our tariff system goes into the Treasury, I believe I could demonstrate, if I had more time than five minutes—and I think the gentleman from Texas [Mr. REAGAN] would bear me out in that—where you get one dollar into the Treasury you impose upon the people ten dollars of taxation which never sees the Treasury. It goes elsewhere. Where does it go to? Every one who votes to pile up these taxes upon the people by increasing appropriations for such internal improvements as this bill contains must bear in mind that for the ten millions of dollars which is appropriated by this bill a hundred millions of dollars is taken out of the pockets of the people, which does not go into the Treasury, but goes to the bounty-fed manufacturers of certain pet localities. Mr. Chairman, I may be asked how much is collected from the people for their luxuries by their indirect tariff taxation. I will refer them to page 37 of the American Almanac of 1879. We will there find that diamonds, dolls, embroideries, feathers, furs, silks, spirits, tobacco, watches, toys, plate glass, musical instruments, and one or two other articles yielded a custom revenue of less than $30,000,000.

Mr. DUNN. Suppose that this bill should not pass? Will taxation be thereby reduced?

Mr. COX. I think if we should cultivate certain habits that look to economy and frugality in our expenditures we would here soon begin to remodel our tax system to correspond so that after a while it will be all right with my friend from Arkansas [Mr. DUNN] and his fleeced constituents. How could there be any trouble, if we should try the experiment of frugality and stop paying out these moneys for wasteful and useless and abnormal purposes? But so long as there is a plethora in the Treasury, growing out of immense direct and indirect taxes, so long will these big bills come rolling in.

I want to cut down all taxation, by tariff or otherwise. I would take the tax off legacies, matches, stamps, medicines, &c. I am in favor, Mr. Chairman, [Mr. CARLISLE in the chair,] of the bill which you have in charge, and at the same time, I would endeavor to razee these insidious robberies, or rather burglaries in the form of tariff duties. Pile up taxes by these river and harbor appropriations for little streams and great streams, useful harbors and useless harbors, in one bill, without discrimination, and so long as you do it there will be a lamentable lack of that reform which is needed in our revenue laws and exchequer.

The CHAIRMAN. The time of the gentleman has expired. The question is upon the amendment of the gentleman from California, [Mr. PAGE,] to increase the appropriation for Oakland Harbor from $60,000, as provided in the bill under consideration, to $100,000.

The question was taken upon the amendment; and, upon a division, there were—ayes 60, noes 79.

No further count being called for, the amendment was not agreed to.

Mr. REAGAN. It is now growing late; and I presume it is not the desire of the committee to continue the consideration of the bill later this evening, though of course that would be agreeable to me. As there are a great many gentlemen who have expressed a desire that the committee rise, and the House adjourn, I make the motion that the committee rise.

Mr. PAGE. I have one more amendment to offer to this paragraph.

Mr. REAGAN. Very well; go on.

Mr. KENNA. I hope the committee will not rise. We are making very satisfactory progress.

Mr. PAGE. I have no objection to the committee rising, if that is the general desire.

The CHAIRMAN. Does the gentleman from Texas move that the committee rise?

Mr. REAGAN. No, sir; I withdraw the motion.

Mr. CAMP. I move that the committee rise.

Mr. O'NEILL. I hope the gentleman will withdraw the motion. If we do not get on with this bill an hour or two this evening we may lose the bill. This House has sat through the hours of the night upon a mere private bill, and I do not see why members should be unwilling to stay here awhile longer to work upon this very important public measure. [Cries of "Regular order!"]

The CHAIRMAN. The motion is not debatable.

The question being taken on the motion of Mr. CAMP, it was agreed to, there being—ayes 95, noes 55.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole had had under consideration the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its secretaries, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes.

The message also announced that the Senate had passed a bill and joint resolution of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 2075) to amend section 989, Revised Statutes, relative to suits against officers of the United States; and

Joint resolution (S. R. No. 156) in relation to the International Exhibition of 1883.

Mr. ATKINS. I move that the House adjourn.

Mr. ANDERSON. I ask leave to have an amendment printed in the RECORD. [Cries of "Regular order!"]

The question being taken on the motion of Mr. ATKINS, it was agreed to; and accordingly (at five o'clock and fifteen minutes p. m.) the House adjourned.

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## PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ANDERSON: The petition of ex-soldiers, now citizens of Phillips County, Kansas, against the passage of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

By Mr. CALDWELL: The petition of John Stockton, Samuel Smith, and other soldiers of Clinton County, Kentucky, against the passage of the Senate bill No. 496—to the same committee.

By Mr. COVERT: The petition of the Chamber of Commerce of New York, for the passage of the Lowell bankruptcy bill—to the Committee on the Judiciary.

By Mr. DEERING: The petition of citizens of Reinbeck, Iowa, against the passage of the Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. FINLEY: The petition of citizens of Ohio for the passage of the interstate commerce bill—to the Committee on Commerce.

Also, the petition of citizens of Ohio for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. FISHER: The petition of soldiers of Perry County, Pennsylvania, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. FORD: The petition of James Booky and others, citizens of Michigan, of similar import—to the same committee.

By Mr. HASKELL: The petitions of ex-soldiers of Wyandotte, Labette, and Cherokee Counties, Kansas, of similar import—to the same committee.

By Mr. HEILMAN: The petition of 100 soldiers of Warwick County, Indiana, for the equalization of soldiers' bounties, and against the passage of the sixty-surgeons bill—to the same committee.

By Mr. HUMPHREY: Memorial of the Chamber of Commerce of Milwaukee, Wisconsin, for the repeal of the tax on bank deposits—to the Committee on Ways and Means.

Also, the petition of H. Watterson and others, of Ono, Wisconsin, for the passage of an income-tax law—to the same committee.

Also, the petition of George Harris and others, of Ono, Wisconsin, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of A. W. Oglevie and others, of Ono, Wisconsin, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of Edwin Van Shoonhover and others, of Ono,

Wisconsin, for legislation regulating interstate commerce—to the Committee on Commerce.

By Mr. LAPHAM: Resolution of the Chamber of Commerce of New York, favoring the passage of the Lowell bankrupt bill—to the Committee on the Judiciary.

By Mr. LINDSAY: The petition of Martin W. Frederic, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. McMAHON: The petition of John G. Doren, for reimbursement of money necessarily expended by him in the preparation of indexes to House printed matter from January 1, 1878, to January 1, 1881—to the Committee on Accounts.

By Mr. OVERTON: The petition of Ezra Bailey and 29 other soldiers, of Bradford County, Pennsylvania, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. PHISTER: The petition of George R. Sample, for the repeal of the revenue law which requires the stamping of proprietary medicines—to the Committee on Ways and Means.

By Mr. POUND: The petitions of Randolph Voight and 27 others, and of James R. Lace, Henry Curran, and 59 others, ex-soldiers, of Wisconsin, against the passage of Senate bill No. 496, known as the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. PRICE: The petition of 44 citizens of Iowa, of similar import—to the same committee.

By Mr. SCOVILLE: The petition of Edward Gilbert and others, of Tonawanda, New York, of similar import—to the same committee.

By Mr. SHALLENBERGER: The petition of Major J. M. Gaston and 11 other ex-soldiers, of Finleyville, Pennsylvania, of similar import—to the same committee.

By Mr. SHERWIN: The petition of W. H. Cowlin and 51 other soldiers, of similar import—to the same committee.

By Mr. WILLIAM G. THOMPSON: The petition of David Byers, and 40 other soldiers, of Iowa, of similar import—to the same committee.

By Mr. TYLER: The petition of W. C. Clark and other soldiers, of Vermont, of similar import—to the same committee.

Also, the petition of the Reform Association of Brooklyn, New York, for reform in the civil service—to the Committee on Reform in the Civil Service.

By Mr. J. T. UPDEGRAFF: The petition of J. K. Murphy and 203 others, citizens of Belmont County, Ohio, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

By Mr. WASHBURN: The petition of A. W. Goodspeed and 29 others, citizens of Stearns County, Minnesota, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of the same parties, for legislation to protect innocent purchasers from the impositions of fraudulent venders of patents and patent-rights—to the Committee on Patents.

By Mr. WISE: The petition of W. A. Nichols and 54 others, of similar import—to the same committee.

Also, the petition of Simon Fisher and 54 others, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of Joseph Jemison and 53 others, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of H. L. Spires and other soldiers, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

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## IN SENATE.

### MONDAY, *February* 14, 1881.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Saturday last was read and approved.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of FRANCIS M. COCKRELL, chosen by the Legislature of Missouri a Senator from that State for the term beginning March 4, 1881; which were read and ordered to be filed.

Mr. HOAR presented the credentials of HENRY L. DAWES, chosen by the Legislature of Massachusetts a Senator from that State for the term beginning March 4, 1881; which were ordered to be filed.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a message from the President of the United States, transmitting the final report of the commissioners having charge of the repavement of Pennsylvania avenue between the Treasury Department and the Capitol grounds; which was referred to the Committee on the District of Columbia, and ordered to be printed.

PRINTING OF EXECUTIVE COMMUNICATION.

Mr. COCKRELL. I notice that on Saturday the Chair "laid before the Senate a communication from the Secretary of the Interior, transmitting copies of letters from the Commissioner of Pensions relative to the condition of the working force of his office and his appropriation for 'contingent expenses;' which was referred to the Committee on Appropriations." I think, as that information is desired by every Senator, those letters should be printed; and I make that motion.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of Illinois, presented the petition of the National Temperance Society, Hon. William E. Dodge president, J. N. Stearns corresponding secretary, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain.

The VICE-PRESIDENT. The Chair understands that similar petitions have hitherto gone to the Committee on Finance, and this petition will be so referred.

Mr. DAVIS, of Illinois, presented resolutions of the Board of Trade of Chicago, Illinois, favoring an appropriation for a harbor of refuge in Milwaukee Bay; which were referred to the Committee on Commerce.

He also presented the petition of the Board of Trade of Chicago, Illinois, praying for the passage of a law to prevent the adulteration of food and drugs; which was referred to the Committee on Agriculture.

Mr. WILLIAMS presented the memorial of the Home Bitters Company, of Saint Louis, Missouri, remonstrating against abolishing the stamp tax on proprietary medicines; which was referred to the Committee on Finance.

Mr. EATON. I am requested to present the petition of the Good Templars of Connecticut, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of alcoholic beverages throughout our national domain. I am led to say, in offering this petition, that I hope and trust there will be a constitutional amendment adopted previous to this one so that the count of the electoral votes once in four years may be had without terror going all over this land. It will be time enough then, in my judgment, to consider a constitutional amendment of this character. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. RANDOLPH presented the petition of the Good Templars of New Jersey, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. JOHNSTON. I present a similar petition of the Good Templars of Virginia, which I move be referred to the Committee on Finance.

The motion was agreed to.

Mr. HILL, of Georgia. I present the petition of the Grand Division of the Sons of Temperance of the State of Georgia, officially signed, asking for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain. As the petition asks for an amendment to the Constitution, I think it ought to go to the Committee on the Judiciary, though the petitioners have coupled it with a special request that it go to a special committee on alcoholic liquors. I move its reference to the Committee on the Judiciary, as it proposes a constitutional amendment.

Mr. THURMAN. I hope my friend will not insist on that motion. That very proposition was made several years ago, and after a very full discussion, by an almost unanimous vote of the Senate, it was decided that this matter touched the revenue so closely that the Committee on Finance was the proper committee to consider it.

The VICE-PRESIDENT. Such petitions have hitherto gone to the Committee on Finance.

Mr. THURMAN. They have all been so referred, and I hope this petition will take the same course.

Mr. HILL, of Georgia. I do not understand what the Committee on Finance has to do with amending the Constitution; but as I am ready to do almost anything to gratify my friend from Ohio, I will agree to a reference to that committee.

The VICE-PRESIDENT. The petition will be referred to the Committee on Finance.

Mr. HARRIS. I present the memorial of the ex-trustees of the public schools of the District of Columbia, remonstrating against a proposed amendment to the bill (H. R. No. 5541) to establish a municipal code for the District of Columbia. Notwithstanding the bill has been reported to the Senate, I move the reference of the memorial to the Committee on the District of Columbia.

The motion was agreed to.

Mr. COKE presented the petition of the Galveston Temple of Honor, of the State of Texas, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. KERNAN presented the petition of the Grand Temple of Honor and Temperance of New York, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. RANSOM presented the petition of the Grand Lodge of Good Templars of North Carolina, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. BECK. Within the last few minutes I have found upon my table this note:

WASHINGTON, *February* 14, 1881.

DEAR SIR: Will you have the kindness to present to the Senate the inclosed petition and request its reference to a select committee on the alcoholic liquor traffic.

Very truly, yours,

A. M. POWELL.

Hon. J. B. BECK.

The petition for the proposed constitutional amendment reads:

The undersigned, citizens of Ohio, request a constitutional amendment to be adopted.

It seems to be officially signed; but as I do not believe in meddling with what people eat or drink and do not think Congress has anything to do with it, and as I do not propose to meddle with what the people of Ohio want, I take the liberty of turning the petition over to the senior Senator from Ohio, [Mr. THURMAN.]

Mr. THURMAN. I will present the petition. I present the petition of citizens of my State, in decent and respectful language, and I present also another petition of the same kind, praying for the adoption of a constitutional amendment to prohibit the manufacture and sale of all acoholic beverages throughout the national domain, and I move that they be referred to the Committee on Finance, as I cannot move for a select committee, as the petition specifies.

Mr. HOAR. I desire to inquire of the Chair whether there is a select committee on alcoholic beverages?

The VICE-PRESIDENT. The Chair knows of no such select committee. These petitions have hitherto gone to the Committee on Finance, and the petition presented by the Senator from Ohio will be so referred.

Mr. SAUNDERS presented the petition of the Woman's Christian Temperance Union of Nebraska, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

He also presented the memorial of E. Whitcomb and 59 others, citizens of Friend, Nebraska, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. KIRKWOOD presented the petition of the Woman's Christian Temperance Union of Iowa, officially signed, praying for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia; which was referred to the Committee on Finance.

Mr. ANTHONY presented the petition of the State Temperance Union of Rhode Island, signed by Edwin Metcalf, president; H. W. Conant, corresponding secretary; Charles E. Carpenter, treasurer, and J. Hobart Cross and H. H. Richardson, vice-presidents, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. MORRILL presented the petition of the Woman's Christian Temperance Union and the petition of the Temple of Honor and Temperance, of Vermont, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which were referred to the Committee on Finance.

Mr. HOAR presented a resolution of the Legislature of Massachusetts, favoring the enactment of such laws as will promote the revival of the commercial marine of the nation; which was read, and referred to the Committee on Commerce, as follows:

COMMONWEALTH OF MASSACHUSETTS,
*In the year* 1881.

Resolution regarding the revival of American commerce.

*Resolved*, That our Senators and Representatives in Congress be requested to use their earnest and continued efforts toward securing the passage of such measures by the Congress of the United States as will in their judgment best promote an early and permanent revival of the commercial marine of the nation.

*Resolved*, That his excellency the governor is hereby requested to transmit a copy of this resolution to each of our Senators and Representatives in Congress.

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SENATE, *February* 4, 1881.

Passed. Sent down for concurrence.

S. N. GIFFORD, *Clerk*.

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HOUSE OF REPRESENTATIVES, *February* 9, 1881.

Passed in concurrence.

GEO. A. MARDEN, *Clerk*.

Mr. FERRY presented the petition of D. N. Runnels, of Port Huron, Michigan, praying that the Canadian barge W. J. Spicer, rebuilt in the United States, be granted the privileges and protection of an American-built vessel; which was referred to the Committee on Commerce.

Mr. PLATT. I present the petition of the Good Templars of Connecticut, officially signed, representing 4,000 members, praying for the adoption of a constitutional amendment to prohibit the manufacture and sale of alcoholic beverages throughout our national domain. This petition is accompanied by a request that it should be referred to a select committee on the alcoholic liquor traffic. I understand that these petitions have gone hitherto to the Committee on Finance, but I understand also that petitions of this character referred to the Committee on Finance have received no action. I should be very glad if there were a select committee to which they could be referred, because I think the subject is a grave one, and it ought to be considered by a committee that has time to devote to the subject; but as there is no such committee, and as it is too late in the session to ask for the raising of such a committee, I suppose it will take the usual course and go to the Committee on Finance.

The VICE-PRESIDENT. The petition will be referred to the Committee on Finance.

Mr. BURNSIDE. I present the petition of the Woman's Christian Temperance Union of Rhode Island, signed by Mrs. J. K. Barney, president; Mrs. George F. Martin, vice-president; Mrs. C. H. Higgins, treasurer; and Mrs. E. S. Burlingame, corresponding secretary, all most estimable ladies of Rhode Island, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain. I move, according to the custom of the Senate, that this petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. BURNSIDE presented the memorial of Elijah F. Locke and others, citizens of Apponang, Rhode Island, surviving soldiers of the war of the rebellion, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. PADDOCK presented the petition of J. Mason Smith and others, of North Bend, Nebraska, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

He also presented the petition of Frederick Mende and others, of Camp Sheridan, Nebraska, and the petition of D. C. Simmons and others, of Salem, Nebraska, Union soldiers, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which were ordered to lie on the table.

Mr. CAMERON, of Wisconsin, presented a memorial of the Legislature of Wisconsin, favoring an appropriation for the construction of a harbor of refuge in Milwaukee Bay; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, favoring an appropriation for the completion of the harbor of Ahnepee, Wisconsin; which was referred to the Committee on Commerce.

Mr. THURMAN presented the petition of L. W. Richardson and others, of Defiance, Ohio, soldiers of the late war, praying for the passage of the amendment reported by the Committee on Pensions of the United States Senate to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. BUTLER presented the petition of the grand division of the Sons of Temperance of South Carolina, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. BAYARD presented the petition of the Woman's Christian Temperance Union of Delaware, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. WITHERS presented the petition of the Grand Lodge of Good Templars of Virginia, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. PLUMB presented the memorial of Levi Morris and others, citizens of Dunlap, Kansas, and the memorial of A. Cragg and others, citizens of Howard City, Kansas, soldiers in the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which were ordered to lie on the table.

Mr. PLUMB. I present the petition of the Grand Lodge of Good Templars of the State of Kansas, officially signed, praying for the adoption of a constitutional amendment to prevent the manufacture and sale of alcoholic beverages throughout our national domain. This question is one which has received a great deal of attention in my State where public opinion has been crystallized in the shape of a constitutional amendment, which was adopted at the recent election, by a majority of the electors of that State, prohibiting the manufacture or sale within the limits of that State of alcoholic beverages except for medicinal, mechanical, or scientific purposes. It is a matter which I hope will receive the careful consideration of the Committee on Finance, to whom I move the reference of the petition.

The motion was agreed to.

Mr. ALLISON presented the memorial of J. H. Langdon and others, citizens of Fredericksburgh, Iowa, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. BOOTH presented the petition of the Grand Lodge of Good Templars of California, having 13,000 members, officially signed, praying for a constitutional amendment to prohibit the manufacture and

sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. WALLACE presented the petition of the Woman's Christian Temperance Union of Pennsylvania, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. COCKRELL. There has been handed to me to present to the Senate a petition addressed to the Senate and House of Representatives, signed by W. D. Crandall, grand secretary of the grand lodge of Missouri, Independent Order of Good Templars, which represents over 25,000 members in the State of Missouri, praying Congress, by appropriate legislation, to adopt and propose to the several States an amendment to the Constitution of the United States which when ratified will prevent the manufacture, importation, and sale of all alcoholic beverages throughout our national domain. I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. WHYTE. I present a similar petition from the State Temperance Alliance of Maryland, and I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. VANCE presented the petition of A. Jiles and others, citizens of North Carolina, praying for the passage of the House bill making the Cape Fear River in that State a free river; which was referred to the Committee on Commerce.

Mr. PENDLETON presented the petition of St. Paul's Methodist Episcopal church, of Delaware, Ohio, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. HAMLIN presented the petition of the Bangor Division Sons of Temperance of Maine, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. HAMPTON presented the petition of the Good Templars of South Carolina, signed by its officers and members, asking for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. KELLOGG presented a memorial of the Chamber of Commerce of New Orleans, Louisiana, in favor of the enactment of a permanent bankrupt law; which was referred to the Committee on the Judiciary.

He also presented a resolution of the Shreveport Medical Society, of Shreveport, Louisiana, in favor of clothing the National Board of Health with all powers necessary for the execution and enforcement of its rules and regulations relating to sanitation, inspection, scientific investigation, and the collection of vital statistics in so far as they do not conflict with the rules of State and local boards of health; which was referred to the Committee on Commerce.

Mr. DAVIS, of West Virginia, presented a resolution of the Legislature of the State of West Virginia, in favor of ceding to that State the vacant lands and water-power at Harper's Ferry, in the county of Jefferson; which was referred to the Committee on Education and Labor.

Mr. VOORHEES presented a resolution of the Legislature of Indiana, on the subject of contagious diseases among cattle; which was read and ordered to lie on the table, as follows:

Enrolled joint resolution No. 9, (senate.)

Whereas the live-stock interests of the country are greatly endangered by the existence in several of the Eastern States on the Atlantic seaboard of contagious pleuro-pneumonia of cattle; and

Whereas the States, under the decision of the Federal courts, are powerless to protect themselves from infection from a neighboring State or to stamp out contagious diseases existing on its borders in an adjoining State; and

Whereas this state of things has resulted in the adoption of regulations by the British Government which seriously interfere with our export trade in cattle with that country, thereby entailing great damage to all cattle raisers and feeders in the United States; and

Whereas there is now pending before the national House of Representatives at Washington a bill introduced by General KEIFER, of Ohio, embracing measures to prevent the spread of contagious pleuro-pneumonia, and other contagious diseases of domestic animals, and to extirpate such diseases in localities where they exist: Therefore,

*Resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to secure the passage of the bill known as the Keifer bill, or such other bill as may be introduced in Congress for the suppression of contagious diseases of domestic animals in the United States.

WILLIAM M. RIDPATH,
*Speaker of the house of representatives.*
THOMAS HANNA,
*President of the senate.*

Mr. BAILEY presented the petition of the Grand Division of Sons of Temperance of Tennessee, officially signed, asking for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 2139) to amend an act to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, approved June 16, 1880, reported it with an amendment.

Mr. GARLAND, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 2128) to amend section 699 of the Revised Statutes, relating to writs of error and appeals, reported it without amendment.

Mr. DAVIS, of West Virginia, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 5097) appropriating money toward the expense to be incurred in the centennial celebration of the battle on Groton Heights, and for other purposes, reported it with amendments.

Mr. SAUNDERS, from the Committee on Territories, to whom was referred the bill (S. No. 1516) establishing the Territory of Pembina and providing a temporary government therefor, reported it with an amendment, and submitted a report thereon, which was ordered to be printed.

Mr. BOOTH. The Committee on Appropriations, to whom was referred the bill (S. No. 73) authorizing a payment of prize money to officers of the Farragut fleet for the destruction of enemy's vessels in April, 1862, have instructed me to report it favorably with an amendment. I have prepared no written report; but the official correspondence discloses all the facts as well as they could be stated in a report, and I file that with the bill.

COURTS IN TEXAS.

Mr. GARLAND. I am instructed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 6942) to fix the times for holding the district and circuit courts of the United States for the western district of Texas, to report it without amendment, and I am directed to ask for the present consideration of the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment.

Mr. HOAR. Is that a bill establishing new terms of the courts?

Mr. GARLAND. It simply changes the time of holding the courts at three different places, for the convenience of all persons—lawyers, judges, and suitors.

Mr. HOAR. I see it is to take effect within a very few days from the present time.

Mr. GARLAND. That is the reason I asked for the consideration of the bill now.

Mr. HOAR. If the Senator will hear my question, I want to ask him what I suppose there is probably no doubt of, whether the question of preserving all rights under recognizances has been considered by the committee? Does the bill do that?

Mr. GARLAND. Yes, sir; everything——

Mr. HOAR. For instance, when a person has given bail to appear at one time, what is the effect of the bill on that obligation?

Mr. GARLAND. I am informed by the Representatives and Senators interested that there is no trouble in that respect at all. Everything has been cared for, and the only reason for fixing the 1st of March was for the very purpose of avoiding all trouble on the point suggested.

Mr. HOAR. My question was to the Senator reporting the bill, not to Representatives and Senators of Texas. As I understand, the bill changes the civil and criminal terms of the courts in the western district of Texas, changes the day of holding them; and it is to take effect within fifteen days from the present time. My question to the Senator is whether the bail given by criminals to appear at the old time at the old place is in any way saved in this bill? I did not hear any such provisions; and I ask whether there should not be some holding of the court at the old time, so that in all cases of recognizances and bail-bonds the rights of the Government may be preserved? Otherwise very serious questions may arise. That is the inquiry which I ask the honorable Senator.

Mr. GARLAND. I understand it now. The question has been considered by the committee not only in this case, but in the case in reference to Virginia which passed last week. The committee is of the opinion that the Government would not be injured in that respect, and it cannot run any hazard at all.

Mr. HOAR. Will the Senator inform me why not?

Mr. GARLAND. That would take some time. I should have to cite a great many cases, and it would take a long argument; but I have answered the question directly that the Senator has propounded. I feel sure that the general statutes on the subject of changing the terms of circuit and district courts are sufficient on this point. If the Senator desires a report upon that subject or a speech of some length, of course I can make it.

Mr. HOAR. I suppose that every Senator is responsible for the preservation of the interests of the United States, for the correctness of legislation. The Congress certainly can pass no law impairing the obligation of a contract; and a change of the time and place of holding a court, if it required the bail to see that the principal was present at the new time and place, would change the contract. Therefore the criminal would be discharged. It has been usual when a law goes into operation between two terms of a court to insert a saving clause that the appearance should be made at the old place and time,

and then the case continued to the new, so that there might be an opportunity for the bail to discharge themselves.

I interpose an objection to the consideration of the bill at this time.

The VICE-PRESIDENT. The Chair does not understand the Senator.

Mr. HOAR. I understand that unanimous consent is asked for the consideration of the bill. I desire to object.

The VICE-PRESIDENT. Unanimous consent was asked, and there being no objection the bill has been considered. The question is whether the bill shall be ordered to a third reading.

Mr. HOAR. It seems to me that the Senate should put in the usual amendment to the bill before it passes.

Mr. MAXEY. The bill reported by the Senator from Arkansas, on behalf of the Judiciary Committee, is one of great importance and very urgent, because the Legislature of Texas is now in session, and it is desired to make the holdings of the State courts correspond to the holding of the United States circuit and district courts. I am receiving dispatches in regard to it, and I know it to be important.

The point raised by the Senator from Massachusetts was considered by the Judiciary Committee, as the Senator who reported the bill has informed us. I am not prepared to state what would be the ruling in the Federal courts in this regard. I do know, however, that in the State courts where I have knowledge of the practice it is regarded as not in any way whatever affecting the contracts so far as bail and other bonds are concerned. Being a public act of which all persons take notice those giving bail bonds are required to conform their appearance to the change in the holding of the court, it being a jurisdictional question and not a question relating to contracts.

Mr. HOAR. I will not insist further on the objection, but——

Mr. MAXEY. I hope the Senator will not, for I want the bill passed.

Mr. HOAR. I desire to say to the Senator from Texas, however, that that precise point was made on a bill which came from the Judiciary Committee at the close of the last session in regard to some other State, and the members of that committee themselves conceded the necessity of a provision reserving the rights of the Government, and an amendment was put in on the floor of the Senate. I am very much surprised, if I have correctly heard the reading of the bill, at the expression of opinion by that learned and able committee that you may pass a law simply changing the time and place of holding a court and compel all persons who, as sureties for criminals, have undertaken to see that they are present at one place and at one time to have their principal present at another place and at another time. It is certainly a novel doctrine; but if the Judiciary Committee, as the Senator says, have carefully considered this, perhaps they have ascertained that there are no criminals in Texas.

Mr. MAXEY. This is precisely like a bill that has already passed at the present session in regard to the courts in the western district of Virginia, and no objection was raised; and I can see no reason why objection should be raised now.

The bill was ordered to a third reading, read the third time, and passed.

### COMMITTEE ON THE JUDICIARY.

Mr. THURMAN. I am instructed by the Committee on the Judiciary to say to the Senate that in order to discharge its duties it is very important that that committee should have leave during the remainder of this session to sit during the sittings of the Senate, whenever it may find it necessary to do so; and I ask leave of the Senate that it may so sit.

The VICE-PRESIDENT. The Senator from Ohio, from the Committee on the Judiciary and in behalf of that committee, asks that that committee may have leave to sit during the sessions of the Senate for the remainder of the present session of Congress. The Chair hears no objection, and the leave is granted.

### BILL INTRODUCED.

Mr. FERRY asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 159) in relation to the barge W. I. Spicer; which was read twice by its title, and referred to the Committee on Commerce.

### ARMY APPROPRIATION BILL.

The VICE-PRESIDENT appointed Mr. WITHERS, Mr. EATON, and Mr. BLAINE the conferees on the part of the Senate on the disagreeing votes of the two Houses upon the bill (H. R. No. 6719) making appropriations for the support of the Army for the fiscal year ending June 30, 1882, and for other purposes.

### AMENDMENTS TO BILLS.

Mr. HARRIS, from the Committee on the District of Columbia, reported an amendment intended to be proposed to the bill (H. R. No. 7035) making appropriations for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. JOHNSTON, from the Committee on Agriculture, reported an amendment intended to be proposed to the bill (H. R. No. 7099) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. WITHERS, Mr. BECK, and Mr. MCMILLAN submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

### POTOMAC LONG BRIDGE.

Mr. INGALLS submitted the following resolution:

*Resolved*, That the commissioners of the District of Columbia be directed to report to the Senate what damage has been done to the Long Bridge by the recent flood in the Potomac, and whether in repairing the same some method cannot be adopted that will diminish the probability of inundations of the city hereafter.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. INGALLS. My object in introducing the resolution is to call attention to the fact that a very large proportion of the disaster that befell this city on Saturday last is undoubtedly due to the faulty construction of the Long Bridge. Two or three spans of that structure were removed and now stand upon the ice perhaps a thousand feet below the piers from which they were swept. It is the judgment of those best qualified to pass opinion upon the subject, I believe, that if a clear water-way had been left under that bridge the city would have been protected from that calamity. I hope that some action will be taken by the commissioners and by Congress in the repair of that bridge to remove those causeways and prevent a repetition of the disaster that has befallen the city.

The resolution was agreed to.

### NEW YORK CUSTOMS SERVICE.

Mr. HOAR submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to report to the Senate the rules of admission to the customs service at New York approved by the President March 6, 1879, and January 30, 1880, and such statement of the proceedings under the same as may show the practical effect of the operation of said rules upon the public service.

### MAIL CONTRACTS.

Mr. PLATT submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Post-Offices and Post-Roads be instructed to inquire whether the practice of the Post-Office Department in letting contracts for the transportation of the mails to persons who, though the lowest bidders therefor, do not intend personally to perform such contracts, but make them solely for the purpose of speculation, is in accordance with public policy, and if not, what means can be devised to prevent the same, and report by bill or otherwise.

### ADJUSTMENT OF PENSION APPLICATIONS.

Mr. DAVIS, of West Virginia. I offer a substitute for the resolution offered by the Senator from Kansas [Mr. INGALLS] a few days ago, providing for the appointment of three Senators to sit during the recess of the Senate for the purpose of inquiring into the state of the law relative to the adjustment of pensions. I ask that it be printed, so that when the resolution is called up I may move it.

The substitute is as follows:

That a committee of three Senators be appointed by the Chair to sit during the recess of the Senate, with power to employ a stenographer, who shall also act as clerk, to send for persons and papers, administer oaths and examine witnesses, for the purpose of informing the Senate as to the defects of the present pension system, and the remedy therefor, with authority to report at the next session of the Senate, by bill or otherwise, what measures are necessary to prevent frauds and secure the early adjudication of all applications for pension.

The VICE-PRESIDENT. The proposed substitute will be printed and laid on the table, subject to the call of the Senator from West Virginia.

### MORNING HOUR.

Mr. CAMERON, of Wisconsin. I ask unanimous consent that Senate bill No. 155 may be taken up and considered at this time.

The VICE-PRESIDENT. The Chair will first ask the Senate to indicate the order of proceeding under the order by which the Senate now meets at eleven o'clock. At the last session the Journal records as follows:

The hour of half past twelve o'clock having arrived, the President *pro tempore* asked the Senate to place its construction upon the order of February 5, 1880, known as the "Anthony Rule," and submitted the following proposition: "Does the consideration of the Calendar continue until half past one o'clock, notwithstanding the change of the hour of meeting of the Senate?"

It was unanimously determined in the affirmative.

Shall that be the rule of the Senate for this session? As many as are in favor will say "ay;" opposed "no." [putting the question.] The ayes evidently have it; the ayes have it.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1830) granting a pension to Peter Grattan;

A bill (H. R. No. 1996) for the relief of W. A. Reid;

A bill (H. R. No. 4206) confirming and vesting the title to a certain tract of land in Burlington, Iowa, "in the independent school district" of said city;

A bill (H. R. No. 5832) for the relief of David W. Bell;

A bill (H. R. No. 5989) regulating the importation of raw materials to be manufactured in the United States and used in the construction and repair of vessels employed in the foreign trade, including

the trade between the Atlantic and Pacific ports of the United States, or built for foreign account; and

A bill (H. R. No. 7030) regulating the pension of William Blaisdell.

The message also announced that the House had passed the following bill and joint resolution:

A bill (S. No. 711) amending the charter of the Freedman's Savings and Trust Company, and for other purposes; and

A joint resolution (S. R. No. 152) granting the use of artillery, tents, &c., to be used at the soldiers' reunion to be held at Lincoln, Nebraska, in the month of September of 1881.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 752) granting an increase of pension to Crafts J. Wright; and it was thereupon signed by the Vice-President.

DISTRICT MUNICIPAL CODE.

Mr. HARRIS. Mr. President——

The VICE-PRESIDENT. The Chair had recognized the Senator from Wisconsin, [Mr. CAMERON,] whose rights will be reserved.

Mr. HARRIS. The further consideration of the resolution which I had the honor to report from the Committee on the District of Columbia, providing for the holding of night sessions for the consideration of the District code bill was postponed several days ago until to-day. I desire very much that the Senate should vote upon that resolution this morning; and all I desire to say is that unless night sessions are granted I am sure that in the present condition of the Senate the bill cannot be considered, and unless they are granted at once it will be wholly unnecessary to consider it, because if the bill shall be passed at a later day it will be impossible to enroll it. I hope the Senate will consent to vote upon the resolution this morning, and if the Senate votes it down I promise not to harass the ear of the Senate again by asking consideration of the same. I simply desire to test the sense of the Senate upon the question.

The VICE-PRESIDENT. The resolution will be read.

The CHIEF CLERK. As proposed to be amended by the Senator from Maryland, [Mr. WHYTE,] the resolution reads:

*Resolved*, That on and after Monday the 14th of February, 1881, the Senate will take a recess at —— o'clock p. m. and meet at seven and a half o'clock p. m. for the purpose of considering House bill No. 5541, entitled "An act to establish a municipal code for the District of Columbia," and will continue so to meet each day until the same shall have been finally acted upon by the Senate.

The VICE-PRESIDENT. The resolution calls for the enactment of a special order, and will require a vote of two-thirds.

Mr. THURMAN. I only wish to occupy one minute's time to say that I do sincerely hope the Senate will not agree to the resolution. I do not believe that we ought to hold night sessions where we can avoid it.

Mr. KERNAN. Particularly when we meet at eleven.

Mr. THURMAN. When we meet at eleven o'clock particularly; nor do I believe it is possible to take up that voluminous bill and give it that careful consideration which it ought to receive, dealing as it does with a multitude of offenses and with various subjects of great importance to the people of this District at this session of Congress, when we have but a little more than two weeks to work. The bill ought to go over and be introduced and taken up at the next session of Congress, when there would be more time to consider it.

Mr. JOHNSTON. I understand that the bill covers over three hundred pages.

Mr. HARRIS. Three hundred and thirty-five.

Mr. JOHNSTON. Amendments have been proposed to it, and some of the amendments relate to important subjects—compulsory education, the collection of the revenue, and licenses—that will lead to a very prolonged debate. I hope the Senate will be allowed to proceed to other and important urgent business.

Mr. HARRIS. If the Senator from Virginia will allow me, there are but three questions that will consume any time, but they may consume some time; it depends upon the temper of the Senate. All I ask is a vote of the Senate, and I shall cheerfully acquiesce in its judgment.

Mr. KERNAN. I think the chairman of the Committee on the District of Columbia has done his duty fully, but that we ought to take the responsibility of defeating the resolution; and to test that, I move to lay the resolution on the table.

Mr. KIRKWOOD and Mr. WHYTE addressed the Chair.

The VICE-PRESIDENT. The question is on the motion of the Senator from New York, to lay the resolution on the table, which is not debatable.

Mr. WHYTE. I ask the Senator from New York to withdraw his motion for a moment, and I shall renew it.

Mr. KERNAN. Certainly.

Mr. WHYTE. I should like to state to the Senate the condition of this bill.

Mr. KIRKWOOD. Will the Senator allow me to indicate an amendment I should like to move before he goes on?

Mr. WHYTE. Certainly.

Mr. KIRKWOOD. It is to strike out all after the word "considering" in the clause "for the purpose of considering House bill No. 5541," &c., and to insert "the Calendar." That would give us night sessions, and give us the Calendar to work upon during those night sessions. I propose to move that amendment.

Mr. WHYTE. I cannot yield to the Senator from Iowa, because the Senator from New York has been kind enough to withdraw his motion to lay on the table to enable me to say a few words in regard to this resolution, when I will renew his motion.

Mr. President, I was about to say that this bill is not an ordinary bill introduced into Congress and passed by one House and then about to be acted upon by another branch of the legislative department, but the bill is a codification of laws now existing and being in operation in the District of Columbia, combined of general statutes of the United States, old local laws of Maryland which have been in operation for many years in the District, and special statute laws operating upon the District itself.

This codification is the result of the work of a commission appointed under an act of Congress, which was passed in 1878, creating the present form of government for the District of Columbia. It is therefore a digest or a code of many laws now in existence in this District, but scattered, some of them almost traditionary in their character, being old laws of Maryland that are brought into operation here on spasmodic occasions. This code was submitted by the commission so appointed as its work. It was examined in the House by a sub-committee appointed specially for that purpose, was reported away back a year ago in the House of Representatives, considered at night sessions in the House, deliberately considered, and it passed the House and came here in March, 1880. It was referred to the Committee on the District of Columbia of the Senate. That committee before the adjournment of Congress at its last session obtained authority from the Senate to sit during the recess, and it appointed a sub-committee, the honorable chairman of that committee being one and another Senator and myself acting as the sub-committee, and during the summer and fall we examined with great care this report of the code. We have made certain amendments to it, but there are very few of them. They can be explained to the Senate in a very short time. The great body of the work will give rise to no discussion at all. Much of it is mere detail work and can be passed through the Senate without objection from any quarter.

There are only two or three propositions, which can be discussed under a five-minute rule or certainly a ten-minute rule and disposed of. It is all-important that the great body of this bill should be disposed of immediately, and the few members who are interested in it I am sure would attend a night session and allow the bill to be passed so far as there is no objection, reserving for those Senators who desire to discuss other branches of the bill those portions of the bill for their discussion. But if the bill does not pass at this session the work has to be begun all over again next December; it has to be begun again in the House and run the ordeal of nearly three hundred members, and then to come back here and go through the same process of labor and toil for other Senators, when the work has been done by members of this body, perhaps not as intelligently as might have been done by others, but certainly as conscientiously as that duty could have been discharged by anybody. Our work will be vain; the work of the recess, the work of last fall, the work of this session, will all be lost unless the Senate is willing to give us one or two nights to dispose of the bill.

I renew the motion of the Senator from New York to lay the resolution on the table.

The motion was agreed to; there being on a division—ayes 35, noes 14.

EVENING SESSIONS FOR THE CALENDAR.

Mr. TELLER submitted the following resolution; which was ordered to lie on the table and be printed:

*Resolved*, That on and after Tuesday, the 15th instant, the Senate will take a recess at —— and meet again at half past seven p. m. of the same day, to consider the cases on the Calendar, and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question, and the objection may be interposed at any stage of the proceedings.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 5989) regulating the importation of raw materials to be manufactured in the United States and used in the construction and repair of vessels employed in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, or built for foreign account—to the Committee on Finance.

A bill (H. R. No. 1830) granting a pension to Peter Grattan—to the Committee on Pensions.

A bill (H. R. No. 1996) for the relief of W. A. Reid—to the Committee on Claims.

A bill (H. R. No. 4206) confirming and vesting the title to a certain tract of land in Burlington, Iowa, "in the independent school district" of said city—to the Committee on Public Lands.

A bill (H. R. No. 5832) for the relief of David W. Bell—to the Committee on Post-Offices and Post-Roads.

A bill (H. R. No. 7030) regulating the pension of William Blaisdell—to the Committee on Pensions.

ORDER OF BUSINESS.

Mr. CAMERON, of Wisconsin. Mr. President——

Mr. COCKRELL. I ask for the regular order.

The VICE-PRESIDENT. The regular order is the consideration of the Calendar of General Orders under the standing order of the day.

Mr. WALLACE. I gave notice on Saturday at the adjournment that I should ask the Senate immediately on the conclusion of the morning business to-day to take up the Post-Office appropriation bill, and I now ask the Senate to proceed to its consideration.

The VICE-PRESIDENT. The Senator from Pennsylvania moves that the pending order, being the consideration of the Calendar of General Orders under the standing order of the day, be postponed. The question is on the motion to postpone.

The motion was agreed to.

The VICE-PRESIDENT. The Senator from Pennsylvania now moves that the Senate proceed to the consideration of the Post-Office appropriation bill.

Mr. KIRKWOOD. Before that motion is put, I should like——

Mr. WALLACE. Let the bill be taken up and I will yield the floor to the Senator temporarily.

Mr. KIRKWOOD. The condition of things is this: I am exceedingly anxious to have the cattle-diseases bill get the right of way in the morning hour. It seems to me the proper mode would be, if it can be done, to take up the cattle-diseases bill in the morning hour, and then lay it aside informally, giving the appropriation bill the day.

Mr. JOHNSTON. I propose to move to take up the cattle-diseases bill as soon as I can get the floor.

Mr. WALLACE. I ask that the question be put on taking up the Post-Office appropriation bill. I am willing after that to yield the floor to the Senator from Iowa temporarily.

Mr. KIRKWOOD. But that does not give the cattle-diseases bill the right of way in the morning hour hereafter. That is what I want. I am perfectly willing that the Post-Office appropriation bill should take this day.

Mr. WALLACE. I cannot do that. The Senator must make his bargain with the Senate. I will yield the floor to him to make that motion after the Post-Office appropriation bill is up.

Mr. KIRKWOOD. I hope, then, that the Senate will not take up that bill now, but will vote the motion down, and let us take the cattle-diseases bill up, and when that shall be taken up the gentlemen who are promoting that bill will consent that it be laid aside informally to go on with the appropriation bill, thus giving to that bill the whole day.

Mr. WALLACE. I cannot consent to any motion to postpone the consideration of this important appropriation bill. We have spent four days upon it now, and we are likely to run into the night with its consideration to-day, and therefore I trust the Senate will proceed with it.

Mr. KIRKWOOD. I ask for the yeas and nays on the motion of the Senator from Pennsylvania.

The VICE-PRESIDENT. On the motion to proceed to the consideration of the Post-Office appropriation bill at this time the Senator from Iowa demands the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSTON. I hope the matter may be arranged in this way: I regard the cattle-diseases bill as so urgently important that I think it should be considered to the exclusion of all other matters, except appropriation bills. I propose to make a motion to lay aside or postpone the pending and all prior orders, with a view to proceed to the consideration of the cattle-diseases bill. If that motion should prevail, then I would yield to allow the Post-Office appropriation bill to go on to a conclusion, and at the conclusion of that the cattle-diseases bill would be the regular order. To carry out that programme, I move that the pending and all prior orders be postponed, intending to follow it up, if that should be agreed to, by allowing the Post-Office appropriation bill to go on, so that the cattle-diseases bill will be the regular order. I make that motion.

The VICE-PRESIDENT. That motion is not now in order. There is a motion already pending, which is that of the Senator from Pennsylvania, which must be disposed of first.

Mr. INGALLS. The Senator from Iowa and the Senator from Virginia are laboring under a misapprehension as to the effect of the rule. They get no right of way during the morning hour. Suppose the cattle-diseases bill should be taken up now, it would fall with the morning hour, and have no right of way for to-morrow. There is no unfinished business during the morning hour. Therefore it appears to me that the motion of the Senator from Pennsylvania ought to prevail. We should get rid of the appropriation bill, and then we can take up the funding bill or the cattle-diseases bill.

The VICE-PRESIDENT. The Chair will state to the Senator from Virginia that, the motion of the Senator from Pennsylvania failing, his motion will then be in order, and the Chair will recognize him for that purpose. But the pending question is on the motion of the Senator from Pennsylvania, that the Senate now proceed to the consideration of the Post-Office appropriation bill, upon which the yeas and nays have been ordered.

Mr. EDMUNDS. As the yeas and nays are to be taken I wish to say that I shall vote in the affirmative, because we have always found ourselves obliged and benefited in respect of standing to the understanding that the appropriation bills whenever they were ready should be first considered and all the time until they were disposed of. I know that it is now a little in advance of the time at which regularly under the rules the Post-Office appropriation bill would come up; but I think it would be a great advantage to the disposition of the business of the Senate if we did not have this space between the order for the introduction of resolutions and the unfinished business, for half of it is spent in doing exactly what I am doing now—in a discussion as to what shall be taken up. I think the Senator from Pennsylvania well conserves the time of the Senate by making his motion immediately after the introduction of bills, &c., is gone through with. Let us dispose of the Post-Office appropriation bill; then let us decide as rapidly as we can what we will take up next, and let us dispose of that before we do anything else, and if we stick to it we shall get more business done during this session than in any other way.

Mr. KIRKWOOD. I have but a word to say. I have felt it to be my duty to make this antagonism, if it shall be so called, in favor of the cattle-diseases bill. I shall feel that I have been utterly derelict to the people of the country in which I live if that bill shall fail for want of attention, and I shall feel that the public not only of that section but of the whole country have suffered injury that it will be very difficult to repair. I therefore seek to test the sense of the Senate upon the question whether or not it shall have preference.

Mr. BAYARD. I merely desire to remind the Senate that at the expiration of the morning hour, according to the notice given by me last Friday, I should ask for the consideration of the funding bill; but as this appropriation bill now stands I shall vote for the motion of the honorable Senator from Pennsylvania to take it up, and shall then vote to continue it until it shall be finally disposed of; but immediately upon that disposition I shall ask the Senate to proceed to the consideration of the funding bill, and to continue its consideration until it shall be concluded.

Mr. SAUNDERS. When the resolution was up providing for the meeting of the Senate at the hour of eleven o'clock instead of twelve, I voted for it and others did with the understanding that we were to have a longer time for the morning hour; and I understood that it had been decided that morning that we should have until half past one. I supposed then we were to have that time for the regular business of the Calendar. I am in favor, of course, of taking up the bill proposed by the Senator from Pennsylvania, but I want to put it off until we can get through the business of the morning hour and have the Calendar regularly taken up till half-past one o'clock, and then give the appropriation bill the rest of the day, and then take up the other bills indicated. I think we ought to settle it now, and settle it in favor of giving the hour after the morning business is done until half-past one o'clock to the Calendar. If we do not I do not see how we are to get through with it at all. I shall vote against the motion of the Senator from Pennsylvania for the reason that I want to take the Calendar up until half past one o'clock.

The VICE-PRESIDENT. The question is on the motion of the Senator from Pennsylvania, to proceed to the consideration of the Post-Office appropriation bill.

The question being taken by yeas and nays, resulted—yeas 44, nays 12; as follows:

YEAS—44.

| | | | |
|---|---|---|---|
| Allison, | Coke, | Hill of Georgia, | Rollins, |
| Bailey, | Davis of W. Va., | Ingalls, | Slater, |
| Baldwin, | Dawes, | Jonas, | Thurman, |
| Bayard, | Edmunds, | Kernan, | Vance, |
| Beck, | Farley, | Maxey, | Vest, |
| Blair, | Ferry, | Morgan, | Voorhees, |
| Booth, | Garland, | Morrill, | Walker, |
| Butler, | Groome, | Pendleton, | Wallace, |
| Call, | Hampton, | Plumb, | Whyte, |
| Cameron of Wis., | Harris, | Pugh, | Windom, |
| Cockrell, | Hereford, | Ransom, | Withers. |

NAYS—12.

| | | | |
|---|---|---|---|
| Anthony, | Hill of Colorado, | Paddock, | Saunders, |
| Burnside, | Johnston, | Platt, | Teller, |
| Davis of Illinois, | Kirkwood, | Randolph, | Williams. |

ABSENT—20.

| | | | |
|---|---|---|---|
| Blaine, | Conkling, | Jones of Florida, | McDonald, |
| Brown, | Eaton, | Jones of Nevada, | McMillan, |
| Bruce, | Grover, | Kellogg, | McPherson, |
| Cameron of Pa., | Hamlin, | Lamar, | Saulsbury, |
| Carpenter, | Hoar, | Logan, | Sharon. |

So the motion was agreed to.

Mr. JOHNSTON. I give notice now that to-morrow, in the morning hour, when the regular morning business shall be through, I shall ask the Senate to take up and consider the bill I tried to get up this morning; and failing in that, I shall endeavor to take it up at the conclusion of the Post-Office appropriation bill. I consider it so urgent in importance that I shall push it with all the means in my power.

Mr. KIRKWOOD. I suggest to the Senator from Virginia would it not be well to give notice of his intention to call up the cattle-diseases bill immediately on the conclusion of this appropriation bill?

Mr. JOHNSTON. I have given that notice, and lest it should take all day I have mentioned the morning hour to-morrow.

Mr. KIRKWOOD. It may be through this afternoon in time to make some progress to-day with the cattle-diseases bill.

## POST-OFFICE APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont [Mr. MORRILL] to lay the pending amendment on the table.

Mr. MORRILL. When I made the motion to lay this amendment on the table, I had supposed the motion would only apply to the amendment offered by the Senator from Alabama, [Mr. MORGAN.] The Chair has, however, held that it would not only carry that amendment but the original amendment of the Committee on Post-Offices and Post-Roads. I was anxious that the debate upon this bill should be concluded at an early day. If now I have the power to withdraw the motion to lay on the table I will do so, in order that we may get a direct vote upon the question of order.

Mr. INGALLS. Have the yeas and nays been ordered?

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The yeas and nays have been ordered.

Mr. INGALLS. I object to the withdrawal.

The PRESIDING OFFICER. Then the motion cannot be withdrawn after the ordering of the yeas and nays.

Mr. EDMUNDS. It can be withdrawn by the leave of the Senate. A majority can allow it to be withdrawn.

The PRESIDING OFFICER. That is true. The Senator from Vermont [Mr. MORRILL] asks leave of the Senate to withdraw his motion. The question is on granting leave.

Leave was granted.

The PRESIDING OFFICER. The motion is withdrawn. The question now is, Is the amendment offered by the Senator from Alabama [Mr. MORGAN] in order?

Mr. MORGAN. On Saturday when I offered this amendment it was objected to by the Senator from Pennsylvania [Mr. WALLACE] as not in order. The Chair submitted the question to the Senate. Then a motion was made to lay my amendment on the table. A vote was taken on that motion, when no quorum voted, and the yeas and nays were ordered. The point I make is that the Senate has taken jurisdiction of this amendment; it has been so far received as that a division was taken upon it, and then a call for the yeas and nays made upon it, and the call was sustained, and the Senate this morning released the amendment from the grasp of that call by consenting that the honorable Senator from Vermont might withdraw his motion to lay on the table. After by the consent of the Senate the case has reached that stage, I make the point that the question of order has been overruled by the Senate, and that it is not now in order to raise that question again. The Senate has acquiesced in dispensing with the consideration of the question of order made by the Senator from Pennsylvania in this manner, and I now maintain that the question of order is not open to be raised by any Senator.

The PRESIDING OFFICER. The Chair holds that upon the withdrawal of the motion of the Senator from Vermont [Mr. MORRILL] to table the amendment the question stands exactly as it did before he made the motion, and the question is now, if that view be correct, whether the amendment offered by the Senator from Alabama [Mr. MORGAN] is in order or not. Is the amendment offered by the Senator from Alabama to the amendment proposed to the bill by the Committee on Post-Offices and Post-Roads in order?

Mr. EDMUNDS. Let the amendment in question be reported.

The Chief Clerk read the following amendment proposed by Mr. MORGAN to be added to the amendment of the Committee on Post-Offices and Post-Roads:

When vessels built in other countries are so accepted and employed, the same shall be entitled to all the rights and privileges secured by law to vessels built in the United States of America, except the privilege of engaging in the coastwise trade.

Mr. EDMUNDS. Now let the amendment to which this is proposed as an amendment be read.

The PRESIDING OFFICER. The Secretary will now read the amendment proposed by the Senator from Alabama, [Mr. PUGH,] which has been decided to be in order.

The CHIEF CLERK. At the end of section 1, the amendment is to insert:

For additional postal service to foreign countries, $1,000,000, to be expended, under the direction of the Postmaster-General, in the establishment of mail-steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports: *Provided*, That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted to such service.

Mr. EDMUNDS. The pending question, if I understand it, is the question whether the amendment of the Senator from Alabama is in order under the rule about appropriation bills.

The PRESIDING OFFICER. Under Rule 29.

Mr. EDMUNDS. And am I right in supposing that the Senate has decided that the amendment of the Post-Office Committee is in order?

The PRESIDING OFFICER. That was the decision of last Friday.

Mr. EDMUNDS. Then, Mr. President, I shall feel compelled to vote that the amendment of the Senator from Alabama is in order also, following the last judgment of the Senate, which I should vote to reconsider because until the vote was passed I thought it to be wrong. I think so still, as far as I am entitled to think so with respect to the deliberate judgment of the Senate on a question of order. But the Senate having decided, and not proposing to reconsider that decision, that it is in order to put on this bill a provision of an appropriation bill regulating the establishment of steamship lines by law and a suitable distribution of those lines between Atlantic, Gulf, and Pacific ports, and providing a specific law as to the character, the ownership, the structure of those vessels, and so on, making a new law which regulates not merely the appropriation of this one million of money, but regulating the fact regarding these vessels, their structure, how they shall be employed, and so forth, it is impossible for me to say that an additional provision on the same subject and in the same line, prescribing other qualifications for vessels to be so employed, is not in order. To my mind it clearly is if the first one was, and the Senate has decided that it was.

Mr. HAMLIN. Will the Senator from Vermont allow me to say a word?

Mr. EDMUNDS. With pleasure.

Mr. HAMLIN. I think in the Senator's absence from the Senate he has not called to mind that he is not referring to the last decision of the Senate. The Senate did rule by its vote that the amendment presented originally by the Senator from Texas [Mr. MAXEY] was in order. I submitted an amendment to it simply to define more specifically what was included in the amendment of the Senator from Texas, and the Senate ruled that out of order. Now I insist that the Senator from Vermont is not quoting from the last decision of the Senate; there was one subsequent to the one he has referred to.

Mr. EDMUNDS. I have been ill for two or three days and have not been in the Senate except for a very short time in the morning, and ought not to be here now, and so I was not advised in respect of the suggestion that the Senator from Maine makes. Inasmuch as I do not know what the precise character of the amendment of the Senator from Maine was, and do not know what the vote of the Senate was upon it, except as stated by my friend from Maine, no doubt correctly, I am unable to judge whether his amendment would fall within the suggestions I am endeavoring to make; and so I must leave that, as I am ignorant of it, to take care of itself. But certainly we have now before us two amendments, one which the Senate has declared to be in order, which, as I said before, makes a permanent, specific, legislative provision not controlling merely the disposition of the one million of dollars provided for, which might bring it nearer to the rule, but providing for a general establishment, with all the qualities that, if it were an independent bill without any appropriation at all, it should possess; the Senator from Alabama proposes to modify that establishment in the way indicated by his amendment. Now standing upon the fact that the amendment of the Senator from Texas is regularly before the Senate, then it seems to me, as I should have thought in the case of the Senator from Maine, to be almost trifling with a subject of this character to say that that amendment itself was not capable of being put into suitable shape. So, although I think the original amendment was clearly out of order, I shall vote to proceed to the consideration of the amendment of the Senator from Alabama, and I say that without any reference to the merits of the amendment, which I do not at present choose to say anything about.

Mr. BAYARD. I am one of those who believed that the original amendment to which this is offered was out of order; but the Senate decided otherwise. I am equally clear in my judgment that the amendment of the honorable Senator from Alabama is in conflict with the rules of the Senate, and that it does propose a change in the features of the existing law upon an appropriation bill by way of amendment. What is it?

When vessels built in other countries are so accepted and employed, the same shall be entitled to all the rights and privileges secured by law to vessels built in the United States of America.

Can the laws securing privileges peculiarly to American-built and American owned vessels be extended to foreign-built and American-owned ships accepted for the purpose of mail carriage, without a change in existing law? It seems to me you have but to state the proposition to have it answer itself.

I suggested to my friend from Alabama, as I did in the original debate on the amendment of his colleague, or the amendment of the honorable Senator from Texas, what would be the effect of adding to the original amendment the words "according to the provisions of existing law." It would be undoubtedly to make that amendment clearly inoperative, and that struck me as being the crucial test whether or not existing laws were changed by proposing to confine the amendment and limit it to the provisions of existing law. If those additional words would render the amendment nugatory then it is clear that the amendment is out of order. If the words "according to the provisions of existing law" be added to the amendment which bears the name of the honorable Senator from Texas, [Mr. MAXEY,] though offered by the honorable Senator from Alabama, [Mr. PUGH,] in my judgment it could never be carried into effect because there are no existing laws warranting it.

This amendment is going still further in the same direction. You are legislating anew; you are creating provisions of general law which do not now exist; and that you do, in my judgment, in defiance of Rules 28 and 29 of the Senate's code, by attempting by an amendment to change existing law on an appropriation bill.

Mr. WILLIAMS. I rise only to make a suggestion. I understand that now we are proceeding under the Anthony rule, which limits debate to five minutes by each Senator. We have occupied four or five days in discussing mere questions of order on this bill. I hope, as we are proceeding under that rule, that it will be enforced as to discussion.

The PRESIDING OFFICER. The question is whether the amendment offered by the Senator from Alabama [Mr. MORGAN] is in order?

Mr. COCKRELL. I understand we are not proceeding under the Anthony rule limiting debate to five minutes. That has been set aside.

The PRESIDING OFFICER. Those who are of opinion that the amendment offered by the Senator from Alabama is in order will make it known by saying "ay;" those of the contrary opinion, "no," [putting the question.]

Mr. EDMUNDS. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. HAMPTON, (when his name was called.) I am paired with the Senator from Nebraska, [Mr. SAUNDERS.]

The roll-call having been concluded, the result was announced—yeas 18, nays 32.

YEAS—18.

| | | | |
|---|---|---|---|
| Brown, | Garland, | Kirkwood, | Vance, |
| Call, | Hill of Georgia, | Lamar, | Walker, |
| Coke, | Johnston, | Maxey, | Williams. |
| Edmunds, | Jonas, | Morgan, | |
| Farley, | Kellogg, | Pugh, | |

NAYS—32.

| | | | |
|---|---|---|---|
| Allison, | Davis of Illinois, | Ingalls, | Rollins, |
| Bailey, | Davis of W. Va., | McMillan, | Slater, |
| Baldwin, | Dawes, | Paddock, | Teller, |
| Bayard, | Eaton, | Pendleton, | Vest, |
| Blair, | Ferry, | Platt, | Voorhees, |
| Booth, | Groome, | Plumb, | Wallace, |
| Butler, | Harris, | Randolph, | Whyte, |
| Cameron of Wis., | Hereford, | Ransom, | Windom. |

ABSENT—26.

| | | | |
|---|---|---|---|
| Anthony, | Cockrell, | Jones of Florida, | Saulsbury, |
| Beck, | Conkling, | Jones of Nevada, | Saunders, |
| Blaine, | Grover, | Kernan, | Sharon, |
| Bruce, | Hamlin, | Logan, | Thurman, |
| Burnside, | Hampton, | McDonald, | Withers. |
| Cameron of Pa., | Hill of Colorado, | McPherson, | |
| Carpenter, | Hoar, | Morrill, | |

The PRESIDING OFFICER. The Senate decides that the amendment of the Senator from Alabama is not in order. The question is on the amendment offered by the Committee on Post-Offices and Post-Roads.

Mr. MORGAN. In line 7, before the word "iron," I propose to insert the words "steel or."

Mr. EDMUNDS. Is that in order? It changes the character of this amendment decidedly.

The PRESIDING OFFICER. The Secretary will report the amendment again.

The CHIEF CLERK. In line 7, before the word "iron," it is proposed to insert "steel or;" so as to read "and that said vessels thus employed shall be steel or iron steamships."

Mr. EDMUNDS. That is legislation.

The PRESIDING OFFICER. The Chair will hold that it is in order; but will submit it to the judgment of the Senate, if it be desired.

Mr. EDMUNDS. I think it is in order, but I think it is contrary to the last vote of the Senate.

The PRESIDING OFFICER. Does the Senator desire that the judgment of the Senate shall be expressed upon it?

Mr. EDMUNDS. No, I think the Chair has decided it right.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama to the amendment.

Mr. FERRY. I object to it if the word "steel" is out of order. I would prefer to say "steel and iron" rather than "steel or iron."

The amendment to the amendment was agreed to.

Mr. MORGAN. I now move to strike out the word "owned" in line 6 and insert "officered" in lieu thereof; so as to read:

*Provided*, That the vessels employed for such service shall be officered and manned by American citizens.

Mr. WALLACE. I rise to inquire whether the effect of this amendment is not precisely to put into the original proposition that which the Senate has just now by a yea-and-nay vote declared to be out of order?

Mr. EDMUNDS. Does the Senator from Pennsylvania make the point of order?

Mr. WALLACE. I do. It is the same amendment just ruled out of order by a yea-and-nay vote.

Mr. MORGAN. I take the liberty of saying that the point of order is a very singular one to come in at this stage of the proceeding.

The PRESIDING OFFICER. The Chair submits the question of order to the Senate.

Mr. MORGAN. By the last vote we have made an amendment by which we enlarge the amendment of the Committee on Post-Offices and Post-Roads so as to include steel as well as iron steamships. The amendment proposed by the Committee on Post-Offices and Post-Roads does change the existing state of the law, I think not inappropriately, not improperly, not in violation of the rules of the Senate. The Senator from Vermont differs from me in that respect; but surely it is within the power of the Senate to modify this amendment, at least to make it more clearly in conformity with existing statutes. The laws at present authorize the Postmaster-General to make contracts for carrying the mails abroad either with American-built ships or foreign-built ships, American-owned ships or foreign-owned ships, American-officered ships or foreign-officered ships, and the amendment which I now propose brings the amendment of the Committee on Post-Offices and Post-Roads more nearly to that standard of the law which exists on the statute-book at this moment. This amendment of the committee changes that by saying that the ships shall be owned only by Americans. My amendment strikes out "owned" and substitutes "officered," so as to require not that they shall be owned here, but that they shall be officered and manned by American citizens, so that we are approaching more nearly, if we adopt my amendment, the existing state of the law.

Now, what objection can there be to amending an appropriation of the kind proposed by the Committee on Appropriations in the following words: "For transporting the foreign mails, $225,000," by saying that these foreign mails shall be carried under existing law, or by saying nothing about it and allowing them to be carried under existing law? The Postmaster-General can use that $225,000 that we are now appropriating under existing statutes by employing ships owned entirely abroad, manned by foreigners, officered by foreigners, for the transportation of our mails. The committee's amendment proposes that they shall not be owned abroad in reference to this addition to the service, but that they shall be owned at home. I move to strike out that provision in order that the Postmaster-General may be left as free in the application of this million dollars as the statutes leave him at this time in the employment of the regular appropriation in the bill upon foreign-owned ships, foreign-built ships, and foreign-officered ships. I should like to hear some Senator, particularly of that class who are exceedingly scrupulous about the amendment being within the rules of order of the Senate, explain why it is not. I should like to hear the honorable Senator from Pennsylvania explain why it is that the striking out of the word "owned" in the amendment which has been accepted by the Senate as being in order should put the amendment out of order when the amendment that I propose to the amendment of the committee only places the power of the Postmaster-General to employ these ships exactly where it stands by the existing law.

I desire that in the expenditure of this million dollars the Postmaster-General shall have the same liberty that he has under the existing statutes and no more. I am willing to have more to the extent that the steamships employed under this additional appropriation shall be officered and manned by American citizens. I would be glad that we could have ships built abroad, owned by American citizens and entitled to the privileges of American registry; but as we cannot get them now in that position, I want at least, if the ships are owned in part by Americans and in part by foreigners, that the Postmaster-General shall have the privilege, as he has now, of having the mails under contract with the Post-Office Department carried in vessels built and owned abroad, but officered by American citizens.

Mr. MAXEY. The object which I had in view was to encourage American ownership of steamships adapted to carrying the mails. The striking out of the word "owned," as proposed by the Senator from Alabama, and the insertion of the word "officered," revolutionizes the entire theory of the amendment proposed by the Committee on Post-Offices and Post-Roads.

So much for that. One other point I desire to make as to my own action. So far as I am concerned, I reported the amendment in good faith, believing it a wise measure in the interest of American shipping to encourage the purchase of vessels, built anywhere, by American citizens, to be manned by Americans and registered as American vessels. The voting down by the Senate of the amendment of the Senator from Alabama [Mr. MORGAN] is very clear notice to me at least that after the passage of the amendment offered by the Post-Office Committee such vessels shall not be registered for any purpose here, and hence the usefulness of it is destroyed. I have received that notice and shall act on it.

Mr. WALLACE. It is evident from what the Senator from Texas and the Senator from Alabama have said that the amendment of the Senator from Texas is committed to me, which, I would say, sends it to a nurse that loves it not; and in view of the fact that we can better settle this question and get the sense of the Senate as to whether they are disposed to continue the word "owned" by a direct vote upon the proposition than in any other way, I withdraw the point of order and will ask for the yeas and nays on the amendment.

Mr. EDMUNDS. I renew the point of order, Mr. President. I should like to have the Senate decide whether that amendment is in order or not.

The PRESIDING OFFICER. The question is, Is the amendment proposed now by the Senator from Alabama [Mr. MORGAN] in order?

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PENDLETON. I ask that the amendment be reported.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. In line 6 of the amendment of the Committee on Post-Offices and Post-Roads it is proposed to strike out the word "owned" and insert the word "officered."

The PRESIDING OFFICER. The question is whether this amendment is in order, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) I am paired on every

question of order as well as of merits with the Senator from Maine, [Mr. BLAINE,] who is unable to be in his seat. Therefore I cannot vote.

The roll-call having been concluded, the result was announced—yeas 14, nays 31; as follows:

YEAS—14.

| | | | |
|---|---|---|---|
| Booth, | Edmunds, | Johnston, | Vest, |
| Brown, | Garland, | Lamar, | Williams. |
| Call, | Hamlin, | Morgan, | |
| Coke, | Hill of Georgia, | Pugh, | |

NAYS—31.

| | | | |
|---|---|---|---|
| Bailey, | Ferry, | Logan, | Rollins, |
| Baldwin, | Groome, | McMillan, | Slater, |
| Bayard, | Harris, | Maxey, | Teller, |
| Butler, | Hereford, | Morrill, | Vance, |
| Cameron of Wis., | Hill of Colorado, | Pendleton, | Voorhees, |
| Davis of Illinois, | Ingalls, | Platt, | Wallace, |
| Dawes, | Jonas, | Plumb, | Whyte. |
| Eaton, | Kellogg, | Randolph, | |

ABSENT—31.

| | | | |
|---|---|---|---|
| Allison, | Carpenter, | Jones of Florida, | Saulsbury, |
| Anthony, | Cockrell, | Jones of Nevada, | Saunders, |
| Beck, | Conkling, | Kernan, | Sharon, |
| Blaine, | Davis of W. Va., | Kirkwood, | Thurman, |
| Blair, | Farley, | McDonald, | Walker, |
| Bruce, | Grover, | McPherson, | Windom, |
| Burnside, | Hampton, | Paddock, | Withers. |
| Cameron of Pa., | Hoar, | Ransom, | |

The PRESIDING OFFICER. The Senate decides that the amendment to the amendment is not in order. The question recurs on the amendment of the Committee on Post-Offices and Post-Roads.

Mr. BUTLER. I gave notice some days ago of an amendment to the amendment which I now offer. In line 5, after the word "ports," I move to insert "in proportion to the annual value of the exports from said ports to foreign countries."

Mr. WHYTE. I should like to ask the Senator from South Carolina to explain the effect of that amendment.

Mr. BUTLER. The effect of it will be to divide these lines between the Atlantic, Gulf, and Pacific ports in proportion to the value of exports from those ports.

Mr. WHYTE. What will be the effect?

Mr. BUTLER. The effect will be that the respective ports will get their share of this money, I suppose. I simply offer the amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from South Carolina to the amendment.

Mr. EDMUNDS. Is that in order?

The PRESIDING OFFICER. The Chair will submit the question if the point of order is made upon it.

Mr. EDMUNDS. I make the point of order.

The PRESIDING OFFICER. The Senator from Vermont makes the point that the amendment of the Senator from South Carolina is not in order. The Chair submits that question to the Senate.

Mr. BUTLER. Will the Senator from Vermont be kind enough to explain in what respect it is not in order?

Mr. EDMUNDS. It is legislation like the amendment of the Senator from Alabama.

Mr. BUTLER. There is no legislation about this; it is simply directing how this fund shall be distributed.

Mr. EDMUNDS. It does not say how this million dollars shall be used; it says how the steamships shall be distributed, and there is some difference between three distinct lines of steamships and a million dollars, inasmuch as each steamship will cost nearly a million itself if you have only one to a port.

The PRESIDING OFFICER. The question is whether the amendment now submitted by the Senator from South Carolina is in order? As many as are of opinion that the amendment is in order will make it known by saying "ay;" those of a contrary opinion "no," [putting the question.] The noes seem to have it.

Mr. BUTLER. I ask for the yeas and nays on that question.

The yeas and nays were ordered and taken.

Mr. HAMPTON. I am paired on this question with the Senator from Nebraska, [Mr. SAUNDERS.]

The roll-call was concluded, with the following result:

YEAS—16.

| | | | |
|---|---|---|---|
| Brown, | Garland, | Maxey, | Vest, |
| Butler, | Hamlin, | Morgan, | Walker, |
| Call, | Hill of Georgia, | Pugh, | Wallace, |
| Edmunds, | Jonas, | Vance, | Williams. |

NAYS—24.

| | | | |
|---|---|---|---|
| Bailey, | Davis of Illinois, | Ingalls, | Pendleton, |
| Baldwin, | Dawes, | Kellogg, | Platt, |
| Bayard, | Ferry, | Kernan, | Slater, |
| Blair, | Groome, | McMillan, | Teller, |
| Cameron of Wis., | Hereford, | Morrill, | Voorhees, |
| Coke, | Hill of Colorado, | Paddock, | Whyte. |

ABSENT—36.

| | | | |
|---|---|---|---|
| Allison, | Cockrell, | Johnston, | Randolph, |
| Anthony, | Conkling, | Jones of Florida, | Ransom, |
| Beck, | Davis of W. Va., | Jones of Nevada, | Rollins, |
| Blaine, | Eaton, | Kirkwood, | Saulsbury, |
| Booth, | Farley, | Lamar, | Saunders, |
| Bruce, | Grover, | Logan, | Sharon, |
| Burnside, | Hampton, | McDonald, | Thurman, |
| Cameron of Pa., | Harris, | McPherson, | Windom, |
| Carpenter, | Hoar, | Plumb, | Withers. |

Mr. McMILLAN. I desire to ask consent to withdraw my vote. I am paired with the Senator from Mississippi [Mr. BRUCE] and voted inadvertently. If it makes no difference in the result, I ask leave to withdraw the vote.

The PRESIDING OFFICER. The vote cannot be withdrawn. The Senate decides that the amendment is out of order.

Mr. EDMUNDS. Why may not the Senator from Minnesota withdraw his vote? The result has not been finally announced.

The PRESIDING OFFICER. The Senator from Minnesota asks consent to withdraw his vote.

Mr. McMILLAN. The Senator from Mississippi [Mr. BRUCE] has come in since I made the request. I withdraw my request if he wishes to vote.

Mr. BRUCE. I ask that my name be recorded.

The PRESIDING OFFICER. The Senator from Minnesota withdrawing his vote, the result is yeas 16, nays 23. The amendment is decided to be out of order. The question recurs on the amendment of the Committee on Post-Offices and Post-Roads.

Mr. BAYARD. Mr. President, I believed the amendment of the Senator from South Carolina [Mr. BUTLER] was not in order under the rules of the Senate. Otherwise I should have been disposed to vote for it, although had the original amendment prevailed I should not support the proposition as amended.

I do not propose at this stage of the session to consider at any length the present condition of the American carrying trade on the high seas, and what methods are legitimate and wise and sanctioned by the limitations of our Constitution of government for improving the facilities for the transportation of merchandise, of freight and passengers, and of general commercial intercourse between our own and foreign countries in American-built ships. I will say but this: it is a branch of industry scarcely second to any in national importance. The great element which covers the greater portion of the globe's surface is certainly well worthy consideration. It is a topic carefully to be considered in the light of history, and philosophy. It is world-wide and international in the simplest and strongest sense; and at this time there are few subjects that demand more study from those who are intrusted with the legislation of this Government.

This amendment does unquestionably touch that great question. It is the commencement of a proposed system of Government assistance to the transportation of merchandise between this and foreign countries. It is under cover of a postal system, that the real object of the measure is, I will not say concealed, but under which it lies thinly veiled from observation; and the amendment itself with much frankness discloses the real object by declaring that a million dollars is to be appropriated during the present year for "the establishment of steamship lines by the Postmaster-General to be equitably distributed between the Atlantic, Mexican-Gulf, and Pacific ports." Plainly this is a proposition that the Government of the United States shall become a trader, establish steamship lines for all the purposes for which ships are designed, Government lines for postal convenience, for the transportation of freight and passengers, and for all else that steamship lines are created. Into that business the Government of the United States is proposing to embark, and it is suggested that this is to be an assistance to the ship-builders of the country; artisans who have made the building of ships the study and occupation of their lives and are supposed, in some way not clear to my mind, to be benefited by this proposition.

Now, in two words, what does it mean? It means that the Government is to come in competition with the great body of ship-builders and ship-owners of the United States. It means that when I or any other man who has embarked his capital and skill in the construction and maintenance of steamships, has set his all upon the hazard of the die, he is to find himself in competition, with whom? With the Treasury of his own Government, that those who are the favorites of the postal Department, or of the Executive, or of Congress are to be protected and paid and fostered and capital furnished them free of cost to compete with all other citizens embarking in the same business. If this be not protection or subsidy in the worst sense it is well for us to understand it.

Mr. MORGAN. I wish to ask the Senator from Delaware if the statutes as they now exist do not furnish full and unqualified opportunity to select between foreign-owned and foreign-built ships and American-owned and American-built ships for the transportation of the mails, and whether the $225,000 appropriated in this bill may not all of it be employed by the Postmaster-General at his own option in giving bounties, if he choose to give bounties, to British steamships or to steamships of any other country in the transportation of the mails?

Mr. BAYARD. My friend will pardon me if I do not stop just now to answer his question but continue the line of objection based on principle to legislation of this kind. There is a familiar doctrine found in the Constitution of the United States and in the constitution of every State, which is the necessary outgrowth of the institution of government itself. It is that the interest of the individual or of the few must give way to that of society at large. Therefore private property may be taken for public use upon just compensation being rendered. In that way a man may be deprived of property of any description however convenient or dear to him or hallowed by association, provided compensation adjudged by a public tribunal shall be paid him for the deprivation. But where is the proposition and where in any civilized government called free can you find the

doctrine recognized that public property may be taken for private use? And yet what does this measure before us amount to? What is your subsidy after all, stripped of all its disguises, but that you do take public property for private use when you dip your hand in the Treasury under authority of this amendment and take a million dollars out to be given to A, and A alone, to aid and encourage him in his private undertaking and not to the other citizens of this country who may be engaged as meritoriously and zealously in the same branch of industry and enterprise?

I have among my constituents individuals and associated bodies of men who have been industriously engaged for as long a time, as skillfully and as successfully in the construction of iron steamships and wooden vessels of a superior class as any in the United States. I have carefully studied their interests; I am keenly alive to whatever affects them. They can build and furnish to any purchaser to-day as well-constructed, staunch, swift, seaworthy, and valuable iron steamers and wooden vessels as can any builders in the world, and their work has proved it in the Gulf of Mexico and on the Pacific. Few and distant are seas which the keels of their vessels have not vexed, and their work has stood the test of time and trial, and to-day they are prepared to execute the largest order for the best class of iron steamships. Therefore it might be supposed that my desire to serve these men, of whose interests I have personal knowledge, with whose success I have the strongest personal and local sympathy, would control me in sustaining a proposition of this kind, for they might possibly be among those likely to be applicants for this Government bounty; but I can see perfectly well that the supposed advantage is illusory and the principle which attends it false; it is the doctrine of taking public property from the common Treasury for private use; and it cannot be sustained, and the more you examine it the more its dangers and injustice reveal themselves.

I tell you, Senators, that, stripped of its disguises, the doctrine of subsidy and the doctrine of taking public property for private use grow from the same soil, and in principle cannot be distinguished one from the other. I can imagine no more dangerous and fatal principle in a popular government than to open the public treasury to the assaults of organized parties, each seeing how much they can obtain for local, sectional, personal, or class interests. The political party with which I have acted ever since I had a right to take part in the politics of the country have been for that doctrine of "hands off" by the Government in matters of individual enterprise and industry. It was a rule of action, safe, simple, and just to all, and gave no advantages to favored individuals or classes, and under it our country grew strong and gradually outstripped competitors. But now it is proposed to be abandoned, and, instead of justice to all and favor to none, the party or the section that can control most votes in Congress can carry away the most money from the Treasury; it is to be the rule of the strongest and the richest, and when it has been admitted the sun of that day will set upon the bankruptcy of our country and it will set upon the farewell of the honesty of the American people. It is a system corrupt and corrupting, and therefore it is that in all stages and at all times I oppose the principle of taking public property for private use, under the forms of legislation and the specious garb of assistance to the commerce and industries of our country.

It is an unjust perversion of the taxes wrung from the toil of our people, whose best and surest relief will be found in allowing these taxes to remain in the pockets whence they were taken by unwise and unnecessary laws.

As I said, there is no time for me now, nor am I prepared at this moment to enter upon the broad question of relief to the great business of American ship-building, and the regaining of our position as carriers upon the high seas. I know that there exist to-day burdens in the shape of local taxation, port charges, head-money, all sorts of exactions, which ought to be taken off the shipping interests. I know there is a system of fees, exactions, and charges which oppress shipping at the hands of the United States Government, and I propose to set on foot ascertainment of those charges, to be laid before Congress that they may see where legitimate relief can be given. I know that ship-owners and ship-builders are burdened by another class of exactions in the shape of the required use of patented articles, which they are compelled to purchase and employ in the construction of their ships and to carry with them on their voyages, and for which they must pay such royalty as the patentee chooses to demand. I also know that there is a system of tariff taxation upon the materials of which ships are built in this country, an average of more than 40 per cent., which places them at a disadvantage upon the common highway of nations in competition with ship-owners and builders whose materials were burdened with no such taxes.

These are but some of the facts which, together with many others that I have not time now to mention to the Senate, call for examination that we may apply legitimate relief to this great industry, by taking from it burdens unwisely imposed in time of war, and still more unwisely continued when all pretext for their existence has long since passed away.

But as to this proposition of fostering certain steamship lines by special grants of money from the public Treasury, I consider it utterly unwarranted and unwholesome not only to the immediate recipients of the money, but utterly unjust to all those to whom such bounty is denied. I say it would be a hard thing for an American ship-builder, ship-master, or ship-owner, endeavoring by industry, skill, and persistence to succeed in a given line of travel on the ocean, to find himself driven from the business by the Treasury of his own Government, under the control of some fortunate competitor and successful combiner of political influence.

Therefore it is, sir, that I trust this amendment will not prevail. I say nothing now of its being ingrafted upon an appropriation bill. Irregular as I thought that was, I bow of course to the decision of the Senate; but upon the principle which underlies this amendment, the doctrine of subsidy, the doctrine of taking the public money for a private use under cover, as these things always are under cover, of something that is meritorious and desirable in the abstract, I trust the proposition will not receive the assent of the Senate.

I listened the other day with great respect and interest to the elaborate presentation of this shipping question by my friend from Kentucky, [Mr. BECK.] Much that he said was true; many of his deductions I concurred in; in others I did not. Still his speech was a contribution of value to a great and important subject. My friend from New York, [Mr. KERNAN,] in my absence on Saturday, also considered this question ably and intelligently. I am sorry that I had not the pleasure of hearing what he had to say, but shall hereafter read it carefully. I hope to see, not this Congress, for I think we cannot move in this matter in so brief a space of time as is left, but the next Congress, soon adopt a well-considered system based upon all the facts of the case, and, what the Senate has not yet had, full knowledge of the facts of the case—a well-considered system whereby the trammels which unwise taxation has placed upon the ship-building interest of the United States, and the varied industries which are connected with it, will wisely be relieved.

I believe to-day in two words that this great business of ship-building is not profitable, or capital would more freely flow into it; and if it be not profitable it is because the taxation upon it makes profit so small that capital can be better employed elsewhere; and if I am right in this respect, that it is the superincumbent weight of excessive taxation that has paralyzed, and to-day does trammel, this great branch of national industry, both in the labor and materials needed, how is it to be relieved by expending money derived only from taxation that shall make that burden only greater than it was before? The more money you so appropriate the greater must be the tax. Every dollar that enters the Treasury is brought there by taxation, and you cannot pluck one industry of this country out and sever it from the rest and consider it alone. All must be subjected to the same broad scheme of adjustment and equitable distribution of the public burdens. Therefore, I say, it is no cure for overtaxation to increase the burdens of taxation, and this is what this measure proposes, to take from the many to give to one or a few. There is no justice in that. For my own part I believe that the great law of human interest and the great principle that enables men to be happier and more successful in government, is where there is less interference by government with the affairs and business and contracts of individuals. I believe greater relief will come by amending an unwise system of interference in the shape of existing tariffs and taxes and interferences with the contracts of individuals than there would be in taking unjustly a large sum of money from the public Treasury and giving it to one or a few upon a principle which in a popular government, to my mind, is dangerous in the last degree.

Mr. MORGAN. I do not like, after I have been engaged during all the time this debate has been pending in an effort to get rid of every feature of this amendment which might look like a subsidy, to have it supposed by the honorable Senator from Delaware that either myself or any other Senator desires to take money out of the Treasury of the United States to devote it to a private purpose, or that we are any more ready to violate the established rules of the democratic party than he is upon a proposition of this kind. The Senator philosophizes splendidly upon this subject as he does upon all subjects, but I submit to him that his philosophy is far above the facts in the case and has no real application to the condition of the country in reference to its legislation on the important subject of the transmission of the mail.

The Senator is opposed, he says, to taking a million dollars out of the Treasury and applying it to steamship lines for the purpose of paying for the transit of the mails across the ocean. We find, however, that there is a law upon the statute-book, and has been for a number of years, by which the Postmaster-General is authorized and required to employ steamships to transmit the mails; but there is a limitation upon these statutes to this effect: that he can only pay to those steamships a sum equivalent to the sea-postage as might be realized upon the particular line. If it has been unjust, undemocratic, and wrong for so many years to apply any money whatsoever out of the Treasury of the United States to steamship lines for carrying the mails, it astonishes me that the alert and active democrat who represents so capably the State of Delaware has not before discovered it. We have been taking out of the Treasury of the United States and paying for mails carried between New York and Liverpool and New York and Havre and various places annually a contribution of money, which has been paid sometimes to American lines and sometimes to foreign lines, for the purpose of transmitting the mails. We never have supposed that we got anything else than an equivalent for all the money we expended in the service rendered to commerce as well as the convenience of the people of the United States under this system.

Now, I will take the southwest, and I will take the border; and I will suppose that the Congress of the United States in order to prevent the taking of any money improperly out of the Treasury of the United States should say to those gentlemen who are mail contractors upon the great lines reaching out into the Territories, and to the frontiers of our country, "you must not expect anything out of the Treasury of the United States in the way of contribution to the mail lines you establish there except the postages that you realize upon those lines." Suppose that that had been the policy of this Government from its foundation to the present time, what would have happened? A mail line on such a basis as that would not have got as far west as Cincinnati in Ohio by this time. The mail contractors in the poor, thinly settled sections of the United States are encouraged to carry the mails so as to distribute them largely to the scattered population by what the honorable Senator from Delaware would call a subsidy, an amount of money paid out of the Treasury of the United States to pay for the value of the service, which value of service to him far exceeds the public return that he makes by transmitting the letters in a stage-coach on public road or on the back of a horse.

The honorable Senator seems to be incapable of comprehending the idea embodied in this proposition, if I understand him aright. The idea involved is not the building up of American commerce or an American merchant marine, but it is to extend the postal facilities of the United States across the ocean to other countries. We know perfectly well that we have had to resort, under our postal system, to the compulsory law that no American ship should have a clearance from one of our ports unless she agreed to carry the mails and deliver them within three hours after her landing at a foreign port, in order to have our mails carried. We take the ships built by private citizens, and owned by private citizens under the flag of the United States, and we deny to them a clearance from our harbors unless they will consent to take the mails of the United States for the postage money, and deliver them within three hours after their arrival at a foreign port. It seems to me that when we consider the view of the law that has just been presented, and which is exactly in conformity with the statute, we are violating the Constitution in the wrong direction, for we are taking private labor and private property owned by the owner of a ship, and we are confiscating or condemning it to public use without making a satisfactory compensation. Who does not know that $225,000 is an inadequate sum to transport our mails legitimately across the ocean? We are spending now $30,000,000 a year for the transportation of mails overland through this country, and yet it is supposed that $225,000 is all the money that the Senate of the United States ought to vote to have the mails carried across the ocean.

Sir, if we are violating constitutional rights and democratic usages and doctrines, it is in the direction of compelling men to render service to this country without just compensation, rather than we shall be violating them by putting in an amendment to this bill which looks to the idea of giving them something like a just compensation.

I say—and no Senator on this floor I think will deny it—that $225,000 is a totally inadequate sum to pay men a just compensation for carrying these mails. We propose to increase it to $1,225,000, in the hope thereby of stimulating intercourse between our country and abroad. If commerce chooses to follow the track of the mails, let commerce thus follow. We have no mails established in this country from which that view of the subject is shut out. We have not a mail in the United States to-day that is not more or less directly connected with the idea that it is a pioneer or an assistant in carrying commerce into the frontiers and the unsettled portions of our country, or furnishing facilities for commerce between those portions which are more densely populated. You cannot disconnect the two ideas. Commerce and the mails go together as naturally as electricity and the copper wire go together to transmit messages across the continent. Commerce without mails would be of no value to this country, and mails without commerce would be almost useless. They are wedded together in the Constitution and in public experience and in private experience, so that you cannot separate one of them without doing injustice to both.

Then if we do expend a million dollars more than we are doing with a view of trying to compensate the men who are carrying the mails, and if they must carry them in steamships, the vehicles which also transport commerce and thereby create commerce as well as intercourse between this and foreign countries, where is the principle of the democratic party violated in that, and where is the clause of the Constitution of the United States that is violated? No, sir; it is easy enough to decry a measure by pointing to it the finger of scorn, and saying you are trying to create a subsidy; but it is much more difficult to prove by argument that there is any subsidy in this measure or connected with it. The only subsidy that is hinted at in this measure at all is in virtue of the fact that the amendment proposed by the honorable Senator from Texas requires that the ship employed for this purpose shall be owned, officered, and manned by citizens of the United States. It may be that in our poor condition in reference to steamships that would amount to a subsidy in favor of those twenty-five or twenty-six gentlemen or companies who happen to own steamships in the United States, for I believe there are only about twenty-five or twenty-six of them. That is the only view that looks in the direction of subsidy in this measure. I have been trying all I could to modify that view by providing that ships when bought abroad should be entitled to an American registry. The Senate has voted contrary to its own decision every fifteen minutes; it has voted down that amendment, and yet it has voted in favor of others that are quite as violative of existing law or quite as suggestive of new legislation as that was. I make no complaint of that. I have no right here except to express my own opinion and give my own vote. That is as far as I go. If I do not succeed it is nobody's loss but mine. But it is time that the Senate of the United States had looked at this question in a broader light than that taken by the honorable Senator from Delaware; it is time that the Senate of the United States had taken into its consideration the question whether we are furnishing proper mail facilities between this and foreign countries. If you will encourage men by paying them a fair and just compensation for taking the mails to sail out of the port of Mobile, or the port of New Orleans, or the port of Charleston, or the port of Baltimore, or elsewhere along our great sea-coast, or from a port on the Pacific Ocean, you will do your country good; every man, woman, and child in this country will be benefited, because it will increase those resources of commerce, which, when increased and distributed, will distribute the burden of taxation, will give relief to every man, woman, and child in the country.

I do not know any measure more broad and catholic in its effect than this. I cannot conceive of one which is more just in its operation. It seems to me that the arguments which have been made here are not only contrary to the true policy of this Government, but they are put upon grounds that are too narrow for us to stand on.

I call the attention of the Senate to this statute, and I called the attention of the honorable Senator from Delaware to it while he was on the floor, but he did not choose to reply to my remark:

SEC. 4008. The mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, shall be transported in steamships; but the Postmaster-General may have such transportation performed by sailing-vessels when the service can be facilitated thereby.

The mails "shall be transported in steamships;" and under this statute the Postmaster-General has the option to say whether they shall be foreign-owned and foreign-built ships or native-owned and native-built ships. Then the law is broad enough in that direction, and I am entirely willing, so far as I am concerned, to let it stand right there; but the amount of supplies we furnish to the Postmaster-General to enable him to carry on postal service with foreign countries is not sufficient. Some honorable Senator said on Saturday when this question was up—I believe it was the Senator who has charge of the bill—that the Postmaster-General had not made a request for more than $225,000 for this service. That is very true, because the existing law confined him to the amount of money that might be earned in sea postages as the rate of compensation that shall be supplied to ships to carry our letters abroad and bring them home again, and the Postmaster-General is confined by law in making his estimates to existing statutes. Hence he could not estimate for more than $225,000. But who is authorized on this floor to say that the Postmaster-General, if he had the right to speak for the United States and define the policy of this country, would ever undertake to assert that more than $225,000 could not be reasonably employed in stimulating mail intercommunication with foreign countries? That part of the subject he has not touched, because the statute shuts him off from any right to touch it. But, sir, it is our duty to touch it, and to do it on an appropriation bill; that is the very place to do it.

I am willing to make the appropriation large enough to enable the Postmaster-General to increase our mail facilities with foreign countries, and leave him to expend the money precisely as he can under existing statutes. The amendment proposed by the honorable Senator from Texas is a restrictive amendment, not new, not general in its character. It restrains the expenditure of the money to steamships—iron steamships, or steel or iron—now since the adoption of the amendment I offered. It restrains the expenditure of the money to such ships as these, instead of allowing it to be employed in wooden steamships and steamships owned and manned by foreigners. I would prefer myself to strike out the proviso in the amendment; but it was supposed that perhaps there were Senators on this floor who would very much prefer that that proviso to the amendment should stay there; who would very much prefer that in giving support to our foreign mail service those who had ships built in the United States, and officered and manned by citizens of the United States, might have a preference over those who had ships built and officered and manned abroad.

Now, Mr. President, I call the attention of the Senate, and from this body the attention of the country, again to this amendment. Senators declaim here against subsidy, and yet on Saturday I pointed out how in the proviso, to the very section to which this proposition of the Senator from Texas is an amendment, there is a positive and explicit subsidy, a subsidy of $45,000 given in the bill, and given, too, in aid of the colonial legislation of two foreign colonies. Senators make no complaint of that. That suits them well enough. There is no invasion of democratic platforms in that. Here is a committee, the majority of whom are democrats, that bring in without question a subsidy passed by the House of Representatives, and no clearer subsidy was ever put into a bill in the world. I shall vote for the bill with that in it, because I do not believe that the efforts we are making to compensate these transporters of the mails in that particular case is going to do any harm to this country. I do not believe it

establishes any general and pernicious doctrine in the laws of this country. It is a specific measure intended to apply to a specific subject, and to remedy an existing grievance. That is all, and so I shall vote for the bill with that subsidy in it, with the indorsement of a democratic House, a democratic Senate, and a democratic committee. And while I do that I do not like Senators to get up here and charge me with a disposition to subsidize men because they own American-built ships. Let Senators come to the true test of the question and vote against that measure, and strike it out if it be not in accordance with democratic doctrine; but if they do not do that, let them cease to talk about the matter when they prove by their own votes that they cannot be very earnest, active, or energetic in the enforcement of their views in the Senate.

Mr. WHYTE. Mr. President, I voted this morning and I urged the Senate with all the earnestness of which I was capable to hold night sessions to discharge our duty as I supposed in the passage of needful legislation. I indicated, therefore, my willingness, at much inconvenience, probably at more inconvenience to myself than to most Senators, to remain here during the evening and expedite as far as possible the business which presses us at the close of this session of Congress. Therefore I have no apologies to make if I shall detain the Senate a little while in entering again, as I have done on former occasions, my earnest and zealous protest against legislation such as is contained in this amendment offered by the Committee on Post-Offices and Post-Roads.

The Senator from Alabama who has longest held a seat on this floor of the two Senators from that State [Mr. MORGAN] has sought by a specious argument, if he will allow me to say so without offense, to change the character of this amendment from what it really is to what he would have it seem to be. The object of the amendment, as declared by the junior Senator from Alabama, [Mr. PUGH,] who offered it as the organ of the Committee on Post-Offices and Post-Roads, was to build up again our foreign commerce; and before he came to this as a remedy, in the clearest, in the most concise, and in the strongest manner he portrayed the decadence of American commerce on the high seas; he gave us facts that were irresistible; he gave us deductions of logic that I admired and concurred in; he painted us a picture of our fall in the rank of nations as a commercial power. I agreed with all this; I concurred with him in most of his conclusions; but I must confess I was startled when I found him maintaining that this amendment was a remedy for the evils which he had portrayed.

Mr. PUGH. Will my friend allow me a word?

Mr. WHYTE. Certainly.

Mr. PUGH. I think my friend, the Senator from Maryland, may have misunderstood me. I stated that I had no hope whatever of beneficial results from such legislation as he condemns, but that I favored an appropriation for carrying the mail in ships owned exclusively by American citizens and purchased in the cheapest markets; and I put my support of the appropriation upon precisely the same grounds so fully indicated in the argument just made by my colleague, that it was nothing but just compensation for the use of private property employed in the public service. That is precisely the ground I occupied, and I had no idea of relying upon this as a remedy for the restoration of our lost trade on the sea.

Mr. WHYTE. The Senator from Alabama misunderstands me; I have not misunderstood him; on the contrary, I listened with the greatest pleasure to his argument as he delivered it here the other day, and I was so enamored of it that I have read it over twice since, and my admiration is lost in wonder that it did conclude in so specious a fallacy. That is the difficulty of it. I looked upon it as a splendid argument. It was brilliant in its character; but it was like so many of those minerals which are discovered by geologists which present the most brilliant crystal on top and at the bottom you see some bug, which in the management of nature has been left within it. So in this case, take away this last conclusion, take away this substitute for a real remedy from his speech, and it shines like a diamond; and I would follow him in any measure which would enact into law the conclusions which he drew until he came to this last one as the best under the circumstances he could obtain. I think, Mr. President, it is the very worst.

Mr. MORGAN. May I ask the Senator a question?

Mr. WHYTE. Certainly.

Mr. MORGAN. What was the last conclusion?

Mr. WHYTE. That, as he could not get what would be a remedy for these evils, he would take the amendment of the Post-Office Committee.

Mr. MORGAN. My colleague said the other day, as I understood him, that he was not in favor of this amendment unless it authorized the use of vessels owned by American citizens though they might be built abroad.

Mr. WHYTE. There is a fallacy. Can any American buy a ship abroad now and run it under this measure? Will the honorable Senator from Alabama answer me that question?

Mr. PUGH. I think he can under this measure.

Mr. WHYTE. In spite of the navigation laws of this country?

Mr. PUGH. Yes, sir.

Mr. WHYTE. No, Mr. President, "that won't do," as the honorable Senator from Ohio would say. These arguments are fallacious. They are not practical. They may deceive some, but they do not deceive me.

Mr. PUGH. Will my friend yield?

Mr. WHYTE. Certainly, I will yield.

Mr. PUGH. I desire, so that there shall be no mistake as to what I said, to read exactly what I did say:

> But I am willing to favor liberal compensation for ocean mail service, and place it on terms of equality with our overland mail service by railroads. I doubt very much whether compensation for mail service, however liberal, will produce any largely beneficial results. I have no idea such inconsiderable aid would enable merchants and capitalists who wish to engage in our ocean carrying trade with other countries to compete with the cheaper built and comparatively untaxed and unencumbered ships of England. As John Roach says, we must go to the root of the evil, and in my poor judgment the only way to do so is to legislate as I have proposed.

In that proposed legislation I understand the Senator and myself fully agree.

Mr. WHYTE. Mr. President, I do agree that we should go to the root of the evil, and that is why I say that the honorable Senator from Alabama's argument is fallacious when he supposes that this will correct in any way the evil, or that it is not open to great objection. That is precisely what I say.

Mr. PUGH. If my friend will allow me, I will say that there is a very narrow margin between him and myself on this subject. I might say that I fully concur with him that this is an attempt to sail a kite in a storm.

Mr. WHYTE. Mr. President, I was complimenting the honorable Senator from Alabama for the manner in which he had presented the fact to the Senate and to the country of the great decay in American commerce. I say that he made it so that it was too plain to be disputed. Indeed it seems to be a concession on all hands that it had gone to the bottom, as low as the nation ought to permit the decay of commerce to go so far as it is within its power to remedy it, and that therefore it is our duty to consider the question. The honorable Senator from Alabama presented it in one way; the honorable Senator from New York [Mr. KERNAN] presented it in another way, in his own way as clearly as possible, and the honorable Senator from Kentucky [Mr. BECK] also presented the same question. We all agree that our commerce on the high seas has gone down to the very lowest point that as a nation we should permit it to go. How to cure the evil, how to remedy this great trouble, is a problem of statesmanship that requires care and thought and the most serious consideration of those who are willing to give days of deliberation and nights of toil in discovering a proper remedy for it. It is no child's play, Mr. President. We know that the commerce of our country has been growing "fine by degrees and beautifully less" ever since 1855. We know that, and then as a remedy for it the Post-Office Committee undertakes to devise some scheme which will restore to us our commerce.

Why, Mr. President, that is not the committee to whom appropriately belongs the subject. That is not the doctor to give an opinion or to prescribe remedies for any such disease. Their prescription is a mere quack medicine and will do no more good than if they recommended a box of Brandreth's pills or a case of Plantation Bitters. The Committee on Finance, the Committee on Ways and Means, is the proper committee to wrestle with this subject. That is the committee to whom should be confided the great work of lifting from the bottom of the ocean our American commerce to its surface and bid it float once more again and carry our flag as in former times it did into every port on the habitable globe.

Ah, but says the honorable Senator from Alabama, "this is to increase our postal service; this is not subsidy." Call it by any other name it would smell more sweetly than it does called by that name: and the honorable Senator from Alabama calls it "postal facilities." Who is complaining of postal facilities? Where are your memorials which American citizens when they are interested in any subject send to our table here by the car-load? The right of petition is not only known to belong to an American, but he exercises it early and often. And where are these clamoring multitudes who have no postal facilities, who cannot communicate with their foreign correspondence; who cannot communicate perchance with "the girl they left behind them" in the old country and elsewhere? Are they here complaining of a lack of postal facilities? Where is the country whither our mails do not go and to which our people clamor that they ought to go? I have heard no such voice. Where is the chief executive officer of the postal department of this Government? Has he come to our door, or sent his message, or his letter, or memorial asking us to give further authority to increase the postal facilities of the country? No, Mr. President; that plea for this subsidy will not do; it deceives nobody. If I may be permitted in this august presence to relate an anecdote: I remember the story of the boy who was sent to a doctor's office to bring the doctor to a sick family, and the doctor being engaged he was shown into the back room, and, with the inquisitiveness of boys, opened the closet-door, and there found the doctor's skeleton. He at once rushed from the office across the street; the doctor followed him shortly and begged the boy to come back, calling him from the opposite side and telling him to come in, it was all right. "Oh no," said the boy, "you can't fool me; it's the same old skeleton, only it has got its clothes on." So it is now; it is "subsidy" dressed in the guise of "postal facilities."

Ah, Mr. President, we were asked two years ago to increase the postal facilities with Brazil. A similar amendment was proposed to the Post-Office bill then, limiting it, however, to the South American

ports, and we were asked to vote it then as granting additional postal facilities with the South American country. That bill, as we all know, failed between the two Houses; the Post-Office bill did not become a law at the close of the last session of the Forty-fifth Congress, and the result in part of that was an extra session of Congress for the purpose of providing the means of carrying on the mails. After that bill failed——

Mr. MAXEY. The Senator from Maryland will allow me to suggest that the Post-Office bill passed at the regular session of the Forty-fifth Congress.

Mr. WHYTE. What became of the amendment put on the Post-Office bill, on which there was a committee of conference?

Mr. MAXEY. It failed between the two Houses, but the bill itself passed.

Mr. WHYTE. Was it withdrawn?

Mr. MAXEY. It failed in conference between the two Houses. It failed, but the bill passed.

Mr. WHYTE. That was not my recollection of it. We had a committee appointed in regard to the question of privilege between the two Houses, and my impression is that the bill failed. However, I stand corrected.

Mr. MAXEY. I was on the conference and recollect all about it.

Mr. WHYTE. I was on the committee to consider the differences between the two Houses on that Post-Office bill, and my recollection was that it failed. I stand corrected, though, if the Senator from Texas corrects me. I may be mistaken; I am speaking entirely from memory, and I do not stand upon it. The question was discussed over and over again, the conference failed to agree once or twice, and if at last they agreed, it escaped my recollection.

However, Mr. President, soon after that desire for postal facilities with Brazil, I remember to have seen a letter from the consul of the United States at Para, one of the principal towns, in honor of which Mr. Roach has called one of his steamships. I was struck with that, and I would like the Senate to see what the character of the facilities which American citizens have in these foreign countries for which we are to do so much by building up lines of steamships—what facilities our people have in their post-offices. I will read a letter from the consul of the United States at Para, Brazil, dated January 7, 1879:

> Your communication of date November 4 last was received some time since, but has remained unanswered for the reason that I have been exceedingly busy in the mean time. The Brazilian post-office system might possibly by some be considered a peculiar one. All mail matter for delivery is divided into two classes, one for Brazilians, the other for foreigners. The first is handed out as inquired for, and the latter is thrown into a heap—letters and papers, &c.—on a public table, where any and every person who chooses may at any time handle them over and appropriate whichever and whatever they like. Of course there is much complaint among Americans here of failure to receive their letters, but with such a system this is little surprising.

I think if the Post-Office Department were to direct its attention to the facilities on land in Brazil it would be of far more importance to American citizens than to devise means to carry their letters across the water, for after they have been carried to Para they run the risk of being picked up and taken off by somebody other than the gentleman to whom they are addressed. But, Mr. President, there is no difficulty about our mail system with Brazil, or with Europe, or with any foreign countries; there is no complaint of it; and this, I speak it respectfully, is a delusion, and if it were not sustained and commended by honorable Senators for whose character for integrity and high-mindedness I have the greatest respect, I would say it was a snare; but, respectfully and in parliamentary language, I have a right to say it is a delusion.

Mr. President, it is the sheerest folly for the Senate of the United States to-day to suppose that by any amendment of this character they are to restore our foreign commerce in the smallest degree. The Senator from Alabama who last addressed us [Mr. MORGAN] spoke of this as a new and untried scheme to build up the commerce of our country; he spoke of it as if we were not liberal-minded and free-minded enough to give this experiment a trial, when we know that the greatest element of statesmanship is to learn by experience, and not be guilty of the same folly which our country has been guilty of in the past to its great injury. These are no new measures. Forty years ago, during the extra session of the Twenty-seventh Congress, Butler King, of Georgia, conceiving this same idea, that this was a grand scheme to build up American commerce, to build up a great squadron of magnificent vessels which could be used in the carrying trade and in carrying the postal mails during peace and converted with guns upon their decks into frigates of war in time of difficulty with foreign nations, proposed then as the Post-Office Committee propose now to give a million dollars in aiding individuals to establish and maintain steamship lines. He brought in a famous recommendation in a report reciting that England had done, reviewing England's course with its various steamship companies, with its contracts, with its establishments of lines to various parts of the world where it had colonies, and asked us to imitate her example and try to emulate her in building up as she had done her foreign commerce in that way. That report carried with it a recommendation by way of resolution directing the Secretary of the Navy to investigate the subject and to report. What did that live man, Thomas H. Benton, ten years afterward, say about that report? I have that report here. I have renewed my recollection of it this morning. What did he say in regard to that proceeding? In the second volume of his Thirty Years, after describing the amount for the home squadron and citing the part of the report relating to the building up of foreign commerce by the subsidizing (he did not use the word then) of this line of steamers, Mr. Benton said:

> This resolution was adopted, and laid the foundation for those annual enormous appropriations for private lines of ocean steamers which have subjected many members of Congress to such odious imputations, and which has taken and is taking so many millions of the public money to enable individuals to break down competition and enrich themselves at the public expense. It was a measure worthy to go with the home squadron, and the worst of the two, each a useless waste of money, and each illustrating the difficulty and almost total impossibility of getting rid of bad measures when once passed, and an interest created for them.

Ah, Mr. President, in brief, what a commentary upon the folly of that day. When we began, as I presume the supporters of this amendment will now begin, if they succeed, a system which it will be hard for us to throw off, a system which will take out of the public Treasury many millions of dollars, and at a time, too, when the people are crying out for a reduction of the taxes upon their industries, and appealing to Congress to relieve them from their stamps on bank-checks, from taxes on bank deposits, and from taxes on various other articles which enter into the use of men day after day—at a time when we have not yet relieved the country of the war taxes, we are asked to open the Treasury door for this new expenditure of money, which will be as surely wasted in the future as public money in similar enterprises was wasted in the past. Let us see what was done. One of my honorable friends spoke about subsidies to the railroads, and told us the fact that in order to build the roads across the continent we had appropriated vast quantities of the public domain, in all as by calculation 200,000,000 acres, worth at least $50,000,000, and we had appropriated these lands for various enterprises of every sort and description.

If there was any case in which there was reason that there should be an exception to a general rule it was in regard to the great railroad to San Francisco, because the war showed that with no commerce our possessions upon the Pacific slope were valueless to us, and unapproachable, and it was all-important, with the decay of American commerce on the high seas, to open a way from our sea-ports on the Atlantic to those magnificent harbors on the Pacific coast. But what was the voice of the people in regard to those subsidies? In 1870 Mr. Holman, of Indiana, introduced in the House of Representatives a resolution declaring that those subsidies must stop; that it was squandering the public domain in the interests of corporations and depriving the people of the United States of much of that area of land upon which they were hereafter to settle, either they themselves or their children and their children's children. Mr. Holman offered that resolution in March, 1870, and there was not a single member of the House of Representatives, democrat or republican, who dared to raise his voice to say "nay." It passed unanimously. Then in the Forty-fourth Congress the same character of resolution was adopted and carried overwhelmingly by the democracy then assembled in the lower House of Congress.

Our honorable friends liken our country to England, and cite to us the course of England in regard to its foreign commerce and its postal facilities as an example for us to emulate and the road in which we should walk. How differently are the two nations situated. England had dependencies in almost every quarter of the globe. Her dependents amounted in all to more than two hundred million people and were scattered everywhere. Was she to leave them? Was she to turn her back upon them? Was she not in the march of political conquest anxious to enlarge rather than abridge her area of possession? Was she to deny communication to those sent abroad with her army, or to those who had been sent abroad to establish corresponding houses of merchandise, of commerce, of finance in her various dependencies? Was she to let them go? Was she to let father thus be separated from son, wife from husband, business man from business man, without any effort? No, Mr. President. On the contrary, it was her business not only to take care of them, but to build up every one of the ports whither her people had gone where her dependents lived, and it was her duty to provide as quick communication with them as possible; to establish them in their financial business and in their manufacturing business, so that not only were her vessels to carry the mails to them, but to carry the manufactures of her country to them, manufactured by their orders to suit the tastes of the various people among whom her agents lived, and thus to build up a specific trade in which England would be mistress and nobody could compete with her.

That was what England had in view, and thus it was that England determined to open up lines of communication between her people and herself. Away back, before our Declaration of Independence, such was her policy, and for thirty years after we separated ourselves from her she kept up by public competition among her citizens contracts as I say for carrying the mails and carrying merchandise to the various ports which she wished to reach. After a while that did not do, and then England, conscious of her duty to her people, desiring still to reach them, established her own packet system. She herself established packets belonging to the British Government. Shall we follow that example? Will Senators recommend us to adopt the example of establishing packet lines owned by the United States, manned by naval officers, managed by the United States, and paid for out of the funds of the United States? I apprehend not. Then

she put them under the admiralty, and there the expense was lost sight of. Why? Because the expense of the transportation of the mails and the work done by these steamships was hidden in the budget under the naval estimates. It came in from the lords of the admiralty, covered up out of sight, and the English people for years never saw what was being spent upon these packet ships run under the admiralty until finally she again broke up that system and opened to public competition the carrying of the mails in steamship lines, and paid them what they demanded under public competition, changing the old rule that had prevailed in England, as it sometimes, though not often, prevails here, of the admiralty giving to their political favorites and partisans this public service to perform. The public got tired of that and demanded a change, and the demand, as almost always is the case in England, was answered by a surrender to the popular voice.

Our case was entirely different. There was no call for us to follow in England's course. It was no example. Her practices in our country are—

More honor'd in the breach than the observance.

But we started to subsidize lines in 1845, soon after the session of Congress. Let me show the Senate in brief what a hostile writer, a man who is opposed to the views which I am expressing upon this floor, says of this service. On page 55 of a little pamphlet that I hold in my hand, written by a Mr. Henry Hall, I find what I shall read, and I ask the attention of Senators to it. I doubt not that many of them are familiar with it, but it is one of those experiences which it does no harm to have held up before us, that we may not forget what the past has taught and may not repeat it in the future. At all events, if it is repeated, let Senators repeat it with their eyes open:

The plan proposed by Mr. King in 1841 was to appropriate $1,000,000 annually for the transportation of the foreign mails. For this sum of money it was believed that there could be secured a line of four steamers from Boston to Havre to accommodate the growing commerce and immigration over that route; a line of four steamers from New York to Liverpool to contest the ground with the Cunard steamers; a line of three vessels from Norfolk to the West Indies; and another of three from New Orleans to the same islands.

Here it is all over again, the same old story, "to be equitably distributed." That is the sugar-coated pill that we are all to swallow. It is not to be exclusive in its character, not from New York, nor Philadelphia, nor Baltimore, but to be divided equitably, so that all shall have a chance. So it was in 1841.

In 1845 the Postmaster-General was authorized to go ahead and contract for ocean service in steamers wherever public interests required it, leaving it to him to decide upon the routes and ports of the several lines.

Here it is again, identically the same proposition:

Under this law he contracted with Edward Mills for four ships and twenty trips a year from New York to Bremen and Havre, for $400,000; and with E. K. Collins & Co. for four ships and twenty trips from New York to Liverpool for $385,000. Contracts were also made for service from New York to New Orleans and the Isthmus of Panama, and from Panama to California and Oregon, for $489,600.

I ask the attention of the Senate to this. In all $1,274,600 was expended in the year 1845 for this identical purpose that it is now proposed we shall spend a million dollars for.

Congress approved these contracts, and advanced part of the money upon them to assist in building the ships.

This proposition does not advance to anybody; it inures to nobody's benefit but that invisible contractor who has got iron steamships of the class described in his possession to-day.

It was stipulated that their hulls should be strong enough for war purposes. Service began on the Bremen line with one ship in July, 1847; on the line to California in 1848; and on the line to Liverpool in 1850 with two ships, two more being added within a year. By 1851 we had three steamships trading to Bremen and Havre, and four to Liverpool, under the pay of the Government, and—

Says this writer, who is hostile to my view—

our reply to England had been made.

It was a reply, indeed. The Treasury books can tell how we suffered by that reply, and I should like to find some of the vessels that we put upon the ocean to do that work, which was to flaunt the American flag in the face of the British lion.

In 1850 lines from the western coast to China, and from the eastern to Africa, were proposed, and a line was started to run from Charleston to Havana, under a pay of $50,000 a year.

Let us see what became of our reply to England. The Collins line was first subsidized at an expense of $385,000 a year. It went on year by year. Like Oliver Twist, Collins and his people came to the doors of Congress asking for "more." The daughters of the horseleech never can be satisfied. At last in 1852 we had increased the subsidy to the Collins line, which began at $385,000, to $858,000. They came here year by year asking for help. Why did they not succeed? I tell you what the advocates of this measure say out of the Senate. It is a matter of public history. I tell you why they say they did not succeed. Their argument is not true, but here is what they say was the cause. It ran along, I think, until 1855. Then Congress, aroused to the folly of attempting to keep up American commerce by any such means, determined that the appropriations should cease. But just before that, according to my recollection, an appropriation only for $350,000 had passed Congress and was vetoed by Franklin Pierce on the ground that it was a waste of public money. Congress itself afterward set its face like flint against it until the war broke out. Says this writer:

The agricultural interests of the United States appeared in Congress in 1853 and demanded a cancellation of the contracts. Debate began in the session of 1853–'54, upon a proposition to reduce the compensation of Collins. It was continued through several succeeding years, the whole policy of protection—

They called it protection in those days—

the whole policy of protection to steam navigation undergoing a thorough and protracted discussion, and being, at times, the leading topic before Congress. The opposition to the subsidy system came chiefly from the South. The politicians of that section had become predominant in politics, and the interest they represented was dictating the whole policy of the Government on economical questions. An abolition of the protective tariff had been conceded to it years before, among other things. Jefferson Davis and Judah P. Benjamin were active advocates of an abandonment of the carrying-trade of the Atlantic to British hands, and hardly a voice was lifted in opposition to them from the agricultural States. Mr. Clingman, of North Carolina, proposed that an attempt should be made to induce England to abandon the subsidy system—a suggestion at the same time hopeless and absurd. The arguments of the Congressmen from the agricultural States were supplemented in 1855 by offers from the North German Lloyd Company, which had begun to run steamers from Hamburg, and by Mr. Vanderbilt, who had two or three steamers for which he wished to find employment, to carry the mails at reduced rates.

Then this writer, anxious to fire the northern heart in favor of his scheme, puts it upon the southern people that they had defeated subsidies to steam mail ships through political designs and political artifice. In behalf of the South I deny it. It was opposed in my State, a commercial State, a State not agricultural in any great degree, a State whose chief city pays the greatest portion of the expenses of the whole State government in the taxes levied upon its commerce and its manufactures. Our people opposed it upon the ground that it was folly; that it was unwise in the people of this country to subsidize any steam lines, and to give them great largesses to grow up rich either as individuals or powerful as corporations at the expense of the many who were paying the taxes that went into the public Treasury.

But the experiment failed; it went by the board, and we heard no more of subsidies until the close of the war, when Cornelius Garrison came here with his line of steamers for Brazil and the southern ports, and said to the people of this country that if they would subsidize his vessels and give a good fat bonus he would contest upon the ocean with England and other nations the supremacy of the carrying trade. Congress did it for ten years. It began with an annual subsidy of $150,000 and it lasted until 1875, and now within five years of that disastrous failure we are asked to repeat the folly and begin again. What good did it do to American commerce? Look at the record. Facts speak like the spear of Ithuriel as it moves. You cannot get away; it is exact. So with the facts with regard to the commerce then. Let us see what Garrison did for us with Brazil:

Our imports from that country for the six years just preceding the establishment of the Garrison line averaged per annum $14,528,533; while our exports for the same time averaged per annum $5,713,511.

During all that period there was no subsidy; there was no five hundred thousand dollars for carrying the mails and thereby incidentally building up American commerce. During the ten years covered by the Garrison line—

The value of our average annual imports—

I ask the attention of honorable Senators to this; these are not arguments, they are facts; they cannot be disputed; they are facts taken from the public records—

The value of our average annual imports was $29,463,405; while the average annual value of our exports was but $6,364,600.

So that the Senate will see that we bought twice as much as when there was no subsidy and we increased our sales but one-eighth, although donating for the experiment $1,500,000. We bought twice as much from Brazil as we bought before we gave any subsidy at all; we doubled our imports and increased our exports one-eighth. No wonder when 1875 came Mr. Garrison was told, "We have no more money for you." No wonder he was turned away from the Halls of Congress.

Do not let us forget the Pacific Mail Steamship Company. Gentlemen will not forget how we subsidized that line. While we may not forget it, can we not draw a veil over the eyes of the American people and save them from the specter of that scandal which smirched Congress and excluded one of the members from the House of Representatives? It was before that, twenty-five years before that, when Benton spoke of the horrors of such a system being ingrafted upon legislation. It has gone.

Mr. President, I have not a word to say of denunciation for anybody. I speak of the system as foolish. I have a right as a member of the American Senate to speak of legislation as folly, in my judgment. Other Senators may speak of my inveighing against it as folly in their judgment; I accept their criticisms upon my conduct; but here we are with the lamp of experience shedding its light upon the pathway over which we have trodden; here we are with the history of our own commerce; and now, to-day, we are confronted with the same proposition by honroable Senators, who are sincere in their belief that it will do good for our country; but with this light before my eyes, with this glare upon the subject, to which I cannot close them, I for one will not only vote against the proposition, but in spite of the impatience of my colleagues on this floor, in spite of their desire to dispose of this bill as hurriedly as possible, I have felt it was a duty to the people I have represented for the last six years upon this floor, before I left the Senate, to shoot one Parthian arrow at the system of subsidies, and to warn my brethren against allowing it again to become a barnacle upon our great ship of state.

Mr. Roach comes to Congress as he has a right to come; as an American citizen he has a right to appeal to Congress to adopt his view.

He has a right to denounce in proper language, as he does, the Chamber of Commerce of Boston, the Chamber of Commerce of New York, the Chamber of Commerce of Philadelphia, I think, and also to denounce me if he thinks I am a chamber of commerce also. I am willing to take it. I have read his testimony. Why does he not show us how his steamships for the last thirty months have been working? Why does he not put in his testimony whether he can live without his subsidy? Why does he not tell us whether he is now making money in the carrying trade between New York and South American ports? He is on that subject as silent as the grave. He puts in a long list of articles that his vessels have carried in the last thirty months. What are they? What do they amount to in dollars and cents? That important question is left out. Knick-knacks and notions, little traps of American manufacturers he enumerates; but on his list of exports are the same articles of flour and petroleum and so on, which we have carried in our poor little thirty-odd sailing ships from the port of Baltimore. Why does not the trade come here and tell us that Mr. Roach's line in thirty months has opened up splendid opportunities for American manufactures and American commercial men? Why does he not point out what this grand scheme has proved by an experience of thirty months? Why does he not tell us how much it costs to run his vessels; how much freight he gets, and then tell the American Congress, "I am building up a trade for your people; I am opening to them objects which heretofore have been sealed books, and I am giving them outlets for their surplus agricultural products and for their manufactures; I am giving them a chance to become rich; all I ask is for Congress to make up the difference between what it costs me to run my ships in a year and what I am really entitled to as a fair compensation for the interest upon my $400,000 invested in each of the ships, and on the capital that I have investsd in this enterprise?" Give us something tangible; give us something specific to act upon if he is not making money; but in the absence of that, in the absence of a demand for mail facilities, in the absence of a refusal to carry the mails, in my opinion there is no justification for the passage of this amendment, and I enter my protest against it as but the repetition of a folly of which the American nation has been guilty before.

Mr. MAXEY. If no other Senator desires to discuss the amendment reported from the Committee on Post-Offices and Post-Roads, I will close the discussion. I had intended to discuss somewhat at length the proposed amendment, but I know that the Senate is worried out—I am myself—and what I shall say will be as brief as circumstances will admit. The Committee on Post-Offices and Post-Roads have offered an amendment to the pending Post-Office appropriation bill, the object of which amendment is to appropriate $1,000,000 for additional mail service between this and foreign countries in iron steamships. That amendment contains a proviso which reads as follows:

> That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted to such service.

I desire to say right here that I shall not indulge in an oracular or *ex cathedra* style. If I had any disposition anywhere on earth to indulge in such a style, which I have not, it would not be in the Senate of the United States. It has been argued that the effect of the amendment is to aid some invisible owner of vessels who alone could comply with the terms of the amendment. The amendment was framed in accordance with the act of 1792, which required the right to registration to rest alone upon the ownership of the vessel and the fact that it was commanded by a citizen of the United States. The ownership must be American, the command must be American, and under the act of 1792 it made no difference where the ship was built. This amendment was framed according to the principle of that act. The object of the proviso to the amendment was to avoid, in so far as the mail service was concerned, that requirement of the existing navigation laws contained in section 4132 of the Revised Statutes, which is as follows:

> Vessels built within the United States, and belonging wholly to citizens thereof, and vessels which may be captured in war by citizens of the United States, and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States, being wholly owned by citizens, and no others, may be registered as directed in this title.

When the amendment proposed by the Committee on Post-Offices and Post-Roads was agreed to in committee the right of every member, as has been stated by members of that committee who have spoken, was reserved to vote as he saw proper upon such amendments as might be presented to the committee's amendment, the committee agreeing upon the proposition as reported in order that the subject might be brought to the attention of the Senate that something be done toward restoring American commerce in so far as this might be legitimately done in the carrying of the mails across the ocean. The views of members differed as to whether this could be done by encouraging the purchase of ships on the markets of the world, or by the employment of American-built ships in carrying the mails, all agreeing that whatever could be efficiently, economically, and constitutionally done toward restoring the carrying trade ought to be done.

I for one believe in the right of an American to go anywhere, into any country in the world, and buy a ship where he can get that ship the cheapest; and being owned by Americans and manned by Americans, I believe that he should have the right to register it as an American ship and sail it under the American flag. The Constitution having granted to Congress the power to establish post-offices and post-roads, Congress has the right in its discretion to select such instrumentalities as it believes to be necessary and proper to aid it in the execution of that trust. If Congress believe that it could better execute this trust by authorizing its citizens to go into the open markets of the world and buy ships where they may be bought cheapest, it has a right so to do, and it is not a violation of the navigation laws. I believe that if we adopt a system of going into the markets of the world and buying ships, and let those ships be manned by American citizens and have them to carry the mails throughout the various countries of the world, it would be the beginning of a system which would ultimate in the restoration of the American carrying trade, which has fallen so fearfully within the last twenty-five years. I believe that there would be not only a cessation of the decadence, but ultimately a restoration, of the American carrying trade. I believe it would be the beginning of what would terminate in the restoration of that grand trade, and so believing I favored bringing the subject to the attention of the Senate.

Mr. BAYARD. May I ask the Senator from Texas a question? It will not interfere with the Senator?

Mr. MAXEY. Not at all; but I do not intend to occupy much time.

Mr. BAYARD. I merely wish to ask the Senator whether, while proclaiming his willingness that ships entirely constructed abroad should be brought into this country free, he is willing at the same time that ship-builders in America should be allowed to have free the material wherewith to construct ships?

Mr. MAXEY. Unquestionably. I believe in free ships, and I would be perfectly willing to see everything that goes into a vessel, now made in an American ship-yard, come in free from duty—except its just revenue proportion—and thereby aid in the restoration of the carrying trade of our country. I am in the most unqualified way a free-trade man—that is to say, for a tariff for revenue only—believing that a man has the right to go anywhere in the wide world and buy a ship where he can get it cheapest; and in the encouragement of our ship-yards, I would be willing to see materials which go into those ships brought in and put into the ships as free as we could do it, paying only a fair and reasonable proportion toward the support of the Government, requiring, of course, the same of ships bought abroad. I believe in that.

Mr. BAYARD. Paying a reasonable proportion in what shape?

Mr. MAXEY. In the shape of a reasonable tariff. I am opposed to protective tariff of every kind. I am a revenue-tariff man, being a democrat.

Mr. President, that is the view I took of this matter. The Senator from Alabama [Mr. MORGAN] says that he believes the provision as drawn by the Committee on Post-Offices and Post-Roads would entitle these ships to registration. Had it not been for the discussion and the vote after that discussion I should have come to the same conclusion; but the Senator from Alabama saw proper to offer this as an amendment:

> When vessels built in other countries are so accepted and employed, the same shall be entitled to all the rights and privileges secured by law to vessels built in the United States of America, except the privilege of engaging in the coastwise trade.

I voted for this amendment because, if there were any doubt of the right of registration of ships "owned and manned by American citizens," although not built here, so long as employed in carrying the mail, it was but fair dealing to remove the doubt. It was right that the point should be made perfectly clear.

That amendment was deliberately voted down, showing that the sense of the Senate is that, although vessels built in foreign countries might be bought and owned by our citizens for the purpose of carrying the mails and be manned by American citizens, yet they should not be entitled to registration. To my mind this keeps the word of promise to our ear and breaks it to our hope. In other words, the effect of voting down the proposition of the Senator from Alabama is to limit a contract under the amendment proposed by the Post-Office Committee to American-built ships and no others. I do not believe in that principle. I voted for the amendment of the Senator from Alabama, because it removed any possible doubt as to the true construction of the committee's amendment, and beyond doubt or cavil entitled to registration ships owned and manned by American citizens wherever built, as they would have been under the act of 1792. When the Senate voted that down, it practically declared that no ships except American-built ships should be employed in carrying the mails or be entitled to registration.

The Senator from Alabama, [Mr. PUGH,] my colleague on the Post-Office Committee, gave so clearly and fully the reasons influencing him, which have induced me from the beginning to support some measure of this kind, that it is wholly unnecessary for me to repeat the argument. I find that in 1830 we had a population something over twelve millions. We have now 50,000,000. I find that we had only twenty-three miles of railroad in operation then. We have over eighty thousand miles in operation now. I find that fifty years ago we raised 976,000 bales of cotton. Last year, in 1880, we raised 5,500,000 bales. I find that in 1830 we had no telegraph. Now we have over one hundred thousand miles of telegraph. I find that fifty years ago we had in round numbers but 8,000 post-offices; we now

have 40,000. I find that fifty years ago our imports were $70,000,000 and our exports $14,000,000. In 1879 our imports were $466,000,000 and our exports $715,000,000. I find that in 1840 we raised 84,000,000 bushels of wheat, and in 1880 we raised 460,000,000 bushels. I find that in 1840 we raised 35,000,000 pounds of wool, and last year we raised 225,000,000 pounds. We had spindles in cotton factories, forty years ago, 2,000,000; in 1880, 10,000,000; and so it goes all the way around. All the great industries of this country have increased amazingly, save and except the carrying trade, which has gone down and has almost entirely disappeared.

Many causes have been assigned for the decadence of our carrying trade. In 1868 gentlemen who spoke in the oracular style declared that it was due to the fluctuating currency of this country, but the record shows that the fall in our carrying trade was greater after the restoration of specie payments two years ago than it was in 1868. Others again say that it was due to the war, that great scape-goat which has to bear so many sins. Remove the cause and the effect would necessarily be removed. The cause has long since been removed and all other industries have revived, but the carrying trade has not revived. That reason will not do. I find other gentlemen say that there have been so many avenues leading to profitable investments that there has been no room for the investment of money in the carrying trade. I find that for years past money has been growing year by year cheaper and cheaper until it has got down to 4 per cent. and even as to United States bonds to 3½ per cent., so that that reason will not do. Money is cheap enough and yet the carrying trade does not revive. What then is the reason? My deliberate judgment is that it is owing to the navigation laws of this country. Every other cause which has been assigned can be explained away. That has not been explained away, and the man does not live on this earth who can explain it away, in my judgment.

I represent in part on this floor an agricultural State; a State which last year raised between a million and twelve hundred thousand bales of cotton; which stands third among the States in the amount of wool sent to the markets of the world; a State which is first in the great production of cattle; a State which is deeply interested in cheap freights; a State which wants to see the great carrying trade restored upon the high seas under our own flag, regardless of where the ships are built. I want the carrying trade restored, not that my State is interested in the ship-building business; not that I care anything for the quarrel which is going on between my honorable friend from Maryland [Mr. WHYTE] and his pet familiar John Roach, one blazing at the other from the Senate Chamber, and the other returning the fire from somewhere else. I care nothing about that. The question is one of the utmost importance; one affecting the toilers of the country, the men who work the plow, the loom, and the anvil, who raise or manufacture products to be sent to the markets of the world to be exchanged for coin and such commodities as we need. Those producers and consumers of foreign commodities want competition in the carrying trade, and thus cheap freights; they want the $120,000,000 paid to foreign ship-owners annually, and which ultimately comes out of the pockets of the people, kept at home to do its good work in enriching our own and not the people of foreign countries.

What will restore this great carrying trade? Every one of us is in favor of doing that. We have from the Post-Office Committee presented a measure in which is contained, as I believe, properly construed, the right to go into the markets of the world and buy ships and have those ships registered; but when the direct question was brought up on the amendment of the Senator from Alabama and presented squarely to the Senate the Senate decided that that was not the case, because the amendment was ruled to be original legislation. If, then, it is original legislation it was because the amendment proposed by the committee does not contain the right to go into the markets of the world and buy these ships and have them registered. With that construction of the committee's amendment, upon which the Postmaster-General would doubtless act, the great purpose I had in view is gone. With that construction I cannot vote for the amendment of the committee, although had the Morgan amendment been adopted I would gladly have done so.

I have no doubt that my views will be criticised by the foreign ship-owners who get eight-tenths of the ocean mail carrying of the United States, who sail their ships under the British flag, the flag of France, and the flag of Germany, from the port of New York across the high seas, for whoever attempts to build up the American carrying trade necessarily brings down upon his head the anathemas of that class. I have no doubt my views will be criticised by the American ship-builders, because I want to bring competing ships in against their ships for the benefit of those who have the freight to pay, the producer and consumer. These are the men who have at last to pay for the carrying trade. The products of American industry are carried across the water in foreign vessels and exchanged for foreign commodities such as we need, and are brought back and consumed here, and the great bulk of freights are paid by our people to foreign ship-owners.

They are the men in whom I am interested. I am interested in the people who raise this vast surplus production which seeks a market across the water, although I would do all I could reasonably to aid the American ship-builder. With the producer and consumer cheap freights is the great point. I want also to save the $120,000,000 of gold which we pay to foreigners for bringing their vessels to our ports and carrying our products across the water and exchanging them for foreign commodities; to be brought back to our shores in foreign ships.

We have built 80,000 miles of railway in this country. We spend millions of dollars annually for the improvement of our rivers and harbors. What for? It is to land our products in the harbors of the United States. We get them there, and when they get there what is then done? The foreign bottom takes up the American products, carries them across the waters, and lands them in a foreign port, and exchanging them for foreign goods brings them back to our own ports. Those goods are brought back in foreign bottoms to an American custom-house, and thence distributed out among the American people, and we pay $120,000,000 annually for it. That may be wise, and those who want to bring that thing to an end may be called extravagant. I do not think so. I believe that the amendment should have been amended by the proposition of the Senator from Alabama, making plain what ought to be plain, that the Postmaster-General could employ vessels for carrying the mails wherever he could find them, and wherever they could be built, and at the cheapest rates; then have them registered so long as they remain in that service, so that they shall be entitled to all the benefits of American registered ships. I do believe that the outcome of that would have been a grand stride toward rebuilding our shipping trade.

Had the line been established from New York and New Orleans, the two lines touching at the ports of Norfolk and of Galveston, as named in the bill of two years ago, and thence down to South America, to St. Thomas, Para, and Pernambuco, it would have been the capturing of the grandest prize that this country could possibly hope to secure; a trade which amounts annually to over five hundred million dollars, because the trade of France, Germany, and England to Mexico, Central America, and South America amounts annually to over five hundred million dollars. These places are at our very doors; and yet the hue and cry of subsidy was raised by some who did not see proper to look through the great question. The result of it was the bill passed the Senate by a very decided majority, but by some means or other the bill was lost in the House; and the Southern States lost by that more than they have lost by the failure of any other commercial bill that has been before Congress for many years. I voted for that bill, and would cheerfully vote for it again. It would have shown to Americans exactly where they would start, where to land, what part of the people, what States, would have been benefited by it; and, although I would have preferred in that bill that the right to sail any ships whatever, wherever built, might be given to the Postmaster-General, yet, it being a mere question of policy, the great purpose we had in view—the securing the trade of the countries south of us—overrode what in that case was a minor point. The present amendment, however, was for broader ends; and the question of free ships is with many of us a vital point.

The construction which has been placed upon this amendment deprives it, in my judgment, of its greatest merit—the privilege of going into the markets of the world and securing and employing ships to carry the mail where they could be got cheapest. I hand in, as part of my remarks, a table, showing the amounts paid to American and foreign vessels for ocean mail transportation performed during the fiscal year ended June 30, 1880:

*Amounts paid to American and foreign vessels for ocean mail transportation performed during the fiscal year ended June 30, 1880.*

| Service. | American. | Foreign. | Total. |
|---|---|---|---|
| 1. Transatlantic | *$1,964 28 | $151,943 61 | $153,907 89 |
| 2. Transpacific | 10,717 20 | 1,909 89 | 12,627 09 |
| 3. Miscellaneous | 25,340 21 | 4,808 89 | 30,149 10 |
| Total | 38,021 69 | 158,662 39 | 196,684 08 |

* American line from Philadelphia to Liverpool.

*Items of Nos. 2 and 3 of the above statement.*

| Service. | American. | Foreign. | Total. |
|---|---|---|---|
| 2. Transpacific: | | | |
| To Japan and Hong-Kong and the East Indies | $1,206 85 | $1,515 49 | $2,722 34 |
| To Shanghai | 303 38 | 394 40 | 697 78 |
| To Australia, New Zealand, Fiji Islands, &c. | 9,206 97 | ..... | 9,206 97 |
| Total | 10,717 20 | 1,909 89 | 12,627 09 |
| 3. Miscellaneous: | | | |
| To and from the Isthmus of Panama, Central America, and South Pacific | 12,983 33 | 1,281 03 | 14,264 36 |
| To Mexico, Cuba, and Porto Rico | 7,835 14 | 340 35 | 8,175 49 |
| To and from the West India Islands | 837 97 | 2,516 28 | 3,354 25 |
| To Brazil | 2,875 40 | ..... | 2,875 40 |
| To Venezuela | ..... | 455 75 | 455 75 |
| To Canada | 655 65 | 133 86 | 789 51 |
| To Newfoundland | 81 90 | ..... | 81 90 |
| From Uruguay | 70 82 | 81 62 | 152 44 |
| Total | 25,340 21 | 4,808 89 | 30,149 10 |

Thus it will be seen that we pay $158,000 to the owners of foreign

vessels for carrying American mails while we pay the owners of American ships but $38,000 for their service. It is humiliating that this great country, now the head of all the nations of the earth, should have to employ the ships of any other nation on the earth to carry its mails anywhere for the still more humiliating reason that we have not enough ships suited to this work.

I also present a table showing the exact ships which are employed in the carrying of the mails, those registered as American vessels and foreign vessels, showing the ratio, and it will be most valuable, I think, to the American people to see such a table as that. It shows the humiliating attitude in which we are placed by not adopting some measure to rebuild the carrying trade of our country:

*Schedule of steamers appointed to convey the United States mails to foreign countries during the month of February*, 1881.

TRANSATLANTIC MAILS.

*From New York.*

| Date of sailing. | Sailing days. | Name of steamer. | Name of line. | Port of destination and intermediate ports of call. | Hour of closing mail at post-office at port of departure. | | Mails to be conveyed. |
|---|---|---|---|---|---|---|---|
| | | | | | A. M. | P. M. | |
| Feb. 1 | Tuesday | Wisconsin* | Williams & Guion | Queenstown † | 4.30 | | Mails for Great Britain and Ireland; also German, Austrian, French, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails. |
| Feb. 2 | Wednesday | Atlas* | Cunard | Queenstown † | 5.00 | | Mails for Great Britain and Ireland; also German, Austrian, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for France. |
| Feb. 2 | Wednesday | Labrador* | General Transatlantic | Havre | 6.00 | | Mails for France direct. |
| Feb. 2 | Wednesday | P. Caland* | Netherlands Steam Navigation Company. | Rotterdam | 11.30 | | Mails for the Netherlands direct. |
| Feb. 3 | Thursday | City of Montreal* | Inman | Queenstown † | 6.30 | | Mails for Ireland direct; also specially addressed correspondence for Great Britain and the Continent. |
| Feb. 3 | Thursday | Herder* | Hamburg American Packet. | Plymouth, Cherbourg, and Hamburg. | 9.30 | | Mails for Great Britain and Ireland; also German, Austrian, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails via Plymouth; mails for France direct; mails for Germany direct; also Austrian, Danish, Swedish, and Norwegian closed mails via Hamburg. |
| Feb. 5 | Saturday | Britannic* | White Star | Queenstown † | 7.00 | | Mails for Great Britain and Ireland; also French, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for Germany and Scotland. |
| Feb. 5 | Saturday | Ethiopia* | Anchor | Glasgow | 7.00 | | Mails for Scotland direct. |
| Feb. 5 | Saturday | Waesland* | Red Star | Antwerp | 17.00 | | Mails for Belgium direct. |
| Feb. 5 | Saturday | Donau* | North German Lloyd | Southampton and Bremen | 1.00 | | Mails for Great Britain and Ireland; also German, Austrian, French, Belgian, Netherlands, Swiss, Italian, Spanish, and Swedish closed mails via Southampton; mails for Germany direct; also Austrian, Danish, and Norwegian closed mails via Bremen. |
| Feb. 8 | Tuesday | Nevada* | Williams & Guion | Queenstown † | 10.30 | | Mails for Great Britain and Ireland; also German, Austrian, French, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails. |
| Feb. 9 | Wednesday | Parthia* | Cunard | Queenstown † | 11.00 | | Mails for Great Britain and Ireland; also German, Austrian, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for France. |
| Feb. 9 | Wednesday | Ferdinand de Lesseps.* | General Transatlantic | Havre | | | Mails for France direct. |
| Feb. 9 | Wednesday | Rotterdam* | Netherlands Steam Navigation Company. | Rotterdam | 11.30 | | Mails for the Netherlands direct. |
| Feb. 10 | Thursday | Lessing* | Hamburg American Packet. | Plymouth, Cherbourg, and Hamburg. | 11.30 | | Mails for Germany and Austria via Plymouth; mails for France direct; mails for Germany direct; also Austrian, Danish, Swedish, and Norwegian closed mails via Hamburg; also specially addressed correspondence for Great Britian and the Continent. |
| Feb. 10 | Thursday | Baltic* | White Star | Queenstown † | 11.30 | | Mails for Great Britain and Ireland; also Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for Germany and France. |
| Feb. 12 | Saturday | Rhein* | North German Lloyd | Southampton and Breman | 11.00 | | Mails for Germany, Austria, and Sweden via Southampton; mails for Germany direct; also Austrian, Danish, and Norwegian closed mails via Bremen; also specially addressed correspondence for Great Britain and the Continent. |
| Feb. 12 | Saturday | City of Berlin* | Inman | Queenstown † | 12.00 m. | | Mails for Great Britain and Ireland; also German, Austrian, French, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails. |
| Feb. 12 | Saturday | Furnessia* | Anchor | Glasgow | 12.00 m. | | Mails for Scotland direct. |
| Feb. 12 | Saturday | Zeeland* | Red Star | Antwerp | | 3.00 | Mails for Belgium direct. |
| Feb. 15 | Tuesday | Abyssinia* | Williams & Guion | Queenstown † | 3.30 | | Mails for Great Britain and Ireland; also German, Austrian, French, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails. |
| Feb. 16 | Wednesday | Bothnia* | Cunard | Queenstown † | 4.00 | | Mails for Great Britain and Ireland; also German, Austrian, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for France. |
| Feb. 16 | Wednesday | France* | General Transatlantic | Havre | 4.00 | | Mails for France direct. |

* Foreign vessel and line.

† This vessel also sails to Liverpool.

*Schedule of steamers appointed to convey the United States mails to foreign countries during the month of February,* 1881—Continued.

TRANSATLANTIC MAILS.

*From New York.*

| Date of sailing. | Sailing days. | Name of steamer. | Name of line. | Port of destination and intermediate ports of call. | Hour of closing mail at post-office at port of departure. | | Mails to be conveyed. |
|---|---|---|---|---|---|---|---|
| | | | | | A. M. | P. M. | |
| Feb. 16 | Wednesday.. | Maas* | Netherlands Steam Navigation Company. | Rotterdam | 11.30 | ..... | Mails for the Netherlands direct. |
| Feb. 17 | Thursday.... | City of Brussels* | Inman | Queenstown† | 4.30 | ..... | Mails for Great Britain and Ireland; also Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for Germany and France. |
| Feb. 17 | Thursday.... | Suevia* | Hamburg-American packet. | Plymouth, Cherbourg, and Hamburg. | 11.30 | ..... | Mails for Great Britain and Ireland; also German, Austrian, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails, via Plymouth; mails for France direct; mails for Germany direct; also Austrian, Danish, Swedish, and Norwegian closed mails via Hamburg. |
| Feb. 19 | Saturday .... | Germanic* | White Star | Queenstown† | 5.30 | ..... | Mails for Great Britain and Ireland; also French, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for Germany and Scotland. |
| Feb. 19 | Saturday .... | Circassia* | Anchor | Glasgow | 7.00 | ..... | Mails for Scotland direct. |
| Feb. 19 | Saturday .... | Neckar* | North German Lloyd | Southampton and Bremen | 11.00 | ..... | Mails for Great Britain and Ireland; also German, Austrian, French, Belgian, Netherlands, Swiss, Italian, Spanish, and Swedish closed mails via Southampton; mails for Germany direct; also Austrian, Danish, and Norwegian closed mails via Bremen. |
| Feb. 22 | Tuesday..... | Wyoming* | Williams & Guion | Queenstown† | 9.00 | ..... | Mails for Great Britain and Ireland; also German, Austrian, French, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails. |
| Feb. 23 | Wednesday.. | Batavia* | Cunard | Queenstown† | 9.30 | ..... | Mails for Great Britain and Ireland; also German, Austrian, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for France. |
| Feb. 23 | Wednesday.. | Ville de Marseilles* | General Transatlantic | Havre | ..... | ..... | Mails for France direct. |
| Feb. 24 | Thursday.... | Celtic* | White Star | Queenstown† | 11.00 | ..... | Mails for Great Britain and Ireland; also Belgian, Netherlands, Swiss, Italian, and Spanish closed mails; also specially addressed correspondence for Germany and France. |
| Feb. 24 | Thursday.... | Frisia* | Hamburg-American packet. | Plymouth, Cherbourg, and Hamburg. | 11.00 | ..... | Mails for Germany and Austria via Plymouth; mails for France direct; mails for Germany direct; also Austrian, Danish, Swedish, and Norwegian closed mails via Hamburg; also specially addressed correspondence for Great Britain and the Continent. |
| Feb. 26 | Saturday .... | Oder* | North German Lloyd | Southampton and Bremen | 11.00 | ..... | Mails for Germany, Austria, and Sweden, via Southampton; mails for Germany direct; also Austrian, Danish, and Norwegian closed mails via Bremen; also specially addressed correspondence for Great Britain and the Continent. |
| Feb. 26 | Saturday .... | City of Richmond* | Inman | Queenstown† | 12.00 m. | ..... | Mails for Great Britain and Ireland; also German, Austrian, French, Belgian, Netherlands, Swiss, Italian, and Spanish closed mails. |
| Feb. 26 | Saturday .... | Devonia* | Anchor | Glasgow | 12.00 m. | ..... | Mails for Scotland direct. |
| Feb. 26 | Saturday .... | Rhynland* | Red Star | Antwerp | ..... | 3.00 | Mails for Belgium direct. |

*From Boston.*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Feb. 5 | Saturday .... | Marathon* | Cunard | Queenstown and Liverpool | 12.00 m. | ..... | Mails for Great Britain and Ireland; also closed mails for Belgium and France. |
| Feb. 12 | Saturday .... | Samaria* | Cunard | Queenstown and Liverpool | 6.00 | ..... | Mails for Great Britain and Ireland; also closed mails for Belgium and France. |
| Feb. 19 | Saturday .... | Hecla* | Cunard | Queenstown and Liverpool | 10.30 | ..... | Mails for Great Britain and Ireland; also closed mails for Belgium and France. |
| Feb. 26 | Saturday .... | Atlas* | Cunard | Queenstown and Liverpool | 5.00 | ..... | Mails for Great Britain and Ireland; also closed mails for Belgium and France. |

*From Philadelphia.*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Feb. 2 | Wednesday.. | Lord Clive‡ | American Steamship Company. | Queenstown and Liverpool | 10.30 | ..... | Mails for Great Britain and Ireland. |
| Feb. 9 | Wednesday.. | Ohio‡ | American Steamship Company. | Queenstown and Liverpool | 6.30 | ..... | Mails for Great Britain and Ireland. |
| Feb. 16 | Wednesday.. | Pennsylvania‡ | American Steamship Company. | Queenstown and Liverpool | 8.30 | ..... | Mails for Great Britain and Ireland. |
| Feb. 19 | Saturday .... | Belgenland* | Red Star | Antwerp | 11.30 | ..... | Mails for Belgium direct. |
| Feb. 23 | Wednesday.. | Indiana‡ | American Steamship Company. | Queenstown and Liverpool | 6.30 | ..... | Mails for Great Britain and Ireland. |

*From Baltimore.*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Feb. 10 | Thursday.... | Hermann* | North German Lloyd | Bremen | 12.00 m. | ..... | Mails for Germany. |
| Feb. 24 | Thursday.... | Köln* | North German Lloyd | Bremen | 12.00 m. | ..... | Mails for Germany. |

* Foreign vessel and line. † This vessel also sails to Liverpool. ‡ American vessel and line.

*Schedule of steamers appointed to convey the United States mails to foreign countries during the month of February*, 1881—Continued.

MAILS FOR CANADA.

*From San Francisco.*

| Date of sailing. | Sailing days. | Name of steamer. | Name of line. | Port of destination and intermediate ports of call. | Hour of closing mail at post-office at port of departure. A. M. | P. M. | Mails to be conveyed. |
|---|---|---|---|---|---|---|---|
| Feb. 1 | Tuesday ‡ | ..... | ..... | Victoria | ..... | ..... | Mails for British Columbia. |
| Feb. 10 | Thursday ‡ | ..... | ..... | Victoria | ..... | ..... | Mails for British Columbia. |
| Feb. 20 | Sunday ‡ | ..... | ..... | Victoria | ..... | ..... | Mails for British Columbia. |

MAILS FOR THE WEST INDIES, MEXICO, CENTRAL AND SOUTH AMERICA.

*From New York.*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Feb. 1 | Tuesday | Santiago ‡ | New York and Cuba Mail | Santiago | ..... | 2.00 | Mails for Santiago and Cienfuegos, Cuba. |
| Feb. 3 | Thursday | Ailsa* | Atlas | Port au Prince | 9.00 | ..... | Mails for Hayti. |
| Feb. 3 | Thursday | Saratoga ‡ | New York and Cuba Mail | Havana | ..... | 1.30 | Mails for Cuba, and Porto Rico via Havana. |
| Feb. 3 | Thursday | British Empire † | New York, Havana, and Mexican Mail | Havana | ..... | 1.30 | Mails for Cuba, and Porto Rico via Havana. |
| Feb. 4 | Friday | Andes* | Atlas | Kingston and Savanilla | 9.00 | ..... | Mails for Jamaica, Maracaibo, Greytown, (Nic.,) and the United States of Colombia, except Aspinwall and Panama. |
| Feb. 5 | Saturday | City of Para ‡ | United States and Brazil Mail | St. Thomas, Para, Pernambuco, Bahia, and Rio de Janeiro | 6.00 | ..... | Mails for Saint Thomas, the West Indies, and Brazil, and for the Argentine Republic via Brazil. |
| Feb. 5 | Saturday | Augustus* | Red D | Porto Cabello, Laguayra, Maracaibo, and Curaçoa. | 8.00 | ..... | Mails for Venezuela, and Curoçoa. |
| Feb. 8 | Tuesday | Atlas* | Atlas | Saint John's | 9.00 | ..... | Mails for Porto Rico. |
| Feb. 9 | Wednesday | Muriel* | Quebec and Gulf Ports Steamship Company. | Martinique | ..... | 1.00 | Mails for the Windward Islands. |
| Feb. 9 | Wednesday | City of Austin ‡ | Nassau Mail Steamship Company. | Nassau, N. P., and Matanzas, Cuba. | ..... | 2.00 | Mails for the Bahama Islands and Matanzas, Cuba. |
| Feb. 10 | Thursday | Crescent City ‡ | Pacific Mail | Aspinwall | 10.00 | ..... | Mails for the South Pacific and Central American ports, and for the west coast of Mexico via Aspinwall. |
| Feb. 10 | Thursday | Niagara ‡ | New York and Cuba Mail | Havana | ..... | 1.30 | Mails for Cuba, and for the West Indies via Havana. |
| Feb. 10 | Thursday | City of Mexico ‡ | New York, Havana, and Mexican Mail. | Havana | ..... | 1.30 | Mails for Cuba, and for Mexico and the West Indies via Havana. |
| Feb. 10 | Thursday | Flamborough* | Quebec and Gulf Ports Steamship Company. | Bermuda | ..... | 2.00 | Mails for Bermuda. |
| Feb. 15 | Tuesday | Santo Domingo ‡ | Clyde | Samana | ..... | 2.00 | Mails for Cape Hayti, Saint Domingo, and Turk's Island. |
| Feb. 16 | Wednesday | Santiago de Cuba ‡ | Clyde | Havana | ..... | 1.30 | Mails for Cuba. |
| Feb. 17 | Thursday | Alene* | Atlas | Port au Prince | 9.00 | ..... | Mails for Hayti. |
| Feb. 17 | Thursday | Newport ‡ | New York and Cuba Mail | Havana | ..... | 1.30 | Mails for Cuba. |
| Feb. 17 | Thursday | Nankin ‡ | New York, Havana, and Mexican Mail. | Havana | ..... | 1.30 | Mails for Cuba, and for Mexico via Havana. |
| Feb. 18 | Friday | Athos* | Atlas | Kingston, Maracaibo, and Savanilla. | 9.00 | ..... | Mails for Jamaica, Maracaibo, and the United States of Colombia, except Aspinwall and Panama. |
| Feb. 19 | Saturday | Felicia* | Red D | Puerto Cabello, Laguayra, Maracaibo, and Curaçoa. | 8.00 | ..... | Mails for Venezuela and Curaçoa. |
| Feb. 19 | Saturday | Bermuda* | Quebec and Gulf Ports Steamship Company. | Saint John's | 9.00 | ..... | Mails for Porto Rico. |
| Feb. 19 | Saturday | Colon ‡ | Pacific Mail | Aspinwall | 10.00 | ..... | Mails for the South Pacific and Central American ports, and for the west coast of Mexico via Aspinwall. |
| Feb. 23 | Wednesday | Carondelet ‡ | Nassau Mail Steamship Company. | Nassau, N. P., and Matanzas, Cuba. | ..... | 2.00 | Mails for the Bahama Islands and Matanzas, Cuba. |
| Feb. 24 | Thursday | City of Washington ‡ | New York, Havana, and Mexican Mail. | Havana | ..... | 1.30 | Mails for Cuba, and for Porto Rico and Mexico via Havana. |
| Feb. 24 | Thursday | Saratoga ‡ | New York and Cuba Mail | Havana | ..... | 1.30 | Mails for Cuba, and for Porto Rico via Havana. |
| Feb. 24 | Thursday | Flamborough* | Quebec and Gulf Ports Steamship Company. | Bermuda | ..... | 2.00 | Mails for Bermuda. |
| Feb. 28 | Monday | Acapulco ‡ | Pacific Mail | Aspinwall | 10.00 | ..... | Mails for the South Pacific and Central American ports, and for the west coast of Mexico via Aspinwall. |

*From New Orleans.*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Feb. 1 | Tuesday | Whitney ‡ | Morgan line | Vera Cruz | 7.00 | ..... | Mails for Mexico.§ |
| Feb. 3 | Thursday | Clinton ‡ | Morgan line | Havana, via Cedar Keys and Key West. | 7.00 | ..... | Mails for Cuba. |
| Feb. 8 | Tuesday | E. B. Ward, jr ‡ | Oteri's Pioneer line | Truxillo, Ruatan, and Belize. | 8.00 | ..... | Mails for Spanish and British Honduras. |
| Feb. 10 | Thursday | Morgan ‡ | Morgan line | Havana, via Cedar Keys and Key West. | 7.00 | ..... | Mails for Cuba. |
| Feb. 16 | Wednesday | Whitney ‡ | Morgan line | Vera Cruz | 7.00 | ..... | Mails for Mexico.§ |
| Feb. 17 | Thursday | City of Merida ‡ | New York, Havana, and Mexican Mail. | Vera Cruz, via Bagdad, Tampico, and Tuxpan. | 7.00 | ..... | Mails for Mexico. |
| Feb. 17 | Thursday | Clinton ‡ | Morgan line | Havana, via Cedar Keys and Key West. | 7.00 | ..... | Mails for Cuba. |
| Feb. 19 | Saturday | Wanderer ‡ | British Honduras Mail Packet line. | Belize and Puerto Cortez | 10.00 | ..... | Mails for British and Spanish Honduras. |
| Feb. 24 | Thursday | Morgan ‡ | Morgan line | Havana, via Cedar Keys and Key West. | 7.00 | ..... | Mails for Cuba. |

*From Key West.*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Feb. 7 | Monday | Clinton ‡ | Morgan line | Havana | ..... | ..... | Mails for Cuba. |
| Feb. 14 | Monday | Morgan ‡ | Morgan line | Havana | ..... | ..... | Mails for Cuba. |
| Feb. 21 | Monday | Clinton ‡ | Morgan line | Havana | ..... | ..... | Mails for Cuba. |
| Feb. 28 | Monday | Morgan ‡ | Morgan line | Havana | ..... | ..... | Mails for Cuba. |

* Foreign vessel and line. † This vessel also sails to Liverpool. ‡ American vessel and line. § This steamer sails from Morgan City, Louisiana.

*Schedule of steamers appointed to convey the United States mails to foreign countries during the month of February,* 1881—Continued.

MAILS FOR THE WEST INDIES, MEXICO, CENTRAL AND SOUTH AMERICA.

*From San Francisco.*

| Date of sailing. | Sailing days. | Name of steamer. | Name of line. | Port of destination and intermediate ports of call. | Hour of closing mail at post-office at port of departure. | | Mails to be conveyed. |
|---|---|---|---|---|---|---|---|
| | | | | | A. M. | P. M. | |
| Feb. 4 | Friday..... | Colima‡..... | Pacific Mail..... ..... .... | Acapulco and Panama..... | ..... | ..... | Mails for Mexico and the South Pacific and Central American ports. |
| Feb. 19 | Saturday .... | Geo. W. Elder‡..... | Pacific Mail..... ..... .... | Acapulco and Panama..... | ..... | ..... | Mails for Mexico and the South Pacific and Central American ports. |

TRANSPACIFIC MAILS.

*From San Francisco.*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Feb. 8 | Tuesday..... | Oceanic*..... | Occidental and Oriental..... | Yokohama and Hong-Kong.. | ..... | ..... | Mails for Japan, Shanghai, Hong-Kong, and dependent Chinese ports, and the East Indies, except British India. |
| Feb. 12 | Saturday.... | City of Sydney‡.... | Pacific Mail..... ..... .... | Honolulu, Sydney, and Auckland. | ..... | ..... | Mails for the Sandwich Islands, Fiji Islands, (via Sydney, New South Wales,) New Zealand, and Australia. |
| Feb. 26 | Saturday.... | City of Tokio‡..... | PacificMail..... ..... .... | Yokohama and Hong-Kong.. | ..... | ..... | Mails for Japan, Shanghai, Hong-Kong, and dependent Chinese ports, and the East Indies, except British India. |

* Foreign vessel and line. ‡ American vessel and line.

POST-OFFICE DEPARTMENT, OFFICE OF FOREIGN MAILS,
*Washington, D. C., January* 15, 1881.

JAS. N. TYNER, *Acting Postmaster-General.*

Whatever might have been my intention originally to have made a connected speech on this subject I am so anxious to get this matter brought to a close that I have spoken hurriedly and somewhat disconnectedly.

If the presentation of the amendment offered by the Post-Office Committee shall have the effect of directing the public mind to practical measures for the restoration of the carrying trade I will be more than gratified.

Mr. BECK. Mr. President, I appreciate the importance of time and therefore state to the Senate in advance that I shall not detain it longer than ten or fifteen minutes.

I am delighted at least to hear that the distinguished Senator from Texas [Mr. MAXEY] in a very able speech has announced his thorough belief in the importance of liberalizing the carrying trade of the United States in every possible way. The Senator from Alabama, [Mr. PUGH,] who presented a very forcible argument in the speech he made the other day, also declared that that was his purpose, and the senior Senator from Alabama, [Mr. MORGAN,] in the struggles he has made to have his free-ship amendment inserted, showed his desire to do the same thing. While I differ with them as to the effect of the pending amendment I believe that it is the purpose of each of them as earnestly as it is my purpose to endeavor to have the carrying trade of this country, in part at least, restored to American citizens under the American flag. The difficulty I have about this amendment is that I fail to appreciate how it is likely to accomplish the result. I have not yet heard how it is proposed or supposed that the Postmaster-General will expend this $1,000,000. Observe the amendment reads:

> For additional postal service to foreign countries, $1,000,000, to be expended, under the direction of the Postmaster-General, in the establishment of mail steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports: *Provided*, That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy, and properly fitted to such service.

In the first place, the Postmaster-General is made the exclusive judge as to how he is to expend this money. In the next place, he is to distribute it equitably among the Atlantic, Gulf, and Pacific coasts on first-class iron vessels owned and manned by American citizens. We have now but few vessels of that sort. There is no complaint, as I understand it, that the mails which go from America are not now carried rapidly and efficiently to all parts of the world, or that the work is not done to-day at a reasonable cost to the people. I agree with the Senator from Alabama that if there was any portion of the people of the United States who do not receive sufficient mail facilities, I would pay whatever was necessary to furnish them those facilities. Men living in Arizona or Montana or anywhere else have a right to the mails as much as the men living in New York, Philadelphia, Baltimore, Louisville and Lexington, Kentucky, and whatever expenditure is necessary to give them that facility they ought to have. So with our ocean mails. If they are not properly carried now, they ought to be carried promptly and efficiently; but they are so carried, as I am advised, and carried at a cost not much exceeding one-quarter of what it is now proposed to give to some additional lines.

Mr. MORGAN. If the Senator from Kentucky will allow me, will he name a port south of Boston, excluding New Orleans, that has a mail carried to a country abroad?

Mr. BECK. I am not familiar enough with the postal service on the ocean to name the ports and to state at how much the mail is carried from each; but I know this, that out of the great port of New York over three-fourths of the mails that go to Europe and to the other great civilized countries of the world are sent, and I know that foreign mails from Savannah, from New Orleans, and everywhere else, reach the port of New York by rail, if they do not by steamer, more promptly than they could reach their destination, than it is possible for them to do in any other way.

Mr. MORGAN. We, living in the South, feel that the Government has been extremely unjust to us in denying us mails to go abroad from our own ports, and we want more facilities for that purpose.

Mr. BECK. I assume that of this million dollars the equitable proportion that the city of Mobile would receive would not weigh a feather's weight in establishing a line of steamships to go to England, France, Germany, or any of the great ports of the Mediterranean or elsewhere.

Mr. MORGAN. If the Senator will allow me one second, I will say to him that the citizens of Mobile in concert with some persons in Liverpool have subscribed their money and have established a line of iron steamships between those two ports which is now carrying on a very valuable and important traffic, but we cannot carry a mail with them because we cannot get a mail to go from the port of Mobile. Our port is closed to the mails of the United States by the policy from which the Senator from Kentucky refuses to relieve us.

Mr. BECK. I said I would not take more than ten minutes but if I go into a wrangle over details it would take me a great deal longer, and I do not desire to occupy time. I have failed to understand if this amendment passes, giving $1,000,000 to the Postmaster-General to expend, who is to be the beneficiary, what lines will receive it, or how it will be equitably distributed. What lines of American ships, owned and manned by American citizens, will receive it?

I have applied to some of the officials of the United States, indeed with all well-informed gentlemen with whom I could communicate, to give me the information. I will state the substance of the information I have received. If I am wrong I shall be corrected. I believe it will be distributed about in the way I shall state. I assume that no ships can be built during this fiscal year to carry these mails, so that the $1,000,000 we are now asked to give could not be used for that puspose. Of that $1,000,000 the Brazilian line will receive about one hundred and eighty thousand dollars per annum. At $30 a mile, at the distance from New York to Rio, that would be the amount. The Pacific Mail will come in for $192,000 on their China line; $102,800 for the San Francisco and Panama line, via the Mexican ports; and $54,000 for the New York and Aspinwall line, the distances being, respectively, 6,400 miles from San Francisco to Hong-Kong, 3,427 miles from San Francisco to Panama, and 1,800 miles from New York to Aspinwall. This will therefore give the Pacific mail $348,800 per annum, and, if it runs for ten years, about $3,480,800. Of course they would have to convince the Postmaster-General that they are the line equitably entitled to this as the proper distribution from the Pacific and other ports before that can be done; but that will be a very simple matter. There are now three lines between New

York and San Francisco, and if the Postmaster-General should observe, what they will doubtless impress upon him, these three lines will obtain $662,400 per annum. That, added to the $182,000 to be given to the Brazilian line, would only leave $155,000 per annum for all the outside American steamships. Observe that on these lines to Brazil and on the Pacific Mail steamship lines all the steamers that will be required to run are running now, and are carrying the mails at a reasonable rate, mostly for the ocean postage. Not a single steamer would be added to the American commercial marine by reason of this distribution, or, at most, only two or three.

Again, we are now having our foreign mail service for this country carried at a cost for the year ending June 30, 1880, of $196,684. This sum pays for five hundred and fifteen mails dispatched to Europe, $103,708 being paid for that service; and for mails to Japan, China, Australia, India, Central and South America, the Pacific and the West Indies, the cost of the mails outside the European mails, is $42,776. That is all we are paying now, and all that the Department requires is being done. It does not estimate for more, and it generally asks for all it needs.

Why should we give a million dollars without information of how it is to be distributed, when we know that all of it will go to the Pacific Mail line and the Brazilian Mail line, with the exception of only about 12 per cent., to be scrambled for by those who are left outside? Why should Congress authorize the Postmaster-General, without taking some control over it, thus to give it to whom he pleases and to determine what is equitable, and to limit it alone to American-built ships owned and manned by American citizens? as though that would in any form enable us to build up the commerce of this country. That is an enigma to me. As the Senator from Maryland very well said, giving a subsidy, (for that is what it is,) a bounty, will enable the people of those particular lines to drive off every other American citizen who is engaged in that business along with those lines.

There was great wisdom in the veto message of President Pierce when he vetoed a measure just like this, which veto message was referred to by the Senator from Maryland. So wise were these remarks that I cannot refrain from reading an extract or two; they are very short. Said President Pierce:

> It will be regarded as a less serious objection than that already stated, but one which should not be overlooked, that the privileges bestowed upon the contractors are without corresponding advantages to the Government, which receives no sufficient pecuniary or other return for the immense outlay involved, which could obtain the same service of other parties at less cost, and which, if the bill becomes a law, will pay them a large amount of public money without adequate consideration, that is, will in effect confer a gratuity, while nominally making provision for the transportation of the mails of the United States.
>
> To provide for making a donation of such magnitude and to give to the arrangement the character of permanence, which this bill proposes, would be to deprive commercial enterprise of the benefits of free competition, and to establish a monopoly in violation of the soundest principles of public policy, and of doubtful compatibility with the Constitution.

When the question came before the House of Representatives shall the bill pass, the veto of the President notwithstanding? I did not look over the entire list of names, but I see some who are authority with me as democrats, among them Thomas H. Benton, of Missouri, John C. Breckenridge, of Kentucky, and Thomas A. Hendricks, of Indiana; and there are ninety-seven others, as against seventy-odd who favored the passage of the bill over the veto.

Mr. MORGAN. Will the honorable Senator from Kentucky allow me to ask him, as a member of the Committee on Appropriations, for an explanation of a part of the bill which came from his committee which has not yet been explained?

Mr. BECK. Certainly.

Mr. MORGAN. The bill as reported from the Committee on Appropriations contains this provision:

> *Provided*, That the Postmaster-General is authorized to pay to the colonies of New Zealand and New South Wales so much of the cost of the overland transportation of the British closed mails to and from Australia as he may deem just, not to exceed one-half of said cost; and the sum of $40,000 is hereby appropriated for that purpose.

Is not that a subsidy?

Mr. BECK. We are having the mails carried over this continent by an arrangement with them, and handing the service over to our own ships. England is employing American ships to carry the mails to Australia, and in order to obtain rapid transit over the short route we are carrying them over the railroads and paying the postage from New York to San Francisco, and then carrying them on this American line to New Zealand and New South Wales. By an arrangement between our Postmaster-General and the people of New Zealand the mails are carried upon American ships and our American railroads, in order to get them there quickly, and we have made an equitable arrangement which is simply what the service is worth and no more, not $30 a mile for carrying a single letter under the pretense of carrying the mails, as the amendment proposes. I may not have stated the facts exactly, but that is the way I understand it.

Mr. MORGAN. Is not that a subsidy? I ask the Senator.

Mr. BECK. It is not a subsidy in the sense in which this amendment proposes a subsidy; it does not approach it. As a good deal has been said about the British mail service, I inquired of our Post-Office officials and other gentlemen what they were doing, and I hold in my hand the latest report of the British post-office that I am able to get hold of, showing the amount that the British Government pays in every way, and it is all absolutely legitimate mail service. Of course England has to use more steamships than we do in the mail service. Why? Her East India possessions are divided by great oceans from her; her Canadian dominions are separated by the Atlantic Ocean from her. She has to send her mail on the ocean to her people as we have to send the mail to our people by rail. The whole amount paid by England is not as great as we pay, and her post-office is a source of revenue to her instead of being a drain upon the Treasury. A portion of her mails, as I said, are carried in American ships. When Senators speak about England subsidizing vessels, as we have heard it from time to time here, it appears that they charge to England the packets from Holyhead to Dublin, bringing the Irish mail across the channel, when they fine these ships £1 14*s.* a minute it they are delayed, making them put on the fastest ships on the ocean. This is the statement:

> The most highly paid packet service is the carriage of the Irish mails from Holyhead to Kingston, (Dublin,) £85,000, carried by the fastest sea-going steamers afloat, with a penalty for over time of £1 14*s.* per minute.

"The gross earnings," &c., are submitted. That service is charged as a subsidy to a steamship line. It is part of a proper system to give her people the fastest mail facilities. But I will submit the statement in full, as it was handed to me:

BRITISH OCEAN MAIL SERVICE.

[From latest report of the British post-office.]

*Colonial mails.*

London to East Indies, China, and Japan, contract with Peninsular and Oriental Steamship Company for a weekly service, via Suez Canal, £417,325.

Of this sum India contributes £104,400.

The British share of the postages amounts to, £60,000.

Leaving a loss to British post-office of £253,000.

London to West Indies, by Royal Mail Company, and Liverpool and West India Company, weekly service, including extra service to Belize, Saint Kitts, Nevis, Monserrat, and Turk's Island, £89,200.

Leaving a loss to the British post-office over and above the postal receipts of £50,000.

Halifax to Bermuda and Jamaica, contract price, £17,500. Loss, £16,500.

West coast of Africa, contract £7,863. Loss, £1,800.

Total amount of colonial contracts £531,978. Loss on same, £322,300.

The Australian colonies, New Zealand, the Dominion of Canada, and the Cape of Good Hope colonies pay for their own mail-service, and invite tenders from steamship companies of any nationality. A part of the Canadian service, also part of the New South Wales and New Zealand service, is carried on by American steamers, paid by the colonial governments.

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| Total contract cost of colonial, Indian, and foreign mails | £599, 425 |
| Actual cost over receipts | 339, 077 |
| At $5 to the pound sterling | $1, 698, 385 |
| To the debit of Indian and colonial contracts, £221,300 | 1, 156, 500 |
| To debit of foreign mails | 541, 885 |

Mr. BLAINE'S estimate of £780,000, or as he puts it, $4,000,000, given by Great Britain as postal aid to steamship lines, includes payments for carrying the mails to Ireland, to the Isle of Man, to the Isle of Wight, the Scilly Islands, the Orkney and Shetland and Channel Islands, and from Dover, Folkestone, New Haven, and Southampton to Ostend, Calais, Boulogne, Dieppe, and Havre. All of which is as much a home postal service as our mails from Washington to New York and Boston.

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| Foreign contracts: | |
| To United States a tri-weekly service by Cunard, Inman, and White Star steamers, Liverpool, via Queenstown, to New York, contract | £57, 447 |
| Postages received | 33, 000 |
| Loss to Post-Office | 24, 447 |
| East coast of Africa: Contract price, £10,000; loss, £9,600. | |
| Total amount of foreign contracts | £67, 447 |
| Total cost to Post-Office | £34, 047 |
| Add one-third the loss on the Peninsular and Oriental contract for their extension of the service to China and Japan | 84, 330 |
| Total of whole foreign mail service | 118, 377 |

The mails to Brazil, River Platte, and all Pacific ports of South America are carried for the postages.

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| Total postal revenue of British post-office for year 1877 | £6, 017, 000 |
| Total expenses of British post-office for year 1877 | 4, 070, 000 |
| Surplus | 1, 947, 000 |
| Paid for mail transportation by mail packets and private ships | 780, 000 |
| Paid for mail transportation by railway | 684, 000 |
| Paid for mail transportation by coaches, &c | 171, 000 |

The most highly paid packet service is the carriage of the Irish mails from Holyhead to Kingstown, (Dublin,) £85,000. Carried by fastest sea-going steamers afloat, with penalty for over time of £1 14*s.* per minute.

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| Gross earnings of telegraphs | £1, 313, 000 |
| Gross expenses | 1, 277, 000 |
| Surplus | 36, 000 |

To attain this great speed between Holyhead and Kingstown the steamers burn ten tons of coal per hour.

The trouble is that when you subsidize these Pacific lines and this Brazilian line you take away all inducement for people either to work cheaper or to build ships cheaper. I have an article showing what a gentleman who built many of those ships for the Pacific Mail Steamship Company said they would cost. He declared (and he declares now in pamphlets laid before the Committee on Finance) that he can build them at 10 or not exceeding 15 per cent. more than the cost charged in England; that a ship can be built for $500,000 here which would cost $450,000 anywhere else in the world. Yet that same gentleman built the Pacific Mail steamships, and this is the amount given by the Pacific Mail Steamship Company as printed in their official report of April 30, 1876: that company paid to Mr. Roach for the

City of Pekin $1,264,000; for the City of Tokio, $1,275,000; for the City of San Francisco, $744,000; for the City of New York, $757,000; for the City of Sidney, $744,000; making a total of $4,786,338; leaving a profit beyond what had been said by that builder he could build these ships for of about two million dollars as compared with what they would have cost in England or elsewhere.

There will be no effort to build ships cheaper if we give these subsidies. It is an admission that in all time to come we will have to pay whatever ship-builders see fit to ask for their ships out of the public Treasury, and let them charge what they please and they will never make any effort to do any better. There is where the great evil comes in. We had a discussion on this subject nearly three years ago, on the 4th of June, 1878, when the distinguished Senator from Maine, [Mr. BLAINE,] in answer to an argument of the Senator from Delaware, [Mr. BAYARD,] used this language:

> And more than that, you can to-day, in the Senator's own town and on the river on which he lives, engage to have iron ships built just as good and just as cheap as you can have them built on the Clyde.

And yet to-day, over two years and eight months after that, the clamor comes that we cannot build them at all. They never will build them as long as they can come to Congress and get subsidies from us to pay them whatever they see fit to ask as the difference between the ships they build and those built abroad. It is only when you bring them into competition and refuse to give them anything outside the regular pay for the regular work done that you will ever have cheap ships in this country.

I agree with the distinguished Senator from Texas [Mr. MAXEY] and both the Senators from Alabama that everything that can be done to lighten the burdens on our carrying trade should be done. Every burden ought to be taken off. I have not been able to think out the matter fully yet; but I have an idea as to what ought to be done. I am not sure that I am right, we may not have the power to do it, but I would strain all the powers of the Constitution to do something like this: after allowing our people to buy ships wherever they like, after giving every ship-builder all the free material from a compound engine down to a rivet to build ships in this country, if I had the power—and I am not sure we do not have it—I would allow every ship engaged in the foreign trade to be registered at the port of Washington. Maine is charging 2½ per cent. taxation on her ships, New York 1.75 per cent., other States are charging from 1½ to 2 per cent. I would require them to carry apprentices for the American Navy, five, if you please, for every thousand tons; let every 3,000 ton ship carry fifteen and educate and train them for the American Navy. I would require them to enter into a contract that the ship should be taken whenever needed by the American people in the event of a foreign war to be used as part of the naval force of the United States. Whether we want them or not, we have a right to make that arrangement with them, and when we had thus far adopted them I would deny the right of any State or municipality to tax the foreign ocean-going ships of this country so registered, so employed, and with that covenant being a part of the Navy of the United States they should be as free from taxation as are the bonds of the United States, upon which no tax can be imposed either upon principal or interest, because they are part of the machinery of the United States to pay its debts. That sort of relief will help the foreign carrying trade of the country. I would also pay all the fees of consuls from the Treasury; I would furnish pilotage; I would, in other words, lighten every burden; but I would not give a monopoly in the way of a subsidy to any class of ships to exclude other American ships, or to try to build them up in ways that have proven over and over again to be failures.

There may be some constitutional objections—I have not yet been able to see them—to the suggestions I have just made. We have registered ships very often in New York and Philadelphia that for five years never entered those ports. You can register in Boston and trade from New York; you can register a ship anywhere. Why not make the registry at the capital of this country? Georgetown is a port of entry. Why not make the ships so registered train American sailors for us? It may be said that these vessels are not fit for the naval service. Cannot sailing-vessels haul coal for the Navy? Has not Congress the right to say we will adopt them? It is nobody's business whether they are the kind of ships we may need for war purposes; if they are adopted by Congress, that settles it. I would build up an American marine in that way without imposing taxes upon the people, simply by requiring the local authorities everywhere to regard that portion of the national machinery as being free from any local burdens they could put upon it. I repeat I would do so if there is no constitutional objection in the way, and I hope before we meet next December some committee, that presided over by the Senator from Delaware or some other, will look into that question and say how far it can be done. But in the mean time I would not burden the tax-payers of the country any more to furnish means to the few steamship lines we now have. I think that will do more harm than good.

I was about to read from a distinguished official of this Government a portion of a very able letter he wrote to me. I do not care to give his name, because his suggestions might bring displeasure upon his head, and he is too able a man, I think, to be subjected to displeasure. He says in that letter:

> Subsidies are uncertain and insidious; they may for a while sustain, and then, by withholding, destroy; they nourish continued dependence, and are certain to excite an appetite for more, more, and their beneficiaries would annually besiege Congress not only for continuance but also for larger allowances. Subsidies would inure more particularly to the benefit of regular lines, since incorporated interests would be more influential and payments could be more readily based upon a specified service. Individual vessels for general service would be placed at a disadvantage. There would also be constant appeals for differentiation of amounts on account of the varied nature and alleged cost of the services rendered, so that no regular system could be sustained.

He agrees with me that you have to lighten up the burdens now put upon shipping instead of giving subsidies to them.

But, Mr. President, I said I would not take time by arguing the question, and I leave it for the Senate to decide.

Mr. TELLER. Mr. President, I move to lay the amendment on the table.

Mr. WITHERS. Will the Senator from Colorado yield to me while I present a report from the Committee on Appropriations?

Mr. TELLER. The Senator can do that afterward. We have had so much discussion that I think I shall not yield. Let us take the vote.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senator from Colorado moves to lay the amendment on the table.

Mr. TELLER. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) On this question and all other subjects connected with the amendment I am paired with the Senator from Maine, [Mr. BLAINE.] If I could vote, I would vote "yea" on this motion.

Mr. CALL, (when his name was called.) On this question I am paired with the Senator from Michigan, [Mr. BALDWIN.]

Mr. BUTLER, (when Mr. HAMPTON's name was called.) My colleague [Mr. HAMPTON] requested me to announce that he had to withdraw from the Chamber on account of illness. He is paired, however, with the Senator from Nebraska [Mr. SAUNDERS] on this question.

Mr. PLATT, (when his name was called.) I am paired with the Senator from Delaware, [Mr. SAULSBURY.] If he were present, I should vote "nay."

Mr. SAUNDERS, (when his name was called.) On this question I am paired with the Senator from South Carolina, [Mr. HAMPTON.] If he were here, I should vote "yea."

Mr. TELLER, (when his name was called.) On this question I am paired with the Senator from Louisiana, [Mr. KELLOG.] If he were present, I should vote "yea."

Mr. WALLACE, (when his name was called.) I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] If he were here, I should vote "yea."

The roll-call was concluded.

Mr. ANTHONY. On this question I am paired with the Senator from Vermont, [Mr. EDMUNDS,] who was called home by illness. If he were here, I should vote "nay."

Mr. COCKRELL. I was paired on last Saturday with the Senator from Kansas, [Mr. PLUMB.] I saw him in his seat to-day, and I presume the pair does not extend to to-day.

Mr. HAMLIN. I arranged the pair with the Senator from Missouri. It is certainly ended. The Senator is entitled to vote.

Mr. COCKRELL. I was waiting to see if the Senator from Maine was here. I did not observe the Senator from Maine with whom I made the arrangement. I vote yea.

The result was announced—yeas 35, nays 14; as follows:

YEAS—35.

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|---|---|---|---|
| Allison, | Davis of Illinois, | Kernan, | Ransom, |
| Bailey, | Eaton, | Kirkwood, | Slater, |
| Bayard, | Farley, | Logan, | Thurman, |
| Booth, | Groome, | McDonald, | Vance, |
| Brown, | Harris, | McMillan, | Vest, |
| Butler, | Hereford, | Maxey, | Voorhees, |
| Cameron of Wis., | Hill of Georgia, | Morrill, | Whyte, |
| Cockrell, | Ingalls, | Pendleton, | Withers. |
| Coke, | Johnston, | Pugh, | |

NAYS—14.

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|---|---|---|---|
| Blair, | Garland, | Morgan, | Williams, |
| Bruce, | Hamlin, | Paddock, | Windom. |
| Burnside, | Jonas, | Rollins, | |
| Ferry, | Lamar, | Walker, | |

ABSENT—27.

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|---|---|---|---|
| Anthony, | Conkling, | Hoar, | Randolph, |
| Baldwin, | Davis of W. Va., | Jones of Florida, | Saulsbury, |
| Beck, | Dawes, | Jones of Nevada, | Saunders, |
| Blaine, | Edmunds, | Kellogg, | Sharon, |
| Call, | Grover, | McPherson, | Teller, |
| Cameron of Pa., | Hampton, | Platt, | Wallace. |
| Carpenter, | Hill of Colorado, | Plumb, | |

So the motion to lay on the table was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DISTRICT APPROPRIATION BILL.

Mr. WITHERS, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 7035) making appropriations to pro-

vide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes, reported it with amendments.

BILLS INTRODUCED.

Mr. HOAR asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2179) for the relief of Lucy D. Hooper; which was read twice by its title, and referred to the Committee on Pensions.

Mr. JOHNSTON asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2180) refunding to Robert F. Williams & Co. duties illegally collected of them on a cargo of salt; which was read twice by its title, and referred to the Committee on Finance.

WITHDRAWAL OF PAPERS.

On motion of Mr. BURNSIDE, it was

*Ordered*, That William M. Beebe, jr., have leave to withdraw his petition and papers from the files of the Senate.

AMENDMENTS TO BILLS.

Mr. BROWN and Mr. KELLOGG submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 7099) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1882, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

FUNDING BILL.

Mr. JOHNSTON. I move to proceed to the consideration of the bill (S. No. 2097) for the establishment of a bureau of animal industry, and for the suppression and prevention of contagious diseases among domestic animals.

Mr. BAYARD. Will the Senator from Virginia withdraw that motion? I wish to move to take up the funding bill. After the bill is before the Senate I then will give way that the Senator may have the pleuro-pneumonia bill discussed for a short time, as I understand that is all that is proposed. I feel it my duty to bring the funding bill before the Senate at once, and after it is before the Senate, then at this hour of the evening I shall be willing to allow the Senator from Virginia to explain his bill. I understand that bill will not lead to a very long discussion.

Mr. JOHNSTON. I withdraw the motion.

Mr. BAYARD. The Senator having withdrawn his motion, I move to proceed to the consideration of the bill (H. R. No. 4592) to facilitate the refunding of the national debt.

Mr. THURMAN. The proper motion of my friend from Delaware to make is to postpone all previous orders. The special order having been disposed of, we fall back on the Calendar, and he must get the vote of the Senate to postpone all prior orders. That being done, then he can move to take up the bill.

Mr. BAYARD. I supposed the Senate would consider the motion included. The object was to bring the funding bill before the Senate now; and to meet the suggestion of the honorable Senator from Ohio I move that the present and all prior orders be postponed in order to take up House bill No. 4592.

Mr. JOHNSTON. With the understanding stated before.

Mr. BAYARD. With the understanding that I shall give way to the Senator from Virginia.

Mr. KIRKWOOD. I would like to know the extent of this understanding. What does it amount to? That we shall have this evening to talk upon the cattle-diseases bill, and to-morrow go on with the funding bill?

Mr. BAYARD. My intention was to make the funding bill the unfinished business for to-morrow, with the understanding that the pleuro-pneumonia bill is one that will not create a long discussion, and it can probably be finished to-night before we adjourn. I propose to take up the funding bill now, in order that it may be the unfinished business for to-morrow. It is, when taken up, to be laid aside informally for the purpose of allowing the bill suggested by the Senator from Virginia to come up.

Mr. WILLIAMS. The Senate thought the question suggested by the Senator from Virginia of sufficient importance to raise a special committee to which it was referred, and the Senator from Virginia, as the chairman of that committee, reported the bill several days ago, and I do hope the Senate will take it up and not any other bill this evening, and let it go over till to-morrow as the unfinished business. I know that if it be taken up according to the proposition of the Senator from Delaware, the bill will go by the board. I shall insist that the bill of the Senator from Virginia be taken up for the purpose of being proceeded with.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware.

Mr. WILLIAMS. Therefore I am against that motion.

Mr. BAYARD. Then, Mr. President——

Mr. HOAR. May I ask a parliamentary question? Is it not true that the motion of the Senator from Delaware is the one which should be adopted by the Senate whichever bill is to be taken up? The Senator from Kentucky wants the bill named by him to be taken up. He has got to have the prior orders laid aside. We ought to be unanimous in supporting the Senator from Delaware in laying aside prior orders, and then if the Senator from Delaware moves to take up the funding bill the Senator from Kentucky can vote "no" and make his motion.

Mr. THURMAN. The Senator from Massachusetts is entirely correct. Whoever wishes to take up either one of these bills should vote for the motion of the Senator from Delaware to postpone prior orders. When that is carried then it will be a race between my agricultural friends, and I am with them, and my funding friends on the other side—and I do not say whether I am against them or not—which bill shall be taken up; but the first question is, shall the prior orders be postponed?

The PRESIDING OFFICER. The Senator from Delaware moves that the present and all prior orders be postponed, indicating his purpose——

Mr. THURMAN. One word. Is the cattle-disease bill a prior order to the funding bill?

Mr. KIRKWOOD. That I do not know.

Mr. WILLIAMS. They are both on the Calendar. The cattle bill is first in order.

Mr. THURMAN. Then the motion of my friend from Delaware had better be voted down if the friends of the cattle-disease bill know what they are about.

The PRESIDING OFFICER. The question is on the motion to postpone made by the Senator from Delaware.

The motion was agreed to.

Mr. BAYARD. I now move that the Senate proceed to the consideration of the bill (H. R. No. 4592) to facilitate the refunding of the national debt.

The PRESIDING OFFICER. The Senator from Delaware moves that the Senate now proceed to the consideration of House bill No. 4592.

Mr. JOHNSTON. Before that motion is put I desire to say a word. The Senator from Delaware was very kind to say that after the bill was taken up he would consent that it might be laid aside temporarily in order that the cattle bill might be taken up. Now, if the cattle bill is taken up I desire to have final action upon it. If the Senate will consent to take that bill up and let us have final action, I shall be glad; and if not, I shall have to antagonize the motion to take up the funding bill.

Mr. BAYARD. I feel it highly important that this funding bill should come before the Senate and be disposed of at the earliest possible moment; but I think it is of more importance that anything like an honorable understanding should be preserved between Senators.

The honorable Senator from Virginia is correct in saying that it was my proposition that he should withdraw his motion to postpone the present order and prior orders for the purpose of taking up the bill indicated by him, and he withdrew it at my request with the understanding that if I could get up the funding bill then it might be laid aside informally in order that his bill which it was supposed would take a short or no time for discussion should be passed upon by the Senate. I did not think nor did I say that if that bill led to a debate which would carry it over to to-morrow, the pleuro-pneumonia bill should be the regular order for to-morrow as unfinished business. I did not mean that. I supposed the measure had in view was one in regard to which there would be but little debate and very little discussion, and that it could be disposed of to-night. The funding bill cannot of course be considered in so short a time. I did not expect to give way indefinitely, but only with the idea that the bill the Senator from Virginia desired to take up could be disposed of without a great expenditure of time. With that understanding, I press the consideration of the measure I have moved to take up.

Mr. HOAR. I desire to make a suggestion to the honorable Senator from Virginia. I am very desirous that his cattle bill should be taken up and passed at an early day. Now I suggest to him to accept the proposition of the honorable Senator from Delaware. Then he is sure of all the time to-night. If it turns out that his bill is finished to-night, he accomplishes his purpose. If it turns out that his bill is so near finished that a short time in the morning will finish it, he can then with great propriety appeal to the Senate to let him finish it to-morrow. If it turns out that he cannot finish it in a short time to-morrow, he has got the same right to test the sense of the Senate to-morrow between the two bills that he has now and see which they prefer to take up. He loses nothing by accepting the proposition now.

Mr. BAYARD. There can be no difficulty about it.

Mr. JOHNSTON. Then I will accept the proposition of the Senator from Delaware to go on now and make as much progress as possible.

The PRESIDING OFFICER. The Senator from Delaware moves that the Senate proceed to the consideration of House bill No. 4592.

Mr. THURMAN. I think there is a much shorter solution of it, although what is said by the Senator from Massachusetts is correct. Let the cattle-diseases bill be taken up now, and let there be unanimous consent that it shall be the unfinished business for to-morrow——

Mr. BAYARD. Oh, no; that is not the understanding.

Mr. THURMAN. If any Senator objects, of course it cannot be understood.

The PRESIDING OFFICER. The motion is to take up the bill (H. R. No. 4592) to facilitate the refunding of the national debt.

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole.

CONTAGIOUS DISEASES OF ANIMALS.

Mr. JOHNSTON. I ask that that bill be informally laid aside and that the Senate proceed to the consideration of Senate bill No. 2097.

The PRESIDING OFFICER. The Senator from Virginia asks that this bill be laid aside temporarily by unanimous consent, and that the Senate proceed to the consideration of the bill to which he has referred. Is there objection? The Chair hears none. The funding bill is so laid aside, and the bill referred to by the Senator from Virginia will be laid before the Senate.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 2097) for the establishment of a bureau of animal industry, and for the suppression and prevention of contagious diseases among domestic animals.

The bill was reported from the select committee appointed to consider the subject, with amendments, and the amendments were acted on as they were reached in the reading of the bill by sections.

The first amendment was, in line 7 of section 1, after the word "the," to insert "number;" in line 10, after the word "contagious," to insert "and communicable;" in the same line, after the word "and," to strike out the word "provide" and to insert "the means;" in line 15, after the word "investigating," to strike out the word "contagious" and to insert "said;" in line 16, after the word "cure," to strike out "of said diseases" and to insert "thereof;" in line 26, after the word "of," to strike out the word "contagious" and insert "said;" and in line 34, after the word "of," to insert "not more than ten;" so as to make the section read:

That the Commissioner of Agriculture shall organize in his department a bureau of animal industry, and shall appoint a chief who shall be a competent veterinary surgeon, approved by the National Board of Health, and whose duty it shall be to investigate and report upon the number, value, and condition of the domestic animals of the United States, their protection and use, and also inquire into and report the causes of contagious and communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country. The Commissioner of Agriculture is hereby authorized to call to his aid in investigating said diseases in animals, and in providing means for the prevention and cure thereof, the National Board of Health, whose duty it shall be to render such aid and to employ such means as they deem necessary to obtain all information in regard to said diseases, their prevention and control; he is also authorized to employ two commissioners, one of whom shall be a practical stock-raiser, and one an experienced business man, familiar with questions pertaining to commercial transactions in live stock, whose duty it shall be to advise with regard to the best methods of treating, transporting, and caring for animals, and of providing against the spread of said diseases; he is also authorized to employ an agent in each State and Territory, whose duty it shall be to collect all facts and statistics belonging to the animal industry and to the diseases of animals in such State or Territory, and report to the Commissioner of Agriculture. The compensation of said commissioners, agents, and of the members of the National Board of Health while employed in this service shall be at the rate of not more than $10 per diem, with all necessary traveling expenses while engaged in the performance of their duty under this act. The salary of the chief of bureau shall be $3,000 per annum; and the Commissioner of Agriculture shall appoint a clerk for said bureau, with a salary of $2,000 per annum.

The amendment was agreed to.

The next amendment was, in section 2, line 1, after the word "of," to strike out "cattle" and insert "live stock;" in line 5, after the word "contagious" to insert "or communicable;" in line 8, after the word "which," to strike out "cattle" and insert "live stock;" in line 11, after the word "of," to strike out the word "cattle" and insert "live stock;" so as to make the section read:

SEC. 2. That in order to promote the exportation of live stock from the United States the Commissioner of Agriculture, through said chief of bureau, shall make special investigation as to the existence of pleuro-pneumonia, or any contagious or communicable disease, along the dividing line between the United States and the Dominion of Canada, and along the lines of transportation from all parts of the United States to ports from which live stock are exported, and make report of the results of such investigation to the Secretary of the Treasury, who shall establish such regulations concerning the exportation and transportation of live stock as the results of said investigation may require.

The amendment was agreed to.

The next amendment was, in section 3, line 2, after the word "bureau," to strike out the words "acting with the National Board of Health;" in line 6, after the word "of," to strike out the words "neat cattle" and insert "live stock;" in line 7, after the word "safe," to strike out the word "conveyance" and insert "transportation;" in line 8, after the word "such," to strike out the word "cattle" and to insert "stock;" in line 9, after the word "such," to strike out the word "cattle" and insert "stock;" in line 12, after the word "of," to strike out the words "the disease" and insert "said diseases;" in line 15, after the word "having," to strike out the words "the disease" and insert "said diseases;" in line 16, after the word "provide," to insert "by the appointment of inspectors, to be approved by the National Board of Health;" and at the end of the section to insert "but the provisions of this act shall not apply to cattle shipped from the Gulf States, or any of them, to the West India Islands," so as to make the section read:

SEC. 3. That the Commissioner of Agriculture, through said chief of bureau, and the commissioners provided for in section 1 of this act, when deemed necessary, shall co-operate with and aid State and municipal authorities, and corporations and persons engaged in the transportation of live stock, by land or water, in establishing regulations for the safe transportation of such stock from the interior to the seaboard, and the shipment thereof, so that such stock may not be exposed to said disease, and shall also co-operate with State and municipal authorities in the suppression of said diseases by aiding in carrying into effect their laws and regulations, by advising or assisting them in establishing regulations for the isolation of any cattle suspected of having said diseases and the slaughter of those ascertained to be so diseased, and shall provide, by the appointment of inspectors, to be approved by the National Board of Health, for the inspection of all cattle passing from the United States or shipped for exportation to a foreign country, and for giving proper certificates of health. But the provisions of this act shall not apply to cattle shipped from the Gulf States, or any of them, to the West India Islands.

The amendment was agreed to.

The next amendment was in section 4, lines 1, 2, 3, and 4, to strike out the words "whenever the Commissioner of Agriculture, acting in the manner prescribed in section 3 of this act, shall find that there is a necessity for quarantine stations, he shall report the facts to;" in line 4, after the word "Treasury," to strike out the words "whose duty it;" in line 5, after the word "shall," to strike out the words "be to;" in line 6, after the word "any," to strike out the word "cattle" and insert "live stock;" and in line 10, after the word "of," to strike out the words "the disease" and insert "said diseases;" so as to make the section read:

SEC. 4. That the Secretary of the Treasury shall establish quarantine stations at such ports or other points as may be necessary for any live stock that may be imported from foreign countries, and may establish and carry into effect such regulations, consistent with State laws, as may be necessary to prevent the spread of said diseases by importations from abroad; and is authorized to employ officers of the customs and vessels of the revenue marine service in carrying out and enforcing such regulations.

The amendment was agreed to.

The next amendment was, in section 5, line 5, after the word "with," to strike out the words "an infectious or contagious disease" and insert "such diseases, or has been exposed presumably thereto;" so as to make the section read:

SEC. 5. That it shall be unlawful to import or introduce into the United States from foreign countries, or into one State, Territory, or District from another State, Territory, or District, or to sell or offer for sale any domestic animal affected with such diseases, or has been exposed presumably thereto, except in accordance with the provisions of this act and the rules and regulations adopted in pursuance thereof.

Mr. COCKRELL. Before that amendment is adopted I wish to suggest a word. It now reads "or to sell or offer for sale any domestic animal affected with such diseases, or has been exposed presumably thereto." It ought to read "or which has been." After the word "or" I suggest the insertion of "which."

The PRESIDING OFFICER. If there be no objection the amendment of the Senator from Missouri is agreed to.

Mr. HARRIS. I would suggest to the Senator from Virginia in charge of the bill that in section 5, line 3, where the words "or District" occur, they should be stricken out. I doubt the power of Congress to interfere with the transportation of animals from one district in the same State to another.

Mr. JOHNSTON. That means the District of Columbia.

Mr. HARRIS. Then put in "the District of Columbia" instead of "District," and that will obviate the objection.

Mr. JOHNSTON. Then I move to insert in lieu of "District" the words "District of Columbia."

Mr. HOAR. That does not mean judicial district.

The PRESIDING OFFICER. The amendment will be read as amended.

The SECRETARY. After the word "or" in line 3, section 5, it is proposed to insert "the," and after "District" in the same line, to insert "of Columbia."

The amendment was agreed to.

Mr. JOHNSTON. The words "of Columbia" should be inserted in the subsequent line after "District."

Mr. HARRIS. "Or said District."

The SECRETARY. After the last word "or," in line 3, it is proposed to insert "said."

Mr. HARRIS. That will do.

The PRESIDING OFFICER. This amendment will be considered as agreed to.

Mr. THURMAN. Mr. President, no one can overrate the importance of this subject, and no one Senator is more disposed to give to it a careful consideration and to find out some mode by which the country can be protected from the calamity that has befallen other countries from contagious diseases in live stock than I am. I come from a State eminently agricultural, one that has in it as many fine cattle, perhaps, as any State in the Union, as many intelligent stock-raisers as any State in the Union; and they feel the keenest interest in this subject. But, with due respect to the committee that reported this bill which I have just read for the first time this afternoon—for it was reported not a great while ago—I regret that this bill does not seem to me, upon the first reading of it, to be what the occasion requires. There is an immense amount of machinery in this bill. We have this new institution of Government, the National Board of Health, brought in, that was established to protect human beings, and now its duties are to be extended to protect the brute creation as well as human beings; and we have a provision that I confess on the first reading of the bill I cannot understand at all, as to the officers created by this bill being aids assisting and encouraging the State authorities in their efforts to suppress contagious diseases. And we have some other provisions in the bill that strike me as a little curious and that might give rise to some little trouble.

The bill nowhere says that diseased cattle shall be slaughtered, and yet there seems to be an implication that they may be; but by whom does not very clearly appear; under what authority does not very clearly appear; but if I understand it aright they are to be slaughtered under State authority, and then, if slaughtered under

State authority, they are to be paid for by the United States. What is this provision?

*Provided, however,* That a sum not exceeding two-thirds the market value of a healthy animal shall be allowed for an infected or diseased one, and a sum not exceeding $100 may be paid in special cases, but no animal shall be considered of special value unless he be purely bred, and the pedigree found duly recorded in a well-established herd-book.

Mr. President, I think that would trouble the farmers of Illinois, and the farmers of Indiana, and the farmers of Ohio. I think this pure-bred animal, with the pedigree in a well-established herd-book, will be a thing that the farmers will not very well understand out there, and they have to furnish that book before they can get $100 for an animal that, if healthy, they could sell to the next butcher for that sum.

Mr. President, I want most earnestly some action on this subject. I entertain the highest possible respect for the committee that reported this bill, and I know it was an extremely difficult subject that they had to deal with. It has been found extremely difficult in England, with an omnipotent Parliament and a comparatively small territory; and it must be much more difficult under our system of government, with our State authorities and the doubtful power of Congress over the subject.

Mr. President, this is not a bill to be passed without consideration; it is a bill that every Senator ought to read and carefully consider, and I really feel that I owe an apology for even the few remarks I have made that might seem not to be in favor of the bill, from the fact that I have just picked it up and read it. But it is a matter of such vital importance to the cattle-raising portions of this country, of such vital importance to my own State, that I cannot consent to allow a bill to pass which may prove an utter failure, when full consideration might make of it a wise and beneficent measure. In order to give Senators time to read and consider this bill, I move that the Senate proceed to the consideration of executive business.

Mr. JOHNSTON. I hope that motion will not be adopted. Let the bill be read through, and let us go as far as we can.

Mr. THURMAN. It has been read through.

The PRESIDING OFFICER. The reading has not been completed.

Mr. THURMAN. As there is a message from the House, I withdraw my motion.

DEATH OF REPRESENTATIVE FERNANDO WOOD.

A message from the House of Representatives, by Mr. THEODORE F. KING, one of its clerks, communicated to the Senate intelligence of the death of Hon. FERNANDO WOOD, late a Representative from the State of New York, and transmitted the action of the House thereon.

Mr. BAYARD. I ask that the resolutions of the House be reported.

Mr. HARRIS. I suggest to the Senator from Delaware that the funding bill be laid before the Senate as the business under consideration when the resolutions are read.

Mr. BAYARD. The Senator misunderstands me. I have asked that the message of the House be read for the information of the Senate.

The PRESIDING OFFICER. The message will be read.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES,
*February* 14, 1881.

*Resolved*, That this House has heard with deep regret of the death of Hon. FERNANDO WOOD, late a Representative from the State of New York.

*Resolved*, That a committee of nine members be appointed by the Speaker to take order for superintending the funeral of Mr. WOOD; and that, as a mark of the respect entertained by the House for his memory, his remains be removed from Hot Springs, Arkansas, to the city of New York in charge of the Sergeant-at-Arms, and attended by said committee, who shall have full power to carry this resolution into effect.

*Resolved*, That the Clerk communicate the foregoing resolutions to the Senate.

*Resolved*, That, as an additional mark of respect to the memory of the deceased, the House do now adjourn.

Mr. BAYARD. Mr. President, I offer the following resolutions and ask for their present consideration:

*Resolved*, That the Senate has received with sensibility the message of the House of Representatives announcing the death of Hon. FERNANDO WOOD, a Representative from the State of New York.

*Resolved*, That as a mark of respect for the memory of the deceased, the Senate do now adjourn.

The resolutions were unanimously agreed to; and (at four o'clock and fifty-five minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

### MONDAY, *February* 14, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

Several members demanded the regular order.

The SPEAKER. The regular order being demanded, the Chair, as required by the rules, will now call the States and Territories in alphabetical order for the presentation of bills and joint resolutions for printing and reference. Under this call joint and concurrent resolutions and memorials of State and territorial Legislatures can be presented and appropriately referred; and resolutions of inquiry directed to heads of the Executive Departments are in order for reference to the appropriate committees, which latter resolutions are to be reported to the House within one week.

HARBOR OF REFUGE, TRINIDAD, CALIFORNIA.

Mr. BERRY presented a concurrent resolution of the Legislature of the State of California, relative to a harbor of refuge at Trinidad, in that State; which was read, and referred to the Committee on Commerce.

JUTE MACHINERY.

Mr. PAGE introduced a bill (H. R. No. 7162) instructing the Secretary of the Treasury to admit free of duty certain jute machinery for the use of the California State prison, at San Quentin; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

NEW LONDON NAVY-YARD.

Mr. WAIT. I present a joint resolution of the Legislature of the State of Connecticut, concerning the New London navy-yard. I ask that this resolution be read and go into the RECORD.

The SPEAKER. It may be read; but the reading of a bill or resolution during this hour does not take it into the RECORD. The Chair cannot at this time ask unanimous consent for the printing of the paper in the RECORD. That can be asked after this hour is concluded.

Mr. WAIT. Let it be read.

The joint resolution was read, and referred to the Committee on Appropriations.

FRANCES THATCHER.

Mr. WAIT also introduced a bill (H. R. No. 7163) granting a pension to Miss Frances Thatcher, on the ground of military services rendered by her father and grandfather; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

JULIAETT PRESCOTT.

Mr. MILES introduced a bill (H. R. No. 7164) directing the issue of a duplicate check to Juliaett Prescott, a pensioner of the United States; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

LIGHT-HOUSE, DOG ISLAND, APALACHICOLA BAY.

Mr. DAVIDSON presented a joint resolution of the Legislature of Florida, asking for the erection of a light-house on Dog Island, at the east pass of Apalachicola Bay; which was referred to the Committee on Commerce.

DISCRIMINATION BY RAILROAD CORPORATIONS.

Mr. STEVENSON presented a joint resolution of the State of Illinois, urging the passage of such measure or measures as will relieve our commerce from unjust discrimination by railroad corporations and protect the interstate commerce of our common country by law; which was referred to the Committee on Commerce.

TIME FOR MEETING OF CONGRESS.

Mr. TOWNSHEND, of Illinois, introduced a bill (H. R. No. 7165) fixing the time for assembling of Congress; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

QUIETING TITLE TO LANDS.

Mr. HAYES (by request) introduced a bill (H. R. No. 7166) to quiet the title to certain lands in the city of Chicago, Illinois, in the heirs of Jean Baptiste Beaubien; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

CONTAGIOUS DISEASES OF DOMESTIC ANIMALS.

Mr. BICKNELL presented a joint resolution of the General Assembly of the State of Indiana, for the suppression of contagious diseases of domestic animals; which was referred to the Committee on Agriculture.

NAVIGATION OF THE KANKAKEE.

Mr. BAKER presented a concurrent resolution of the General Assembly of the State of Indiana, urging Congress to appropriate $100,000 to improve the navigation of the Kankakee in the States of Indiana and Illinois; which was referred to the Committee on Commerce.

PLEURO-PNEUMONIA.

Mr. BAKER also presented a joint resolution of the General Assembly of the State of Indiana, asking the enactment of laws by Congress to prevent the spread of contagious pleuro-pneumonia among domestic animals; which was referred to the Committee on Agriculture.

RESOLUTIONS STATE OF INDIANA.

Mr. HOSTETLER presented a joint resolution of the General Assembly of the State of Indiana; which was referred to the Committee on Agriculture.

Mr. HOSTETLER also presented a concurrent resolution of the General Assembly of the State of Indiana; which was referred to the Committee on Commerce.

Mr. ORTH presented a concurrent resolution of the General Assembly of the State of Indiana, respecting the navigation of the Kankakee; which was referred to the Committee on Commerce.

Mr. HEILMAN presented a joint resolution of the State of Indiana, in favor of the passage of the Keifer bill, or such other measure as may be introduced into Congress for the suppression of contagious diseases of domestic animals; which was referred to the Committee on Agriculture.

Mr. COWGILL presented a joint resolution of the Legislature of the State of Indiana, relative to the Keifer bill; which was referred to the Committee on Agriculture.

LANDS SUBJECT TO TAXATION.

Mr. ANDERSON introduced a bill (H. R. No. 7167) to declare certain lands subject to taxation; which was read a first and second time, referred to the Committee on Pacific Railroads, and ordered to be printed.

WILLIAM F. MILLER.

Mr. HASKELL introduced a bill (H. R. No. 7168) granting an increase of pension to William F. Miller; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

S. G. PARKER.

Mr. HASKELL also introduced a bill (H. R. No. 7169) granting a pension to S. G. Parker; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELI A. M'FADDEN.

Mr. RYAN, of Kansas, introduced a bill (H. R. No. 7170) granting a pension to Eli A. McFadden; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARINE HOSPITAL, NEW ORLEANS.

Mr. ACKLEN introduced a bill (H. R. No. 7171) to provide for the rebuilding of the marine hospital at New Orleans, Louisiana; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

RESCUE OF PASSENGERS ON THE STEAMSHIP AMERICAN.

Mr. LORING introduced a bill (H. R. No. 7172) to admit free of duty two watches presented to Joseph Upton and G. W. Curtis for rescuing the crew and passengers of the steamship American; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

JABEZ BURCHARD.

Mr. MORSE introduced a bill (H. R. No. 7173) for the relief of Jabez Burchard; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

REVIVAL OF COMMERCE.

Mr. RUSSELL, of Massachusetts, presented a joint resolution of the Legislature of the State of Massachusetts, regarding a revival of American commerce; which was referred to the Committee on Commerce.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. WASHBURN presented a memorial of the Legislature of the State of Minnesota, asking for the improvement of the Mississippi River; which was referred to the Committee on Commerce.

CAPTAIN JACOB NIX.

Mr. POEHLER presented a joint resolution of the State of Minnesota, for the relief of Captain Jacob Nix; which was referred to the Committee on Invalid Pensions.

APPROPRIATION FOR MISSISSIPPI RIVER.

Mr. POEHLER also presented a memorial of the Legislature of the State of Minnesota, asking an appropriation of $1,000,000 for the Mississippi River between Saint Paul and the mouth of the Illinois River; which was referred to the Committee on Commerce.

RESERVOIR UPPER MISSISSIPPI RIVER.

Mr. POEHLER also presented a memorial of the Legislature of the State of Minnesota, asking for the necessary appropriation for the construction of a reservoir on the Upper Mississippi River; which was referred to the Committee on Commerce.

PENSIONS TO SOLDIERS AND SAILORS, WAR OF 1812.

Mr. FORD introduced a bill (H. R. No. 7174) extending the provisions of an act amending the laws granting pensions to the soldiers and sailors of the war of 1812 and their widows, and for other purposes, approved March 9, 1878; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

CANCELING POSTAGE-STAMPS.

Mr. DAGGETT introduced a bill (H. R. No. 7175) to authorize the Postmaster-General to adopt a device for canceling postage-stamps; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

SUNDRY CIVIL EXPENSES FOR 1880.

Mr. LAPHAM introduced a bill (H. R. No. 7176) to amend chapter 182 of the act approved March 2, 1879, entitled, "An act making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MRS. CLARA A. THOMPSON.

Mr. MULLER introduced a bill (H. R. No. 7177) granting a pension to Mrs. Clara A. Thompson; which was read a first and second time, referred to the Committee on Invalid Pensions, and order to be printed.

CAUSES OF INSANITY IN THE UNITED STATES.

Mr. MORTON introduced a joint resolution (H. R. No. 394) directing the National Board of Health to make an investigation as to the causes of insanity in the United States; which was read a first and second time, referred to the Committee on Epidemic Diseases, and ordered to be printed.

DUTY ON ARTICLES FOR INTERNATIONAL EXHIBITION, 1883.

Mr. COX introduced a bill (H. R. No. 7178) to admit free of duty articles intended for the international exhibition of 1883; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

INTERNATIONAL EXHIBITION, 1883.

Mr. COX also introduced a joint resolution (H. R. No. 395) in relation to the international exhibition of 1883; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

DEPARTMENT OF AGRICULTURE.

Mr. VANCE presented a joint resolution of the General Assembly of North Carolina, in favor of making the Commissioner of Agriculture a Cabinet officer; which was referred to the Committee on Agriculture.

DUTIES ON MACHINERY FOR COTTON MANUFACTURE.

Mr. VANCE also presented resolutions of the General Assembly of the State of North Carolina, in reference to the machinery used in the manufacture of cotton threads and cotton goods, by admitting such machinery free of duty; which was referred to the Committee on Ways and Means.

IMPROVEMENT OF OREGON INLET, NORTH CAROLINA.

Mr. VANCE also presented resolutions of the General Assembly of the State of North Carolina, in reference to the improvement of the Oregon Inlet, in North Carolina; which was referred to the Committee on Commerce.

THOMAS F. RILEY.

Mr. LE FEVRE introduced a bill (H. R. No. 7179) for the relief of Thomas F. Riley; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DUTIES ON WILD ANIMALS.

Mr. McKINLEY introduced a bill (H. R. No. 7180) to exempt certain wild animals from duty when imported by zoological societies; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

REV. CHARLES W. RAVER.

Mr. COFFROTH introduced a bill (H. R. No. 7181) granting an increase of pension to Rev. Charles W. Raver, late of Company I, Nineteenth United States Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ADAM RICHTER.

Mr. COFFROTH also introduced a bill (H. R. No. 7182) granting a pension to Adam Richter; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DEVICE FOR CANCELING POSTAGE-STAMPS.

Mr. YOUNG, of Tennessee, introduced a bill (H. R. No. 7183) to authorize the Postmaster-General to adopt a device for canceling postage-stamps; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ANDREW J. MILES.

Mr. JONES introduced a bill (H. R. No. 7184) for the relief of Andrew J. Miles; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HARBOR AT MOUTH OF AHNEPEE RIVER, WISCONSIN.

Mr. BOUCK presented a memorial of the Legislature of the State of Wisconsin, in relation to the completion of the harbor at the mouth of the Ahnepee River, Wisconsin; which was referred to the Committee on Commerce.

PETER IMIG.

Mr. CASWELL introduced a bill (H. R. No. 7185) for the relief of Peter Imig, of Fort Atkinson, Wisconsin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS EVANS.

Mr. WILLIAMS, of Wisconsin, introduced a bill (H. R. No. 7186) for the relief of Thomas Evans; which was read a first and second time, referred to the Committee on the District of Columbia, and ordered to be printed.

LEAVE TO PRINT.

The SPEAKER. There were four gentleman who during the call of States and Territories desired to ask unanimous consent to have certain papers printed in the RECORD. The Chair will now recognize the gentleman from Illinois [Mr. BOYD] to make that request.

INTERSTATE COMMERCE.

Mr. BOYD. I present for reference to the Committee on Commerce, and ask to have printed in the RECORD, a petition signed by Milton George and over 200,000 others, citizens of the State of Illinois and other States, asking for legislation on the subject of interstate commerce. I ask that the petition be printed without the names.

The petition was referred to the Committee on Commerce, and was ordered to be printed in the RECORD. It is as follows:

*To the honorable the Senate and House of Representatives of the United States of America:*

The undersigned, citizens of the State of Kansas, respectfully petition and represent that the railroad corporations of the country are charging rates of tariff for the transportation of farm and other produce which are largely in excess of what the capital represented by the roads is worth, or should reasonably expect to earn; that these corporations refuse during the times when business is depressed and values are shrunk to bear their proportion of the shrinkage, but compel other industries to contribute to keep up the value of their property; that while this is an injustice to and hardship upon every industry other than that in which railroad companies are engaged, it bears particularly hard upon agriculture, which yields, under the most favorable circumstances, a profit of but 3 to 4 per cent.; that in some neighborhoods farmers are practically shut out of the market by high freight rates, and that as the roads generally run through different States, it has been found impracticable to regulate them through local authority.

Therefore the undersigned pray that you will pass such laws as will provide for the appointment of a national railroad commission, which shall have the power to fix the rates of tariff to be charged by railroad companies for the transportation of freight, and providing also that the profits of a road, whether represented by dividends or in improvements or other investments, shall not be allowed to exceed a reasonable interest upon its valuation fairly estimated.

NAVAL TRAINING SCHOOL AT NEW LONDON.

The SPEAKER. The gentleman from Connecticut [Mr. WAIT] made a similar request. The Chair does not see the gentleman in his seat.

Mr. ALDRICH, of Rhode Island. I shall not object to the request of the gentleman from Connecticut, if I be allowed at the same time to have printed in the RECORD the report of a commission on the same subject.

The SPEAKER. On what subject?

Mr. ALDRICH, of Rhode Island. The subject of a naval training school.

The SPEAKER. The Chair cannot allow any conditional objection.

Some time subsequently,

Mr. WAIT said: I ask unanimous consent that the resolutions of the General Assembly of the State of Connecticut concerning a naval training school at New London navy-yard, presented by me this morning and referred to the Committee on Appropriations, be printed in the RECORD.

Mr. ALDRICH, of Rhode Island. And I ask unanimous consent to present and have printed in the RECORD certain communications relating to a naval training station at Coaster's Harbor Island.

The SPEAKER. The Chair can only entertain one request at a time. Is there objection to the request of the gentleman from Connecticut, [Mr. WAIT?]

There was no objection.

Mr. WAIT. I also ask that a letter from the Secretary of the Navy on the same subject be printed in the RECORD.

There was no objection.

The resolutions and letter of the Secretary of the Navy are as follows:

STATE OF CONNECTICUT, OFFICE OF SECRETARY OF STATE,
*General Assembly, January session*, A. D. 1881.

Senate joint resolution No. 58, concerning the New London navy-yard.

Whereas by invitation of Congress the State of Connecticut conveyed, A. D. 1868, by deed of gift to the United States, a tract of land on the river Thames for naval purposes; and

Whereas the Government has expended large sums of money on the same in grading the grounds, constructing a large wharf, erecting storehouses, &c.; and

Whereas Congress at its last session authorized the erection thereon of a building to be used as a drill-room for the apprentices of the naval training school, to be completed at an early day; and

Whereas the adoption of another site, which has been suggested, would involve large and unnecessary expense to the Government: Therefore,

*Resolved by this Assembly*, That our Senators and Representatives in Congress be requested to exert their most earnest and determined efforts to prevent the removal of said naval training school from its location on the Thames and from this State.

*Resolved*, That a copy of this preamble and resolution be forwarded by the secretary of State to each of our Senators and Representatives in Congress.

Passed February 10, 1881.

OFFICE OF SECRETARY OF STATE.

STATE OF CONNECTICUT, *ss:*

I hereby certify that the foregoing is a true copy of record in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of said State at Hartford this 11th day of February, A. D. 1881.

[L. S.] CHARLES E. SEALEY,
*Secretary of State.*

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WASHINGTON CITY, *February* 12, 1881.

MY DEAR SIR: The recommendation made by me, while Secretary of the Navy, for building a hospital at the New London navy-yard was made without special reference to the location of a station for training-vessels. I considered it necessary for several reasons. Ships will frequently visit there, both cruisers and those with apprentice boys, and its healthy location and facility of access will make a hospital, if one is built there, a most desirable place for such of them as may have sick on board. Crews whose health has been impaired by the epidemic diseases of the southern coast will find there such means of recovery as are not surpassed at any other point.

Very truly, &c.,

R. W. THOMPSON.

Hon. J. T. WAIT, *House of Representatives.*

ADULTERATION OF FOOD AND DRUGS.

Mr. DAVIS, of Illinois. I ask unanimous consent to present for reference to the Committee on Agriculture and to have printed in the RECORD a memorial from the Board of Trade of the City of Chicago, asking the passage of a bill to prevent adulteration of food and drugs.

There was no objection, and it was so ordered.

The memorial is as follows:

*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

The undersigned, by order and on behalf of the Board of Trade of the City of Chicago, respectfully represents unto your honorable bodies that

Whereas this board is convinced that the adulteration of human food and drugs is a serious and growing evil, an outrage upon an otherwise sufficiently suffering humanity, greatly detrimental to the public health, tending to increase the death rate and to lower the standard of public and private morals, and that its eradication by well-considered legislation is both desirable and necessary; and

Whereas a bill entitled "A bill to prevent the adulteration of food and drugs," prepared after long and careful consideration by a committee of able experts on behalf of the National Board of Trade, has been presented to your honorable bodies by the representatives of that organization with the request that favorable action thereon may be had at an early day: Therefore,

Having carefully considered the provisions of said bill, your memorialists respectfully petition and urge your honorable bodies that said bill may receive from you that consideration which the great importance of the subject seems to demand; and that it may be enacted into law during the present session of Congress.

Respectfully submitted on behalf and by order of the Board of Trade, Chicago.

H. W. ROGERS, JR., *President.*
CHAS. RANDOLPH, *Secretary.*

CHICAGO, *January*, 1881.

HARBOR OF REFUGE AT MILWAUKEE, WISCONSIN.

Mr. DAVIS, of Illinois. I also ask unanimous consent to present for reference to the Committee on Commerce and have printed in the RECORD a resolution of the Board of Trade of the City of Chicago, urging the construction of a harbor of refuge at Milwaukee, Wisconsin.

There was no objection, and it was so ordered.

The resolution is as follows:

BOARD OF TRADE ROOMS,
*Chicago, February*, 1881.

SIR: The board of directors of this board having unanimously adopted the following preamble and resolutions, to wit:

"Whereas the west shore of Lake Michigan has long needed a harbor of refuge for the protection from easterly storms of the large and growing commerce of the lakes; and

"Whereas, by the aid of the natural protection now afforded by the shore line of Milwaukee Bay, a harbor of refuge suitable to the commerce of the lakes can, in our judgment, be built there at less expense to the Government than at any other point on the west shore of Lake Michigan: Therefore,

"*Be it resolved*, That this board recommend that Congress, during the present session, make the necessary appropriation for a harbor of refuge in Milwaukee Bay, and that work on the same be commenced at the earliest practicable moment.

"*Resolved*, That a copy of these resolutions be sent to each of the Senators and Representatives from the State of Illinois, requesting their support of an appropriation for this purpose;"

I beg to respectfully request, on behalf of the board, your friendly co-operation in securing the necessary appropriation to begin and vigorously prosecute the work referred to, it being, in the judgment of practical men familiar with the necessities of our lake commerce, a work of great importance for the proper protection of the vast commerce of Lake Michigan.

I am, sir, very respectfully,

H. W. ROGERS, JR., *President.*

Hon. GEO. R. DAVIS,
*House of Representatives, Washington.*

J. F. M'CURTAIN.

The SPEAKER. The gentleman from Mississippi [Mr. HOOKER] asks unanimous consent to have printed in the RECORD a memorial of J. F. McCurtain, principal chief of the Choctaw Nation, calling attention to the violation of treaties with that nation, and asking payment of an award made under the treaty of 1830.

There being no objection, the memorial was referred to the Committee on Indian Affairs, and ordered to be printed in the RECORD. It is as follows:

*To the Senate and House of Representatives of the United States:*

The death of the Choctaw delegate, P. P. Pitchlynn, makes it my duty, as principal chief, to ask your honorable body not to let that event keep you from acting on the claim he was prosecuting. The surviving co-delegate, Peter Folsom, has been notified to proceed to Washington, and to pursue the course marked out by his lamented associate, who so long and so faithfully represented the views and wishes of his people.

It is no more than right, at the same time, to remind you of the repeated failures of the Government to comply with our treaties.

Just claims and unsettled demands having been often presented without effect by former delegates, the general council in 1853 passed resolutions expressing the deep sense felt by our people of the wrong done—first, by forcing upon them the treaty of 1830, in direct violation of former treaties, and afterward, in the numerous and flagrant violations of that treaty itself, causing heavy loss to large numbers of Choctaw citizens over and above the greater loss to the nation. Four delegates, Peter P. Pitchlynn, Israel Folsom, Dickson W. Lewis, and Samuel Garland, were instructed to lay the whole case before the Government, and authorized to effect a settlement by treaty or otherwise.

In October, 1855, they reported that the Government would not listen to them till they agreed to comply with a demand that separate jurisdiction should be given to the Chickasaws, and that a home should be provided for the prairie Indians in what is now called the "Leased District." They presented to the council a treaty on that basis, which was violently denounced on account of the large bodies

of land it surrendered, and still more strenuously on account of its Chickasaw features. My father, who was a district chief under our old system, supported it because it promised a just, fair, and liberal consideration of our claims, both public and private. On that ground alone, it was ratified by a small majority of the council. That was in November, 1855. Twenty-five years have passed away. My father is dead. Most of the claimants for whom he spoke are dead. The members of the ratifying council are nearly all dead. The last of the four delegates who signed the treaty died last week. The Government has got the "Leased District." The Chickasaws have got their jurisdiction. The just and fair consideration, which was our part of the bargain, we have never seen. In 1859 the Senate made an award in our favor, which the treaty said should be final. That award the delegates who are now dead spent the last years of their lives in vain efforts to get paid.

Colonel Pitchlynn always said that sooner or later Congress would keep faith with us. In behalf of our people, I ask you to make good his words by complying with the treaty of 1855.

J. F. McCURTAIN,
*Principal Chief.*

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EXECUTIVE OFFICE, CHOCTAW NATION, *February* 1, 1881.

By the principal chief.
Attest:
[SEAL.]

THOMPSON McKINNEY,
*National Secretary Choctaw Nation.*

## NAVAL TRAINING STATION AT COASTER'S HARBOR ISLAND.

Mr. ALDRICH, of Rhode Island. I ask unanimous consent to present for reference to the Committee on Appropriations, and to have printed in the RECORD, an order by the Secretary of the Navy, and accompanying papers, relating to the establishment of a naval training station.

There was no objection, and it was so ordered.

The order of the Secretary of the Navy and the accompanying papers are as follows:

NAVY DEPARTMENT,
*Washington, December* 16, 1880.

General Order No. 257.]

Ordered, that the vessels employed in training apprentices for the Navy shall, from and after this date, constitute a training fleet, and be placed under the command of an officer who shall be of a rank not below that of captain, who shall also be in command of the permanent headquarters or "naval training station."

Ordered, that the "Coaster's Harbor Island," in Narragansett Bay, near Newport, Rhode Island, be, and the same hereby is, established as the "naval training station" for apprentices, which place shall be the headquarters of said "training fleet."

Ordered, that all business and correspondence of said "fleet and station" shall be conducted as heretofore, through the same channels, under the jurisdiction of the Navy Department.

Ordered, that the tender of the real estate made by the State of Rhode Island for the uses of said "training fleet" be, and it hereby is, accepted; and when hereafter the same shall be conveyed to the United States by authority of law, then the station hereby established shall be permanent—until then it shall be considered as only temporary.

R. W. THOMPSON,
*Secretary of the Navy.*

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NAVY DEPARTMENT,
*Washington, November* 27, 1880.

SIR: Proceed to New London, Connecticut, by the 1st December next, and carry out the instructions of the Department of this date, as president of a board to select a site for a permanent headquarters for the training of naval apprentices.

Captains S. R. Franklin, S. B. Luce, and R. Chandler, and Lieutenant-Commander F. E. Chadwick, will be associated with you as members of the board. On the completion of this duty, return and resume regular duties.

Respectfully,

R. W. THOMPSON,
*Secretary of the Navy.*

Commodore EARL ENGLISH,
*Chief Bureau Equipment and Recruiting,*
*Washington, District of Columbia.*

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UNITED STATES STEAMSHIP POWHATAN,
*Newport, Rhode Island, December* 4, 1880.

SIR: In obedience to your orders of the 27th ultimo, we have the honor to state that a careful examination has been made of the naval station near New London, Connecticut, and of Coaster's Harbor Island, in Narragansett Bay, with reference to their adaptability to the purpose of a naval training station for apprentices, and beg to submit the following report:

The naval station on the river Thames is situated on the east bank of the river six miles from its mouth, and three miles north of the city of New London. It has a frontage on the river of one mile and a breadth of 1,000 feet. The channel to the station has a minimum depth of twenty-six feet, with a breadth at the station, between the 24-foot curves, of four hundred and seventy-five feet; between the 20-foot curves, of seven hundred and twenty-five feet; between the 8-foot curves, of 1,000.

The advantages of this site are, that it affords a good frontage at which to lay up such vessels as may be used for permanent depot purposes, very good building sites ashore, with stone for building and a good supply of fresh water.

The disadvantages are:

First. Its distance from any large expanse of water in which to maneuver sailing vessels, it being necessary to go quite nine miles for such purposes, and even then it must be in the vicinity of very rapid tideway and dangerous shoals. This necessity would occasion the use of a number of tugs at a large expense, and the loss of valuable time in towing to and fro, a distance of eighteen miles.

Second. The want of a place for gunnery practice, no range being obtainable in the vicinity. This necessary part of a seaman's training would thus be lost.

Third. The liability of the river to be frozen over at this point, which, apart from hindering all operations on the water, would most seriously inconvenience the transportation of supplies from New London, the railway being on the west side of the river.

Fourth. The impossibility of properly training apprentices in boat service, either in pulling or sailing. Young sailors must be taught to handle boats in a rough as well as a smooth sea, and cannot be trained in the quiet waters of a narrow stream.

Finally. The isolation, which, upon inquiry, was found to be the chief cause of the many desertions that took place from the training ship Minnesota, which wintered here in the winter of 1879–'80. During little more than four months more than ninety boys deserted, and about thirty procured their discharge, the cause of the majority of cases, in both instances, being clearly traceable to despondency, occasioned by the cheerlessness of the situation and the monotony of the life due to the seclusion of the place and its gloomy aspect in winter.

Two points which are in favor of making this a naval arsenal militate against its use as a place for training purposes: these being the distance from the sea and the narrowness of the channel.

The State of Rhode Island having offered any land which the General Government might desire to select on Narragansett Bay, (as shown by a copy of the resolution hereunto appended, marked A,) we proceeded thither and invited the authorities to a consultation.

Several positions were pointed out, and after careful consideration it was determined that Coaster's Harbor Island appeared to offer the greatest advantages.

An inspection of the island disclosed its admirable adaptability for the purposes in view.

The island has a length of 3,300 feet, and a general breadth of 1,300, and contains ninety-two acres; its surface is moderately rolling, affording excellent facilities for drainage. There is one large building of very fine construction, containing heating and cooking apparatus and supplied with water from a source which is practically inexhaustible. This, together with several frame buildings on the island, may be utilized for various purposes. Good stone for building purposes and sand and gravel are found on the island in abundance.

The island is separated from the main land by a strip of shallow water with a general breadth of nine hundred feet, across which is thrown a causeway with a draw-bridge, affording immediate communication with, or isolation from, the main land at pleasure. It is situated upon what is undoubtedly in many respects, and especially for the purpose under consideration, the finest sheet of water on our coast, and is in close proximity to the sea—distant but three nautical miles.

The bay, which is remarkable as being the only harbor on our coast accessible in all winds, has a depth of thirty miles and an extreme breadth of twelve. It is interspersed with a number of larger islands which break the force of the wind and sea from whatever direction they may come. The water is deep and bold, and for the most part clear of obstructions, affording excellent facilities for the maneuvering of vessels. The holding ground is excellent.

The island is admirably located for the practice of gunnery; good ranges can be had from the island itself or from ships moored near by, or in case of target practice while underway. A sail of three miles will bring vessels to the open sea, affording opportunity for this very important training under the most favorable circumstances.

The near proximity of the torpedo station furnishes every facility for the instruction of apprentices in the practical use of torpedoes, an advantage not to be found at any other point.

An element of great consideration in the establishment of a training station is necessarily the climate. That of the southern portion of Rhode Island is remarkable for its equability and mildness, due to its seaward position and to the large bodies of water which wash the shores from every direction. These circumstances are the causes of a climate cool in summer and extremely mild in winter, enabling out-of-door exercises to be carried on with scarcely any interruption throughout the year.

The fact that the island is in the midst of a hardy, sea-faring race, from which the training system would draw many of its recruits, is also an element not to be slighted.

It is placed within easy access of New York and Boston, making the transfer of recruits from these great commercial centers easy and inexpensive.

In conclusion, we would state that Coaster's Harbor Island possesses every requisite as a site for a naval training station, and we therefore earnestly recommend its acceptance.

Respectfully submitted,

EARL ENGLISH,
*Commodore and Chief of Bureau Equipment and Recruiting.*
SAM'L R. FRANKLIN,
*Captain United States Navy.*
S. B. LUCE,
*Captain United States Navy.*
R. CHANDLER,
*Captain United States Navy.*
T. E. CHADWICK,
*Lieutenant Commander United States Navy.*

To the honorable the SECRETARY OF THE NAVY.

## HARBOR IMPROVEMENTS AT WILMINGTON, CALIFORNIA.

Mr. PACHECO. I ask unanimous consent to present for reference to the Committee on Commerce and to have printed in the RECORD a memorial of citizens of Los Angeles calling attention to the necessity for a rapid completion of the harbor improvement at Wilmington, Los Angeles County, California.

There was no objection, and it was so ordered.

The memorial is as follows:

*To the honorable the Senators and the Representatives*
*of the United States at Washington:*

GENTLEMEN: In view of the urgent need of a rapid completion of the harbor improvements at Wilmington, Los Angeles County, California, and of the insufficiency of the appropriations now granted for that purpose, a mass-meeting of the citizens of Los Angeles was called Thursday evening, January 20, by order of the city council, to take the subject under consideration.

That meeting of the citizens appointed our committee to prepare and forward to you a memorial praying for a more earnest prosecution of the work by the Government. In accordance with their instructions, we have prepared the following statement and petition, and we beg leave earnestly to call your attention to it, and to ask your careful consideration of the facts as presented.

First. Until the completion of this work of harbor improvement at Wilmington, the California coast from San Diego to San Francisco remains without a single port of refuge for shipping in storms; nothing but open roadsteads for a distance of five hundred miles.

Second. The roadstead of San Pedro, lying without the bar of Wilmington Harbor, has been for a quarter of a century and is now the commercial outlet of a large portion of Southern California and Arizona. The freight received and shipped through it has steadily increased from an aggregate of 6,311 tons in the year 1855 to 110,000 tons for the year 1880, and is rapidly growing with each year. Grain vessels are loaded at this port directly for Europe. The passenger movements through the port for the year reach a total of 6,000. Arrivals of sea-going vessels: Steamers, 106; sailing vessels, 127—total for the year, 233. These vessels come from and depart for all parts of the world.

Third. To meet the two wants, namely, the creation of a harbor of refuge and the accommodation of the rapidly increasing commerce of the port, the United States Government, after three careful and exhaustive surveys, commenced the work of developing Wilmington Harbor. So far a total of $480,000 has been appropriated. With this money a breakwater 6,700 feet in length has been constructed—the outer 2,000 feet of it only, however, to the level of low tide. The plan of the Government engineers requires that this should be carried above the level of high tide. And a ship channel ten feet deep at low tide and two hundred and fifty feet wide has been dredged through the bar.

Fourth. The object of the works now in process of construction at Wilmington is not the making of an artificial harbor, but simply to clear a channel through the

bor, and give entrance to a harbor already existing. This harbor, within the bar, is completely land-locked and sheltered from storms. It has a ship channel several miles in length, with a depth at low tide of twenty-six feet at its lower end, shoaling after some two miles to sixteen feet. It has ample space already for the accommodation of several hundred vessels at one time, and by the improvement of its side channel could accommodate twice the number. For an idea of its extent and capabilities we refer you to the accompanying map, but would state that the channel has been much improved and deepened since the map was made. We also refer you to the reports and surveys of the engineers now on file in the War Department.

Fifth. When the work was commenced the bar had upon it only eighteen inches of water at low tide. It is now deepened to ten feet by the work already done. The engineers in charge say that a depth of at least seventeen feet may be opened through the bar; and they further state that all work done is permanent, as the tide will keep open the channel when once cleared.

Sixth. The channel as now opened, although it is already of great use, is still too shallow and too narrow for the needs of the commerce of the port, all the heavier vessels having still to lie without the bar in the open roadstead, exposed to storms, and transhipping their freight by a tedious and expensive system of lighterage. At times communication is entirely cut off with the shore, and vessels are frequently forced to abandon the anchorage and run out to sea. In this lighterage work six men have been drowned within the past week in crossing the bar. The expense, the delay, and the dangers of this lighterage system have been, and are still, a heavy and grievous burden upon the commerce of the country.

Seventh. With the completion of the present work ships will be enabled to enter the harbor and lie alongside the wharves.

Eighth. The natural grades of the continent make Wilmington Harbor the practical Pacific Ocean terminus of the whole southern transcontinental system of railroads. Immediately back of it lies the San Gorgorio pass, crossing the Sierra at an elevation of only 2,700 feet, the only true pass in the whole line of that range. The routes of all these southern transcontinental roads lead below the snow line. Wilmington and New Orleans are the natural termini of the shortest southern transcontinental road. The connection from Wilmington Harbor through to the East by the Southern Pacific and the Atchison, Topeka and Santa Fé roads is now almost made.

Ninth. The engineers in charge say that the plan of development of Wilmington Harbor which they have been following is now tested until it is proven to be a success; and that with money more rapidly supplied the work might be pushed to completion within a comparatively short time, instead of being allowed to drag slowly along for years.

Tenth. Among the reasons which we urge for a more liberal policy upon the part of the Government, and for a rapid completion of the work, are these, namely: First, the pressing needs of commerce, the present system of lighterage involving an actual money tax upon the business of the country yearly of about one hundred and twenty thousand dollars; this in addition to the losses from delay. These delays and the expenses incident to shipping grain and produce through an open roadstead have for years retarded the development of this southern portion of California, which is by nature one of the most productive regions of the whole Pacific coast. Second, the dangers of damage to the present work while left exposed to storms in an unfinished condition. Third, the work can be more economically done with money supplied rapidly enough to push it at once to completion than if it is left to drag along year after year. Fourth, the intimate relationship which the port of Wilmington must bear to the whole southern transcontinental system of railroads, to which allusion has already been made, and the rapidly approaching completion of these roads render it highly important that the harbor should be put in the best possible shape without delay. Fifth, the more quickly the work can be completed the sooner will the capital now lying invested in it become productive.

In conclusion, we would say that we believe few Government works have ever been carried on more economically, more honestly, or with greater results to show for the outlay of money than this. This, too, is the only work for which we have ever received a dollar from the Government.

We would therefore, because of the vital importance of this undertaking to us, earnestly pray you to grant at least the sum of $200,000, which amount the Government engineers in charge of the work say can be advantageously used during the ensuing year.

Very respectfully,

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|---|---|
| P. BANNING. | J. E. HOLLENBECK. |
| I. W. HELLMAN. | H. W. HELLMAN. |
| Judge Y. SEPULVEDA. | W. H. PERRY. |
| W. WOODWORTH. | Ex-Gov. J. G. DOWNEY. |
| A. GLASSELL. | J. M. GRIFFITH. |
| Judge V. E. HOWARD. | J. P. WIDNEY. |
| B. COHN. | I. R. DUKELBERGER. |
| J. S. SLAUSON. | A. LOTHIAN. |
| J. R. TOBERMAN. | J. F. CRANK. |
| J. C. HANNON. | C. E. THOM. |
| G. WILEY WELLS. | W. G. KERCHOFF. |
| N. NEWMARK. | E. F. SPENCE, *Chairman.* |
| Lt. Gov. JOHN MANSFIELD. | R. S. LYNCH, *Secretary.* |

LOS ANGELES, CALIFORNIA, *January* 24, 1881.

MONTANA PENITENTIARY.

Mr. MAGINNIS, by unanimous consent, presented a memorial of the Legislature of Montana, in relation to the Montana penitentiary; which was referred to the Committee on Appropriations.

LEASING OF PUBLIC LANDS.

Mr. MAGINNIS also, by unanimous consent, presented a memorial of the Legislature of Montana, protesting against the passage of any law authorizing the leasing by the General Government of any public lands; which was referred to the Committee on the Public Lands.

TABLE OF DUTIES AND IMPOSTS.

Mr. MILLS, from the Committee on Ways and Means, reported a joint resolution (H. R. No. 396) for printing the table of rates of duties and imports under the several tariff acts from 1789 to 1870; which was read a first and second time, referred to the House Calendar, and ordered to be printed.

SWAMP AND OVERFLOWED LANDS.

Mr. TOWNSHEND, of Illinois, by unanimous consent, introduced a bill (H. R. No. 7187) to extend the provisions of an act approved March 2, 1855, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands, and for other purposes;" which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ELIZABETH WIRT GOLDSBOROUGH.

Mr. FIELD, by unanimous consent, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (S. No. 3) granting a pension to Elizabeth Wirt Goldsborough; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LOUISA BAINBRIDGE HOFF.

Mr. FIELD also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 21) granting a pension to Louisa Bainbridge Hoff; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

YORKTOWN CENTENNIAL CELEBRATION.

Mr. GOODE. I ask unanimous consent to take from the Speaker's table House joint resolution No. 337, returned from the Senate with amendments, for the purpose of concurring in the amendments of the Senate. It is a House joint resolution authorizing and requesting the President to extend to the Government and people of France an invitation to join the Government and people of the United States in the observance of the centennial anniversary of the surrender of Lord Cornwallis, at Yorktown, Virginia.

The SPEAKER. The amendments of the Senate will be read.

The first amendment of the Senate was, in line 2, after the word "France," to insert the words "and the family of General La Fayette."

The second amendment was to add to the joint resolution the following:

And for the purpose of carrying out the provisions of this resolution the sum of $20,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, the same or so much thereof as may be necessary to be expended under the direction of the Secretary of State.

Amend the title so as to read as follows:

Joint resolution authorizing and requesting the President to extend to the Government and people of France and the family of General La Fayette an invitation to join the Government and people of the United States in the observance of the centennial anniversary of the surrender of Lord Cornwallis at Yorktown, Virginia.

The SPEAKER. Under the rules this amendment of the Senate making an appropriation must receive its first consideration in Committee of the Whole, except by unanimous consent.

Mr. CALKINS. I would inquire if there was an appropriation in the original resolution as passed by the House?

Mr. GOODE. There was not; but it was suggested by the Secretary of State that it would be indispensable to make an appropriation in order to enable him to properly carry out the resolution.

Mr. CALKINS. Is this appropriation to be expended by the people of Yorktown?

Mr. GOODE. No, sir; by the State Department in receiving the delegation from France whom it is expected may respond to the invitation of the Government.

Mr. BURROWS. I make the point of order that the amendment of the Senate making an appropriation must be first considered in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

Mr. GOODE. Then I will withdraw my request.

The SPEAKER. The request being withdrawn, the joint resolution will remain upon the Speaker's table.

Some time subsequently,

Mr. GOODE said: I desire to request my friend from Michigan [Mr. BURROWS] to withdraw the point of order he made a while ago, and I believe he is not now disposed to insist upon it, against considering at this time the Senate amendments to the House joint resolution relative to the Yorktown centennial celebration.

Mr. BURROWS. I interposed an objection because I noticed that an appropriation was made by the Senate amendment. I will not insist upon the objection.

There being no further objection, the joint resolution was taken from the Speaker's table with the Senate amendments thereto.

The amendments were read as above.

Mr. GOODE. I now move that the amendments of the Senate be concurred in.

The amendments of the Senate were concurred in.

Mr. GOODE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PLEURO-PNEUMONIA, ETC.

Mr. HAWK. I ask unanimous consent to have printed in the RECORD, and referred to the Committee on Agriculture of this House, a resolution adopted by the Illinois State Board of Agriculture in relation to pleuro-pneumonia and other infectious diseases among meat animals in the United States.

There was no objection, and it was so ordered.

The resolution is as follows:

*Resolved*, That we recognize the bill introduced into the House of Representatives at its last session by General KEIFER, of Ohio, as embodying the essential features necessary to an intelligent and efficient supervision of contagious and infectious diseases of live stock generally on the part of the Federal Government, and that we heartily recommend the passage of some such law, with an additional provision which shall clothe the commission with authority to prescribe rules and regulations under which the live stock of any infected State, Territory, or district may be transported or taken therefrom, and under which live stock may be trans-

ported through such infected State, Territory, or district, or in their discretion to prohibit absolutely the transportation of live stock from or through such infected district when in their opinion the same shall be essential to the general safety.

CHATTANOOGA, TENNESSEE.

Mr. DIBRELL. I ask unanimous consent to take from the House Calendar, for consideration at this time, the bill (H. R. No. 7033) making the city of Chattanooga, in the State of Tennessee, a port of delivery. This bill was prepared by the officers of the Treasury Department and meets their approval. It is also unanimously reported from the Committee on Commerce.

There was no objection, and the bill was brought before the House for consideration.

The bill was read, as follows:

That the city of Chattanooga, in the State of Tennessee, is hereby made a port of delivery, with a surveyor at a salary of $350 per annum and the customary fees. And the Secretary of the Treasury is hereby directed to carry this act into effect.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. DIBRELL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CROW INDIANS OF MONTANA.

Mr. AINSLIE, from the Committee on Indian Affairs, by unanimous consent, reported back, with a favorable recommendation, the bill (H. R. No. 6228) to accept and ratify the agreement submitted by the Crow Indians of Montana for the sale of a portion of their reservation in said Territory, and for other purposes, and to make the necessary appropriation for carrying out the same; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

ORDER OF BUSINESS.

Mr. WARNER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. WARNER. Are we proceeding now under the hour rule?

The SPEAKER. Business is now being transacted by unanimous consent.

Mr. WARNER. Then I call for the regular order.

The SPEAKER. The regular order is the call of committees for reports.

Mr. ATKINS. I move to dispense with the morning hour for reports from committees.

The motion of Mr. ATKINS was not agreed to, there being, upon a division—ayes 86, noes 58; not two-thirds voting in favor thereof.

The SPEAKER. The morning hour for reports from committees will begin at nine minutes past twelve o'clock.

EASTMAN'S DIGEST.

Mr. FRYE, from the Committee on Ways and Means, reported back with a favorable recommendation the bill (H. R. No. 7078) authorizing the purchase of Eastman's Digest of the decisions of the Treasury Department and of the supreme and circuit courts relating to tariff, navigation, &c.; which was referred to the Committee on Appropriations, and the accompanying report ordered to be printed.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

Mr. GIBSON. I am authorized unanimously by the Committee on Ways and Means to report back with a favorable recommendation the bill (H. R. No. 6500) to amend an act entitled "An act to amend the statutes in relation to the immediate transportation of dutiable goods." I ask that it may be considered at this time.

The SPEAKER. The Chair has never permitted this hour to be interfered with by legislation.

Mr. GIBSON. Then I ask that the bill be placed upon the House Calendar.

The SPEAKER. Does it relate to the revenue laws?

Mr. GIBSON. It does not.

The SPEAKER. Is there a report accompanying the bill?

Mr. GIBSON. There is not.

The SPEAKER. The rule requires absolutely that bills reported from committees shall be accompanied by reports.

Mr. GIBSON. I will hand one in hereafter.

The SPEAKER. If there be no objection, the bill will be received and placed on the House Calendar, and authority given for the report required by the rule to be hereafter submitted.

There was no objection, and it was so ordered.

MANUFACTURE OF VINEGAR.

Mr. CARLISLE, from the Committee on Ways and Means, reported back with amendments the bill (H. R. No. 6460) to regulate the manufacture of vinegar by the alcoholic-vaporizing process; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

ORANGE M. BLAIR.

Mr. RYON, of Pennsylvania, from the Committee on the Judiciary, reported a bill (H. R. No. 7188) for the relief of Orange M. Blair, administrator of Thomas P. Blair, deceased; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PUBLIC BUILDING, NEW YORK CITY.

Mr. ROSS, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 4644) to amend an act entitled "An act for the construction of a public building for use by the United States Government in the city of New York," approved June 15, 1878; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

STEAMSHIP GULNARE.

Mr. McLANE, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 6985) authorizing the inspection and issue of an American register to the English steamship Gulnare; which was referred to the House Calendar, and the accompanying report ordered to be printed.

BRIDGE OVER SNAKE RIVER, WASHINGTON TERRITORY.

Mr. HENDERSON, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 6927) authorizing the construction of a bridge over the Snake River midway between Grange City and Taxsas Ferry, in Washington Territory; which was referred to the House Calendar, and the accompanying report ordered to be printed.

BELL-BUOY, GRAHAM SHOALS, MICHIGAN.

Mr. TOWNSEND, of Ohio, from the Committee on Commerce, reported back with amendments the bill (H. R. No. 7089) to establish a bell-buoy on Graham Shoals, in the Straits of Mackinaw and State of Michigan; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

RAILROAD BRIDGE, SAINT MARY'S RIVER, MICHIGAN.

Mr. TOWNSEND, of Ohio. I ask unanimous consent to report back from the Committee on Commerce for immediate consideration the joint resolution (H. R. No. 383) authorizing the Secretary of War to convene a board of officers to report in reference to a railroad bridge over the Saint Mary's River, in Michigan.

The SPEAKER. The Chair cannot ask unanimous consent for the consideration of the resolution during this hour.

Mr. TOWNSEND, of Ohio. Then I withdraw the report that I may offer it at some other time.

AGRICULTURAL REPORT FOR 1880.

Mr. COVERT, from the Committee on Agriculture, reported back, with a favorable recommendation, the joint resolution (H. R. No. 373) relative to printing the Agricultural Report for the year 1880; which was referred to the Committee on Printing.

The SPEAKER. There is no report accompanying this bill. The rule requires a written report.

Mr. COVERT. I ask unanimous consent to file a report hereafter to accompany the joint resolution.

There being no objection, leave was granted.

INTEROCEANIC CANAL.

Mr. HILL, from the Committee on Foreign Affairs, reported as a substitute for House joint resolution No. 345, a joint resolution (H. R. No. 397) declaring the policy of the United States in reference to an interoceanic canal; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

TREATY-MAKING POWER.

Mr. BICKNELL, from the Committee on Foreign Affairs, reported adversely the joint resolution (H. R. No. 132) relating to the treaty-making power; which was laid on the table, and the accompanying report ordered to be printed.

RIVERS BETWEEN UNITED STATES AND CANADA.

Mr. RICE, from the Committee on Foreign Affairs, to which was referred the memorial of the State of Maine in relation to the navigation and bridging of certain rivers constituting the boundary-line between the United States and Canada, reported a bill (H. R. No. 7189) for the construction of bridges across the Saint John and Saint Francis Rivers; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. RICE. I ask unanimous consent that the views of the minority of the committee on this subject be also printed.

The SPEAKER. The Chair hears no objection, and leave will be granted.

Mr. COX. Another member of the minority of the committee, who is not now present, may desire to sign my statement of the views of the minority. I ask leave, therefore, that the paper may be filed during the day.

The SPEAKER. The Chair hears no objection.

TREATY BETWEEN UNITED STATES AND SPAIN.

Mr. HERNDON, from the Committee on Foreign Affairs, reported a bill (H. R. No. 7190) to provide for the complete execution of the ninth article of the treaty of 1819 between the United States and Spain; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

Mr. WILSON. I know it is customary that reports made during this hour shall be referred to the Committee of the Whole or to the House Calendar; but I am charged by the Committee on Foreign Affairs with the duty of asking unanimous consent——

The SPEAKER. The Chair cannot ask unanimous consent during this hour for the consideration of anything. If he did so, other committees might be deprived of their right to report. The Chair will recognize the gentleman for the purpose indicated whenever he can do so at some time not in this hour.

SOLDIERS' CEMETERY, WATERLOO, IOWA.

Mr. SPARKS, from the Committee on Military Affairs, reported back favorably the joint resolution (H. R. No. 370) authorizing the Secretary of War to deliver to the city of Waterloo, Iowa, three condemned cannon and four cannon balls, for decoration of soldiers' cemetery; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

CLAIM OF SOUTH CAROLINA FOR ARMS.

Mr. JOHNSTON, from the Committee on Military Affairs, reported back favorably the bill (S. No. 1135) authorizing the Secretary of War to adjust and settle the account for arms between the State of South Carolina and the Government of the United States; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

COLOR-BLINDNESS, ETC.

Mr. HARRIS, of Massachusetts, from the Committee on Naval Affairs, reported, as a substitute for House resolution No. 308, joint resolution (H. R. No. 398) relating to color-blindness and visual acuteness in persons employed in the Navy and merchant marine; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

JAMES E. KELSEY, ETC.

Mr. ELAM. The original papers having been lost during my illness, I have adopted the joint resolution introduced by the gentleman from New York [Mr. BLISS] during the Forty-fifth Congress, second session, and now, by direction of the Committee on Naval Affairs, report back joint resolution (H. R. No. 399) referring to the Court of Claims the claim of James E. Kelsey, John Zoughlin, Theron Kelsey, and others, against the United States for damages done to the schooner C. and C. Brooks. I should like to have this matter considered at this time.

The SPEAKER. The Chair cannot ask for unanimous consent for that purpose during this call.

The joint resolution was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

DRUSILLA H. SWANGER.

Mr. DEERING, from the Committee on Indian Affairs, reported back favorably the bill (H. R. No. 5706) for the relief of Drusilla H. Swanger; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

GEORGIA INDIAN WAR CLAIM.

Mr. WELLBORN, from the Committee on Indian Affairs, reported back favorably the bill (H. R. No. 3841) to repay to the State of Georgia $27,175.50, money advanced by said State for the defense of her frontiers against the Indians and not heretofore repaid; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

ARTHUR J. CARRIER.

Mr. POUND, from the Committee on Indian Affairs, reported back with amendments the bill (H. R. No. 6946) for the relief of Arthur J. Carrier; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

TERRITORIAL OFFICERS.

Mr. FROST, from the Committee on the Territories, reported back favorably the bill (H. R. No. 6830) relating to territorial officers in the several Territories; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

TERRITORIAL ELECTION, NEW MEXICO.

Mr. YOUNG, of Ohio, from the Committee on the Territories, reported back the bill (H. R. No. 7191) to legalize the election of the territorial Legislature of New Mexico, held November 2, 1880, and for other purposes; which was read a first and second time.

Mr. YOUNG, of Ohio. I ask for action on this subject at this time.

The SPEAKER. That cannot be done during this hour.

Mr. YOUNG, of Ohio. Then I ask that the accompanying report be read to the House.

The SPEAKER. That will not necessarily carry it into the RECORD.

Mr. BRAGG. And I make the point of order that this hour is set apart under the rules for the reception of reports and not for action upon them. Therefore, it is not in order to ask for the reading of the report at this time when no action can be had upon the bill itself.

Mr. YOUNG, of Ohio. Very well. Let the bill and report be printed.

The SPEAKER. The bill and report will be printed, of course.

The bill was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

TESTS OF AMERICAN IRON AND STEEL.

Mr. WISE, from the Committee on Manufactures, reported back favorably the bill (H. R. No. 6688) to provide for continuing the tests of American iron and steel and other materials; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

LIGHTING THE CAPITOL BUILDINGS, ETC., BY ELECTRIC LAMPS.

Mr. ATHERTON, from the Committee on Public Buildings and Grounds, reported a bill (H. R. No. 7192) to authorize the lighting of the Capitol buildings and grounds, &c., by electric lamps; which was read a first and second time, and ordered to be printed, and, with the accompanying report, recommitted.

FORT DEARBORN ADDITION TO THE CITY OF CHICAGO.

Mr. ATHERTON also, from the same committee, reported, as a substitute for House bill No. 6749, a bill (H. R. No. 7193) to confirm to the city of Chicago the title to certain public grounds; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

The SPEAKER. This seems to be Senate bill No. 1935.

Mr. ATHERTON. We have taken a copy of the printed Senate bill No. 1935 and agreed to it, and have only used it in moving our substitute for House bill No. 6749.

The SPEAKER. It is not a Senate bill which is reported back?

Mr. ATHERTON. It is not. We reported back House bill No. 6749 with a substitute.

Mr. FORT. I want the matter to appear right upon the record.

Mr. ATHERTON. We reported back for House bill No. 6749 a bill (H. R. No. 7193) to confirm to the city of Chicago the title to certain public grounds.

The SPEAKER. The bill and substitute have been referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

APPEALS IN PATENT CASES.

Mr. VANCE, from the Committee on Patents, reported back, with a favorable recommendation, the bill (H. R. No. 6736) to facilitate appeals from the decisions of the Commissioner of Patents; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

REBECCA R. HIPSLEY.

Mr. COFFROTH, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 3079) granting a pension to Rebecca R. Hipsley; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MARY E. MURRAY.

Mr. COFFROTH also, from the same committee, reported a bill (H. R. No. 7194) granting a pension to Mary E. Murray; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MRS. M. LETITIA WATSON.

Mr. COFFROTH also, from the same committee, reported back favorably the bill (H. R. No. 6818) granting a pension to M. Letitia Watson; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PAY OF CLERKS—COMMITTEE ON INVALID PENSIONS.

Mr. COFFROTH also, from the same committee, reported a resolution from said committee to pay additional compensation to the additional clerks to the Committee on Invalid Pensions of the Forty-sixth Congress, second session; which was referred to the Committee on Accounts.

FRANCIS M. BILHARTZ.

Mr. SCOVILLE, from the Committee on Invalid Pensions, reported back, with an adverse recommendation, the petition of Francis M. Bilhartz for a pension as dependent father; which was ordered to lie on the table, and the adverse report to be printed.

ISRAEL WARREN.

Mr. HOSTETLER, from the Committee on Invalid Pensions, reported, as a substitute for House bill No. 3521, a bill (H. R. No. 7195) granting a pension to Israel Warren; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MATHIAS WONDRAK.

Mr. UPDEGRAFF, of Ohio, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 5982) granting a pension to Mathias Wondrak; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ABIGAIL S. TILTON.

Mr. WHITEAKER, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (S. No. 205) granting arrears of pension to Abigail S. Tilton; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

E. S. DOUGHTY, JR.

On motion of Mr. O'CONNOR, the Committee on Claims was discharged from the further consideration of the petition of E. S. Doughty, jr., for compensation for services rendered as a messenger for the House of Representatives, Forty-fifth Congress; and the same was referred to the Committee on Appropriations.

HENRY MULLEN.

Mr. LINDSAY from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 6336) for the relief of Henry Mullen; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM W. BURNS.

Mr. CROWLEY, from the Committee on Claims, reported a bill (H. R. No. 7196) for the relief of William W. Burns; which was read a first and second time, referred to the Committee of the Whole House on the Private Calender, and, with the accompanying report, ordered to be printed.

CLAIMS ALLOWED BY COMMISSIONERS OF CLAIMS.

Mr. BRAGG, from the Committee on War Claims reported back, with amendments, the bill (H. R. No. 5521) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress approved March 3, 1871, and acts amendatory thereof; which bill, with amendments, was referred to the Committee of the Whole House on the Private Calender, and, with the accompanying report, ordered to be printed.

ELIAS B. MOORE.

Mr. ROBERTSON, from the Committee on War Claims, reported back, with a favorable recommendation, the bill (H. R. No. 974) for the relief of Elias B. Moore, of Fayetteville, Arkansas; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

THOMAS B. WALLACE.

Mr. CARPENTER, from the Committee on War Claims, reported back, with a favorable recommendation, the bill (H. R. No. 4368) for the relief of Thomas B. Wallace, of Lexington, Missouri; which was referred to the Committee of the Whole on the Private Calender, and the accompanying report ordered to be printed.

Mr. BRAGG. I ask permission to file the views of the minority on this case, and ask that it be printed with the views of the majority and referred.

There was no objection, and it was ordered accordingly.

JAMES WILLIAM BUTLER.

Mr. CARPENTER also, from the same committee, reported, as a substitute for House bill No. 3816, a bill (H. R. No. 7197) for the relief of the estate of James William Butler, deceased; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

A. L. SHOTWELL.

Mr. CARPENTER also, from the same committee, reported a bill (H. R. No. 7198) for the relief of A. L. Shotwell, of Jefferson County, Kentucky; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JULIA A. NUTT.

Mr. TYLER, from the Committee on War Claims, reported, as a substitute for House bill No. 1528, a bill (H. R. No. 7199) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The Chair will now recognize gentlemen to make reports who were not in their places when their committees were called.

BAUGHMAN AND WYATT.

Mr. EVINS, from the Committee on the Post-Office and Post-Roads, reported back, with a favorable recommendation, the bill (H. R. No. 6148) for the relief of Baughman and Wyatt; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

NORTHERN BOUNDARY OF NEBRASKA.

Mr. HOUSE, from the Committee on the Judiciary, reported back, with a favorable recommendation, the bill (S. No. 550) to extend the northern boundary of the State of Nebraska; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM H. GILL.

Mr. BRAGG, from the Committee on Military Affairs, to whom was referred the memorial of William H. Gill, of New Jersey, reported a bill (H. R. No. 7200) for the relief of William H. Gill; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CLERK OF COMMITTEE ON ELECTIONS.

Mr. BELTZHOOVER, from the Committee on Elections, reported a resolution allowing the clerk of that committee pay for work done during the vacation of Congress; which was referred to the Committee on Accounts.

GRANT OF LAND TO DAKOTA.

Mr. BENNETT, from the Committee on the Public Lands, reported back with amendments the bill (H. R. No. 6831) granting to the Territory of Dakota one section of land in lieu of fractional section 16 of township 104 north, of range 71 west, of said Territory, and opening said fractional section 16 to public sale, entry, and settlement.

The SPEAKER. The bill will be referred to the Committee of the Whole on the state of the Union, and will be printed with the accompanying report.

Mr. BENNETT. I desire that the bill shall go to the House Calendar. It simply provides for the sale of this land.

The SPEAKER. That is parting with the property of the United States, is it not?

Mr. BENNETT. But it does not dispose of the land except for the original purpose.

The SPEAKER. It goes to the Committee of the Whole on the state of the Union.

The bill was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

COMMITTEE CLERKS, ETC.

Mr. SPRINGER, by unanimous consent, introduced a joint resolution (H. R. No. 400) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives; which was read a first and second time, referred to the Committee on Accounts, and ordered to be printed.

REPORT OF COMMISSIONER OF EDUCATION.

Mr. HAYES. I rise to make some privileged reports from the Committee on Printing. I am instructed to report back with amendments the joint resolution (H. R. No. 378) providing for the printing and distribution of the report of the Commissioner of Education for the year 1880.

The amendments were read, as follows:

In line 5, after "8,000," insert "181;" in line 6 strike out "13,000" and insert in lieu thereof "12,819;" so that the joint resolution as thus amended will read:

"*Resolved, &c.*, That of the report of the Commissioner of Education for the year 1880 there be printed 4,000 copies for the use of the Senate, 8,181 copies for the use of the House of Representatives, and 12,819 copies for distribution by the Commissioner."

Mr. HAYES. This is a resolution for the printing of the regular annual report of the Commissioner of Education.

The amendments were agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

REPORT OF BUREAU OF ETHNOLOGY.

Mr. HAYES. I am also directed by the Committee on Printing to report back the concurrent resolution for printing the reports of the Director of the Bureau of Ethnology with amendments.

The amendments were read, as follows:

In line 6 strike out "7,000" and in lieu thereof insert "7,272;" in line 8 strike out "5,000" and insert in lieu thereof "4,728;" so that the resolution as amended will read:

"*Resolved by the House of Representatives, (the Senate concurring.)* That there be printed at the Government Printing Office 15,000 copies each of the second and third annual reports of the Director of the Bureau of Ethnology of the Smithsonian Institution, with the necessary illustrations; 7,272 copies of which shall be for the use of the House of Representatives, 3,000 copies for the use of the Senate, and 4,728 for distribution by the Bureau of Ethnology."

The amendments were agreed to; and the resolution, as amended, was adopted.

REPORT OF LIFE-SAVING SERVICE.

Mr. HAYES. I am also directed by the Committee on Printing to report back, with a favorable recommendation, the joint resolution (H. R. No. 386) for printing the report of the Life-Saving Service.

The joint resolution was read, as follows:

*Resolved, &c.*, That there be printed 6,000 copies of the report of the operations of the United States Life-Saving Service for the year ending June 30, 1880, without the accompanying tables, (except the one showing the location of stations,) and without the accompanying reports on wreck ordnance, for distribution among the officers of our merchant marine, through the collectors of customs, under the direction of the Secretary of the Treasury.

Mr. COX. I should like, if in order, to offer an amendment to provide also for the printing of a map of all the wrecks and disasters on our coast. This has been done by the English Government with very successful results, and I think it would be a very advisable thing for us to do.

Mr. HUNTON. I was under the impression that I was entitled to the floor for business of the District of Columbia.

The SPEAKER. The gentleman from Virginia is entitled to the floor. But this is a privileged report coming from the Committee on Printing.

The Chair will say to the gentleman from New York [Mr. COX] the law requires that the question of the printing of any papers or reports to cost in excess of $500 should go to the Committee on Printing. The Chair thinks an amendment would not be in order which would involve an expenditure exceeding $500.

Mr. COX. Then I will introduce a separate resolution to accomplish the purpose I have indicated.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

ORDER OF BUSINESS.

Mr. HUNTON. I now call for the regular order.

The SPEAKER. The Chair will cause to be read the order of the House in relation to the business of this day's session.

The Clerk read as follows:

*Resolved*, That upon the expiration of the morning hour on Monday, the 14th of February, the Committee for the District of Columbia shall be entitled to the floor for the consideration during the remainder of that day of business for the District as may be called up by said committee.

Mr. HUNTON. I now yield to my colleague on the committee from New York, [Mr. MILLER.]

UNION RAILROAD DEPOT IN WASHINGTON, DISTRICT OF COLUMBIA.

Mr. MILLER. I call up from the Speaker's table the bill (H. R. No. 3047) to authorize the commissioners of the District of Columbia to designate a proper site for a union railroad depot in the city of Washington, and for other purposes, returned from the Senate with amendments. The amendments of the Senate were made at the last session, and in order to make the necessary correction of dates I desire to move that the amendments of the Senate be not concurred in.

The SPEAKER. The amendments of the Senate will be read.

The amendment of the Senate was to strike out the following:

At some central point, having just reference to the convenience of access by said companies, and the people, sojourners, and visitors of said city, and to all the public interests involved, and report their doings in the premises to Congress within thirty days after the passage of this act with a bill containing such further provisions as they may deem best calculated to give effect to the purpose of requiring all said railroads to use said depot in common, and vacate all other depots, and remove all tracks not necessary for such use: *Provided*, That such union depot shall be provided by said railroads free from expense to the Government of the United States or the District of Columbia.

And in lieu thereof to insert:

Having due regard, as well to the interests of the residents and property-owners of the District of Columbia as to the chartered rights and pecuniary investments of the railroad companies to be affected by the action of Congress in the premises; but if, in the judgment of said commissioners, it is better, for the interest of all parties concerned, that two depots should be established, the one on the northern and the other on the southern side of the city of Washington, then to make selection of the two sites for the respective depots, and to report their action in the premises, with proper plats, to Congress during the present session; but if that is not practicable, then to report on the first Monday of December, 1880, with a bill containing such further provisions as they may deem best calculated to secure the use by said railroad companies of said union depot if so selected; or in case of the selection of the two depots aforesaid, to secure the use of the northern depot by the company or companies whose road or roads enter the city of Washington nearest to said northern depot, and the use of the southern depot by the company or companies whose road or roads enter the said city nearest to said southern depot, and to compel the vacation of all other depots and the removal of all tracks not necessary for use in reaching the depot or depots intended to be established under the provisions of this act: *Provided*, That such union depot or the two depots herein referred to, whichever may be selected, shall be provided by said railroad companies free from expense to the United States or the District of Columbia.

Mr. CONGER. How does that bill come before the House?

The SPEAKER. Under the order of the House setting apart the session of to-day after the morning hour for the consideration of business relating to the District of Columbia. Under that order the gentleman from New York, [Mr. MILLER,] in behalf of the Committee on the District of Columbia, calls up from the Speaker's table the bill of the House with the Senate amendment thereto.

Mr. CONGER. Then, if I may, I object to the consideration of the bill.

The SPEAKER. The gentleman raises the question of consideration.

Mr. CONGER. No; not that.

The SPEAKER. The bill of course is open to the operation of all the rules of the House applicable to it.

Mr. CONGER. This is a bill which is intended to provide that all persons coming to the city of Washington shall walk into town or employ a hackman. I propose that it shall have some consideration in this House before it becomes law, compelling every person coming to Washington to land away off in some remote part of the District.

Mr. MILLER. I do not care to discuss the merits of the bill at this time. I will say to the gentleman from Michigan [Mr. CONGER] that he is entirely wrong. This bill does not locate any depot at all; it simply authorizes the commissioners of the District to report to Congress a suitable location for a union depot, if one can be found by them.

Mr. CONGER. As I said, when the bill was up before, it is the commencement of a plan to remove from convenient places within the city the railroad depots which enable citizens, Government officials, and members of Congress to come by rail somewhere within the city without being compelled to leave the cars at Benning's Bridge or Point Lookout or somewhere else.

Mr. NEAL. Why not say over in Baltimore at once?

Mr. CONGER. Or "over in Baltimore." We had a hard struggle to have a depot located in the heart of the city of Washington, where the traveling public could be properly accommodated.

Mr. NEAL. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. NEAL. Does the gentleman from Michigan [Mr. CONGER] have the floor?

Mr. CONGER. I know the gentleman from Ohio is very anxious to get the floor, but he can speak after I get through.

The SPEAKER. The gentleman from New York [Mr. MILLER] has been recognized by the Chair as having this bill in charge. But that gentleman has not indicated any purpose of interfering with the gentleman from Michigan [Mr. CONGER] or claiming the floor himself as against him. On the contrary, he has answered some of the objections of the gentleman from Michigan.

Mr. CONGER. I raise the question of consideration against this bill.

Mr. MILLER. Allow me to say that under the order of the committee I do not propose to ask for the consideration of this bill, but to move, as I have the right to do, having the floor, that the House disagree to the amendments of the Senate and ask for a conference. That is all we propose.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] raises the question of consideration, as the Chair understands, on that motion, as he has the right to do within the scope of the rule. The motion of the gentleman from New York is in the direction of legislation, which the gentleman from Michigan desires to prevent.

Mr. HUNTON. I rise to a question of order. I submit whether the question of consideration can properly be raised upon District business coming up under the order of the House.

The SPEAKER. The House this morning, notwithstanding the order fixing to-day for District business, might have refused by a majority vote to consider any business from the District Committee. The case is analogous to that of private business assigned under the rule to Friday.

Mr. HUNTON. But does it not require a two-thirds vote?

The SPEAKER. I does not.

Mr. HUNTON. To set aside a rule requires a two-thirds vote.

The SPEAKER. Friday is assigned by the rules for the consideration of private business, which can only be set aside by a two-thirds vote. Yet the House, when private business comes up under the rule, may refuse to go on with it; and the rule provides that thereafter public business shall be considered. The assignment of this day for the consideration of District business was, as the Chair understands, a concession to the District Committee; but the majority of the House might now say as to such business in gross that it would not consider it; and certainly if that power would apply to this class of business in gross it would apply to any particular bill. If the House should refuse to consider the bill, it would remain in the same position exactly in which it was.

Mr. HUNTON. Is it in order to say one word on the question of consideration?

The SPEAKER. The Chair will hear the gentleman.

Mr. HUNTON. Mr. Speaker, this bill passed the House by a large majority, and, having been considered by the Senate, has come back with amendments. We propose to non-concur in the amendments, and have a conference between the two Houses. Surely it would be very proper to consider the matter now. As to the remarks of the gentleman from Michigan, [Mr. CONGER,] it seems to me a matter of great importance that there should be a union depot in the city of Washington, if one can be provided. The Senate amendment provides that if the limitation of the companies to a single depot is impracticable, there may be two depots, but that railroads shall not come into every part of the city.

Mr. CONGER. There are two depots now.

Mr. HUNTON. There are other railroads coming into the city. We want them all to come to one depot, if that be practicable, or to not more than two depots, if it be impracticable for all to come to one. This bill settles nothing. It only requires the District commissioners to report their views upon the question. Without a law on the subject of a union depot, none can be established.

The SPEAKER. The question is whether the House will consider this bill.

The question being taken, there were—ayes 73, noes 24.

Mr. CONGER. It is quite evident that a large majority of members are not acquainted with this subject, and I think a quorum had better vote.

Tellers were ordered; and Mr. CONGER and Mr. HUNTON were appointed.

The House divided; and the tellers reported—ayes 120, noes 27.

So the House decided to consider the bill.

The SPEAKER. The gentleman from New York [Mr. MILLER] now moves that the House non-concur in the amendments of the Senate and ask for a committee of conference.

Mr. HENKLE. Is this question debatable?

The SPEAKER. It is.

Mr. HENKLE. Before this matter is voted on I desire to present

the real question at issue, so that members may understand it fully. This proposition stripped of all its disguises means the removal of the Sixth street depot from its present site to some remote and more inconvenient location, in order that the wishes, perhaps the interests, of certain individuals in the city of Washington may be gratified, as I believe, at the expense of public convenience. For a few years past certain individuals here have raised an unceasing clamor against the location of this depot. They have persisted until we now have the question before this House in the shape of a resolution calling upon the commissioners of the District to designate a site for a union depot. The ultimate object and the main purpose, however, is the removal of the Sixth street depot from its present site to one much more inconvenient for the traveling public.

Now, my experience in the District of Columbia is that there is here a very considerable class of people—I do not mean all, I do not mean half, but I do mean a considerable part—who seem to think that the whole United States and the Treasury of the United States were created specially for their interest and benefit.

The proper location of railroad depots has become in this country a matter of most vital importance to the traveling public. It has become a question of convenience which interests the people of the whole country as to what shall be the site of railroad depots in this city of Washington. In other cities throughout the country you will see millions of dollars are being expended by railroad companies in order to procure sites and convenient locations for depots in central positions in those cities. In Philadelphia $1,000,000 has been recently spent for that purpose alone. In the city of Baltimore the railroad depots are in the most central and densely populated sections of the city. If you go throughout the country and visit the large cities you will find the depots for passenger travel are in convenient and central localities for the accommodation of the people.

Now, if it is a necessity in other cities, if it is proper that the traveling public should be accommodated, it is pre-eminently proper they should be accommodated in the capital of the nation. Washington City derives all of its importance from the importance the people of the country give it. Millions of people resort to the national capital year after year for the transaction of public or private business or upon pleasure.

This property in the District of Columbia, this particular locality, belongs to the people of the whole United States. They have a right to have their interests and convenience considered. Years ago the representatives of the people in Congress assembled granted this as a proper site to accommodate the traveling public, the millions of people resorting to the national capital year after year for business or other purposes. They reserved it for the purpose of this depot for eminently wise and sufficient reasons. There are more forcible reasons to-day why it should be suffered to remain where it is than existed that it should be located upon this site in the beginning.

This property, sir, is in a convenient locality. It is accessible readily to all the Departments of the Government. It is equally accessible to the Capitol, to the Treasury, to the Interior, to the Post-Office, to the Pension Office, to the Smithsonian Institution, to the Agricultural Department, and, indeed, to all of the various Departments and offices of the Government in this city. Passengers are landed near Pennsylvania avenue and Sixth street, and are at once within easy reach of all the great hotels of the city.

Is this House now willing to consent by the passage of this resolution to inaugurate steps which will lead to the removal of this great convenience from its present site back to a locality where every individual who visits the city, no matter how humble his station or how limited his means, shall be compelled to hire a carriage to get to his destination? Just think of it, Mr. Speaker; you are legislating for all time to come. You are legislating in reference to the location of a depot which will affect the convenience of the traveling public for centuries to come. I therefore ask, are you willing to subject the traveling public of the whole country to this inconvenience in order to pander to and gratify the caprice of a few property holders in the southern section of Washington, whose property has no value except such as the location of this depot where it is happens to give it? In time that place will be valuable for warehouses; but it will be valuable only from the fact that the depot is located there. The property will never be valuable as residences. The other day this reservation was all under water—a sort of lake or goose pond. Who considers it valuable for any other purpose except that for which it is now used.

These railroads, Mr. Speaker, have become such a public convenience they can no longer be ignored. The convenience of a site from which people can be landed within easy reach of hotels and places of business is a great desideratum and cannot be ignored properly in the consideration of this important question by the House. Hundreds and thousands of employés in the various Departments of the Government pass to and from the city every night and morning. Poor men and poor women who are employed in the various Departments of the Government and who find it economical to live beyond the limits of the city, in the outskirts of the District, or beyond the District in the States of Virginia and Maryland, go back and forth night and morning. They are landed here at a place convenient to these several Departments. In five minutes' walk they are at the places where they have to discharge their public duties. Remove this depot back into some remote situation or locality, and you subject every one of these poor people for all time to come to the additional expense of paying car-fare or carriage-hire and of losing twenty or thirty minutes in going to or coming from their destination. I think the time has come when in Washington we should legislate as they are legislating everywhere else—to locate these railroad depots where they will best and most conveniently accommodate the public. I regard, Mr. Speaker, this Sixth street depot as the greatest convenience in the District of Columbia to the traveling public. There is no good and sufficient reason for its removal, except, as I said before, it may be to gratify the caprice of a few interested parties. The people of the United States own this property. They own this Capitol and three-fourths of the valuable property within the District, and they are, of course, deeply interested in the question of the location of this depot; for certainly they have a right to have their convenience and wishes consulted as well as a few property-holders in the District.

[Here the hammer fell.]

Mr. MILLER. Mr. Speaker, I shall not detain this House long in discussing this bill, because it fixes nothing. The gentleman from Maryland thinks it is the intention of the parties urging this proposition to remove the depots of this city to some inconvenient place. Sir, I take it there is nothing in this bill that leads to any such conclusion, and nothing has been done either by the Committee on the District of Columbia or by the advocates of the proposition to lead the gentleman from Maryland or any one else to infer there is any such desire to remove the depots of this city to an inconvenient place. But we realize, Mr. Speaker, the fact that this city is rapidly growing, and we have reasonable grounds to believe that in a few years it will number from two hundred and fifty to three hundred thousand people. That being the case, is it not wise for us at this time to take some proper action to regulate the railroads centering here? Now, while the city is growing and before its growth is attained, this work should be done. It is a fact that all of the great cities of the Union, all the great cities throughout this country everywhere, are now doing this. New York within the past two years has, together with the Hudson River Railroad Company, expended nearly four million dollars in the establishment of a grand union depot, with the object of bringing all of the railways centering in that city into one depot and in such manner as not to depreciate the value of surrounding property. Look at the condition of things here. We find two depots already in the very heart of the city, their tracks running through our principal streets, and the depot and tracks of one of them located upon a Government reservation, for which the railroad company pays no rental whatever into the Treasury.

This bill, Mr. Speaker, proposes only to authorize the commissioners of this District to examine the railroads of the city, their routes, and the location of their depots, and if in their judgment these can be located, or if they can find a proper location for them, so that they may be brought into one depot, then they are to report the facts to the House for future action. If they find it is more desirable that there shall be two depots, they are to report that fact to the House. But their report does nothing else; it contemplates no change in the present condition of affairs unless favorable action is taken by Congress. Their report has neither legislative force nor power to accomplish anything in that direction. After this report is made Congress will then take the recommendation of the commissioners and decide whether there shall be a union depot or whether there shall be two depots, or whether there shall be any change whatever, and permit them to remain as they are now. It is evident, then, that this bill fixes nothing. It simply looks to the question of obtaining information that may be valuable hereafter; but it contemplates nothing else. It is in the interest of this city to have this matter attended to at once; it is in the interest of its future growth and prosperity. This bill has nothing to do with the establishment of lines of roads or the location of their depots other than as I have stated. Manifestly it is improper that railroads centering here should be allowed to use Government reservations without being required to pay for them; nor should they be permitted to use the public streets or avenues of the city without the consent of Congress. All the railways coming into the city should be brought into one general union depot. This bill has in direct line of view the ultimate remedying of this condition of things. Will any man rise here and say that a union depot is not more convenient for the needs of the traveling public than two or three scattered over the city as at present? Will it be contended that passengers coming from the West desiring to go South, who are now compelled to get a transfer across the city and pay for it, and those who come from the South wishing to go West, who are compelled to do the same thing, will not find it more desirable and convenient to have all the roads centering at one point?

Will any sensible business man give it as his candid opinion that the interest of this great traveling public would be more enhanced by having these depots separate, as they now are, than by having one at a convenient location in the city where all of these roads shall center? I imagine not.

This bill once passed the House. It was called up a few evenings ago when the District of Columbia had the floor, and because it happened that there was no quorum in the House, the friends of the railroad companies arose in their places here and objected to its consideration, and said if pressed for consideration they would raise the question of a quorum. Thus they have succeeded in defeating a vote upon it; and one of the questions here presented is for this House to decide whether it means to legislate or whether it can legislate for

the needs and necessities of the city of Washington as it is and as it will be in the future, or whether the railroad companies which center here shall have the power upon this floor to prevent action upon such measures. That is a matter, Mr. Speaker, which this House is called upon to settle this morning.

I have thus hurriedly given all there is in this bill. It will be seen that there is nothing hurtful, harmful, or objectionable in it on the ground that gentlemen allege. I say it passed the House. It went to the Senate and the Senate amended it; but a long time has elapsed since it passed the Senate, and the date has passed when the commissioners were to report. That must be corrected. For that reason I have moved that the report and amendments of the Senate be nonconcurred in, in order that a committee of conference may be appointed to decide upon this question. I now yield five minutes to the chairman of the committee, [Mr. HUNTON.]

Mr. HUNTON. I hope the gentleman will yield first to the gentleman from Pennsylvania, [Mr. CLYMER,] who desires a little time on this question.

Mr. MILLER. Then I yield three minutes to the gentleman from Pennsylvania.

Mr. CLYMER. Mr. Speaker, I hope the House will not concur in this amendment, and that the committee of conference will be appointed. The gentleman from Maryland [Mr. HENKLE] has well stated that a number of the cities of this Union are endeavoring to get their railroads nearer their central points on account of increased business facilities. I grant you that is a fact; but I do not conceive that there is a city in the Union, if it had the power, that would not remove a railroad that cuts its fairest park right through the center, that would not compel that railroad, if it sought to reach the center of the town, to approach it either by an underground passage or by one overhead. This plan is being adopted in the city of Philadelphia at the present time at an expense of millions of dollars. The Pennsylvania railroad is entering the center of that city by a causeway erected over the tops of the houses. No large city in the Union would permit these roads to cross public streets and parks, marring the beauty of the city, as the city of Washington permits. No city like this, which is large to-day and likely to be larger, would tolerate such a railroad system as we now have in existence here.

We are here legislating for this, the capital of a nation. We are not legislating either for or against the interest of any railroad. A stranger from any part of the Union who comes and stands in front of this Capitol, and looks down through what ought to be the fairest park on earth, from the foot of the Capitol grounds to the Potomac, a mile long, which should be reserved for purposes of pleasure and transit from one end of the city to the other, cannot fail to see how terribly it is marred and its usefulness interfered with by having, almost every hour of the twenty-four, long trains of cars standing across the grounds, making it almost impossible to pass; or if you do pass, you do it at the risk of life and limb.

Now I do not object to having a central depot somewhere, but I want to submit that question to the commissioners of the District, who have the interests of the District in charge. I am satisfied they will not locate the depot so that the citizens of Washington shall be put to inconvenience. But representing here a constituency whose chief interest in this matter, as is the case with the constituencies of other gentlemen here, is to promote the beauty and greatness of this capital rather than the interest of any railroad, I say I will vote for any measure—largely interested as some of my people may be in the Baltimore and Potomac Railroad—I will vote for any measure which will restore that fair reservation to the purposes for which it was originally intended. It was never intended for railroad purposes, and I trust this House will take measures by this bill to do something for its restoration.

Mr. MILLER. I now call the previous question.

The question being taken on ordering the previous question there were—ayes 69, noes 12.

Mr. CONGER. A quorum has not voted. There does not seem to be interest enough taken in this subject to warrant the pressing of the measure any further.

Mr. MILLER. It seems those on the side of the gentleman from Michigan opposing this measure are not interested enough to vote.

The SPEAKER. The point having been made that a quorum has not voted the Chair will order tellers, and appoints the gentleman from Michigan, Mr. CONGER, and the gentleman from New York, Mr. MILLER.

The House again divided; and the tellers reported—ayes 96, noes 26: no quorum voting.

Mr. HUNTON. If the gentleman from Michigan insists on the point of a quorum we may as well have a call of the House.

Mr. MILLER. I believe we could get a quorum by calling for the yeas and nays.

The SPEAKER. The Chair thinks there is a quorum present.

Mr. CONGER. I will withdraw the point of a quorum not having voted on this bill, although I doubt whether there is a quorum present. I will let it go because this vote does not pass the bill. But I think to legislate in this way with no quorum is a very improper way to proceed.

The SPEAKER. The Chair concurs with the gentleman from Michigan.

Mr. WHITE. I insist on the point that a quorum has not voted.

The SPEAKER. The tellers will resume their places.

The counted was resumed; and the tellers reported—ayes 113, noes 37.

So the previous question was ordered.

The SPEAKER. The question recurs on the motion that the House non-concur in the amendments of the Senate and ask for a committee of conference.

The question being taken, the Speaker stated that in the opinion of the Chair the "ayes" had it.

Mr. HENKLE. I call for the yeas and nays.

Mr. HUNTON. I hope the gentleman from Maryland [Mr. HENKLE] will not delay the business of the committee by calling for the yeas and nays.

The question being taken on ordering the yeas and nays, there were ayes 12; not one-fifth of the last vote.

So the yeas and nays were not ordered, and the motion was agreed to.

Mr. MILLER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### PROTECTION OF CHILDREN IN THE DISTRICT.

Mr. ALDRICH, of Rhode Island. I call up from the House Calendar the bill (H. R. No. 4005) to incorporate a society for the protection of children in the District of Columbia, reported by the Committee on the District of Columbia, with amendments.

The bill and the amendments were read. The bill as proposed to be amended is as follows:

*Be it enacted, &c.*, That Josiah Dent, Thomas P. Morgan, Richard W. Thompson, Walter S. Cox, W. W. Curtis, R. D. Mussey, J. Vaughn Lewis, A. Y. P. Garnett, S. C. Busey, John A. Baker, Samuel A. Robinson, Alexander Abraham, M. D. Peck, B. P. Davis, E. N. Demongeot, L. S. Emory, O. F. Presbrey, J. H. Cuthbert, F. M. Alexander, A. P. Farden, A. K. Parris, Charles Hill, W. P. Bell, John Eaton, C. P. Culver, R. C. Fox, M. Douglass, John Hitz, Samuel V. Niles, Roger Williams, H. B. Curtis, R. C. Parker, L. M. Cuthbert, L. B. Hoff, George W. Salter, A. S. Taylor, William Paret, Henry Wise Garnett, William Parris, William B. Webb, J. H. Saville, John S. Barbour, L. J. Davis, William P. Young, Charles M. Matthews, A. S. Pratt, D. W. Middleton, jr., Thomas J. Fisher, George L. Douglass, C. Morris Addison, and such other persons as may be associated with them in conformity to this act, and their successors, are hereby constituted and created a body-corporate in the District of Columbia, to be known as the Society for the Protection of Children in the District of Columbia.

SEC. 2. The said society shall have power to appoint such officers, managers, and agents as the business of the society shall require; to regulate the admission of members; to make such by-laws for the management and government of the organization as may seem necessary, not inconsistent with the laws of the District of Columbia or of the United States; to have perpetual succession by its corporate name; to sue and be sued, complain and defend in any court of law or equity; to make and use a common seal; to contract and be contracted with; to take and hold, by gift, purchase, grant, devise, or bequest, any property, real or personal, and to dispose of the same at pleasure.

SEC. 3. The said society, by its proper officers or agents, may prefer a complaint before any court in the District of Columbia having jurisdiction for the violation of any law relating to or affecting the protection of children, and may aid in bringing the facts before such court in any proceeding taken; and all fines or penalties that may be collected through the instrumentality of this society or its agents for violation of such laws shall accrue to the benefit of said society.

SEC. 4. The commissioners of the District of Columbia shall, by the police force of said District, aid the said society, its officers and agents, in the enforcement of all laws which now are or may hereafter be enacted relating to or affecting the protection of children; and the commissioners of the said District and their successors are authorized to detail from time to time such officer or officers as may be necessary to aid specially in the work of said society, or may commission any duly appointed agent or agents of said society special police officers; but said special police officers shall serve without compensation, and such agents or officers shall have power to arrest all persons violating within their view any law relating to or affecting the protection of children, without warrant, or other parties so offending by virtue of a warrant issued by any justice of the peace upon complaint made to him, who shall be taken by such agents or officers before the police court of the District of Columbia for trial. Said agents or officers are also hereby empowered to bring before the said court any child who is subjected to cruel treatment, willful abuse, or neglect; and said court may commit such child to an orphan asylum or other public charitable institution in the District of Columbia, or make such other disposition thereof as now is or may hereafter be provided by law in cases of vagrant, destitute, or abandoned children: *Provided*, That any parent, guardian, or near relative who may feel aggrieved by any order of said court in the premises, may appeal therefrom to the criminal court of the District of Columbia.

The amendments recommended by the committee were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALDRICH, of Rhode Island, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### CHURCH PROPERTY IN THE DISTRICT.

Mr. ALDRICH, of Rhode Island. I call up from the House Calendar the bill (H. R. No. 6324) to construe an act entitled "An act to relieve the churches of the District of Columbia and to clear the title of the trustees of such property."

The bill was read, as follows:

*Be it enacted, &c.*, That the words "church property which was actually held and used for the purposes of divine worship" in the first section of the act entitled "An act to relieve the churches of the District of Columbia and to clear the title of the trustees to such property," approved June 21, 1879, shall be construed to include parsonages and rectories.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALDRICH, of Rhode Island, moved to reconsider the vote by

which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, without amendment, bills of the House of the following titles:

A bill (H. R. No. 6201) granting a pension to Thomas Worthington; and

A bill (H. R. No. 6942) to fix the times for holding district and circuit courts of the United States for the western district of Texas.

The message further announced that the Senate insisted on its amendments disagreed to by the House of Representatives to the bill (H. R. No. 6719) making appropriations for the support of the Army for the fiscal year ending June 30, 1882, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed as managers of the conference on the part of the Senate Mr. WITHERS, Mr. EATON, and Mr. BLAINE.

CAPITOL AND NORTH O STREET RAILROAD.

Mr. ALDRICH, of Rhode Island. I now call up from the House Calendar for consideration the bill (H. R. No. 7032) to amend the act incorporating the Capitol, North O Street and South Washington Railroad Company.

The SPEAKER. The bill will be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the act to incorporate the Capitol, North O Street and South Washington Railway Company, approved March 3, 1875, be, and the same is hereby, amended so as to authorize said company, at its discretion, to remove its track from Ohio avenue and Twelfth street southwest, and lay a single or double track, and run its cars thereon, from its present line at the intersection of Ohio avenue and Fourteenth street south along Fourteenth street to C street southwest, eastwardly along C street southwest to Virginia avenue, to connect with its present line at the junction of said avenue and street; and also to lay a single or double track from its present line on P street and Eleventh street northwest, north along said Eleventh street to Boundary street; and to lay a single or double track commencing at the intersection of C street and Eleventh street southwest, running thence south on Eleventh street to Water street south, running thence easterly on Water street south to M street south, which point shall be the southern terminus of the road: *Provided*, That the said company shall complete the tracks and run its cars along the streets named within six months from the approval of this act.

SEC. 2. That should any part of the track extension herein authorized coincide with portions of any other duly incorporated street railway, the relative condition of the chartered rights may be adjusted upon terms to be mutually agreed upon between the companies, or, in case of disagreement, by the supreme court of the District of Columbia, on petition filed therein by either party, and on such notice to the other party as the court may order.

SEC. 3. That the fare between the Bureau of Engraving and Printing and the nearest junction with connecting roads shall be two cents.

SEC. 4. That any other duly incorporated street railway company in the District of Columbia shall have the right to run its cars over that portion of the route hereinbefore named south of Pennsylvania avenue, upon such fair and equitable terms as may be agreed upon between the said companies; and in the event that the said companies shall fail to agree upon satisfactory terms, either of said companies may apply by petition to the supreme court of the District of Columbia, which shall provide for proper notice to, and hearing of, all parties in interest; and shall have power to determine the terms and conditions upon which, and the regulations under which, the said company or companies using the tracks over the route before named may use and enjoy said tracks, and the amount and manner of compensation to be paid therefor.

SEC. 5. That Congress may at any time amend, alter, or repeal this act.

Mr. ALDRICH, of Rhode Island. I am instructed by the Committee on the District of Columbia to move an amendment in section 3 of the bill, to strike out the words "connecting roads" and to insert in lieu thereof "any intersecting road."

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. ALDRICH, of Rhode Island, moved to reconsider the vote by which the bill was passed; and also moved that the vote to reconsider be laid on the table.

The latter motion was agreed to.

METROPOLITAN RAILROAD, WASHINGTON, DISTRICT OF COLUMBIA.

Mr. HUNTON. I now yield to the gentleman from Delaware, [Mr. MARTIN,] a member of the Committee on the District of Columbia.

Mr. MARTIN, of Delaware. I call up from the House Calendar for consideration at this time the bill (H. R. No. 7031) to amend the charter of the Metropolitan Railroad Company of the District of Columbia.

The bill was read, as follows:

*Be it enacted, &c.*, That the Metropolitan Railroad Company of the District of Columbia is hereby authorized to construct and lay down a double-track railroad, with the necessary switches and turn-tables, in the city of Washington, in said District, commencing at the intersection of New York avenue and Fourteenth street west, and running south along said Fourteenth street to the north line of C street south, which shall be the southern terminus of said road.

SEC. 2. That, except as herein otherwise provided, the construction, use, and maintenance of said road shall be subject to the provisions of the act, and of the acts amendatory thereof, incorporating the Metropolitan Railroad Company in the District of Columbia.

SEC. 3. That the other duly incorporated street railroad companies in the District of Columbia, or any of them, are hereby authorized and empowered to connect their tracks with the tracks of the said road, when completed, and to use the said road in common with the Metropolitan Railroad Company: *Provided*, That before any company shall connect its tracks with the tracks of the said road and use the said road as aforesaid, it shall give ten days' notice to the company or companies using the road, and pay to the said company or companies its share of the whole cost of building the road, so that the companies using the road in common shall share the said cost equally; and, further, shall bear its equal share of the expense of maintaining the road in good order, quarterly accounts of the said expense to be rendered by the Metropolitan Railroad Company.

SEC. 4. That every railroad company using the road herein authorized shall carry passengers from any point along the said road to any point upon any of the lines operated by said company, receiving therefor a rate of fare not exceeding its usual rate for carriage upon its main lines; and shall carry passengers for any distance between the termini of the road herein authorized, receiving therefor a rate of fare not exceeding two cents per passenger.

SEC. 5. That unless the Metropolitan Railroad Company shall commence work on the said road by the 1st day of April, 1881, and complete the said road by the 1st day of June, 1881, then any other of the duly incorporated street railroad companies of the District of Columbia which shall first file with the commissioners of the District of Columbia a notification of intention so to do may proceed, in place of the Metropolitan Railroad Company, to construct and complete the said road; and the preceding sections of this act shall be construed as though the said company were named therein instead of the Metropolitan Railroad Company.

SEC. 6. That whenever the road herein authorized may coincide with the route of any other duly incorporated street railroad company in the District of Columbia, the said Metropolitan Railroad Company shall have the right to use the tracks already laid as part of the road herein authorized to be constructed, upon such fair and equitable terms as may be agreed upon by said companies; and in the event of the said companies failing to agree upon satisfactory terms, either of said companies may appeal by a petition to the supreme court of the Distict of Columbia, which shall provide for proper notice to and hearing of all parties interested, and shall have power to determine the terms and conditions upon which the said tracks shall be used.

SEC. 7. That Congress may at any time amend, alter, or repeal this act.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. MARTIN, of Delaware, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WASHINGTON AND CHESAPEAKE RAILROAD COMPANY.

Mr. HUNTON. I now yield to the gentleman from Arkansas, [Mr. SLEMONS.]

Mr. SLEMONS. I call up from the House Calendar the bill (H. R. No. 7117) authorizing the Washington and Chesapeake Railroad Company to extend its railroad into and within the District of Columbia.

The bill was read, as follows:

Whereas it is represented to this present Congress that the Washington and Chesapeake Railroad Company, organized under the provisions of article 41 of the revised code, 1878, of the State of Maryland, desire to extend their railroad into and within the District of Columbia: Therefore,

*Be it enacted, &c.*, That the Washington and Chesapeake Railroad Company be, and they are hereby, authorized and empowered, as hereinafter provided, to extend their railroad into and within the District of Columbia; and the said Washington and Chesapeake Railroad Company shall have and exercise the authority herein conferred subject to the provisions, and with the rights, powers, duties, and liabilities imposed by chapter 18, class 7, of the Revised Statutes of the United States relative to the District of Columbia, and acts in amendment thereof and in addition thereto.

SEC. 2. That said Washington and Chesapeake Railroad Company, in passing into the cities of Washington or Georgetown, shall be authorized to build a bridge across the Eastern Branch of the Potomac River at or near the foot of Virginia avenue; and their line shall follow along Virginia avenue, southeast, from said bridge to an intersection with the Baltimore and Potomac Railroad at or near the eastern end of their tunnel, and there form a junction with the Baltimore and Potomac Railroad, or shall pass along, or through, or across such street or streets, or alleys, as may be hereafter allowed by the Congress of the United States upon presentation of survey and map of the proposed location of said Washington and Chesapeake Railroad.

SEC. 3. That unless the said company shall commence the construction of said road within two years, and complete the same, with at least one set of tracks, within five years from the passage of this act, then this act and all rights and privileges hereby granted shall cease and determine.

SEC. 4. That the said Washington and Chesapeake Railroad Company shall establish no depot within the limits of the city of Washington without the consent in writing of the commissioners of the District of Columbia; but they may temporarily occupy, upon such terms as they may agree upon, the depot buildings of any railroad company now having such buildings erected within the limits of the city of Washington: *Provided*, That when the Congress of the United States or other lawful authority shall provide for the erection and occupancy of a union depot building, the said Washington and Chesapeake Railroad Company shall unite in the erection and occupancy of such depot building, upon such terms and in such manner as may be therefor lawfully provided.

SEC. 5. That this act may at any time be altered, amended, or repealed by the Congress of the United States.

Mr. SLEMONS. I am instructed by the Committee on the District of Columbia to move to amend section 2 of the bill, in lines 2 and 3, by striking out the words "cities of Washington or Georgetown," and inserting the words "city of Washington." Also, to insert as section 5 of the bill that which I send to the Clerk's desk.

The Clerk read as follows:

SEC. 5. That before the Washington and Chesapeake Railroad Company aforesaid shall proceed to construct any railroad which they may lay out or locate under the provisions of this act, they shall first construct all that portion of said railroad in the State of Maryland before any portion of the line shall be constructed in the District of Columbia, as provided for in this act.

Make section 5 of the bill read "section 6," &c.

The question was upon agreeing to the amendments of the committee.

Mr. PRICE. I have listened to the reading of this bill quite carefully, and do not discover that there is any provision in it for guarding the streets. I would inquire of the gentleman in charge of the bill if it gives to this railroad company the power to lay its tracks along the streets of the city——

Mr. HUNTON. For only a short distance, just beyond the Navy Yard. It comes into the District on one of the avenues there, and then it strikes the line of the Baltimore and Potomac Railroad.

Mr. PRICE. And gives to this railroad company the right to use the street without the consent of the property holders along the street?

Mr. HUNTON. The property holders have no interest in the streets; they belong to the Federal Government.

Mr. PRICE. I know that. But I have seen a great deal of this sort of thing. Parties purchase property because it is on a street, and they have the right of ingress to and egress from their property. Now if you allow a railroad company to lay a track along the street, and to lower or raise the grade of the street without the consent of the parties owning the adjacent property——

Mr. HUNTON. I beg your pardon; the District of Columbia commissioners would not allow that.

Mr. PRICE. That is what I want to find out.

Mr. HUNTON. They will have the right to occupy the streets, just as every other railroad that comes into the city has now; on no better and on no worse terms. There has been no objection raised to this railroad by the people of the vicinity. It will occupy only about a hundred yards of the street.

Mr. PRICE. There is a law restricting——

Mr. HUNTON. No, sir. I said the authorities of the District of Columbia would not allow the railroad to interfere with the grade of the street.

Mr. PRICE. There is a law now to that effect?

Mr. HUNTON. Undoubtedly.

Mr. PRICE. That is what I want to find out. The bill does not contain any such provision; but if there is a law covering that point and protecting the rights of the property holders, it may be all right.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. SLEMONS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOUTHERN MARYLAND RAILROAD COMPANY.

Mr. HUNTON. I now yield to the gentleman from Maryland, [Mr. HENKLE.]

Mr. HENKLE. I am instructed by the Committee on the District of Columbia to report back with amendments the bill (H. R. No. 6659) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia, and to ask for its consideration at this time.

Mr. ROBESON. I make a point of order on that bill.

The SPEAKER. The gentleman will state his point of order.

Mr. ROBESON. My point of order is that the bill makes an appropriation of public property, and should receive its first consideration in Committee of the Whole on the state of the Union.

The SPEAKER. The bill will be read, and then the Chair will rule upon the point of order.

Mr. HENKLE. I think the amendments reported from the Committee of the Whole will meet the objections of the gentleman from New Jersey.

The SPEAKER. The bill and the proposed amendments will be read.

The bill was read, as follows:

Whereas it is represented to this present Congress that the Southern Railroad Company, organized under the provisions of the act of the General Assembly of the State of Maryland entitled "An act to incorporate the Southern Maryland Railroad Company," approved March 20, 1868, desire to extend their railroad into and within the District of Columbia: Therefore,

*Be it enacted, &c.*, That the Southern Maryland Railroad Company shall be, and they are hereby, authorized and empowered to extend their railroad into and within the District of Columbia, to form a junction with the Baltimore and Potomac Railroad, and the Metropolitan Branch of the Baltimore and Ohio Railroad, and the Chesapeake and Ohio Canal, outside of the city of Washington; and the said Southern Maryland Railroad Company are hereby authorized to exercise the same powers, rights, and privileges, and be subject to the same restrictions, in the extension and construction of their said railroad into and within the said District, as they may exercise or are subject to under the said act of the General Assembly of Maryland, approved March 20, 1868, in the construction and operation of their railroad within the State of Maryland; and shall be entitled to the same rights, compensation, benefits, and immunities in the use of said road, and in regard thereto, as are provided in said act of the General Assembly of Maryland, it being expressly understood that the said Southern Maryland Railroad Company shall have power to construct only one railroad within the said District.

SEC. 2. That before the Southern Maryland Railroad Company aforesaid shall proceed to construct any railroad which they may lay out or locate on, through, or over any land or improvements, or use, or take for use, any earth, stone, or other materials necessary for the construction of said road, on any land within the said District, they shall first obtain the assent of the owner of such land, improvements, or materials, or if such owner shall be absent from said District, or shall refuse to give such assent on such terms as the said company shall approve, or because of infancy, coverture, insanity, or any other cause shall be legally incapable of giving such assent, then it shall be lawful for the said company to apply to a justice of the peace of the county of Washington, who shall thereupon issue his warrant, under his hand and seal, directed to the marshal of the said District, requiring him to summon a jury of twelve citizens of the said District, none of whom shall be interested, or related to any person interested, in the land or materials required for the construction of the said railroad, or a stockholder, or related to any stockholder, in the said company, to meet on the land, or near to the other property or materials so required, on a day named in such warrant, not less than ten nor more than twenty days after issuing the same, to proceed to value the damages which the owner or owners of any such land or other property will sustain by the use or occupation of the same required by the said company; and the proceedings, duty, and authority of the said marshal in regard to such warrant and jury, and the oath or affirmation to be administered, and inquisition to be made and returned, shall be the same as are directed and authorized in regard to the sheriff by the sixteenth section of the said act of the General Assembly of Maryland approved March 20, 1868; and all other proceedings in regard to such jury, and the estimation and valuation of damages, and the payment, or tender of payment, of any damages ascertained by such valuation and effect thereof, and of the view of any lands, or other property or materials, as to giving the said company a right to use the same for the use or construction of their railroad within the said District, as hereby authorized, shall in every case and every respect be the same as is provided in and by the beforementioned act of the General Assembly of the State of Maryland in regard to any railroad to be constructed by the Southern Maryland Railroad Company in the State of Maryland: *Provided*, That whenever, by the said act, the inquisition of the jury is required to be returned to the clerk of the circuit court, to be confirmed by said court at its next session, if not sufficient cause to the contrary be shown, the inquisition or inquisitions under this act shall be returned by the marshal to the supreme court of the District of Columbia, which court shall have the same jurisdiction and powers over the subject-matter as the said circuit court has under the act of the General Assembly of Maryland aforesaid.

SEC. 3. That in all cases where a condemnation and valuation of lands or materials shall have been made under section 2 of this act, either party may appeal to the supreme court of the District of Columbia within thirty days from the rendition of the verdict of the jury; and in all cases where the said company shall take an appeal they shall give bond to the party or parties claiming and entitled to damages in a penalty at least double the sum found by the jury, with a condition that the said company shall pay, or cause to be paid, such amount of damages and costs as the party or parties may be entitled to receive on the judgment of the said supreme court, without delay, and on which bond ample and sufficient sureties shall be given, to be approved by the said supreme court; and in all cases where the party or parties claimant shall appeal, the said company, if it shall require the immediate use of the property condemned and valued as aforesaid, before an appeal can be heard or decided, may execute and tender a bond to the party or parties aforesaid in at least double the sum found by the jury, with sureties to be approved by the supreme court of said District, and with a condition to pay without delay such sum and costs as may be awarded by the said court; and upon the delivery or tender of such bond the said company may proceed to the construction of their said road as if the party or parties claimant and the said company had agreed upon the compensation to be paid for the property to be used; and that in all cases where the said company shall appeal and give bond as aforesaid, they may have the power to proceed in the construction of their road, and appropriation of the property for the uses thereof, as if no appeal had been taken and the parties had agreed upon the compensation for the property required.

SEC. 4. That whenever the said company, in the construction of their railroad within the said District as authorized by this act, shall find it necessary to cross or intersect any established road, street, or other way, it shall be the duty of said company so to construct the said railroad across such established road, street, or other way as not to impede the passage or transportation of persons or property along the same; and where it shall be necessary to pass the said railroad through the land of any individual within the said District, it shall be the duty of said company to provide for such individual wagon-ways across the said railroad as may be necessary and proper from one part of his land to another; but nothing herein contained shall be so construed as to authorize the said company to enter upon any lot or square, or part thereof, owned by the United States, within the limits of the cities of Washington and Georgetown, for the purpose of locating or constructing the said railroad, or for the purpose of excavating the same, or taking therefrom any materials, or for any other purposes and uses whatsoever; but the said company, in passing into said cities of Washingtown or Georgetown, shall pass along or through, or across, such street or streets or alleys as may be hereafter allowed by the Congress of the United States, upon presentation of survey and map of proposed location of said road; and the said Southern Maryland Railroad Company may connect within said District with any railroad or canal company chartered, or hereafter to be chartered, by such route or routes within said District as have been, or may be hereafter, determined by Congress, and upon such terms as may be agreed upon by the said companies respectively.

SEC. 5. That the said Southern Maryland Railroad Company may charge and receive for tolls and transportation on all that part of said road within the District of Columbia a rate not to exceed eight cents per ton per mile; and the said company may charge and receive for taking up and setting down any passenger or traveler within said District, conveyed a shorter distance than four miles, a sum not exceeding twenty cents.

SEC. 6. That the said company are also hereby authorized and empowered to make such special contract with any duly authorized officer or agent of the United States for the conveyance of the mail or the transportation of persons or property for the use of the United States on any railroad which shall be constructed by the said company, on such terms as shall be approved of by the competent officer or authority, and to receive such compensation so agreed for according to the terms of such contract.

SEC. 7. That unless the said company shall commence the construction of said road within two years, and complete the same, with at least one set of tracks, within three years from the passage of this act, then this act and all rights and privileges hereby granted shall cease and determine.

The SPEAKER *pro tempore*, (Mr. COX.) The amendments proposed by the Committee on the District of Columbia will now be read.

The first amendment was, in section 1 of the bill, to strike out all after the words "and the Chesapeake and Ohio Canal" and insert in lieu thereof the following:

*Provided*, That said Southern Maryland Railroad Company shall exercise the authority conferred by this act subject to the provisions and with all the rights, powers, duties, and liabilities imposed by chapter 18, class 7 of the Revised Statutes of the United States relating to the District of Columbia in relation to railroad companies, and all acts in amendment thereof or in addition thereto.

The next amendment was to strike out sections 2, 3, 4, 5, and 6, and insert in lieu thereof the following:

SEC. 2. That before the Southern Maryland Railroad Company aforesaid shall proceed to construct any railroad which they may lay out or locate under the provisions of this act, they shall first construct all that portion of said railroad in the State of Maryland before any portion of the line shall be constructed in the District of Columbia as provided for in this act.

Mr. ALDRICH, of Rhode Island. Let the bill be read as amended.

Mr. WHITE. Right here I desire to ask a question. Did my ears deceive me, or not? I thought I heard a provision allowing this railroad company to charge eight cents per ton per mile.

Mr. ALDRICH, of Rhode Island. That is stricken out.

Mr. HUNTON. If the gentleman from Pennsylvania [Mr. WHITE] will wait till all the amendments are read, no doubt all his objections will be met.

Mr. WHITE. How is it about the Soldiers' Home? Will this railroad go through the grounds of the Home?

Mr. HUNTON. If the gentleman will wait he will be satisfied on that point.

Mr. WHITE. Cannot the gentleman answer me now? I am very impatient.

Mr. HUNTON. There is no intention to encroach on the grounds of the Soldiers' Home, but to make the matter entirely certain an amendment has been prepared and accepted prohibiting the company from making any such encroachment.

Mr. WHITE. I am glad to hear it.

Mr. ALDRICH, of Rhode Island. Let the bill as amended be read.

The Clerk proceeded to read the bill as proposed to be amended. When the first section had been read,

Mr. CLYMER said: If the Clerk has read correctly the section as amended, the words "outside the city of Washington" are omitted after the provision authorizing a junction with the Baltimore and Potomac Railroad and the Metropolitan Branch of the Baltimore and Ohio Railroad. I desire to ask why this has been done.

Mr. HENKLE. That was not the intention. If those words have been left out, it is a mistake.

Mr. CLYMER. I ask that the section be read again.

The Clerk read as follows:

That the Southern Maryland Railroad Company shall be, and they are hereby, authorized and empowered to extend their railroad into and within the District of Columbia to form a junction with the Baltimore and Potomac Railroad and the Metropolitan Branch of the Baltimore and Ohio Railroad and the Chesapeake and Ohio Canal: *Provided*——

Mr. CLYMER. Now, after the words "Chesapeake and Ohio Canal" the words "outside the city of Washington," which are in the original bill, are omitted in this amendment. I desire to have them inserted.

Mr. ALDRICH, of Rhode Island. Those words should be inserted.

Mr. CLYMER. Let the first amendment be read again.

The Clerk read as follows:

In section 1, line 18, strike out from the words "Chesapeake and Ohio Canal" to the end of the section.

Mr. CLYMER. That strikes out the words "outside of the city of Washington."

Mr. HENKLE. Let the amendment be amended so as to reinsert those words.

Mr. ALDRICH, of Rhode Island. In the bill as agreed to by the committee the words "outside of the city of Washington" are inserted, in the fifth line, after the words "District of Columbia."

Mr. CLYMER. The fact is a bill of this kind ought to be printed before we are asked to consider it. A bill in manuscript giving these enormous privileges ought not to be put through in this way.

Mr. HENKLE. I wish to submit a few words of explanation which may unravel all the confusion about this bill. If the words "outside of the city of Washington" have by inadvertence or clerical error been omitted, I move an amendment to insert them.

Now, in explanation of the general provisions of the bill——

Mr. ALDRICH, of Rhode Island. The Clerk is not yet through with the reading of the bill.

Mr. DAVIS, of Illinois. If the bill is open to amendment, I wish to offer an amendment.

Mr. ALDRICH, of Rhode Island. I ask that the Clerk finish the reading of the bill, so that we may see whether the bill as amended conforms to the action of the committee.

The Clerk resumed and concluded the reading of the bill as proposed to be amended.

Mr. DAVIS, of Illinois. I wish to offer an amendment to the first section.

Mr. ALDRICH, of Rhode Island. The gentleman from Maryland [Mr. HENKLE] will allow me to call attention to the fact that an additional section was agreed to by the committee, reserving the right of Congress to alter, repeal, or amend the act.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. DAVIS] proposes an amendment, which will be read.

The Clerk read as follows:

Add to the first section the following:

"*Provided, also*, That nothing herein shall authorize or empower said railroad company to extend its road through any of the lands or grounds occupied as a soldiers' home or as a national cemetery."

Mr. CLYMER. I move further to amend by adding "or any other public reservation of the United States."

The SPEAKER *pro tempore*. No further amendment is in order.

Mr. DAVIS, of Illinois. I think this amendment will commend itself to the committee and to the House.

Mr. ROBESON. I move to amend by adding to the amendment of the gentleman from Illinois "or other public reservation."

Mr. HENKLE. Without the consent of Congress.

Mr. DAVIS, of Illinois. I accept the amendment.

Mr. ROBESON. The gentleman from New York suggests I put in "public property."

Mr. LAPHAM. I have an amendment, which I will send up as a substitute.

The Clerk read as follows:

*Provided, however*, That nothing in this act contained shall authorize said company to enter upon or take for its purposes any cemetery or any part of the property known as the Soldiers' Home or any other real property or reservation occupied by or belonging to the United States.

Mr. DAVIS, of Illinois. As that has been carefully prepared by a distinguished lawyer of this House, I will accept it as a modification of my amendment.

The amendment, as modified, was adopted.

Mr. ALDRICH, of Rhode Island. I move to add as an additional section at the end of the bill "that Congress reserves the right to amend, alter, or repeal this act."

Mr. VALENTINE. Has the Clerk read the whole of the bill?

The SPEAKER *pro tempore*. It has been read through.

Mr. ROBESON. I should like to ask the gentleman whether this is the bill which the committee agreed to?

Mr. HENKLE. It is, with the exception of the amendments which have been adopted.

Mr. ROBESON. I understand from the copy presented to me in manuscript it is not the bill which the committee agreed to.

The SPEAKER *pro tempore*. The question is on the amendment proposed by the gentleman from Rhode Island, [Mr. ALDRICH,] which the Clerk will read.

The Clerk read as follows:

SEC. 4. That Congress reserves the right to alter, amend, or repeal this act.

The amendment was adopted.

Mr. ROBESON. I desire to offer another amendment to this bill, to come in that section which provides that this railroad shall exercise its powers subject to the provisions of the general railroad law of the District. I wish just at that place to put in the following amendment, after the word "thereof."

The SPEAKER *pro tempore*. The gentleman will have to indicate the section to which he wishes to introduce his amendment.

Mr. ROBESON. Nobody can tell from the way in which the bill is before the House.

Mr. ALDRICH, of Rhode Island. It is the first section.

The SPEAKER *pro tempore*. The Clerk will read the section, and the gentleman will indicate where he proposes to move his amendment.

Mr. ROBESON. It is an amendment to the first section, which I ask the Clerk to read.

The Clerk read as follows:

Section 1, eighth line, strike out all from the word "Washington" to the end of the section and insert:

*Provided*, That said Southern Maryland Railroad Company shall exercise the authority conferred by this act subject to the provisions and with all the rights, powers, duties, and liabilities imposed by chapter 18, clause 7 of the Revised Statutes of the United States relating to the District of Columbia in relation to railroad companies.

Mr. ROBESON. After the word "companies" I desire to insert the words "including section No. 673 of said act."

Mr. HENKLE. I am willing to accept that.

The amendment was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HENKLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### EIGHT PER CENT. IMPROVEMENT CERTIFICATES.

Mr. NEAL, from the Committee on the District of Columbia, reported back the bill (S. No. 1681) to provide for refunding the 8 per cent. improvement certificates of the District of Columbia, with an amendment in the nature of a substitute.

The Senate bill was read, as follows:

*Be it enacted, &c.*, That the Treasurer of the United States, as *ex officio* commissioner of the sinking fund of the District of Columbia, is hereby authorized and required to cause bonds of the District of Columbia to be prepared, in sums of $50 and $500, bearing date August 1, 1874, payable fifty years after date, bearing interest at the rate of 3 per cent. per annum, payable semi-annually, to be signed by said Treasurer as *ex officio* sinking-fund commissioner, and countersigned by the comptroller of said District, and sealed as the said Treasurer may direct; which bonds shall be exempt from taxation by Federal, State, or municipal authority, engraved or printed at the expense of the District of Columbia, and in form not inconsistent herewith. And the faith of the United States is hereby pledged that the United States will, by proper proportional appropriations, and by causing to be levied upon the property within said District such taxes as will provide the revenues necessary to pay the interest on said bonds as the same may become due and payable, and create a sinking fund for the payment of the principal thereof at maturity. Said bonds shall be numbered consecutively, beginning with the number next to the last bond that was issued under the ninth section of the act approved June 16, 1880, entitled "An act to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes," and shall be registered in the office of the comptroller of said District and in the office of the Register of the Treasury of the United States.

And the Treasurer of the United States, as *ex officio* sinking-fund commissioner of the District of Columbia, is hereby authorized to exchange said bonds at par, after detaching the coupons from the same up to the date of such exchange, for like sums of the 8 per cent. certificates of said District and the accrued interest thereon, issued under act of the Legislative Assembly of said District, approved May 29, 1873, and shall cause the said certificates, upon redemption, to be duly canceled.

The SPEAKER *pro tempore*. The amendment of the Committee on the District of Columbia will now be read.

The Clerk read as follows:

Strike out all after the enacting clause, and in lieu thereof insert the following:

That the Treasurer of the United States, as *ex officio* commissioner of the sinking fund of the District of Columbia, is hereby authorized and required to cause notes of the District of Columbia to be prepared, not to exceed $810,000 in amount, in sums of $50 and $500, bearing date March 1, 1881, payable at any time after one year and within five years from the date thereof, bearing interest at the rate of 3.65 per cent. per annum, payable semi-annually, to be signed by said Treasurer as *ex officio* sinking-fund commissioner, and countersigned by the comptroller of said District, and sealed as the said Treasurer may direct; which notes shall be exempt

from taxation by or under Federal, State, or municipal authorities, engraved or printed at the expense of the District of Columbia, and in form not inconsistent herewith; said notes shall be numbered consecutively, and lettered with a letter not now borne by any bonds or certificates of the District of Columbia.

SEC. 2. That the said Treasurer of the United States, as *ex officio* sinking-fund commissioner of the District of Columbia, is hereby authorized to exchange said notes at par for like sums of the 8 per cent. certificates of said District, and the accrued interest thereon, issued under the act of the Legislative Assembly of said District approved May 29, 1873, and shall cause said certificates, upon redemption, to be canceled; and all interest upon said certificates shall cease and determine on and after said 1st day of March, 1881.

SEC. 3. That the commissioners of the District of Columbia shall proceed in the manner now provided for by law, or which may hereafter be provided for, without delay, to collect the amounts due on the certificates of assessments for special improvements, which certificates, and all payments thereon, are, by the provisions of said act of said Legislative Assembly approved May 29, 1873, held and pledged for the payment and redemption of said 8 per cent. certificates, which said special assessments when so collected shall constitute a sinking fund for the payment of the notes issued under the provisions of this act; and as rapidly as the sum of $10,000 is received by said Treasurer, as said sinking-fund commissioner, he shall purchase or call in and redeem and cancel said notes, in such way and manner as he may determine, reserving, however, of said moneys so collected and received sufficient amounts to pay off and discharge the interest coupons attached to said notes next to become due and payable: *Provided*, That the officers of the District of Columbia are hereby prohibited from revising or reducing the amount of any special assessment for street improvements, paid or unpaid, and all provisions of law granting authority for such revision and abatement and for the issue of drawback certificates in the adjustment of any such special assessments are hereby repealed.

SEC. 4. That the principal and interest of the notes authorized by this act shall be subject to all the pledges of faith and exemptions as the bonds authorized by section 7 of the act approved June 20, 1874, entitled "An act for the government of the District of Columbia, and for other purposes;" and whenever the funds derived from special assessments in the hands of the Treasurer of the United States are insufficient to pay any installment of interest upon said notes about to become due and payable the Secretary of the Treasury shall advance to the said Treasurer, upon his requisition, the additional amount necessary to pay said installment of interest when due and payable; and all amounts so advanced shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia.

SEC. 5. That if in the opinion of the said Treasurer it will be more advantageous to the District of Columbia to sell or otherwise dispose of the said notes and apply the proceeds of said sale to the payment of said 8 per cent. certificates as aforesaid, with the interest thereon, according to their tenor and effect, then power and authority is hereby conferred upon said Treasurer to make sale thereof, at not less than par, in such ways and for such sums as he may deem for the best interests of the said District of Columbia.

Mr. McMILLIN. Mr. Speaker, I make the point of order that this bill must receive its first consideration in Committee of the Whole under the third clause of the twenty-third rule of this House.

The SPEAKER *pro tempore*. Will the gentleman indicate that part of the bill to which he objects?

Mr. McMILLIN. The section of the rule to which I refer reads:

3. All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

Now, this bill provides for the funding of some outstanding indebtedness of the District of Columbia. The fourth section of the bill provides:

That the principal and interest of the notes authorized by this act shall be subject to all the pledges of faith and exemptions as the bonds authorized by section 7 of the act approved June 20, 1874, entitled "An act for the government of the District of Columbia, and for other purposes;" and whenever the funds derived from special assessments in the hands of the Treasurer of the United States are insufficient to pay any installment of interest upon said notes about to become due and payable, the Secretary of the Treasury shall advance to the said Treasurer, upon his requisition, the additional amount necessary to pay said installment of interest when due and payable; and all amounts so advanced shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia.

Now, I think that clearly authorizes the payment of money out of the Treasury of the United States, and under the section of the twenty-third rule, to which I have referred, it must receive its first consideration in Committee of the Whole.

I think it is time, Mr. Speaker, for the Government of the United States to put a stop to burdening itself further by assuming indebtedness of the District of Columbia and by becoming responsible for indebtedness other than that which is now by law required to be paid by the General Government. I make the point of order, therefore, that this should receive its first consideration in Committee of the Whole on the state of the Union.

The SPEAKER *pro tempore*. Does the gentleman from Ohio desire to be heard on the point of order?

Mr. NEAL. No, sir.

The SPEAKER *pro tempore*. The Chair would sustain the point of order upon the ground——

Mr. BUCKNER. Before deciding the point of order I would like to say a word in response to the point made by the gentleman from Tennessee. I think an examination of this section of the bill will show that my friend is clearly mistaken in supposing that there is any appropriation whatever provided for here or assumed by the General Government that has not been already appropriated for in a bill already passed by this House for the District of Columbia. There is a general law covering the case in point where the Government provides one-half, and one-half is appropriated out of the revenues of the District of Columbia. The District raises year by year under a general law one-half of this fund. Now, this provision that the gentleman from Tennessee calls attention to is simply a change of an appropriation already made and a mere temporary change.

Mr. McMILLIN. I have examined this carefully and am satisfied that it comes within the objection which I have made against it.

Mr. BUCKNER. But the appropriation in this case is already made, the gentleman will observe. The bill making that appropriation has been already acted upon in Committee of the Whole, and therefore there can be no necessity now for making the point of order that the House shall go into Committee of the Whole on the proposition again, because, as I have stated, the money has been appropriated under a general law.

Mr. CLYMER. By no means; the gentleman is mistaken.

Mr. BUCKNER. It is appropriated under a general law.

Mr. CLYMER. Permit me to say in response to the gentleman from Missouri that there is a provision contained in the second section of this bill which proposes to provide for the payment of a certain class of certificates issued under the authority of the old Legislative Assembly of this District which under our former legislation in this House has been, so to speak, spewed out of the mouth of the General Government.

Mr. BUCKNER. The gentleman from Tennessee made his point of order and I was replying to his objection to the fourth section as I understood him to refer to that particularly.

Mr. CLYMER. If the gentleman will read section 2 he will see that it does provide to pay for this class of indebtedness, a general indebtedness, to which I have referred.

Mr. BUCKNER. The section which the gentleman from Tennessee referred to, section 4, provides for the payment of interest and principal of the notes authorized by this act to be issued and which has been already authorized under the act of June 20, 1874, but only under certain specific conditions named in this section.

Mr. CLYMER. That is true, but these notes are guaranteed by the Government of the United States.

Mr. BUCKNER. Now, in reference to the point of order made by the gentleman from Tennessee to this fourth section my response was that the general law already covers this.

Mr. McMILLIN. The general law does not provide for burdening the General Government with any further indebtedness of the District of Columbia, and the point that I make is that this bill, which proposes to accomplish that, must receive its first consideration in Committee of the Whole.

Mr. BUCKNER. I think the gentleman is mistaken, for the reason that this appropriation has been already made for the present fiscal year.

Mr. McMILLIN. I called the attention of the House to that clause, as that section requires payments of money out of the Treasury under certain conditions; but, taking the whole bill together, my point of order applies to it all, for the gentleman will see by the terms of this second section, when read in connection with the fourth section, that we obligate the Government of the United States to pay the interest on a class of indebtedness which, in the language of the gentleman from Pennsylvania, this Government has heretofore "spewed out of its mouth." I will read this second section. It provides:

That the said Treasurer of the United States, as *ex-officio* sinking-fund commissioner of the District of Columbia, is hereby authorized to exchange said notes at par for like sums of the 8 per cent. certificates of said District, and the accrued interest thereon, issued under the act of the Legislative Assembly of said District approved May 29, 1873, and shall cause said certificates, upon redemption, to be canceled; and all interest upon said certificates shall cease and determine on and after said 1st day of March, 1881.

Now, if the District fails to pay the interest on this indebtedness, the Treasurer is required, under the fourth section of this bill, to do it; and that is the objection I make to the bill.

Mr. BUCKNER. As far as that is concerned, the point that I make against the gentleman's question of order is that the fund is already appropriated.

Mr. McMILLIN. Then you do not need this act to help you.

Mr. BUCKNER. That is a different sort of a thing. The gentleman's point is because this appropriates money out of the Treasury it is not in order, and that it should receive its first consideration in Committee of the Whole. My response to that was that the money had heretofore been appropriated, or has been already appropriated, and is now appropriated under the general law, by which we provide for one-half of the indebtedness of the District, and appropriate the remaining half out of the revenues arising from the taxation on the property of the District itself. Now, this provision is nothing more than a mere temporary use of that particular fund for this purpose. It is no payment of either principal or interest, for all of these are governed by the same law.

Mr. CLYMER. I think the gentleman is mistaken in his view of the point of order. The law provides for an appropriation to be made, but not specifically for such a purpose. I would ask him if we do not every year, and in every appropriation bill for the District of Columbia, always have to go into Committee of the Whole to consider it?

Mr. BUCKNER. I desire to read on that point what this bill says. It says:

The Secretary of the Treasury shall advance to the said treasurer upon his requisition the additional amount necessary to pay said installment of interest when due and payable; and all amounts so advanced shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia.

Showing this is a part of the appropriation already made.

The SPEAKER *pro tempore*. The Chair listened to the gentleman from Missouri, but had already decided the point of order under the third section of the twenty-third rule, the language of which is as follows:

All proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, shall be first considered in a Committee of the Whole.

In the fourth section of the substitute here proposed, beginning at line 6, it is provided:

Whenever the funds derived from special assessments in the hands of the Treasurer of the United States are insufficient to pay any installment of interest upon said notes about to become due and payable, the Secretary of the Treasury shall advance to the said Treasurer, upon his requisition, the additional amount necessary to pay said installment of interest when due and payable.

This certainly touches appropriations and provides for appropriations hereafter to be made. The Chair sustains the point of order.

Mr. NEAL. Now I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering this bill. Pending that motion I move that all general debate be limited——

Mr. CLYMER. The gentleman cannot do that until there has been general debate in committee.

Mr. NEAL. Very well.

The motion that the House resolve itself into Committee of the Whole was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. TOWNSHEND, of Illinois, in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering certain bills. The Clerk will report the first bill.

The Clerk read as follows:

Substitute for the bill (S. No. 1681) to provide for funding the 8 per cent. improvement certificates of the District of Columbia.

Mr. NEAL. I move that the first and formal reading of the bill be dispensed with.

There was no objection, and it was so ordered.

The CHAIRMAN. The bill is now open for debate and amendment.

Mr. NEAL. There are outstanding what are called 8 per cent. certificates issued by the board of public works to the amount of about $800,000. I ask the attention of the committee while I enter into some details regarding these certificates.

The Forty-first Congress of the United States passed an act approved February 13, 1871, entitled "An act to provide a Government for the District of Columbia," and among other things provided in said act for a board of public works to be appointed by the President of the United States, thus creating this board to all intents and purposes Federal officers. The act in its thirty-seventh section authorizes them—

To have the entire control of, and make all regulations that they shall deem necessary for keeping in repair, the streets, avenues, alleys, and sewers of the city, and all other works which may be intrusted to their charge by the legislative assembly or Congress. To disburse upon their warrant all moneys, appropriated by the United States, or the District of Columbia, or collected from property holders in pursuance of law, for the improvement of streets, avenues, alleys, and sewers, and roads and bridges; and shall assess, in such manner as shall be prescribed by law, upon the property adjoining, and to be especially benefited by the improvements authorized by law, and made by them, a reasonable proportion of the cost of the improvement, not exceeding one-third of such cost, which sum shall be collected as all other taxes are collected.

These officers were appointed by the President of the United States and paid out of the Federal Treasury. The people of the District had no control over them; nothing to say in regard to their action; they were at the mercy of these officers.

The board of public works went on and made improvements involving the expenditure, as everybody knows, of a large sum of money, and they made this city, so far as its streets, avenues, and public improvements are concerned, what it now is. They came in debt to contractors for work done in the amount of money which they had agreed to pay at the time the contracts were made. But when it became due the money was not collected, the contractors could not pay their men, and many of them actually suffered the sale of their property in order that they might pay their debts, because the board of public works did not fulfill their contracts with the contractors.

Then the Legislative Assembly, authorized by Congress, on the 29th May, 1873, passed an act, one of the provisions of which was as follows: The board of public works were—

Authorized to issue and to use solely in the discharge of outstanding obligations certificates of indebtedness for work done under the direction of the board, and chargeable to the private property benefited thereby, in denominations of $50 or any multiple of that sum, dated July 1, 1873, payable to bearer, with interest, semi-annually from July 1, 1873, at the rate of 8 per cent. * * * not exceeding $2,000,000.

These certificates, as they were called, these 8 per cent. certificates, were issued to the extent, I believe, of the full amount authorized by the board of public works. Of those certificates $1,200,000 have been redeemed from the collections upon the special assessments which were chargeable expressly by law for their redemption. The certificates were to be paid according to their terms, one-fifth at the end of every year until upon the expiration of five years the whole amount was to be redeemed of the outstanding certificates issued seven or eight years ago. No part of them has been redeemed in that way, and they are to-day drawing whatever rate of interest the accounting officers may determine that they are by law entitled to draw.

Mr. CLYMER. Will the gentleman permit me just here to ask him a question? I wish to understand this matter. Does he know who are the principal holders of these certificates?

Mr. NEAL. I know that a man named Baker, now connected with the First National Bank of New York, whose father is a large property-holder of this city, a Washington man, paid, as I am informed, ninety-seven cents on the dollar for a considerable portion of them. A Mr. Davis, a man who has come forward every year and has paid up his taxes and his special assessments, is holder of another considerable batch of them. A Mr. Lewis, I am told, also owns a considerable amount. And there are also other persons who hold them. A gentleman of the name of Ritchie, one of the contractors, I am told, owns a lot of them. I cannot say in whose hands they all are.

Mr. Baker, interested as he and his friends were in the city, bought a portion of these certificates, and paid for them ninety-seven cents on the dollar. That money was used by the board of public works for the purpose of paying the obligations of the District to its contractors, and was paid by the contractors to the men who did the work.

Mr. WARNER. Will my colleague [Mr. NEAL] permit me to interrupt him to ask a question?

Mr. NEAL. Certainly.

Mr. WARNER. I understand there are about $800,000 of these 8 per cent. certificates outstanding.

Mr. NEAL. Yes, sir.

Mr. WARNER. With back interest?

Mr. NEAL. Yes, sir.

Mr. WARNER. For how many years?

Mr. NEAL. The whole amount outstanding of the certificates is $500,000. The amount $800,000 includes the principle and interest.

Mr. WARNER. For how many years?

Mr. NEAL. Since 1873, I suppose.

Mr. WARNER. Simple interest, not compounded?

Mr. NEAL. This bill is drawn and the amounts furnished by the Treasurer of the United States.

Mr. WARNER. And includes the amount of the original certificates now outstanding with the interest?

Mr. NEAL. Yes. There are some $500,000 of the certificates now outstanding; $1,500,000 of them have been paid.

Mr. McMILLIN. Will the gentleman yield to me a moment?

Mr. NEAL. Certainly.

Mr. McMILLIN. Does not this bill make the Government liable for a species of indebtedness of the District of Columbia that it has not heretofore assumed?

Mr. NEAL. There is a legal question involved about that matter which lawyers may differ upon.

Mr. McMILLIN. What is your opinion about it?

Mr. NEAL. I will give you my opinion before I get through. These claims are in no different shape than all the claims upon the District of Columbia which have been heretofore funded. They are simply the remnants of District of Columbia claims which have been left unfunded. By an act of Congress passed at the last session $1,500,000 were funded; and the remainder were funded by an act which was passed before the gentleman and myself became members of this House.

Mr. BRAGG. Why were not these funded with the others?

Mr. CLYMER. Among these claims, are there any of those which were repudiated?

Mr. NEAL. Not one of them.

Mr. CLYMER. Were not a very large number of these claims said to be unjust, and were therefore not allowed?

Mr. NEAL. Those claims that were said to be unjust we have already referred, by an act of Congress, to the Court of Claims. Allow me to say to the Committee of the Whole that these 8 per cent. certificates were issued for money actually paid by the holders of them into the coffers of the District of Columbia and expended by the board of public works to pay contractors and their employés in the District.

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. NEAL. Certainly.

Mr. ATKINS. Are not these certificates a mere lien upon the land and other property of the District?

Mr. NEAL. If the gentleman from Tennessee [Mr. ATKINS] will permit me to say so, I will reply to him that this is a question which, as I said before, lawyers may differ upon. Before I get through I will give my views so that nobody will mistake them.

Mr. ATKINS. If they are not a lien on the property of the District, what obligation is there upon the District or upon the Government of the United States to pay them?

Mr. NEAL. That is just exactly what I want to state before I get through.

Mr. BRAGG. Will the gentleman allow me to make an inquiry of him?

Mr. NEAL. Certainly.

Mr. BRAGG. If these are of the same class of certificates which have heretofore been funded, why were they not funded with the others? That is one question. Another is, if these are not a lien

upon special property, why is it provided in this bill to repeal the law authorizing the commissioners of the District to reduce and correct estimates which are alleged to have been illegal?

Mr. NEAL. I will move that the committee now rise.

Mr. REAGAN. I desire to move an amendment.

Mr. NEAL. I understand it is necessary for the committee to rise at this time in order that an important announcement may be made to the House.

The motion of Mr. NEAL was agreed to.

The committee accordingly rose; and, the Speaker having resumed the chair, Mr. TOWNSHEND, of Illinois, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (S. No. 1681) to provide for funding the 8 per cent. improvement certificates of the District of Columbia.

TEMPORARY POLICEMEN FOR THE DISTRICT.

Mr. HUNTON. I ask unanimous consent to introduce and have considered at this time a bill which it is important shall be passed at once. It is a bill making appropriations for the employment of temporary policemen in the District of Columbia.

The SPEAKER. The bill will be read.

The bill, which was read, authorizes the commissioners of the District of Columbia to appoint, upon the recommendation of the superintendent of the Metropolitan police of the District of Columbia, three hundred additional privates on the Metropolitan police force of said District, for the period of fifteen days, from the 24th of February, 1881, to be paid $2 per day for each day's service rendered by them in that capacity, and that a sum sufficient for their payment and equipment be appropriated out of any money in the Treasury not otherwise appropriated.

Mr. BLAND. Is that by unanimous consent.

Mr. CLYMER. It is subject to a point of order.

Mr. HUNTON. I would suggest that gentlemen around me——

The SPEAKER. Objection is made.

DISTRICT OF COLUMBIA BUSINESS.

The SPEAKER. The Chair desires to make a request touching the business of the Committee on the District of Columbia. In consequence of an announcement that the Chair will make in a moment, the Committee on the District of Columbia will be deprived of the remainder of to-day for the consideration of its business. The Chair suggests that consent be given that the committee be allowed two hours after the morning hour on Tuesday of next week for the consideration of its business.

Mr. BRAGG. I object.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States was communicated to the House by Mr. PRUDEN, his Secretary, who announced that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 706) for the relief of A. B. Rowden;

An act (H. R. No. 735) for the relief of Dr. John Blankenship;

An act (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor;

An act (H. R. No. 6229) to grant the right of way for railroad purposes through certain lands of the United States in Richmond County, New York;

An act (H. R. No. 6527) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake known as Carr Lake, situated near said city;

An act (H. R. No. 6599) to change the time for holding circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia;

An act (H. R. No. 7098) making an appropriation for the flooring of the National Museum;

Joint resolution (H. R. No. 83) granting condemned cannon to the Morton Monumental Association;

Joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of special report of the Commissioner of Agriculture relative to diseases of swine and infectious and contagious diseases incident to other domestic animals;

Joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish culture; and

Joint resolution (H. R. No. 388) to provide for publishing an edition of Hayden's Atlas of Colorado.

SPEAKER PRO TEMPORE FOR TO-MORROW.

The SPEAKER. The Chair desires to state that in all human probability he will not be present to-morrow; and he has therefore designated to act as Speaker *pro tempore* during his absence the gentleman from Kentucky, Mr. BLACKBURN.

DEATH OF HON. FERNANDO WOOD.

The SPEAKER. It is the sad duty of the Chair to bring to the attention of the House the telegram which will be read.

The Clerk read as follows:

HOT SPRINGS, *February* 14, 1881.

To Hon. JORDAN E. CRAVENS, *House of Representatives:*

Hon. FERNANDO WOOD died here last night at nine o'clock.

S. A. STITT.

The SPEAKER. Mr. FERNANDO WOOD first entered this House as a member forty years ago; and if he had lived to the close of the Congress for which he was chosen, his term of service would have reached twenty years.

Mr. TUCKER. Mr. Speaker, on receiving this morning the rumor of the sad event which has just been announced, the members of the Committee on Ways and Means, over which Mr. WOOD presided for four years, waited for its authentication. Upon the intelligence being confirmed by the telegram which has just been read, the committee held a meeting, at which I was instructed to offer for the consideration of the House the resolutions which I now submit.

The Clerk read as follows:

*Resolved*, That this House has heard with deep regret of the death of Hon. FERNANDO WOOD, late a Representative from the State of New York.

*Resolved*, That a committee of nine members be appointed by the Speaker to take order for superintending the funeral of Mr. WOOD; and that, as a mark of respect entertained by the House for his memory, his remains be removed from Hot Springs, Arkansas, to the city of New York in charge of the Sergeant-at-Arms, attended by said committee, who shall have full power to carry this resolution into effect.

*Resolved*, That the Clerk communicate the foregoing resolutions to the Senate.

*Resolved*, That, as an additional mark of respect to the memory of the deceased, the House do now adjourn.

Mr. COX. Mr. Speaker, I rise to second the resolutions submitted by the distinguished gentleman from Virginia, [Mr. TUCKER.]

Death casts his baleful shadows across our Chamber. He appears in the very midst of our deliberations. He abruptly closes our legislative labors.

Although the sad tidings announced by you, sir, were not altogether unexpected, yet, after all, such messages never fail to startle us with their suddenness.

My colleague, who so recently left us, followed by so many sorrowful forebodings, has now left us forever. His long and eminent public service—service in the great metropolis as its conspicuous chief magistrate for three eventful terms, and service in this Hall as the representative of that metropolis, beginning almost two score years ago—is ended. His demise leaves a void which creates a hush and an awe to which this House is unaccustomed.

The committee of which he was chairman has been prompt to recognize its great loss and his remarkable character. His experience, his information, his presence, his courtesy, his dignity, and his courage marked him as a debater, a statesman, and a man of great qualities, attributes, and energies. Disease did not, for it could not, close—only death did or could close—his distinguished career.

He felt and knew when he left us, as he stated in his last speech on this floor, that he was nearing the closing hours of an eventful life. He met death dauntlessly.

As a mark of sorrow and sympathy, of esteem and respect to one of the foremost men in this House and in the country, the delegation of the State of New York will endeavor to have designated a day for such obsequies as will fitly commemorate the eminent character of the deceased.

I ask that the House may now take action on the resolutions submitted by my friend from Virginia, [Mr. TUCKER.]

The resolutions were adopted unanimously.

The SPEAKER. In obedience to the instructions of one of the resolutions just adopted, the Chair announces the appointment of the committee, whose names will be read.

The Clerk read as follows:

Select committee to attend the funeral of Hon. FERNANDO WOOD: Mr. TUCKER, of Virginia; Mr. FRYE, of Maine; Mr. PHELPS, of Connecticut; Mr. DUNNELL, of Minnesota; Mr. MILLS, of Texas; Mr. MCKINLEY, of Ohio; Mr. CARLISLE, of Kentucky; Mr. CHITTENDEN, of New York; and Mr. HUTCHINS, of New York.

The SPEAKER. In further obedience to one of the resolutions just adopted, the Chair now declares this House adjourned, in respect to the memory of the deceased, Mr. FERNANDO WOOD, till to-morrow at eleven o'clock.

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PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. AIKEN: The petition of the Grand Division Sons of Temperance of South Carolina, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Committee on Alcoholic Liquor Traffic.

By Mr. BAYNE: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, recommending the erection of two or more ice-breakers between Pittsburgh and Cincinnati—to the Committee on Commerce.

Also, resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, against the imposition of tonnage tax at the Louisville Canal—to the same committee.

By Mr. BLACKBURN: The petition of citizens of Kentucky, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. BLAKE: The petition of E. Greener and others, citizens of Elizabeth, New Jersey, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on Alcoholic Liquor Traffic.

By Mr. BURROWS: Resolutions of Custer Encampment No. 17, of Decatur, Van Buren County, Michigan, relating to the appointment

of a successor to Commissioner of Pensions Bentley—to the Committee on Invalid Pensions.

Also, two petitions of citizens of Michigan, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, two petitions of citizens of Michigan, and also resolution of the State Association of Agricultural Societies of Michigan, asking that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, two petitions of citizens of Michigan, for legislation to regulate interstate commerce—to the Committee on Commerce.

Also, two petitions of citizens of Michigan, for legislation to protect innocent purchasers against the impositions of venders of patents and patent rights—to the Committee on Patents.

By Mr. COBB: Resolutions of the New England Agricultural Society, recommending Hon. GEORGE B. LORING as a suitable person to take charge of the Agricultural Department—to the Committee on Agriculture.

Also, resolution of the General Assembly of Indiana, favoring the passage of a law to prevent the spread of contagious diseases among cattle in the United States—to the same committee.

By Mr. CRAVENS: The petition of J. R. Halbrooks, Wiley S. Scroggin, and other soldiers, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. HORACE DAVIS: The petition of the Sons of Temperance of California, numbering 1,700, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

By Mr. DEERING: The petition of 36 ex-soldiers of Chickasaw County, Iowa, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. DUNNELL: The petition of Isaac Marks and 20 others, citizens of Mankato, Minnesota, for the repeal of the tax on banks—to the Committee on Ways and Means.

By Mr. FIELD: The petition of Kimmel & Schniedgruber and 22 others, of Massachusetts, for a reduction of the tax on cigars—to the same committee.

By Mr. FINLEY: The petition of citizens of Ohio, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. FISHER: The petition of the State Temperance Union of Pennsylvania, for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia—to the Committee on Alcoholic Liquor Traffic.

By Mr. FRYE: The petition of George W. Mills and others, soldiers of Salem, Maine, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. HAWK: The petition of Decatur Eastabrooks and others, ex-soldiers, against the passage of Senate bill No. 496 and substitutes—to the same committee.

By Mr. HILL: The petition of citizens of Ohio, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of citizens of Ohio, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of E. B. Mix and others, citizens of Ohio, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of citizens of Ohio, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. HISCOCK: The petition of W. H. Warren and others, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. HUBBELL: Resolutions of the State agricultural societies of Michigan, asking the passage of a bill making the Bureau of Agriculture a Department—to the Committee on Agriculture.

Also, the petition of C. Mueller and 245 others, citizens of Ontonagon County, Michigan, for an extension of the land grant to the Ontonagon and Brule River Railroad Company—to the Committee on the Public Lands.

By Mr. JONES: The petition of W. C. West and others, citizens of Cooke County, Texas, against refunding the public debt, against national banks, and for the retention of United States legal-tender notes—to the Committee on Ways and Means.

By Mr. KELLEY: The petition of the State Temperance Union of Pennsylvania, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Committee on Alcoholic Liquor Traffic.

By Mr. KETCHAM: The petition of W. H. Rust and others, citizens of Poughkeepsie, New York, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

By Mr. LADD: The petition of the Bangor Division Sons of Temperance, of Maine, for a constitutional amendment to prohibit the manufacture and sale of alcoholic beverages throughout the national domain—to the same committee.

Also, the petition of Elias Boynton and others, citizens of Maine, against any increase of the bonded debt of the United States—to the Committee on Ways and Means.

Also, the petition of Luther Chamberlain and others, citizens of Maine, for an income tax—to the same committee.

Also, the petition of officers and soldiers of Aroostook County, Maine, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petitions of Joseph Clements and others, and of Luther Chamberlain and others, citizens of Maine, for legislation on interstate commerce—to the Committee on Commerce.

Also, the petitions of the same parties, for legislation to protect innocent purchasers from fraudulent venders of patent rights—to the Committee on Patents.

Also, the petitions of the same parties, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

By Mr. LAPHAM: Resolutions of the New England Agricultural Society, relating to the importance of enlarging the field of the Agricultural Bureau, and asking that Hon. GEORGE B. LORING be appointed Commissioner thereof—to the same committee.

Also, the petition of the Grand Division Sons of Temperance of Western New York, for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia—to the Committee on Alcoholic Liquor Traffic.

Also, the petition of citizens of New York, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, resolutions of the Cincinnati Board of Trade and Transportation, relating to the Louisville and Portland Canal—to the Committee on Commerce.

By Mr. LINDSEY: The petition of the Good Templars of Maine, signed by the officers, representing 20,000 members, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain—to the Committee on Alcoholic Liquor Traffic.

By Mr. LOWE: The petition of citizens of the eighth congressional district of Alabama, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of Charles Gilchrist, Benjamin McDonald, and others, citizens of the eighth congressional district of Alabama, against the passage of the sixty-surgeons bill—to the same committee.

By Mr. MAGINNIS: The petition of citizens of Montana, against the proposed change in the land laws—to the Committee on the Public Lands.

By Mr. MONROE: The petition of the Grand Division Sons of Temperance of Ohio, representing 3,500 members, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Committee on Alcoholic Liquor Traffic.

By Mr. NEW: Resolutions of the General Assembly of Indiana, asking for the passage of the Keifer bill for the suppression of contagious diseases of domestic animals in the United States—to the Committee on Agriculture.

By Mr. ORTH: The petition of citizens of Tippecanoe County, Indiana, that the Commissioner of Agriculture be made a Cabinet officer—to the same committee.

Also, the petition of the same parties, for a revision of the patent laws—to the Committee on Patents.

Also, the petition of the same parties, for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. POEHLER: The petition of Van R. Gifford and others, ex-soldiers of Northfield, Minnesota, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. JOHN S. RICHARDSON: The petition of citizens of Marion County, South Carolina, for legislation to protect innocent purchasers against fraudulent venders of patents and patent-rights—to the Committee on Patents.

Also, the petition of Lynchs' Creek Grange, South Carolina, of similar import—to the same committee.

Also, the petition of the same parties, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of citizens of Marion County, South Carolina, of similar import—to the same committee.

By Mr. THOMAS RYAN: Papers relating to the pension claim of Eli A. McFadden—to the Committee on Invalid Pensions.

Also, papers relating to the pension claim of Holden Cook—to the same committee.

Also, the petitions of citizens of Kansas, for an income tax, that the Bureau of Agriculture be made a department, and for legislation on the subject of interstate commerce—to the Committee on Commerce.

Also, the petition of the Good Templars of Kansas, numbering 7,500 members, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

By Mr. SPRINGER: The petition of W. M. Wood and 25 others, ex-officers and ex-soldiers of the late war, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. STARIN: The petition of Charles E. Deuel, of Northampton, New York, and 49 others, of similar import—to the same committee.

By Mr. STEVENSON: The petition of dentists of Bloomington, Illinois, against the reissue of John A. Cummings's patent for improvement in artificial palates and gums—to the Committee on Patents.

By Mr. J. T. UPDEGRAFF: The petition of A. S. Taylor and 329 others, citizens of Belmont County, Ohio, for the regulation of interstate commerce—to the Committee on Commerce.

By Mr. URNER: The petition of John Miller and others, ex-soldiers of Garrett County, Maryland, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. VANCE: The petition of the Good Templars of North Caro-

lina, for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia—to the Committee on the Alcoholic Liquor Traffic.

By Mr. WAIT: The petition of Miss Frances Thatcher, for a pension—to the Committee on Pensions.

By Mr. WASHBURN: The petition of J. G. Smith and others, of Saint Cloud, Minnesota, for the repeal of the tax on capital and deposits of banks and bankers—to the Committee on Ways and Means.

By Mr. WHITE: The petition of citizens of Pennsylvania, against the passage of the Bentley pension bill—to the Committee on Invalid Pensions.

By Mr. CHARLES G. WILLIAMS: The petition of the Woman's State Temperance Alliance of Wisconsin, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on Alcoholic Liquor Traffic.

By Mr. WILSON: The petition of John Blake and 50 others, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

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## IN SENATE.

### TUESDAY, *February* 15, 1881.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting plans and estimates for the construction and repair of buildings at military posts in the Department of the Pacific; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a letter from the Secretary of War, transmitting the petition of First Lieutenant Robert G. Smithers, adjutant Tenth Cavalry, praying that the President be authorized to appoint him a captain in the Tenth Cavalry, to take rank as such from the 20th day of December, 1877; which was referred to the Committee on Military Affairs.

He also presented a joint resolution of the Legislature of Wisconsin; which was read, and referred to the Committee on Indian Affairs; as follows:

Joint resolution for passage of House bill No. 3678.

Whereas there was a bill passed by Congress March 3, 1855, for the purpose of enabling the President of the United States to treat with and arrange the difficulties between the Stockbridge and Munsee Indians of Lake Winnebago, Wisconsin, arising out of the acts of Congress of March 3, 1843, and of August 6, 1846, and the treaty of November 24, 1848, in a just manner to the Indians, with their assent, and not inconsistant with the legal rights of white persons residing upon the Stockbridge reserve; and

Whereas a treaty was made and concluded at Stockbridge, in the State of Wisconsin, on the 5th day of February, 1856, between the United States and the Stockbridge and Munsee tribes of Indians, wherein the members of said tribes jointly ceded and relinquished their remaining title to the lands at Stockbridge, the seventy-two sections of land in Minnesota, the $20,000, the $16,500 invested in stock by the United States for said tribes, and all claims set up by and for said tribes; and

Whereas the United States agreed, in consideration of such cession and relinquishment by said tribes, to select and to give them a tract of land in the State of Wisconsin, near the southern boundary of the Menomonee reservation, of sufficient extent to provide for each head of a family and others lots of land of forty and eighty acres; and

Whereas the honorable senate and assembly of Wisconsin did, on the 31st day of March, 1856, pass a joint resolution that his excellency, the President, and the honorable, the Senate of the United States, be respectfully requested speedily to ratify and carry into effect the said arrangement; and

Whereas the said treaty was ratified on the 8th day of September, 1856, and the said tribes, in conformity therewith, removed to the reservation; and

Whereas the honorable the senate and assembly of Wisconsin did pass a joint resolution on the 16th day of September, 1856, that the assent of the State of Wisconsin is hereby given to the locating by the United States of the Stockbridge and Munsee tribes of Indians on a tract of land to be selected near the south line of the Menomonee reservation; and

Whereas an act entitled "An act for the relief of the Stockbridge and Munsee Indians of Wisconsin" was passed on the 6th day of February, 1871, which was construed so as to deprive a portion of the said tribes of their rights which were secured by the aforesaid treaties; and

Whereas there is now a bill before Congress, and has been pending for one year, for the purpose of restoring to the said portion of the Stockbridge and Munsees their rights to the tribal funds and to the said reservation, which they are deprived of by the said act of February 6, 1871: Therefore,

*Resolved by the assembly, (the senate concurring.)* That his excellency the President and the honorable the Senate of the United States be respectfully requested to speedily pass House bill No. 3678 for the relief of the Stockbridge and Munsee Indians in the State of Wisconsin.

*Resolved*, That the governor be requested to forward certified copies of this resolution to the President and the Senate of the United States.

IRA B. BRADFORD,
*Speaker of the Assembly.*
THOS. B. SCOTT,
*President of the Senate pro tempore.*

STATE OF WISCONSIN,
*State Department, ss:*

*To all to whom these presents shall come:*

I, Hans B. Warner, secretary of State of the State of Wisconsin, do hereby certify that the foregoing has been compared by me with the original in this office, and that the same is a true and correct copy thereof, and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed my official seal, at the capitol, in the city of Madison, this 10th day of February, in the year of our Lord 1881.

[SEAL.] HANS B. WARNER,
*Secretary of State.*

Mr. DAVIS, of Illinois, presented a resolution of the city council of Alton, Illinois, passed February 8, 1881, favoring an appropriation of $35,000 to secure to that city a deep and permanent channel along and in front of the city; which was referred to the Committee on Commerce.

Mr. FERRY presented a petition of Hiram M. Allen and others, citizens of Bellevue, Michigan, praying for a commission of inquiry concerning the alcoholic liquor traffic; which was referred to the Committee on Finance.

Mr. HILL, of Colorado. I present the petition of the Grand Lodge of Good Templars of Colorado, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain. I move its reference to the Committee on the Judiciary. The bill to which this refers has been sent to that committee, I understand.

The VICE-PRESIDENT. The Chair informs the Senator from Colorado that these petitions have all gone to the Committee on Finance. A large number were presented and so referred yesterday.

Mr. HILL, of Colorado. I understood from the Senator from New Hampshire [Mr. BLAIR] that the bill to which this refers was sent to the Committee on the Judiciary.

Mr. BLAIR. It was so referred; so that the proposed amendment has been referred to one committee and the petitions to another.

The petition was referred to the Committee on Finance.

Mr. BLAIR presented the petition of the Grand Division Sons of Temperance of New Hampshire, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

He also presented the petition of Governor Natt. Head and others, citizens of New Hampshire, praying for a commission of inquiry concerning the alcoholic liquor traffic; which was referred to the Committee on Finance.

Mr. BALDWIN presented a petition of Benjamin Bowman and others, citizens of Mendon, Michigan, praying for the appointment of a commission of inquiry concerning the alcoholic liquor traffic; which was referred to the Committee on Finance.

Mr. McDONALD presented the petition of J. M. Long and others, vessel-owners and residents of Chicago, Illinois, praying for the construction of a harbor of refuge at the mouth of Wolf River, in Indiana, fourteen miles east of Chicago; which was referred to the Committee on Commerce.

He also presented the petition of O. H. P. Cary and others, of Marion, Indiana, soldiers of the late war, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. McMILLAN presented the petition of the State Temperance Union of Minnesota, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. HEREFORD presented a joint resolution of the Legislature of West Virginia; which was referred to the Committee on Railroads, and read, as follows:

Joint resolution No. 9, requesting our Senators and Representatives in Congress to secure the passage of a law to regulate the traffic on interstate railways.

Whereas there is great and just complaint by the people of this State, and of the entire Union, because of the exorbitant charges by railways for the transportation of freights, because of unjust discriminations in those charges in favor of certain persons, companies, and corporations, and against certain other persons, companies, and corporations, and because of sudden and frequent changes in the rates of toll: Therefore,

*Resolved by the Legislature of West Virginia*, 1. That our Senators be instructed and Representatives in Congress be requested to secure the passage of a law which, while just to railways, will, as far as Congress has authority to legislate, relieve the people of the evils complained of and prevent abuses and devices that tend to burden interstate commerce and work to the injury of the public.

2. That the governor be requested to transmit to each of our Senators and Representatives a copy of this resolution.

Adopted February 2, 1881.

Attest: J. B. PEYTON,
*Clerk of the House of Delegates and Keeper of the Rolls.*

Mr. BROWN presented the petition of the Good Templars of Georgia, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. PLUMB presented the petition of the Good Templars of Kansas, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. LOGAN presented the petition of the National Supreme Council of Templars of Honor and Temperance, officially signed, representing 21,000 members, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

He also presented the memorial of William H. Seese and others, citizens of Atlanta, Illinois; the memorial of John Fry and others, citizens of Springfield, Dakota Territory; the memorial of John Chandler and others, citizens of Flint, Indian Territory; the memorial of A. W. Blake and others, citizens of Saybrook, Illinois; the memorial of James Fraser and others, citizens of Benton, Illinois; the memorial of B. E. Miles and others, members of the Grand Army of the Republic, of Pennsylvania; and the memorial of J. F. Wagner and others, citizens of Ava, Illinois, all surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which were ordered to lie on the table.

Mr. CAMERON, of Wisconsin, presented a resolution of the Chamber of Commerce of Milwaukee, Wisconsin, in favor of the repeal of war taxes on bank deposits; which was referred to the Committee on Finance.

Mr. VEST presented resolutions of the Board of Trade of Kansas City, Missouri, favoring the repeal of the law levying a special tax on banks and bankers, and also of the tax on bank checks; which were referred to the Committee on Finance.

### SIDNEY P. LUTHER.

Mr. MORRILL. I am directed by the Committee on Finance, to whom was referred the bill (S. No. 2165) for the relief of Sidney P. Luther, to report it without amendment. I desire to state that this case was before the Senate in the Forty-fifth Congress in the shape of a bill that had already passed the House of Representatives and was reported by the Committee on Finance favorably. It is a claim growing out of the wrongful seizure of a pair of steers, so admitted; and the amount of the bill is $85, which ought to have been refunded years ago. If there is no objection I will ask that the bill be acted on now in order that it may go to the House of Representatives in time for action there.

Mr. KERNAN. I hope there will be no objection.

Mr. TELLER. I do not mean to object to this case, but there are a great number of cases on the Calendar which have been a long time on the Calendar and which have just as much claim on the Senate as this case has.

Mr. MORRILL. This has been twice reported favorably.

Mr. TELLER. I simply want to say that hereafter, after this morning, I shall object to any case being taken up specially unless there is some attempt made to go to the Calendar.

Mr. EDMUNDS. I wish pending this question to ask unanimous consent that immediately after this bill is disposed of the Senate will do the unusual thing of passing a little bill for the relief of a poor widow, or not passing it, which had the misfortune to be reported on the 26th of January, and has been kept from being considered by bills reported from day to day and proceeded with by unanimous consent. I will make that request, Mr. President.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill reported by the Senator from Vermont, [Mr. MORRILL?]

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 2165) for the relief of Sidney P. Luther. It provides for the payment to Sidney P. Luther, of Pittsburgh, New Hampshire, of $85, in full satisfaction of his claim on account of the wrongful seizure of one pair of white-faced steers, and the wrongful detention and sale of the same, by the collector of customs for the district of Portsmouth, on the 14th of October, 1870.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

### REPORTS OF COMMITTEES.

The VICE-PRESIDENT. The bill called for by the Senator from Vermont [Mr. EDMUNDS] will now be read.

Mr. LOGAN. I object to taking up any more bills until the morning business is through.

Mr. CAMERON, of Wisconsin. I am interested in the same bill that the Senator from Vermont is, and we make a joint request.

The VICE-PRESIDENT. The Senator from Illinois objects. Reports of committees are in order.

Mr. FERRY, from the Committee on Finance, to whom was referred the bill (S. No. 1971) for the relief of C. Hayner, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. LOGAN, from the Committee on Military Affairs, to whom was referred the joint resolution (S. R. No. 141) authorizing the President to place Thomas C. Crittenden upon the retired list with the rank and pay of a brigadier-general, reported it with amendments.

Mr. BAYARD, from the Committee on Finance, to whom was referred the joint resolution (S. R. No. 158) to admit free of duty a monument to General Washington, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 157) for the relief of the Philadelphia and Reading Railroad, reported it without amendment.

Mr. RANDOLPH, from the Committee on Military Affairs, to whom was referred the bill (S. No. 2162) correcting the pension granted to Lieutenant George W. Graham, One hundred and forty-fourth Regiment New York Volunteers, in accordance with his rank, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. RANDOLPH, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 4413) for the relief of J. Scott Payne, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 249) for the relief of Mark Walker, reported it without amendment.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1364) for the relief of Edwin Mauck, of Crisfield, Maryland, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the letter of the Secretary of War, transmitting the petition of Captain S. T. Norvell, Tenth Cavalry, praying pay as acting second lieutenant from January 28, 1862, to February 18, 1863, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the subject.

He also, from the same committee, to whom was referred the petition of Michael Pfoertner asking for the removal of the charge of desertion, and that he be granted an honorable discharge, submitted an adverse report thereon; which was orderded to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of Captain Augustus Boyd, late assistant quartermaster United States Army, praying for the passage of a bill placing him on the retired list of the Army, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (S. No. 1378) for the relief of John W. Eckles, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. HAMLIN, from the Committee on Post-Offices and Post-Roads, to whom was referred the petition of citizens of Sprague's Mills, Maine, praying that Esther W. Sprague, postmistress, be credited with certain moneys belonging to the Government which were destroyed by fire, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

### BILLS INTRODUCED.

Mr. McDONALD asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2181) for the relief of First Lieutenant Robert G. Smither, adjutant Tenth United States Cavalry; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2182) for the relief of Edward Haile, surviving partner of Savage & Haile; which was read twice by its title, and, together with the papers on the files relating to the case, referred to the Committee on the Judiciary.

Mr. BECK asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2183) for the relief of George W. Wicks & Co., of Louisville, Kentucky; which was read twice by its title, and referred to the Committee on Finance.

Mr. HARRIS asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2184) to authorize the commissioners of the District of Columbia to appoint additional policemen for temporary service in the District, and for other purposes; which was read twice by its title.

Mr. HARRIS. I am instructed by the Committee on the District of Columbia to ask for the present consideration of that bill. The subject-matter has not been referred to the committee, but the committee has considered it and instructed me to ask for the present consideration of the bill.

The VICE-PRESIDENT. The bill will be read at length for information, and objections reserved.

The Chief Clerk read as follows:

*Be it enacted, &c.*, That the commissioners of the District of Columbia are hereby authorized to appoint, upon the recommendation of the superintendent of the Metropolitan police of the District of Columbia, three hundred additional privates on the Metropolitan police force of said District, for the period of fifteen days, from the 20th of February, 1881, who shall be paid $2 for each day's service rendered by them in that capacity. And a sum sufficient for their payment and equipment is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The VICE-PRESIDENT. Is there objection to the present consideration of this bill?

Mr. EDMUNDS. Yes, Mr. President. I think that these additional policemen ought to be appointed under the authority of the Sergeants-at-Arms of the two Houses and be under the control and in addition to the Capitol police, as it is evidently for the inauguration time, and therefore I want to have time to move an amendment to it.

The VICE-PRESIDENT. Objection being made the bill goes over.

Mr. GROVER asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2185) making an appropriation to repair the wagon-road between Camp Stewart and Fort Klamath, Oregon; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2186) making an appropriation to repair the mili-

tary wagon-road extending from Scottsburgh to Camp Stewart in Oregon; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MAXEY asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2187) for the relief of Thomas Little; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CALL asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2188) for the relief of Thomas F. Riley; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BLAIR asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2189) to prohibit the manufacture, importation, and sale of intoxicating liquors, as a beverage, in the District of Columbia; which was read twice by its title.

Mr. BLAIR. I introduce that bill by the request of the National Temperance Society. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. PLUMB asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 160) proposing an amendment to the Constitution of the United States in relation to the manufacture and sale of intoxicating liquors; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENTS TO BILLS.

Mr. INGALLS. I offer an amendment to the deficiency appropriation bill which I ask may be referred to the Committee on Post-Offices and Post-Roads, and I express the hope that they will report it back with a recommendation that it be referred to the Committee on Appropriations favorably. I ask to have the amendment read.

The proposed amendment was read, and referred to the Committee on Post-Offices and Post-Roads, as follows:

That the Postmaster-General is hereby authorized and directed to make the readjustments of salaries of postmasters provided for in section 8, act of June 12, 1866, which have not been made, to have the same effect as if made when the returns entitling such postmasters to such readjustments of salaries were received; and report the amounts due to Congress.

Mr. COKE submitted an amendment intended to be proposed by him to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. INGALLS, Mr. VEST, and Mr. BUTLER submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

EQUALITY OF TAXATION.

Mr. McDONALD. I submit the following resolution:

*Resolved*, That the people ought to contribute to the support of the Government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue they enjoy under its protection. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation.

I desire to give notice to-morrow morning, with the leave of the Senate, to call up that resolution for the purpose of submitting a few remarks upon it.

The VICE-PRESIDENT. The resolution will lie on the table, subject to the call of the Senator.

Mr. EDMUNDS. Let it be printed.

The VICE-PRESIDENT. It will be printed.

EVENING SESSIONS FOR THE CALENDAR.

Mr. TELLER. I now call up the resolution I offered yesterday.

The Senate proceeded to consider the following resolution, submitted by Mr. TELLER on the 14th instant:

*Resolved*, That on and after Tuesday, the 15th instant, the Senate will take a recess at —— and meet again at half past seven p. m. of the same day, to consider the cases on the Calendar, and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question, and the objection may be interposed at any stage of the proceedings.

The VICE-PRESIDENT. Will the Senate agree to the resolution?

Mr. TELLER called for the yeas and nays, and they were ordered.

Mr. TELLER. I only want to say that we have on the Calendar a great number of cases; and if we could come here and give them a couple of hours' consideration in the evening they would undoubtedly become laws, those that are not objected to. There are a great number of such bills that have come here from the House. If they are not passed, the whole labor must be done over again. The Committee on Claims have been in session during the whole winter, and have been presenting reports to the Senate that they have given a great deal of attention to, and nothing is to be done with them unless we come here in the evening. It is apparent we shall do nothing in the morning. I think we ought to do something.

Mr. HOAR. I understand that the yeas and nays are ordered to be called on the adoption of the resolution, and I desire to call the attention of my friend from Colorado to the fact that he probably designed to fill the blank in his resolution before it is adopted. It is now Tuesday, and he perhaps would like to have it begin to-morrow or some later day.

Mr. TELLER. I am not particular whether it begin to-day or whether it begin to-morrow. If any Senator desires to amend it in that particular I have no objection, but I think we ought to begin pretty soon.

Mr. HOAR. But there is a blank in the resolution, if I heard it correctly.

Mr. TELLER. If we leave it a blank we take the recess when we get ready. The word "at" should be stricken out; so as to read "take a recess and meet again."

Mr. BURNSIDE. I move to amend the resolution by inserting "Monday, the 21st," instead of "Tuesday, the 15th."

The VICE-PRESIDENT. The question is on the amendment of the Senator from Rhode Island.

Mr. EDMUNDS. It will be noticed that this resolution, differing from what is called the Anthony rule or resolution, is a peremptory one. The Anthony rule provided that unless otherwise ordered this same thing should be done at a certain time, as far as I can understand it. This makes it peremptory, so that the Senate cannot otherwise order except on a day's notice of a repeal of this rule.

There are a great many appropriation bills still undisposed of. There is the cattle bill of great importance. Whatever we may think of its constitutional difficulties or methods, the subject is one of infinite importance that deserves consideration. There is the funding bill about the importance of which I need say nothing. There are a great many matters of extreme public importance which may require continuous sittings of the Senate from day to day until late in the evening and which might be entirely squeezed out every evening by this peremptory order which cannot be got rid of except by a repealing resolution, which if any one Senator objects goes over a day and then takes its chance of being discussed over the morning hour, and so on. So in the interest of all the business of the Senate—although I sympathize with the Senator from Colorado entirely as to the injustice that is done to the small matters on the Calendar—it seems to me it would not be wise to make a peremptory order of this kind.

Mr. TELLER. In order that no one may vote against this resolution for that reason, I will, with the consent of the Senate, amend by inserting "unless upon motion the Senate shall otherwise order."

The VICE-PRESIDENT. The Chair hears no objection to that modification.

Mr. KIRKWOOD. Let the resolution be read as it now stands.

The VICE-PRESIDENT. The resolution will be read as modified.

The Chief Clerk read as follows:

*Resolved*, That on and after Tuesday, the 15th instant, unless upon motion the Senate shall otherwise order, the Senate will take a recess and meet again at half past seven p. m. of the same day, to consider the cases on the Calendar; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question; and the objection may be interposed at any stage of the proceedings.

Mr. TELLER. I think the Clerk has not amended that as it should be:

On and after Tuesday, the 15th instant, the Senate will take a recess and meet again at half past seven p. m. on the same day, to consider the cases on the Calendar—

Then after the word Calendar—

unless otherwise ordered by the Senate.

I want the Senate to meet in the evening at all events.

The VICE-PRESIDENT. The question is now on the amendment of the Senator from Rhode Island, [Mr. BURNSIDE.]

Mr. BURNSIDE. I will modify my amendment by naming "Wednesday, the 16th instant," instead of "Monday, the 21st." I think the Senator from Colorado will accept that.

Mr. TELLER. I will not object to that. It may not be convenient for the Senators generally to come to-night.

The VICE-PRESIDENT. The resolution, as modified, will be again read.

The Chief Clerk read as follows:

*Resolved*, That on and after Wednesday, the 16th instant, the Senate will take a recess and meet again at half past seven p. m. of the same day, to consider the cases on the Calendar, unless upon motion the Senate shall otherwise order; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question; and the objection may be interposed at any stage of the proceedings.

Mr. BECK. I hoped that the suggestion of the Senator from Rhode Island to make it next Monday and after would prevail, because I suppose that meeting at eleven o'clock, and sitting all day here, some of us might want a day or two to arrange so as to have all our nights free, which we have not now perhaps. I would rather have it begin next Monday than to-morrow, if it can be done.

Mr. BURNSIDE. That was my feeling in offering the amendment I first presented.

Mr. BECK. I will move to insert "Monday, the 21st."

The VICE-PRESIDENT. The Senator from Kentucky moves to amend by striking out "Wednesday, the 16th," and inserting "Monday, the 21st."

Mr. VOORHEES. I am perfectly willing that this resolution in some form may pass so as to accomplish the work of this session, but I wish to reserve an evening for the consideration of the Library bill. I had intended to ask the Senate by unanimous consent to consider it to-morrow evening. I do not want to obstruct legislation; I do not want to antagonize the appropriation bills; but I do not want to add one more to the long, dismal list of failures and expenditures of money in investigating this Library question. I wish the Senate to take cognizance of the fact that for eight years past this question has

been before the Senate and money has been spent session after session, and if the commission of which I have the honor to be chairman is to fail of success in its arduous and conscientious labors, I intend to place the responsibility where it belongs. It does not belong to the committee.

In March, 1873, recognizing the necessity of additional accommodations for the Library of Congress, a joint commission of three members, the chairman of the Library Committee, the chairman of the Committee on Public Buildings and Grounds, and the Librarian of Congress, were appointed to consider the question, with an appropriation of $5,000 to obtain plans.

The VICE-PRESIDENT. The Chair interrupts the Senator. The morning hour has expired. If this proceeding continues it must be by unanimous consent.

Mr. JOHNSTON. If the morning hour has expired——

The VICE-PRESIDENT. The Senator from Indiana has the floor, and will proceed, unless objection be made.

Mr. VOORHEES. I say that eight years ago, when this matter was first agitated, a joint commission of three members was appointed and an appropriation of $5,000 was made, which was expended for plans. Twenty-eight plans were reported, and the whole subject laid before Congress, and Congress saw fit to do nothing. Everybody recognized that a Library building had to be built. Five thousand dollars of the public money was spent, and then that commission was treated as it seems this commission is to be treated. Perhaps they did not make as determined an application to the judgment and conscience of the Senate as I intend to do.

Again in 1874 the Joint Committee on the Library agreed on a separate building, but could get no action from this body except another appropriation of $2,500 for the purpose of obtaining plans to illustrate the possibility or impossibility of building a library in connection with this Capitol. That money was wasted; it was all spent and nothing was done. The committee then did its duty as it has done now, and Congress then failed to do its duty as it seems it is determined to do now.

Again in February, 1875, the same committee reported in favor of a separate building to be erected on Judiciary Square, as has been reported now, and asking for an appropriation of $250,000. Congress, as usual, failed to take action on the subject; every member of Congress knowing that the Library was in a disgraceful condition, and every member then here and in the other House knowing that their wives and daughters could not go into the Library and find a seat in the midst of the piles of dust and books and boxes; every member of Congress knowing then, as we now know, that you cannot find a map there, cannot find a chart, or indeed anything else, except through the vigilant and untiring industry of Mr. Spofford, the Librarian, who furnishes us our books under the most distressing circumstances. Every member of Congress to-day knows that there are 100,000 valuable volumes without shelf-room, crushed by the weight of other books on the top of them, and still the subject it seems is to go by.

Again, sir, as if we were never done wrangling, as if like schoolboys we could not agree where to build a house for books, in June, 1876, this committee, baffled in every other direction, as an experiment, and as a compromise, reported in favor of erecting a building on the site of the Botanic Garden, which was an excellent locality for Noah's ark a few days ago. It was there discovered that by digging about forty feet through muck and mud you might find some solid ground for a foundation. We all know now that this site occasionally entertains a flood, and that the arts of navigation would be required to get to the Library at different periods and stages of the water in the Potomac. That scheme failed, perhaps floated down the river, and the money appropriated was lost and sunk.

But the subject did not die; it came up again in March, 1877. It seems strange to me that an intelligent body like the American Congress cannot agree on the subject of where and how to build a house to put books in. I have had illustrious predecessors in this business, and their labors have all died the death and come to naught; their works have perished by the wayside. If the labors of this present joint commission, created by act of Congress in May last, shall perish, I intend for my part that the fault shall lie at somebody else's door; not at the door of the commission.

In February, 1878, another joint commission was raised resulting in another act for another set of plans, with another appropriation of $2,500 of the people's money, followed at last by another report to build a separate building away from the Capitol on Judiciary Square. There it stopped again. This was in 1878 and there it stood. It did not budge another inch. We can legislate, it appears, on all other subjects except books. If it were not that I regard the Senate of the United States as the most august legislative body in the world, I would say that it had and deserved the contempt of the book men of the whole country. The librarians of the United States were here the other day and seeing the disorderly condition of our Library they addressed us on the subject through the resolution I had the honor to present a few days since. Why not address ourselves to this important matter at once? I see my excellent friend from Virginia rising to ask us to legislate on the pleuro-pneumonia of cattle, contagious diseases of swine, and subjects of that kind. We can and ought to do so; but when we encounter the question whether we shall provide decently and in order for the accommodation of the intellectual product of the world, there we stall and there we stick.

But further, in February, 1879, after abandoning the bottom at the foot of the hill, we instructed the Secretary of the Interior to enter into the business of appraising real estate in certain quarters of the town. We instructed him to appraise and fix a valuation for certain named squares; a most agreeable proceeding to the real-estate pools which surround this Capitol and want to sell their ground. This was done, and I suppose we got a flood of light on how many dollars a foot ground commands in this District. But that came to naught; and then, unfortunately perhaps, nearly two years ago I was honored with the position of chairman of the Library Committee. It brought me into immediate and business contact with that great monument of learning with its nearly four hundred thousand volumes, 300,000 now with more than 100,000 lying one on top of another, not shelf-room for much more than two-thirds. My official position brought me into business relations with this institution. I took cognizance of its condition; I found out my duty, and I have tried to do it. I succeeded at least in so far arresting the attention of Congress as to secure the law under which the present joint select committeee is acting.

The act was passed in May, 1880, and connected with that act was another appropriation of $5,000, and we have spent it. We have expended it for plans, for drawings, for designs, and for work in connection with the duties of the committee. We have done our duty faithfully. It was not thirty minutes after Congress adjourned *sine die* on the 16th day of last June until that commission was called together in this building, and we sat in our room all that afternoon, while everybody else was packing up and rushing out of town, and before we had separated we had appointed three architects, distinguished, able, conscientious men. We gave them their instructions, and upon our return here in December they laid before us a wealth of skill in architectural designs, and we at once took up the subject and proceeded with it until we have laid upon the table of this body and upon the table of the Speaker of the House of Representatives our report, covering every phase of the question, and our bill providing for the protection and preservation of the Library of Congress.

Now, is it too much to ask this body to consider this question? This subject had better be dropped now and for good, or else let us take it up and act upon it. For eight years not one year has passed that we have not had the subject under investigation and been extensively spending the public money in regard to it. Why, sir, during this time it will be seen there have been four special commissions on the Library building business, five or six joint committees, and nearly a dozen reports. Four separate and distinct appropriations, one of $2,000, one of $2,500, and two of $5,000 each, have been made and expended in drawing plans. Here are $14,500 already devoted by Congress to the futile task of finding out "how not to do it."

Are we to go on forever in this fruitless and wasteful method while our books are going to destruction under our very eyes? Can your Librarian continue to pile up a constantly increasing heap and produce the books in season for your wants from the bottom of the pile to the end of this century? We have been eight years in doing nothing, until now the country is made fully aware that the disgraceful condition of things in this Capitol calls for action at our hands. Such a point has the overcrowding of the Library arrived at that it is almost rendered useless as a place of resort for intelligence.

I have said now all that I desire to say at this time. To the very end of this session, however, I shall not relinquish the hope of action. I desire action. I am not asking to interpose as against any business this afternoon, but I will ask the Senate to set aside to-morrow night. One evening can dispose of this bill and either remand it to the tomb of the Capulets with its $5,000 of appropriation wasted in vain, or we can take a step forward toward the completion of this great and necessary work.

I do not feel willing to be made the instrument of wasting the public money and the time which belongs to the public in bringing forward here the results of our labors and have them ignored. I ask, and hope I may be indulged in the request, that to-morrow night may be set aside for the consideration of this question.

Mr. BAYARD. Mr. President——

The VICE-PRESIDENT. The Senator from Indiana asks unanimous consent that a session be held to-morrow evening for the consideration of the Library bill.

Mr. TELLER. Before we proceed, in order that the Senate may have no trouble about it, I should like to amend my resolution by fixing its commencement at "Thursday, the 17th instant." That will give the Senator from Indiana to-morrow night without any objection, and I understand that several Senators have made engagements for to-morrow night and it would not be pleasant for them to come here. Therefore I move to amend by saying "Thursday, the 17th instant."

The VICE-PRESIDENT. Is there objection to that modification? The Chair hears none, and the resolution will be so modified.

Mr. BAYARD. Mr. President, if the question can be put without debate on the motion of the Senator from Indiana, I have no objection; but if it is to be discussed further I shall have to object.

The VICE-PRESIDENT. Is there objection that a special session be held to-morrow evening for the special consideration of the Library bill?

Mr. EDMUNDS. I feel obliged to object, as I do always, to special orders at this stage of the session. I believe they are not useful even for the purpose in view.

The VICE-PRESIDENT. The morning hour has expired.

Mr. TELLER. I ask consent of the Senate to take a vote on this resolution. I think it will meet with the approbation of the Senate.

The VICE-PRESIDENT. Is there unanimous consent that the vote be now taken on the resolution under discussion?

Mr. WHYTE. I have no objection if I am allowed to offer an amendment without any remarks.

Mr. BURNSIDE. I should like to offer an amendment also.

Mr. EDMUNDS. I wish to offer an amendment, Mr. President.

The VICE-PRESIDENT. The resolution goes over under objection.

ORDER OF BUSINESS.

Mr. BAYARD. I move to postpone the present and all prior orders in order to proceed to the consideration of House bill No. 4592.

Mr. VOORHEES. What became of the resolution of the Senator from Colorado?

The VICE-PRESIDENT. It went over on objection. The Senator from Delaware [Mr. BAYARD] moves that the pending order, being the consideration of the Calendar of General Orders under the Anthony rule, be postponed, so that the Senate may proceed to the consideration of the funding bill.

Mr. JOHNSTON. As the cattle bill was taken up yesterday and partly considered, I had hoped that this morning, in the morning hour, of which there is an hour yet left, we might take up that bill and proceed with its consideration. We are about half way through with the amendments of the committee. I hope the Senate will consent to continue that bill.

Mr. BAYARD. I hope not. I insist on my motion.

The VICE-PRESIDENT. The question is on the motion of the Senator from Delaware.

Mr. INGALLS. What is that motion?

The VICE-PRESIDENT. It is that the pending order, being the consideration of the Calendar under the Anthony rule, be postponed, the Senator stating his purpose, if that shall prevail, to move that the Senate proceed to the consideration of the funding bill.

Mr. HARRIS. I rise to ask if the pending order shall be now postponed, which is understood to be the Anthony rule, what will be the condition of the bill of the Senator from Delaware at the expiration of the morning hour, at half past one o'clock?

The VICE-PRESIDENT. He will have to renew his motion to continue it.

Mr. HARRIS. I think so, unquestionably.

Mr. BAYARD. I shall ask to continue its hearing at that time.

Mr. KIRKWOOD. What is the motion pending?

The VICE-PRESIDENT. It is that the pending order, which is the consideration of the Calendar of General Orders under the Anthony rule, be postponed, the Senator from Delaware stating that if that motion shall prevail, he will ask that the Senate proceed to the consideration of the funding bill.

Mr. KIRKWOOD. I should like to ask what position the cattle bill, as it is called, occupies now?

The VICE-PRESIDENT. It is on the Calendar as the unfinished business, and will naturally come up at half past one o'clock.

Mr. JOHNSTON. In order to test the sense of the Senate, inasmuch as the morning business has been laid aside, I will move to substitute the cattle bill for the bill proposed by the Senator from Delaware.

The VICE-PRESIDENT. That motion is not in order.

Mr. KIRKWOOD. The effect, then, of the motion of the Senator from Delaware will be to cause the cattle bill to lose its place?

The VICE-PRESIDENT. That depends. If the motion of the Senator from Delaware now made shall prevail, the funding bill will be in order until half past one, when the unfinished business will come up.

Mr. PADDOCK. Is not the cattle bill the unfinished business?

The VICE-PRESIDENT. It is. Then the Senate will determine its action. The question is, Will the Senate agree to the motion of the Senator from Delaware to postpone the pending order?

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. THEODORE F. KING, one of its clerks, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. R. No. 337) authorizing and requesting the President to extend to the Government and people of France an invitation to join the Government and people of the United States in the observance of the centennial anniversary of the surrender of Lord Cornwallis at Yorktown, Virginia.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes.

The message further announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 6719) making appropriations for the support of the Army for the fiscal year ending June 30, 1882, and for other purposes, insisted upon by the Senate; that it insisted upon its amendment to the second amendment of the Senate to the said bill disagreed to by the Senate; that it agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HIESTER CLYMER of Pennsylvania, Mr. WILLIAM H. FORNEY of Alabama, and Mr. JOSEPH R. HAWLEY of Connecticut, managers at the conference on its part.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. No. 3047) to authorize the commissioners of the District of Columbia to recommend a proper site for a union railroad depot in the city of Washington, and for other purposes, and asked a conference with the Senate on the disagreeing votes of the two Houses thereon and had appointed Mr. WARNER MILLER of New York, Mr. EPPA HUNTON of Virginia, and Mr. G. C. HAZELTON of Wisconsin, managers at the conference on its part.

The message also announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate.

A bill (H. R. No. 4005) to incorporate a society for the protection of children in the District of Columbia;

A bill (H. R. No. 6324) to construe an act entitled "An act to relieve the churches of the District of Columbia and to clear the title of the trustees of such property;"

A bill (H. R. No. 6659) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia;

A bill (H. R. No. 7031) to amend the charter of the Metropolitan Railroad Company of the District of Columbia;

A bill (H. R. No. 7032) to amend the act incorporating the Capitol, North O Street and South Washington Railway Company;

A bill (H. R. No. 7033) making the city of Chattanooga, in the State of Tennessee, a port of delivery;

A bill (H. R. No. 7117) authorizing the Washington and Chesapeake Railroad Company to extend its railroad into and within the District of Columbia;

A joint resolution (H. R. No. 378) providing for the printing and distribution of the report of the Commissioner of Education for the year 1880; and

A joint resolution (H. R. No. 386) for printing report of the Life-Saving Service.

THE FUNDING BILL.

The VICE-PRESIDENT. The Senator from Delaware now moves that the Senate proceed to the consideration of the funding bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4592) to facilitate the refunding of the national debt.

The bill was reported from the Committee on Finance with amendments.

The first amendment of the committee was, in line 15, section 1, after the word "bond," to strike out "in the" and to insert "to an;" so as to read "the Secretary of the Treasury is hereby authorized to issue bonds to an amount."

Mr. BAYARD. I desire to submit to the Senate some remarks explanatory of the object of the committee. Before that is done, however, for the purpose of intelligibility, I will ask that some verbal errors be corrected. On page 2, on line 30 of section 1, the word "issued" has been improperly printed instead of "registered." That is a correction made by the direction of the committee. Also on page 5, at line 2 of section 5, the words "the said terms of one and" are superfluous and should be stricken out. Also on page 3, on line 40 of the first section the words "publication of" ought to be inserted between the words "after" and "notice."

Mr. KIRKWOOD. Are these amendments offered for consideration?

Mr. ALLISON. They are mere verbal amendments.

Mr. BAYARD. And on page 6——

Mr. KIRKWOOD. I should like to understand the meaning as we go on.

Mr. BAYARD. On page 6, line 11 of section 5, the last word "date" should be replaced by the word "publication." The amendments I have suggested place before the Senate the bill as it was intended to be reported from the Committee on Finance, and the amendments that I have stated are those which will render the bill intelligible to Senators who engage in the discussion.

Mr. KIRKWOOD. How are we to understand these amendments? I cannot for my life. How are we to understand the effect these amendments have on the bill? I cannot understand them by having them gone over in this way.

Mr. BAYARD. I propose now, with the leave of my honorable friend, to discuss the effect of these amendments. The errors I have proposed to remedy were simply clerical; they are misprints. These are not amendments in a parliamentary sense; they are corrections of misprints. It was suggested that the bill should be reprinted after these errors had been discovered but it was considered unnecessary because they could be corrected at this time and in the manner I have suggested.

Mr. President, in little more than sixty days from this date a loan of the United States, bearing 5 per cent. interest, and amounting to $469,651,050, will, at the option of the Government, become payable. On the 30th day of June next two other loans, each bearing 6 per cent., the first for $145,786,500, and the other $57,787,250, will also mature at the option of the Government. These facts are stated in the last report of the Secretary of the Treasury, and will be found on page 10 of his report of last December. He has informed us that the surplus revenue accruing prior to the 1st of July, 1881, will amount

to about fifty million dollars, and can and will be applied in part to the extinguishment of that debt. Bonds maturing on the 31st of December last were paid out of the accruing revenues. So that there will remain the sum of $637,350,600, to be provided for and funded at the option of the Government at such rate of interest as may be deemed advisable by Congress and can practicably be obtained.

The sums that we are dealing with are enormous, affecting the welfare of every branch of our country's industry and of our entire people. The opportunity for reducing the rate of interest upon this enormous sum, and not only that, but of placing the national debt more under the control of the Government in regard to future payments, is now before us. The opportunity for doing this upon favorable terms should not be lost, and the only question before us as legislators is how we can best and most practically take advantage of the hour.

We all feel that this country is enjoying its years of plenty. Whether they are to be limited to seven such as blessed Egypt in the days of old or to be increased to seventy as we all hope, is a question that the veil of futurity excludes from our knowledge. We have had a succession of years of abundant harvests. Our mines were never so productive, not simply of precious metals, but minerals of every character have been brought into the use of mankind in this country to a degree unprecedented in history. There has also been a prosperous condition of all manufacturing industries, and enveloping the whole in its atmosphere is a buoyant sense of popular confidence and hope in our people at large. Material prosperity seems to have set in upon us in a most unmistakable current. The balance of trade has declared itself immensely and unprecedentedly in our favor, and the inflow of the precious metals has been marked by their payment in large part of that balance of exchange. The absolute and profound peace which reigns throughout our borders, and which affects our relations with foreign nations, has enabled us to keep in service the mere skeleton of a standing army, which does not now amount to one-twentieth of 1 per cent. of our population. The Navy has been so neglected that to-day it stands but the shadow of a once great name. Of an essential system of coastwise defense we scarcely have a trace. If there be impediments to aggressive warfare upon our coasts, it is those that nature has supplied, and not those which a wise and systematic preparation dictates should be inaugurated. But this neglect, if neglect it be, has been accompanied by economy in expenditure, and therefore we retain the moneys that these things might have cost within our control, and with our credit unaffected by expenditure which under other counsels might have been incurred.

Therefore we have for the present an immense advantage, coupled with a most important fact, that under existing laws the advantage continues—which I trust will become permanent—of transacting the whole of our great business upon a specie basis, and the effect and value of this can scarcely be overstated.

But there may be another side to this picture, and all these features that now so delight us may be sadly altered. The vicissitudes of nations, the ebb and flow of favoring circumstances, should always be contemplated, and preparation for adversity made during the seasons of prosperity. Business depressions, falling prices, enforced idleness of the laboring classes, all produce a condition of things far different; and there should be echoes in our ears of the labor troubles of 1877 to teach us to guard against the recurrence of such dangers in the future.

To-day we are continuing the coinage and issue of the two precious metals to the full limit of our minting capacity, at a ratio which is wholly in defiance of the relative commercial values of those two metals. We have on our statute-books to-day two declared units of value, one of which is worth, and has been worth for a long time past, without prospect of change, but seven-eighths of the value of the other; and that man must be blind who does not see the inevitable consequence. The time cannot be remote when the laws of nature and of universal values will vindicate themselves, and all of our business transactions, individual and public, and all the prices for commodities will be adjusted upon the basis of the metal which has been over-valued, and soon rather than late our country will be brought upon the sole standard of that over-valued metal, which is silver. This would place gold at a premium, and although enhancing prices here nominally it would not change those prices as measured by the world's standard and measure of values. It would be but the subsitution of an illusory for a real measure of values.

This inevitable result has a certain amount of disguise at the present under our statutes in the issue of silver certificates based upon coin deposited in the Treasury. This makes the approach of a silver standard more insidious and less palpable, but in reality it is hastened and encouraged. It is this condition of affairs that in my judgment renders it imperative upon those having charge of the legislation of the country to seize the opportune moment, which is to-day, and fund our national debt at the lowest practicable rate of interest and on the most favorable terms as to times of payment.

Two propositions have been made, one by the House of Representatives and one from the executive branch of the Government. The Secretary of the Treasury, at page 12 of his report, has recommended the refunding of $400,000,000 of the national debt at a rate not exceeding 3.65 per cent.

It is also recommended that authority be given to sell at par an amount not exceeding $400,000,000 of bonds of the character and description of the 4 per cent. bonds of the United States now outstanding, but bearing a rate of interest not exceeding 3.65 per cent. per annum, and redeemable at the pleasure of the United States after fifteen years, the proceeds to be applied to the payment of bonds redeemable on or before July 1, 1881.

The House of Representatives has proposed that we should fix the rate of interest at 3 per cent., and make the bonds payable in ten years, with the option to the Government to redeem them in five years. Upon careful deliberation and considering all the arguments from every respectable source that we could obtain, the committee of the Senate have modified both the proposition of the Secretary and the proposition of the House. We have reported to the Senate the issue of the $400,000,000 of bonds recommended by the Secretary and the House, but we have fixed the interest at 3½ per cent., being a shade lower than that proposed by the Secretary and a slight increase upon the rate proposed by the House, and we have fixed the time of payment at twenty years instead of ten, with the option of paying the debt at the end of five years. The term five-twenties would therefore continue to be applicable to this form of the national debt, and one as to which having had experience of a most favorable character and to which the people of the country have become accustomed, it was thought that feature alone gave it weight and increased the probability of its success.

There are various reasons for this. Opinions have differed and always will differ as to this matter. Intelligent and patriotic men believe that it is practicable to fund the whole of this debt at the rate of 3 per cent. Others again, equal to them in experience, ability, and opportunities of judgment, have told us there would be risk in the attempt. Speaking for myself and for the majority of the committee, we believe that the weight of authority is in favor of running no risk, and that the rate of 3½ per cent. per annum is that which under all the circumstances it is wiser and better for the United States to adopt in order to obtain freely the desired loans from the public.

Consider for a moment the experience of other nations in this regard. At the head of the commercial world is the Empire of Great Britain. Nowhere has government been more permanent or its institutions more stable, or the certainty of the repayment of loans and indebtedness secured by law more perfectly. The conditions, therefore, of low interest have been as perfect there as human institutions have ever been able to procure; and yet what is the result? When, in the last half century, the especial period of her progress and success, have the consols of Great Britain not paid more than 3 per cent. to the investor? Yet those bonds have a feature which is denied to our own, and for my own part I cannot regret it, and that is, the creation of a *permanent* debt. During the last fifty years the loans of Great Britain have touched par, I believe, but twice.

Mr. McPHERSON. Would it discommode the Senator if I should ask him a question? If so, I will wait.

Mr. BAYARD. If my friend will ask me the question a little later, I shall be pleased to answer it. I should rather not break the continuity of what I propose to say.

It may be stated in regard to the rate of interest returned upon the investment of English consols that it has varied between 4 and 3½ per cent. I am speaking now of the return upon the cost of the British consols to the investor. Sometimes it has paid more than 4, and sometimes even less than 3 per cent., but those have been the extremes of depression and exaltation of price. It may be said upon authority that the investor in British consols has during the last quarter of a century received on an average rather more than 3½ per cent. income.

At page 5 of a pamphlet containing the report of an interview between the Secretary of the Treasury, the Comptroller of the Treasury, and the Treasurer with the Committee on Finance, (with copies of which I think each Senator has been furnished,) will be found a statement taken from the London Economist of the 6th of November, 1880, to which I invite the attention of the Senate as corroborating the statement I have made. Tables following that, which show the market rate both of the present sale and original negotiation of their public loans by the Republic of France and the Empire of Germany, will also disclose the fact that in nations recognized as the commercial leaders of the world investment in their securities has paid the investor considerably more than 3½ per cent. I clipped from a New York paper of the 13th of February, 1881, the quotation of the French rentes, and they had declined from 84.3 to 84.20, and they are 3 per cent. securities. I also draw attention to the fact that there was a fluctuation in the price of the English consols from October, 1853, to the present time of more than 10 per cent., that they were as low as 90 in 1853, and as high as par in 1880; but more than that, to show the suddenness of fluctuation let me read:

In 1852 consols were quoted at prices varying from 3 below par to nearly 102; the history of matters for that year being as follows: Consols rose from 97 ex div. in January and touched 100 in May, and 101 early in June. They were then quoted ex div., but were again quoted at 101 ex div. on the 23d of June. Best bills were at that time taken in the open market at 1½ per cent. During August there was a relapse to 99½, but at the beginning of September consols were again above 100. They remained about that price until November, when they rose to 101½, and in December to 101¾. They were then quoted 100½ ex div., but closed for the year at 101 ex div. In 1853, from 101 they fell below 100 in the first fortnight in January, and reduced three percents, then at 101⅛, quickly followed. But in March they recovered to 100, and toward the end of April they rose to 101. Consols relapsed to 100 in June, and were then quoted 98½ ex div. They were as low as 90 in October, 1853, and have not since been at par until November, 1880.—*London Economist*, November 6, 1880.

I have drawn the attention of the Senate to the fact that the con-

sols of Great Britain offered to investors permanence and absolute security, not simply ultimate security but that security which can be availed of at almost any day; and with these two elements so favorable to a low rate of interest they have not been able to maintain at par a loan at a rate of interest which it is proposed now to issue and maintain at par in this country. I shall ask the Senate to consider the difference of conditions in this country and Great Britain as affecting our bonded debt and to show that we cannot safely permit that fluctuation in prices which to their government under a system of permanent indebtedness is a matter of absolute indifference. There are conditions in this country which render it imperative to maintain our bonds at par or over par. The Secretary of the Treasury has spoken of the traditions of the country and its policy to maintain our bonds at par. That statement has the authority of the country's history, but there is something more practical and practicable than mere tradition and policy. There is an absolute necessity for us to see to it that as we have tied our systems of banking and currency to the fate of our national bonds they must stand or fall together. The currency of this country upon which the main part of its business is conducted, and to which it has been made essential, is based upon the national credit. That currency is obtainable only by the deposit of national bonds, 90 per cent. of currency being issued for 100 per cent. of bonds upon their face value, and the sense of security so absolutely found in the excess of value of the pledge, the responsibility of the shareholder, and the reserve established by law, have made this credit money of the Government national-bank notes receivable with absolute and unshaken confidence. Senators, that confidence existing almost solely upon credit, must not be disturbed. We have to-day what is called a resumption of specie payments, but to speak more accurately we should call it a redemption of notes that are at once reissued at the will of the debtor. How is that resumption assured? It cannot be said to be assured by the coin in the Treasury. We had at last accounts in gold coin and bullion $140,952,837, and of standard silver money $47,084,459; and that is to answer for $346,000,000 of demand notes and ultimately for the $350,000,000 of notes issued by the Government through the national banks. What, then, is to-day our security that resumption can be maintained? Not the coin in the Treasury, surely; but the existence of the power secured by the act of January 14, 1875, that gives to the Secretary of the Treasury the right to sell Government bonds bearing 4, 4½, or 5 per cent. interest, to *any amount* necessary to buy gold and pay the United States notes whenever presented at the Treasury. It is therefore this potentiality standing in impressive and powerful reserve that overshadows any attempt to make what is called "a run upon the Treasury" or endanger the permanence of resumption; and yet bear in mind those bonds, which under law are to be sold in order to supply the exigencies and meet the demand for gold, cannot be sold at less than par. Therefore I say that we should permit nothing to go upon the statute-book and take no step in the management of our finances that even tends to send our bonds below par, because the par value of those bonds is essential to the absolute maintenance and security of specie resumption. It is the power to sell those bonds under the act of 1875 that stands as the *corps de reserve* to enable the Government to pay specie for its notes on demand, and cause them thus to be an equivalent for specie. Under the free-banking system now in existence, the volume of our currency depends upon commercial demand and not upon political exigencies. Except for wise restriction as to the securities for loans and supervision as to reserve, the affairs of the banks styled "national banks" are managed and controlled by the rules only of enlightened self-interest. They loan to whom and as often and as much as the directors elected by the private stockholders see fit—no more and not otherwise—and the Government has no voice or control in their affairs except in the manner that I have referred to; that is to say, supervision of the securities for loans and as to the reserve. In other words, to restrain them from conversion into trust and loan companies instead of banks, and unfitting themselves for the true functions of banking.

I say then, if nothing else must be looked to, the duty of placing resumption of specie payment beyond doubt would be worth ten times the amount of the difference between 3 and 3½ per cent., and I hold that we have no right to run any risks on this point; and as I have said and believe, the weight of opinion is against our running such risks as we would do if we adopt the rate of 3 per cent. Why should we take a step in the dark when it may be taken so clearly in the light? Why should we create a ripple upon this placid stream of prosperity upon which the affairs of our country are now floating? There is neither wisdom nor economy in taking steps that tend to check in the minds of the American people confidence in their progress in prosperity. Let us only take such steps as we can to justify that confidence, and secure them against retrogression.

Let us solidify our credit and secure our bonds, and our credit moneys against depression and possible fluctuation. Wise, moderate and timely legislation can do this.

The rate of interest is, after all, controlled by the average rate of profit derived from the employment of capital. The profits of employing capital in industrious undertakings controls the rate of interest. A high rate of profit will always cause a high rate of interest. There is history for that. Where you have a low rate of profit the interest for the employment of money necessarily will be less. The Dutch were the leaders of the commercial world in the seventeenth and the greater part of the eighteenth century; but they had resorted to a system of overtaxation and burdened by taxation but little profit was left for the employment of money; and the result was that, as after all there is but a limited profit in production and that profit must be shared by labor and capital, the rate of interest fell to an extraordinarily low rate; but where taxes were lighter, the employment of money was more profitable, and the rate of interest increases in corresponding ratio with the profit on the use of capital.

Under certainty of law for securing the prompt repayment of loans, interest is low; for it is not the ultimate security, but it is the punctual and reliable payment of money expected that makes the rate of interest low. Money will be cheap where confidence is established. The more absolute the security the lower will be the rate of interest. I hold it that the demands for the employment of capital in legitimate enterprises all over the United States under this all-pervading sentiment of confidence that exists now, will make a Government loan at 3½ per cent. equitably low enough. Money in the United States securely invested will be worth on an average—I am speaking now of business investments—anywhere 5 per cent. and in some parts of this country from 6 to 7 per cent. and this last only in the newly settled districts. The United States is a younger country than Europe; it is more progressive; newer enterprises in the development of the natural wealth of this country necessarily exist here than in longer settled countries, and employment of capital will find "fresh fields and pastures new," and the profits of industry are greater in the United States than elsewhere. The superiority in profitable employment of capital, therefore, in this country justifies a rather higher rate of interest than it would in Europe.

Another fact should not be forgotten. We propose not to be borrowers in Europe, but we propose that these loans should be taken by our own people, and to find our market at home. I do not say our Government loans will not be open to purchase and be sought for by the residents of other countries; but I do mean to say that there is a general policy influencing the mind of the people of this country to-day that the loans of the Government of the United States should be owned by the citizens of the United States. For that reason, believing it to be wholesome and safe, believing it to be a bond of unity and security among our own people that these debts of the United States should be held by our own citizens and all over the Union, I would not wish to place them under too severe a stress by denying to them such a rate of interest as would be a fair and reasonable compensation for the use of the money invested.

I have said that our system of banking requires that these bonds should be held here, and our currency connected with banking makes it necessary that a large portion of the bonds should be here, because the deposit of the bonds is a condition-precedent to the issuance of the currency; therefore it is a matter of public policy that you have established, a policy coupled with and yet surpassing the institution of mere statute law, that the market for these bonds should be chiefly if not wholly found in the United States. And this consideration should have great weight in determining the rate of interest to be paid.

Mr. President, I should hold it greatly to be regretted that we should make the experiment of funding this loan at 3 per cent. and fail. We are not without experience on this subject. Our people seem to me to become so flushed and exhilarated by accidental and temporary success as to lose sight of and forget the facts of their own late history. We issued in 1870, under the funding bill, 5 per cent. bonds, and it was five years before the proposed loan could be floated, and then only by serious concessions of interest, which reduced our actual receipts below par. If as I believe the present hour is most opportune and the reasons which I have given for availing ourselves of it are sound, we have not five years to wait and dally with this subject; but it is plainly our duty to avail ourselves instantly of the opportunity now before us, and to do what the Secretary of the Treasury says he believes can be done successfully—refund the whole of the $637,000,000 outstanding bonds within the next twelve months. Every month's delay will cost our people $1,000,000 of excessive interest, and when we would seek to stop that serious loss we may find ourselves unable to do it.

We are sometimes told, "Look at the present advanced value of the 4 per cent. bonds; take them as your standard; they are now worth 113 in the market; if a 4 per cent. bond is worth that, surely a 3 per cent. is worth par," &c. Why, as a matter of fact, has not this agitation of the issuing a 3 per cent. loan been diligently and clamorously used for the last year—I do not say improperly, but vigorously used—as a species of menace to enhance the price of the four percents? If there should be a compulsory power exercised by this Government, which I deprecate, toward the stockholders of the national banks to force this loan upon them as the single and arbitrary condition of their continuing in business or going into ruinous liquidation; if that power does exist, necessarily men will value that which pays them one-fourth more interest, and the price of the bond that secures it will be necessarily advanced. Therefore I am compelled to consider the present price one of those fluctuating advances, temporary in its nature and caused by the abnormal and unsettled condition of things, that has given the 4 per cent. bond the advance from par, at which it was sold, to the great premium which it now enjoys. I do not think it is either sound judgment or reasonable common sense to take the present advanced price of the 4 per cent. bonds

as a basis for calculation for the sale and maintenance of the price of 3 per cent. bonds.

I would here note that section 5 of the House bill contains what I have spoken of as the compulsory power of the Government proposed to compel subscription to its loans. In section 5 of the House bill, which has been stricken out by the Senate committee, it will be found that the bonds bearing 3 per cent. were to be "*the only*" bonds receivable as security for national-bank circulation, compelling the banks to exchange any bonds bearing a higher rate of interest for those bearing the lower rate. That was intended to create an involuntary market for some two hundred and sixty-nine million dollars of these bonds. I did object, and do now to this, and the committee have reported against this compulsory feature, and I think they were wise and right in doing so. The exhibition of compulsory power, arbitrary power by a government over matters touching its credit, has never proved of ultimate and permanent value. It has rather suggested distrust, and lack of confidence in its own credit, that you should pass from our voluntary and free system of government to the involuntary and tyrannical; and there is in this compulsory action proposed toward the stockholders of the banks created by act of Congress an interference with their rights of private contract and the spirit, if not the letter of their chartered rights, which is discriminating and in my opinion unjust, unwise, and inexpedient. The real strength of this Government lies at last in the hearts of the people of the country, it cannot be created and established by compulsory statutes; and we must and we ought to leave every class of our citizens, rich and poor in this land, free to deal with their Government on equal and general terms applied without discrimination to all alike. The bonds under the present act as proposed by the Senate Committee on Finance will be receivable as security for circulation and will be used as its basis as heretofore provided by law in relation to other interest-bearing bonds of the Government.

I submit to the Senate that it is contrary and derogatory to the spirit of the American Government, which is a popular government professing to be based on the capacity of the people to govern themselves wisely, that the principle of compulsion for the reception of the loans of the Government should be forced upon any class of our people or for any purpose. You tried it with your legal-tender Treasury notes and declared that they should be receivable in payment of all debts public and private. There are laws stronger than the laws of Congress. You may possibly drive men out of a business, but they will conduct it as long as they remain in it by the light of self-interest, and compulsion will ever prove futile. Its attempt is a proof of conscious weakness, and its failure will be inevitable and speedy.

But it will be observed that in section 1 there is a provision for $300,000,000 of Treasury notes, and I will here remark, by way of explanation, that the reason why the word "certificate" has been stricken out of the House bill and the term "Treasury notes" interpolated is that the nomenclature of the proposed security may be retained according to existing law. It is a mere matter of phraseology. "Treasury note" is the proper phrase to be used instead of "certificate." We agree with the House that these Treasury notes should be a short loan applicable to obvious uses for which long loans are not desirable. They are analogous in their uses to what are termed exchequer bills in the English system. They are payable in ten years or at the option of the Government at any time after one year.

A large class of the heavy business operations conducted in this country, where capital is amassing itself in such enormous amounts, requires at times a pause, a non-use, preparatory to the execution of some extended enterprise. During those periods, to keep money from being stagnant, idle, and useless to its possessor, a very low rate of interest will be accepted upon the consideration that speedy and punctual payment awaits the creditor. You have, therefore, the apparent paradox that a bond with a short date of payment will sell at a lower rate of interest, although at the same time a bond with a prolonged date of payment will also sell for a lower rate of interest than a bond intermediate in date of payment to either. The practical fact is that with the short loan, transactions are contemplated which require punctuality and speedy payment, while for long investments undisturbed and permanent use of money is desired.

It is believed that by the discretion given to the Secretary of the Treasury under this bill he may sell these short Treasury loans, payable in one or ten years, at a rate not exceeding 3½ per cent. interest, that he will be enabled to dispose of the whole of them, or of a great part of them, at 3 per cent., and it may be at less than 3 per cent. The opportunity is thus given to save even more interest than was proposed by the House. It may be that the accumulation of capital awaiting investment and seeking temporary employment may enable the Secretary of the Treasury to sell these 1-10 bonds, or Treasury notes, as they are termed by the bill, at less than 3½, less possibly than 3 per cent. If so, it will be done. The fact may reasonably be relied upon that the best will be done under the power to sell at "not exceeding" 3½ per cent. that the circumstances of the hour will permit.

In section 4 is another feature to which I wish to call attention:

> That the Secretary of the Treasury is hereby authorized, if in his opinion it shall become necessary, to use temporarily not exceeding $50,000,000 of the standard gold and silver coin in the Treasury in the redemption of the 5 and 6 per cent. bonds of the United States authorized to be refunded by the provisions of this act.

And as a matter of precaution to avoid disturbance of the security to the resumption fund, the Senate Committee on Finance have interposed this amendment:

> Which shall from time to time be repaid and replaced out of the proceeds of the sale of the bonds or Treasury notes authorized by this act.

The obvious meaning of that section would be, that it enables the Secretary of the Treasury, from time to time, to assist the process of refunding by purchasing himself, by paying from this fund in the Treasury these maturing bonds, and, from time to time, thus assisting the market. The amendment of the committee simply requires that it shall be but "temporarily" done, and that the resumption fund, the gold and silver held by him, shall not be permanently reduced, but that having been used for the purpose of calling in and paying off the outstanding bonds at the high rate of interest, that money shall be returned to the Treasury from the proceeds of these sales at par of the bonds authorized by the bill, and in the same description of coin.

Therefore it is apparent that should the money market of the world continue as favorable as we hope it will, and the placing of the debt be as smoothly and fortunately conducted as we hope it will be, and the rate of interest should be practically as low as 3 per cent., the Secretary of the Treasury, under the law relating to these short-date securities, will be enabled to avail himself of them to the fullest possible advantage.

I have spoken of the equivalency in value of a very long and a very short bond, and have given the reasons for it, which I will not now repeat. Each bond is specially favored for the purposes of the borrower or investor, the objects of borrowers or investors being wholly variant, some desiring the return of their money punctually and at a short date, and others desiring nothing but permanent investment and ultimate security.

The bonds we have provided shall be issued in multiples of $50, the Treasury notes in multiples of $10, but to avoid the detail and expense of the registration of such minute amounts as $10 the committee have limited the registration of the Treasury notes to sums not less than $100.

We have differed in judgment with the House as to the amount to be allowed for the expense of this refunding transaction. In the third section the Secretary of the Treasury is—

> Authorized and directed to make suitable rules and regulations to carry this act into effect, and the expense of preparing, issuing, advertising, and disposing of the bonds and Treasury notes authorized to be issued shall not exceed one-half of 1 per cent.

The House considered that it could be done for one-quarter of 1 per cent. I do not know all the reasons that could have induced that judgment; but it is plain that the one-half of 1 per cent. is not prescribed to be paid, but it shall "not exceed" the one-half of 1 per cent. Now, there have been few transactions in his management of the finances of the country that have redounded so much to the credit of the present Secretary of the Treasury as his adroit and economical refunding of debt during his administration. He has had from all sides that kind of recognition of public service that was honorable to him and entirely just.

The PRESIDING OFFICER, (Mr. PENDLETON in the chair.) The morning hour has expired and the Senate will proceed to the consideration of the unfinished business.

Mr. BAYARD. I move that the pending order be laid aside informally in order that we may continue the discussion of the funding bill.

Mr. JOHNSTON. I do not propose to interfere with the speech of the Senator from Delaware; but I desire that the regular order, which is the unfinished business, the cattle bill, be laid before the Senate and then it can be laid aside informally and the Senator can go on.

Mr. BAYARD. I cannot agree to the displacement of the business now before the Senate and therefore I move that the pending order being now the cattle pleuro-pneumonia bill be temporarily laid aside.

Mr. HOAR. I suggest that there be unanimous consent for the Senator from Delaware to finish his remarks; and then the question of the order of business, which will require a vote, can be settled. The Senator does not care about being interrupted by a call of the yeas and nays at this moment probably.

The PRESIDING OFFICER. If that be the unanimous consent of the Senate, the Senator from Delaware will proceed.

Mr. BAYARD. Mr. President, it is shown that the expenses of the late refunding operations amounted to about three-eighths of 1 per cent., and the tables of similar expenses both in our own history and in the history of other governments show that such an operation was never before conducted at anything like so low a rate. I do not mean to say that there has been nothing gained by experience, or that we should continue expensive and ancient methods, or that we should test the reasonableness of this expense wholly by the past; but I do mean to say that upon examination no candid American will complain of extravagance in the late accomplishment of refunding. I do not mean to say that the same rate of three-eighths of 1 per cent. may not fully cover the entire expense of carrying this act into effect; but I do say that for the matter of one-eighth of 1 per cent. we ought not to tie the hands of our agents when we compel them to make due return to us of every dollar expended, and it would be both an unwise suspicion and an injurious act which would tend to jeopardize in any

degree a transaction so vast and important as this under the possibility of restricting the cost by withholding one-eighth of 1 per cent.

I have not been able, had I been willing but I would not have been willing, to consider this great question by the narrow light of party. I would not be willing to make cheap reputation out of mere party prejudices in dealing with a question like this, or to gain unthinking applause by suggestions of recklessness, extravagance, or something that is worse than either upon the part of high officials charged with a great and important duty to be exercised in the light of public examination with returns for every farthing expended under their responsibility. For that reason, while desiring every just economy, while not affecting to deal with easy liberality as to moneys I am not to pay myself and being generous with the means of others, I still am not willing in contemplating the results as are necessarily embraced in these immense and important operations to the people of this country of so dealing with a gigantic debt—I am not willing to treat those who are to be the practical and responsible agents in the adjustment of this matter with undue or unworthy suspicion or I may add to bind them down with undue and improper restrictions. There is a proportion to be observed in all things; and we are not bargainers with mere brokers when we place a moderate discretion as to the expense of this great business in the hands of high officials who are presumably men of self-respect and character.

If in the future practical conduct of this business there should be a check in the smooth and successful operations of this refunding project because of the withholding of some small eighth of 1 per cent. which being paid would secure success and being withheld would frustrate it, I mean to say that responsibility shall not rest with me nor do I envy the man who shall hereafter feel that it rested with him. For that reason, as faithful counselors and trustees of the interests of the American people whom we represent, we may fairly say to the Secretary of the Treasury if you shall be able to effect this great operation, reducing the rate of our interest and confirming our Government credit at a cost not exceeding one-half of 1 per cent. to that limit you may go, within that limit stand as far as you can, and go before the people of this country as a faithful administrator mindful of the needs and interests of those whom you represent, and take whatever of shame or glory shall come to you from your performance of that duty.

There is another feature proposed by the Senate committee which I trust will meet the approval of the Senate. We have, as I say, stricken out section 5 as it came from the House, and we have substituted a new section, numbered 6 in the bill as reported and now before the Senate. In that section we have provided:

That the bonds authorized by the first section of this act shall be receivable as security for the circulation issued to the national banks; and hereafter only bonds and other interest-bearing securities of the United States shall be receivable as security under section 5153 of the Revised Statutes.

Section 5153 of the Revised Statutes provides that—

All national banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public moneys and financial agents of the Government, as may be required of them. The Secretary of the Treasury shall require the associations thus designated to give satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government.

Under the authority given by the word "otherwise," it seems to have been the habit to receive mortgages upon the real estate of the institutions and other securities in the discretion of the Secretary of the Treasury. The committee thought that it was a good time to put an end to that practice and to compel all these depositaries of the public money to deliver as collateral security interest-bearing bonds and other securities of the United States only; so that where moneys of the United States shall be temporarily deposited with these banks, the collateral security which must accompany such deposit shall consist hereafter only of the interest-bearing securities of the United States.

I believe, Mr. President, I have said all that now occurs to me as being fitly explanatory of the measure which has been brought into the Senate. There may be other features to which my attention may be drawn, and as far as my ability permits I shall be glad to explain them and give the reasons for my approval of the measure, or leave it to my associates upon the committee to make such other and abler explanation of the object we have in view as to them may seem proper.

I cannot close without beseeching the Senate not to lose the present opportunity for refunding the bonds now redeemable and placing the national debt upon a still firmer and more reputable basis, and reasonably within the control of our Government. I believe the time in which we live is exceptionally favorable to this. We have seen grave disaster, but our people to-day seem as if they believed it never could be seen again. There was a large grain of wisdom in the remark of the satirist that nothing is certain except the unexpected, and now in the flush of hopeful confidence let us provide against the dangerous surprises which the future may have in store for us.

Should there be error in this proposed rate of interest, should the estimate of the value of money be too high as reported, we have by this bill the option at the end of five years to remedy it, and for nearly one-half the amount to remedy it within twelve months. The option of the repayment of the $300,000,000 Treasury notes bearing interest and payable in one year or ten belongs to the Government, and of the $400,000,000 bonds at the end of five years, so that should the present current of prosperity continue we can avail ourselves of it as time shall show it is practicable for us to do so. We can do so without risk, because the present plan is filled with opportunity for so availing ourselves. Five years is a short time; it gives the time to test the wisdom and expediency of the proposed rate, and then comes the opportunity, if we see fit to avail ourselves of it, to fund at still lower rates if we find it is then practicable: but the present hour has its present duty, and I cannot help feeling that this Congress will be derelict in that duty to the American people if the bonds now under our control are not funded at the lower rate proposed by the measure reported to the Senate.

Mr. President, I realize the value and importance of refunding our loans and thus reducing the annual burdens upon our people, but I would be false to my own clear convictions if I did not now and at all times reaffirm my belief that it is even more important for us to settle our currency upon the bed-rock of stable and intrinsic value than even to reduce the rate of interest we pay yearly upon our loans. The currency of a country is the life-blood of the country. The currency of a country enters into and measures every transaction, great and small, public as well as private. The violation of the obligation of contracts, whether it is accomplished under the form of a legal-tender act or in any other way, is dishonest in its principle and is filled with danger so long as such a power is conceded to any government, State or Federal. I long to see the true measure of value permanently in use in this country, so that the honest man may be enabled faithfully to fulfill his contracts and the knave be prevented from evading them.

The PRESIDING OFFICER. The Chair will lay before the Senate the unfinished business.

Mr. McPHERSON. Mr. President, before the funding bill is displaced by the unfinished business which is now the regular order, I should like just now to ask the Senator from Delaware the question he declined to answer during the delivery of his speech.

Mr. BAYARD. I forgot it.

The PRESIDING OFFICER. The Senator from Delaware is still on the floor.

Mr. McPHERSON. I noticed the Senator omitted to state one thing when he was speaking of English consols and comparing them with a 3 per cent. American bond. He made the statement that they were a perpetual bond, I believe, or *something to that effect*.

Mr. BAYARD. *I said they were a permanent security.*

Mr. McPHERSON. *The Senator did not observe at the time* that there was a difference with respect to taxation between the English consols and the American bond. Would that have any effect whatever upon the market value of either bond? In other words, if there was a power in the British Government, as there is, by reason of another contract with the purchaser or holder of the bond that there shall be a rate of taxation, little or much, and if the necessities of the British Government were such as to require them to tax the bonds to a great extent, would it make any difference whatever in the respective value of the bonds?

Mr. BAYARD. The Senator is right in stating that the English Government have always reserved the right to impose an income tax upon the interest of their consolidated loans, and I believe as a matter of fact there is to-day a tax of sixpence in the pound upon those incomes, the rate of which can be easily calculated. The tax is not upon the bond, it is upon the income which results. The tax is not made *per se* upon the bond, but there is a tax upon all English incomes which may be derived from bonds, provided, (and that is a very large provision,) an income tax can ever be collected. No fairer tax in theory, no more delusive tax in fact, can exist than an income tax. The experience of our own attempt to carry that on is fresh in the mind of everybody, and we know how much dishonesty appeared in that income tax. But the Senator is right: the income of a British subject which is derived from interest upon the consolidated loans of that country is the subject of taxation. That is the fact. Very little of the English loan is held outside of that country. The amount held, for instance, in the United States, I take to be exceedingly small; but how practically an income could be collected is a very different thing. For all that, the Senator is right in saying there is that difference between the bonds of the United States and the bonds of Great Britain. In Great Britain income derived from the bonds is not exempt from taxation, and in the United States, under existing law, it is; and therefore there is that reason why the English bonds should be less valuable than the United States bonds.

I would say further to my friend, I do not know that I have the tables that would render the computation precise and definite, but I believe that a bond in this country having fifty years or sixty years to run, or a longer time, approximating permanence according to the English theory, and without tax or the possibility of tax, at a lower rate of interest than 3 per cent. could be sold, but that is not the policy or the intent of the American people. We do not intend that this debt shall be permanent, and great sacrifices will be made to pay it off and leave us free so that increased taxation shall not be made necessary. That is the great question. I agree you cannot draw a satisfactory parallel on all fours between the loans of the British Government and the loans of the United States because these features undoubtedly do make a difference between them, yet there is an average rate

and return for money which may be estimated, and information in regard to which may be given by comparing the current market rates of the securities of the two governments.

Mr. McPHERSON. I confess that I was somewhat surprised to hear the statement of the honorable Senator that the Secretary of the Treasury had recommended that the Government should issue a 3.65 per cent. bond; I was also very much surprised when I read the report of the Finance Committee of the Senate, recommending the Government to issue a 3½ per cent. bond, when we are confronted every day in the week by every-day financial transactions where the 4 per cent. bonds of this Government are selling at a price which yields scarcely 3 per cent. to the purchaser.

With respect to the comparison that the Senator has made, comparing the value of an American security, which has a market in almost every financial center of the world, with the English bond, which is subject to any scheme or rule of taxation which the government may itself adopt, when it is well known also that the English Government is in trouble with her own colonies, in trouble in India, and in trouble in Ireland, we do not know what English bonds may be worth in the future. Comparing the securities of the British Government, which have no date fixed for their payment, with the bonds of the United States, a Government which has shown itself able since the war to pay one-half of the national debt, and whose people have passed through trials and sacrifices such as no people and no government upon the face of the earth has ever gone through to establish credit; for that committee to come to the Senate and recommend that the Government issue a bond, and take by taxation upon the industries of the people a half per cent. more than the market to-day would warrant, is to me very surprising.

I wish to submit some remarks on this bill at the proper time. If the Senator from Virginia wishes to go on with the pleuro-pneumonia bill, of course I cannot submit them at present.

Mr. JOHNSTON. I only desired that the cattle-diseases bill shall not be displaced as the unfinished business. I am perfectly content that the Senator from New Jersey shall proceed with his remarks. Let the pleuro-pneumonia bill be considered as laid aside informally and then let the Senator from New Jersey proceed.

The PRESIDING OFFICER. By unanimous consent, the bill (S. No. 2097) for the establishment of a bureau of animal industry, and for the suppression and prevention of contagious diseases among domestic animals, is laid aside informally without being displaced.

Mr. HOAR. What is the unanimous consent asked?

The PRESIDING OFFICER. Unanimous consent is asked to lay aside the unfinished business without losing its place, in order that the Senator from New Jersey may continue his discussion of the pending funding bill.

Mr. BAYARD. Do I understand that the funding bill has in any way been displaced from the consideration of the Senate?

The PRESIDING OFFICER. The funding bill was displaced when the Senator from New Jersey lost the floor. He gave up the floor and the pending business is the contagious-diseases bill.

Mr. BAYARD. I had no intention that the funding bill should lose its place. It is in the control of the Senate to push that measure aside to take up any measure that it pleases; but I sincerely trust that it will not do so. If there be any gentleman who desires to address the Senate on this subject and for his convenience a delay in the discussion should be desired, I have not a word to say; but I do not propose, having brought the bill in here, to have it displaced until it is finally disposed of by the Senate. Therefore if the measure before the Senate be the pleuro-pneumonia bill represented by the Senator from Virginia, I shall move to lay it on the table in order to allow the Senator from New Jersey to continue the discussion of the funding bill, for which he is prepared.

Mr. JOHNSTON. There need be no misunderstanding about this matter. Yesterday, owing to the course that business took, the pleuro-pneumonia bill became the unfinished business, and by a sort of informal understanding between myself and the Senator from Delaware his bill was to take precedence before the Senate. I do not propose to interfere in the least with the Senator; but inasmuch as the pleuro-pneumonia bill is now the unfinished business I wish it to be laid aside informally and let the Senator from Delaware, the Senator from New Jersey, and anybody else who chooses go on and consider the funding bill, so that when the funding bill is through the pleuro-pneumonia bill may then be the unfinished business and be proceeded with.

Mr. BAYARD. With the understanding that there is to be no antagonism I withdraw the motion to lay the bill on the table.

Mr. JOHNSTON. I do not propose to make any antagonism at all; but I do not want the pleuro-pneumonia bill displaced. The funding bill may proceed, laying aside the other bill informally.

The PRESIDING OFFICER. The suggestion of the Senator from Virginia is that the unfinished business be laid aside informally in order that the consideration of the funding bill may be proceeded with.

Mr. HOAR. How did the contagious-diseases bill become the unfinished business?

Mr. PADDOCK. It came over as the unfinished business of yesterday.

Mr. HOAR. Last night the Senator from Delaware moved that the funding bill be taken up. The motion was agreed to. Then the Senator from Virginia asked unanimous consent that the funding bill be informally laid aside temporarily; and this is the consent that was given, as stated by the Chair:

The Senator from Virginia asks that this bill be laid aside temporarily by unanimous consent, and that the Senate proceed to the consideration of the bill to which he has referred.

That temporary consent, as I understand it, never goes beyond the day when it is made, and having been so made the other bill became the unfinished business under the motion of the Senator from Delaware, which was adopted by the Senate. If the Chair will consult page 53 of to-day's RECORD, the middle of the first column, he will perceive what the proceeding was.

Mr. JOHNSTON. I understand the case stands in this way: The pleuro-pneumonia bill is the unfinished business, but I do not propose to interfere with the consideration of the funding bill should that go on; but when the funding bill is through then we are to go on with the pleuro-pneumonia bill.

Mr. BAYARD. The question I think was stated by the Chair distinctly and clearly and under that I understand the funding bill to be before the Senate and the Senator from New Jersey entitled to the floor.

The PRESIDING OFFICER. Does the Senator from Massachusetts insist upon the question of order being made?

Mr. HOAR. I desire to have the matter settled.

The PRESIDING OFFICER. The RECORD shows that the last bill under consideration yesterday was the pleuro-pneumonia bill. The funding bill was not called up and laid before the Senate prior to the adjournment as it should have been in order to make it the unfinished business. The Chair, therefore, decides that the pleuro-pneumonia bill is the unfinished business. If the suggestion of the Senator from Virginia is agreed to by the Senate, the Senator from New Jersey may proceed with his remarks.

Mr. BAYARD. And the funding bill is now before the Senate?

The PRESIDING OFFICER. The funding bill is before the Senate.

Mr. PADDOCK. Do I understand that that leaves the pleuro-pneumonia bill in a situation to be called up at any time?

The PRESIDING OFFICER. No, it leaves the pleuro-pneumonia bill as the unfinished business after the consideration of the funding bill shall have been concluded. The bill (H. R. No. 4592) to facilitate the refunding of the national debt is before the Senate as in Committee of the Whole.

Mr. McPHERSON. Mr. President, I shall not take the time of the Senate more than ten or fifteen minutes, because I believe the whole question can be stated in that time.

The object of the proposed legislation is to complete the refunding of the national debt. Two hundred and two millions of 6 per cent. bonds issued at the beginning of the war are about to mature, and four hundred and sixty millions of five percents issued under the refunding act will become redeemable on the 1st of May next.

The duty of Congress, to my mind, is very plain, and may be stated in half a dozen sentences.

First, the bond to be issued should bear the lowest possible rate of interest under which, considering also the period of time fixed for its payment, the Government would receive its par value in exchange for it.

A 3 per cent. interest-bearing bond, having forty years to run, with such earlier option on the part of the Government, not less than ten years from the date of issue, to pay it, would in my opinion meet this requirement, and in a short time command a premium.

In proof of this we need only point you to the 4 per cent. bonds, which were taken as a speculation by a syndicate for a large commission less than the par value, and are to-day sold in open market at such a premium as scarcely makes them a more profitable investment than a 3 per cent. bond at par.

Does it not also prove that should Congress authorize a funding loan bearing 3½ per cent. the bonds so authorized would, after passing into the hands of a syndicate, advance in the market to a price at which they would not yield over 3 per cent. on the investment, and that it would thus be demonstrated that the Government might have saved the one-half per cent. per annum which investors and speculators had gained.

Were it not for the lingering hope that the predictions so freely made, which I regret to say have not been dissipated by the Finance Committee of the Senate, that a 3½ per cent. bond would be offered at par, no doubt would now be expressed in respect of the market value of a 3 per cent. bond.

With the whole bonded debt under the conditions now existing, selling so nearly on a 3 per cent. basis, no other arguments beyond this simple fact seem to be required to sustain the belief that a 3 per cent. bond of the United States can be negotiated at par.

Confronted by this fact the Finance Committee of the Senate report in favor of a 3½ per cent. bond and virtually ask the Senate to join it in a *bear* crusade upon the national credit. I read from the report:

The Secretary of the Treasury is hereby authorized to issue bonds to an amount not exceeding $400,000,000, of denominations of $50, or some multiple of that sum, which shall bear interest at the rate of 3½ per cent. per annum payable semi-annually, redeemable at the pleasure of the United States after five years, and payable twenty years from the date of issue, and also Treasury notes to an amount not exceeding $300,000,000, in denominations of $10 or some multiple of that sum not exceeding $1,000, either registered or coupon, bearing interest at a rate not exceeding 3½

per cent. per annum, payable semi-annually, redeemable at the pleasure of the United States after one year and payable in ten years from the date of issue; and no Treasury note of a less denomination than $100 shall be registered.

This report, taken in conjunction with the facts heretofore stated, seems most extraordinary. The four hundred millions of bonds are to bear 3½ per cent. interest, although confronted by the fact, supported by every-day transactions, that said bonds could and would be negotiated on much better terms. It is not often the holder of a note thinks better of it than the maker, and this has become so universal in practice a reversal of the principle was never deemed possible. It seems, however, that axioms in financial practice, even universal principles which a credulous people believed admitted of no change whatever, may be switched off out of the way at the will and pleasure of a congressional committee. Outside of those immediately and directly interested in speculation in bonds—and the number of these is small when compared with the host of actual investors—there cannot be found any considerable number of financiers who believe a 3 per cent. forty-year bond cannot be negotiated at par.

These bond speculators, with untiring and unflagging zeal, aided by a subsidized press, seek to influence Congress by appeals to the fears of its members that an unsuccessful attempt to negotiate a 3 per cent. bond would wound our credit and practically defeat resumption. How, they do not tell us. Pending action by Congress upon this bill these same speculators have even attempted to depress the market by a free sale of 4 per cent. bonds as information which would naturally influence Congress in favor of a higher and against a lower rate of interest; but as the bonds have advanced 2 or 3 per per cent., even under these assaults, it furnishes additional proof that to adopt the recommendation of the committee and issue a bond bearing 3½ per cent. interest would be a national folly.

The committee further recommend an issue of three hundred millions of Treasury notes, bearing interest at a rate not to exceed 3½ per cent. per annum, redeemable at the option of the Government after one year, and payable in ten years from the date of issue.

It will be remembered the bonds are to bear interest at the rate of 3½ per cent. per annum, arbitrarily fixed. Said bonds have twenty years to run, with the reserved option to pay them after five years, while the rate of interest borne by the Treasury note shall not exceed 3½ per cent., implying that it might be possible to negotiate the notes at a lower rate of interest, notwithstanding the Treasury notes have only ten years to run, with the option to pay them after one year.

Here, again, the committee set at defiance all laws which have ever governed commerce in finance, by assuming that a short bond, yielding to the purchaser at the discretion of the Secretary of the Treasury at or under the rate of 3½ per cent. per annum, could be negotiated at par, while the long-term, and therefore better, bond, bearing a fixed rate of 3½ per cent. per annum, and no less, would not command more than the par value.

Mr. BAYARD. Would it interfere with the Senator if I should make an inquiry?

Mr. McPHERSON. Not at all.

Mr. BAYARD. Would the Senator desire to be understood as saying that it is not the fact in financial arrangements that a bond payable punctually and promptly at a short date, desirable for a certain class of pecuniary arrangements, can be negotiated at a lower rate of interest than a bond more prolonged as to its term of operation, and that *per contra*, the bond having the longest term to run, and the more permanent for reasons connected with its own nature, is also negotiable at the lowest rate of interest, so that you have in this an illustration of extremes meeting. The short bond upon the payment of which punctually absolute reliance can be placed has its uses for certain classes of loans and occupations of capital which do not attach to a bond having a longer time to run; and a bond having the longest time to run, offering a permanent investment, has uses which enable it to be negotiated at a low rate of interest which is not known to a shorter date bond. Have I made myself clear?

Mr. McPHERSON. Certainly; I understand the Senator.

Mr. BAYARD. It is a fact perfectly well ascertained and understood in the practical dealings of men accustomed to large financial operations, that you exchange in one case the desirability of a short loan with absolute and punctual repayment for the permanence of investment with a long loan, absolutely secure but only ultimately secure.

Mr. McPHERSON. The absurdity of the proposition upon its face is so apparent that I am really surprised that the Senator confesses he has been deceived by it. I will admit the fact that a bond bearing any rate per cent., even if it be 1 per cent., can be used by speculators in Wall street profitably, who carry over vast sums of money from one day to the other, and any percentage that it bears is an advantage to them; but the market for bonds the world over gives the preference to a long-time bond bearing a fixed rate of interest. If the honorable Senator will place the four hundred million issue of bonds that he proposes shall bear 3½ per cent. interest in Wall street where many of them will go, perhaps all of them, and in connection therewith the $300,000,000 of Treasury notes, with the option of the Secretary of the Treasury at any rate under 3½ per cent. that he can negotiate them at, I wish to know which of the securities will be sought first? What difference will it make to a financier or capitalist whether it is a bond having twenty years to run, or a bond having ten years to run? He pledges the Government security for a loan, a call loan if you please, and the quality or value of the thing pledged determines the sum the borrower will receive.

Mr. BAYARD. If my friend will permit me I will say to him it depends altogether upon the need and uses for which the money is designed. If a man awaiting some grand speculation or enterprise for which he has accumulated for instance half a million dollars, wants that money to be repaid to him at the end of a year, but to keep it useful during that year, and if he can buy the short bond which is bound to be paid at the end of that time, for a low market price, certainly it is an inducement to him to affix certainty to his operation and to borrow the money for just the time he wants it; whereas, on the other hand, if there be some one seeking a permanent investment for the execution of a long-continued trust he will seek that bond which is not to be disturbed by repayment and reinvestment when he does not want it. Therefore the whole question is answered. It depends upon the objects that the investor has in view. For one purpose a short bond is more valuable to him; for another class a long bond is more valuable; and in the mean time the fluctuation that may exist upon the long bond would be hurtful to the man who wants to use his money but for a year or two years, and the certainty of repayment of value at a fixed rate of interest to the man who needs the short loan is secured to him better by the low class of bonds. Therefore the whole thing speaks for itself.

Mr. McPHERSON. A long bond, according to the admission of the Senator, will serve both purposes.

Mr. BAYARD. No, because it is subject to fluctuation.

Mr. McPHERSON. Why can it not subserve both purposes? Suppose the honorable Senator to-day wishes to borrow a million dollars upon a million dollars' worth of 4 per cent. bonds. He does not go to the Government to make that loan. He goes into the financial centers of the country; he goes to London, he goes to Wall street. Those bonds have a fixed market value for that day's transaction. He borrows the money from the capitalist; he does not borrow it from the Government.

Mr. BAYARD. The Senator is in error——

Mr. McPHERSON. Therefore the 4 per cent. or the 3½ per cent. bonds have a value upon which to loan or to borrow money, just the same as the 3 per cent. or the 3½ per cent. Treasury note, and at the same time they serve the additional purpose of affording an investment for those who desire a permanent investment.

Mr. FERRY. Will the Senator allow me to interrupt him a moment?

Mr. McPHERSON. Yes, sir.

Mr. FERRY. Does the Senator not recognize the fact that where there is a large premium on the bond it must necessarily be subject to fluctuation in value? Those who invest in Government securities would not be so apt to invest in a long bond on a high premium subject to fluctuation as in a bond bearing a low rate of interest and selling at par.

Mr. McPHERSON. I am very much surprised that the honorable Senator from Michigan, who I know is a member of the Committee on Finance, should propound such a question to me, if he favored the report the committee has made to the Senate. To-day the 4 per cent. bonds are selling at a premium that yields little more, if any, than 3 per cent. to the purchaser, and liable, of course, to fluctuations, and the action of the committee, in effect bearing its own bonds, have stimulated fluctuations.

Mr. FERRY. The 4 per cent. bonds yield 3.30 per cent.

Mr. McPHERSON. Yes, and at the same time the Committee on Finance of the United States Senate have reported a bill here to pay 3½ per cent. upon bonds to be issued, and therefore have assisted the fluctuation. Had it not been for this action 3 per cent. bonds to-day could have been sold at a premium in the market, but as long as the hope is held out to the purchaser by a Secretary of the Treasury and by a committee of this body, charged by the Senate and by the people of the country with issuing and giving to capitalists the lowest possible rate of interest that our bonds could bear and float them at par, then I must confess that I am not surprised at fluctuations in everything.

Mr. FERRY. If the Senator will allow me right there he must lose sight of the fact that the Secretary of the Treasury has a discretion. The bill as reported by the Senate Committee on Finance only fixes the maximum of interest on the $300,000,000 Treasury notes, and gives the Secretary of the Treasury the discretion to place it at the lowest rate that is in his judgment practicable under 3½ per cent.

Mr. McPHERSON. I will come to that in a moment. I think, perhaps, my remarks will cover that point, but I will here state that for myself I have no intention of voting the power to gamble with the public credit into the hands of any Treasury officer, present or prospective. The value of the bond of the United States, like any other obligation or commodity, can only be determined by the estimate the public place upon it when offered in open market. The value of a 3 per cent. bond is already fixed at or about par by every-day transactions in the financial world.

The bonds of the Government are in active demand as an investment by those who do not wish to participate in the hazards of business or speculation, but without labor or risk give sure return with absolute security.

No other security can be compared to these bonds. Behind them, and pledged to their redemption, stand the whole wealth of the

nation. Taxation cannot reach them, and if a registered bond, even the thief may be disappointed. They are in demand in all the money centers at home and abroad—are wanted by everybody who prefers a perfectly safe to a speculative investment. Unless war shall demand the creation of a new public debt, these bonds will probably be the last the Government will ever issue, and as the demand will increase everywhere in proportion to the increase of wealth and population, in like proportion will their market value appreciate. The interest we promise and pay is the tax-payers' wages, and why throw away one-half per cent. per annum of their hard-earned money?

For Congress now to say, with the light we have, that the discretion between a 3½ per cent. Treasury note and one bearing a less rate of interest should be lodged with the Secretary of the Treasury is equivalent to discrediting our own obligation, and virtually foreordains and establishes the rate at 3½ per cent.

Why then permit our bonds to be hawked about the streets subject to the whim or caprice of a Treasury Secretary or of the expectant purchasers, none of whom will invest in a 3 per cent. bond while Congress proclaims its absurdity by fixing a higher rate?

Mr. A. S. Hatch, of New York, a distinguished financial authority, says upon this subject:

The United States Government is now in a position to dictate terms to its creditors, and to float its public debt at the lowest rate of interest at which any nation has ever been able to borrow money. Its credit is unrivaled, and is so recognized in every financial community on the globe. Its resources and financial vigor, as exhibited in the steady reduction in the volume of the public debt and in the rate of interest at each successive funding, have excited the attention and elicited the admiration of the world. In availing itself of this position it would be more consistent with the high credit which the Government has attained and with its financial record in the past to name its terms for future funding below rather than above the rate of interest represented by the price which its securities have reached in the market in the face of the conditions above referred to.

To that particular point I would especially call the attention of the members of the Finance Committee. Mr. Hatch further says:

I believe that the practicability of negotiating a 3 per cent. funding loan at par depends now only upon the decision of Congress to make the rate 3 per cent. and no more; and that their action in so doing, and in thus removing from the public mind all hope of any higher rate, will of itself determine the result and insure success. I believe also that, should Congress authorize a funding loan bearing 3½ per cent., the bonds so authorized would, within six months after the Government had concluded their negotiation, advance in the market to a price at which they would not yield over 3 per cent. on the investment, and that it would thus be demonstrated that the Government might have saved the one-half per cent. per annum which investors and speculators had gained.

The fact that the 4 per cent. bonds have not yet sold at a price at which they would not yield over 3 per cent. interest (upon which considerable stress seems to be laid by those who doubt the ability of the Government to fund at 3 per cent.) should not discourage the belief that a 3 per cent. loan can be negotiated at par; because, in the first place, the principal, if not the sole, reason why the 4 per cent. bonds have not already approached more nearly to the price at which they would yield but 3 per cent. is, as previously indicated, for the reason that, the question not yet being decided, the hope remains with some that there may yet be 3½ per cent. bonds offered at par; and, in the second place, because a large proportion of investors would prefer to buy a 3 per cent. bond at par rather than pay a high premium for a bond, even though it would ultimately yield a little more than 3 per cent. if held to maturity.

BRITISH CONSOLS.

In the discussions which have taken place in Congress and in the newspapers relative to the practicability of negotiating a funding loan at 3 per cent., frequent allusion has been made to the fact that the British consols bearing the same rate of interest have sold at par or over only at occasional periods, and then only for short intervals, and that they have for the most of the time, for a number of years, sold at less than par. From this it has been argued that if the public debt of Great Britain cannot be maintained at par the United States Government cannot expect to float its 3 per cent. bonds at par. In this argument three important facts seem to have been overlooked: (1.) That the debt of the British Government is steadily increasing, while that of the United States is diminishing; (2.) That the income from British consols is subject to a tax of sixpence in the pound, which reduces the rate of interest which they pay to about 2.92 per cent., and that there is no restriction to prevent the increase of this tax at any time at the will of the government; and (3.) That the market for British consols is limited almost exclusively to Great Britain, while the bonds of the United States are bought and held in every civilized country in the world. These considerations ought to more than overcome the difference between par for a United States 3 per cent. bond, with principal and interest untaxable, and the average price at which British consols have been quoted.

That the credit of the United States Government is fully equal, if not superior, to that of Great Britain at the present time I think cannot be questioned.

The experience of the past has demonstrated that long-time bonds are more attractive as an investment than bonds maturing at a shorter period. If the bonds were bearing a high rate of interest the option as to time of payment would be an important consideration, but 3 per cent. is the lowest rate at which any nation has ever floated its debt; and if it renders the bond more attractive to investors the option to pay a few years sooner or later cannot be of much consequence to the Government.

I agree with the House bill fixing the rate at 3 per cent., and shall oppose with my vote any bill which proposes in the slightest degree to increase the rate above 3 per cent. per annum. I do not agree with the House bill or the bill of the Senate committee in respect of the time at which the bonds are made redeemable and payable. My objection is not born of a belief that a 3 per cent. bond with the specified limit of either bill as to time and option could not be negotiated at par, for I am fully convinced to the contrary; but my objection has a broader basis and looks beyond the Government, whose financial condition and credit is better than that of any other nation, to the tax-ridden people who support it, and who are subjected to more onerous and unjust (unjust because unnecessary) burdens than any other people upon the earth.

In my opinion, it is the duty of Congress to fund the debt at the lowest possible rate of interest; to extend the time for the maturity of the bonds to forty years, so that posterity may bear a share, although a small share, of the burdens created by the exigencies of the war. The present generation have contributed in the tremendous sacrifice of life it involved its full share of the cost. It has suffered in the waste and destruction always attendant upon civil war to an extent never before known in the history of any people. During the five years commencing with 1873 and ending with 1878, the suffering by paralysis in business industry from causes contingent upon the war have had no parallel in the annals of the world. A somewhat disordered financial system, together with outer causes apparently uncontrollable, forced into bankruptcy tens of thousands of our citizens engaged in legitimate and honorable pursuits, closed the doors of our workshops and factories, and compelled the honest and willing laborer to become a tramp and seek bread from door to door. Notwithstanding all this, we have paid off more than one-half our war debt. A grateful people, speaking through their representatives in Congress, have imposed upon the present generation a pension list which in the aggregate is frightful, and the burdens of which cannot be shared by posterity because the pensioner will not be alive to receive it.

The war for the Union was fought for the benefit of all future generations, and it would be only equitable for posterity to share the expense.

The money to pay this debt must be drawn from the people by taxation, and we are annually making drafts upon the people far in excess of the actual needs of the Government. This surplus war taxation is taken from the reproductive industries, from the wages or working fund of the country, and every dollar thus taken above the wants of the Government economically and honestly administered, is a dollar too much.

Let it not be forgotten that there are other taxes bearing heavily upon the shoulders of the people. Faults in legislation and administration by States and municipalities have been followed by a train of evils which will require a degree of prosperity unparalleled in the past to enable the people to reform and repair. Unless this be done, and speedily, bankruptcy and repudiation will be the final result. This is especially true of some of the States of the South whose credit is pledged for tens of millions of dollars, the proceeds of which have never found its way into their treasury vaults or been applied in such way as to add much to the general wealth and prosperity. Is it just, is it wise, under circumstances such as these, and at a time when industry at the South cannot pay its local taxes, to impose upon the people these unnecessary burdens?

Our municipal debt is scarcely less than the national debt, and having been contracted to a large extent since the war, of necessity bears a heavy burden of interest, and, unlike the National Government, but few cities have the financial credit to refund their debts at a lower rate. The aggregate sum drawn from the people on account of interest on State and municipal debts is a heavy burden upon them.

There is not a State in the Union in which the legal rate of interest is less than 6 per cent., and in many of the States where money is most needed to aid development 10 per cent. is maintained as the ruling rate. The agriculturist, manufacturer, and miner are never able to borrow, even when money is abundant, at less than the legal rate; and when capital is sadly needed at the West and South to move the wheels of industry, it is proposed to take annually from fifty to one hundred millions of the working capital of the country, costing for its use at least 10 per cent. per annum, to pay a debt which can be extended indefinitely by the Government at 3 per cent. This may pass for statesmanship, but it can scarcely be called business wisdom. The citizen as a member of the national community, after all his sacrifices in support of the national credit, must pay his own debt bearing 3 per cent. interest by a mortgage loan upon his property or business bearing 10 per cent. It is only necessary to state the proposition to demonstate its injustice and absurdity.

Rapid payment of the public debt, when the Government can borrow at the minimum rate while the citizen is required to pay the maximum rate, is an evil and a loss to the citizen whom the Government is bound by every consideration consistent with financial safety to encourage and protect.

True financial wisdom requires the refunding of the national debt in very long bonds at a very low rate of interest. Relieve our oppressed citizens from the heavy burden of war taxes in time of peace and leave the working capital to fructify in the industries of the people. To this end I favor a 10-40 bond bearing interest at the rate of 3 per cent. per annum.

Mr. KERNAN. I wish to make one or two suggestions in reference to some statements made by the Senator who has just taken his seat.

Mr. KIRKWOOD. I want to know what the proper business before the Senate is.

Mr. KERNAN. I understand the funding bill is before the Senate by common consent. The chairman of the committee said he had full consent to go on.

The PRESIDING OFFICER. The question before the Senate is the consideration of the first amendment reported by the Committee on Finance to the funding bill.

Mr. KIRKWOOD. What has become of the cattle bill? That is what I want to know.

The PRESIDING OFFICER. By unanimous consent of the Senate

it is postponed until after the consideration of the funding bill shall have been concluded.

Mr. WILLIAMS. I understood it was informally laid aside and this bill taken up.

The PRESIDING OFFICER. The unanimous consent of the Senate was given to continuing the consideration of the funding bill until it should be concluded, and after that the pleuro-pneumonia bill is to be taken up and acted upon.

Mr. KIRKWOOD. I was not in when that was done.

Mr. KERNAN. Mr. President, I shall at this time occupy but a very few minutes; and what I wish to say is in reference to one or two positions taken by the Senator from New Jersey, [Mr. McPHERSON.] He says that we ought to fund our debt on a long loan running forty years. I have no doubt, from all the information we had before the committee, that we can fund this debt at 3 per cent. if we make a thirty-year bond, possibly at less, but I am one of those who oppose extending the time for this debt to any such date. I believe it is the wise policy of this Government to keep control of an option over paying its debt, to have a short option, and to apply the surplus revenues to the extinguishment of the debt, for I do not believe a permanent debt even at 3 per cent. is a blessing to this country. If you proposed to fund this debt in a thirty-year bond, without the option of taking it up, or a twenty-year bond without the option of taking it up before that time, all my information is that it would go at par at 3 per cent.

But, sir, if you do that, you will have your revenues coming into the Treasury, and, instead of relieving the people from the 3 per cent. interest which runs up, the money will go elsewhere, and we do not always get what is for the good of the people by owing money rather than paying the debt.

If I learned anything from what occurred on this bill at the other end of the Capitol, it was that that body was firm that the Government should have a short option, and be able to pay the debt off as it should have revenue from year to year from twelve months hence onward. Without speaking of that body, which I may not do, I have information that there is a disposition to yield, and (I got it not from them, but from private sources) that that body may yield and agree to pay a higher rate of interest to make a short bond go at par rather than to make a longer bond and put it at a lower rate of interest. I think the gentlemen who entertain that opinion are right. Hence this bill keeps that option in the Government. Here we have $300,000,000 which we can begin to pay as fast as we have a million to spare from the Treasury twelve months from now, and relieve the people from paying interest on so much for twenty or thirty years, which runs up to a great sum.

Mr. McPHERSON. May I ask the Senator a question?

Mr. KERNAN. Certainly.

Mr. McPHERSON. I wish to know of the Senator from New York what benefit it will be to the people engaged in all kinds of business to be forced to borrow money, as they are in their business, at 6 or 7 per cent. to pay a debt which the Government can borrow and float at 3 per cent.?

Mr. KERNAN. I will give my answer. I believe it is wiser for an individual to pay his debt even when it is drawing low interest than to put off the day of payment and get into schemes and speculations which he will be drawn into if he has that money. I believe it is much wiser for a government than for an individual to use its resources to extinguish its debt rather than to put off the day of payment and pay a low rate of interest upon a long debt.

Mr. McPHERSON. Suppose he has no money to pay, and has to borrow it at 6 or 7 per cent.

Mr. WILLIAMS. Will the Senator from New York allow me to state another objection to a long bond?

Mr. KERNAN. Certainly.

Mr. WILLIAMS. It is that as long as we have United States bonds in this country we shall never get rid of the national banks, and I am desirous by every means in my power to end them.

Mr. KERNAN. I hope Senators will allow me to proceed. I am just speaking for a brief space.

I repeat, Mr. President, that I believe it is wiser for the people of this country that we should go on and pay this $660,000,000 or $670,000,000 during the next ten years than to extend that law for twenty years at 3 per cent. I believe it is better to pay a higher rate of interest and have the right to extinguish the debt from year to year as we have the revenue than to perpetuate the debt by any long bond. So believing, I favored keeping the option on $300,000,000 of this debt in our hands, beginning twelve months hence. I believe our revenues will enable us to pay it off in a very short time—within five years. Then we shall have to accumulate money to pay $400,000,000 of bonds at 3½ per cent., and I think we can extinguish them inside of ten years from this time.

Sir, it does not often happen that by putting off the day of payment of debts by governments the people are relieved from taxation. I am in favor of paying off this debt at the earliest day and thus relieve the people from taxation, as we should do and as we shall do when we pay off the debt.

I should have been in favor of the House bill if my information led me to believe that we could borrow money on a 3 per cent. 5-20 bond, a bond giving us the right to commence to pay it at our pleasure after five years continuously. I should have been in favor of a bond at 3 per cent. if I had believed we could borrow the money on that bond at par and that it would have remained at par. My information from the best sources I had access to was that there was great danger that that would fail, and if it failed then we should have to go on paying 5 and 6 per cent. on bonds that are outstanding and which these are issued to pay off. My friend from Kentucky, [Mr. BECK,] who is very accurate, says there would be a difference of over twelve million dollars a year in interest between the 3½ and the 5 and 6 per cent. bonds.

Mr. BECK. Nearly twelve million dollars.

Mr. KERNAN. Nearly twelve million dollars a year for every year. The committee had in view the retaining of the short option which the House inserted in its bill over the $300,000,000 of Treasury notes. Our bill is that the interest on these Treasury notes, which are redeemable after a year from now, shall not exceed 3½ per cent. Why do we say that? Because the information we got is that those notes, or a large portion of those notes, can be negotiated at 3 per cent. or less than 3½ per cent. My friend from New Jersey says that is absurd if the 3 per cent. five-twenties cannot be put out at par. I think he is mistaken. I will not use stronger language. Does he not know that when men have a security that answers the purposes of a call loan they will put their money as they do to-day in New York on call at 2½ or 3 per cent. when the regular rate is 4, 5, or 6 per cent.?

The action of the committee was based on the information they got from various sources. The Secretary of the Treasury ought to be authority to some extent with us; he is supposed to have and I believe has no interest but the welfare of the Government and to make this loan at as low a rate of interest as he can. He says to us that in his judgment, if we authorize these Treasury notes, which are to be paid after twelve months as we please, he will be able to negotiate the whole of them or a large portion of them at 3 per cent., and I doubt not he will do it; but lest there be danger of our being compelled to go on paying 5 and 6 per cent., we say it shall be not exceeding 3½. We give him that latitude. What reason did he give for that? What reason would any man give? He says:

> As a rule, call loans can be put at the lowest rate of interest, and perhaps the rate can be kept down if payment is to be made within a year or so.

And he says further that he thinks these Treasury notes will answer the purpose of investment in the nature of call loans, and that therefore he will be able to negotiate them at 3 per cent. There are two classes of investors, one class who desire to make an investment which shall run a considerable length of time—a permanent investment. There is a large amount of capital now, always a large amount of capital which men desire to put into a security which they can get at par or about par, where they can command the money on it at a short day, because they do not want to make a permanent investment. It is expected that these notes will answer that purpose, and I can see no reason why they will not. We feared 3 per cent. bonds might go below par, having some time to run, and if they should go above par no man would pay a premium to invest money in the nature of a call loan.

Mr. McPHERSON. The Senator does not propose to make it a 3 per cent.?

Mr. KERNAN. We feared to say that the Secretary should not negotiate these Treasury notes at a higher rate than 3 per cent. lest he should fail, and we be kept paying the 5 and 6 per cent. on the bonds; therefore we have left him discretion, and he gave us his opinion. He says that, in his judgment—

> You can put them on the market only to the extent of the demand for them for convenient use in the nature of call loans.

The 5-20 bonds will not answer for call loans. Men will not put out their money as in call loans by buying four percents, because they are a long investment and are at a premium, and a man cannot afford to pay a premium on money on call when he wants his money perhaps in a few months to use in business.

Most of the argument made by my friend from New Jersey to-day was made to me by an intelligent man, and I doubt not he believed it. My objection to him was: "But suppose we fail, my friend, to negotiate at 3, we are paying $12,000,000 a year on the fives and sixes to get the money," and to that he had no answer. He did answer at first when I talked about it with him: "There is no trouble; we are not bound to pay the fives and sixes; it is only an option." But I say we are bound to pay the fives and sixes for the benefit of the people, that we may save them $12,000,000 a year, the difference between the interest at 3½ and at 5 and 6 per cent.

I think this part of the bill is clearly proper. The Secretary of the Treasury has expressed the opinion that he will be able to negotiate these Treasury notes at 3 per cent. or a little over, and under 3½ they will be taken by capitalists seeking temporary investments. They are to be paid at an early day. On the contrary, his opinion is that he will not be able to get the money on $400,000,000 of 5-20 bonds at 3 per cent. He hoped he might, but he feared he would not. I do not want to run any risk. The people save interest by paying 3½ rather than paying 5 or 6 per cent. on the bonds that we have an option to take up.

I think that the Senator from New Jersey makes a mistake—I will say nothing more—when he talks in the most scornful way of the judgment of the committee as "absurd" and "amazing." Why, sir, they have drawn this bill giving our Secretary the right to put out

all the short bonds that are wanted and to begin to pay them off in twelve months, and to put them at 3 per cent. if he can, or under that, or a little above, but not above 3½ per cent. Then the $400,000,000 of five-twenties we have put at as low a rate of interest as on the information we get from official and non-official sources we think it would be safe for us to say we could raise the money promptly and extinguish the fives and sixes that we are paying heavy rates of interest on from day to day.

Mr. McPHERSON. Will the Senator allow me to offer an apology right there?

Mr. KERNAN. Not to me.

Mr. McPHERSON. I think the Senator ought to permit me to explain.

Mr. KERNAN. I will.

Mr. McPHERSON. The Senator says that I have expressed great surprise at the action of the committee and called their action absurd, and so forth, because they had recommended to the Senate to issue a 3½ per cent. bond. So far as I am concerned, no apology should be required of me. It is rather the bond market which owes him the apology. He is confronted by the fact that in every-day business transactions on the street 3 per cent. bonds can be floated at par. When I declare the action of the committee absurd, I am simply giving street quotations which I think prove the absurdity. It is not my expression, it is the expression of the market which challenges his statement.

Mr. KERNAN. The Senator said that the committee was acting in a way to depress the credit of our Government. I say we are acting in a way which will elevate the character of this Government and will show that we will not let bonds run at 5 or 6 per cent. even until the next session of Congress for the want of a Treasury note that can be negotiated at not exceeding 3½ per cent., and as much less as the Secretary can do it, and for the want of a bond for which we allow, if that rate is necessary to get the money, 3½ per cent.

I do not think anything is to be said about Wall street here. I say nothing about it. I take all the information I can from it, and my information is that probably you can there borrow money on these Treasury notes at 3 per cent. from people who want to make investments in the nature of call loans, and we can certainly borrow it at 3½, and with the five-twenties promptly extinguish the bonds drawing 5 and 6 per cent. interest at once and save interest. That we can certainly do at 3½, and there is no certainty that we can do it at 3 per cent. As an individual I think I would treat my debt in that way, and believing it wise for an individual I know it is much better for a government, and therefore I am in favor of the short option. I am against perpetuating this debt if I can borrow money at 2 per cent. The business of the Government is to pay its debt and relieve the people from taxation, and that I think this bill as reported will do, and therefore I am in favor of it.

Mr. McPHERSON. Mr. President, I think that perhaps under the circumstances it would be proper for me with respect to certain points raised by the Senator from New York to say a word. He states in his speech that the weight of opinion on investigation by the committee was against a 3 per cent. bond. I suppose the committee came in contact with gentlemen of well-known financial ability and of financial strength, gentlemen who had every interest upon earth to have this Government issue a bond bearing 3½ per cent. interest, because that made a better investment for the money that they desired to invest in Government bonds.

Now, sir, it has been my good fortune within the past week to come in contact with hundreds of people engaged in large financial enterprises, because I have made it my business for the past three days to investigate as fully as I could the sentiment of those who knew better than myself as to whether a 3 per cent. bond could be sold at par upon the market, and in no case did I find a single disinterested man who did not openly declare that he had no doubt of success in floating a 3 per cent. loan.

Mr. BLAIR. I should like to ask the Senator if in these investigations he has not universally found that class of men say that a bond, in order to be negotiated at 3 per cent., should be upon long time, a much longer time than proposed by the committee? Do they not universally couple the two conditions together?

Mr. McPHERSON. The Senator will remember that we have neither fixed the rate nor the time.

Mr. BLAIR. I understand that, but the committee make the proposition of a higher rate of interest and a shorter time. I have made some examination and investigation in the same direction as the Senator to whom I am addressing this question; and I have found the same class of men universally say that upon very long time there is no doubt a bond could be negotiated at a lower rate of interest, and many of them favor it.

Mr. McPHERSON. There comes more authority, another Senator in opposition to the proposition of the Senator from Delaware. The Senator from Delaware proclaims that a certain number of bonds, to wit, the so-called Treasury notes which the committee recommend to be issued, can be sold to better advantage at a very short time than at a long time. I declare that proposition most singular, because the long bond can be used for all the purposes that the Treasury note can be used for, whereas it can also be used for the other purposes of which the Senator from New Hampshire speaks.

Mr. EATON. May I ask my friend if he has any doubt whatever that a ten-year 3 per cent. bond could be floated?

Mr. McPHERSON. I will say to the Senator that I have no doubt of it, and still further, if the financial men with whom I come in contact entertained such doubts they would be expressed by them. If it is the intention of the Senate of the United States, with the experience of the past confronting us, to leave to the option and discretion of the Secretary of the Treasury the power to say whether we shall pay 3½ per cent., if he thought best, then it seems to me we are putting in his hands power that we ought not to. I believe that if the Secretary of the Treasury, upon whose shoulders should be placed a portion of the responsibility, perhaps I may be allowed to say a large portion, had so advised, and the Committee on Finance of the Senate had promptly reported back to the Senate a bill authorizing the issue of a 3 per cent. bond with a sufficient length of time for its maturity to make it attractive, whether it be thirty years or forty, the public mind would have been settled and concluded upon the question, and there would have been no more difficulty in floating the 3 per cent. bond than there would be in floating one at 3½ per cent. But the expectation has been held out to the public that a 3½ per cent. bond would be offered. Why? Because of the fear that nobody would buy a 3 per cent. bond.

The honorable Senator from Delaware further says that if we find at the expiration of one year, the time of the option given to the Treasury notes, that we can float them at a less rate of interest, very well; we can again renew these short bonds. What does that mean? It means a new commission to a syndicate; it means another half per cent. for the issue of the new bonds; it means another option to the Secretary of the Treasury; it means that the Government credit is left entirely in the hands of the Secretary of the Treasury and that we, the agents of the people, whose duty it is to maintain it, have delegated the responsibility to him.

The honorable Senator from Delaware said that the bond is a bond of unity and security. I confess that, and when I submitted the proposition to the Senate that the bond should have forty years to run I did it simply because I thought that posterity should pay a portion of the debt; but if it be a bond of unity and security as well, the longer it is extended the better. It should be extended indefinitely upon the argument of the Senator.

The Senator from New York speaks of the option. He is not in favor of having the option extended beyond five or ten years.

Mr. KERNAN. Beyond five.

Mr. McPHERSON. He says five, and that he fears the bond cannot be floated at less than 3½ per cent. interest. That is his proposition. Now I declare the bond can be negotiated at 3 per cent. interest. We will suppose it to be negotiated at 3 per cent. interest. It then becomes the lowest interest-bearing bond that any government has ever negotiated at par. What difference, I submit to the honorable Senator, does it make whether the Government has an option of ten years or forty years on a bond which is bearing a lower rate of interest than any government ever paid before in the world?

Mr. KERNAN. Allow me to answer. Of course if I believed, as the Senator says he does, that we could float $400,000,000 at 3 per cent., I would go for that; but fearing we cannot, I go for 3½ per cent.

Now for the other part of the question; I want to prevent the people being taxed beyond five years. That is the reason I am for the short option. I want to take fifty or sixty or seventy millions of surplus in the Treasury and extinguish that much of the three or three-and-a-half percents, whichever is the rate, five years hence and pay off the other $300,000,000 before that time. I do so because I think that is better for the people. We had better refund the debt, having a right to extinguish it in a few years, than to borrow at a lower rate of interest and go on paying a large amount in interest for year after year, the principal being the same.

Mr. McPHERSON. To state it in other phrase, the honorable Senator is in favor of compelling fifty millions of people who have been taxed beyond measure and endurance, who have been taxed more than any people on this earth were ever taxed before, who have bravely and patriotically stood up and defended the credit of their Government, to pay in five years what posterity ought to pay thirty or forty years hence, when we shall have one hundred or perhaps one hundred and fifty millions of people, with increased development and with increased means to tax.

Mr. KERNAN. How many years must this 3 per cent. bond run until we shall have paid more than the principal in interest?

Mr. McPHERSON. I will answer the honorable Senator. I do not agree with him that the Government option should begin in one year. Let the bonds run forty years with the option to pay beginning in ten years. I will trust to the intelligence of any Congress that the people of this country will send here for the next twenty years to keep this debt at 3 per cent. and continue to pay 3 per cent. interest, so that the business men of the country may keep their capital in their enterprises costing a low rate of interest.

Mr. KERNAN. Why make a forty-year loan with an option of one year, if you are in favor of having a perpetual debt that somebody may have cheap capital as you say? Why should you not borrow for forty years and have no option about it?—Why do you want an option if you are not going to exercise it?

Mr. McPHERSON. How can the honorable Senator tell me I am in favor of a perpetual debt, when I have stated expressly that I was not in favor of it? I am not strenuous about the option, as I said before. I will leave that to the intelligence of the people for all time. If the people of this country, through their representatives, are willing to take the working capital out of the country that is needed by the people in their industries to pay a debt which the Government can borrow at 3 per cent., well and good, they shall have the privilege. I shall not deny them the privilege.

Now, Mr. President, there is but one other point that I wish to speak about. It is proposed arbitrarily to fix the rate upon the bonds at 3½ per cent., and it is proposed to leave the Treasury note in the hands of the Secretary of the Treasury, to gamble with it as he sees fit.

Mr. KERNAN. To borrow lower if he can.

Mr. McPHERSON. I prefer my term, "to gamble with it," because there is no limit whatever fixed by the discretion of the committee or by the judgment of Congress. It is left solely with the Secretary of the Treasury, only that it be no more than 3½ per cent. The bond having a long time to run, with an arbitrary rate fixed at 3½ per cent., no doubt will be a very good investment. That bond, I think, in thirty days will sell at 5 or 6 per cent. profit to the syndicate. A Treasury note at the rate of 3½ per cent., I have no doubt, can be sold at par; but for the life of me I cannot understand that kind of financial wisdom that proclaims that the Secretary can sell a Treasury note, worth less in the market than the bond, at a lower rate than 3½ per cent., when an arbitrary rate of 3½ per cent. is fixed on the bond. Would it not be a great deal more consistent to leave the whole thing to the Secretary and his syndicate?

Mr. BROWN. Mr. President, I rise to inquire what is the present status of this bill? Are we in Committee of the Whole, or to what point is the discussion now being addressed?

The PRESIDING OFFICER. The bill is now before the Senate as in Committee of the Whole. The pending question is upon the first amendment reported by the Committee on Finance.

Mr. BROWN. I ask that that amendment be read.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. After the word "bonds," in line 15 of section 1, it is proposed to strike out "in the" and insert "to an."

Mr. EATON. Are we now on the verbal amendments proposed by the Senator from Delaware?

The PRESIDING OFFICER. No; the verbal amendments suggested by the Senator from Delaware were all adopted. The pending amendment will be again reported.

The SECRETARY. In section 1, line 15, after the word "bonds," it is proposed to strike out "in the" and insert "to an;" and after the word "amount," in the same line, to strike out "of;" so as to make the clause read "the Secretary of the Treasury is hereby authorized to issued bonds to an amount not exceeding $400,000,000," &c.

The amendment was agreed to.

The next amendment reported by the Committee on Finance was, in line 16, section 1, after the word "dollars," to insert "of denominations of fifty dollars or some multiple of that sum."

Mr. KIRKWOOD. I should like to have the attention of the chairman of the Committee on Finance a moment in regard to that amendment. It is to insert "of denominations of fifty dollars or some multiple of that sum." Does not that leave discretionary power with the Secretary of the Treasury to issue the whole $400,000,000 in any multiples of fifty dollars? Does it require him at all to issue small bonds?

Mr. BAYARD. Bonds in any multiple of $50.

Mr. KIRKWOOD. May he not issue them all in thousand-dollar bonds and strictly comply with this law?

Mr. BAYARD. Oh, yes.

Mr. KIRKWOOD. Was it the purpose of the committee to leave that discretion with him?

Mr. BAYARD. It was. It means that the smallest bonds shall be $50, but it does not limit the size of the largest, provided it is some multiple of fifty.

Mr. KIRKWOOD. That leaves it discretionary with him whether he shall issue a fifty-dollar bond or not.

Mr. BAYARD. I suppose it will be according to the demand of the subscriptions.

Mr. KIRKWOOD. But it is in his power under the language of this bill not to issue any bond under a thousand dollars.

Mr. BAYARD. No, I apprehend it depends entirely on the subscriptions made for them and the denominations in which the purchaser desires to have the bonds furnished.

Mr. INGALLS. He might issue all in one bond.

Mr. BAYARD. If any purchaser would take it.

Mr. KIRKWOOD. Would it not do to strike out the words "or some multiple of" and insert "and multiples of;" so as to read "denominations of $50 and multiples of that sum?"

Mr. BAYARD. I have no objection. We simply in this followed the language of the funding bill of 1870, under which there has been an ascertainment practically of the meaning of these words; and we thought it was better to follow language which had been acted upon than take other which might be open to new construction. That is all.

Mr. KIRKWOOD. Is this the precise language of the act of 1870?

Mr. BAYARD. That is the language of the act of 1870, and that was the reason why it was adopted.

Mr. BECK. I did not hear distinctly what the chairman of the Finance Committee said; but when the bill was before the committee I made the same objection, and the old law was turned to, and it was found that we were now following the language of it, and under it there never was any difficulty in issuing bonds of the various denominations required.

Mr. KIRKWOOD. I will state my object in making the inquiry. I am strongly in favor of popularizing this loan to as great an extent as it can possibly be done. I am satisfied that a large portion of these bonds would be taken at first hand in many portions of our country if an opportunity were offered to the people living in those sections to take them. Under the practice that has prevailed heretofore, they have been taken in immense quantities by syndicates who have made a profit in selling them out again to individual holders. I think I shall before the bill passes away offer an amendment that may look to making it imperative on the Secretary that he shall afford to the people in all portions of the country an opportunity of subscribing to this loan if they desire.

Mr. BAYARD. I can understand perfectly well the desirability of such a result. I think it would be a fortification of the public credit that it should be held in small sums as broadly as possible by the population of the United States. I have no question of that. As to its praticability another question will arise. We had some evidence of it about two years ago, when $40,000,000 of certificates were sold in sums of $10 and multiples thereof; but bankers and others desiring to obtain large amounts employed twenty, thirty, or fifty individuals to come and make subscriptions for them separately and then put them altogether.

Mr. KIRKWOOD. That is true, but they were only offered in a few places in the country.

Mr. BAYARD. I have no objection to considering the question if practicable. The committee did not desire to exclude such a result, but they did not see precisely how they could compel it.

Mr. KIRKWOOD. I do not say it can be done, but I think the chance ought to be afforded for it.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Finance in line 16 of section 1, after the word "dollars," to insert "of denominations of fifty dollars or some multiple of that sum."

Mr. TELLER. Will it be in order after we have adopted that to amend it?

Mr. MORRILL. You can add to it.

Mr. TELLER. It is to be amended now, I understand, if it is to be amended at all.

The PRESIDING OFFICER. It may be amended in the Senate.

Mr. TELLER. Then I move to amend it now by inserting, unless the Senator from Iowa has some amendment prepared——

Mr. KIRKWOOD. I think if the words "or some multiple" were stricken out and the words "a multiple" inserted, it might do; or let the Senator from Colorado propose his amendment.

Mr. TELLER. I move to insert after the word "of," in line 16, the words "ten, twenty, and;" so as to read "of denominations of ten, twenty, and fifty dollars, or some multiple of that sum."

Mr. BAYARD. I will say to the honorable Senator that is reducing the interest-bearing debt by coupons to an infinitesimal gradation, and, besides, they are to be registered or coupon. I really think that it is carrying the desire to popularize the loan rather far. Fifty dollars, I think, is about the lowest bond that should be issued. The Treasury notes are down to $10; so that that mode of investment can suit the class of purchasers the Senator desires to accommodate. I think the fifty-dollar bond, if it is to be a coupon bond, is small enough in all reason.

Mr. TELLER. These are not necessarily a coupon bond; they may be either registered or coupon.

Mr. HOAR. I ask the Senator from Colorado if he desires to compel the United States to make payment at its Treasury of the sum of seventeen cents, a separate transaction, separate record, which this would do by the semi-annual interest on $10?

Mr. TELLER. I have not any very great anxiety on this subject. I believe, however, the true principle is to have the people of the United States hold these bonds as far as it is possible and practicable. There is a class of people who will buy these bonds, and they will buy them in sums of $10 when they have got $10; when they have got $10 they will put it in a bond; when they have got $10 more they will put that in. I do not know whether there will be a great number of them. There were $40,000,000 taken of the other bonds that were issued in ten-dollar subscriptions. I know that they passed ultimately into the hands of the large capitalists of the country, with the exception of about a million, I believe, still held by people in small sums. I do not know but that $10 is a pretty small sum for a bond. I do not know but that fifty is right; but it seems to me that if it could be done without practical inconvenience it would be well to make these bonds small enough to be used for the purpose of saving money instead of putting it in the savings-banks. There has been in the last few years a great deal of money lost to the depositors in savings-banks, and $10 is a large sum in many of the savings-banks to be deposited at one time.

I think myself that in dealing with these questions it would be a very good idea to keep in mind that some of the people in this country do not count their money by millions. I think the legislation has

generally proceeded in this country on the theory that the people of ordinary means would not touch these securities. I think that a great number of them would, and of the many millions of dollars that are held by savings-banks a great deal would be put, if the opportunity were offered, into this kind of securities. It is true the holder might only draw seventeen cents interest semi-annually if he only had $10; and it might be a practical inconvenience for the Government to pay such a small sum; and yet I do not know that that is any reason we should try to aggregate all this character of securities in the hands of a few men.

I believe I will let the Senate vote on the amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado [Mr. TELLER] to the amendment of the Committee on Finance.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment proposed by the Committee on Finance to line 16.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in line 18 of section 1, after the word "three," to insert "and one-half," so as to read "which shall bear interest at the rate of three and one-half per cent. per annum," &c.

Mr. MCPHERSON. I hope that amendment will not be agreed to, and I call for the yeas and nays on the question.

Mr. VOORHEES. I desire to say a single word. I have no intention to enter into an elaborate discussion of this measure. While it was considered in the Finance Committee, I labored faithfully to make the bill as good as I could. I tried to better it rather than defeat it. At the time it was under consideration there two or three weeks ago, I was impressed with the belief that a three-and-a-half bond was necessary. I have had much information on the subject since, which I had not at that time, and I have so far modified my opinion as to reach the conclusion that I shall vote against this amendment of the committee. The committee is not surprised at my position. I reserved the right at all times to vote against any amendment to the bill if I saw fit to do so. Consequently I shall, as I conceive in the interest of the people, vote for a 3 per cent. bond. I believe from information which has reached me from most reliable sources and from the heaviest business men, and if I can use the expression moneyed men, that the bonds can be floated at that rate. I shall vote accordingly.

Mr. EDMUNDS. May I ask the Senator from Indiana for what time a 3 per cent. bond can be floated?

Mr. VOORHEES. The time mentioned in the bill as it came from the House, 5-10, though I make no particular objection to the extension of the time for the maturity of the bond, because the option is the value to the Government. The redeemability of the bond at five years is the value to the Government so far as time is concerned.

Mr. EATON. I shall detain the Senate but a moment. My own impression is, from conversation with financiers of great ability and men of great wealth, that a 3 per cent. 10-30 bond can be floated with ease. I have no doubt of it any more than I had previous to the last funding operation that a 3.30 or a 3½ per cent. bond could have been floated then.

Mr. BAYARD. A thirty-year bond?

Mr. EATON. A thirty-year bond. I do not believe a 5-10-year bond can be floated at all at 3 per cent. I thought before that a 3½ per cent. bond was all that the Government ought to issue. The Secretary of the Treasury thought a 4½ per cent. bond only could be floated; but we compromised on 4. I have been sorry ever since that I compromised on 4. There is no question now but what the bonds could have been floated at 3½ with perfect ease at that time.

I was very much struck with the argument of the chairman of the Committee on Finance, the honorable Senator from Delaware. I think it very important that we should pass a bill, and I shall vote for this bill as it comes from the committee, if it cannot be changed. I think it ought to be changed, and therefore I shall endeavor to change it. Lest I might be mistaken that a 3 per cent. bond could be floated, I would be perfectly willing to say "an interest at the rate of 3½ per cent.;" and that makes a difference of a good many hundred thousand dollars annually.

Now, can my friend from Delaware, with his means of information, (which are certainly greater than mine, being placed as he is as chairman of the Finance Committee in connection with the business men of the country to a greater extent than I,) entertain any doubt but what a bond could be floated at an interest of 3½ per cent.? Is there any business man on the floor who doubts it? If it can be done, it ought to be done. I have no doubt whatever, from all the information I can gain, that a 10-30 bond at 3 per cent. can be floated and be worth par.

Now, the question is, and that is a matter of argument, whether a 5-20 bond is not better for the tax-payer at 3½ per cent. than a 10-30 at 3. There is room for argument; it is not entirely a one-sided question. One is 3 per cent. and the other 3½; but at the end of five years instead of ten years, if the Government is in funds, there might be called in $100,000,000, and then the entire interest on that $100,000,000 would cease, and the people would not have to be taxed in order to meet that demand. Therefore it is a matter of fair argument. I should be willing to compromise by calling it 3½ per cent., and I hope the Senate will adopt that. I ask my friend from Delaware if, under all the circumstances, with the condition of the credit of the country to-day, he cannot accept that amendment. I am very frank to say to him that I shall vote for this bill with the 3½ per cent. rate if I cannot get it better, for it is important that we should agree upon some bill.

Mr. BAYARD. Mr. President, in reply to the interrogatory of the honorable Senator from Connecticut, I will only say that the language reported to the Senate by the amendment of the committee is the result of the best judgment they could form of what it was advisable for the Government to do under the circumstances. I can conscientiously advise the Senate to accept the proposition of the committee, but I cannot advise them to accept the amendment suggested by my friend from Connecticut.

I do not propose to repeat any of the arguments which I advanced this morning in support of this project of the committee, but I am satisfied that there ought not to be experimental legislation; that we owe it to the country and to the importance of the subject before us to make this bill a certainty and a success, and I do here declare that in my judgment the great weight of that opinion most entitled to influence is in favor of fixing the rate of interest on these bonds at not less than 3½ per cent. I do not propose to repeat the reasons I have heretofore given for that, I say to my friend from Connecticut because I hope that the amendment which he has suggested rather than moved will not meet the approval of the Senate.

Mr. WILLIAMS. Mr. President, if we are to fund this debt at all, I am in favor of funding it at the lowest possible rate and at the shortest possible time. If I had my way, I would do exactly for the nation what I would do for myself. I would give my note payable on or before a given day, and before that day arrived pay as much of it as I possibly could. That relates to the time. As to the rate of interest I am perfectly satisfied that the whole of this debt can be easily floated and kept up at 3 per cent. if we were to reverse the option to pay at twelve months from date. The national banks could absorb the whole of this entire amount; and if you were to put it at 2 per cent. or 1 per cent. instead of 3½ per cent., they would take the whole of it.

Now, give them 3½ per cent., and what does it amount to? It gives to the banks 30 per cent. on their capital invested. There is no analogy between the consols of Great Britain and the bonds of the United States. Those consols are taxed to support the government; the bonds of the United States are not taxed, neither the bonds themselves nor the interest, nor the income accruing from them. Then in this country these bonds are the basis of the circulating medium. A banker takes $100,000 of bonds to the Treasury when he wants to extend the capital of his bank, and they give him $90,000 of circulating money just as good as he paid for the bonds themselves. He then is out but $10,000, and at 3 per cent. it brings him 30 per cent. per annum. Does any man doubt that the banks will take all these bonds? They need them all; they must take them all. They must take them at 1 per cent. as well as at 3½. Why should you pay 3½ per cent.? It is a bonus to the banks; it is a bounty to the capital of the country. Gentlemen may talk about subsidies and bounties, but here is a subsidy or a bounty that we are proposing to the moneyed interests of the country. Why, sir, there is in the city of New York alone capital enough to absorb this $650,000,000. There is a demand around the bourse in New York for cash every day absolutely sufficient to absorb the whole of this $650,000,000 if the banks do not take a dollar of it. Does any man doubt that? Why, look at the clearances every week in New York at the clearing-houses; in a single week they amount to more than the whole of the bonds that we propose to put on the market. Can they have any better security for the short loans that they need for their speculations, for use at the exchanges, for the purchase and sale of stocks, than these bonds? And can you doubt that they will be readily taken in a week? My word for it they will all be taken in a single week. There will not be a bond on the market one week after we pass the law and arrangements are made to issue them.

I am opposed to the whole scheme of extending this debt of the country. I think what is good policy for the father of a family is good policy for the nation. If I believed I was about to die the first thing I would do would be to leave my estate so that my children could get it; I would want to leave it clear to my children, without a debt upon it, without a mortgage upon it; and as a Senator of the United States legislating for my posterity and your posterity and future generations, I would be glad to do as much of the work as possible to pay off the whole of the debt while I live, and I hope to see it paid, and I believe I shall see it paid before I die. We shall have a surplus in the Treasury of more than $110,000,000 next year; we shall have more than that the year after, and in ten years from to-day, if the same economical policy is pursued that is now being pursued, we shall have a surplus revenue to apply upon the debt of more than $200,000,000 a year.

Therefore, sir, I am opposed to this amendment adding one-half per cent. to the rate of interest fixed in the House bill. Suppose we do not negotiate this bond, what harm will be done? Suppose the banks refuse—but they will not refuse—we can just issue Treasury notes and pay off the whole and take their circulation, cancel their bonds, and save the country $400,000,000. That is what we can do. Give to these bonds and give to these Treasury certificates that you issue the power of paying duties at the custom-house, and they will be at par

with gold to-morrow. Your greenbacks would have been at par years ago if you had made them receivable at the custom-house for public dues. Who doubts that? What Senator on this floor doubts that?

I did not rise to make a speech, but just to enter my solemn protest against the pending amendment. I will vote against this increase of the interest. I will vote for the bill as it came from the House. I may have something to say upon another amendment as to the fifth section, but I care not to say more on this now. I am for the shortest time and the lowest possible rate of interest suggested, because I am perfectly satisfied, not only from my own opinion and judgment, but from that of the ablest bankers in the United States, that these bonds will be greatly sought after and caught up in less than a fortnight after we shall have passed this bill.

Mr. EATON. Mr. President, one word fell from my friend from Delaware which I did not like to hear, and regret that he used. In attacking my amendment he used the language "experimental legislation," giving it a great deal of emphasis. He said he was opposed to experimental legislation. My friend will not deny himself that the best financiers in the United States assert beyond question that a 10-30 bond can be floated at 3 per cent. There is no experiment about it any more than there is about a proposition that a bond can be floated at 3½ per cent. We have not floated any yet; but it can be done. The intelligence of the country knows that it can be done. It ought not to be called an experiment. We know what it is worth. We know what the 4 per cent. bond is worth to-day.

Mr. ALLISON. Will my friend allow me to ask him a question?

Mr. EATON. Certainly.

Mr. ALLISON. We have now 4½ per cent. bonds maturing in about ten years. At the price of those bonds in New York, is it not a fact that those bonds yield to the investor 3.41 per cent.?

Mr. EATON. The 4 per cent. bonds yield 3.15.

Mr. ALLISON. I am speaking of bonds maturing in ten years from this time.

Mr. EATON. I cannot tell about that, because I have not had my attention directed to it; but I was told three or four years ago that it was experimental legislation to issue a 3½ per cent. bond, because, forsooth, the Secretary of the Treasury said that it was experimental legislation to undertake it, and therefore I and others were foolish enough to compromise on 4 per cent.

Now, it is experimental legislation if we put it below 3½, when the 4 per cent. bond to-day is not paying more than 3.15 per cent. to the purchaser. I have no question on this subject, not the slightest in the world; and it is not an experiment. I desire to say to my friend from Delaware that I represent a people who do not desire to experiment either upon the securities or the currency of this country. They are solid men, and it is a solid State, though a small State, desiring good money and good security, and to do everything for the Government in good faith. We want no experimental legislation in Connecticut, but we desire to float the securities of the United States at as low a price as judicious men say is proper; not to experiment; not to put them, as my friend from Kentucky [Mr. WILLIAMS] says, where the banks will gobble up the whole issue if you put it at 1 per cent., or 2, or 2½. That would be somewhat of an experiment, and I would not like to try legislation of that character; but I deny the propriety of the use of the word "experimental" in connection with the amendment which I had the honor to offer. The very condition of the credit of the country to-day and of its securities to-day shows that what I have offered is not an experiment, but an absolute, fixed fact; and all men who can read can see it. The man who takes up to-day the price of the securities of the United States in Wall street, or in Boston, or anywhere else, knows that 3½ per cent. is a fixed fact to-day.

Mr. BAYARD. Mr. President, I desire to express my sincere regret that the sensibilities of my friend from Connecticut have been in any way aroused by the use of the term "experimental" as applied to the proposed rate of interest in this bill. I certainly had no design to suggest that he meant to apply dangerous experiments upon the financial interests of the country; and if he supposes or if any one else can suppose that the phrase would bear that construction, I would most unhesitatingly withdraw it, for nothing was further from my mind than to speak with disrespect or suggest the faintest doubt of the judicious and solid character of my friend's intention toward the credit of his country. Let me explain what I meant.

Here is a question of opinion, in many respects as yet unsolved by fact. The two branches of the same body to whom this question is at present committed for deliberation, have an apparent difference as to the rate of interest. One thinks that 3 per cent. is the proper and just rate which this Government should pay upon its loans; the other thinks it would be impracticable, that it would be experimental, in a degree dangerous to the welfare of the country, to attempt without succeeding to float a loan at that rate, and therefore suggests a higher rate. If one class of opinion considers that the 3 per cent. will be a success *ergo* it must consider that 3½ will be still more so. The greater includes the less, and therefore both parties would agree that the most feasible and practical way is to try 3½ per cent. I assume that to be certainly admitted. That is all I meant, that there was a rate which was agreed upon which no one considered experimental, but all agreed could be a success. I meant to contradistinguish that accepted proposition upon all sides to the suggestion that the loan could be floated at a lower rate. That was all I meant. There was not the most remote intention on my part to reflect in the least degree upon the judgment, much less upon the integrity of my honorable friend from Connecticut; and I am sorry he should have ever conceived for an instant that anything I said was capable of that construction.

I will only repeat here that as we are dealing yet with the unknown, and almost with the untried, the road of safety is the road of certainty. We know, as near as we may know anything in the future, that this loan is practicable at the rate reported by the Senate Committee on Finance. We know the benefit and advantage to the country of the reduction to that point. We know as well as we may know anything that that which we propose is practicable. We do not know that a less rate would be so, and there is a great body of opinion, to which my judgment has yielded, that it is not practicable at a lower rate than that named by the committee.

Mr. WILLIAMS. Then am I to understand the Senator from Delaware to mean that if we were to put the rate at 4 per cent. the success of the scheme would be absolutely certain?

Mr. BAYARD. It is not necessary to reduce this thing to an absurdity, Mr. President. I am only speaking of the bill before us and trying to do so respectfully.

Mr. VEST. A very brief word, sir. If I understand the chairman of the Committee on Finance, he supposes the idea of self-interest will control in this matter. Now I say the 4 per cent. bonds of the Government payable in 1907 are worth 113¼ or 113½. I would like to ask the chairman of the Committee on Finance what is the difference in the market value of 4 per cent. bonds at 113½ and a 3 per cent. bond of the Government at par? I undertake to say that if the calculation is made, there is hardly a shadow of difference in the monetary value of the two bonds.

What is it that gives value to the securities of the Government? First, the certainty of payment; second, the exemption from taxation; third, the fact, the overwhelming fact, that these bonds are the basis for the circulation of the country. Is there a man who believes that you can legislate out of existence, except by destruction of their charters, the United States national banks?

Now, sir, these 3 per cent. bonds have all the essential requisites of the four percents. They have the Government guaranteeing their payment; they are exempt from taxation, and they can be made the basis for the circulation of the national banks, and, as I said before, in that last distinction is the great value of the United States bonds. The chairman of the Finance Committee tells us that it is not the amount of money in the Treasury to be used for redemption that gives value to these bonds, but it is the credit of the Government. The credit of the Government is as much pledged to the payment of the three percents as of the four percents. As the Senator from Kentucky has told us, here is a national bank with $100,000 capital; they take from the Government 3 per cent. bonds; they also receive from the Government $90,000 in national-bank notes; they loan the $90,000 in national-bank notes, as they do in my State and throughout the West, for 10 per cent., payable in advance, amounting to 10.62 per cent. every year, and they receive for the $10,000 capital not put in the form of notes in this way $3,000 interest per annum, or 30 per cent. No mortal man ever invented a scheme which gave more to capital and less to the people. I have done as much hard fighting against that organization as any member on this floor. I fought them and their allies in the republican party of the State of Missouri last fall. I have always been the constant and persistent enemy to many of the dogmas of the greenback party in the United States, but I stand here to-day to assert that this bill reported by this committee is giving a subsidy of 1 per cent. to the national banks of the United States. They are the parties who are to derive profit from it. It will not be sixty days after the issue of these bonds before the national banks will absorb them and reap a harvest from them.

I cannot vote for this amendment of the Committee on Finance; I cannot vote for this bill. I do not propose to give my sanction to a bill which increases by one-half of 1 per cent. the interest upon these bonds to go into the hands of the capitalists of the United States.

Mr. BAYARD. Mr. President, while the honorable Senator from Missouri [Mr. VEST] was asking his question, my friend from Tennessee on my right [Mr. BAILEY] made a computation of what is the return to the investor on the purchase to-day of the 4 per cent. bonds of the United States at 113. The return will be found to be 3.54 per cent. That is the return on the market value to-day—3.54. That is the calculation and it is subject to any gentleman's criticism.

Mr. PLUMB. Will the Senator permit me to ask him a question?

Mr. BAYARD. Certainly.

Mr. PLUMB. I ask him and the Senator who made the calculation if he counts the loss of the premium at the expiration of the term of the bonds, or only the rate on the present principal?

Mr. BAYARD. I am not sorry the honorable Senator has asked that question, because the loss of that premium of 13 per cent. is spread over thirty years, which my honorable friend from Missouri has apparently entirely forgotten. The question of your capacity to float a loan depends, of course, in some degree, upon the permanence of that loan. It was that which I endeavored to show in comparison with the loans of first-class European commercial nations, that there the rate of income to the investor at the current market prices of those securities was much higher than that proposed by the Senate Com-

mittee on Finance in the measure now before Congress. The French rentes which are interminable except at the pleasure of the government are selling to-day, the 3 per cent. rentes, at 84 and a fraction, paying thereby between 5 and 6 per cent. to the investor, and the management of French finance has been in the last seventy years a matter of common admiration by all engaged in the study of that science.

But here the honorable Senator from Missouri asks how can you refuse to issue your bonds at 3 per cent. payable in thirty years. The terms of the 4 per cent. bonds of the United States were, in the law before me, that "after thirty years from the date of their issue" they were to be paid, but not before. Therefore if you will substitute for the policy of prompt and rapid extinguishment as fast as practicable of the public debt, the doctrine that a permanent public debt is not a permanent injury, unquestionably by stretching your operation over a long space of time you can negotiate at a lower rate of interest. There is no doubt about that. But between the two Houses it has not been a question only of the rate of interest per annum, but it has been a question as to the length of the time of the obligation. This bill as it came to us, the Senate will see, provided for paying the $400,000,000 of bonds at the pleasure of the United States after five years and payable in ten years; 5-10 was the term, at 3 per cent., 5-20 is the term proposed by the Senate Committee on Finance at 3½ per cent. The four percents, whose premium has been stated here by the honorable Senator from Missouri with entire accuracy at about thirteen, the Government has no option to redeem whatever may be the favorable condition of which it may seek to avail itself. He is even leaving out of his calculation, I submit to him, one of the most important elements for the diminution of the charge of interest; he is leaving out of his calculation the permanence of this debt, its perpetuity for thirty years. He is dealing to-day in his mind with a bond payable in five years at the option of the Government, and in twenty years absolutely. How can he then discuss this rate without discussing at the same time the length of time for which the investment is to remain secure and undisturbed?

Transmuting your investment in 4 per cent. bonds payable in 1907, thirty-year bonds of the United States into their value, you have a shade of interest to the investor higher than that proposed by the Senate Committee on Finance upon this bill. Supposing the 13 per cent. premium to be at this time a fair average and not a high fluctuation caused by an abnormal condition of affairs from the pressure of an apprehended lower-rate bond, for a bond at a lower rate necessarily puts a higher price on bonds bearing a higher rate; but leaving that out and spreading that 13 per cent. over thirty years, what is the result? When you consider the loss of the premium you have paid, at the end of that time, you have that which at the utmost is more than equal in its return to the investor than the rate of interest proposed by this committee.

Mr. WILLIAMS. The 4 per cent. bond to-day has but twenty-six years to run, and if you pay $114 to-day for a one-hundred-dollar bond the premium is only ¼ per cent. a year. Considering the time it will have to run, the premium at ¼ per cent. a year reduces the bond to a 3¼ per cent., to say nothing of the loss of interest on the fourteen-dollar premium. My friend from Connecticut has made the calculation and says it amounts to 3.15 per cent.

Mr. BAYARD. The Senator still leaves out of consideration the length of the bond.

Mr. WILLIAMS. But the bond has but twenty-six years to run.

Mr. BAYARD. To an investor the premium, as well as ultimate return, is a question to be considered.

Mr. INGALLS. Mr. President, in the very interesting statement of the Senator from Delaware this morning I did not gather from him how much the United States would need to pay its matured obligations during the next six months. I find by referring to the annual report of the Secretary of the Treasury that there is redeemable a certain amount in excess of $600,000,000 on the 30th of June, 1881, and on the 1st of May, 1881, but I find nowhere a statement of the amount of money we are compelled to raise in order to meet obligations that will then mature, and I would like for the purpose of information to know exactly what the condition of our accounts is, and what it is necessary to have in hand on the 30th of June to meet matured obligations.

Mr. BAYARD. If the Senator will turn to page 10 of the report of the Secretary of the Treasury he will find the figures. I stated them in the opening of the remarks I addressed to the Senate.

Mr. INGALLS. The Senator stated how much was redeemable but not how much was payable. What I desire to know is, how much money we must have in hand on the 30th of June to meet matured obligations of the United States.

Mr. BAYARD. I understand the Senator wants to know how much is absolutely due.

Mr. INGALLS. Yes, sir. Obligations, I mean, that would otherwise be dishonored.

Mr. BAYARD. The statement is this:

Loan of February, 1861, 6 per cent., payable December 31, 1880, $13,414,000.

That, I understand, has been paid out of the accruing revenues. There then is what is termed the Oregon war debt due the 1st day of July, 1881, of $710,500. Then come the debts which are redeemable at the option of the Government and not compulsorily payable, which are the debts we now have under consideration, amounting to about six hundred and thirty-six million dollars.

Mr. INGALLS. Then the only amount which is due and payable within the next current year is about seven hundred and ten thousand dollars?

Mr. BAYARD. Yes, that is all of it I think.

Mr. INGALLS. And when is the $600,000,000 due?

Mr. BAYARD. I shall have to look back to find the date of the various acts to see when they are compulsorily payable.

Mr. INGALLS. It is a very important fact for us to have in hand to know when this sum is due.

Mr. BAYARD. The public debt statement will show the history of that. All we are considering in this bill is not whether we have to pay this money before the 1st of July, but whether if we have the opportunity to fund at a lower rate of interest, it is or is not advisable for that purpose. I will send the Senator the dates of the absolute maturity of all these loans. The table I suppose will be in the ordinary statement of the public debt. I shall have to go back to examine the statutes to find the option.

Mr. WILLIAMS. I understand the debts are merely payable, that is the Government has the option in July to pay them, but there is no compulsion, and we can keep them out as long as we choose. In the bonds themselves it is not compulsory on the Government to pay them at all; it is merely optional with the Government in May and July next on these particular bonds.

Mr. BAYARD. I will say to the honorable Senator from Kansas, [Mr. INGALLS,] that the funding act of 1870 shows the date of the absolute maturity of the bonds that we propose under our option to redeem now.

Mr. PLUMB. Mr. President, the question now under consideration is the question of the rate of interest which the Government will pay on its funded debt; and that question is of significance in two ways: First, as affecting directly the Treasury of the United States in regard to the amount of the interest, and, second, as affecting the rate of interest which the people of the United States shall pay upon obligations assumed in their ordinary business transactions. If I approached the consideration of this question with reference only to the rate of interest the Government shall pay, I would doubt the advisability of any funding law at all. As has been developed in the colloquy which ensued between my colleague and the Senator from Delaware, the Government of the United States does not owe any money which is payable during the next year or during any period of time within ten years.

Mr. EDMUNDS. Or any period at all under the funding acts.

Mr. PLUMB. In other words, the Government has got the option of carrying the debt now outstanding as long as it chooses at the current rates, and it has the right to pay it at any time it chooses after the 1st day of next July. During the years that have elapsed since the war closed the Government has paid at the rate of about sixty million dollars a year of the public debt. During the flush times that immediately followed the war, and during the hard times of 1873, and following all the way through, it has paid this yearly average.

The amount of the debt drawing 5 and 6 per cent. interest, respectively, now outstanding, and which the Government has the option of paying this year, is stated by the Senator from Delaware at $637,000,000. We have in the Treasury of the United States at least $100,000,000 which we can properly and safely apply toward the discharge of that debt. We shall have between now and the time when the Government has the right to exercise its option at least $50,000,000 of excess of revenue that can be applied in the same way. If we are going to fund the debt, we need not provide for more than $500,000,000 by the issue of new securities to take the place of those two classes of bonds.

If the amount outstanding after these payments are made is equal with respect to the different classes, that is to say, if there are $250,000,000 of 5 per cent. bonds and $250,000,000 of 6 per cent. bonds, the average rate of interest that the Government would continue to pay would be 5½ per cent., and if it continued to pay off the debt at the usual average it could discharge the whole $500,000,000 in eight years, making the average rate of interest for that time not over 2¾ per cent. Therefore the Government can make money in the sense of saving in the payment of interest by paying every year the amount of money which it has heretofore been paying in the discharge of the public debt, and not funding it at all. Besides the ability of the country to pay now is much above the average of the last sixteen years, and during the next ten years we should pay off the debt at the rate of $100,000,000 per annum. This, with the payment which can be made out of cash idle and unnecessary in the Treasury, would discharge the whole of the debt now under consideration in six years at the outside.

As I said, if I were to look at the question from the stand-point of the public Treasury alone, I would say no funding whatever; and I do not understand that there is any question of honor or dishonor involved in the proposition at all. The Government reserved to itself an option, but it did not obligate itself to exercise it. The persons who hold these securities will be glad to continue to hold them until such time as the Government is willing and able to pay them. But I am in favor of paying this debt if the means can be provided at a proper rate of interest, because I desire to establish as far as the Government can do it a low rate of interest for the purpose of the effect

it will have on the rate of interest to be paid between private individuals in their business transactions.

The question of the rate of interest to be paid in a given transaction may be of little account. If a man is going to buy a piece of property which he can turn off at a large profit within a short period of time, any rate of interest which leaves him a profit he may be able and willing to pay; but the great mass of the people of the United States who borrow money at a rate of interest which bears hard upon them are the farmers. Their interest accumulates every day in the year, their business is done upon the smallest possible margin, it is subject to many contingencies that do not apply to any other business, and everything which tends to lower the rate of interest upon farm mortgages is a matter of very great public interest and of great public benefit.

So far, then, as this question may be said to relate to the question of the rate of interest to be paid by the people at large, and especially on long mortgage loans, I would be in favor of funding, provided we could hit upon a rate of interest which would be low enough and still accomplish the purpose.

Mr. BECK. Will the Senator from Kansas allow me to ask him whether he has seen the report of the interview of the Finance Committee of the Senate and the Secretary of the Treasury, wherein all the argument the Senator is now making about the saving by funding and allowing it to run and paying $100,000,000 a year is answered, I think, very satisfactorily? Has his attention been called to that?

Mr. PLUMB. If the Senator desires, I will yield to have him read it.

Mr. BECK. I merely desired to send it over to the Senator so that he might look at it.

Mr. PLUMB. I am much obliged to the Senator.

Now we come to the question as to whether we can negotiate a loan at 3 per cent. As the Senator from New Jersey said, it seems a little remarkable after the talk about the relative value of a long and short loan to find the committee recommending a bill which fixes the rate on the long loan at 3½ per cent. absolutely, while on the short loan it is provided that the rate shall not exceed 3½ per cent.; evidently an intimation that we may get off the short loan at a lower rate of interest than 3½ per cent.

As I before said, we shall not need to fund over $500,000,000 in order to provide fully for all the debt which we have the option to pay during the present year. We shall therefore pay off $650,000,000 by the use of surplus funds on hand and the issue of $500,000,000 new securities. The money now invested in Government bonds will naturally seek reinvestment in the same direction; and besides there is a constant accumulation of funds seeking that form of investment. Men do not take a Government bond so much because of the rate of interest as because it combines the elements of safety and convertibility which can be found in no other security. I believe that we can to-day float a Government loan under all the circumstances at one-half per cent. less than the government of Great Britain can. And why? Not because capital is less remunerative in this country than in Great Britain, as a rule, but because ours is the only Government in the world which is cutting down its debt; it is the only Government in the world whose income is steadily increasing; it is the only Government in the world whose resources are constantly and largely increasing.

When a man gets a large sum of money, very much of his concern then is to take care of it, to make it safe. It is a question with him not as to how high a rate of interest he can get on it, but as to how he can best keep safely what he has already acquired. There is no kind of security which approaches in these elements of security and convertibility the Government bond, and the amount of money which is obliged to be invested in Government bonds in order to meet the conditions I have named is beginning to outrun the opportunity for such investment.

Something has been said about the rates the Government bonds now bear. My figures differ from those of the Senator from Delaware. If the premium on the four percents is 14 per cent., as it has been within the last few days, then the loss of the premium alone during the twenty-six years the bond has to run is over one-half per cent. per annum. Then you have the interest on the premium, and that cuts it down to 3 per cent. or perhaps a little under 3 per cent. So that now the 4 per cent. bonds of the Government at current prices are only yielding their holders the rate of interest proposed by the House bill.

When the 4 per cent. bonds were about to be issued, the question was widely discussed as to whether a bond bearing so low a rate of interest would float at par. I think then the sentiment of men who were supposed to be posted, including the Secretary of the Treasury, was as emphatically expressed to the effect that the 4 per cent. bonds could not be sold at par as the sentiment is now expressed that a 3 per cent. bond cannot be sold at par. Rates of interest were as high in proportion then as now, and the discussion proceeded upon the basis of that rate as it does now, and also, as now, upon the expression by capitalists that the loan could not be floated; but it did float easily and is now at a great premium, and the experience of that time will be repeated if opportunity is given. It will again be found not to be so much a question of what investors are willing to take as to what the Government will pay. This determination by the Government as to what it would pay was then potential, because it offered the only kind of security which answered a certain purpose, and the determination of the Government now to pay but 3 per cent. will prove equally conclusive, for the debt has meanwhile diminished, while the money necessarily seeking that kind of investment has largely increased.

The conditions here are different from those existing elsewhere. The debts of all other countries are increasing, at least none are considerably diminishing. The opportunities for investment in the obligations of other governments are not diminished; they are the same from day to day; they do not need to be sought after to be had. A man in London, or in the financial centers of the continent, does not hesitate to sell a government obligation if present opportunity exists for a more favorable investment, even if temporary in character, for he knows that he can buy back the bonds so sold next day or next month; he knows they will not have been paid off; and besides they bear such a proportion to the active capital of the countries issuing them that they cannot much enhance in price within short periods of time. There is no parallel in the financial history of any nation to the increase of United States securities during the past two years. This is not due to the fact that the Government is better able to pay, but because the debt has been rapidly diminished. At the rate we are now paying off, in twenty years there will not be one dollar of the debt left. Therefore the man who hereafter sells a Government bond will calculate in fixing the price upon the possibility of his not being able to buy another, and especially on the enhanced price he will have to pay to replace it on account of the rapid disappearance of the debt.

It is a debt which was $3,000,000,000 a short time ago; it is nearly half less now; and by the 1st of July next it will be $150,000,000 less than it is to-day. Consequently the area, so to speak, of investments of this kind is constantly shrinking, while the money that is seeking investment of this kind is as constantly increasing. Men say they will not do so and so. Very well; the Government does not need to have them do so and so. It can say as it did in regard to the four percents: "Three per cent. is all we can afford to pay; if you cannot afford to take it, then take the premium off the bonds you now hold, because we are going to take them up just as fast as we can realize the money out of the revenues of the Government to do it," and with that sort of option before the capitalists of this country they will take these bonds. The people of the United States mean to pay off this debt, steadily but rapidly, so as not to have their financial interests disturbed by its existence, and if there is higgling about the rate of interest taxes can readily be imposed in new quarters, which will speedily dispose of the question of principal and interest both at the same time.

The certificates that are mentioned here furnish a class of securities—if I may call them such—that I would be glad for some purposes to have issued. With $500,000,000 as the debt to be paid, I do not think the Government will ever need to issue more than $250,000,000 of 3 per cent. bonds or bonds bearing any other rate of interest. If it will issue $250,000,000 of these certificates, every contractor who deals with the Government, every man who sits on this floor, every man to whom the Government owes an obligation, would be glad to take them in discharge of that obligation, and he would pay them out as the 7.30 notes were paid out, as the 3 per cent. certificates were paid out at a later period. They would go into the hands of the grocer, the baker, the butcher, and merchants generally, and by the time they have got around to the banks for deposit, at the end of thirty or sixty days, they will have an appreciable amount of interest due on them; and I think I know enough about banking to know that when a banker finds an obligation of that kind floating around, with accumulated interest on it, he does not pay it out again, he puts it in his vault because of the profit there is in the transaction. Two hundred and fifty million dollars of these certificates would float in that way and perform the office of currency while in circulation, and when they once take up their lodging-place they will never leave it until the Government calls them in for redemption; they will market themselves without commission.

The men who hold the $637,000,000 bonds outstanding and which it is proposed to redeem want something in their place, and they want a Government obligation. It is not credible that if you take up half of them, if we only issue bonds to the amount of half or less than half this amount, those holders will not take them at any rate of interest we are willing to give. They have their money invested in Government bonds as a matter of security, and they will not wholly change the form and amount of their investment if they can avoid it.

As I said before, the great consideration in all this question is the fact that whatever rate the Government pays the private rates accommodate themselves to. A 3 per cent. Government rate means 5 per cent. on bond and mortgage east of the Mississippi and a maximum rate of 6 per cent. west of that stream. There is one great interest in this country which has not yet felt what is called the "business boom," and that is the real estate interest, and especially the real estate interest of that great section of the country west of the Alleghany Mountains. A low rate of interest means higher prices for land; it means practically higher prices for the products of the land; it means safer times and better times for the men who cultivate the land; and in their interest, if there was no other interest at stake, we ought to fix this rate of interest as low as it possibly can be fixed, in order that they may benefit and not burden from our action.

Mr. WALLACE. Mr. President, we have $637,000,000 that we can fund bearing 5 and 6 per cent. interest. The question for us to

determine, and it was one that the Finance Committee took into consideration, is what is the best rate at which we can float a bond. The majority of the committee settled upon a 3½ per cent. bond. It was not a unanimous report; some of us differed. The whole question for us to determine is whether we can with the credit of the Government float a 3 per cent. bond. If we can we ought to do it; there ought not to be any hesitancy about our attempt to do it. The two classes of securities provided for by the bill are, first, the Treasury notes, running from one to ten years at a rate not exceeding 3½ per cent. These notes will be paid, it is to be presumed, under the direction of the Treasury in ten annual installments. Then we have the requirements of the sinking fund in addition.

Mr. BAYARD. May I state to my friend a correction? I understand that any of those bonds may be payable at the end of five years. The Treasury notes may be payable at the end of a single year or in ten years at the option of the Government.

Mr. WALLACE. That only makes it that much the better. We have $300,000,000 of notes, then, that we may take up in the first year. We have a large amount of pensions to pay, and we have the requirements of the sinking fund to comply with. It seems to me the first mistake we make is in providing for the redemption of these bonds in five years. What we want to do is to commence at the end of ten years, having an abundance of our obligations to redeem during those ten years in the form of the certificates, in the form of the requirements of the sinking fund, and we should commence to redeem at the end of ten years. If we make the bond redeemable beginning at the end of ten years and payable at the end of forty years, no man on the floor of the Senate would doubt that such a bond would float at 3 per cent.

Mr. HILL, of Georgia. Why not make them payable at the end of thirty years?

Mr. WALLACE. It is possible to make them payable at the end of thirty years, but to be certain of it my view of the case is that we ought to make this a 3 per cent. loan redeemable at ten years and payable at the end of forty years, certainly not longer than forty years. I am as anxious to get rid of this indebtedness as any man on the floor of the Senate or as any citizen can be; but why shall we deprive ourselves of the advantage of a long option of ten years when we have abundance of obligations that mature pending the ten years in the form of the Treasury notes and in the form of the requirements of the sinking fund? I cannot for my life understand why we should deprive ourselves of that option. Hence I was in favor of the idea, as I am now, that a 3 per cent. bond redeemable at ten years and payable at the end of forty years is the security that we ought to make when we issue a bond.

I agree fully with the conservative views of the Senator from Delaware. He is eminently a safe financier, and I agree fully with the view that he takes in regard to what the country should adopt as to its future; but we must measure the credit of this country by what really exists. When you can go into the markets of New York with a Government bond and borrow money at 2½ per cent. on that bond as collateral——

Mr. BAYARD. On call.

Mr. WALLACE. On call, I agree; but when you can go there with that bond and borrow money at that rate of interest, it seems to me it is perfectly safe for us to put into the market a bond bearing 3 per cent. interest running ten years. We do not want our bonds to stand much above par; we want them to stand at par. I agree to no policy that would drive our bonds below par in the market, but these bonds will stand at par and something above it, or I am mistaken, looking at the present and the past.

I simply wished to state my position in regard to the rate of interest and the length of time these bonds were to run. As to the fifth section of the bill, which we shall reach in the future consideration of this measure, I agree fully with the action of the committee. I am for no coercive measures on any money interest in this country. On the contrary, every interest should be free, being entirely at liberty to take any security of the Federal Government that it sees fit to take, and it should not be coerced into the taking of a security. This is the only true policy for us. The credit of the Government is abundantly sufficient to enable us to float our indebtedness at the lowest rate known in the world. It seems to me that on a careful consideration of the situation we can safely take the risk of putting before the country a 3 per cent. loan redeemable in ten years and payable after forty.

Mr. BECK. Mr. President, I am a member of the Committee on Finance. I have attended its deliberations, and as a member of that committee I listened as carefully as I could to all the arguments made on all sides of this question, and I confess that I had a good deal of difficulty in determining as to what is best. There is a very large class of men in the country, men very influential, who are now the holders of the 5 and 6 per cent. bonds of the Government, that do not want us to pass a funding bill at all, because if they can only postpone for a year the passing of any funding bill, they will draw out of the Treasury of the United States over $12,000,000 in the shape of interest, more even than would be taken out of the Treasury by funding the debt at 3½ per cent. Of course whatever pretenses they make they do not want to lose that $12,000,000 for the next year. They are supported also by a number of men associated together as national bankers, who are afraid that they are about to be compelled to take 3 per cent. bonds, and they will endeavor to make a 3 per cent. bond a failure.

I have no doubt that persons came before us telling us that there was no doubt of a 3 per cent. bond being able to be carried and saying that it could be done and they knew it could be done, when they hoped that we should put it at that rate in order that they could make it a failure and take $12,000,000 out of the Treasury of the United States before Congress should meet again.

Mr. HILL, of Georgia. A million dollars a month?

Mr. BECK. A million a month. I have no doubt about that. At the same time, while I was apprehensive in that regard, I was almost persuaded by other gentlemen who I believed in good faith were representing the facts to us that we could float a 3 per cent. bond. There is just where we had the difficulty, and I desire to state frankly both sides of it. They argued with us and they showed us that the present 4 per cent. bond of the United States, with a high premium, is now paying a rate of 3½ per cent. on the market value, which was the statement of the Secretary of the Treasury.

Mr. VEST. I think the Senator is mistaken.

Mr. BECK. The Secretary of the Treasury called it 3½ per cent., and Mr. Hatch, of New York, called it 3¼ per cent., and nobody except the Senator from Missouri has told us differently from that. We had the statements of these gentlemen before us. This is a note appended to one of the tables submitted by the Secretary of the Treasury:

NOTE.—The rate of interest realized to investors in the 4 per cent. bonds, at present prices, on the assumption that the bonds will be paid as soon as redeemable, is 3¼ per cent. per annum.

Mr. VEST. What was the rate in New York then?

Mr. BECK. One hundred and thirteen; about the same as it is now. The Secretary himself advised us that we could float certainly a considerable portion of Treasury notes at 3 per cent. Therefore I did not feel willing to go above 3 per cent. when we were advised by the Secretary that we could float at least a large portion of the Treasury notes at 3 per cent., and when I saw that the four percents now were at such a premium that the income from them was down to 3½ or 3¼ per cent.

Mr. McPHERSON. What use could the Secretary expect to make of Treasury notes that he could not make of the bonds?

Mr. BECK. They can be used in a variety of ways in which bonds cannot be used. Executors, administrators, trustees, men who want to make investments for six or eight months, short loans, call loans, look for a short note such as the Treasury note proposed, which is far better for all these purposes than a bond which can be called for in five years.

Mr. HEREFORD. Will the Senator state why?

Mr. BECK. Because you can demand the money at once instead of letting it lie in the bank and getting nothing for it, and it draws 3 per cent.

Mr. HEREFORD. The bond bearing 3½ per cent. would answer the same purpose.

Mr. BECK. You take your chances in the market for selling your bond. It may be up or down, and you cannot control it, and you run the risk of the fluctuation. It is obvious, I suppose, to every gentleman in the Senate that the short bond, or delivery bond, is better than any other up to the amount to which it can be used. It was suggested by the Senator from West Virginia [Mr. HEREFORD] and by my colleague [Mr. WILLIAMS] that these notes should be perhaps receivable for customs dues, and other gentlemen seem to think they can be so used. That is a mistake. We cannot receive anything for customs dues that we cannot pay out again as legal-tender, because the money that we take in at the custom-house has to be used to pay off the current expenses of the Government.

Mr. WILLIAMS. My colleague misunderstood me about the Treasury certificates. I said that if greenbacks had been made receivable for customs they would have been at par long before they were.

Mr. BECK. My colleague is right in that; but these certificates can only be used as a short loan, and they will therefore be valuable as such.

It has been said by the Senator from Pennsylvania, [Mr. WALLACE,] my colleague on the committee, that we have ample use for all the bonds that we have got, and that we have no use for any of these bonds for ten years. That is a mistake. Senators must not forget that we have of the bonds of the United States now $730,000,000 of four percents that run until 1907. That cannot be changed. We have no right to pay one of them before 1907. These bonds furnish amply all the banks want now or ever will want, if they see fit to buy them and hold them.

Mr. HEREFORD. They have got to pay a premium for them, though.

Mr. BECK. But they have them in their hands now, and the Senator will observe that they would rather pay that premium than take a bond at 3 per cent., perhaps. They have got in their hands now $150,000,000 of these bonds, and they have now of fives and sixes $212,000,000, and would they not prefer to hold on to these fives and sixes for another year, drawing 6 per cent. and 5 per cent. interest upon them, rather than take a 3 per cent. bond?

Mr. HEREFORD. If the Senator will allow me to interrupt him, has he forgotten that in 1907, according to the rate of increase in our population, we shall have a population of 90,000,000 people? Business will increase; it will not go back.

Mr. BECK. I do not know how large a population we shall have then. We have 50,000,000 now. Then we have falling due in 1891, ten years from now, $250,000,000 of 4½ per cent. bonds. We have for the next ten years at least a thousand million dollars of other bonds than those we are now seeking to convert, nearly seven hundred and fifty million dollars of 4 per cent. bonds and $250,000,000 of 4½ per cent. bonds; so that no bank is dependent upon any bonds we are now about to issue to carry on business. Therefore that may as well be dismissed from the calculation.

Then the question is, why should we suspend, as the Senator from New Jersey desires, as the Senator from Pennsylvania and the Senator from Connecticut desire, the right to buy any of these bonds for ten years? because that is the proposition now. If we have any surplus revenue to use in that way we should have to go into the market to buy the bonds at any premium that the holders could make us pay for them until we have a right to take them in.

Mr. McPHERSON. We ought not to have any surplus revenue.

Mr. BECK. The moment you talk about taking off the duty on silks or pottery or anything New Jersey produces, a howl is raised. You cannot get rid of the question in any way except to pay the national debt, and then the taxes will come down. We now have to pay a tax of 60 per cent. on raw silk to build up two or three silk manufactories. I want to pay the debt so that there will be no necessity for that.

Mr. WILLIAMS. I wish to call my colleague's attention to a portion of the fifth section of the bill, which provides that—

From and after the 1st day of May, 1881, the 3 per cent. bonds authorized by the first section of this act shall be the only bonds receivable as security for national-bank circulation.

That is a provision of this bill.

Mr. BECK. My colleague must understand that all the bonds they have now or all the bonds they see fit to buy they will hold in spite of this bill. They are not required to give us any bond they may hold.

Mr. WILLIAMS. But if the bill passes as it came from the House, will not these bonds be the basis of their circulation?

Mr. BECK. All that is held by the Treasury and now forms a part of the securities for our national-bank circulation will still remain. There are to be no more new bonds issued after that time except the 3 per cent. bonds if that feature of the bill goes into force. That is the trouble there.

The bill provides, you will observe, for the issue of $700,000,000 of bonds and certificates. We have $637,000,000 of bonds to be refunded, but we have to take $19,000,000 of surplus revenue, or about that, for arrears of pension, and therefore it is safe to call it $650,000,000. I do not quite agree that we should issue $400,000,000 of bonds, because we can thus only issue $250,000,000 of certificates, assuming $650,000,000 to be the total amount. The whole amount of indebtedness to be provided for being $650,000,000, the proposition is, in order to make it successful, to authorize the issue of $700,000,000 and to fix the number of bonds at $400,000,000, and therefore we reduce the certificates down to $250,000,000, making $650,000,000 the total of all.

It is proposed to make no bond payable for ten years. What then have we on hand to which we can apply our surplus revenue to reduce our debt? Two hundred and fifty million dollars Treasury certificates only, while during the last fiscal year our surplus was $62,000,000. Gentlemen now say it will be $100,000,000 hereafter. If it does not increase, but remains at $60,000,000, in four years that $60,000,000 of surplus would pay off every dollar of these Treasury certificates, and during the six years that remain before the bonds fall due, if you make them ten-forties, or ten-twenties, or ten anythings, you will have to go into the market and buy whatever bonds you can buy at any price anybody may ask or extort from you, or you must keep the money idle in the Treasury. Should the Government of the United States put itself in that position? It is not good policy, I think, in a man to put his debt in such a shape that he cannot pay it off when he has the money to pay it off; so that he has to go into the market to buy it at whatever price the man sees fit to charge him for it. So of a government. As we have a surplus revenue, as there will be only $250,000,000 in the form of Treasury notes or certificates when the bill passes, and that is all that we can pay off with our surplus revenue, why should we extend it beyond five years in buying up bonds or in having occasion to mature them after the expiration of ten years? That is wherein I differ from the Senator from Pennsylvania. In ten years from this time there will be $250,000,000 of four-and-a-half percents maturing; for such we have to provide. Surely it is more important for us to reduce the interest on them or pay them off, as we have the right to pay them, in 1891, as they are bearing 4½ interest, than these bonds we are about to issue, whether they bear 3 per cent. or 3½ per cent.; and as we have $250,000,000 maturing then bearing 4½ per cent., ought we not to be in a position now to look to paying them off and saving the 4½ per cent. on that $250,000,000?

I do not believe in the coercive clause in the fifth section. I agree with the Senator from Pennsylvania that we ought not to have any debt issued that we coerce anybody to take; but I believe, if we are looking to economy and if there is any doubt that we shall be able to float a 3 per cent. bond, we can make it absolutely certain in this way, not by requiring the national banks to take no other bond and forcing them to take this to increase their business, but by making a provision that all banks which see fit to take the 3 per cent. bonds and deposit them as security for their circulation shall have that circulation at a taxation of one-half of 1 per cent. instead of 1 per cent., as they are now paying. That would be a sufficient inducement to all new banks and to many of the present banks to buy these 3 per cent. bonds and hold them as security for their circulation by giving them the benefit of having only a tax of one-half of 1 per cent. to pay upon the circulation based upon the issue of 3 per cent. bonds instead of 1 per cent., as they are now paying. You will thereby make it absolutely certain. What would be the effect of that? The difference between 3 and 3½ per cent. on $650,000,000 is $3,250,000 a year. If $300,000,000 bank circulation be secured by a deposit of 3 per cent. bonds, and we surrender the one-half of 1 per cent., that is a million and a half that we surrender, and we have the difference between a million and a half thus surrendered and the three millions and a quarter, the difference between 3 per cent. and 3½ per cent., which would be a million and three-quarters every year in our pocket, and we should have an absolute security that the 3 per cent. loan would be taken by giving the banks the benefit of the one-half of 1 per cent. on their circulation if they take the three percents. There is no coercion in that.

Mr. McPHERSON. You propose to bribe them to take it?

Mr. BECK. You bribe them no more than you do when you say that the bonds last issued shall be first called in. In order to induce men to take the bonds quickly you allow the bonds first taken to run last. Is that bribing men to take the bonds rapidly? Is it not an inducement to men to take the bonds in a fair and legitimate transaction, and give them fair benefits for thus enabling you to save as you will at 3 per cent. a year $15,000,000, enough money in the present condition of affairs to pay the Navy of the United States, over whose destiny the Senator from New Jersey presides so ably. I believe we appropriate less than that for the Navy of the United States. The difference saved is $15,339,000, according to the calculation made by the clerk of the committee. Why should we not, if there is any trouble about it, give to the banking corporations who take the 3 per cent. bonds a reduction of one-half of 1 per cent. or the tax upon the circulation based upon them, so as to make it an absolute certainty, and by so doing save $15,000,000 a year over the present system?

Mr. EATON. How much do you lose in taxation?

Mr. BECK. A million and a half on the $300,000,000 of paper issued, on them; and the difference between 3 and 3½ per cent. is, as I said, $3,250,000, or a saving of $1,750,000 by a 3 per cent. bond over a 3½ per cent. with this provision. I am looking to see how we can surely fund this debt. Nothing is so bad as to do nothing, and I am for a 3½ per cent. bond., if 3 per cent. will not do. I will have it 3 if it is possible to fund the debt at 3; if it is not possible to fund it at 3 and we can get any aid from the banks by allowing them a rebate or taxing them only one-half of 1 per cent. on circulation if they will help us, I will do that as the next best thing. I am not willing to lose the opportunity of the present favorable condition of things and continue to pay $12,000,000 annually more than need be paid.

Mr. WILLIAMS. Just one word of explanation to my colleague. I think he and I misunderstand each other; he is talking about the bill as amended by the committee and I am talking about the bill as it came from the House. I am for the bill as it came from the House, which substitutes the 3 per cent. bonds for the fives and sixes the banks may have. The interest on the fives and sixes is to cease, and therefore the banks will be compelled to take the 3 per cent. bonds or lose instead on those they have. That is my reading of it. This is the bill as passed by the House which comes to the Senate amended by the Finance Committee.

Mr. BECK. My understanding is that the bonds we seek to refund on which interest ceases will not be held by the banks any more. All the fives they now hold will be withdrawn at once; but the fours and four-and-a-halfs that they hold before the 1st of May that are not called in remain in their hands.

Mr. WILLIAMS. But look at the fifth section of the House bill:

SEC. 5. From and after the 1st day of May, 1881, the 3 per cent. bonds authorized by the first section of this act shall be the only bonds receivable as security for national-bank circulation, or as security for the safe-keeping and prompt payment of the public money deposited with such banks.

Mr. BECK. After that time, when a new bank seeks a charter, or an old bank an increase of its circulation, the Comptroller of the Currency shall not receive anything but a 3 per cent. bond; but it does not affect any of the existing banks or the existing circulation that before the 1st of May is secured by fours and four-and-a-halfs which were not called in and which have been before this received. That is the construction of it.

Mr. SAULSBURY. I desire to put a question to the Senator from Kentucky in connection with his proposition to remit a portion of the tax on circulation. I desire to ask him what inducement there is to individuals to invest in these bonds, if there is to be a discrimination between the moneyed investor of the country and the private investors.

Mr. BECK. There is no inducement held out to the banks to the injury of the private investors. They can hold now fours and four-and-a-halfs. They are holding fives and sixes now, and unless they are refunded they will continue to hold them and draw 5 and 6 per cent. interest. Now in order to make this a success I said that, rather than pay 3½ per cent., if I could get the bonds taken at 3 per cent. I would give circulation to the banks basing it on these bonds at a tax of one-half of 1 per cent. instead of 1 per cent., as at present.

Mr. SAULSBURY. I understand the Senator from Kentucky to say that he would do that to secure a 3 per cent. instead of a 3½ per cent. bond.

Mr. BECK. I said that only upon that portion of the national-bank circulation which should be secured by the 3 per cent. bonds would I do that; on all the circulation secured by 4, 4½, 5, and 6 per cent. bonds, they should pay the 1 per cent. tax as they now pay it.

Mr. SAULSBURY. The Senator from Kentucky proposes that in case they will withdraw their four-and-a-halfs and fours as security for their currency, and substitute three-and-a-halfs——

Mr. BECK. No; threes.

Mr. SAULSBURY. This portion of the tax on circulation is to be remitted on that account. Then, if they can withdraw the four-and-a-half percents, they will go into the market and sell those bonds at a premium and get the threes.

Mr. BECK. The propositions I am suggesting now for the Senate to think about for what they are worth are merely thrown out as suggestions which I made in committee as to the difficulties I saw in each of the propositions, and the efforts I was endeavoring to make to see how we could successfully refund the debt and do it on the best terms. I shall vote against the rate of 3½ per cent. now, hoping that as we go through the bill we shall make other amendments that will perhaps enable us to fund the bonds at 3. If, however, I cannot get that done, and believe when the arguments all close that the bill will be a failure unless we make the rate 3½ per cent., I shall vote for 3½ rather than have it fail.

There are many other things in connection with this bill that I might refer to. There are questions connected with the fifth section and the restoration of the two sections of the Revised Statutes that the House I think very wisely restored. I shall contend, and I think I shall show good reasons for so contending, that sections 5159 and 5160 ought to be restored, and that the Senate Committee on Finance made a mistake in striking them out, and that the fourth section of the act of 1874, which the committee has restored, ought to be repealed. I hope to show good reasons for that view; but perhaps it is too far in advance now to do it. I only rose for the time being to give a reason why I should vote against the 3½ per cent. rate and for 3 per cent., reserving the right to go back.

Now, one word as to what was said by the Senator from Kansas [Mr. PLUMB] when I called his attention to a statement of the Secretary of the Treasury, when he declared that it would be better not to refund at all than to refund at 3½ per cent., provided we continued to pay off $60,000,000 of principal a year. On that point the facts were all given before the committee in tables, and to show that there is no mistake about it, and in order that it may be looked at in the morning—for I suppose there will not be a final vote on this to-night—I present for insertion in the RECORD an extract from the statement of the Secretary of the Treasury before the committee:

I have another table here which I think would be interesting to you, and it is an answer to some arguments made in the House. I do not know that I am at liberty here to talk of what was done in the House, but I suppose the committee can. Mr. KELLEY, with a good deal of ingenuity, endeavored to show that it was not our interest to refund now, but we should, leaving the 5 or 6 per cent. bonds outstanding, just go on and pay them from the surplus revenue. In order to ascertain whether that was practical or not, I had this computation very carefully made. This shows the amount of interest we would be required to pay on the 5 and 6 per cent. bonds if they were retired at the rate of $50,000,000 per year, and that is what is proposed; and also another column showing the amount of interest to be paid on them if retired at the rate of $100,000,000 a year. It shows that we would pay on 5 and 6 per cent. bonds, if they were not refunded, but redeemed at the rate he proposes of $50,000,000 a year, $232,500,000 in interest. If paid off at the rate of $100,000,000 a year, it would be $125,500,000. If these bonds are refunded at 3½ per cent., and redeemed at the rate of $50,000,000 a year, we would pay $159,250,000 for interest.

Senator VOORHEES. At $50,000,000 a year, commencing five years from now?

Secretary SHERMAN. No, from this time on.

Senator VOORHEES. Please repeat the last statement.

Secretary SHERMAN. I say, if you authorize the 3½ per cent. bond as proposed in case the bill is amended, and apply $50,000,000 annually to redemptions, we would have paid in interest before they are all redeemed $159,250,000, which is about eighty million dollars less than we would pay under Mr. KELLEY's plan. But if we redeem at the rate of $100,000,000 per annum, we would only pay $87,750,000, or about forty million dollars less. I suppose his argument, to state it fairly, would be that we ought not to issue bonds that could not be refunded and paid off at the proper time, and in that I agree with him, but we ought to refund, saving the right to redeem in short periods.

The CHAIRMAN. He has borne in mind nothing but the aggregation of interest. That was his theory.

Secretary SHERMAN. If the bill is passed as it came from the House, and we could by a possibility sell those bonds at par, the amount of interest we would pay at 3 per cent., supposing the redemptions to be made at the rate of $50,000,000 a year, would be $136,500,000, about twenty million dollars of interest less during the whole period than on the scale of 3½ per cent.

Senator KERNAN. You would save $20,000,000 of interest.

Secretary SHERMAN. We might save $20,000,000 of interest at 3 per cent., but at the same time in negotiating your bonds, in the delay and procrastination in the sale of those bonds, we would very probably lose all or more than we might save by the difference. As a matter of course any Secretary would desire to sell bonds at 3 per cent., and I think some certificates can be sold at that rate, but it may be a serious matter if we fail in this negotiation and have to go back to Congress for power to refund at a higher rate.

*Statement showing interest payments required on three, three and a half, five, and six per cent. bonds for various periods.*

| Year. | Five and six per cent. bonds continued to be redeemed fifty millions per year.* | Five and six per cent. bonds continued and redeemed at rate of one hundred millions per year.* | Refunded at three and a half per cent. and redeemed at rate of fifty millions per year. | Refunded at three and a half per cent. and redeemed at rate of one hundred millions per year. | Refunded at three per cent. and redeemed at rate of fifty millions per year. | Refunded at three per cent. and redeemed at rate of one hundred millions per year.† |
|---|---|---|---|---|---|---|
| First | $34,500,000 | $34,500,000 | $22,750,000 | $22,750,000 | $19,500,000 | $19,500,000 |
| Second | 31,500,000 | 28,500,000 | 21,000,000 | 19,250,000 | 18,000,000 | 16,500,000 |
| Third | 28,500,000 | 22,500,000 | 19,250,000 | 15,750,000 | 16,500,000 | 13,500,000 |
| Fourth | 25,500,000 | 17,500,000 | 17,500,000 | 12,250,000 | 15,000,000 | 10,500,000 |
| Fifth | 22,500,000 | 12,500,000 | 15,750,000 | 8,750,000 | 13,500,000 | 7,500,000 |
| Sixth | 20,000,000 | 7,500,000 | 14,000,000 | 5,250,000 | 12,000,000 | 4,500,000 |
| Seventh | 17,500,000 | 2,500,000 | 12,250,000 | 1,750,000 | 10,500,000 | 1,500,000 |
| Eighth | 15,000,000 | ..... | 10,500,000 | ..... | 9,000,000 | ..... |
| Ninth | 12,500,000 | ..... | 8,750,000 | ..... | 7,500,000 | ..... |
| Tenth | 10,000,000 | ..... | 7,000,000 | ..... | 6,000,000 | ..... |
| Eleventh | 7,500,000 | ..... | 5,250,000 | ..... | 4,500,000 | ..... |
| Twelfth | 5,000,000 | ..... | 3,500,000 | ..... | 3,000,000 | ..... |
| Thirteenth | 2,500,000 | ..... | 1,750,000 | ..... | 1,500,000 | ..... |
| Total | 232,500,000 | 125,500,000 | 159,250,000 | 85,750,000 | 136,500,000 | 73,500,000 |

* Assuming that the six per cent. bonds would be redeemed first and that the amount of bonds at the beginning was $650,000,000.
† Only three hundred millions could be redeemed in the first five years under present bill.

Mr. EDMUNDS. Mr. President, this has been a very interesting and profitable discussion on both sides and has furnished a great deal of food for serious reflection. I think we ought to sleep upon it; but before I move to adjourn, I wish to ask the unanimous consent of the Senate to take up and pass, or reject as they may think it right, a bill for the relief of a widow, which has been reported here for a long time, which involves only $575, which has been reported half a dozen times in the two Houses always favorably, that has been here for years, and this poor woman is now absolutely sustained by the charity of her friends. If this money belongs to her she ought to have it, and I ask unanimous consent that the bill may be taken up.

The PRESIDING OFFICER. The Senator from Vermont asks unanimous consent to take up the bill indicated by him. The bill will be read for information.

Mr. BAYARD. That will lay aside this pending bill temporarily.

Mr. EDMUNDS. Certainly; I merely ask to have it taken up by unanimous consent, not disturbing anything.

### WIDOW OF GEORGE W. FLOOD.

By unanimous consent, the bill (S. No. 2094) for the relief of George W. Flood was considered, as in Committee of the Whole. It provides for the payment to George W. Flood, for his services as a clerk in the Bureau of Topographical Engineers, from the 1st of December, 1854, to the 16th of September, 1856, at the rate of the compensation or salary of a clerk of the first class, after deducting the amount received by him for services in the office during that period, the sum of $575.50.

Mr. EDMUNDS. I move to amend by inserting before the words "George W. Flood" the words "M. J. Flood, widow of." The poor man has died pending the pendency of this bill.

The CHIEF CLERK. It is proposed to amend the bill in line 4 by inserting "M. J. Flood, widow of."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of the widow of George W. Flood."

### AMENDMENT TO POST-ROUTE BILL.

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 7036) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

HOUSE BILLS REFERRED.

Mr. BUTLER. I move that the Senate do now adjourn.

Mr. WILLIAMS. Before the order to adjourn——

The PRESIDING OFFICER. The Chair asks the Senator from South Carolina to withdraw his motion, that the Chair may lay before the Senate some House bills for reference.

Mr. BUTLER. Certainly.

The following joint resolutions from the House of Representatives were severally read twice by their titles, and referred to the Committee on Printing:

A joint resolution (H. R. No. 378) providing for the printing and distribution of the Report of the Commissioner of Education for the year 1880; and

A joint resolution (H. R. No. 386) for printing report of the Life-Saving Service.

The bill (H. R. No. 7033) making the city of Chattanooga, in the State of Tennessee, a port of delivery was read twice by its title and referred to the Committee on Commerce.

The following bills were severally read twice by their titles and referred to the Committee on the District of Columbia:

A bill (H. R. No. 4005) to incorporate a society for the protection of children in the District of Columbia;

A bill (H. R. No. 6324) to construe an act entitled "An act to relieve the churches of the District of Columbia, and to clear the title of the trustees of such property;"

A bill (H. R. No. 6659) to authorize the Southern Maryland Railroad Company to extend a railroad into and within the District of Columbia;

A bill (H. R. No. 7031) to amend the charter of the Metropolitan Railroad Company of the District of Columbia;

A bill (H. R. No. 7032) to amend the act incorporating the Capitol, North O Street and South Washington Railway Company; and

A bill (H. R. No. 7117) authorizing the Washington and Chesapeake Railroad Company to extend its railroad into and within the District of Columbia.

UNION RAILROAD DEPOT IN WASHINGTON.

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives non-concurring in the amendment of the Senate to the bill (H. R. No. 3047) to authorize the commissioners of the District of Columbia to recommend a proper site for a union railroad depot in the city of Washington, and for other purposes, and asking a conference with the Senate on the disagreeing votes of the two Houses thereon.

On motion of Mr. HARRIS, it was

*Resolved*, That the Senate insist on its amendment disagreed to by the House, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent it was

*Ordered*, That the conferees on the part of the Senate be appointed by the Presiding Officer.

The PRESIDING OFFICER appointed Mr. WHYTE, Mr. WITHERS, and Mr. ROLLINS, the conferees.

ADJOURNMENT.

Mr. WILLIAMS. I call for the regular order of business, merely for the purpose of saving the place of the bill.

Mr. BAYARD. I ask whether as we now stand the funding bill is not the unfinished business?

The PRESIDING OFFICER. The funding bill is now the unfinished business.

Mr. BAYARD. Then I move that the Senate adjourn.

Mr. KIRKWOOD. I hope not. I want to offer an amendment.

The PRESIDING OFFICER. The Senator from Delaware moves that the Senate do now adjourn.

Mr. KIRKWOOD. I hope the Senator will withdraw that motion for a moment.

Mr. BAYARD. I will if the Senator will renew it.

Mr. KIRKWOOD. I wish to offer an amendment in order that it may be printed.

Mr. BAYARD. I have no objection, provided I do not lose my right.

Mr. KIRKWOOD. I offer an amendment to the pending bill, and ask that it be printed.

Mr. ALLISON. Let the amendment be read.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. The proposed amendment is in these words:

It shall be the duty of the Secretary of the Treasury, under such rules and regulations as he may prescribe, to authorize public subscriptions to be received, at all depositories of the United States, and at all national banks, to the bonds and to the Treasury notes herein provided for, for thirty days before he shall contract for or award any portion of said bonds or Treasury notes to any syndicate of individuals or bankers or otherwise than under such public subscriptions; and if it shall appear that more than the entire amount of such bonds and Treasury notes, or of either of them, has been subscribed within said thirty days, he shall award the full amount subscribed to all persons who shall have made *bona fide* subscriptions for the sum of —— dollars or less, and the residue ratably among the subscribers in proportion to the amount by them respectively subscribed.

Mr. BAYARD. I move that the Senate adjourn.

The motion was agreed to; and (at five o'clock and twenty-one minutes p. m.) the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 15, 1881.

The House was called to order at eleven o'clock a. m. by Mr. BLACKBURN, Speaker *pro tempore*.

Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

THOMAS SNELL.

Mr. BOUCK. I demand the regular order of business.

Mr. STEVENSON. I hope the gentleman will withdraw his demand for the regular order until I can ask unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of a bill (H. R. No. 6479) for the relief of Thomas Snell. It is a unanimous report from the Committee on the Judiciary.

Mr. WHITE. I will reserve the right to object until the bill has been read so we may know what it is.

Mr. STEVENSON. This was where a judgment was obtained, and this is a bill for the relief of one of the sureties. It is recommended by the judge of the court as well as by the district attorney. Besides, it comes as the report from the Committee on the Judiciary.

Mr. KEIFER. Is it a unanimous report?

Mr. STEVENSON. Yes; it is a unanimous report.

The SPEAKER *pro tempore*. Is there objection to the consideration of the bill?

Mr. WHITE. I want the bill read and shall reserve my right to object until after it has been read.

The bill was read.

The SPEAKER *pro tempore*. Is there objection to discharging the Committee of the Whole House on the Private Calendar from the further consideration of the bill and putting it on its passage at this time?

Mr. WHITE. I object to the bill without knowing more about it than I now do.

ORDER OF BUSINESS.

Mr. REAGAN. I demand the regular order of business as I want to proceed with the consideration of the river and harbor appropriation bill.

Mr. ATKINS. If the regular order of business is insisted upon, and it seems to be demanded by several gentlemen, I shall then move to dispense with the morning hour.

Mr. CALKINS. I rise to a question of the highest privilege.

ARMY APPROPRIATION BILL.

Mr. CLYMER. I rise to move a conference on the disagreeing votes of the two Houses on the Army appropriation bill. The Senate have insisted on their amendments to the bill (H. R. No. 6719) making appropriations for the support of the Army for the fiscal year ending June 30, 1882, and for other purposes, and have requested a committee of conference on the disagreeing votes of the two Houses. I move that request be agreed to, and that one be now appointed.

The motion was agreed to.

The SPEAKER *pro tempore* appointed as the managers of said conference on the part of the House, Mr. CLYMER, Mr. FORNEY, and Mr. HAWLEY.

UNION RAILROAD DEPOT, WASHINGTON.

The SPEAKER *pro tempore* appointed as the managers of the conference on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 3047) to authorize the commissioners of the District of Columbia to recommend a proper site for a union railroad depot in the city of Washington, and for other purposes, Mr. MILLER, Mr. HUNTON, and Mr. HAZELTON.

ORDER OF BUSINESS.

Mr. CABELL. I hope there will be no objection to my presenting a resolution for reference to the Committee on Accounts.

The SPEAKER *pro tempore*. The Chair understands the gentleman from Tennessee demands the regular order of business.

Mr. ATKINS. No, I did not demand it, but as several gentlemen did demand the regular order of business I have moved to dispense with the morning hour.

Mr. REAGAN. Yes, I demanded the regular order of business.

Mr. WILSON. I hope the gentleman will hear me for one moment.

Mr. REAGAN. If I yield to one I must yield to all the others who wish to introduce propositions.

GRANT OF LANDS FOR UNIVERSITY PURPOSES.

Mr. CONVERSE. I rise to a question of the highest privilege, and present a conference report which the Clerk will read.

The Clerk read as follows:

The undersigned, conferees on the part of the Senate of the United States and on the part of the House of Representatives, with regard to the disagreeing votes of the two Houses on Senate amendments to the bill (H. R. No. 1327) entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes," have conferred in respect to said disagreeing votes, and have agreed and recommended that the House do agree to said amendments to said bill, and each of them, and that upon such agreement said bill do pass.

GEORGE L. CONVERSE,
P. DUNN,
*Managers on the part of the House.*
J. E. MCDONALD,
J. D. WALKER,
*Managers on the part of the Senate.*

Mr. CONVERSE. The amendment to the bill simply provides that the proceeds of the sales shall not be used by these Territories until they have been admitted as States. The committee thought it a proper amendment to be made, and have concurred in its adoption. I move the report be adopted.

The conference report was adopted.

Mr. CONVERSE move to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DUTIES ON MANUFACTURES OF IRON, ETC.

Mr. REAGAN. I yield to the gentleman from Ohio, [Mr. MCKINLEY,] who is one of the committee of the House to attend the funeral of FERNANDO WOOD, and he has to leave the city, and merely asks to submit a report from the Committee on Ways and Means for reference and printing.

Mr. MCKINLEY, by unanimous consent, from the Committee on Ways and Means, reported a bill (H. R. No. 7201) in relation to the duties on manufactures of iron, &c.; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. CARLISLE. The minority of the committee ask the right to present their views hereafter, and that they also may be printed.

The SPEAKER *pro tempore*. The Chair hears no objection, and it is ordered accordingly.

W. J. SPICER.

Mr. CONGER, by unanimous consent, from the Committee on Ways and Means, reported a joint resolution (H. R. No. 401) in relation to the barge W. J. Spicer; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

A. W. C. NOWLIN.

Mr. CABELL, by unanimous consent, submitted the following resolution; which was referred to the Committee on Accounts:

*Resolved*, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund to A. W. C. Nowlin, late Assistant Postmaster of the House, a sum equal to the difference between the pay of Postmaster and that of Assistant Postmaster of the House for the period of time between the 7th of October, 1880, when the late Postmaster died, and the 14th of December, 1880, when A. W. C. Nowlin was elected Postmaster of the House, he having acted in that capacity for the time mentioned.

PHILADELPHIA AND READING RAILROAD COMPANY TAXES.

Mr. KELLEY, by unanimous consent, from the Committee on Ways and Means, reported a bill (H. R. No. 7202) to release the Philadelphia and Reading Railroad Company from the payment of certain taxes; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

CONTESTED-ELECTION CASE—M'CABE VS. ORTH.

Mr. CALKINS. Mr. Speaker, I rise to make a privileged report from the Committee on Elections. I am authorized to submit the resolution and report which I send to the Clerk's desk, and ask immediate action upon the same.

The SPEAKER *pro tempore*. The Clerk will read the resolution.

The Clerk read as follows:

In the matter of the contested-election case of McCabe *vs.* Orth in the ninth Indiana district:

*Resolved*, That the contestant, James McCabe, contesting the right of Hon. Godlove S. Orth, from the ninth congressional district of Indiana, to a seat in the Forty-sixth Congress, have leave to withdraw his papers in said contest, and that Hon. Godlove S. Orth's title to his seat in the said Congress be, and the same is hereby, confirmed.

Mr. CALKINS. This is a unanimous report from the Committee on Elections, and I move its adoption.

The SPEAKER *pro tempore*. The question is on agreeing to the resolution submitted.

Mr. TOWNSHEND, of Illinois. Do I understand the gentleman to state that this is a unanimous report from the committee?

The SPEAKER *pro tempore*. The gentleman has so stated.

The resolution was agreed to.

Mr. CALKINS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. FINLEY and others demanded the regular order.

Mr. WILSON. I hope gentlemen will yield to me for a moment to make a motion in reference to a matter which is of great public importance, and should be considered at this time.

The SPEAKER *pro tempore*. The regular order being demanded, the Chair has no option but to recognize it. The regular order is the morning hour for the call of committees.

Mr. ATKINS. I move to dispense with the morning hour.

The SPEAKER *pro tempore*. This requires a two-thirds vote.

The House divided; and there were—ayes 126, noes 32.

So (two-thirds having voted in favor thereof) the morning hour was dispensed with.

TAX ON WEISS BEER.

The SPEAKER *pro tempore*. Under the rule the call of States for the consideration of bills by consent will be proceeded with. The call rests with the State of New Jersey, the unfinished business being the consideration of the bill called up by the gentleman from New Jersey, [Mr. BLAKE,] and which was not completed at the conclusion of the morning hour on Saturday.

Mr. BLAKE. I now call up again, Mr. Speaker, for consideration the bill which was pending at the close of the morning hour on Saturday, and which had been read; the morning hour having closed while the Clerk was proceeding to read the amendments proposed thereto.

The SPEAKER *pro tempore*. The Clerk will report the title of the bill which was pending as stated.

The Clerk read as follows:

A bill (H. R. No. 6983) to regulate the collection of the tax on weiss beer.

Mr. BLAKE. This bill was printed in the RECORD of Saturday's proceedings. I now ask that the Clerk read the amendments proposed by the Committee on Ways and Means.

The Clerk read as follows:

In section 7, line 13, after the word "boxes," strike out the words, "in addition to the other brands now required by law upon packages containing fermented liquors, shall be branded upon the side in letters not less than one inch in length with the words weiss beer" and insert "shall be branded upon the side in letters not less than one inch in length, with the name of the brewer who filled them, and the place of manufacture, and also with the words 'weiss beer;' and the bottles shall have the name of the brewer who filled them blown in or otherwise stamped or marked upon them; and any brewer who shall sell or remove for consumption or sale, and any dealer who shall receive for sale, or sell, boxes or bottles not branded or marked as herein required shall be liable to a penalty of $20 for each box and of $1 for each bottle, so sold or removed for consumption or sale, or received for sale, or sold."

Mr. BLAKE. I accept the amendment suggested and demand the previous question upon the bill and amendment.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from New Jersey that the amendment will have to be voted upon.

Mr. BLAKE. I understand that; but I am simply stating that there is no objection to the amendment as far as I am concerned.

Mr. CARLISLE. Before that amendment of the committee is submitted to be voted upon, I desire to make a short statement and call the attention of the members of the Committee of Ways and Means to it. It will be observed that the amendment as reported by the committee requires the name of the brewer or manufacturer of weiss beer to be blown in the bottle. I am inclined to think, in fact I am satisfied, upon reflection since the bill was reported, that this provision ought to be stricken out. The necessary effect of the clause will be to compel all the manufacturers to lose their present stock of bottles, which will fall heavily upon and do great injustice to the small manufacturers engaged in brewing this character of beer. I suggest, therefore, that the amendment be so modified as to strike out from line 20, in section 1, the words "and the bottles shall have the name of the brewer who filled them blown in or otherwise stamped or marked upon them;" and from line 24 the words "or bottles." That is satisfactory, I am informed, to the gentleman from New Jersey in charge of the bill, and I think is a matter of simple justice to manufacturers engaged in the business who have a stock of bottles now on hand.

Mr. BLAKE. I accept the amendment.

The SPEAKER *pro tempore*. The Clerk will report the pending amendment.

The Clerk read as follows:

Strike out, in section 1, line 20, the words "and the bottles shall have the name of the brewer who filled them blown in or otherwise stamped or marked upon them;" and in line 24 to strike out the words "or bottles."

Mr. COX. I desire to say that that amendment is entirely acceptable to those who are engaged in the business. I have communications from several persons engaged in the business stating that this will meet their views.

The SPEAKER *pro tempore*. The question is on the amendment to the amendment.

Mr. BRAGG. Mr. Speaker, I make the point of order on this amendment under the pending order of business in which the House is engaged during this hour, more for the purpose of having it decided than from any other motive. Under this rule, by which bills are presented in this hour by consent, a member is authorized to present any bill, and the bill shall be considered unless there be five objections thereto. Now, a member may offer a bill to which there is no objection whatever, and thereafter there can be no objection offered, for the bill is placed in such a position under the rule that the objections then made will not prevail against its consideration. But as now proposed here, a bill which in the form as originally presented may be unobjectionable may be so amended in the House and by a majority vote as to make it entirely objectionable by the incorporation of provisions or amendments which will enlarge its nature or change its entire scope and place it in the power of the majority of the House to pass it when it would not be entertained under the rule.

The SPEAKER *pro tempore*. The Chair has the rule in his hand, and does not see that the objection made by the gentleman from Wisconsin [Mr. BRAGG] attaches. It simply requires that an opportunity shall be afforded for objection to the consideration of the bill. That having been done, and five members not having objected, the bill is clearly before the House and subject to amendment as any other measure at any other time. The Chair overrules the point of order.

The Clerk will report the amendment offered by the gentleman from Tennessee, [Mr. DIBRELL.]

Mr. CARLISLE. Before the amendment the gentleman from Tennessee proposes can be received or voted upon, the House must first dispose of the amendment proposed by the Committee on Ways and Means. My amendment is an amendment to the one proposed by that committee.

The SPEAKER *pro tempore*. The amendment offered by the gentleman from Kentucky is first in order, as it is an amendment to the amendment coming from the Committee on Ways and Means.

Mr. BLAKE. I accept that amendment and call for the previous question.

The SPEAKER *pro tempore*. The gentleman from New Jersey calls for the previous question on the pending amendment.

Mr. COX. Is the pending amendment that offered by the gentleman from Kentucky, [Mr. CARLISLE?]

The SPEAKER *pro tempore*. The amendment offered by the gentleman from Kentucky has been agreed to, and the amendment now pending is that offered by the gentleman from Tennessee, [Mr. DIBRELL,] and upon that the gentleman from New Jersey [Mr. BLAKE] demands the previous question.

Mr. BLAKE. The Chair has misunderstood me. I have not accepted the amendment offered by the gentleman from Tennessee. I accepted the amendment offered by the gentleman from Kentucky.

The SPEAKER *pro tempore*. The Chair understands the gentleman from New Jersey has not accepted the amendment offered by the gentleman from Tennessee. The question is on agreeing to the amendment offered by the gentleman from Tennessee. Does the gentleman from New Jersey demand the previous question?

Mr. BLAKE. I did demand the previous question.

Mr. McMILLIN. I desire to know if the objections for which the rule provides have been called for as to this bill?

The SPEAKER *pro tempore*. The Chair cannot answer of his own knowledge; for this bill came over as unfinished business from Saturday. The Chair takes it for granted the bill would not have been under consideration under the rule except properly after an opportunity of objection by five members had been offered.

Mr. McMILLIN. My recollection is it had not reached that stage. The first thing we entered upon this morning in connection with this bill was the reading of it, which precedes the opportunity for objections.

The SPEAKER *pro tempore*. The Clerk informs the Chair the gentleman from Tennessee is correct; that the morning hour on Saturday expired while the bill called up by the gentleman from New Jersey [Mr. BLAKE] was being read, and that objections had not been called for. Such is the information given by the Clerk; so that the Chair has no hesitation in saying that the opportunity for objections still belongs to the House. The Chair will now ask whether there be objection to the consideration of this bill.

Mr. McMILLIN. If the bill is to be put under the operation of the previous question so as to cut off the amendment of my colleague [Mr. DIBRELL]——

The SPEAKER *pro tempore*. This is not a matter of debate. Is there objection to the consideration of this bill? [After a pause.] The Chair does not count five gentlemen rising to object. The bill is before the House, and the question is on the amendment offered by the gentleman from Tennessee.

Mr. WARNER. Let that amendment be reported.

The Clerk read as follows:

*And provided further*, That from and after the 1st day of July, 1881, the tax on brandy distilled from fruit shall be fifty cents per gallon, to be assessed and collected as now provided by law.

Mr. BLAKE. I make the point of order on that amendment that I had demanded the previous question before the amendment was offered.

The SPEAKER *pro tempore*. The gentleman was not entitled to demand the previous question until after opportunity for objection had been given; and the amendment offered by the gentleman from Tennessee is in possession of the House.

Mr. BLAND. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. BLAND. It is whether any bill affecting the revenues must not have its first consideration in Committee of the Whole.

The SPEAKER *pro tempore*. The Chair holds the gentleman from Missouri is correct in the statement he makes; but his point of order comes too late. The bill is in possession of the House and in process of consideration, and it is too late to make that point of order.

Mr. BLAKE. I make the further point of order that another bill is now pending before the House containing a similar provision or identically the same provision. I cannot give the object of the bill, but I am so advised by members of the Committee on Ways and Means.

Mr. DIBRELL. If there is any such bill I demand its production. I have never seen or heard of it and I deny its existence.

The SPEAKER *pro tempore*. The Chair cannot entertain the point of order unless information is furnished showing that there is such a bill pending substantially the same as the amendment now offered.

Mr. BLAKE. It is identically the same.

The SPEAKER *pro tempore*. The Chair will ask the gentleman to furnish the bill which he says contains the substance of the amendment.

Mr. ATKINS. I make the point that the proceedings of the House must go on; that they cannot wait upon the gentleman from New Jersey. There can be no interruption in the proceedings of the House. I demand the regular order.

Mr. BLAKE. I call on the gentleman from Kentucky [Mr. CARLISLE] to verify the statement I have made.

Mr. CARLISLE. What was the statement?

The SPEAKER *pro tempore*. The Chair has no information as to bills pending in the Committee on Ways and Means. Nor can the Chair sustain the point of order unless that information be furnished for lack of which the Chair must necessarily overrule the point of order.

Mr. TOWNSHEND, of Illinois. I desire to move an amendment to the amendment of the gentleman from Tennessee.

Mr. BLAKE. The point of order that I made against the amendment of the gentleman from Tennessee [Mr. DIBRELL] was that there is now pending before this House a bill containing the same or substantially the same provision. The Chair called upon me to produce the bill or state the number of it, which I am unable to do. I call now upon the gentleman from Kentucky, [Mr. CARLISLE,] a member of the Committee on Ways and Means, to verify my assertion that there is pending at this time before that committee a bill containing the same or substantially the same provision as the amendment offered by the gentleman from Tennessee.

The SPEAKER *pro tempore*. The Chair must say to the gentleman from New Jersey [Mr. BLAKE] that he does not recognize any right to accept any statement upon general information. The Chair has decided and overruled the point of order made by the gentleman, and has given as his reason for so doing that he has no information of which he can take cognizance that there is a bill pending before the House substantially the same as the amendment offered by the gentleman from Tennessee, [Mr. DIBRELL.]

Mr. TOWNSHEND, of Illinois. I move an amendment to the amendment of the gentleman from Tennessee.

The SPEAKER *pro tempore*. The amendment will be read.

The Clerk read as follows:

That the tax on salt be reduced to one cent per ton.

Mr. CONGER. I desire to make another point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. CONGER. My point is that the subject-matter of the amendment of the gentleman from Tennessee [Mr. DIBRELL] is not germane to the subject-matter of this bill.

The SPEAKER *pro tempore*. The Chair thinks the point of order comes too late.

Mr. CONGER. I rose in my place and stood ready to make it while the Chair was deciding another point of order. There must be an opportunity to submit points of order.

The SPEAKER *pro tempore*. The Chair thinks full opportunity was furnished.

Mr. CONGER. But it was only just this moment that the amendment was again read so I could hear it.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Michigan [Mr. CONGER] that he is not prepared to say that he would not have sustained his point of order, and ruled the amendment of the gentleman from Tennessee out of order as not being germane to the subject-matter of the bill, if it had been made in time.

Mr. CONGER. Then I call upon the Chair to submit the amendment to the House and ascertain whether there are five objections to it.

The SPEAKER *pro tempore*. The Chair does not so understand the rule.

Mr. CONGER. The Speaker of this House declared in his place that when that question came up he should feel inclined to submit to the House——

The SPEAKER *pro tempore*. The present occupant of the chair is bound by nothing but the rules of the House. The new rule under which these bills are being considered requires that each bill shall be subjected to the test of five objectors or more. The rule does not require that amendments which may be offered to such bills shall be subjected to such tests.

Mr. CONGER. That point is now pending before the Chair, and the Chair is bound to recognize what his predecessor, the Speaker of this House, has agreed to submit to the House.

The SPEAKER *pro tempore*. The gentleman from Michigan [Mr. CONGER] will permit the Chair to say——

Mr. CONGER. And if the present occupant of the chair was not in the House at the time, and did not know what occurred, he must take the statement of members on that subject.

The SPEAKER *pro tempore*. The gentleman from Michigan [Mr. CONGER] will permit the Chair to state that the present occupant of the chair has no disposition to overrule or take issue with any decision made by any predecessor. But the gentleman is mistaken; the Chair is not bound to observe anything but the rules of this House, and the Chair overrules the point of order.

Mr. CONGER. Then I appeal from the decision of the Chair.

The SPEAKER *pro tempore*. Which appeal will be submitted to the House.

Mr. CONGER. And I trust that the action upon the appeal will consume the remainder of this hour, so that we may have a presiding——

Mr. TOWNSHEND, of Illinois. I move to lay the appeal on the table.

The SPEAKER *pro tempore*. The gentleman from Michigan will reduce his appeal to writing.

Mr. CONGER. I will do so. [And sat down at his desk.]

Mr. TOWNSHEND, of Illinois. I have moved to lay the appeal on the table.

The SPEAKER *pro tempore*. The question is on laying the appeal on the table.

Mr. BURROWS. In order that nothing may be waived, I desire now to make a point of order against the last amendment in relation to the tax on salt.

Mr. TOWNSHEND, of Illinois. What is the point of order on that amendment?

Mr. BURROWS. I desire to reserve the point of order.

Mr. FRYE. I trust we may have order for a moment; there is something pretty important pending just now.

The SPEAKER *pro tempore*. It is impossible to have order unless members will themselves assist in maintaining it.

Mr. FRYE. I understand that a point of order was made—well, not against any amendments strictly speaking; but a point of order was made that every amendment offered to a bill pending under this rule must be submitted by the Chair for objections, and that the Chair overruled that point of order. Is that right?

The SPEAKER *pro tempore*. The gentleman from Maine [Mr. FRYE] will understand that the Chair held that under the call of States no bill could be considered by this House without an opportunity being offered for objections to it.

Mr. FRYE. That is in relation to the original bill. I understand that the gentleman from Michigan [Mr. CONGER] made the point of order that no amendment could be considered until it had been presented to the House for objection; and I understand that the Chair overrules that point of order.

The SPEAKER *pro tempore*. The Chair does.

Mr. CLYMER. And the Chair is right.

Mr. FRYE. And I understand that an appeal is entered to that ruling.

The SPEAKER *pro tempore*. That is the fact.

Mr. FRYE. Is that open for discussion?

The SPEAKER *pro tempore*. It is not. A motion to lay the appeal on the table is now pending; and the Chair is waiting for the gentleman from Michigan to furnish the appeal in writing.

Mr. FRYE. I think the House can readily see that if this appeal is not sustained this rule is gone absolutely.

The SPEAKER *pro tempore*. Does the gentleman desire to debate the motion to lay the appeal on the table?

Mr. FRYE. No, sir; I desire to debate the appeal.

The SPEAKER *pro tempore*. The appeal itself is not now pending.

Mr. CONGER. I hold the floor making any appeal; and while I am reducing it to writing, under the direction of the Chair, no gentleman can get the floor to move to lay it on the table. It is not yet in the possession of the Chair.

The SPEAKER *pro tempore*. The Chair has entertained the appeal.

Mr. CONGER. I hope the Chair will protect my rights while I am fulfilling the orders of the Chair.

The SPEAKER *pro tempore*. The Chair will endeavor to protect the gentleman in every right.

Mr. TOWNSHEND, of Illinois. How long are we required to wait for the gentleman from Michigan?

The SPEAKER *pro tempore*. Debate is not in order. The Chair has asked that the Clerk be furnished with the appeal in writing. The appeal being in the possession of the House was recognized by the Chair, and a motion was made by the gentleman from Illinois to lay that appeal on the table, which motion is now the only motion pending before the House.

Mr. CONGER. Now, Mr. Speaker, from that decision likewise I appeal.

The SPEAKER *pro tempore*. The gentleman will send up his appeal in writing.

Mr. CONGER. I hope the Chair will not go on with business so as to take advantage of my legal rights on this floor.

The SPEAKER *pro tempore*. The gentleman will have all his rights; but certainly he is parliamentarian enough to know that more than one appeal cannot be pending before the House at one time.

Mr. CONGER. Neither can one motion be pending until the other has been submitted to the House. I am preparing my appeal, which the Chair required me to reduce to writing. The Chair cannot go on with business very successfully while I am doing that.

The SPEAKER *pro tempore*. The Chair is waiting for the gentleman to reduce the appeal to writing and furnish it to the Clerk.

Mr. ROBINSON. Mr. Speaker——

The SPEAKER *pro tempore*. For what purpose does the gentleman from Massachusetts rise?

Mr. ROBINSON. I desire for the instruction of the House to have read a bill which was offered by Mr. BLACKBURN, of Kentucky, and is now pending in the House.

The SPEAKER *pro tempore*. That is not in order now. But the Chair will have it read if the gentleman will furnish it to the Clerk.

Mr. ROBINSON. I would like the House and also the Chair to hear the bill.

The SPEAKER *pro tempore*. It shall be read as soon as the matter now pending is disposed of.

Mr. CONGER. Mr. Speaker, [reading,]

The gentleman from Michigan demanded that the amendment of the gentleman from Tennessee be submitted to the House for five objections as if an original proposition. The Chair decided that the amendment need not be submitted to five objections. The Chair overruled the point of order and refused to ask for objections to the amendment.

I think I have stated the matter correctly.

From this ruling Mr. CONGER appealed.

I believe that is a correct statement of the question. Now, Mr. Speaker, I desire to speak upon my appeal.

The SPEAKER *pro tempore*. The gentleman will not claim the right to be heard on an appeal when a motion to lay that appeal on the table is pending.

Mr. CONGER. Mr. Speaker, I had the floor and had not even presented my appeal.

The SPEAKER *pro tempore*. The gentleman knows, if he will look at the rules prepared by a committee of which he is now a member, as well as in the light of the practice which his long experience has witnessed here, that a motion to lay on the table is entertained whenever it is made. The gentleman from Michigan had stated his appeal. He was not holding the floor. The gentleman from Illinois was recognized, his motion was entertained, nor was objection made to the entertainment of it until after that gentleman had resumed his seat.

Mr. CONGER. Now, will the Chair hear me? The Chair has not yet even stated to the House the appeal; and no motion regarding it can be made until it is in the possession of the House.

The SPEAKER *pro tempore*. The gentleman from Michigan is mistaken in his facts. The Chair stated the appeal to the House.

Mr. ATKINS. I rise to a question of order.

Mr. CONGER. I have read the appeal. The Chair has not even alluded to it since.

Mr. ATKINS. I desire to submit the question whether the spirit of this rule does not require that only those bills shall be considered which——

The SPEAKER *pro tempore*. The gentleman from Tennessee [Mr. ATKINS] is not in order. No debate is in order pending a motion to lay the appeal on the table.

Mr. ATKINS. I am not going to debate. I am going to state a proposition.

The SPEAKER *pro tempore*. The Chair cannot under the rule. Under all rules there can be no debate or anything done except a vote on the motion made by the gentleman from Illinois.

Mr. TOWNSHEND, of Illinois. The motion to lay upon the table is always in order.

Mr. CONGER. Until I have presented the appeal to the Speaker and the Speaker has presented it to the House I hold the floor. Immediately on presenting it I said I desired to speak on it. The motion to lay the appeal on the table could not be made while I held the floor. I held it while I was writing the appeal, in pursuance of the instruction of the Chair.

The SPEAKER *pro tempore*. The Chair does not agree with the gentleman in his conclusions as to his position on the floor, and sees no chance of agreeing with the gentleman in his recollection of the facts.

Mr. CONGER. I make the point of order that I was entitled to the floor, and had the right to speak on this appeal.

The SPEAKER *pro tempore*. The Chair never questioned the gentleman's right to speak on his appeal so long as he was in possession of the floor and prior to the recognition of the gentleman from Illinois, and the acceptance of his motion to lay the appeal on the table, which is not debatable.

Mr. CONGER. I ask the Chair to rule on my own statement, that I have not relinquished the floor, and to rule further that I am still entitled to the floor.

Mr. TOWNSHEND, of Illinois. The motion to lay upon the table is always in order.

Mr. CONGER. The Speaker had no right to entertain the motion to lay the appeal on the table.

The SPEAKER *pro tempore*. The pending motion is to lay the appeal upon the table, which is not debatable.

Mr. CONGER. I appeal from the decision of the Chair.

The SPEAKER *pro tempore*. There is one appeal already pending.

Mr. CONGER. And I appeal again.

The SPEAKER *pro tempore*. The Chair sees no good to arise from a further prolongation of this discussion.

Mr. CONGER. Then I understand the Chair arbitrarily will not submit my motion to the House.

The SPEAKER *pro tempore*. Then the gentleman from Michigan misunderstands what the Chair is endeavoring to do.

Mr. CONGER. Then I ask the Chair to submit my appeal to the House.

The SPEAKER *pro tempore*. The Chair is going to do that required by the provision of the rules of this House. The question, therefore, is on the motion made by the gentleman from Illinois to lay on the table the appeal taken by the gentleman from Michigan, [Mr. CONGER.] Those in favor of laying the appeal upon the table will say "ay"——

Mr. CONGER. That cannot go on, Mr. Speaker. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman cannot have two appeals pending at the same time.

Mr. CONGER. I make the point of order that that motion to lay upon the table is not regularly before this House.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. CONGER. And from that decision I appeal.

The SPEAKER *pro tempore*. The gentleman will let the Chair dispose of the appeal now pending before another can be entertained.

Mr. CONGER. Then I could not reach this point at all.

Mr. TOWNSHEND, of Illinois. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. Under the fourth clause of Rule XVI it is declared that a motion to lay an appeal upon the table is in order at any time, even while it is under debate.

The SPEAKER *pro tempore*. The Chair refers the gentleman from Michigan to that clause of the rule.

Mr. CONGER. That does not cover the point at all; the point was that I had not submitted my appeal.

The SPEAKER *pro tempore*. The Chair understands the gentleman's point very well.

Mr. ATKINS. I understood the Chair to decide a while ago that I could not rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The Chair did not understand the gentleman as rising to a parliamentary inquiry.

Mr. ATKINS. Yes; I rose to a question of order.

The SPEAKER *pro tempore*. The Chair did not understand the gentleman as so stating.

Mr. ATKINS. That is what I rose for and the Chair took me off the floor.

The SPEAKER *pro tempore*. The Chair understood the gentleman to say he rose to state a proposition.

Mr. ATKINS. Now I desire to rise to a proposition of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. ATKINS. It is this: that the spirit of this rule does not admit of discussion any longer than five minutes on any proposition, no matter whether it is on an appeal or anything else, and each State is entitled to be heard for five minutes and no longer. We have now spent half an hour on this proposition to the exclusion of other States which might be heard under this new rule. I trust the Chair will decide that the time for discussion has expired and take a vote and so get away from this subject.

Mr. VALENTINE. I rise to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. VALENTINE. I desire to know whether if a point of order is made by a member of the House and overruled by the Chair and the Chair directs the member to reduce his appeal to writing, whether the Chair can recognize any one else until that appeal is reduced to writing and read by the Clerk and stated by the Chair to the House?

The SPEAKER *pro tempore*. The Chair has no hesitation in stating and repeating that the appeal of the gentleman from Michigan was stated to the Chair.

Mr. VALENTINE. The Chair is not answering my question.

The SPEAKER *pro tempore*. The Chair will take its own way of answering the question. The appeal was stated by the gentleman from Michigan to the Chair, and the record at the desk shows that the appeal was stated by the Chair to the House, and in order that there may be no misunderstanding as to the nature of the appeal and that there be a record of the fact, the Chair asked the gentleman from Michigan to reduce his appeal to writing, but it was in possession of the House, being given by a statement of the Chair to the House. After that the Chair recognized the gentleman from Illinois, who took the floor and moved to lay the appeal on the table.

Mr. VALENTINE. I have asked the Chair a parliamentary question——

The SPEAKER *pro tempore*. The gentleman can see that the parliamentary question has already been answered.

Mr. VALENTINE. But the Chair has not answered my question. I did not ask what took place between the Chair and the gentleman from Michigan, but an entirely different question.

The SPEAKER *pro tempore*. Which the Chair has answered.

Mr. VALENTINE. I have not heard the answer to my question.

Mr. CONGER. Before that proceeds I wish to ask that the notes of the Official Reporter be read as to what actually occurred when the Chair wanted me to reduce my appeal to writing. I ask that the notes be read.

Mr. MITCHELL. I wish to state a question of fact.

The SPEAKER *pro tempore*. The gentleman will state his parliamentary question.

Mr. MITCHELL. I desire the Chair to recognize me as to a question of fact. I presume that there is no desire on the part of any gentleman to have the present occupant of the chair make a wrong decision or that any ruling shall have a wrong construction. Now, what I wish to state in this connection is that I distinctly recognized as a matter of fact that the gentleman from Michigan was talking, that words were proceeding out of his mouth when the motion of the gentleman from Illinois was submitted; and that being the case I take it for granted that the gentleman from Michigan was proceeding to discuss the question and had not yielded the floor, and that the gentleman from Illinois had not the floor to submit his motion.

The SPEAKER *pro tempore*. The Chair understood the gentleman to rise to a parliamentary question.

Mr. MITCHELL. I ask the Chair if that is not a fact?

The SPEAKER *pro tempore*. And the Chair answers that to his recollection it is not.

Mr. CONGER. And I say that it is substantially true; that it is what took place.

The SPEAKER *pro tempore*. The Reporter has been directed to furnish his notes.

Mr. SPRINGER. I rise to a question of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. SPRINGER. I am informed that the gentleman from New Jersey when he moved his bill demanded the previous question at the same time. If that be so, all amendments afterward until the House had refused to second the demand for the previous question were out of order, and he had the right to move the previous question as soon as he called the bill up.

The SPEAKER *pro tempore*. The Chair will answer the gentleman's point of order at the proper time.

Mr. SPRINGER. And that would take away the pending amendment, and I ask that the statement of the gentleman from New Jersey be taken as to whether he did or did not demand the previous question.

Mr. TOWNSHEND, of Illinois. The RECORD does not show that such a demand was made.

Mr. SPRINGER. I ask that the gentleman from New Jersey be interrogated upon that point.

Mr. ROBINSON. The demand for the previous question was made to-day.

Mr. TOWNSHEND, of Illinois. I was speaking of the RECORD of Saturday.

Mr. BLAKE. I desire to state that I did demand the previous question this morning.

Mr. HOOKER. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HOOKER. I make the point of order that the rule under which we are proceeding now by its spirit and terms confines the consideration of any bill presented by any member from any State to a period not exceeding five minutes. Now, it comes within the restriction of the rule even when the report accompanying a bill is called for to be read that it can only be read for five minutes, and if the reading is not concluded in five minutes it must be stopped, or else the call rests with another State.

The SPEAKER *pro tempore*. But the gentleman from Mississippi will bear in mind that this motion pending now is to lay an appeal from the decision of the Chair upon the table; and consequently the point of order raised by the gentleman from Mississippi is not at this time before the House or in order for consideration.

Mr. ATKINS. May I inquire why the Chair does not put the motion to the House, then?

The SPEAKER *pro tempore*. The Chair is waiting to have the Reporter's minutes of the proceedings read to the House on the demand of the gentleman from Michigan.

Mr. ATKINS. Will it be in order to move a recess? [Laughter.]

Mr. ATHERTON. Let us go ahead with the public business.

Mr. ATKINS. I hope the whole matter will be dropped by unanimous consent, and let us go on with the river and harbor bill, or something else. This is perfect nonsense.

Mr. CLYMER. I am glad the gentleman from Tennessee agrees to the conclusion which we have arrived at some time ago over here.

The SPEAKER *pro tempore*. The Clerk will now read the notes furnished by the Official Reporter.

The Clerk read as follows:

Mr. CONGER. Then I appeal from the decision of the Chair.

The SPEAKER *pro tempore*. Which appeal will be submitted to the House.

Mr. CONGER. And I trust that the action upon the bill will consume the remainder of this hour so that we may have a presiding——

Mr. TOWNSHEND, of Illinois. I move to lay the appeal on the table.

The SPEAKER *pro tempore*. The gentleman from Michigan will reduce his appeal to writing.

Mr. CONGER. I will do so.

Mr. CONGER. The RECORD report shows what I expected and what I knew to be a fact that an unfinished, a necessarily unfinished sentence was being uttered by me at the time the gentleman from Illinois rose to make his motion, a sentence which evidently has no connection unless it be contemplated that certain other words would follow. It shows that I was upon the floor; that I was in possession of the floor when the gentleman undertook to take the floor from me and make his motion to lay the appeal upon the table. That point, then, I think, is so perfectly apparent that it sustains my claim that I was speaking; that I had not yielded the floor, and was entitled to retain it and was proceeding to conclude my sentence when the gentleman made his motion.

The SPEAKER *pro tempore*. When the Chair said the motion of the gentleman from Illinois [Mr. TOWNSHEND] to lay the appeal upon the table was before the House, the gentleman from Michigan had left the floor, at the request of the Chair, and gone to his seat to reduce the appeal to writing.

Mr. CONGER. Oh, no; I take the record and stand upon the record and not my memory.

The SPEAKER *pro tempore*. The Chair also rests upon the record and adheres to his ruling.

Mr. CONGER. The record shows I had gone on so far as to say I hoped "the hour would be consumed until a presiding," and there an interruption occurred. That is the record. I ask it to be read again.

The SPEAKER *pro tempore*. The Clerk will report the fourth clause——

Mr. CONGER. I ask that in the first place the transcript of the Reporter's minutes be again read.

The SPEAKER *pro tempore*. Without objection the Clerk will again read the copy of notes furnished by the Reporter.

Mr. SAMFORD. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. SAMFORD. It is whether or not a motion for the previous question has been made?

The SPEAKER *pro tempore*. A motion for the previous question on what?

Mr. SAMFORD. On the bill before the House.

The SPEAKER *pro tempore*. The Chair remembers the gentleman from New Jersey [Mr. BLAKE] asked for the previous question. But the point was afterward made by the gentleman from Tennessee [Mr. MCMILLIN] that the bill had never been subjected to the test of objection. The Chair ascertaining this to be the fact from the Clerk, directed that that should be done. The bill was accordingly subjected to objection. No objection was made. Then the amendment of the gentleman from Tennessee [Mr. DIBRELL] was offered. Subsequent to that time the gentleman from New Jersey [Mr. BLAKE] declined to demand the previous question if it was to include the amendment offered by the gentleman from Tennessee.

Mr. BLAKE. The exact fact is, I demanded the previous question before any amendment was offered.

The SPEAKER *pro tempore*. The Chair so recollects; but it was afterward ascertained that the bill had never been subjected to objection, and it was carried back under the rule—by consent, and, in the judgment of the Chair, no one having the right to object—to the point of objection, and was submitted therefor. No objections were made, or at least not a sufficient number. Then it was the gentleman from Tennessee submitted his amendment, and the gentleman from New Jersey demanded the previous question. The Chair asked if the gentleman intended to demand the previous question so that it should include the amendment of the gentleman from Tennessee, and the gentleman from New Jersey, as the Chair remembers, declared that he did not. At any rate, there was no second for the previous question, although a second to the previous question had been called for by the Chair before the mistake as to the status of the bill had been discovered.

Mr. ATKINS. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. ATKINS. The motion of the gentleman from Illinois [Mr. TOWNSHEND] is before the House; is it not?

The SPEAKER *pro tempore*. It is.

Mr. ATKINS. Is it debatable?

The SPEAKER *pro tempore*. It is not.

Mr. ATKINS. Then why does the Chair allow it to be debated?

The SPEAKER *pro tempore*. The Chair has no right to abridge the rights of the House, and has recognized the right of a member to demand the reading of the Reporter's notes.

Mr. ATKINS. I demand that the pending question shall be submitted to the vote of the House.

The SPEAKER *pro tempore*. It is the right of the gentleman from Michigan to demand the reading of the notes of the Reporter. He has demanded it and they have been read. He asks that they be read a second time. Without objection that will be done, and the Chair hears no objection.

Mr. HOUSE. Is it in order to move to lay this whole subject on the table?

The SPEAKER *pro tempore*. That motion is not in order pending the motion of the gentleman from Illinois, [Mr. TOWNSHEND.]

Mr. BAYNE. Will the Chair permit me to make a parliamentary inquiry?

The SPEAKER *pro tempore*. The Chair will hear the gentleman.

Mr. BAYNE. And I think the answer to that inquiry will solve this question. I wish to ask the Chair if the gentleman from New Jersey, having presented the bill and having demanded the previous question on that, will now rise and say in his place that he intended all along that that demand for the previous question should adhere to his original motion to pass the bill whether or not the Chair would not recognize the word of the gentleman from New Jersey, and relegate this whole matter back to the original proposition that the bill is pending with a demand for the previous question.

Mr. DIBRELL. The gentleman will remember the gentleman from New Jersey withdrew the demand for the previous question to allow the gentleman from Kentucky [Mr. CARLISLE] to offer an amendment.

The SPEAKER *pro tempore*. The Chair will not hesitate to accept the word of the gentleman from New Jersey as to any matter.

Mr. CLYMER. The bill was not before the House for consideration when that motion was made.

The SPEAKER *pro tempore*. The Chair has stated his recollection as accurately as possible, that the gentleman from New Jersey demanded the previous question, and subsequently withdrew it when an amendment was offered by the gentleman from Kentucky, which was accepted by the gentleman from New Jersey; that it was then ascertained the bill had never been subjected to objection and it was carried back to that point, and it was not objected to by a sufficient number to prevent its consideration; and that then the gentleman from Tennessee offered his amendment. The Chair would be glad if the House would allow the Clerk to read again the notes of the Reporter as called for by the gentleman from Michigan.

Mr. TOWNSHEND, of Illinois. To expedite business, if in order I will withdraw the motion to lay the appeal on the table and also the amendment which I offered.

Mr. HOUSE. Would it now be in order to move to lay this whole subject on the table?

The SPEAKER *pro tempore*. Not pending an appeal from the decision of the Chair. The gentleman from Illinois [Mr. TOWNSHEND] withdraws his motion to lay the appeal on the table and the Chair recognizes the gentleman from Michigan, and the question is on the appeal taken by that gentleman from the decision of the Chair.

Mr. CONGER. Does the Chair recognize my appeal from the last decision upon my point, that, as shown by the record itself, the Chair had no right to entertain the motion to lay the appeal on the table?

The SPEAKER *pro tempore*. The Chair will recognize no appeal by the gentleman from Michigan [Mr. CONGER] or by any other gentleman that is not in writing at the Clerk's desk.

Mr. CONGER. Does the Chair direct me to make my second appeal in writing?

The SPEAKER *pro tempore*. The Chair does not direct the gentleman, but requests him to furnish his appeal in writing.

Mr, CONGER. Does the Chair now recognize me to furnish my appeal in writing?

The SPEAKER *pro tempore*. The Chair does.

Mr. CONGER. And I will hold the floor until I can do so.

The SPEAKER *pro tempore*. An appeal submitted by the gentleman from Michigan [Mr. CONGER] is now pending.

Mr. CONGER. And the Chair has requested me to reduce another appeal to writing.

The SPEAKER *pro tempore*. The gentleman from Michigan is too good a parliamentarian to imagine that he can submit one appeal while another appeal is pending.

Mr. CONGER. The compliments of the Chair are not undeserved, I admit. [Laughter.] Still I disagree entirely with the opinion of the Chair that I or any other gentleman may not make an appeal from any ruling whenever it comes up.

The SPEAKER *pro tempore*. Does the gentleman desire to be heard upon his appeal?

Mr. CONGER. Upon my first appeal?

The SPEAKER *pro tempore*. Upon the appeal pending before the House.

Mr. CONGER. That is the first appeal.

The SPEAKER *pro tempore*. The Chair does not undertake to number the gentleman's appeals.

Mr. CONGER. For my own convenience I would like to make a distinction. Then I conclude that the Chair does not decide that a motion to lay the appeal on the table is in order?

The SPEAKER *pro tempore*. The Chair is not responsible for the gentleman's conclusions.

A MEMBER. That motion has been withdrawn.

Mr. CONGER. The motion to lay on the table withdrawn? I did not know that. I now desire to speak on my appeal.

The SPEAKER *pro tempore*. The Chair will hear the gentleman.

Mr. CONGER. I have no other interest in this matter than every individual member of this House has in common with me. Whether propositions in the nature of amendments, making entirely new propositions, coming in by way of amendment, should be submitted to the House for five objections——

Mr. FINLEY. Has not the morning hour expired?

The SPEAKER *pro tempore*. It has not.

Mr. CONGER. If I have the floor, I would like to have the Chair insist upon the rules being observed, so that I may be heard.

The SPEAKER *pro tempore*. The House is itself to blame for this disorder.

Mr. CONGER. But the Speaker is the organ through which I can alone demand to be heard.

The SPEAKER *pro tempore*. And the Chair has been endeavoring to preserve order.

Mr. CONGER. I say, then, that every member of this House has a great interest in having the question decided whether, when a simple bill or resolution is called up and assent given for its consideration, an entirely different proposition embracing a large range of subjects can be introduced by way of amendment and occupy the attention of the House under this unanimous-consent rule, without such amendment being submitted to the members of the House for five objections.

That point was raised before the Speaker of this House when business under this new rule was last being considered, and the Speaker then stated, if I recollect aright, that it was a very important question, almost a vital one, which he would like to consider, and would decide whenever the occasion arose; and at any rate he said he would submit it to the House. Now, in the absence of the Speaker of this House, who said he would submit that question to the House, I take

the opportunity to present the question to the Chair and ask that it be submitted to the House. I make the point of order that it should be submitted to the House, and the Chair overrules that point of order. Now, the result of that ruling, as every gentleman on this floor will see, will be to secure five objections to every bill that could be amended, and thus defeat the entire action of this unanimous-consent rule.

Mr. CARLISLE. Will the gentleman allow me to make a suggestion?

Mr. CONGER. With pleasure.

Mr. CARLISLE. It is this: that the gentleman from Illinois [Mr. TOWNSHEND] who offered the amendment which has given rise to this discussion and occasioned this appeal has withdrawn it, and it is no longer before the House.

Mr. TOWNSHEND, of Illinois. The gentleman from Kentucky [Mr. CARLISLE] is mistaken. The amendment of my friend from Tennessee [Mr. DIBRELL] is pending, and it was upon that amendment that the point was raised.

Mr. CARLISLE. I beg pardon, then.

Mr. TOWNSHEND, of Illinois. Will the gentleman from Michigan allow me to make a suggestion?

Mr. CONGER. In one moment; I have but a moment or two left. Now, with all due respect to the Chair, (and the Chair knows that I have no possible intention in the little passage of words between us to say anything that would be offensive,) I asked that the Chair should take the sense of the House upon the proposition that amendments themselves shall be subject to the five objections provided by the rule. The Chair refused to let that question be submitted to the House. From that ruling I appealed, as my appeal in writing will show. Now it is unimportant to me personally, but it is a matter that affects every member who has a bill or proposition here which he desires to have considered under this rule, because unless that be the construction of the rule no man will dare to have any bill before this House for consideration which may be amended to the detriment of his constituents and of the interests of his people. Therefore it stops all action under this five-objection rule. I stated to the House positively the other day that unless it was held that amendments should be submitted to the House for five objections, I and others would object to every bill relating to the revenue which might be amended by general provisions of amendment.

I have striven hard to bring this question to the attention of gentlemen of the House. They will meet it every time a bill is presented for consideration under the new rule. I would like the opinion of the House as to whether it is the better way to have not only the bill itself but also any amendment submitted to five objections, so that we may go on with business and not waste time in raising questions on objectionable amendments, or it may be "filibustering" to defeat action by the House during the hour.

For these reasons I have so earnestly persisted in my effort to have this question submitted to the House. If the House should overrule me, if it should consider the ruling of the Chair to be in accordance with the spirit of the five-objection rule, I shall submit, of course; but I want the opinion of the House upon the question.

Mr. ROBESON addressed the Chair.

Mr. HOOKER. I raise the point that the morning hour has expired. [Cries of "Regular order!"]

The SPEAKER *pro tempore*. The morning hour has expired.

ORDER OF BUSINESS.

Mr. REAGAN. I take the floor for the purpose of moving to go into Committee of the Whole on the river and harbor appropriation bill; but before doing so I propose to yield to the gentleman from Vermont [Mr. TYLER] and others who desire to make brief addresses in connection with the presentation of the statue of Jacob Collamer.

STATUE OF JACOB COLLAMER.

Mr. TYLER. Mr. Speaker, I call up for the consideration of the House the concurrent resolution from the Senate accepting from the State of Vermont the statue of the late Jacob Collamer.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES,
*January* 31, 1881.

*Resolved by the Senate, (the House of Representatives concurring,)* That the thanks of this Congress be presented to the governor, and through him to the people of the State of Vermont, for the statue by Preston Powers of Jacob Collamer, as an eminent American statesman; that this work of art is accepted and assigned a place in the National Statuary Hall set apart by Congress for the statues of distinguished citizens from the several States; and that a copy of this resolution, signed by the President of the Senate and the Speaker of the House of Representatives, be transmitted to the governor of the State of Vermont.

Attest: JOHN C. BURCH,
*Secretary.*

Mr. TYLER. Mr. Speaker, I highly appreciate the courtesy of the honorable gentleman from Texas [Mr. REAGAN] in temporarily laying aside the river and harbor bill for the consideration of this concurrent resolution, which, since its adoption on the part of the Senate, has been unavoidably delayed in the House until this time.

In July, 1864, Congress passed an act setting apart the historic and beautiful old Representatives Hall as a hall of statuary, and authorizing the President to invite each and all the States to furnish statues in marble or bronze, not exceeding two in number from each State, of deceased persons who had been citizens thereof and illustrious for their historic renown, or for distinguished civic or military services, such as each State should determine to be worthy of this national commemoration.

In pursuance thereof the Legislature of Vermont, in 1872, passed an act directing the governor to contract, in behalf of the State, with Hiram Powers for a statue of Jacob Collamer, and with Larkin G. Mead for a statue of Ethan Allen, the statues when completed to be placed in this National Statuary Hall.

In May, 1876, the statue of Ethan Allen, conceived, modeled, and executed by Larkin G. Mead, himself a son of Vermont, and one of the nation's most gifted artists, was, by the State, through its governor, placed in the Hall in commemoration of the military history of the State and of its most renowned military chieftain.

Hiram Powers, who was a native of Woodstock, the home of Jacob Collamer, having died in June, 1873, in Italy, where he had resided during the greater part of his life, the Legislature of my State subsequently conferred upon the governor a discretion to contract with some other person for the creation of the statue of Mr. Collamer, and the governor exercised that discretion wisely in contracting therefor with Preston Powers, a son of the great artist.

No higher commendation need be bestowed on this rising sculptor than to say that he possesses much of his father's genius, and that he has already acquired a degree of skill in the execution and finish of his works, which, with his devotion to his profession, gives him promise of a rank with the best artists of the age. As evidence of this, I need only refer to his busts of Charles Sumner, Professor Agassiz, the poet Whittier, General Grant, and others, and his ideal figure, "Maud Muller," still remaining in his studio in Florence, Italy, and the statue which is now presented.

Jacob Collamer was born in Troy, New York, in January, 1791. When he was a child he moved with his father's family to Burlington, Vermont, where he passed his early life and where he graduated at the University of Vermont at the age of nineteen years. He studied law with Judge Asa Aldis, then one of the ablest lawyers in the State; was admitted to the bar in 1813 and commenced practice in Windsor County, where he always afterward resided. He rose rapidly to distinction at the bar and for years before his elevation to the supreme court of the State, in 1833, he stood in the highest rank of the profession. He occupied a seat upon the bench for nine years, and until his election to this House, of which he became a member in 1843, and remained such until 1849, when he resigned to enter as Postmaster-General the Cabinet of President Taylor. On the death of the President, in July of the following year, Mr. Collamer resigned, as did all the members of the Cabinet, and returned to his home in Vermont. But a man of his abilities could not be permitted to remain long in retirement. In October of that year he was elected by the Legislature presiding judge of his judicial circuit, which place he held till his election, in 1854, to the Senate of the United States, in which he took his seat in December, 1855. He was elected to a second term in 1860, and served about four years, when he died at his home in Woodstock, in November, 1865, after thirty-two years of most valuable public service.

But few citizens of Vermont have been called to so many positions of trust and honor as was Jacob Collamer, and few, indeed, have performed such varied duties with stricter fidelity, with more marked ability, or reflected greater honor upon the State than he did. Some of her public men may have shone with greater brilliancy, but none with a steadier or more enduring light.

It is not for me on this occasion to enter upon an analysis of his character, to speak at length of his public services, or to do more than pay a passing tribute to his memory. He was called, and justly so, a self-made man, but Nature gave him the materials with which to make a man far above the common order. She endowed him with great intellectual faculties which he developed and cultivated to a high degree. He stored his mind with vast and varied learning, well arranged, and kept by a retentive memory always at ready command. A close student, with quick perception, a sound judgment, remarkable executive ability, all his actions guided and governed by high moral principle, he could not fail to become eminent in whatever position he occupied.

As a lawyer, he was distinguished for his uprightness, his thorough knowledge of the legal science, his skill in the conduct of causes, and his power as an advocate, displayed "by the calm exertion of reason" before juries and courts; as a judge, for his impartiality, his quick apprehension of the merits and demerits of every cause presented for his consideration, and for the clearness, vigor, and erudition of his opinions. As a statesman, I have only to point to his record for sixteen years in the House and in the Senate, which belongs not to Vermont alone but to the whole country.

His ten years' service in the Senate was closely identified with an important period of the nation's history; to speak of it would be to recall many of the subjects that engaged the grave attention of Congress previous to the rebellion, the war legislation, and the reconstruction measures that followed upon the restoration of peace, which time will not permit.

On the event of his death, Senator Riddle, of Delaware, doubtless expressed the sentiment of the Senate toward him when he said:

I think Vermont has lost one of her brighest jewels, the Senate one of its most courteous members, and the country one of its greatest statesmen. He was great in feeling, great in thought, and great in action.

Mr. Speaker, Vermont is proud to present his statue to the nation to be placed in the Hall with others of the illustrious dead. There may it stand as long as the Republic endures in commemoration of the distinguished character and services of him whom his State has selected from her long list of eminent jurists and statesmen as the fit representative of one of the most intelligent Commonwealths of the country.

Mr. LORING. Mr. Speaker, I have been requested to join in the ceremony of presenting to the Congress of the United States a statue of one of the distinguished statesmen of Vermont, whose services in directing the social and civil system of that Commonwealth, which has placed her in the front rank of her associates in this Union, can never be forgotten, and have endeared his name to her sons wherever they may be found. To this request I respond with a deep consciousness of the sacredness of the task. The Hall which once echoed the voices of the great men who shaped our laws in the early period of the Republic is now dedicated—I trust for all time to come—as a historic national gallery to preserve the solemn group of the founders of our States and the framers and preservers of our Government. To have won a place in that assembly constitutes the full measure of American civic greatness; and the popular verdict which selects from the multitude of the dead those who are to be immortalized there is entitled to our profoundest respect and admiration; for be he warrior or statesman who stands there the work which he performed on earth has made him dear to the hearts of that people whose institutions he founded and preserved.

Already has Vermont set there the statue of him who was her leader in the heroic age which preceded her organization as a State. During that long and weary struggle commencing with the Indian warfare, which extended from the shores of Narragansett Bay to the flashing waters of the Connecticut, and ending with a determined resistance to Great Britain on the one hand and the Province and State of New York on the other, the bold, hardy, defiant spirit was developed, which is represented by the stalwart form of Ethan Allen.

But now upon the firm foundation of these manly virtues she has erected a civil structure whose architect she brings forward as entitled to a high place in the immortal gallery. Wearied with war, confused by conflicting jurisdictions, exasperated by assumed authority, contending as a colony and a State for independent existence, she entered upon the work of framing a constitution and organizing a commonwealth. Recognizing with an instinct peculiar to every people who have established their freedom with the sword the rights and privileges upon which popular government must rest, she turned to the work performed by those who under more fortunate circumstances had completed the fabric she was about to erect. Pennsylvania offered her advice, and the constitution of that State, framed probably by Franklin, was made the foundation of the government of Vermont. From the statute-book of Connecticut she selected many of her most wholesome laws. She became familiar with the bill of rights and the constitutional provisions of the Commonwealth of Massachusetts. Before her lay the laws of Virginia and the constitution which John Cooke had provided for the Carolinas. She provided for religious freedom, declaring "that all men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences," and ending with the injunction that "every sect or denomination of people ought to * * * keep up and support some sort of religious worship, which to them shall seem most agreeable to the revealed will of God." She asserted that "the people have a right to freedom of speech and of writing and publishing their sentiments, therefore the freedom of the press ought not to be restrained," and that "the printing presses shall be free to every person who undertakes to examine the proceedings of the Legislature or any part of the government." She declared that "a firm adherence to justice, moderation, temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty and keep government free. The people ought therefore to pay particular attention to these points in the choice of officers and representatives;" and it was therefore provided "that no person shall be capable of holding any civil office in this State except he has acquired and maintains a good moral character." She stipulated that "all elections, whether by the people or in General Assembly, shall be by ballot, free and voluntary; and any elector who shall receive any gift or reward for his vote in meat, drink, moneys, or otherwise, shall forfeit his right to elect at that time;" and any one who shall offer or give such rewards "shall thereby be rendered incapable to serve for the ensuing year." She set forth that, "as every freeman to preserve his independence (if without a sufficient estate) ought to have some profession, calling, trade, or farm whereby he may honestly subsist, there can be no nescessity for nor use in establishing offices of profit, the usual effects of which are dependence and servility unbecoming freemen in the possessors or expectants, and faction, contention, corruption, and disorder among the people." The penal code was stern and sweeping, punishing murder and the profanity of "high-handed blasphemy" alike with death.

It has been well said by her venerable historian that—

The natural freedom of man; the inherence of power in the people; the establishment of government for the benefit of all; the purity of the ballot-box; the subserviency of private property to public uses; the trial by jury; the sacredness of hearth and home; the subordination of the military to the civil power; the right of petition and remonstrance—these, and other principles equally noble, were asserted with unaffected confidence in this exposition of the moral, civil, and political faith of the people of Vermont.

Organized on these principles, Vermont applied for admission into the Union, and on the 18th of February, 1791, Congress by an act declared "that on the 4th day of March, 1791, the said State, by the name and style of 'the State of Vermont,' shall be received and admitted into this Union as a new and entire member of the United States of America." Of the men who thus created this Commonwealth and led her into the family of States the names of Thomas Chittenden, Moses Robinson, Nathaniel Chipman, Stephen R. Bradley, Ira Allen, Ebenezer Allen, Jonathan Hunt, magistrates, jurists, lawyers, men foremost in their own generation, and many of whose descendants are foremost in ours, stand conspicuous, and would seem to claim for one of their number the high honor which has been bestowed upon Jacob Collamer, who, coming after them, seemed to unite all the qualities which made them the leaders of their day, and stands foremost and alone as magistrate, jurist, legislator, Cabinet minister, Senator, and as the representative of that high-toned and sturdy Commonwealth whose principles of government I have endeavored to define.

It was while the convention which petitioned for the admission of Vermont into the Union was in session, and a month before the admission was completed by act of Congress, that Jacob Collamer was born—a native of that State with which Vermont had had her long and invigorating and successful contest. And it was in 1813, when the State of his adoption had been engaged for twenty-two years in developing her institutions, and had already enrolled a long list of scholars and statesmen, that he commenced his career as a lawyer in one of her thriving and beautiful towns. There was even then, twenty years after her organization, much to be done to give Vermont a commanding position among the States of that Union which she had joined. And upon this young lawyer as he went on in life this service seems to have fallen. In his character he seemed to represent those qualities which had carried Vermont through her early struggles, and had led her to adopt a constitution based on the soundest principles of free government. In the war of 1812 he closed his office and joined the army of the United States as lieutenant of artillery, and placed his name in that martial roll for which Vermont had already become distinguished. In 1821 he was called by his townsmen into civil service, and commenced a public career which closed only with his death in 1865, and during which he secured the high position as the representative citizen of Vermont in her early years as an independent Commonwealth.

The statue, which has been carved with such severe and touching and expressive simplicity, and has been placed by his grateful fellow-citizens in the historic Hall of the Capitol, reminds us that he, more than all others, shaped and molded and gave character to the State in whose service he was so long engaged. He thoroughly comprehended that constitution which I have laid before you, and instinctively and without effort was guided by it as citizen and magistrate. He was a Christian gentleman, and accepting that freedom of conscience in matters of religion which was recognized in the constitution, he was liberal and tolerant while firm in the faith. Strong and honest in his convictions, he demanded freedom of speech and the press for all men. Temperate and frugal in all his ways, he stood as an example of those virtues which his State required by constitution in her rulers. Incapable of bribery himself, he recognized no temptation in others, and, called to office which he never sought, he discharged his duties faithfully and exercised such economy as the small rewards of public position rendered necessary. He believed in the genius of that constitution which laid these principles and characteristics at the foundation of the State. His mind accepted readily the high requirements of constitution and law in the State of his adoption, and to whatever public service he was called he was recognized as the embodiment of that stern Puritan code.

This, then, constitutes his greatness, that he was true to the spirit of his Commonwealth, and the highest doctrines of State and society in his country, and that he never faltered in their defense and advocacy. He brought to the bar the consciousness of being governed by a sense of right and justice, and an intellectual adroitness which could not be led astray into devious paths. He brought to the bench a sound knowledge of the law, an unerring judgment, and keen perception. He brought to the halls of legislation an honest purpose, a quick understanding, and great power of statement. He brought to all his public service a fearless conscience, great devotion, and undoubted courage, great simplicity and great prudence, which seemed to the more demonstrative and impetuous like timidity and indecision. For more than forty years, however, years of great moment, crowded with critical events, he so bore himself as to secure the confidence of his State, the admiration of his friends, the respect of his opponents. During these years from 1821, when he entered the Legislature of Vermont, to 1865, when he died, there was written the most remarkable chapter of American history; and in that period he unostentatiously performed his part well, and in accordance with those doctrines which he adopted when he entered upon his career as citizen and servant of the State of Vermont.

While it did not fall upon him to create and organize and expound as it did upon Parsons and Marshall, while he followed in the footsteps of great judicial wisdom on the bench of that State, and had

before him the brilliant career of Royall Tyler who as jurist, scholar, poet, novelist, had illumined the early intellectual history of Vermont, it was left for him to lay down a body of law which for freedom from bias, broad comprehension, logical precision, and purity of diction has not been surpassed. Filled with a profound love of his profession, and with a religious faith in the wisdom of the Constitution upon which his opinions were founded, he filled in every way the measure of a good lawyer and a wise judge. Passing from the severe training of this service into the stormy arena of legislative debate, he displayed the calm determination of an enlightened and approving conscience, the readiness of a clear understanding, the force of wit, and the power of an amiable and unruffled spirit. As a member of the Legislature of Vermont from 1821 to 1828, and of the constitutional convention of 1836, he witnessed and took part in that stormy political period during which the younger Adams rose and fell, and the power and patriotism of Andrew Jackson inspired a party with new life and drew to his side in the great crisis the majestic leader of the opposition, who won in that contest the proud title of Defender of the Constitution. Entering Congress in 1842, as a member of that party which was then engaged in bitter strife over the fruitless victory of 1840, he took part in the first act of that great political drama which in peace and in war has been enacted on this continent from that hour to this.

It cannot be said of him that as Representative or Senator or Cabinet minister he created any political issue or sounded the note of any political contest. But it can be said of him that in the struggle of 1846 he represented the moral sentiment of his State and established her political position on a foundation which has not yet been shaken. Never engaging in the irritations of sectional strife he always accepted the issue firmly and calmly, and supported his own cause with courage and power, not always with a manner satisfactory to the impetuous minds which had inspired the contest, but always with a method which brought to their support the earnest and reflecting. In all that long period of desperate endeavor, when great events crowded upon each other in rapid succession and great reputations were made and great reputations ruined, this calm and determined statesman of Vermont displayed the true courage and wisdom of a guide who knows the peril and the path to safety. History has recorded the grandeur of the great debate which for years occupied the leaders in the conflict and filled the minds of the people with high purpose, and all along its pages may be found an array of names which can never be forgotten while this Government endures. And among them stands the Senator from Vermont who stood firm in every crisis, and who, on more than one occasion, so presented the issue to the American people that a resolute and defiant determination took the place of desperate enthusiasm and inspired them with firmness for the conflict.

This is the man whom Vermont has selected as her guiding and representative statesman, and whose statue she presents to her country as her tribute to the illustrious group which is slowly gathering in yonder Hall. As I contemplate the simple and quiet dignity, the calm intelligence, the sweet and amiable spirit, the resolute purpose which mark that faithful and impressive image of her chosen jurist and statesman, I rejoice with her that she has bestowed upon her country so noble an example of the American citizen, one who will always be remembered as the—

> Justum et tenacem propositi virum,
> Non civium ardor prava jubentium
> Non vultus instantis tyranni
> Mente quatit solida;

One—

> Whose armor was his honest thought,
> And simple truth his utmost skill!

Mr. STEPHENS. Mr. Speaker, I ask the indulgence of the House while I add a few remarks to what has been so appropriately and eloquently said by the gentleman from Vermont [Mr. TYLER] and the gentleman from Massachusetts [Mr. LORING] in support of the resolution under consideration. The occasion is to me impressive and suggestive. The distinguished statesman whose statue is now presented under the act of Congress of 1864 by the State of Vermont I knew well and intimately for several years. We entered Congress together in 1843 and remained in the House together until 1849, when he was appointed to the office of Postmaster-General. During the three Congresses, the Twenty-eighth, Twenty-ninth, and Thirtieth, of our joint service in the old legislative Hall for two years we occupied adjacent seats. We were also of the same mess at Mrs. Carter's boarding-house in the old Dowson row on Capitol Hill, over yonder, a little northeast of the present Senate Chamber, which has within the last few years been removed for the enlargement of the Capitol grounds. He contributed much "to the light of the life" of that mess, where were Taney, Story, McLean, and McKinley of the Supreme Court bench, and Peters, the old reporter, with John J. Crittenden (Senator) and Henry Grider, (Member,) of Kentucky; Henry Y. Cranston, of Rhode Island; Meredith P. Gentry and Edward H. Ewing, of Tennessee; Allen F. Owen, Toombs, and myself, of Georgia, with other occasional visitant lawyers attending the Supreme Court, among whom were the elder Thomas Ewing, of Ohio, with his little son bearing his father's name, who is now a distinguished member of this House, and the present Chief-Justice Waite, and Mr. Evarts, now Secretary of State.

I well recollect Judge Collamer's first speech in the House. It was in support of the constitutionality of the law of Congress providing for the election of members of the House in all the States by districts, instead of what was called the general-ticket system. Macaulay says that on the celebrated trial of the bishops in the "reign of James II," Lord John Somers (then an unknown barrister) made a speech of a little over five minutes, with such force and power that when he sat down his reputation as an orator and constitutional lawyer was established.

This speech of Judge Collamer, not over thirty minutes in length, was so pointed, clear, logical, and conclusive, that it put him at once in the front rank of debaters, lawyers, and jurists in the House, where were Robert C. Winthrop, Daniel Barnard, Meredith P. Gentry, the two Ingersolls, (brothers, Jared and Joseph R.,) R. Barnwell Rhett, Kenneth Rayner, Alexander Dromgoole, Dixon H. Lewis, Cave Johnson, Henry A. Wise, and "the old man eloquent," John Quincy Adams, many of whom and others had already attained a national and some of them a world-wide reputation.

Of the new members who came in the House with myself and the distinguished deceased, in honor of whom we received this statue, only three, I believe, besides myself are now in public life. These are the learned and scholarly George P. Marsh, of Vermont, a distinguished colleague of the deceased, who is still in the service of the country abroad, the present senior Senator from Maine, Mr. HAMLIN, ex-Vice-President of the United States, and Alexander Ramsey, the present distinguished Secretary of War.

This occasion, Mr. Speaker, I have said is to me impressive; it is profoundly so. It revives many pleasant reminiscences, and also causes many sad and melancholy reflections.

In the language of one of Nature's truest poets I can most truly say:

> Still o'er these scenes my memory wakes,
> And fondly broods with miser care;
> Time but the impression deeper makes,
> As streams their channels deeper wear.

What changes have taken place since those days! What changes in the *personnel* of those conducting the public affairs of our country! What changes in the outward, material world! What progress in art, in science, in steam, in the telephone, in meteorology, the signal service, in photography, in the telegraph, and other uses and applications of the wonderful but hidden power of electricity! But enough upon these subjects now.

This occasion is also, as I have said, suggestive. It is suggestive, among other things, of that question so ably and eloquently discussed by Rome's greatest orator as well as profoundest casuist and philosopher. Cicero, so entertaining in all matters touched by him, has left few papers more instructive than his treatise entitled "*De Finibus*," in which he treats of the "Ends," or what should be the chief aims and objects of life.

These ceremonies and the National Statuary Hall will teach the youth of the land in succeeding generations as they come and go that the chief end of human effort in a sublunary view should be usefulness to mankind, and that all true fame which should be perpetuated by public pictures, statues, and monuments, is to be acquired only by noble deeds and high achievements and the establishment of a character founded upon the principles of truth, uprightness, and inflexible integrity; and that—

> Honor and shame from no condition rise;
> Act well your part, there all the honor lies.

The late distinguished Senator from Massachusetts (Mr. Sumner) in characterizing Jacob Collamer styled him "the Green Mountain Socrates." In this he was right, not only in the sense in which he illustrated his meaning, but also in another. Collamer was not only Socratic in his mode of reasoning, his manner of "handling" a subject under discussion, and the earnestness of his convictions, but he came as near the rule laid down by Socrates as a test of wisdom as any man I ever knew. This great teacher said that the highest of all wisdom is a knowledge of the boundary line between the known and the unknown.

The subject of this tribute was a striking example of wisdom of this order. He was a man of great probity, of most exemplary conduct, and of sincere piety, but never indulged in the expression of positive opinions or even speculations upon the unknown or what he did not clearly understand in any sphere of thought.

This occasion, Mr. Speaker, is also highly suggestive in another respect, especially to all of us in this House and just now while we are in the chilling shadow of death which has so recently stricken one of our most distinguished associates, [Mr. FERNANDO WOOD.] It teaches that in all our conflicts and struggles and aspirations for success, for ascendency and distinction and worldly fame, we should remember and ever bear in mind the great truth that—

> The boast of heraldry, the pomp of power,
> And all that beauty, all that wealth e'er gave,
> Await alike the inevitable hour.
> The paths of glory lead but to the grave.

Man's highest aspirations should be for objects and ends in another and higher sphere of existence. [Applause.]

Mr. TYLER. I now move the adoption of the concurrent resolution of the Senate.

The resolution was adopted.

Mr. TYLER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes.

The message also announced that the Senate had passed a bill (S. No. 2165) for the relief of Sidney P. Luther, in which the concurrence of the House was requested.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The gentleman from Texas [Mr. REAGAN] is entitled to the floor.

Mr. YOUNG, of Ohio. I hope the gentleman will yield to me.

Mr. REAGAN. I am appealed to by a number of gentlemen to yield for measures which are interesting and important to them; but if I do so I shall waste the day. I must decline to yield to any one. I move that the House resolve itself into the Committee of the Whole to resume the consideration of the river and harbor bill, and pending that motion I move that all debate on the pending paragraph and amendments to it be limited to ten minutes.

The SPEAKER *pro tempore*. Before putting the motion of the gentleman from Texas the Chair, if there be no objection, will lay before the House several executive communications.

There was no objection.

PAVEMENT OF PENNSYLVANIA AVENUE.

The SPEAKER *pro tempore* laid before the House the following message from the President of the United States; which, with the accompanying papers, was referred to the Committee on the District of Columbia, and ordered to be printed:

*To the Senate and House of Representatives:*

I herewith transmit the final report addressed to me by the commissioners appointed under the act of Congress approved July 19, 1876, authorizing the repavement of that part of Pennsylvania Avenue lying between the Treasury Department and the Capitol grounds.

R. B. HAYES.

EXECUTIVE MANSION, *February* 14, 1881.

WASHINGTON AND GEORGETOWN RAILROAD COMPANY.

The SPEAKER *pro tempore* also laid before the House a letter from the president of the Washington and Georgetown Railroad Company, transmitting a report of the receipts and disbursements of that company for the year ending December 31, 1880; which was referred to the Committee on the District of Columbia, and ordered to be printed.

BUILDINGS AT MILITARY POSTS.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting estimates of appropriation for repairs of buildings at military posts; which was referred to the Committee on Appropriations.

LIEUTENANT ROBERT G. SMITHER.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, relative to the change of grade of Lieutenant Robert G. Smither; which was referred to the Committee on Military Affairs.

REVISION OF SPECIAL ASSESSMENTS, DISTRICT OF COLUMBIA.

The SPEAKER *pro tempore* also laid before the House a letter from the commissioners of the District of Columbia, transmitting the report of the chief of the special assessment bureau relative to the execution of the acts of June 19, 1878, and June 27, 1879, authorizing and directing the revision of special assessments; which was referred to the Committee on the District of Columbia, and ordered to be printed.

RED BANK CREEK.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a report of the survey of Red Bank Creek; which was referred to the Committee on Commerce.

SINKING-FUND ACT OF 1878.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of the Interior, recommending an amendment to the sinking-fund act of 1878; which was referred to the Committee on Ways and Means.

MOCCASIN RIVER, NORTH CAROLINA.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a report of the survey of Moccasin River, North Carolina; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. HAMMOND, of New York, by unanimous consent, was granted leave of absence for one week on account of important business.

HYACINTHE ROBERT AGNELL.

On motion of Mr. COVERT, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Hyacinthe Robert Agnell, late professor of French at the United States Military Academy at West Point, no adverse report having been made thereon.

RANCHO EL PASO DE LOS ALGODONES.

On motion of Mr. PACHECO, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of the claimants to the Rancho El Paso de los Algodones, no adverse report having been made thereon.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I should like very much to oblige gentlemen who make requests of me to yield the floor, but if I yield to one I will get into trouble, and therefore am compelled to insist upon my motion that the House shall resolve itself into the Committee of the Whole House on the state of the Union for the purpose of proceeding to the consideration of the river and harbor appropriation bill; and, pending that motion, I move all further debate on the pending paragraph and amendments thereto shall be closed in ten minutes.

Mr. YOUNG, of Ohio. I hope the gentleman will yield to me. It will not take up much time.

Mr. TALBOTT. I thought the gentleman would yield to me in reference to a soldier's monument.

Mr. REAGAN. I must insist upon my motion.

The motion closing debate was agreed to.

Mr. REAGAN. I now insist on my motion to go into committee.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. The House resumes the consideration of the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes. The Clerk will report the pending paragraph.

The Clerk read as follows:

Improving Oakland Harbor, California, $60,000; and the sums of money heretofore appropriated for this improvement and unexpended are hereby reappropriated; but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War.

Mr. PAGE. I move to amend that paragraph by striking out these words:

And the sums of money heretofore appropriated for this improvement and unexpended are hereby reappropriated; but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War.

If the House should strike out these words I will then, by the consent of the committee, at the end of the bill add that no money appropriated by this bill shall be available until the rights of the United States to make such improvements as are herein provided shall be secured free to the United States in a manner satisfactory to the Secretary of War.

The CHAIRMAN. The Chair will suggest to the gentleman from California, if he desires to address the committee on the whole subject, he had better move to strike out and insert.

Mr. PAGE. I do not care to insert the amendment here. If the words indicated in my amendment are stricken out, then my amendment will more properly come in at the end of the bill.

Now, one word, Mr. Chairman, why this appropriation in my judgment should be stricken out. In the first place there is no question in the mind of the Secretary of War as to the right of the United States to make this improvement. The bill adopted last year had a similar provision to the one contained in this bill. The Secretary of War immediately called upon the Attorney-General of the United States for his legal opinion as to the right of the United States to make this improvement. That opinion is as follows:

DEPARTMENT OF JUSTICE,
*Washington, June* 28, 1880.

SIR: Your letter of the 18th instant calls my attention to the report of the United States attorney for California, upon the subject of the title to the channel entrance to Oakland Harbor in that State. It also informs me that in the river and harbor act approved June, 1880, the following clause occurs:

"Improving Oakland Harbor, California, $60,000; and the sums of money heretofore appropriated for this improvement are hereby reappropriated, but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training-walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War."

Upon this report, in connection with the clause just quoted, you request my opinion upon the question whether the United States now has the legal right to the bed of the estuary and training-walls of this work.

Upon the facts as stated by the United States attorney, the estuary in question is a navigable estuary, through which the tide ebbs and flows, and the training walls of the work are below high-water mark. It is not necessary, therefore, to consider whether or not the soil of the beach between high and low water mark or the bed of the estuary belongs to any private persons. The only question to be determined is whether the United States have such a right that, whatever may be the title of riparian proprietors, they may prosecute the work of improvement of the harbor, and erect such structures as they deem necessary for the purpose, without affording any just cause of complaint to such private owners.

The language of the clause is undoubtedly *ex industria*; and, while the right of the United States is to be secured (free of expense to the Government) to the bed of the estuary and training-walls, it is not contemplated that it shall have necessarily an absolute title, in the full sense of those words, to the bed of the estuary or to such portions of the banks and bed as are occupied by the training-walls. The title to the lands which the United States proposes to use for the purpose of structures for the improvement of the harbor below high-water mark is derived from the State. But the State itself does not possess any right, either by virtue of its

sovereignty or its ownership, which could in any way control the right of the United States, conferred by the Constitution, to regulate commerce. This right includes the right to regulate navigation, and hence to regulate and improve navigable waters; and this it may do by the erection of such structures as it deems necessary for the purpose, no matter what the effect may be upon the subordinate rights of the owners of the soil covered by such navigable waters. The bed of the estuary in question being the bed of a navigable stream or sheet of water, to the use of the harbor made by which training-walls and other structures are essential, they may be used as appropriately as culverts, drains, or embankments may be for the purpose of the construction and proper enjoyment of a public road.

The report of the United States attorney cites many authorities sustaining the proposition that private rights in land covered by navigable waters are necessarily subject to the higher rights of the public. I observe one, however, which failed to meet his attention, which gives a full and clear view of the whole subject, (South Carolina *vs.* Georgia *et al.*, 93 United States, 4.) The whole subject is so elaborately discussed in this case that I deem it superfluous to do more than to refer to it.

In direct answer to your inquiry, I am of opinion that the United States has a legal right to use the bed of the estuary in question for the purpose of said improvement, by the erection of training-walls or any other appropriate structure, and that the owners of the soil can make no complaint of such use.

Very respectfully, your obedient servant,

CHAS. DEVENS,
*Attorney-General.*

Hon. ALEXANDER RAMSEY, *Secretary of War.*

I call the attention of the committee to the order of the Secretary of War, under that opinion of the Attorney-General, to the Chief of Engineers, and to the order of the Chief of Engineers to Lieutenant Colonel George H. Mendell:

WAR DEPARTMENT,
*Washington City, February* 15, 1881.

SIR: Referring to your telegram of the 14th instant, requesting copy of order from the Secretary of War directing Colonel George H. Mendell, Corps of Engineers, to expend money for improvements of Oakland Harbor, I have respectfully to inclose herewith copy of indorsement of the Secretary of War of July 16, 1880, and also copy of instruction to Colonel Mendell of July 20, communicating the same.

Very respectfully,

JOHN TWEEDALE,
*Acting Chief Clerk.*

Hon. H. F. PAGE, *House of Representatives.*

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JUNE 28, 1880.

Department of Justice, *in re* improvement Oakland Harbor, California.

Subject: Title to the channel-entrance to the harbor.

Opinion: That the United States has a legal right to use the bed of the estuary in question for the purpose of said improvement, and that the owners of the soil can make no complaint.

[Indorsement.]

The Chief of Engineers will advise Lieutenant Colonel Mendell, or such other engineer officer who may be in charge of the work, of this opinion, directing him to proceed with the work in accordance with the approved plans and estimates heretofore submitted.

ALEX. RAMSEY,
*Secretary of War.*

JULY 16, 1880.

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OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
*Washington, D. C., July* 20, 1880.

SIR: Your letter of the 26th ultimo, submitting project for the application of the appropriation of June 14, 1880, "for improving Oakland Harbor, California, $60,000, and the sums of money heretofore appropriated for this improvement and unexpended are hereby reappropriated, but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training walls of the work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War," has been received.

The project is approved. The $60,000 appropriated by the river and harbor act of March 3, 1879, is deemed to have been reappropriated.

In connection with this subject, a copy of the opinion of the honorable the Attorney-General of the United States, dated June 28, 1880, relative to the improvement of Oakland Harbor, California, and the channel entrance thereto, with indorsement of the honorable the Secretary of War thereon, dated July 16, 1880, is furnished for your information and guidance.

You will proceed accordingly.

By command of Brigadier-General Wright.

Very respectfully, your obedient servant,

H. M. ADAMS,
*Captain of Engineers.*

Lieutenant-Colonel GEORGE H. MENDELL,
*Corps of Engineers, San Francisco, California.*

Now, Mr. Chairman, the only question which has ever arisen in this matter was settled years ago. Soon after this work had been entered upon by the General Government, Colonel Mendell made mention of the fact in a report to the Engineer Department that the Oakland Water Front Company had laid claim to certain lands between high-tide and the ship channel, and that the Government could not and did not recognize the right of any private corporation to any portion of this land. Then Congress in its appropriation made it conditional upon the Oakland Water Front Company to cede whatever rights it had, if any, to the United States.

As I said at the last Congress, these conditions were imposed upon the river and harbor bill, and in accordance with the instructions in that bill the Secretary of War submitted this whole question to the Attorney-General of the United States. Now, the Attorney-General of the United States called upon the United States attorney of San Francisco for a report upon the subject, and upon that response he based his report to the Secretary of War, upon which this money was ordered to be expended. And that is all that can be done. There is no higher authority to appeal to than the law officer of the Government of the United States, whose opinion as submitted is clear and explicit and cites also the opinion of various decisions of the Supreme Court of the United States to sustain him; and why this special appropriation should be tied up in this manner continually, year after year, after the law officer of the Government has given an opinion which obviates the necessity or the propriety of such restriction, is more than I can understand. I ask, therefore, as a matter of right, that it be stricken out for the reason that it causes useless and unnecessary delay and trouble in a matter which is of great importance in the affairs of this people who are so interested in this question. I trust, Mr. Chairman, that the Committee on Commerce will consent to strike it out now. I am informed and believe that a majority of the committee are in favor of striking it ont. But if such a proviso is to be incorporated in this appropriation bill and appended to any provision of it, then I ask that it be made a general provision, and that it be extended to all places which may be involved in the same manner or present the same conditions, rather than that it shall be a special restriction to this one point, where it has no applicability and where it only effects a hinderance and delay. If this provision is a general one and applies to all places in the United States where it is proposed to make such improvements, it might not be so objectionable. But as well might any gentleman come up here and say, "I claim a right to a portion of the improvements of Galveston Harbor, or of Boston Harbor," and upon that mere statement the Committee on Commerce of this House would have the same right to impose such a restriction as to the expenditure of money as they have to this work, which has been clearly recognized all over these different appropriations, and where over two hundred and sixty thousand dollars has been already expended.

I hope the money in this case will no longer be tied up by such a restriction.

Mr. REAGAN. Mr. Chairman, I desire to occupy the attention of the House as briefly as possible in the consideration of this matter, and shall take up no time in discussing the propriety of the amendments which may be submitted, for the reason that this is a bill which should pass without delay, because all the works which have already been commenced upon these public improvements will be suspended necessarily unless this bill becomes a law.

Oakland Harbor is one of great necessity and importance to the Pacific coast. The subject of appropriations for that harbor have been under discussion on every bill for the last six years.

I deem it proper to make this statement to the House as to the ground upon which the qualification proposed in this bill as to the expenditure of money for the improvement of that harbor is made. The United States, it appears, relinquished to the State of California the submerged lands in the bay of San Francisco. Under the title from the United States to the State of California the Pacific Railroad Company obtained possession of the submerged lands. The work now being done is by dredging an estuary from the deep water of the bay into Oakland Harbor, and the building of training walls for protecting the harbor. The Pacific Railroad Company claims the right to this property as being part of the submerged lands secured under their title. The railroad company, therefore, has as much interest in the improvement of the harbor as any other portion of the people.

Mr. PAGE. Will the gentleman permit me to interrupt him?

Mr. REAGAN. I cannot submit now to an interruption.

Mr. PAGE. I wish merely to say that the gentleman is clearly mistaken. The railroad company make no claim whatever, if the Water Front Company——

Mr. REAGAN. I beg to insist upon my statement as true, and hope that I will not be interrupted. They have been appealed to to relinquish to the Government the right to the estuary which has been made largely by the dredging boats of the United States, and the training walls also built by it and at its expense. They refuse to surrender the right which they claim and ask the execution of a project, requiring more than a million of dollars to complete, on what they claim is their private property. Now, we might go on and expend the million of dollars or over, and they can of course demand control of the whole of it after it is done, under the claim now submitted of their title to the land. When the work is completed they can say to the Government which built it, you must pay us the value of the work, whatever it may be, before you can be privileged to use it. Therefore what the Committee on Commerce have seen proper to do is to say to this company that you must relinquish your claim to the right of this estuary and the training walls before we will allow a dollar of this money to be expended.

Now, my friend from California presents what he says is an opinion of the Attorney-General disposing of the whole question; and while this may be an opinion covering the ground alleged, I claim, and I call the attention of the committee to it, that it goes to no statement of the facts in the opinion as to the basis on which it is founded. The facts of the case are not alluded to at all, and from that I am inclined to believe that the opinion of the Attorney-General was founded upon no question touching the basis or right of these claimants, that question not being discussed in that opinion at all. And if they were alluded to, while the opinion of the Attorney-General would be persuasive as the opinion of a great lawyer and law officer, it does not settle the question of title. It is not an adjudication of the question in any sense, for in the face of that opinion, instead of relinquishing the right to the estuary and training walls, these gentlemen refuse to do it and seek the repeal of the provision to which reference is made.

The question being taken on Mr. PAGE'S amendment, there were—ayes 52, noes 64.

So (further count not being called for) the amendment was not agreed to.

Mr. PAGE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "reappropriated" to the end of the paragraph, namely, the words "but the sums so appropriated and reappropriated shall not be available until the right of the United States to the bed of the estuary and training walls of this work is secured, free of expense to the Government, in a manner satisfactory to the Secretary of War" and insert in lieu thereof the following:

"But no money appropriated by this bill shall be available until the rights of the United States to make such improvements as are herein provided shall be secured free to the United States in a manner satisfactory to the Secretary of War."

Mr. UPDEGRAFF, of Iowa, rose.

The CHAIRMAN. Under the order of the House, the amendment is not debatable.

Mr. UPDEGRAFF, of Iowa. I know that; but I desire to offer a substitute which I send to the desk.

The Clerk read as follows:

No money appropriated by this act shall be expended in the improvement of any stream, or part thereof, notwithstanding the same be designated and appropriated for by name herein, in which, in the part to be improved, or in the improvement, any corporation or individual has any proprietary interest, or on which stream or improvement any tolls are or may be collected, until such proprietary interest is surrendered to the United States.

Mr. PAGE. I make the point of order on the substitute just read, that it is not germane to the paragraph to which I have offered my amendment.

The CHAIRMAN. It is not necessary, under the rule, that the amendment should be germane to the paragraph under consideration; otherwise it would be in the power of the Chair to dictate the order in which provisions should be inserted. The rule is, it should be germane to the bill.

Mr. PAGE. I hope the gentleman will withdraw his amendment for the present and take some other opportunity of offering it.

Mr. UPDEGRAFF, of Iowa. I have no objection. I withdraw the substitute for the present.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California, [Mr. PAGE.]

Mr. PAGE. The committee will observe my amendment makes a general provision, while the proviso in the bill is a special one.

The question being taken on Mr. PAGE's amendment, there were—ayes 63, noes 68.

Mr. PAGE. I call for tellers.

Tellers were ordered; and Mr. PAGE and Mr. REAGAN were appointed.

The committee again divided; and the tellers reported—ayes 62, noes 70.

Mr. PAGE. I insist on a quorum. Let us have a full vote.

The CHAIRMAN. The tellers will continue their count.

The count was resumed, and the tellers reported—ayes 77, noes 84.

So the amendment was not agreed to.

Mr. UPDEGRAFF, of Iowa. I now offer the amendment which I withdrew a few moments ago.

The Clerk read as follows:

Add to the paragraph the following:

No money appropriated by this act shall be expended in the improvement of any stream, or part thereof, notwithstanding the same be designated and appropriated for by name herein, in which, in the part to be improved, or in the improvement, any corporation or individual has any proprietary interest, or on which stream or improvement any tolls are or may be collected, until such proprietary interest is surrendered to the United States.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

Mr. WILSON. Let us vote it down.

The question was taken; and there were—ayes 46, noes 82.

Mr. UPDEGRAFF, of Iowa. No quorum.

The CHAIRMAN. A quorum not having voted the Chair will order tellers, and appoints the gentleman from Iowa, Mr. UPDEGRAFF, and the gentleman from Texas, Mr. REAGAN.

The committee again divided; and the tellers reported—ayes 43, noes 111.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

Improving Raritan River, New Jersey, $25,000; of which sum $20,000 shall be expended on rocks at Whitehead Sand Dock, and $5,000 at South Channel, between Crab Island and South Amboy.

Mr. UPDEGRAFF, of Iowa. I offer as an amendment to come in at the close of the paragraph just read, what I send to the desk.

The Clerk read as follows:

After line 58 insert:

No money appropriated by this act shall be expended in the improvement of any stream, notwithstanding the same be designated and appropriated for by name herein: *Provided*, The object be of a local character or the use be merely local and not of general benefit to the States.

Mr. VANCE. I desire to ask the Chair if that amendment has not been substantially voted on before by the committee?

Mr. CLYMER. Oh, no; it has not.

The CHAIRMAN. An amendment substantially the same may have been voted on by the committee, but it is not exactly the same proposition, and the Chair will submit it.

Mr. UPDEGRAFF, of Iowa. This paragraph appropriates $25,000 for the Raritan River, in New Jersey. From the best information I can obtain the length of this stream that is at all navigable is about twelve miles. The object of this improvement is certainly a purely local object. The paragraph as I have said appropriates $25,000. The amount necessary to complete the project as reported by the engineers at page 517 of the report, is $2,093,000.

Now, Mr. Chairman, if this section becomes a law without this amendment it involves the expenditure of over two million dollars or else this appropriation is of no use and no consequence. Taking the whole bill and judging the whole bill by this appropriation and the consequences which follow it, the passage of the bill as it now stands without amendment involves the appropriation by Congress at one time or another of the amount of $690,000,000 or else the appropriations in the bill are of no value.

I have endeavored to ascertain upon what principle this bill was drawn. I have not been able to ascertain it. I would like to have had some limits defined in some place or in some manner for these appropriations. The gentleman from Massachusetts [Mr. RUSSELL] who spoke the other day here in the committee, a member of the Committee on Commerce, and speaking for it, I doubt not, made a quotation from Judge Story, volume 2, page 162, in which he says:

The only limitations upon the power are those prescribed by the terms of the Constitution, that the objects shall be for the common defense or the general welfare of the Union. The true test is whether the object be of a local character and local use, or whether it be of general benefit to the States. If it be purely local Congress cannot constitutionally appropriate money for the object. But if the benefit be general, it matters not whether in point of locality it be in one State or several; whether it be of large or of small extent, its nature and character determine the right, and Congress may appropriate money in aid of it.

Now, if this be the rule, if the constitutional power of Congress to appropriate money for this purpose is properly defined in the extract I have read, then the amendment which I have had the honor to offer simply confines these appropriations within the just constitutional power of Congress.

Mr. ROBESON. I agree with the general propositions presented by my friend from Iowa, [Mr. UPDEGRAFF;] but he has struck the wrong stream this time. [Great laughter.] The Raritan River is the stream into which the Delaware and Raritan Canal debouches at a point a few miles from the mouth of the river. Over the part of that stream to be improved by this appropriation floats all the water commerce between the metropolitan city of New York and the great manufacturing city of Philadelphia; and over that stream, starting from New York, floats the water commerce to the Chesapeake Bay, to Baltimore, to Washington, and to the South. Therefore, if there be a stream in the country that is not local in its character it is the stream which carries tide-water navigation furthest from New York toward Philadelphia, and is connected with the inland interests of the West and the agricultural section of the South. That is all I have to say about this particular appropriation.

Mr. WILSON. And that is a good speech. [Laughter.]

The question was taken upon the amendment of Mr. UPDEGRAFF, of Iowa, and it was not agreed to upon a division—ayes 24, noes not counted.

Mr. COX. I move to amend the paragraph just read by adding that which I send to the Clerk's desk.

The Clerk read as follows:

*Provided*, That no money shall be appropriated by this act for any stream where any corporate company is authorized by any State law to collect tolls or boomage.

Mr. COX. We had a vote a few moments ago on a proposition very similar to this, but we had not at that time the advantage of being able to discuss the proposition offered by the gentleman across the way.

Now, this House may not know, and the Committee on Commerce may not know, that there has been and is now a custom under the law of some States, the State of West Virginia, for instance, of allowing corporate companies to collect tolls or boomage upon certain streams, while the United States Government has been all the time paying out money from the General Treasury for the benefit of improvements on these rivers where such tolls have been collected.

I desire now to call the attention of the House to Elk River, for instance, which is put down in the Centennial Gazetteer of the United States as a tributary of the Great Kanawha, in West Virginia. It is there stated that Elk River rises in Rich Mountain, Randolph County, and flows through Braxton, Clay, and Kanawha counties. It does not flow into the Ohio River at all, but as a tributary of the Great Kanawha. On this Elk River are floated down logs; there is a sort of push-pole navigation, I imagine, as well as raft navigation.

By the provisions of chapter 74 "An act to incorporate the Elk River Land Improvement, Manufacturing and Booming Company," passed by the Legislature of West Virginia February 27, 1869, certain corporators are authorized to subscribe for stock, to form a corporate company, and to erect booms on Elk River. By the eighth section of that act they are authorized to construct booms, with or without piers, as may be necessary for the purpose of stopping and securing logs, masts, spars, and other timber, and to charge and collect tolls and boomage on saw-logs or other timber as may be secured in their booms by warps, wedges, &c.

So also in respect to another river for the improvement of which this Government has been paying large sums of money. I have here an "act to incorporate the Elk River Navigation Company," passed March 4, 1868, by the Legislature of West Virginia. We have here all the proofs, which the Committee on Commerce did not have, that this is a company for collecting tolls on the various articles trans-

ported down that river, such as crude and refined oil, empty oil barrels, malt and spirituous liquors, flour, timber, logs, lumber of all kinds, staves and headings, wood and tan-bark, coal and coke, &c. This company is authorized to impose certain taxes upon such articles for lockage, steamboats, barges, &c., and those tolls are collected by a company of private individuals incorporated by the laws of West Virginia. And all this time Congress has been making contributions for the improvement of the navigation of that river, while private individuals have been making money out of such improvements.

Mr. WILSON. You are mistaken about that.

Mr. SPARKS. There is the law; the gentleman has read the law.

Mr. FRYE. I would call the attention of the gentleman from New York [Mr. COX] to this: that for a great many years we have been improving New York Harbor, and there is no toll taken on any river in this country so outrageous, so unjust, and so destructive to public interests as the compulsory pilotage enforced in New York Harbor.

Mr. COX. Except perhaps your navigation laws, which will not allow people to buy ships at pleasure. The only things that are obstructed by the legislation which the gentleman favors are ships and obscene literature.

[Here the hammer fell.]

Mr. KENNA rose.

Mr. REAGAN. Allow me a moment.

Mr. KENNA. I desire to reply to the gentleman from New York.

Mr. REAGAN. I wish to suggest to the gentleman from New York that it would be safest to strike out the word "boomage" from his amendment, because that is provided for in many places separate from the navigation of the stream.

Mr. COX. Will the gentleman favor my amendment if I strike out the word "boomage?"

Mr. REAGAN. I do not know about that.

Mr. COX. I will strike that word out, if the gentleman will agree to vote for my amendment.

Mr. KENNA addressed the committee. [See Appendix.]

Mr. TOWNSHEND, of Illinois. I move to amend the amendment by striking out the last word. My opposition to this bill is not factious. When the effort was made to put the bill on its passage under a supension of the rules I resisted it for the very reason that I desired the bill to be brought before us in such a way that we could amend and debate it. It is now before us in that shape, and as time is precious, I hope our friends here will cease any further factious opposition, and will seek by amending the bill to put it in such form as will command the sanction of the majority of this House. I shall be glad to see it so amended and guarded that I may be able to vote for it myself.

About two-thirds of its provisions meet my approbation. I am in favor of liberal appropriations for all navigable rivers, especially so with regard to the Mississippi, the Ohio, the Missouri, and its other great tributaries. I am in favor of improving those great water lines of transportation as a means of competition with railroad monopoly. After we have sufficiently improved the large navigable streams we may then address our attention to, or at least consider the propriety of, improving the small streams which gentlemen seem to regard as so important.

I wish to say further that the amendment of the gentleman from New York is in my opinion right in principle; and I hope it will be applied to every stream upon which there is a private corporation levying tolls on commerce. I do not know but that in justice to those who own such works some provision should be inserted for condemning and purchasing their improvements as was done in regard to the Louisville and Portland Canal, on the Ohio River.

I hold in my hand a communication, which I have received since this bill came into the House, from a gentleman in the West, in which I find the fact asserted that on one of these rivers of West Virginia—the Monongahela I believe—there is a corporation enjoying the monopoly of levying toll on every bushel of coal and every pound of freight passing over the river. I am informed that 48,000,000 bushels of coal came down that river during the last season into the Ohio River and Mississippi, which was taxed by that corporation. Now, I regard this as wrong; it is against the best interests of the coal region in West Virginia as well as the consumers of coal.

It has been asserted on this floor that similar corporations controlling navigation exist on the Great and Little Kanawhas of West Virginia as well as a number of other streams in other States.

Mr. MILLS. I hope the amendment offered by the gentleman from New York [Mr. COX] will not be adopted—at least not in the broad language in which it now stands. If it should be adopted in the form now pending, some of the most important public works provided for by the bill will be deprived of any benefit of the appropriation. Some years ago the Legislature of the State of Texas incorporated a company which was authorized to clear out the obstructions in Galveston Bay, to make a ship-channel, and to charge toll. The necessities of our commerce were such that this measure had to be adopted. The Government did not make any provision for improving that channel, and the State had to resort to this objectionable method of doing so. Now, since that time, the Congress of the United States in the river and harbor appropriation bill have taken up that work and gone on and spent $100,000 or $200,000 on it already. There is a contract with that company for the surrender of its charter, filed and accepted by the Government with the Secretary of War, on the completion of the work by the Government of a depth of twelve feet and over. If this amendment is adopted it stops that whole thing. I tried to express to the House the other day the necessity of going on to complete that work as rapidly as possible. That is one of the great reasons why our people are so anxious to have it finished.

Mr. COX. What work is the gentleman speaking of?

Mr. MILLS. I am speaking of the work in Galveston Bay on the ship-channel. When that work is done, then the payment of toll ceases and vessels engaged in the coasting and other trade can come with their cargoes, from whatever port they may hail, to Houston and deliver them without toll. They cannot do so now without paying toll.

If this amendment is adopted, Mr. Chairman, without any sort of restriction, this whole work stops and that toll is fixed on us for all time to come. I therefore, in case that amendment is adopted, will move to amend, and I hope my amendment will be accepted, by adding the words "except where the Government has an agreement for the surrender of said company's charter when the Government's work is completed."

Mr. COX. I accept that as a modification of my amendment.

Mr. REAGAN. I move that the committee rise for the purpose of closing debate.

Mr. COX. I demand a division on that motion.

The committee divided; and there were—ayes 114, noes 21.

Several MEMBERS. No quorum.

The CHAIRMAN. The Chair will again state to gentlemen on the floor who fail to vote they thereby obstruct the business of the House.

Mr. REAGAN. Who makes the point that no quorum has voted?

Mr. VAN VOORHIS. I do.

The CHAIRMAN. The rule says distinctly and expressly whenever it shall appear in committee there is no quorum the Chair shall cause the roll to be called, &c.

Mr. CALKINS. The committee can rise without a quorum.

The CHAIRMAN. Under what rule?

Mr. CALKINS. There is no rule.

The CHAIRMAN. The rule says whenever—that is in all cases—whenever it shall appear in Committee of the Whole there is no quorum present, the Chair shall cause the roll to be called, &c.

Mr. CALKINS. That does not apply when a motion is made that the committee rise.

The CHAIRMAN. That is the point in reference to which the Chair asked the gentleman to cite the rule.

Mr. CALKINS. There is no rule, because no rule is required.

The CHAIRMAN. The rule expressly provides how the committee shall get a quorum. Whenever it shall appear in Committee of the Whole there is no quorum present the Chair shall cause the roll to be called, &c.

Mr. CALKINS. I admit that whenever the business of the committee is obstructed by the fact of no quorum appearing then the roll should be called; but the motion to rise is equivalent to a motion to adjourn, and as the House can adjourn without a quorum so it can rise without a quorum.

The CHAIRMAN. The Clerk will read the rule.

The Clerk read as follows:

Whenever the Committee of the Whole House finds itself without a quorum the chairman shall cause the roll to be called, and thereupon the committee shall rise, &c.

The CHAIRMAN. That is sufficient. The gentleman will observe the language of the rule is broad and comprehensive. "Whenever the Committee of the Whole House finds itself without a quorum," &c.

Mr. CALKINS. The Chair will observe that only applies to the business of the committee. Now, this is a motion to rise, which is equivalent to a motion to adjourn in the House. Suppose you find yourself without a quorum in the House to adjourn, or suppose you find yourself without a quorum on a motion to rise, if we must have a quorum before we can rise or adjourn, we could neither rise nor adjourn without a quorum.

Mr. TOWNSHEND, of Illinois. If the roll is called the committee then rises to report the fact to the House?

The CHAIRMAN. Certainly. Under the rule just read if no quorum votes the committee rises at once and goes into the House and reports that fact. If there be no objection the Chair will again take the vote by division.

There was no objection.

The committee again divided; and there were—ayes 138, noes 25.

So the motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, Mr. CARLISLE reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

Mr. REAGAN. I move the House resolve itself into Committee of the Whole House; and, pending that motion, I move all debate on the pending paragraph and amendments thereto be closed in one minute.

The latter motion was agreed to; and the House accordingly

resolved itself into the Committee of the Whole House on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. The committee resumes the consideration of the river and harbor appropriation bill; and, by order of the House, all debate on the pending paragraph and amendments thereto is limited to one minute.

Mr. TOWNSHEND, of Illinois. I withdraw the formal amendment.

The CHAIRMAN. The question recurs on Mr. COX's amendment, as modified.

Mr. MILLS. Let the amendment be again read.

The Clerk read as follows:

*Provided*, That no money shall be appropriated by this act for any stream where any corporate company is authorized by any State law to collect toll or boomage, except where the company has an agreement for the surrender of said company's charter when the Government's work is completed.

Mr. CONGER. Has the minute for debate been consumed?

The CHAIRMAN. Not yet.

Mr. CONGER. In the improvement of some rivers where a company has been organized to build dams and make slack-water navigation, and above the works of the company the Government has already appropriated money—and that work is now going on, I think, in Virginia or Kentucky—subject to the law that no tolls shall be charged for that part of the river made navigable by the improvements of the United States. That is an old provision of an old law, and those interested in it in those States perhaps ought to see if this will violate that law.

[Here the hammer fell.]

Mr. WILSON. Let us vote it down.

The question was taken; and there were—ayes 37, noes 114.

So the amendment was not agreed to.

The Clerk read as follows:

Improving harbor at Charlotte, New York, repair of piers, $2,500.

Mr. VAN VOORHIS. I offer the following amendment:

In lines 63 and 64 strike out the words "repair of piers, $2,500," and insert "rebuilding piers, $10,000."

Mr. Chairman, I wish to say in connection with this amendment that there is no estimate of the engineers for the work for which this amount is appropriated in this bill, namely, the repair of piers. There is an estimate for the rebuilding of the piers at Charlotte of $40,000, of which $10,000 is needed this year, but none for their repair. It was originally estimated that the completion of these piers would cost $45,000. In 1880 $5,000 was appropriated for that work, as the Engineer's report shows. Nothing could be done with so small a sum. I do not offer this amendment because I expect it to pass. It is foreordained by the Committee on Commerce that no amendment shall be made to this bill. The chairman of the committee has given orders to his retainers that no amendment shall be allowed. I would ask no man to vote one dollar by this amendment if upon the merits of the case and upon a close examination of the whole question it was not warranted and fully demanded. [Cries of "Vote!" "Vote!"]

But, sir, it is for us upon this floor to decide what we shall do when the facts are submitted to us. The statement has been made upon this floor that gentlemen who oppose this bill do so because they have failed to get as large appropriations for their localities as they desired. This is entirely untrue, at least so far as I am concerned. I did not go before the Commerce Committee at all. I did not speak to any member of it in reference to any appropriation; I asked for nothing, and I got all I asked. I left the committee to act upon their official responsibility to this House and to the country. I took it for granted that in the formation of a bill of this character they would be guided by higher motives than mere local or State interests.

Now, what is this appropriation for in this case? For the rebuilding of the rotten piers of a harbor which collected during the last year $102,000 of customs, and it is estimated that during the present year it will collect $150,000. The piers are rotten and worthless; the engineers report that they must be rebuilt, and it should be done within a short time. Last year the committee gave that work $5,000. Of course nothing could be done within that sum toward rebuilding the piers. It will take nine years to do the work at $5,000 a year. It is absurd to think of doing that. This year they propose to give by this bill $2,500. At that rate it will take eighteen years to complete the work, and the first part will be destroyed before the last part is finished. This district collects more customs and pays more to the Treasury from that source than the entire State of West Virginia, or Texas, or Delaware, or North Corolina, or than the State of South Carolina, or Georgia, or the State of Alabama, or than the State of Wisconsin. This single port alone beats these entire States in the amount of customs revenue it collects, and yet the Committee on Commerce say they have acted upon "equitable principles." They refuse to give more than the small pittance of $2,500 to this work when the engineer recommends $10,000 to rebuild the piers, and when such rebuilding has become absolutely necessary. There are over eight hundred thousand dollars of internal revenue collected in this Rochester district.

The number of vessels which cleared from this port in the last fiscal year is six hundred and three, and their tonnage is 139,112 tons. The number of vessels entered at that port during the same period is five hundred and ninety. There were one hundred and eighty arrivals and departures of vessels which were not entered or cleared. The articles of commerce are lumber, live stock, grain, iron-ore, coal, and hay. There are two immense coal-chutes at that point and the shipment of coal to the Canadas is great and increasing each year. [Cries of "Vote!"] Now, gentlemen may call "vote" as much as they please. There will be no vote until I am through.

Mr. Chairman, I wish to ask what right has the State of Texas to take $750,000 of the money, 70 per cent. of which is received from the State of New York, when she only contributes, customs and internal revenue all combined, the sum of $389,000, less than one-fourth of 1 per cent. of the Government revenues, when Texas refuses one of the finest harbors of New York the small sum to do necessary work, and work that is absolutely indispensable to save what is already there and which the engineers report should be done and done speedily.

Mr. BLAND. I wish to ask a parliamentary question.

The CHAIRMAN. The gentleman will state it.

Mr. BLAND. I wish to know whether we can have a separate vote on the amendment to strike out and to insert. As the gentleman from New York thinks $2,500 will not do any good, suppose we strike it out altogether.

Mr. REAGAN. Mr. Chairman, in response to the remarks of the gentleman from New York in which he alleges that there has been no estimate for this work and that the amount appropriated is insignificant in comparison to the needs of the harbor there, I will simply read the report of the engineers as to what has been done and what is to be done. They say:

A number of repairs costing about thirteen hundred dollars were made to both the east and west piers wherever the timbers and planks were decayed or broken. The harbor is in good condition. The appropriation of $5,000 made by the act of June 14, 1880, will be applied to the rebuilding of the piers, the estimated cost of which was $45,000 as given in the last annual report.

And there is no recommendation whatever to appropriate, as the gentleman suggests, for the rebuilding of the piers.

Mr. VAN VOORHIS. There was a recommendation last year that the piers be rebuilt and that it be done in five years at a cost of $45,000, and the Engineer does report that $10,000 should be expended this year in rebuilding of the piers. I quote the Engineer's words:

| | |
|---|---|
| Amount (estimated) required for completion of rebuilding piers, existing project | $40,000 |
| Amount that can be profitably expended in fiscal year ending June 30, 1882 | 10,000 |

There is no mistake about that. The Engineer says the piers are rotten, and should be rebuilt. The repairs which the gentleman from Texas [Mr. REAGAN] referred to were paid out of an old appropriation. The $5,000 appropriated in 1880 is untouched, and is a part of the $45,000 of the original estimate.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from New York.

The committee divided; and there were—ayes 9, noes 120.

So the amendment was not agreed to.

Mr. VAN VOORHIS. I offer, then, the following amendment.

The Clerk read as follows:

The Secretary of War shall not expend any money appropriated by this act in any State in excess of the net receipts of customs and internal revenue received from such State in the last fiscal year.

Mr. VAN VOORHIS. This is an act to sequestrate a portion of the revenues of the United States and distribute it among the States. There should be some equitable method of making the distribution. I know of no more equal way than to take the amount the States contribute to said revenues and make the distribution ratably on that basis. The river and harbor appropriation is for the benefit of commerce, and the customs being a tax on commerce, the amount of customs each State pays should be taken as the basis.

I have already said there were $102,000 of customs received at the port of Genesee in the last fiscal year, and that sum will probably be increased to $150,000 this year. Paying that large revenue, this bill grants $2,500 for the rebuilding of piers which will cost $45,000. In the last fiscal year West Virginia collects $737 of customs and $311,414 internal revenue. Allowing for cost of collection the net sum is probably not over $250,000. This river and harbor bill gives to that State $306,000. So West Virginia takes from the Treasury $56,000 more than she contributes to it—the Federal Government pays all the cost of its officers and other expenses in West Virginia and gives that State a bonus of $56,000 besides.

Texas pays into the Treasury a gross sum of $131,413 for customs and $258,321 internal revenue, aggregating $389,734, and takes out of the Treasury by this bill the sum of $750,000. New Jersey collects $10,949 of customs, and takes by this bill $266,000. Delaware collects $17,494 of customs, and takes out of the Treasury by this river and harbor bill $66,500. Virginia collects $62,312 of customs, and takes out of the Treasury by this bill $262,000. North Carolina collects $47,214 of customs, and takes $68,500 by this bill. South Carolina collects $67,097 of customs, and gets $232,000 by this bill. Georgia collects $76,286 customs, and gets $156,000 by this bill. Alabama collects $31,365 of customs, and gets $135,000 by this bill. Wisconsin collects $77,254 of customs, and takes $268,000 by this bill. These are a few samples.

Now, Mr. Chairman, this is a commerce bill, and it is a bill that should bear some proportion to that portion of revenue which is derived from commerce, that is, the customs revenue in the several States. The money appropriated by this bill should be divided, as it seems to me, only in proportion to the amount of customs which the

several States pay if there is to be any equitable division at all. If we are to put this money into the trout streams of West Virginia, and mud streams of Maryland, the amount should correspond to what is received in the way of customs from those States. And the amounts which they pay into the Treasury should furnish a limit to the amounts they draw out. This seems a very plain proposition, and this amendment should be adopted.

[Here the hammer fell.]

The question being taken on the amendment offered by Mr. VAN VOORHIS, there were—ayes 9, noes 144.

The Clerk read the following:

Improving Flushing Bay, New York, $10,000.

Mr. LOUNSBERY. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out the paragraph just read, namely, these words: "Improving Flushing Bay, New York, $10,000."

Mr. LOUNSBERY. I do not know what Representative from my State is interested in the two lines of the bill covered by my amendment; but I wish to say that I cannot allow him exclusively to represent the interests of Flushing Bay. As one of the Representatives of the State of New York, and as representing a city that has some commerce in Flushing Bay, I have a right to speak for that locality. I want to say it is not possible to improve Flushing Bay. Mark the language of the bill as it reads: "Improving Flushing Bay."

There is no more beautiful bay lit up by the sunshine of the early morning or the moonshine of the evening. Look at its beautiful shores washed by the waters of the Atlantic Ocean, as its wild waves sport and play with the Long Island coast, its limpid and pure waters showing the Little Neck clams feeding upon the sands in this beautiful bay. Doubtless there are some of the citizens of my city that carry on a thriving trade in these succulent Little Neck and other clams, and, representing these constituents, I would not have this bay improved so as to destroy that commerce.

This paragraph to be stricken out by my amendment is perhaps not worse than some other paragraphs in this bill to which reference might be made. It will be observed that the paragraph does not refer to the improvement of the navigation of this bay. It may refer to the improvement of its views or of its appearance to the stranger. There may be some country seat located upon the sloping banks of Flushing Bay that is to be improved by this section. There is certainly this obscurity in the language.

I ask the attention of the committee to the fact that some few years ago there was an appropriation made in the river and harbor bill for the improvement of Rondout Harbor, the harbor of my city. The work was carried on; I will not say it is carried on to completion to-day, but to such a state of perfection that there is not a single man in my city that will father the plans by which that money was expended; there is not one single man who will say he consented to that plan. There may possibly be some individual owner of land or some incorporated owners of land that that improvement was calculated to benefit, and I hope they will some time realize the full advantage of the money laid out in Rondout Harbor.

I can give here as I gave a year ago, standing in my place, in the minute of time allotted to me for a speech upon the river and harbor bill then pending, the testimony of navigators and owners of vessels that, on the whole, the money expended in Rondout Harbor and the Hudson River, instead of being for the benefit of commerce affords to-day an obstruction to the commerce of the State, and the money instead of being merely sunk in the bottom of the river has been used to destroy and injure the value of the river as a navigable stream. The newspapers and people of my district, so far as they have spoken upon the subject, are opposed to this bill. They do not simply oppose this paragraph, they oppose these appropriations, come they as single spies or in battalions.

It is a misfortune that the subject of improving the rivers and harbors and the internal commerce of the country, a very beneficent thing if properly managed, is not under the regulation of law, not controlled or governed by statute or plan, but rests alone and solely in the discretion of the members of a committee. I will say no ill word of any person. I no not wish to speak ill of any member of this committee. They are all human like myself and like every other Representative. They can yield to pressure, to urging, to allurement of individuals; they yield to pressure of interest; and we find that all the appropriations that are contained in this bill are not made solely to benefit the commerce of the country. [Here the hammer fell.] Mr. Chairman, I had not completed what I had to say upon this subject.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COVERT. Mr. Chairman, while my colleague has made the statement that he did not know in whose district Flushing Bay was located, he has still evidenced a good knowledge of the situation and the character of that bay; and when he describes it as a beautiful sheet of water he does but simple justice to the locality he thus criticises. I want to congratulate my colleague upon the ability which he displayed when he made the statement he did that this bay could not be improved, and when he criticised the language employed by the Commerce Committee in formulating this paragraph of the pending bill. I want to congratulate my colleague upon his ability thus to "teach Cæsar the art of war." He criticises, in the first place, the expressed judgment of General Newton and the Chief of Engineers, as communicated to this House in the official announcement and communication of the Secretary of War bearing upon this subject.

The Chief of Engineers differs in opinion with my colleague, and expressly says that this bay can be improved. I set his opinion against that of my respected colleague. General Newton, who had charge of the improvement in question, says that the improvement is necessary in order to insure the future successful navigation of that bay. The committee have employed the customary and formal phraseology only in formulating this paragraph. This does not require defense. My colleague speaks of this proposed improvement as being urged simply by individual property-owners. I answer that the very first step leading up to this work was the adoption by the trustees of the village of Flushing of a resolution asking that this improvement be made by the Federal Congress. The village thus urging this action has a population of nearly eight thousand people. The town directly benefited has within its limits fully fifteen thousand of population. Immediately adjoining the village and town of Flushing is a rich, populous, and flourishing back country, whose people are directly affected by the work of improvement contemplated by this paragraph of the pending bill. I have not the time, Mr. Chairman, to give in detail the items going to show the amount of business involved in this application for the improvement of Flushing Bay. These items and full information relating thereto were given to the committee when I had the privilege of presenting this matter to them before the completion of this bill, and it was upon this information thus given in detail, I assume, that this item was inserted in the pending act.

I want to tell my colleague [Mr. LOUNSBERY] something that his residence away up in Ulster County, far removed from the locality in question, has probably prevented him from fully understanding, that is, that Flushing Bay forms at times a place of refuge for vessels navigating Long Island Sound in seasons of storm and of danger. And to this extent and for this reason the commerce of this part of the country has been benefited by the improvements thus far made in the bay, and will be further benefited if the improvements are continued.

This is not the first appropriation made for this improvement. Comparatively small amounts of money have been previously appropriated, and these amounts have been judiciously expended by the engineer in charge of this work. The pending contemplated appropriation is for deepening and widening the channel of the bay. The engineer notifies this House and the Committee on Commerce that the continuation of this improvement is an absolute necessity. The Committee on Commerce did but their duty, perhaps I may say only a part of their duty, in recommending to this House the adoption of the small appropriation contained in the pending bill for the continuation of this much needed improvement. My time has expired. I can only say, in conclusion, that it would be an act of absolute injustice to adopt the amendment of my colleague to strike out this appropriation.

The CHAIRMAN. Debate has been exhausted upon the pending amendment.

Mr. LOUNSBERY. Under the circumstances, I ask permission of the committee to withdraw the amendment I have offered and to substitute one in its place, to insert after the word "improving," in line 67, the words "the navigation of;" so that it will read "improving the navigation of Flushing Bay." And I desire to be heard a moment or two on that amendment in answer to my colleague who has just taken his seat, [Mr. COVERT.]

I wish to say that I was entirely unaware that my motion in the first place affected his interest in any way, for I have the most tender feelings of respect toward that gentleman. Representing as I do to some extent Flushing Bay, I want, however, to warn him that there is great danger in accepting an appropriation for the improvement of the navigation of that bay by diking the entrance of the bay, as is proposed by the plan of the work recommended by the engineers. May I call the attention of my colleague to the history of Amsterdam?

Mr. COX. Or any other "dam." [Laughter.]

Mr. LOUNSBERY. Some gentlemen want to introduce other "dams." I refer to Amsterdam in no such profane spirit. It was once a city controlling the East India trade and the commerce of the world. By appropriations and by engineering and diking Amsterdam engineered and diked away its commerce to other places. By the peculiar system of engineering adopted at Amsterdam, it has now become a harbor where it is necessary for vessels to be locked up by means of the tide-locks in order to reach the city.

Now, let me say generally on this matter of appropriations for improving the rivers and harbors—and I am not speaking my own opinion alone—engineers as well as members on this floor differ as to the propriety of a certain method of improving rivers and harbors; but I have been told by engineers, and there seems to be reason in it, that if there be appropriated and expended such sums as are demanded for completing the improvements in progress in the channel at Hell Gate by removing obstructions there, the bar in the Narrows, through which channel now passes all the foreign commerce which the city of New York receives will be raised eighteen inches above its present height.

If gentlemen will look for a moment at the matter they will see that if the channel of Hell Gate be opened so that an additional amount of water from New York Harbor will flow out through it, the

channel at the Narrows will be relieved from discharging a certain amount of the water from New York Bay upon each receding tide, and will adapt itself to the new condition of things. There will be needed there a smaller channel for the discharge of water from New York Bay through the Narrows, and thus a large portion of the foreign shipping now coming to New York through that channel will be driven away from the port, and New York and Flushing Bay, and all these beautiful and fair places which gentlemen desire to improve by this bill, will be stripped of the commerce which they now possess.

[Here the hammer fell.]

Mr. CHITTENDEN. I desire, Mr. Chairman——

Mr. REAGAN. If debate cannot now be closed, I will move that the committee rise for the purpose of closing debate on this paragraph.

Mr. CHITTENDEN. I desire to be heard.

Mr. CONGER. I think if the gentleman from New York [Mr. CHITTENDEN] can be heard, we can then get a vote.

Mr. REAGAN. If we can have a vote after the gentleman from New York [Mr. CHITTENDEN] has spoken, I do not want the committee to rise.

The CHAIRMAN. The motion that the committee rise is withdrawn.

Mr. CHITTENDEN. I have no desire to obstruct or delay these proceedings. I rise in my character as a representative sworn to the performance of my duty, to call attention to one chronic feature of this discussion. That feature may or may not be creditable to us as intelligent, consciencious representatives of the people. Let every man answer that question to his own conscience.

There are in this bill three hundred and fifty more or less explicit single appropriations. I proved to a demonstration the other day, after the chairman of the Committee on Commerce [Mr. REAGAN] had stated to the House and to the country that he had examined every one of these specific appropriations, that neither he nor any other member of this committee knew where Sumpawamus Bay was, within fifty miles, forty miles, or thirty miles. The gentleman said that it was within the city of New York. Now, he might with as much propriety and as much fidelity to his previous assertions have said that it was in Japan. [Laughter.]

I desire to inquire why it is that every one of these three hundred and fifty specific appropriations is assumed to be perfect? Has the millennium dawned on the Committee on Commerce? Are they competent to come here with three hundred and fifty streams to improve, and to say that every one of their propositions are perfect? Why is it they have votes enough every time to say that you shall neither strike out nor put in a word? [Laughter.] I ask that question; and I put it to the consciences of two hundred and ninety-three sworn Representatives, is that judicial, thoroughly fair, considerate legislation? I say it is not; and if I had the power I would defeat this bill though the consequences of its failure should be an extra session of Congress. I believe that this measure involves so much viciousness that it is more important to defeat it than it has been to defeat any other appropriation bill that has been brought before Congress in ten years.

The CHAIRMAN. The question is on the amendment of the gentleman from New York, [Mr. LOUNSBERY.]

Mr. LOUNSBERY. With the consent of the Committee of the Whole, I will withdraw the amendment.

The Clerk read as follows:

Improving harbor at Great Sodus Bay, New York, $5,000.

Mr. CAMP. Mr. Chairman, I move to strike out the lines just read, and insert the following instead thereof:

Improving harbor at Great Sodus Bay, New York, including dredging of channel, $20,000.

Mr. Chairman, the harbor of Great Sodus Bay is on the south side of Lake Ontario about half way between Niagara and the Saint Lawrence River. It is a harbor five miles in length and three in width, having a depth of water from eighteen to thirty-two feet. There is not an inch of this harbor that is not navigable. A sand-bar formed across its mouth, which some years ago the Government opened by digging through a channel twelve feet in depth. This channel is protected by two piers, one of them fourteen hundred feet in length; and there is an opening between the piers five hundred feet wide, through which at any time, in any storm—no matter from what direction the wind may blow—a vessel can enter.

It is a harbor whose commercial importance is yearly increasing. It is the terminus of a railroad recently constructed uniting the coal regions of Pennsylvania with the lumber regions of Canada. Appreciating the importance of this harbor over two thousand persons, residing all the way from Chicago to New York, have sent petitions here asking that $20,000 may be voted to open this channel to the depth necessary to allow a large-sized vessel with a full cargo to enter. The reason of the shallowness of the channel is not owing to the fact that the channel has filled up, but is because of the lowness of the water in Lake Ontario last year and several years preceding. The channel does not fill up. Twenty thousand dollars will complete the work; and if the committee will allow that amount to be used for this work the channel will be deepened, and this will be made a permanent improvement that will last for all time to come.

The Government maintains at this port two beacon-lights, saying practically to all navigators on the lake, "Here is a harbor of refuge and safety." The petition which I have here says it is the best harbor of safety and refuge upon any of the great lakes.

The petition asking that this harbor may be opened is signed by all the ship-owners, captains, and freighters, and by a large number of persons interested in marine insurance companies. It seems to me it would be wise for Congress to vote now this appropriation and complete the improvement, so that these beacon lights may not lure to their destruction navigators of these waters who attempt to enter this port in a dark night and during a storm. Last year two vessels were grounded and some lives were lost. There is no other harbor of refuge nearer than the Saint Lawrence River, except the harbor at Little Sodus, which has across its mouth a sand-bar which must be removed. I submit, therefore, that the appropriation proposed by my amendment should be made, and this harbor dug to the depth necessary to allow vessels of the largest class fully laden to enter.

Mr. REAGAN. The Engineeer Department recommended an appropriation of $10,000 for this work. The Committee on Commerce has recommended $5,000, 50 per cent. of the estimate, which is above the average allowed by us on such works.

Mr. CAMP. Do not the engineers report that $20,000 will complete the work?

Mr. REAGAN. No, sir; they report that $17,000 will complete it. But they ask for only $10,000 for this year. We have given one-half of that amount, which is more than we did for most other works.

The question being taken on the amendment of Mr. CAMP, it was not agreed to, there being—ayes 53, noes 84.

The Clerk read as follows:

Improving harbor at Little Sodus Bay, New York, $7,500.

Mr. CAMP. I move to amend by striking out in the clause just read "$7,500" and inserting "$20,000," so as to read:

Improving harbor at Little Sodus Bay, New York, $20,000.

Mr. Chairman, the duties collected at this port have increased from $2,500 to $3,000 in 1877, to $47,000 or $50,000 in the last year. In the last river and harbor bill, as in this, the Committee on Commerce reported a very small sum for the improvement of this harbor or the opening of its channel, but the Senate put on an amendment giving us $25,000, and a conference committee allowed it to go through at $20,000, which was the amount appropriated last year for this work. The estimate of the Engineer Department for the work is $60,000, so that if $20,000 can be appropriated this year and $20,000 next year, the harbor will be completed, and will be in perfect order.

The amendment was not agreed to.

The Clerk read as follows:

Improving harbor at Olcott, New York, $3,000.

Mr. SPARKS. I make a point of order on the clause just read. I submit that there is no law authorizing the appropriation. It is scarcely necessary to read the rule:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

This does not indicate that it is a continuation of any former improvement. There is no law authorizing it.

The CHAIRMAN. What does the gentleman say of its being a general appropriation bill within the third clause of the rule?

Mr. SPARKS. I understand it to be such general appropriation bill. The river and harbor appropriation bill has always been considered as one of the general appropriation bills.

Mr. REAGAN. I do not wish to discuss that point at this time. This is an old work provided for by law during many years. It is a continuation of work already in progress as is shown by this report. Appropriations were made for it for nine years. None was made for it last year, but the estimate for it recites appropriations heretofore made for it. It is in continuance of work already in progress. I do not wish to argue the question raised by the gentleman from Illinois at this time, as that question does not arise on this proposition. No point of order can be made against it as it is continuation of a work already in progress.

Mr. LOUNSBERY. It seems to me that a better argument can be made against the point of order than is made by the gentleman from Texas. If this is to be considered a general appropriation bill covered by the rule, then none of the appropriations are in order and the point can be made against every paragraph, because there is no enactment of Congress having reference to any of these appropriations covered by this bill. I do not deny there have been expenditures at points where these paragraphs propose to extend the work of improvement, but those appropriations were not by law. Of course the work was authorized to be done, but the point I make, Mr. Chairman, is that no system of internal improvements has been regulated by statute or recognized by the law. The entire question depends on the volition of this Appropriations Committee, and has been so considered from time to time. It is not a general appropriation bill. It is special; it is volition; it is discretion. It has not been nor is there any purpose to have it controlled by law, by any method, by any plan, by any process other than simple discretion, volition, or will of the committee and nothing else. That answers, it seems to me, the proposition that this is not a general appropriation bill.

Mr. ROBESON. If the question——

Mr. REAGAN. If the gentleman from New Jersey will allow me,

I will say that this report shows that $115,000 has been heretofore spent on this work.

Mr. CLYMER. Does the gentleman from Illinois still insist on his point of order?

Mr. SPARKS. What is that?

Mr. CLYMER. Does the gentleman still insist on his point of order? The understanding is that it is not clear and sharp in reference to this particular paragraph.

The CHAIRMAN. The Chair will call the attention of the gentleman from Illinois and likewise that of the gentleman from New York to the fact there are two clauses of the rule. The first relates to expenditures previously authorized by law, and the next to continuation of works already in progress, and the Chair understands the gentleman from Texas to say this work is already in progress, and has been for eight or nine years.

Mr. SPARKS. I do not understand the gentleman from Texas to assert that, as I presume that is not really the fact, although in times past there may have been appropriations for this harbor. I do not question that; but that was not known to me when I made the point. I do not hold, however, that this cannot be called an appropriation in continuation of work already begun. This is an independent appropriation for the improvement of Olcott Harbor, and not connected or hinged on to any appropriation heretofore made.

The CHAIRMAN. Will it or not be a continuation of work already done or in progress?

Mr. SPARKS. I would understand if an appropriation for a new harbor to-day should be made that would be an appropriation which would not come within the range of this rule. Unless the appropriation be for completing the work heretofore begun it would not come under the rule. Where the harbor has been appropriated for in years past and subsequently an appropriation is sought for the same work, that certainly cannot be considered as any continuation of work already in progress. This is as much an independent proposition as though it were an entirely new work. On this question of new appropriations in the general appropriation bill I think we may as well settle it now as at any other time. I am now prepared to make whatever remarks I have to make on the subject.

The CHAIRMAN. The Chair is anxious to hear what gentlemen have to say on this question of order, as it may become an important one in the consideration of this bill. Therefore he requests gentlemen on the floor to stop conversing in order he may be able to hear what the gentleman is saying.

Mr. ROBESON. But, Mr. Chairman, I believe I have the floor.

The CHAIRMAN. The gentleman from Illinois made a point of order, and he desires to state the grounds for it.

Mr. ROBESON. If the question is as to general or special appropriation bills, then I desire to be heard. If not, I do not care to go on.

Mr. REAGAN. I will make a statement as to the facts. There was not an appropriation for this work last year. The report on this is short, and will show the Chair precisely the position of the work, and I will read it:

> Nothing has been done here during the year, there being no funds available, and the condition of the harbor is the same as given in the last annual report.
> The scheme for the improvement of this harbor was adopted by an appropriation, in 1867, to provide for the construction of parallel piers out to the 12-foot curve and the excavation of a channel twelve feet deep between them. The piers have been carried out to the 9-foot curve and the channel deepened to about ten feet, at a cost of $115,000.

Mr. SPARKS. I would suggest, Mr. Chairman, in this connection, that from the Engineer's Report it is clearly meant as a continuing appropriation for a continuous work. If the appropriation had been thus worded, "for the continuing of improvements in that harbor," and if amended in that way, it would cover the case and not be subject to the point. I presume the facts are, from the statement made, that it is a continuing appropriation. I am relying for my facts largely on the appropriation bill of last year. Now, as I have said, if the wording of the appropriation here had been to provide for the continuance of work that had been begun, it would have obviated the necessity of the point of order.

Mr. CLYMER. Let me ask the gentleman a question in this connection. I do not think this point, should be decided without a full statement of it, and a clear one to the Chair, because it involves other questions. Suppose you make an appropriation for a public building to be erected under existing law at a certain point, and then you do not make any appropriation for a number of years, and suppose it then becomes necessary either to roof the building or to make some repairs upon it, would it require additional legislation to enable the Committee on Appropriations to bring in a bill for that purpose?

Mr. SPARKS. If my friend will allow me, I will repeat that, as I understand from the reading of the report of the engineers, this is a continuing work, or that appropriations have been made for it heretofore, and this is in pursuance of a plan adopted; and therefore my point of order is not well taken. Believing that to be the case, I withdraw the point of order.

Mr. LOUNSBERY. Mr. Chairman, I do not like to renew the point of order, but I wish to speak upon it before the Chair decides it.

Mr. REAGAN. I suggest to the gentleman from New York that he can discuss the question when it comes up in another form before the committee, so that we can get through as rapidly as possible.

The CHAIRMAN. The Chair will state that he has not decided the question of order, the gentleman from Illinois having withdrawn it.

The Clerk read as follows:

> Improving harbor at Waddington, New York, $2,500.

Mr. UPDEGRAFF, of Iowa. I desire to offer the amendment which I send up.

The Clerk read as follows:

> After "dollars," in the eighty-second line, insert "ice-harbor at Dubuque, Iowa, $40,000."

Mr. REAGAN. Mr. Chairman, I do not know whether the Chair has determined that a question of this character is to be regarded as germane to the bill——

The CHAIRMAN. The Chair has endeavored under the rule, the language of which is clear, to decide that an amendment to be inadmissible must be one not germane to the bill, and not to the particular clause to which it is offered, but to the object of the bill, the general object which it has in view.

Mr. UPDEGRAFF, of Iowa. In support of this amendment, Mr. Chairman, I desire to say a few words.

Mr. SPRINGER. I reserve the point of order.

Mr. UPDEGRAFF, of Iowa. If the gentleman desires to press the point of order I would prefer he would do it before I waste any time.

The CHAIRMAN. The Chair thinks it would be better to settle the question of order before entering upon a discussion of the merits of the question. The Chair will be glad to hear a statement of the grounds on which the point of order of the gentleman from Illinois is based.

Mr. SPRINGER. I make the point of order on the same ground that my colleague did a few moments ago, that this is a work not authorized by law, and not in continuation of existing work already authorized.

The CHAIRMAN. That being a fact, it would present the direct question whether this is to be considered as a general appropriation bill and governed by the third clause of the twenty-first rule.

Mr. REAGAN. This is new work; and if the question depended upon its being new work there would be no practical difficulty in settling the question of order. I make no objection, however, to settling the question, as suggested by the Chair, at this time.

The CHAIRMAN. Has there been a survey ordered for this?

Mr. UPDEGRAFF, of Iowa. I cannot say that there has been; not that I know of. There has been a survey made, however.

The CHAIRMAN. Under authority of law, the Chair desires to know?

Mr. HENDERSON. Undoubtedly there was a survey made under the law.

The CHAIRMAN. There might have been a survey made by some local authority. The Chair means, of course, under the law of the United States governing such surveys.

Mr. UPDEGRAFF, of Iowa. The survey was made by the Engineer Department of the United States.

Mr. REAGAN. Presumably under the general act of 1880 in pursuance of law.

The CHAIRMAN. The Chair will now hear the statement of the gentleman from Illinois as to his point of order.

Mr. SPRINGER. I understand the Chair to ask the gentleman from Iowa to state whether this harbor was surveyed in pursuance of the general law or under a special law for this particular purpose. If it was under the law authorizing the general survey of rivers and harbors, it would not apply to this more than any other work that might have been surveyed and is not already embraced or authorized in the law. But if it was directed by a special law directing the survey of this particular harbor for this particular purpose, then it would have been authorized by law; and that is the point that I am not advised upon and on which I have asked information.

Mr. REAGAN. I stated that the survey had been ordered in the river and harbor bill. All these surveys are made in pursuance of law.

The CHAIRMAN. The question the Chair asked the gentleman from Illinois was whether it was under a specific direction that the survey was made for this particular harbor or not.

Mr. REAGAN. If the Chair pleases, I can illustrate this. The specific direction with reference to each particular point is ordinarily contained in the latter part of the river and harbor bill, where it provides for all of these surveys.

The CHAIRMAN. The Chair understands the general custom, but wished to inquire whether there was any special act authorizing this survey.

Mr. SPARKS. I hold in my hand the last river and harbor bill, in which provision is made for authorizing the Secretary of War to direct certain surveys of rivers and harbors and estimates. Now, I do not see anything in reference to this harbor in this bill.

The CHAIRMAN. The gentleman from Texas says this was done in a bill passed in 1878.

Mr. REAGAN. Perhaps I had better correct myself. I proceeded on the fact that the gentleman from Iowa said he had a survey made under those laws. I have not before me the terms of the bill, to see which act this was in.

Mr. SPARKS. I only know it is not in the last act, that of 1880. But I wanted to say in that connection, were it so, were there an

authority given to the Secretary of War to cause these surveys to be made, it does not constitute that sort of authority that would warrant an appropriation. The rule says:

No appropriation shall be reported in any general appropriation bill or be in order as an amendment thereto for any expenditure not previously authorized by law——

The CHAIRMAN. Or in continuation of appropriations already made.

Mr. SPARKS. Yes.

Unless in continuation of appropriations for such public works and objects as are already in progress.

Now the survey of a river or the survey of a harbor commences nothing. It is not an appropriation for any improvement. It is simply an experimental investigation to see whether or not an improvement may become necessary. To comply with the rule you must have an appropriation of money for the improvement of the harbor or the river. That is most clearly required, as it strikes me.

Mr. REAGAN. I will correct the statement I made a little while ago, if the gentleman will allow me.

Mr. SPARKS. I do not care much about that point of the survey; but I would like to hear from the gentleman.

Mr. LOUNSBERY. I would like to understand the fact. I wish to ask the chairman whether the point of order is made as to the paragraph at lines 81 and 82, or whether it refers to the amendment offered by the gentleman from Iowa?

The CHAIRMAN. It is made against the amendment offered by the gentleman from Iowa.

Mr. LOUNSBERY. I would like the amendment to be reported.

Mr. WARNER. Before the Chair rules on this question I should like to direct his attention to this point: whether an examination or survey for the purpose of determining whether a given work shall be undertaken or not is the commencement of such a work as to warrant the appropriation under this rule.

Mr. KENNA. When by general laws surveys are specifically directed to be made, who is authorized to say this Government intended anything else than to complete the survey and go on with the prosecution of the work? The survey is an essential part of every work that is prosecuted of this kind.

Mr. WARNER. I take it a survey is for the purpose of determining whether a work shall be undertaken, and not the undertaking of that work.

Mr. REAGAN. I have been endeavoring for some moments to get the attention of the Chair. If gentlemen will not be so much in a hurry I will state exactly the position of this question. When I made my statement here before, it was after hearing the gentleman from Iowa. Since that I have examined the report as to the survey. The survey appears to have been made on the authority of a letter addressed by that gentleman to the Secretary of War, and the Secretary directing the Engineer Corps to make the survey; so that it was not done under the authority of any law.

The CHAIRMAN. The gentleman from New York [Mr. LOUNSBERY] has asked to have the pending amendment read. The Clerk will report the amendment.

The Clerk read as follows:

After line 82 insert the words "ice-harbor at Dubuque, Iowa, $40,000."

Mr. UPDEGRAFF, of Iowa. I desire to be heard on the question of order.

The CHAIRMAN. The real point to which the Chair would like gentlemen to direct their attention, if the point of order is to be insisted on, is whether a bill making appropriations for rivers and harbors is a general appropriation bill within the meaning of the rules, and must be so treated under the third clause of Rule XXI.

Mr. ROBESON. On that I desire to be heard.

Mr. WARNER. The States are nearly all interested in these appropriations, and the bill is a very general one.

Mr. SPARKS. That was a question under the point of order made by myself some time ago. The decision of it was deferred at that time.

The CHAIRMAN. But it can be deferred no longer.

Mr. SPARKS. I am willing to give my views on it now.

Mr. ROBESON. I desire to give mine.

Mr. UPDEGRAFF, of Iowa. I desire to state the question of fact merely.

The CHAIRMAN. The gentleman from Iowa having offered the amendment now desires to be heard on the point of order.

Mr. UPDEGRAFF, of Iowa. I do not desire to be heard on the point of order, but merely to give the fact; for a correct statement of the fact must precede any intelligent statement of the question of order under discussion.

Mr. SPRINGER. We want to hear what is the fact.

Mr. UPDEGRAFF, of Iowa. It appears from the report that in pursuance of a letter addressed by myself to the Secretary of War, accompanied by a large petition of river men and people in the locality of Dubuque, the Secretary of War through the Chief of Engineers forwarded a report on the proposed work, with a survey. The survey appears to have been made in May, 1879, under the direction of Major F. N. Farquhar. These papers which I hold in my hand are a certified copy.

The CHAIRMAN. Is the gentleman from Iowa aware of the existence of any general law conferring upon the Secretary of War authority to have surveys made?

Mr. UPDEGRAFF, of Iowa. I am not.

Mr. SPRINGER. I have heard no gentleman state that there has been passed a special law authorizing the survey or beginning of this work.

The CHAIRMAN. The Chair so understands.

Mr. SPRINGER. Nor have I heard from any member of the committee or any member of the House any statement of a general law authorizing this particular work. Hence I made the point of order, and I ask the Chair to rule upon it.

Mr. LOUNSBERY. I wish to be heard upon that point of order.

Mr. ROBESON. And I.

The CHAIRMAN. The Chair will endeavor to recognize gentlemen in their order.

Mr. LOUNSBERY. In addition to what I have already stated upon the point of order raised by the gentleman from Illinois, [Mr. SPRINGER,] it has occurred to me that this bill cannot be considered as a general appropriation bill; and that seems to me to be the entire proposition involved in this point of order.

A general appropriation bill, if that term be the subject of definition, is such a bill as makes appropriations for expenses to be incurred or which have been incurred under the general laws of the United States. They must be connected with the general operations of the Government; they must be connected with a general design for the management of the Government. Perhaps that does not give a very complete definition, but it is sufficient to show the definition I now propose to make as applicable to this bill.

There is no general law, there is no general scheme for the improvement of rivers and harbors. There is in fact no general purpose expressed in any law for internal improvements. There is not in the Constitution any expression of purpose that the Government should make any general law for internal improvements. If Congress should undertake to make internal improvements, or improvements of rivers and harbors under general statute, it would first be necessary to adopt a design and purpose in regard to those improvements.

And then there should be a general statute applicable to the subject, so covering it that Congress could act upon it within certain defined and specified limits. Now there has been no such general design adopted; no such general law passed. From the very beginning this particular class of appropriations reported from the Committee on Commerce has not been classed with the ordinary and general appropriations which Congress annually makes. They have been referred to the Committee on Commerce, and that committee has acted upon them as if it had no guide, no law, no discretion but what has been properly defined as the law of log-rolling as well as log-floating. They seem to be controlled by a certain method of compensation between themselves as to the distribution of these improvements among the different parts of the country, not by any general plan or regulation, not by any scheme which the Government has devised or organized, not by any general statute which has ever been discussed or framed; not even by any general scheme or plan which engineers, differing and dividing among themselves, may have proposed as a proper plan upon which the Government should proceed in this matter.

Each individual proposition stands upon its special merits, or rather upon the merits of some one of the excellent Representatives who surround me. And I could wish that I had in myself some special excellence so that I might commend myself in reference to this class of appropriations so as to be beneficently and generously treated by the Committee on Commerce.

This class of appropriations is absolutely special. It is not controlled by any general law; it is absolutely as free as the air. The spirit which seems to control this committee in preparing these bills is not the spirit of law, but the spirit of compensation between themselves, special, complete in itself, and ungoverned by any law.

I have compared it to the wind, but the wind is governed by law; there is a law which regulates the winds, and there is a law which regulates these water-courses. But the Committee on Commerce, when they are considering these bills, has no law, no regulation, no rule. This is not a general appropriation bill, but special in the very worst sense of that term.

Mr. ROBESON. I desire——

The CHAIRMAN. With the permission of the committee the Chair will alternate between gentlemen opposing and supporting the point of order.

Mr. ROBESON. I desire to speak against the point of order.

Mr. WARNER. I desire to be heard.

The CHAIRMAN. Does the gentleman from Ohio [Mr. WARNER] desire to address the Chair in support of the point of order?

Mr. WARNER. I do.

The CHAIRMAN. The Chair will first hear the gentleman from Ohio, [Mr. WARNER,] after which he will recognize the gentleman from New Jersey, [Mr. ROBESON.]

Mr. WARNER. I desire to address the attention of the Chair to clause 3 of Rule XXI, which is as follows:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

The very language of the rule itself includes this very bill, and undoubtedly was intended to refer to this very bill.

The CHAIRMAN. Will the gentleman from Ohio [Mr. WARNER]

look to clause 6 of Rule XXI, and to another clause further along, where he will find that general appropriation bills are spoken of as separate and distinct from this appropriation bill?

Mr. WARNER. I understand that.

Mr. ROBESON. I desire now to speak against the point of order. We have two classes of appropriation bills; one a general class and one a special class. Under our rules these words "general" and "special" are to be construed according to the technical application which is given them in the code which we have adopted for our government.

Now, in that code the word "general" does not mean merely including many subjects, nor does it mean merely the appropriation of large amounts of money. It means that class of appropriations upon which the general movements of the Government depend; that class of appropriations which are necessary for the carrying out of the powers which are given to the several departments of Government. Paragraph 3 of Rule XI fully recognizes and enforces this distinction.

With regard to that class of appropriations it is provided that no special legislation, except of a particular kind, shall be placed upon such general appropriation bills. The philosophy of that rule is that it shall not be in order to force through Congress a special provision of law by placing it upon an appropriation bill which is necessary to the movement and action of the General Government. That is the philosophy of that provision; that is why it is put there; that is why it does not apply to special appropriations; and that is why in the body of these rules, as you will find, appropriations for rivers and harbors are always spoken of as distinct from the question of general legislation. Now I am not arguing as to the meaning of the word "general," and the word "special," in their ordinary signification; I am only discussing the question as to their meaning in this body of rules which is made up for our government. By the provision of this rule all general appropriation bills are to be reported by the Committee on Appropriations, and for that purpose they may report at any time. But the river and harbor appropriation bill may not be reported at any time.

A MEMBER. The gentleman is mistaken.

Mr. ROBESON. I mean, not under that clause. And the fact that the right is given in another clause enforces my position. I direct the attention of the Chair to the forty-seventh clause of Rule XI:

> The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Elections, on the right of a member to his seat; the Committee on Ways and Means, on bills raising revenue; the Committee on Appropriations, the general appropriation bills.

Does that include the river and harbor bill? Have we not here a construction, directly made in this code of rules, which excludes the river and harbor bill from that collocation of general bills?

Mr. MARSH. Would the gentleman from New Jersey call the bill making appropriations for the Agricultural Department a general appropriation bill?

Mr. ROBESON. I am not discussing that question. I am saying that the river and harbor bill is distinguished in these rules.

The CHAIRMAN. The appropriations for the Agricultural Department were never included in a separate bill until the present rules were adopted.

Mr. ROBESON. I call the attention of the Chair also to clause 6 of Rule XXI, the very rule embracing the provision now in question:

> Upon all general appropriation and revenue bills, and bills for the improvement of rivers and harbors—

Are river and harbor bills general appropriation bills? Are they not differently named and differently referred to in this code of rules?

> Upon all general appropriation and revenue bills, and bills for the improvement of rivers and harbors, the yeas and nays shall be taken on the passage of such bills in the House and entered upon the Journal.

Now, suppose the words "bills for the improvement of rivers and harbors" had been left out in this clause, would the yeas and nays be required on the passage of such bills? Certainly they would not. Certainly this House so determined by putting in that special clause; for if the bill for the improvement of rivers and harbors is a general appropriation bill, this class of bills would not have required special mention.

The CHAIRMAN. Will the gentleman also turn to the fourth clause of Rule XXIII?

Mr. ROBESON. In one moment. On page 170 of the Digest, in the seventh clause of Rule XI, authorizing the reference of business to committees, I find the following:

> To commerce, life-saving service, and light-houses, other than appropriations for life-saving service and light-houses, to the Committee on Commerce, and the Committee on Commerce shall have the same privileges in reporting bills making appropriations for the improvement of rivers and harbors as is accorded to the Committee on Appropriations in reporting general appropriation bills.

If river and harbor bills are general appropriation bills, why should a special clause be required giving them the same privilege as general appropriation bills?

Mr. McLANE. Now read the order of business.

Mr. ROBESON. I think I have referred to all that is necessary upon this subject; I must leave something to somebody else. It seems to me that under the reading of our rules this question is conclusively settled. Suppose the river and harbor bill is to be regarded as a general appropriation bill, and suppose the clause standing in Rule XXI applies to such a bill, how would you make any appropriation for a river or harbor unless there were some act authorizing specially the appropriation for each particular work?

In discussing this point of order I do not make a speech in favor of this bill; but it is more important that we should have these rules properly understood and properly construed than that any particular bill should pass or be defeated.

Mr. CLYMER. Mr. Chairman, it is with great diffidence that I rise to address myself to the consideration of this question of order when I consider the skill and experience in parliamentary law, and the knowledge of this particular rule, possessed by the chairman of this Committee of the Whole. I would be quite willing to argue this point at the slightest possible length, did I not fear the consequences of a decision adverse to the view I entertain.

It seems to me impossible to gather true information as to the question whether or not this is a general appropriation bill without referring briefly to our past history in connection with this rule. The whole question was elaborately discussed hardly more than a year ago—discussed by the ablest minds in this body. That discussion I do not go over, for it is fresh in the recollection of us all. At that time the Committee on Rules, headed by the Speaker of the House and embracing as its other members Mr. Garfield, the gentleman from Kentucky, [Mr. BLACKBURN,] the gentleman from Georgia, [Mr. STEPHENS,] and the gentleman from Maine, [Mr. FRYE,] made to this House a unanimous report upon the revision of the rules, in which they used this language:

> The Committee on Rules are of opinion, in consideration of the fact that the Committee on Appropriations are required under the rules to report the general appropriation bills, in which class the river and harbor appropriation bills should by reason of long custom and practice be included.

This was the deliberate judgment of men chosen by reason of their experience, knowledge, and skill on questions of order—a judgment not dissented from by any gentleman on either side of the House in that long and interesting debate. The gentleman from Texas, [Mr. REAGAN,] interested in the fate of that rule, elaborately discussed it; so did his colleague on the Committee on Commerce, the gentleman from Maryland, [Mr. McLANE;] so did nearly every one interested in questions of order. And it never was denied in that whole debate that the river and harbor bill is a general appropriation bill. There was, so far as my recollection goes—and I searched the debate with great care and attention from beginning to end—no place in which that view of this question was either denied or doubted.

Why should it be doubted? From the foundation almost of the Government itself, except in 1816, and my friend from Texas will correct me if I am wrong, and from that date down bills for the improvement of rivers and harbors were reported either from the Committee on Ways and Means, when that committee embraced also the duties of the Appropriations Committee, and afterward, within twenty years when the Committee on Ways and Means was divided, those bills were reported from the Committee on Appropriations. Subsequent to that time, under the administration of the Appropriations Committee by Mr. Garfield, he as chairman of that committee, on account of pressure of business, as he has already told you, during the four years he was there, it was his habit and the habit of the committee under him to give the consideration of this river and harbor appropriation bill to the Committee on Commerce, and after it was prepared, then to have it reviewed by the Committee on Appropriations, after which for convenience it was sent back to the Committee on Commerce to be reported to the House.

So this has ever been considered and so treated and it will be a new thing, Mr. Chairman, for me to be told and this House to be told that this is a special bill. I say to you in my view that, Mr. Chairman, this committee never does act save under some general law. In this I differ from my friend who raises this point of order. I hold this to be the general law on the subject, that the committee can report no appropriation which is not provided for by law. And what is the general law on this subject? It is that contained in the river and harbor bill of every year authorizing—what? Authorizing the survey of these rivers and harbors—authorizing the Secretary of War to report thereupon to the House.

The CHAIRMAN. Will the gentleman allow the Chair to ask him a question for information?

Mr. CLYMER. Certainly.

The CHAIRMAN. If his position that this is a general appropriation bill within the meaning of the rule be correct, how can the committee put into this bill appropriations for surveys of rivers and harbors?

Mr. CLYMER. That has only been done by consent, and every one of them can be thrown out on the point of order. That point of order, however, has never been made.

Mr. McLANE. Will the gentleman permit me to ask him a question at this point?

Mr. CLYMER. With all respect to the gentleman, I would prefer to conclude what I have to say on this subject.

Now, Mr. Chairman, that is the general law on the subject. Whenever a survey has been authorized, whenever the Secretary of War, in pursuance of law, has had it made, and after the survey has been made, has submitted his report thereon to Congress as to the advisability of the work, as to its cost, as to the amount of tonnage in case of a harbor—after he has reported all these facts, then the river and harbor bill is the general law, and no opposition can be made to it.

Now, what will be the consequence to this bill and all future bills if this decision be arrived at? I say to you, until the heats of summer come this bill will remain in this committee if this be not the law. Any man, so long as he chooses, can offer an amendment to improve every stream in this land, and if such amendments are permitted to come in, you will never be able to get rid of them. You are too good a parliamentarian, Mr. Chairman, ever to say that so long as I choose to stand here and offer some amendment, some proposition to improve some stream, you cannot rule them out of order. You will be going into the House continuously and forevermore to determine debate on the amendments. I say to the friends of this bill, I say especially to the chairman of the Committee on Commerce, [Mr. REAGAN,] having it in charge, if he denies he is chairman of a general appropriation committee, and it is acting under nothing else than under a law—a law which defines its duty, a law which defines its rights, a law upon which the point of order can be made to keep out amendments, then his bill is dead and all other river and harbor bills are dead. This is the conclusion you must come to, and I pray you, sir, in obedience to the past practice, and in obedience to the common duty of every man who has discussed this question on this floor, that for no present purpose do you reverse what has been the common judgment of this House in the past and what I believe should be in the present and in the future. I now yield the floor.

Mr. ROBESON. Before the gentleman sits down I wish to ask him a question.

Mr. CLYMER. Certainly.

Mr. ROBESON. I desire to ask the gentleman from Pennsylvania a question. He has quoted the report of the Committee on Rules. I want to ask him whether on this very point this House in making the rules did not overrule that report and take this bill out of the hands of that committee which that report would on that account have authorized it to control? Did not this House overrule the report of the Committee on Rules and say that this should not be left in the hands of that committee to whom general appropriation bills were given, and should be given especially to this committee? And are we to be governed by that report which was presented for our consideration, or are we to be governed by the code which we adopted and established as the law overriding the report?

Mr. CLYMER. I only say, sir, that by reason of their taking it from the Appropriations Committee and giving it to the Committee on Commerce they could not change its character by that mere reference.

Mr. SPARKS. That is exactly the point. It did not change the character of the bill. It simply changed the mode of framing it for action of the House.

Mr. ROBESON. And my point is that in every single fact connected with that change it shows all through the rule that they stamped a special character upon it.

Mr. MILLS. I hope the point of order will be decided without delay.

Mr. REAGAN. Mr. Chairman, this question is not one that should excite any feeling. It is a question that addresses itself to the sound judgment and discretion of the committee as well as to the chairman of the committee, who is bound to decide upon it. It is insisted that this bill comes under the influence of the third paragraph of Rule XXI, which provides:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

It is insisted now that this is a general appropriation bill and comes within the provision of this clause of the rule.

In the first place I remark, Mr. Chairman, that from the passage of the first river and harbor bill in 1816, down to to-day, this subject has been treated—for the improvement of rivers and harbors—as a different subject from the appropriations of money made for the ordinary support of the Government, and a subject which stood out by itself, and it stands out in the laws, in the history of this country, in the position of political parties, and in every view we can take of it, it stands out separate and distinct from ordinary appropriation bills for the support of the Government. And as was maintained by the gentleman from New Jersey in the formation of these very rules when it was desired to put it under the control of the Appropriations Committee of this House, it preserved its distinctive character as a river and harbor bill in the interest of the promotion of the commerce of the country, and yet did separate it from that committee which is charged with the appropriation or submission of bills for the ordinary expenses of the Government. Now, by the latter part of clause 7, Rule XI, we find——

Mr. LOUNSBERY. Will the gentleman allow me to make a suggestion?

Mr. REAGAN. Not now, sir. My friend in support of this measure got in a very good speech against the river and harbor bill, and I hope he is satisfied.

Mr. LOUNSBERY. I only desired to submit a suggestion that the committee rise and that the House adjourn in order to give the chairman of the committee an opportunity to carefully consider this subject.

Mr. KENNA. The gentleman from Texas has not asked it.

Mr. REAGAN. I desire to express my acknowledgment to the gentleman from New York for his profound and elegant wit.

This clause of Rule XI to which I refer provides, in enumerating the powers and duties of committees, that all proposed legislation in reference "to commerce, life-saving service, and light-houses other than appropriations for life-saving service and light-houses, shall be referred to the Committee on Commerce." And it also provides that the Committee on Commerce shall have the same privileges in reporting bills making appropriations for the improvement of rivers and harbors as is accorded to the Committee on Appropriations in reporting general appropriation bills.

By clause 3 of this same rule it is provided that proposed legislation referring to the appropriation of the revenue for the support of the Government shall be committed to the Committee on Appropriations; and, as I have shown, that matters relating to commerce, life-saving service, &c., shall go to the Committee on Commerce, showing that this committee has the same duties in reference to reporting bills making appropriations for the improvement of rivers and harbors as is given to the Committee on Appropriations in reporting general appropriation bills. Here, sir, I submit that the rules of the House, the very law of our action, now make a clear, specific discrimination between appropriation bills and river and harbor bills.

Then paragraph 6 of Rule XXI is as follows:

> Upon all general appropriation and revenue bills, and bills for the improvement of rivers and harbors, the yeas and nays shall be taken on the passage of such bills in the House and entered upon the Journal.

There again under another rule the distinction is clearly taken between general appropriation and river and harbor bills; and again by clause 4 of Rule XXIII it is provided that—

> In Committee of the Whole House, business on their Calendars shall be taken up in regular order except bills for raising revenue—

That is the Committee on Ways and Means—

> general appropriation bills—

That is the Committee on Appropriations—

> and bills for the improvement of rivers and harbors—

Which bills are reported by the Committee on Commerce—

> which shall have precedence, and when objection is made to the consideration of any bill or proposition the committee shall thereupon rise, &c.

Now, Mr. Chairman, bills for the improvement of rivers and harbors come, as I have already stated, from the Committee on Commerce. Bills for raising revenue under the rule must come from the Committee on Ways and Means, and bills appropriating revenue for the ordinary expenses of the Government must come from the Committee on Appropriations. These bills for improving rivers and harbors must therefore come from the Committee on Commerce, that committee alone having the power to originate them.

I have shown that through all these rules there is a class distinction between these bills. Now, it is said by the gentleman from Pennsylvania that this was a general appropriation bill. I call the attention of that gentleman to the fact that the experience of the Government has shown that every Congress from 1789 to now has been called upon to make general appropriations for the support of the Government, and then, looking at that, I turn to the history of the appropriations for rivers and harbors, and find that the first appropriation of this character was made on the 27th of April, 1816. Now, Mr. Chairman, if it had been the judgment of our fathers that this was a general appropriation bill is it reasonable to suppose that the Government would have proceeded in the discharge of its functions, each Congress having proceeded to the discharge of its legislative duties from 1789 up to 1816, before it passed a single appropriation bill for the improvement of rivers and harbors?

The next in the order of time was seven years after that. On the 3d of March, 1823, the second river and harbor bill was passed. The first was approved by President Madison, the second was approved by President Monroe. The third bill was passed on the 26th of May, 1824, and was also approved by Mr. Monroe. Two years later, the 20th of May, 1826, a river and harbor bill was passed, and was approved by Mr. John Quincy Adams. Then for the other three years of his administration each year a river and harbor bill was passed and approved by him.

For the eight years that General Jackson was President of the United States, each year a river and harbor bill was passed and each year a river and harbor bill was approved by that old hero and faithful democrat that my good friend from New York, [Mr. COX,] not now in his seat, would read out of the democratic party for sanctioning a river and harbor bill. He approved one for each of the eight years he served as President.

In 1838 a river and harbor bill was approved by Mr. Van Buren. So that Madison, Monroe, Jackson, and Van Buren would all have to be read out of the democratic party by my friend from New York, whom I now see in his seat. Mr. Tyler——

The CHAIRMAN. The Chair would suggest to the gentleman from Texas that he would be glad if he would confine himself strictly to the question of order.

Mr. REAGAN. I will do so. Perhaps I was going further than was necessary. My purpose was to meet the argument of the gentleman from Pennsylvania. I was not voluntarily going out of the discussion on the point of order but was meeting what he said was the

historic illustration of the fact that this was a general appropriation bill. I appeal to history to show that in the whole history of the Government it never was treated as a general appropriation bill. And I have referred specifically to the rules of this House, and to the action of this House in the late revision of these rules, to show that the river and harbor bill preserved to itself an individuality by which it was separated from the general appropriation bills, and that it occupies that position before us to-day. It cannot be held to be a general appropriation bill.

Mr. BLAND. I ask the gentleman from Texas to have this rule read——

Mr. CALKINS rose.

Mr. LOUNSBERY. I rise to make a privileged motion.

The CHAIRMAN. The gentleman will state it.

Mr. LOUNSBERY. I move that the committee rise; and I do so for the reason stated by the gentleman from New Jersey, that the decision of this question is of greater importance than any action we can take upon this bill.

Mr. CALKINS. Was I recognized by the Chair?

Mr. BLAND. Before the gentleman from Texas [Mr. REAGAN] had finished his remarks I asked him to have a rule read.

The CHAIRMAN. The Chair had recognized the gentleman from Indiana [Mr. CALKINS] when the gentleman from New York [Mr. LOUNSBERY] said he rose to a privileged motion. The Chair permitted the gentleman from New York to state what was his privileged motion, but the Chair had recognized the gentleman from Indiana to address the committee.

Mr. LOUNSBERY. I understand the motion to rise takes priority.

The CHAIRMAN. The gentleman from New York cannot take a gentleman off the floor in order to make that motion. The gentleman from Indiana [Mr. CALKINS] had the floor by recognition of the Chair.

Mr. CALKINS. I take it the Chair is precluded from giving any other construction as to what general appropriation bills are than that given by the action of the House. The rule relied upon by gentlemen claiming that this is a general appropriation bill states that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, &c.

And this discussion has arisen as to what a general appropriation bill is. Now, the House has decided that itself in adopting these rules; and if gentlemen will turn to page 169 of the Manual, Rule XI, clause 3, they will find that this House has put a construction upon this itself:

All proposed legislation shall be referred to the committees named in the preceding rule, as follows, to wit: The subjects relating—

3. To appropriation of the revenue for the support of the Government—to the Committee on Appropriations.

Now, all appropriation bills which contain appropriations of public money for the support of the Government, according to the construction placed upon these rules by the House itself in enacting them, are general appropriation bills.

Mr. VAN VOORHIS. Can any bill be more general than this?

Mr. MARSH. Will the gentleman permit me one question?

Mr. CALKINS. In a moment. All bills which contain appropriations of public money not for the support of the Government are not general appropriation bills, and the House has so said.

Mr. MARSH. Will the gentleman now permit me to ask the question?

Mr. CALKINS. Yes, sir.

Mr. MARSH. What will the gentleman say in regard to the appropriations for the Agricultural Department?

Mr. CALKINS. The Agricultural Department is now by law just as much a part of the Government as the Judicial Department or the Department of the Interior.

Mr. MARSH. And yet the appropriations for that Department are not consigned to the care of the Appropriations Committee.

Mr. CALKINS. I am not arguing it upon the basis the gentleman assumes, that because this bill has been taken away and separated from the Appropriations Committee therefore it is not a general appropriation bill. I say if it was in the hands of the Appropriations Committee it would still not be a regular appropriation bill. Take the first item in this bill. It is an appropriation for a specific harbor. Suppose the bill stops there; is it a regular appropriation bill? Take the bill now on the Calendar for the erection of public buildings. There are in that bill thirty or forty buildings. Because it contains thirty or forty buildings, is it a regular appropriation bill? Though it may contain many appropriations for a number of buildings, still it is special in every item. So is this. You cannot confuse a special bill with a general bill because it makes many appropriations in one bill.

Mr. MARSH. Is not an appropriation for the construction of the State Department building in this city for the purpose of carrying on the Government?

Mr. CALKINS. In one sense it may be; in another it is not.

Mr. MARSH. And so with the construction of custom-house and post-office buildings everywhere throughout the country.

Mr. CALKINS. In one sense, true; in another, not. Whatever is necessary to carry on this Government, whatever this House says is necessary to carry on the General Government and keep its various branches from dying by inanition for want of appropriations, is a general appropriation bill.

Mr. MARSH. Is not appropriating money to provide a secure harbor for naval vessels an appropriation for the purpose of carrying on the General Government?

Mr. CALKINS. No, it is not. I therefore say to this House and to the Chair, that the Chair is concluded by the construction which this House has itself given to these rules. When it said that no general appropriation bill should be loaded down by certain provisions, it means bills making those appropriations which are necessary for the support of the General Government.

Mr. VAN VOORHIS. I want to say a word on the point of order.

Mr. BLAND. I desire to have a rule read.

The CHAIRMAN. The Chair desires to say that he is very reluctant to limit debate on a question of order where the argument is addressed to the Chair himself; yet he hopes that gentlemen will not unnecessarily consume time.

Mr. ATKINS. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ATKINS. I desire to inquire of the Chair if he is satisfied on this subject?

The CHAIRMAN. The Chair has once or twice said that he is ready to rule upon the question, but he will not say that he is entirely satisfied, for such a statement would not be strictly accurate.

Mr. BLAND. I ask to have clause 5 of Rule XXI read.

The CHAIRMAN. The Clerk will read the clause.

The Clerk read as follows:

All bills for improvement of rivers and harbors and for the establishment or change of post-routes shall be delivered to the Clerk, as in the case of petitions and memorials, for reference to appropriate committees.

Mr. BLAND. That clause of the rule shows simply that bills for the improvement of rivers and harbors are put in the petition-box the same as bills for the establishment of post-routes. They are reported back to the House in an omnibus bill, and acted upon in that way; but that does not make the river and harbor appropriation bill a general appropriation bill.

Many MEMBERS. Vote! Vote!

Mr. SPARKS. If this committee would consider for a moment that this question is one of vital importance, we perhaps could get through with it in an orderly manner. If it is ruled that this particular appropriation bill is not of the class mentioned in clause 3 of Rule XXI, then no objection can be made to anything offered by way of amendment to it. Hence this point is one of vital importance and the time we have consumed in this discussion has been well spent.

Rule XXI, clause 3, says "no appropriation shall be reported in any general appropriation bill," &c. Now, what is a general appropriation bill? Does not this bill, called the river and harbor appropriation bill, come within that term? Is it not a general appropriation bill for the improvement of rivers and harbors? Everybody must at once say that it is such a bill.

The technical point is made that this bill is not of the class of appropriation bills reported from the Committee on Appropriations and in the sense of the rule just quoted not general appropriations.

It seems to me that looking at these river and harbor appropriation bills outside of the rules, they are certainly general in their character. The clause of the rule to which I have referred relates to general appropriation bills. Now is this bill without rule? Is there no check upon such a bill as this? Is it a special bill without rule? Why, of course not. Everybody knows that it is general in its character.

Up to within the last four or five years this was an appropriation bill belonging to the Committee on Appropriations. Up to the adoption of the last rules this bill belonged to the Committee on Appropriations. Up to the hour that these new rules were adopted it belonged to that committee. Am I right in that?

Mr. ATKINS. In theory, yes.

Mr. SPARKS. The gentleman from Tennessee, [Mr. ATKINS,] the chairman of the Committee on Appropriations, says that he so understands it. Some years back, by the tacit consent of the Appropriations Committee, this bill was given in charge of the Committee on Commerce. During the time that it was reported by the Committee on Appropriations, or if now reported by that committee, no man would deny that it was a general appropriation bill. But being given to another committee we have got into the habit of regarding it as not belonging to this general class of appropriations. It is, however, general in its character, and without we continue the ruling which has always been held, that this river and harbor appropriation bill is one of general character, where will we be? In my opinion we will be at sea without compass and without guide.

Mr. HOUSE. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOUSE. Is the Chair prepared to decide this question?

The CHAIRMAN. The Chair has so announced once or twice.

Mr. HOUSE. Then let us have the decision of the Chair.

Mr. ROBINSON. I do not desire to take up any time in discussing this matter; I only ask that a decision made in the Forty-second Congress——

Mr. LOUNSBERY. I would like to ask the gentleman from Massachusetts [Mr. ROBINSON] to give way for a motion that the committee now rise.

Many MEMBERS. Vote! Vote! Decision! Decision!

Mr. ROBINSON. I do not propose to make any remarks at all. I

say that to relieve this committee of any apprehension of that kind. I only want to say that there was a decision made in the Forty-second Congress by Mr. Speaker BLAINE.

The CHAIRMAN. Will the gentleman read it?

Mr. ROBINSON. When the river and harbor appropriation bill was brought into the House for consideration Mr. Farnsworth made this inquiry:

I wish to inquire whether this bill is an annual appropriation bill recognized as such by law or by the rules of this House.

The SPEAKER. It is not. It is in accordance with a usage of many years' standing that a motion to make it a special order in Committee of the Whole has always been entertained; but no further than that has it been treated as a regular appropriation bill.

The CHAIRMAN. That was a question as to whether or not the river and harbor bill was an annual appropriation bill provided for by law.

A MEMBER. That is it.

Mr. ROBINSON. I give the decision for what it may be worth.

The CHAIRMAN. The Chair is ready to decide this question. At first he was very much disposed to entertain the opinion that this bill was to be included among the general appropriation bills, and treated as such under the rules of the House; but subsequent investigation of the subject has satisfied the Chair that such a decision would not have been correct. Of course, if it were not for the express provision of the rules there would be no difference between a general appropriation bill and any other bill brought into the House, so far as parliamentary law would be applicable; in other words, all bills would be governed by precisely the same rules and the same principles under general parliamentary law. Therefore this question depends entirely upon the provisions of the rules.

Now, it is true that the Committee on Rules, in making its report to the House at the last session of Congress, said in one part of the report that the bill for the improvement of rivers and harbors had become by long usage one of the general appropriation bills. But in another part of that report the committee used this language:

The river and harbor appropriation bill, although not one of the general appropriation bills, (see Rule 77)—

The Chair will in a moment refer to Rule 77—

has for many years past been one of the regular annual appropriation bills and has been reported by the Committee on Commerce.

Then follows a concise history of the river and harbor bills in the past.

The House determined that this river and harbor bill should not be reported by the Committee on Appropriations, as the Committee on Rules had recommended in its first report, but should be reported by the Committee on Commerce. Of course that fact alone would not prevent it from being a general appropriation bill if it were in substance such. But the whole matter depending, as the Chair has said, upon the rules, the Chair looks at the rules and finds that there is a distinction recognized all the way through between the general appropriation bills and the river and harbor bill. That distinction is recognized twice in Rule XI; it is recognized distinctly in the sixth clause of Rule XXI; and again distinctly in the fourth clause of Rule XXIII, where these various bills are spoken of. The Chair is therefore compelled to hold that the river and harbor bill is not under the new revision of the rules, as it was not under the old Rule No. 77, a general appropriation bill. The Clerk will read Rule 77 of the old code of rules.

The Clerk read as follows:

It shall also be the duty of the Committee on Appropriations, within thirty days after their appointment, at every session of Congress, commencing on the first Monday of December, to report the general appropriation bills for legislative, executive, and judicial expenses; for sundry civil expenses; for consular and diplomatic expenses; for the Army; for the Navy; for the expenses of the Indian Department; for the payment of invalid and other pensions; for the support of the Military Academy; for fortifications; for the service of the Post-Office Department, and for mail transportation by ocean steamers; or, in failure thereof, the reasons of such failure.

The CHAIRMAN. It will be observed that there is a specific enumeration in the rule itself of all the general appropriation bills, and that the bill appropriating money for public works upon rivers and harbors is not included. Now, whatever may be the consequences of this ruling, the Chair, of course, is not responsible for them. He feels that in making this decision he is governed by the express provisions of the rules themselves, which he cannot fail to observe.

Mr. LOUNSBERY. I move that the committee rise.

Mr. UPDEGRAFF, of Iowa. I want to say a few words now in behalf of my amendment.

Mr. LOUNSBERY. I think my motion that the committee rise is in order now under the rules.

The CHAIRMAN. As the gentleman from New York [Mr. LOUNSBERY] took the floor a few moments ago to make this motion, the Chair will now put it.

Mr. REAGAN. I hope it will be the pleasure of the Committee of the Whole to proceed with this bill. Let us try to dispose of it.

Mr. UPDEGRAFF, of Iowa. I am holding the floor, I presume, Mr. Chairman?

The CHAIRMAN. The gentleman from New York rose a few moments ago to make the motion that the committee rise, which the Chair did not entertain at that time.

Mr. CONGER. The gentleman from Iowa [Mr. UPDEGRAFF] had the floor when the point of order was raised; and if he gives way for a motion that the committee rise, I submit that he will have the floor when the question comes up again.

The CHAIRMAN. Does the gentleman from Iowa yield for the motion?

Mr. UPDEGRAFF, of Iowa. I do, provided I do not lose my right to the floor.

The CHAIRMAN. The Chair will recognize the gentleman immediately after this motion is disposed of.

The committee divided; and there were—ayes 53, noes 85.

Mr. LOUNSBERY. For the purpose of getting an exact expression of the committee, I demand tellers.

Mr. ATKINS. I should like to ask the gentleman from Texas whether he does not think it best to provide for a session this evening to finish this bill. There are but eleven or twelve days remaining before the expiration of this Congress. Two of the most important general appropriation bills have not yet been reported—the sundry civil bill and the deficiency bill. The sundry civil bill carries over twenty million dollars and requires four or five days to get it through. There is actually but one appropriation bill which so far has gone upon the statute-book. In my judgment it is necessary we should resort to some means to get clear of this bill, either to pass it or to kill it. [Cries of "Let us have a night session!"] For one I am for the bill, and I hope the gentleman from Texas will ask gentlemen to-night to come back here and dispose of it one way or the other.

Mr. PRICE. They will not do it; you will have no quorum, and the whole night will be spent filibustering and getting a quorum.

Mr. LOUNSBERY. It will not do for the gentleman from Texas or any other person to undertake to force a session of the House beyond a reasonable and proper number of hours.

Mr. VAN VOORHIS. I rise to the point that no quorum has voted.

The CHAIRMAN. Tellers are not ordered, fifteen only having voted in the affirmative. The noes have it, and the committee refuses to rise.

Mr. VAN VOORHIS. I made the point of order that there was no quorum.

The CHAIRMAN. The Chair will then appoint tellers, and he again appeals to the committee to vote on one side or the other.

Mr. CANNON, of Illinois. I rise to a question of order. The gentleman's point of order that there was no quorum came too late.

The CHAIRMAN. The Chair appoints Mr. VAN VOORHIS and Mr. KENNA as tellers.

The committee again divided; and there were—ayes 32, noes 115.

So the committee refused to rise.

Mr. UPDEGRAFF, of Iowa. I want to say a few words in favor of my amendment. The Mississippi River, as everybody knows, disdains push-boat and pole navigation and modified mill-dams. [Laughter.] It is a stream that has commerce upon it. It is a stream of interstate importance much larger than Cheese Creek. [Laughter.]

Above the city of Quincy, Illinois, there is not an ice-harbor. An ice-harbor is needed by the shipping interests of that section of the river, extending about seven hundred miles. The Engineer Department declares the necessity and importance of this improvement. In the report which I hold in my hand occurs the following:

There is no doubt that a good ice-harbor is needed in this section of the Upper Mississippi River.

Further on the report says:

Having so few harbors the most of the steamers are hauled out every winter, either on private ways, kept up at considerable expense, or at the several ship-yards along the river, which, however, can accommodate only a portion of the boats. Thus this manner of laying a boat up for the winter entails a heavy annual tax on the owner, the cost of laying up a steamer ranging from $100 to $500 according to the tonnage, besides the calking, which is necessary before the boat can be launched again at the opening of navigation.

The report goes on in some length and declares that this point possesses the essential qualities of an ice-harbor. It is asked for by the whole shipping interests of the great Mississippi River. I am serving the purpose of no purely local interest. I speak in favor of interstate trade. I speak in favor of a stream which affords facilities for competition with railroad transportation, and I hope the House will adopt the amendment and thereby add to its many good features another good feature.

The question recurred on the amendment of Mr. UPDEGRAFF, of Iowa.

The committee divided; and there were ayes 18, noes not counted.

So the amendment was rejected.

The Clerk read as follows:

Improving harbor at Erie, Pennsylvania, $20,000.

Mr. OSMER. I move to strike out "20" and insert "30," so it will read "$30,000." I desire to call the attention of the committee to the harbor at Erie, it being the only outlet Pennsylvania has on that great lake.

The Engineer Department estimated and recommended for the improvement and security of this harbor the sum of $50,000. Twenty-five thousand dollars was appropriated last year, but for some reason or other the appropriation for this year has been cut down to $20,000. I say to the gentlemen of the committee there is no more important harbor on the inland waters of this continent than that at Erie, Pennsylvania. You all know its history. There it was that Perry's fleet was built and from which it sailed. It is a natural harbor, surrounded,

with the exception of an inlet, by Presque Isle. The western portion of that island is subject to storms, and unless sufficient appropriation be made to protect this harbor and make available other appropriations heretofore granted from year to year, what has already been expended will be, as it were, lost.

I desire to say one word further in respect to this improvement. I do not underestimate at all the great water-way known as the Mississippi River; but I say to this committee that from the great Northwest, from the great lakes reaching beyond Chicago down across Lake Erie, floats every year commerce that in amount and importance rivals the commerce of the Mississippi River, passing as it does through that lake down into the Welland Canal to make connection with the Gulf of Saint Lawrence and the ports of Europe.

I hope, Mr. Chairman, the committee will look favorably on that harbor in the State of Pennsylvania on the shores of Lake Erie. The appropriation is only $30,000, and every dollar will be needed, as the Engineer's Department have recommended, to protect this harbor from destruction.

The amendment was rejected.

Mr. CLYMER. I move to add after line 186 the following:

For the improvement of the Kiskiminetas and Conemaugh rivers in Pennsylvania, according to the report and estimates of the engineers made in pursuance of an act of Congress, $40,000,000.

[Laughter.]

Mr. WHITE. I will vote for that.

Mr. CLYMER. I only desire to say——[cries of "Vote!"] I am entitled to be heard. I have asked nothing in this bill, and do not ask much now. [Laughter.] I should have done it last year, but this bill was passed under a suspension of the rules, and I did not have the opportunity. Besides, the reports which you should have had here last year did not reach us until this year. If we had had these reports last year I have no doubt the committee without hesitation would have agreed to pass this amendment. [Laughter.] This is not a large sum of money. It is a very moderate sum. I only give the exact amount stated by the engineers. They estimate that it would take $40,000,000. [Laughter.]

Mr. REED. Do the engineers recommend that amount?

Mr. CLYMER. They say it will take that much to do it. [Loud cries of "Vote!" "Vote!"] My colleague has neglected this subject. [Laughter.]

Mr. WHITE. One word, if the gentleman will allow. My colleague has misrepresented the facts. He does not know where the Kiskiminetas is. My colleague does not know anything about the geography of his own State, and if he visits that region of country now they will drown him. [Laughter.]

Mr. CLYMER. Not in the Kiskiminetas; there is not material enough in there to do that. [Laughter.]

Mr. WHITE. They will drown him there so deep, politically, that he will never be heard of again. Now one word seriously. [Laughter and cries of "Oh, no!"] I will not be misrepresented or allow my people to be misrepresented. The gentleman, who is my colleague, and who ought to be proud of his State, who ought to be proud of her material resources——

Mr. CLYMER. And proud of all her Representatives.

Mr. WHITE. Has deliberately gotten up here before the country and sought to bring ridicule, laughter, and reproach upon a portion of the great State that he represents. If that gratifies his heart and ambition, if it does him any good, and he regards it as a serviceable thing to do for his State, it does me no injury, and he is welcome to all the glory. The gentleman misstates the fact. As a matter of fact, the engineers who made the survey did not report that it would take $40,000,000 to improve the Kiskiminetas and Conemaugh Rivers. My friend and colleague knows but little of the history of the Engineer's report if he thinks that this amount was proposed to improve the navigation of those two rivers alone, and he evidently knows less about the geography of his own State. The gentleman does not know, perhaps, what he ought to know, that some few years ago the President of the United States called the attention of Congress to the propriety of inaugurating measures for the creation of water-routes to the seaboard; and in pursuance of this recommendation a committee was appointed in the United States Senate on seaboard routes and survey made of a variety of routes under the authority of this committee. All of these routes avoided the great State of Pennsylvania. At that time it was found that there was no voice heard here for the interest of that great State and for the purpose of establishing the feasibility or practicability of a water-route by way of the Allegheny, Kiskiminetas, and Conemaugh and connecting with the Juniata and Susquehanna, and thence to the seaboard. This survey was made and the estimate of the cost of this route was made which the gentleman has quoted, and was about forty million dollars. This, sir, was the cost of the entire water-way from the headwaters of the Ohio at Pittsburgh up the Allegheny to the Kiskiminetas, to the Conemaugh, and thence by way of the Juniata and Susquehanna to the sea. This route was surveyed and recommended by way of contrast to the seaboard route by the Kanawha, New Creek, and James Rivers down to the seaboard. This and other surveys were made, and the report made in order to demonstrate the fact that a water-route could be established through the State of Pennsylvania as well as the rival one to which I have referred. My colleague, therefore, in offering the amendment which he does in ridicule, has evidently not familiarized himself with the actual facts, and it is proper that I should go upon the record in this way in justice to my State and her people.

I repeat, then, that before my colleague seeks to bring ridicule upon the material interests of his State he should familiarize himself with the capabilities of our streams to be utilized for grand water-ways from the West to the East. No one here is asking for $40,000,000 for the improvement of the Kiskiminetas. All that is asked now in this bill is an additional appropriation for the Allegheny, so that practical and necessary work may be continued with the view of utilizing the lower waters of that important river. The time will no doubt come when the waters of the Kiskiminetas, Conemaugh, and Susquehanna will be utilized for a grand water-way through Pennsylvania, notwithstanding the ridicule and contempt which my honorable colleague is trying to throw upon the material interests of his State. I repeat, then, for the benefit of my colleague, that the intelligent population of the Kiskiminetas Valley will give proper appreciation to him for the ridicule he seeks to throw upon them, should opportunity ever present.

The CHAIRMAN. The question is on the amendment suggested by the gentleman from Pennsylvania.

Mr. CLYMER. I withdraw the amendment.

The Clerk read as follows:

Improving harbor at Annapolis, Maryland, $5,000.

Mr. VAN VOORHIS. Mr. Chairman, I offer the following amendment:

Strike out, in lines 93 and 94, the words "improving harbor at Annapolis, Maryland, $5,000."

There is one respectable appropriation for the State of Maryland, and that is for the harbor at Baltimore. There are six or seven of these little amounts that ought never to be thought of for a moment, and I am credibly informed that the member of the Committee on Commerce from the State of Maryland voted against every one of these little appropriations for the improvement of rivers and harbors in that State, except Baltimore, and the committee forced these things upon the State of Maryland against the vote and opposition of that distinguished gentleman, a member of that committee from that State. I hope it will be stricken out. [Cries of "Vote!" "Vote!"]

Mr. TALBOTT. I desire to say that my colleague in whose district the appropriation is made by this bill is absent from the House. I do not propose, neither does any member of the delegation from Maryland propose, to say anything in regard to the amendment during his absence.

The CHAIRMAN. The question is on the amendment of the gentleman from New York.

The amendment was not agreed to.

The Clerk read as follows:

Improving harbor at Oswego, New York, including dredging channel to lower harbor, $50,000.

Mr. MASON. Mr. Chairman, I offer an amendment to the section just read.

The Clerk read as follows:

Strike out lines 102 and 103 and insert in place thereof the following:

"For enlargement and improvement according to plan and recommendation of the Engineer's Department of harbor facilities at Oswego, New York, including dredging entrance to harbor, $50,000."

Mr. MASON. It will be observed that my amendment does not change the appropriation as reported in this bill. The amount is the same. It only changes the phraseology and makes more specific the purposes of it. I think there will be no objection to it.

Mr. KENNA. I shall not object to that, and I hope it will be adopted by the committee.

The amendment was agreed to.

The Clerk read the following:

Improving Shrewsbury River, New Jersey: Completing improvements, $86,000; of which sum $36,000 shall be expended on South Branch, and $50,000 on Main and North Branch.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph just read.

This paragraph appropriates the sum of $86,000 for a stream which I am informed is navigable for only ten miles for small steamboats by going up and down with the tide. This is not push-boat navigation, or row-boat navigation, or modified mill-dam navigation; but it is a sort of marine coasting or sliding of a vessel which floats up and down with the tide. That is the information I have with respect to it.

On page 542 of the report of the Engineer is a statement with reference to this improvement; and among the reasons stated why it should be made is given the fact that the amount of revenue collected at Perth Amboy during the fiscal year ending June 30, 1880, was $21,000. Over four times the amount of revenue collected in that collection district is appropriated in this single paragraph.

Mr. TOWNSHEND, of Illinois. Is that a little stream in the rear of Long Branch, that pleasure-boats sail in?

Mr. UPDEGRAFF, of Iowa. I believe this is not the one. However, the report shows that the collection district—I cannot turn to it in the time I have—has appropriations in this bill amounting to $180,000. And in the reports asking for these appropriations this sum of $21,000 is cited in support of the claim for five or six different appropriations amounting in the aggregate to about one hundred and

eighty thousand dollars. [Cries of "Vote!" "Vote!"] And this is for a stream only ten miles in extent.

Mr. ROSS. This river has a commerce of from one to two million dollars a year. It is navigated by five steamboats, and the people on the line of the river are very anxious that it shall be improved. I will send to the Clerk's desk two letters to have read. [Cries of "Vote!" "Vote!"] If gentlemen do not care to hear them I will have them printed with my remarks. They are as follows:

UNITED STATES SENATE CHAMBER,
*Washington, February* 15, 1881.

MY DEAR SIR: My attention has been directed this morning to certain statements in respect to the Shrewsbury River improvements, which seem to have been uttered in the House on Saturday last. I have carefully read these statements in the RECORD, and being, as you know, a resident of the vicinity in question, I have no hesitation in pronouncing them absolutely false.

The money thus far expended in the improvement of the Shrewsbury River has been economically and judiciously used. The improvement is of great benefit to a very large agricultural community.

The work has all been done by contracts awarded to the lowest bidder, and the channel of the river has been deepened and made navigable at low tide for vessels which could not before the improvements were made have navigated the river at high tide. In short, I know of no place in this country where an expenditure of money to the extent asked for can be so profitably applied.

Yours, very truly,

J. R. McPHERSON.

Hon. MILES ROSS.

RED BANK, *February* 14, 1881.

DEAR SIR: I see by the papers some one has wrote a letter to Mr. COX about the improvements of the Shrewsbury River, stating that no improvement has been made. Now I say this is a false statement, and can prove it by practical men, men which navigate the river, they are the men knows. I have been on the river for forty-five years, and I know something about it. I know that we could not have run our boats last year had not they improved it. Now, I would like to know that gentleman's name, for I think he is a man that knows nothing about it. Now, I can give the best references of my experience, such men as Moses Taylor, Samuel Sloan, John J. Astor, Howard Poter, Thomas Kenny, Clarkson N. Potter, John Hoey, and many others too numerous to mention, from New York, besides all Red Bank.

Yours, truly,

F. A. LITTLE.

Hon. MILES ROSS, *Washington, D. C.*

The question being taken on the amendment, it was not agreed to.

Mr. CLYMER. I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert after the paragraph last read the following:

"For the improvement of the river front and the navigation thereof in the city of Washington, according to such plans as may be devised and prescribed by the Chief of Engineers, $500,000."

[Cries of "Vote!" "Vote!"]

Mr. CLYMER. Mr. Chairman, I desire to say but a word. This should commend itself to the judgment of this House. Whether it is willing to vote that amount I do not know; but it does seem to me there is a general opinion here that should prompt every member on this committee to vote some amount so that this Government may enter into some system of improvements with reference to this city which will not only benefit the navigation of this river, but will restore to the city that health which has been so destroyed by malarious influences arising from want of proper care in regard to it. I mean this in earnest. I am willing to vote that sum or a smaller sum, or if necessary a larger sum. The amendment is within the scope of this bill and I hope the committee will adopt it.

Mr. O'NEILL. It is impossible in the prevailing confusion to know what the gentleman says. [Cries of "Vote!" "Vote!"]

Mr. WARNER. I submit to the Chair, if we are to proceed with this bill we should do so in an orderly way.

The CHAIRMAN. The Chair has endeavored all the day through, as gentlemen will concede, to secure order on the floor. The Chair suggests to gentlemen that these demands for a vote, instead of facilitating the transaction of business, actually delay it; because gentlemen who desire to speak on the bill have a right to speak and are only obstructed by these calls.

The question being taken on the amendment, it was not agreed to.

The Clerk read the following:

Improving New River from lead mines in Wythe County, Virginia, to mouth of Greenbrier River, $20,000; of which sum $12,000 shall be expended in the continuation of the work from the mouth of Greenbrier up, and $8,000 in the continuation of the work from the lead mines in Wythe County down.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph just read. I desire to call the attention of the committee to the character of that stream as a reason why this appropriation is improper. I read from the report of the engineer, page 677. He says:

The estimate for a 2-feet navigation for bateaux was $115,000.

This appropriation is only $12,000.

For a 3-feet steamboat navigation, $1,200,000; for a 5-feet steamboat navigation, $1,600,000. The combined estimates for the completion of the improvement of the three sections of the river for navigation by bateaux and small steamboats amount to $205,000.

Further on he says:

The work is of great benefit to bateaux, enabling them to get through with a great deal of ease and carry much larger cargoes than formerly; and in fact they can run now where it was utterly impossible before, owing to the water.

They could not run at all before.

Of these lines there are three—one to Bluestone, five miles; one to Crockett's Store, four and a half miles, and one to Lick Creek, twenty miles above Hinton.

It is also an advantage to the lumber business, as rafts can go through easily, and many hundred thousand feet have been taken down stream this spring from the origin of the Bluestone.

Now, I wish to be understood as not being opposed to appropriations for the really navigable streams of this country. I will yield to no man in my devotion to the improvement of every navigable stream which is of general importance. But for this character of streams I will never consent that one dollar shall be appropriated when I can prevent it. And I feel justified in opposing it and calling the attention of the country to the character of thundergust streams and mud puddles which are to be improved, not for the purpose of navigation, but in order that certain men may again be returned to this House. Many of them can serve no other purpose.

I must avail myself of my right here to make these objections and to give the best information I have been able to obtain of the character of those streams, although God knows that information is poor enough. We have no information except what we get between the lines of these reports. As a friend of mine said yesterday in respect to these reports, we have no information except what we get through "injudicious friends."

Mr. HENDERSON. I would like to inquire of the gentleman from Iowa [Mr. UPDEGRAFF] what he means by these allusions. I do so because of the fact that heretofore he has stated that he was compelled to go to the Senate and hunt up this information there, when I know it has been accessible to every member of this House who used diligence and tried to obtain it by going to the room of the Committee on Commerce.

Mr. UPDEGRAFF, of Iowa. I went to the room of the Committee on Commerce four different times and was denied admission. I went again and succeeded in obtaining admission, but I could not get these reports. I sent for them and they were denied me. I applied to the gentleman from Illinois himself, [Mr. HENDERSON,] and he said I could not get one unless I would go to the committee-room again. And then I sent to the room of the Committee on Commerce of the Senate, or got a friend to do so, and there I obtained the report.

Mr. HENDERSON. I want to say in all good nature to my friend from Iowa that if he went to the room of the Committee on Commerce four times and tried to get in there and did not succeed he is the only member of this House, in my opinion, who tried to get in there and was unable to do so.

Mr. UPDEGRAFF, of Iowa. I make no complaint about the matter, except when the point is raised.

Mr. HENDERSON. One word further in this connection. I myself not only hunted up members who wished to be heard before the Committee on Commerce, but I know that other members of the committee did the same thing.

Mr. HUMPHREY. This bill shows that somebody got in there. [Laughter.]

Many MEMBERS. Vote! Vote!

Mr. VAN VOORHIS. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. VAN VOORHIS. My point of order is that the gentleman from West Virginia [Mr. WILSON] and others have no right to yell out "Vote!" "Vote!" within the five minutes to which the gentleman is entitled.

The CHAIRMAN. The Chair sustains the point of order.

Mr. VAN VOORHIS. Especially when streams of West Virginia are the subject of debate.

The CHAIRMAN. No one is better aware than the gentleman from New York himself [Mr. VAN VOORHIS] of the fact that it is not within the power of any presiding officer to compel members to stop making a noise on the floor if they are determined to do so.

Mr. WILSON. And let me say to the gentleman from New York [Mr. VAN VOORHIS] that he has been more offensive and given more annoyance to this House than any other member here. [Laughter.]

The question was taken upon the amendment of Mr. UPDEGRAFF, of Iowa; and upon a division there were—ayes 24, noes 79.

Before the result of the vote was announced,

Mr. VAN VOORHIS said: I make the point of order that no quorum has voted.

Many MEMBERS. Withdraw that point.

Mr. VAN VOORHIS. I will do so if it is agreed that the committee shall rise.

The CHAIRMAN. The point of order having been made that no quorum has voted, the Chair will appoint as tellers the gentleman from West Virginia, Mr. KENNA, and the gentleman from Iowa, Mr. UPDEGRAFF, who submitted the pending amendment.

Mr. UPDEGRAFF, of Iowa. I have not made the point of order that a quorum has not voted.

The CHAIRMAN. The Chair will appoint the gentleman from New York, Mr. VAN VOORHIS, in place of the gentleman from Iowa, Mr. UPDEGRAFF.

The committee again divided; and the tellers reported that there were—ayes 18, noes 124.

Mr. VAN VOORHIS. No quorum.

The CHAIRMAN. The Chair hopes that gentlemen will come forward and vote, so as to make a quorum.

Mr. CULBERSON. I move that the committee now rise.

The CHAIRMAN. The committee is now dividing.

The count was continued, and the tellers further reported 2 more in the affirmative.

Mr. VAN VOORHIS. No quorum has voted.

Mr. DE LA MATYR. I move that the committee now rise.

The CHAIRMAN. The Chair will not entertain that motion until this vote is completed, as but three are needed to make a quorum. The tellers will continue their count.

The tellers continued their count, and reported 5 more in the affirmative.

The CHAIRMAN. The tellers report 25 in the affirmative and 124 in the negative, which is a quorum. The noes have it and the amendment is not agreed to.

Mr. CULBERSON. I move that the committee now rise.

The motion was not agreed to, upon a division—ayes 44, noes 89.

Mr. MILLS. There is no amendment now pending, and I therefore move that the committee rise and report this bill back to the House and recommend its passage.

Mr. FORT. The bill has not been read through by paragraphs yet.

The CHAIRMAN. The Chair does not think that motion is in order under the rules.

Mr. BRAGG. Would it be in order to move that the committee rise and ask of the House that it be discharged from the further consideration of this bill?

The CHAIRMAN. The Chair will decide that question when the motion is made.

Mr. BRAGG. I move that the committee now rise and ask that it be discharged from the further consideration of this bill.

Mr. CULBERSON. I have an amendment to offer at the close of the bill.

The CHAIRMAN. The bill has not been read through yet.

Mr. CHALMERS. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CHALMERS. It is a question which I started to ask the other day when the gentleman from Maryland [Mr. McLANE] was on the floor.

The Chair will perhaps remember that in the Forty-fifth Congress when a tariff bill was under discussion in Committee of the Whole the proposition was made to strike out the enacting clause before the bill had been read through.

The CHAIRMAN. That is not the present motion.

Mr. CHALMERS. I understand that; but by that motion the opponents of the bill were enabled to bring the discussion to an end. Now, if that was possible, I ask why may it not be possible for the friends of a bill to move to report it to the House for passage before it has been read through?

Mr. VAN VOORHIS. It had better be passed before it is read, for it will not stand reading.

Mr. CHALMERS. My point is that if a bill can be defeated without being read it may be passed without being read.

The CHAIRMAN. The gentleman from Mississippi [Mr. CHALMERS] is aware of the fact that when a motion is made and carried in Committee of the Whole House on the state of the Union to strike out the enacting clause of a bill, if the House fails to concur in that action the Committee of the Whole immediately, without any further motion, resume the consideration of the bill.

Mr. CHALMERS. Very good, sir. In this case, if the House refuses to pass the bill, it might in the same way go back into the Committee of the Whole upon it.

Mr. REAGAN. I desire to say to the friends of the bill who are making these motions that we have carefully considered every one of them in consultation with the officers who control the deliberations of the House and the Committee of the Whole, and that we fail to see how we can accomplish the purpose of the friends of the bill by any such method. While I am up I want to say that the gentleman from Massachusetts [Mr. ROBINSON] wishes to submit an amendment to the appropriations for the Mississippi River, which amendment we desire shall be adopted. I do not see, therefore, how we can get along except by going on with the reading of the bill.

Mr. BRAGG. I would like the Chair to put the question on my motion. No one made a point of order upon it.

Mr. TOWNSHEND, of Illinois. I make the point of order that the bill has not been read through.

The CHAIRMAN. Several gentlemen are making points of order and demanding that the bill be read through in Committee of the Whole. The Chair does not see how under the rules he can deprive members of that right.

Mr. BRAGG. I would like to know what rule there is that makes my motion out of order, and under what precedent the Chair decides that it is out of order to move that the Committee of the Whole rise and ask to be discharged from the further consideration of the bill.

The CHAIRMAN. Does the gentleman know any rule that allows such a motion to be adopted in Committee of the Whole?

Mr. BRAGG. I submit that a motion that the Committee of the Whole rise and ask to be discharged from the further consideration of a bill is a motion recognized by the rules.

The CHAIRMAN. The Chair is not aware of any rule recognizing such a motion at the present stage in the consideration of this bill.

Mr. TOWNSHEND, of Illinois. The Chair has already held that this bill must be read through in order that opportunity may be given for amendment.

Mr. BRAGG. When the Committee of the Whole has considered a bill so far as it may desire to consider it, and the bill is in the judgment of the committee perfect, is it not within the power of the committee to ask to be discharged from its further consideration? If a majority of the committee do not desire further to consider a bill, have they not the right to say so, and can the Chair say that the voice of the majority in that direction cannot prevail under the rules?

The CHAIRMAN. But the House has referred the bill to the Committee of the Whole for the express purpose of having it considered; the order of the House is an order to the committee to consider the bill.

Mr. BRAGG. The committee have considered it; and if the motion I make prevails the committee will decide that they have considered it until they are satisfied with it.

Mr. BARBER. I rise to a parliamentary inquiry. Would it be in order to ask unanimous consent to pass over such portions of the bill as no gentleman may desire to amend?

The CHAIRMAN. The Chair thinks not. It will require very little time to read any portions of the bill, if the reading is not interrupted by amendments. [Cries of "Read!" "Read!"]

The Clerk resumed the reading of the bill, and read the following:

Improving Savannah Harbor and River, Georgia, $25,000, of which sum $1,000 may be applied to payment of damages for land.

Mr. COOK. I move to amend the paragraph just read by striking out "$25,000" and inserting "$65,000."

Mr. Chairman, Savannah is about the third port on the Atlantic in respect to the amount of its exports, and ranks among the first in the whole country. Our annual export of cotton is about seven hundred thousand bales. The Engineer Department has recommended the expenditure of $65,000 for continuing the improvement at Savannah, and if this appropriation were made it would open that harbor to vessels of the heaviest burden. Savannah is now connected by railroad with the far West, and western men are largely interested in the improvement of this harbor, as the nearest Atlantic port for their produce.

Members of the republican party are making great professions of friendship toward our section of country, and proclaiming their great desire to aid us in building up our commerce. This amendment presents a splendid opportunity for them to show their sympathy in a practical manner. [Laughter.]

Mr. COOK'S amendment was rejected.

Mr. UPDEGRAFF, of Iowa. I move to strike out the whole appropriation. I find here in respect to one of these improvements there is a land-owner who wants to speculate out of it, and I find this from one of their injudicious friends:

It was found on inquiry it would be impossible to get possession of these lands at reasonable cost by purchase in consequence of the high speculative value at which they were held. The owner of Fig Island asked $5,000 for three acres not worth more than $500 at the outside.

And yet here in this bill it is proposed to pay this man $1,000 for it.

Again, in respect to the river, another injudicious friend says:

It was found from examination, which embraced all the Savannah River above Augusta, a length of one hundred and seven miles, to the mouth of the Tugaloo, and forty-six and one-half miles up the latter to the head of pole-boat navigation, a total length of one hundred and fifty-four miles, the obstructions consist chiefly of rocky ledges. The cost of improvement for Pole-Boat Channel, three feet by thirty, from Augusta to Trotter's Shoal, sixty-four miles, $45,000.

It is proposed during the current fiscal year to begin the improvement of that portion of the river, sixty-four miles in length, between Augusta and Trotter's Shoal, with a view of establishing a channel three feet deep and thirty feet wide for pole-boat navigation. That is all I have to say.

Mr. PAGE. I should like to ask the chairman of the committee whether it would not be necessary to add the same provision to this paragraph which was added to that in reference to Oakland Harbor, that this appropriation shall not be available until the right to make the improvement shall be ceded to the United States without charge?

Mr. REAGAN. The United States has the right now.

Mr. PAGE. To the satisfaction of the Secretary of War?

Mr. REAGAN. The United States has the unconditional right. There is no impediment to it.

Mr. PAGE. I thought from what the gentleman from Iowa read that such an addition would be necessary.

Mr. REAGAN. Oh, he was reading about the work way up the Savannah above Augusta, a hundred miles off.

Mr. PAGE. Then it was not included in this.

Mr. REAGAN. No; not a part of it at all. [Cries of "Vote!" "Vote!"] What did the gentleman from Iowa read it for, then?

Mr. HUMPHREY. He read it for the amusement of the House.

The amendment was disagreed to.

Mr. UPDEGRAFF, of Iowa. I move to strike out the words "of which sum $1,000 may be applied to payment of damages for land."

I desire to say, Mr. Chairman, to the chairman of the Committee on Commerce [Mr. REAGAN] that he is mistaken or else the report of the Engineer is wrong. This thousand dollars is for property which the engineers say is not worth more than $500 at the utmost. This refers to this very appropriation.

Mr. REAGAN. The gentleman is right about that; but he read in reference to pole-boat navigation up the Savannah River above Augusta.

Mr. UPDEGRAFF, of Iowa. I read about both, and this pole-boat navigation is described in these words:

It is proposed during the current fiscal year to begin the improvement of that portion of the river sixty-four miles in length between Augusta and Trotter's Shoal, with a view of establishing a channel three feet deep for pole-boat navigation.

Mr. REAGAN. Now, if my friend is distressed about pole-boat navigation, we will come to that item after a while. It is a good way from where we now are. We are on the Savannah River, and I make the point of order the gentleman is not discussing the pending question.

Mr. UPDEGRAFF, of Iowa. I demand a division on my amendment.

The committee divided; and there were ayes 23, noes not counted.

So the amendment was rejected.

The Clerk read as follows:

Ice-harbor at mouth of Muskingum River, Ohio, $30,000.

Mr. WARNER. I move to strike out "30" and insert "50;" so that the paragraph as amended will read:

Ice-harbor at mouth of Muskingum River, $50,000.

Last year the appropriation for this work was $50,000, which has been expended in excavating for foundations, and to raise the walls on these foundations will require more than is appropriated in this bill. Besides, to go on with the work it is necessary to take out a part of a dam in the river, which, when begun, must be finished the same season; and to do this it will require at least $50,000. If it were not predetermined that no amendment whatever was to be allowed to the bill in committee, I think the Commerce Committee itself would accept this amendment. But I hope that even the determination to allow no amendments will not prevent the amendment I offer from fair consideration. If this harbor had been completed, Mr. Chairman, it would have saved this year perhaps twice the cost of the whole work. It is a work not of merely local importance; it concerns the shipping interests of the whole river from Cincinnati to Pittsburgh. It will probably take a hundred and fifty thousand dollars to complete the whole work, and at $50,000 a year even it will take three years to complete it; while it really ought, in the interest of good economy and the commerce of the Ohio River, to be completed in two years, if not in one. I do not think we should be alarmed at ten millions for all the harbors and rivers of the country. Not less than $250,000,000 will be spent this year in building, improving, and maintaining railroads in the United States. Water transportation is the only competition left against railway combinations. I am as much opposed as anybody to applying the public money to purely local improvements, or wasting it on undertakings that even if carried out to completion would be of little or no value as improvements. Every proposed improvement and every appropriation for improvements should stand here on its merits; and that is all I ask for this amendment, and if it is voted down I know it will not be on its merits, but because it has been determined by a majority to vote down all amendments whether in themselves good or bad.

The CHAIRMAN. The question is on the adoption of the amendment proposed by the gentleman from Ohio.

The amendment was not agreed to.

Mr. FINLEY. Mr. Chairman, it is now five minutes after six o'clock, [cries of "Read!" "Read!"] and I propose to move that the committee rise. [Cries of "No!" "No!"]

The CHAIRMAN. The question is on the motion of the gentleman from Ohio that the committee do now rise.

The committee divided; and there were—ayes 35, noes 91.

So the motion was not agreed to.

Mr. VAN VOORHIS. I make the point of order that no quorum has voted.

The CHAIRMAN. The Chair will now decide this point of order, as it is now presented directly. The point of order made is, that it is necessary to have a quorum in order that the committee may rise. The Chair will decide, and in accordance with a large vote of this House in Committee of the Whole during the last session of this Congress, that a quorum is not necessary to rise; which decision the Chair has here before him. [Applause.]

The Clerk read as follows:

Improving harbor at Michigan City, Indiana: Continuing operations at outside harbor, $30,000.

Mr. CALKINS. I move, Mr. Chairman, to strike out "$30,000" and insert "$20,000;" and at the end of line 159——

Mr. VAN VOORHIS. Before the gentlemen from Indiana submits his amendment, I want to ask the Chair if he means to hold that less than a quorum can go on with business in Committee of the Whole?

The CHAIRMAN. The Chair has not so decided.

Mr. VAN VOORHIS. That is the practical effect of the decision just given by the Chair.

The CHAIRMAN. The Chair does not agree with the gentleman from New York. It is not a decision which covers the question of a vote on proposed legislation. If there should be a failure of a quorum to vote on a question of legislation, the question could then be raised; not otherwise.

The gentleman from Indiana will forward his amendment to the desk.

The Clerk read as follows:

Strike out in line 158 the words "thirty thousand dollars" and insert "twenty thousand dollars;" and at the end of the line insert "for continuing the improvement of the inner harbor, $10,000." If amended as proposed it will read:

"For improving harbor at Michigan City, Indiana: Continuing operations at outside harbor, $20,000; and for continuing improvement of the inner harbor, $10,000."

Mr. CALKINS. It will be seen, Mr. Chairman, that the amendment I propose does not increase the amount of the appropriation; it merely changes the appropriation and makes it conform to the two bills passed by preceding Congresses. I trust that there will be no objection to it. The appropriation is not sufficient, but I have concluded to make a virtue of necessity and take what is given to us. I hope the amendment will be agreed to. [Cries of "All right!"]

The amendment was agreed to.

The Clerk read as follows:

Improving harbor at Calumet, Illinois, $20,000.

Mr. ALDRICH, of Illinois. I desire to offer an amendment, Mr. Chairman, to this section.

The Clerk read as follows:

Strike out "$20,000," in lines 160 and 161, and insert "$50,000."

Mr. ALDRICH, of Illinois. I do not desire, Mr. Chairman, to speak to the amendment but a very brief time, as I am quite hoarse. I desire to say to the committee, however, that there is not probably a place for which provision is made in this bill the improvement of the harbor of which is more important or needs improving more than this one. I have sought the attention of the committee a few moments to represent to the Committee on Commerce, as well as to the Committee of the Whole, the real facts in regard to this place. It is twelve miles from Chicago Harbor to Calumet, and the manufacturing interests which have been centered upon the north and south branches of the city of Chicago, some of the heaviest of them, have commenced building at this harbor of Calumet or South Chicago. The winding rivers and very frequent bridges which cross them at almost every street, certainly at every other street, in the city, has made it difficult for the manufacturing interests to carry on business in Chicago, and they are removing rapidly up to this point, and some are bringing a large amount of ore from the mines of Lake Superior. Of necessity, the vessels shipping ore are deeply laden. They have about twelve and a half feet of water there now to bring in vessels drawing from fourteen to fourteen and a half feet. The business is largely centering in that quarter upon the waters of the Calumet, which are navigable after you get inside for twenty miles; and the manufacturing interests which are congregating all along there, for it will soon all be built up, demonstrate the necessity for this appropriation. The increase in population in one year upon these waters is over fifteen thousand people within two miles of this harbor. One institution alone will before the 1st of May, if they succeed as they expect in completing their works, employ 2,000 artisans. The manufacturing works are steadily increasing at that point.

As I have stated to the committee I do not mean to consume any time in the discussion of this amendment, but I hope sincerely that the committee will enlarge the amount appropriated there. The appropriation of $50,000 asked for in the Engineer's report will complete the present project and will be applied to deepening the channel to the depth of fifteen feet, and extending the piers for its protection to deep water. The amount estimated required for the completion of the existing project is $58,750, and the engineer in charge has stated in his report that he can profitably expend in the fiscal year ending June 30, 1882, $50,000. The plan for the improvement of this harbor was adopted eleven years ago, and the change in the work and the importance of the point demands this increase. I hope it will be granted.

The CHAIRMAN. The question is on the adoption of the amendment.

The committee divided; and there were—ayes 28, noes 73.

Mr. VAN VOORHIS. I make the point of order that no quorum has voted.

The CHAIRMAN. The Chair will appoint tellers.

Mr. VAN VOORHIS and Mr. KENNA were appointed tellers.

The committee again divided; and the tellers reported that there were—ayes 32, noes 81.

Mr. VAN VOORHIS. No quorum.

Mr. DE LA MATYR. I move that the committee rise and report to the House the fact that it is without a quorum.

The CHAIRMAN. The rule prescribes what is the duty of the Chair when the committee finds itself without a quorum, if the point is insisted on.

Mr. PAGE. I move that the committee do now rise.

Mr. KENNA. I hope the committee will not rise.

The question being taken on Mr. PAGE's motion, there were—ayes 46, noes 75.

So the motion was not agreed to.

The CHAIRMAN. Upon the vote on the amendment offered by the gentleman from Illinois [Mr. ALDRICH] no quorum appeared. Thereupon the Chair orders the roll to be called, as required by the rule.

The Clerk proceeded to call the roll, and the following members failed to answer:

| | | | |
|---|---|---|---|
| Acklen, | Bingham, | Claflin, | Dunnell, |
| Aiken, | Bliss, | Clark, Alvah A. | Dwight, |
| Anderson, | Blount, | Cobb, | Einstein, |
| Armfield, | Bowman, | Coffroth, | Ewing, |
| Atherton, | Boyd, | Covert, | Felton, |
| Bachman, | Brewer, | Cox, | Ferdon, |
| Bailey, | Brigham, | Crapo, | Field, |
| Baker, | Bright, | Daggett, | Finley, |
| Ballou, | Browne, | Davidson, | Fisher, |
| Barlow, | Buckner, | Davis, Horace | Ford, |
| Bayne, | Camp, | Deering, | Forsythe, |
| Belford, | Caswell, | Dick, | Gillette, |
| Beltzhoover, | Chittenden, | Dickey, | Godshalk, |

| | | | |
|---|---|---|---|
| Goode, | Kitchin, | Neal, | Springer, |
| Hammond, John | Knott, | Newberry, | Starin, |
| Hammond, N. J. | Ladd, | Nicholls, | Steele, |
| Harmer, | Lapham, | O'Brien, | Stephens, |
| Harris, John T. | Lindsey, | O'Reilly, | Stone, |
| Haskell, | Loring, | Orth, | Taylor, Ezra B. |
| Hawley, | Lounsbery, | Overton, | Taylor, Robert L. |
| Hayes, | Manning, | Persons, | Thompson, P. B. |
| Hellman, | Marsh, | Phelps, | Turner, Thomas |
| Henkle, | Martin, Benj. F. | Phister, | Tyler, |
| Henry, | McCoid, | Ray, | Urner, |
| Hiscock, | McCook, | Rice, | Van Aernam, |
| Honk, | McKenzie, | Richardson, D. P. | Voorhis, |
| Hubbell, | Miles, | Robeson, | Weaver, |
| Hutchins, | Miller, | Rothwell, | Whiteaker, |
| James, | Money, | Ryon, John W. | Whitthorne, |
| Jorgensen, | Monroe, | Scales, | Wise, |
| Joyce, | Morse, | Sherwin, | Wood, |
| Keifer, | Morton, | Singleton, O. R. | Yocum, |
| Kelley, | Muldrow, | Smith, A. Herr | Young, Casey |
| Ketcham, | Muller, | Smith, William E. | Young, Thomas L. |
| Killinger, | Myers, | Speer, | |

The roll having been called, the names of absentees were then called over.

Mr. ATHERTON. I did not hear my name called.

The CHAIRMAN. The Clerk informs the Chair the name of the gentleman from Ohio was called on both roll-calls.

Mr. ATHERTON. I presume it was. I simply want it understood I was present in the House.

The CHAIRMAN. The gentleman has accomplished his purpose.

Mr. STEVENSON. Before the committee rises I wish it recorded that the gentleman from Kentucky [Mr. McKENZIE] is absent on account of sickness in his family.

The CHAIRMAN. That is a matter for the House, not for the Committee of the Whole.

The committee rose; and Mr. BLACKBURN having taken the chair as Speaker *pro tempore*, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the river and harbor appropriation bill, and finding itself without a quorum he had, under the rule, directed the roll to be called, and now reported the names of those members who had failed to answer.

Mr. VALENTINE. I move that the House do now adjourn.

Mr. REAGAN. We have but a short time of the session left us. There are two general appropriation bills still to be reported and there are other matters which it is necessary Congress should act upon. It is apparent we can only secure the passage of this bill saving the public works and get it out of the way by a little endurance; and we may as well stand it to-night as at any time rather than allow the suspension of all the public works. I hope it will be the pleasure of the House to allow a call to bring here the members who are absent, and that we shall keep a quorum here and go forward with this bill and pass it or defeat it.

Mr. PAGE. I believe this bill can be passed to-morrow. I do not believe there will be any factious opposition to it. I have talked with several members who to-day have raised the point of a quorum, and from what I understand in conversations with them there will be no factious opposition and the bill will finally come to a vote to-morrow. I do not believe we can keep a quorum of the House to-night, and I hope the gentleman who has charge of the bill will consent that the House shall now adjourn. He can call the bill up to-morrow at the usual hour, and I have every reason to believe it will be disposed of by four o'clock.

Mr. REAGAN. I have no doubt the gentleman from California would be glad to see business go on, and if I thought all felt like him I would be disposed to assent to the arrangement he suggests. But we know that is not the case. [Cries of "Regular order!"]

Mr. CONGER. I desire to ask leave of absence for my colleague, Mr. BREWER, who is called home on account of dangerous sickness in his family.

The SPEAKER *pro tempore*. Without objection the request of the gentleman from Michigan will be granted. The Chair hears no objection.

Mr. PAGE. While I am not authorized to speak for gentlemen who may have made some factious opposition, still in conversation with them to-night I am satisfied there will be no factious opposition to-morrow if the arrangement I suggest be agreed to.

Mr. MILLS. They are here. Let them speak for themselves.

Mr. STEVENSON. I request that leave of absence from the sitting of the House to-night be granted to the gentleman from Kentucky, Mr. McKENZIE, who is detained from the House on account of sickness in his family.

The SPEAKER *pro tempore*. The Chair hears no objection to the request of the gentleman from Illinois, and it is granted.

Mr. VALENTINE, (at 6.45 p. m.) I move that the House now adjourn.

The SPEAKER *pro tempore*. The Committee of the Whole on the state of the Union having found itself without a quorum, in obedience to the rule the roll of members was called, and the committee rose and its chairman reported to the House the names of those not responding when called. A quorum having appeared, there is nothing now for the Chair to do except to announce that the Committee of the Whole will resume its session upon the river and harbor appropriation bill, unless there be made a motion that the House now adjourn.

Mr. VALENTINE. I have made that motion.

The SPEAKER *pro tempore*. Before submitting that motion the Chair desires to request on behalf of the gentleman from Mississippi, Mr. SINGLETON, leave of absence for the remainder of to-day's session; two similar requests having just been granted.

Mr. PAGE. I object.

Mr. VANCE. I submit a request that my colleague, Mr. ARMFIELD, be excused from attendance from to-night's session on account of sickness.

Mr. PAGE. If there is to be a night session I do not want any members excused who can attend.

Mr. CHALMERS. The gentleman from Mississippi, Mr. SINGLETON, left the Hall on account of the illness of his wife, and so stated when he left.

Mr. ATHERTON. I desire to submit a request that Dr. FELTON, of Georgia, be excused from attendance at the session of to-night.

Several members objected.

The SPEAKER *pro tempore*. The question recurs upon the motion of the gentleman from Nebraska, [Mr. VALENTINE,] that the House now adjourn.

Mr. THOMAS. I desire to state that the gentleman from Mississippi, Mr. SINGLETON, has been called home by information that his wife is very sick.

Mr. PAGE. I withdraw my objection on that statement.

There being no further objection, Mr. SINGLETON, of Mississippi, was granted leave of absence for to-night's session.

Mr. ATHERTON. Is there any objection to Dr. FELTON, of Georgia, being allowed leave of absence for to-night?

Mr. VALENTINE. If we adjourn at this time there will be no need for these excuses.

Mr. TOWNSHEND, of Illinois. I hope the gentleman from Georgia, Mr. FELTON, will be treated as other gentlemen have been; his family is ill.

The SPEAKER *pro tempore*. Is there objection to the request made for the gentleman from Georgia, Mr. FELTON?

There was no objection; and leave of absence was granted accordingly.

Mr. WILSON. I ask the same for Mr. STEPHENS, of Georgia.

Mr. FORT. If I have to stay here to-night I intend that other gentlemen shall stay here too. It will be time enough to excuse these gentlemen when they are called.

The SPEAKER *pro tempore*. Does the gentleman from Illinois [Mr. FORT] object to the leave of absence asked for the gentleman from Georgia, Mr. STEPHENS, for the remainder of to-day's session?

Mr. FORT. I do not object to that; but I say there will be time enough to excuse other gentlemen when the case arises.

There was no objection; and Mr. STEPHENS was granted leave of absence.

Mr. CONGER. I desire to state that I shall object to any leave of absence being granted, except on account of ill health.

The SPEAKER *pro tempore*. The question is upon the motion to adjourn.

Mr. VAN VOORHIS. If I can have unanimous consent I would like to say a word.

Many MEMBERS. Regular order!

The SPEAKER *pro tempore*. The regular order is called for, which is the motion to adjourn.

The motion to adjourn was not agreed to, upon a division—ayes 38, noes 81.

Mr. VAN VOORHIS. No quorum has voted.

The SPEAKER *pro tempore*. A quorum is not needed to determine the question on a motion to adjourn. The call of the roll, upon the completion of which the Committee of the Whole rose, indicated the presence of a quorum. Under the rule the Committee of the Whole will now resume its session.

The Committee of the Whole accordingly resumed its session, Mr. CARLISLE in the chair.

The CHAIRMAN. The Committee of the Whole resumes its session and will proceed with the consideration of the river and harbor appropriation bill. The question is on the amendment proposed by the gentleman from Illinois, [Mr. ALDRICH,] upon which no quorum voted when the question was before taken in Committee of the Whole.

The question was taken; and upon a division there were—ayes 20, noes 85.

Before the result of the vote was announced,

Mr. VAN VOORHIS said: No quorum has voted.

Tellers were ordered; and Mr. VAN VOORHIS and Mr. KENNA were appointed.

Mr. WHITE. The gentleman from Illinois [Mr. ALDRICH] who offers the amendment does not make the point that no quorum voted.

The CHAIRMAN. The gentleman from New York [Mr. VAN VOORHIS] makes the point, which he has a right to do.

The committee again divided; and the tellers reported that there were—ayes 16, noes 101.

Mr. VAN VOORHIS. No quorum has voted.

Mr. REAGAN. In order to save the time that would be consumed in again calling the roll, I move that the committee now rise with the view that a call of the House may be ordered.

The motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN having resumed the chair as Speaker *pro tempore*, Mr. CARLISLE reported that

the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 7104) making appropriations for the construction, completion, and repair and preservation of certain works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

Mr. REAGAN. I move a call of the House.

Mr. VALENTINE. I move that the House now adjourn.

Mr. ATKINS. I dislike very much to rise to a point of order; but I desire to have read the rule in regard to smoking within the bar of the House.

The SPEAKER *pro tempore*. The Clerk will read clause 7 of Rule XIV.

The Clerk read as follows:

While the Speaker is putting a question or addressing the House no member shall walk out of or across the Hall, nor, when a member is speaking, pass between him and the Chair; and during the session of the House no member shall wear his hat, or remain by the Clerk's desk during the call of the roll or the counting of ballots, or smoke upon the floor of the House; and the Sergeant-at-Arms and Doorkeeper are charged with the strict enforcement of this clause.

The SPEAKER *pro tempore*. By the rule it is made the especial duty of both the officers named to enforce compliance with the rule, which the Chair now directs shall be done.

Mr. McLANE. I rise to a question of order. I desire to know from the Chair whether the right of the House to order a call of the House is not an inherent right, independently of the rule which has reference to a quorum.

The SPEAKER *pro tempore*. The Chair conceives that there can be no doubt about the power of the House to compel the attendance of its members; but the question presented by the gentleman from Maryland is not now raised. The gentleman from Texas has moved a call of the House, pending which the gentleman from Nebraska [Mr. VALENTINE] has moved that the House adjourn. The latter motion takes precedence.

The question being taken on the motion to adjourn, it was not agreed to, there being ayes 32; noes not counted.

The question then recurred on the motion of Mr. REAGAN for a call of the House.

The question having been put,

The SPEAKER *pro tempore* said: More than fifteen members rising, a call is ordered. The Clerk will proceed to call the roll.

Mr. WRIGHT. I ask the indulgence of the House, that I may be excused from the remainder of this day's session.

The SPEAKER *pro tempore*. If there be no objection, the gentleman's request will be granted.

There was no objection.

The SPEAKER *pro tempore*. The Chair desires in justice to another member to submit at this time the request which will be read.

The Clerk read as follows:

Mr. DAVIDSON asks leave of absence from the House on account of sickness.

The SPEAKER *pro tempore*. Is there objection? The Chair hears none; and the request will be granted.

Mr. BUCKNER. I desire to ask that the gentleman from Georgia, Mr. HAMMOND, be excused. He has been confined to his room for several days.

The SPEAKER *pro tempore*. Excuses are not now in order; but the Chair will state that the gentleman from Georgia [Mr. HAMMOND] obtained leave of absence to-day.

Mr. REAGAN. I object to leave of absence for Mr. DAVIDSON. He has been here to-day.

The SPEAKER *pro tempore*. The Chair asked for objections, and hearing none stated that leave was granted. Did the gentleman object at the time?

Mr. REAGAN. I did.

The SPEAKER *pro tempore*. Objection being made, the leave is not granted.

The Clerk proceeded to call the roll, when the following members failed to answer to their names:

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Coffroth, | Hayes, | Morse, |
| Anderson, | Covert, | Heilman, | Morton, |
| Armfield, | Cox, | Henkle, | Muller, |
| Bachman, | Crapo, | Henry, | Neal, |
| Bailey, | Daggett, | Hiscock, | Newberry, |
| Baker, | Davidson, | Houk, | Nicholls, |
| Ballou, | Davis, Horace | Hubbell, | O'Brien, |
| Barlow, | Deering, | Hutchins, | O'Reilly, |
| Bayne, | Dick, | James, | Orth, |
| Belford, | Dickey, | Jorgensen, | Overton, |
| Beltzhoover, | Dwight, | Joyce, | Persons, |
| Bingham, | Einstein, | Kelley, | Phelps, |
| Bisbee, | Ewing, | Ketcham, | Ray, |
| Bliss, | Felton, | Killinger, | Rice, |
| Blount, | Ferdon, | Knott, | Richardson, D. P. |
| Bowman, | Field, | Lapham, | Robeson, |
| Brewer, | Finley, | Lindsey, | Rothwell, |
| Brigham, | Fisher, | Loring, | Ryon, John W. |
| Browne, | Ford, | Lounsbery, | Sherwin, |
| Butterworth, | Gillette, | Marsh, | Simonton, |
| Camp, | Godshalk, | Mason, | Singleton, O. R. |
| Cannon, | Goode, | McCook, | Smith, A. Herr |
| Caswell, | Hammond, John | McKenzie, | Smith, William E. |
| Chittenden, | Hammond, N. J. | Miles, | Speer, |
| Claflin, | Harmer, | Miller, | Springer, |
| Clark, Alvah A. | Harris, John T. | Mitchell, | Starin, |
| Clements, | Haskell, | Money, | Steele, |
| Cobb, | Hawley, | Monroe, | Stephens, |
| Taylor, Ezra B. | Tyler, | Whiteaker, | Yocum, |
| Taylor, Robert L. | Urner, | Whitthorne, | Young, Casey, |
| Thompson, P. B. | Van Aernam, | Wise, | Young, Thomas L. |
| Turner, Oscar | Voorhis, | Wood, | |
| Turner, Thomas | Weaver, | Wright, | |

Mr. BALLOU. I want to say that I am here.

Mr. SIMONTON. And I wish to say that I am present.

The SPEAKER *pro tempore*. Where a member fails to answer upon the roll-call, the Chair has no discretion in the matter.

Mr. REAGAN. I now move that the doors be closed and the absentees sent for.

The SPEAKER *pro tempore*. It is not necessary to make that motion. The rules require that the doors shall be closed. The Doorkeeper will close the doors.

Mr. PHISTER. I am requested by Mr. BAYNE to ask indefinite leave of absence for him. He is called to Pennsylvania on important business.

The question being taken, leave was granted.

Mr. BUCKNER. I ask that the gentleman from Georgia, Mr. BLOUNT, be excused. He is engaged on committee duty.

The SPEAKER *pro tempore*. Shall the gentleman from Georgia be excused?

Mr. ATKINS. As I understand the rule authorizes members of the Committee on Appropriations to be absent during the sessions of the House. They are excused under the rules.

The SPEAKER *pro tempore*. The Chair does not think the rule is as broad as the gentleman from Tennessee [Mr. ATKINS] understands it to be. It is the impression of the Chair that the rule simply allows the Committee on Appropriations to be in session during the sitting of the House.

Mr. McMAHON. The gentleman from Georgia [Mr. BLOUNT] is actually engaged in preparing the sundry civil appropriation bill.

Mr. ATKINS. That is the fact.

The question being taken on excusing Mr. BLOUNT, there were—ayes 33, noes 21.

Mr. PAGE. No quorum is present, and the gentleman cannot be excused without a quorum. I make the point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. PAGE. My point of order is that no member can be excused when there is no quorum present.

The SPEAKER *pro tempore*. A quorum is not needed.

Mr. PAGE. Not to excuse a member?

The SPEAKER *pro tempore*. Under the rule, a call of the House is ordered by fifteen members and the absentees are noted, and then the doors are closed.

Mr. REAGAN. I rise to a question of order.

Mr. PAGE. I insist that no member can be excused from attendance without a quorum being present.

The SPEAKER *pro tempore*. If the gentleman from California will refer to the second clause of Rule XV he will find it is there expressly provided that on such a vote a quorum is not needed. A call of the House may be ordered by fifteen members. On the noting of the absentees excuses then may be given and members may be excused by a majority of those present. The ayes therefore have it, and the gentleman from Georgia [Mr. BLOUNT] is excused.

Mr. SAPP. I desire to ask that Mr. DAVIDSON be excused.

A MEMBER. Why?

Mr. SAPP. He came to me during the afternoon and told me he had a fever and requested I should pair with him. He then left the House, and when he left was quite indisposed. He is not well and ought to be excused.

The motion was agreed to.

Mr. SHELLEY. I ask that my colleague, Mr. CLEMENTS, be excused on account of severe indisposition.

Mr. REAGAN. I demand a division.

The House divided; and there were—ayes 24, noes 32.

So the motion was disagreed to.

Several MEMBERS. Regular order!

The SPEAKER *pro tempore*. The regular order is being proceeded with. Under the call of the House, the time has now arrived for submission of excuses for absentees.

Mr. WILBER. Was there a quorum on the last vote?

The SPEAKER *pro tempore*. The Chair is informed by the Clerk there was a quorum.

Mr. WILBER. Then what is there to hinder us from moving on with the business?

The SPEAKER *pro tempore*. The power of the House to compel the attendance of every absent member if it wants to.

Mr. HERNDERSON. I move that the gentleman from Vermont, Mr. JOYCE, be excused on account of illness. He has been sick for several days.

The SPEAKER *pro tempore*. There is no necessity for such a motion, as the gentleman from Vermont is now absent by leave of the House.

Mr. FRYE. I move that my colleague, Mr. LINDSEY, be excused from further attendance during this session, as his daughter is ill and he is in attendance upon her.

The motion was agreed to.

Mr. SIMONTON. In behalf of my colleague, Mr. WHITTHORNE, I move he be excused for the remainder of this session. He has recently

been quite ill, and is unable without great detriment to his health to attend these night sessions.

The House divided; and there were—ayes 50, noes 47.

So the motion was agreed to.

Mr. SHELLEY, (at seven o'clock and forty minutes p. m.) I move that the House do now adjourn, and I insist on my motion being put.

The House divided; and there were—ayes 41, noes 64.

Mr. SHELLEY demanded the yeas and nays.

Mr. SINGLETON, of Illinois. I rise to a question of order. The House has already made its order and directed the Sergeant-at-Arms to bring to the bar of the House the absentees.

The SPEAKER *pro tempore*. The gentleman is mistaken. The House has not yet made this order and is now only hearing excuses for absentees.

Mr. SINGLETON, of Illinois. I thought the order had been issued.

The question recurred on the demand for the yeas and nays.

Mr. SHELLEY demanded tellers on the yeas and nays.

Tellers were not ordered and the yeas and nays were not ordered.

So the House refused to adjourn.

Mr. SHELLEY. I now renew my motion that my colleague, Mr. CLEMENTS, be excused on account of illness.

The SPEAKER *pro tempore*. The Chair cannot recognize the gentleman to renew that motion until other gentlemen who desire to make similar motions have been heard.

Mr. SHELLEY. I do not understand I can be cut off in any such way. There is evidently a misunderstanding.

The SPEAKER *pro tempore*. Every member desiring to move an excuse for an absentee has the right to have such opportunity and the gentleman cannot renew his motion until all others have been heard.

Mr. SHELLEY. But suppose I have two colleagues who are sick?

Mr. HUMPHREY. I move that the gentleman's colleague, Mr. CLEMENTS, be excused.

The SPEAKER *pro tempore*. The Chair is trying to divide the time equally between both sides of the House and now recognizes the gentleman from Wisconsin.

Mr. HUMPHREY. I move that Mr. CLEMENTS be excused.

The motion was agreed to.

Mr. MARSH. Mr. Speaker, I was not present when my name was called but returned before the roll-call was finished.

The SPEAKER *pro tempore*. The question is on excusing the gentleman from Illinois on the statement made.

The motion was agreed to.

Mr. BLAND. Mr. Speaker, I ask that my colleague, Mr. ROTHWELL, who has been sick for three or four weeks and not able to attend the regular sittings of the House, be excused to-night.

The motion was agreed to.

Mr. BLAND. I ask the same privilege myself as I am feeling quite unwell.

The motion was not agreed to.

Mr. VAN VOORHIS. I wish to say that General HAMMOND is absent from the city and from the House by leave of the House.

The SPEAKER *pro tempore*. The gentleman being absent by leave of the House it is not necessary to make a motion to excuse him.

Mr. CULBERSON. It is now apparent, Mr. Speaker, that we cannot get to any consideration of this bill to-night, and I move that the House take a recess until to-morrow at nine o'clock.

The House divided; and there were—ayes 53, noes 62.

Mr. CULBERSON. I demand tellers.

Mr. KENNA. If the gentleman insists upon the demand for tellers I shall make the point of order that the motion is not in order; that the House having ordered a call of the House, nothing is in order but to proceed under the call to dispense with further proceedings under the call or to adjourn.

The SPEAKER *pro tempore*. The motion of the gentleman from Texas having been made and submitted to the House without objection, the Chair holds that it is now too late to make a point of order against it, the House having proceeded to a division upon it. No quorum having voted, the Chair will appoint tellers.

Mr. CULBERSON and Mr. KENNA were appointed.

Mr. WHITE. Is it in order to move an amendment to the proposition?

The SPEAKER *pro tempore*. It is too late now; the House is dividing.

The House divided; and there were—ayes 53, noes 63.

So the motion for a recess was not agreed to.

Mr. TALBOTT. I demand the regular order.

The SPEAKER *pro tempore*. The regular order is being proceeded with. As fast as members desire to present excuses the Chair will entertain them.

Mr. ACKLEN. I submit the following motion.

Several members demanded the regular order.

The SPEAKER *pro tempore*. The regular order, as the Chair has stated, is the excuses of members, or for some gentleman to move that the House now adjourn and dispense with further proceedings under the call.

Mr. ACKLEN. I submitted a motion in connection with the call of the House a moment since.

The SPEAKER *pro tempore*. The Clerk will report the proposition of the gentleman from Louisiana.

The Clerk read as follows:

*Ordered*, That the Sergeant-at-Arms take into custody and bring to the bar of the House such of its members as are now absent without leave of the House.

Mr. ATHERTON. I wish to ask consent of the House——

The SPEAKER *pro tempore*. The Chair will recognize every gentleman in order to offer excuses.

Mr. REAGAN. Will the Chair put the motion now pending before the House?

Mr. ATHERTON. I wanted to state before that order is made that the gentleman from Georgia, Mr. FELTON, during the afternoon left the House——

The SPEAKER *pro tempore*. The gentleman from Georgia has already been excused by leave of the House.

Mr. ATHERTON. I wanted to say that I had paired with him on all questions for the remainder of the day, and although I cannot complain that I am continually out of health, yet I wish to state that I am not feeling particularly well, and as I am somewhat of an obstruction to the passage of this bill I ask that the House excuse me.

The motion was not agreed to.

Mr. MARTIN, of West Virginia. Mr. Speaker——

Several members demanded the regular order.

The SPEAKER *pro tempore*. The Chair has stated that the regular order under the rule was to receive excuses for absent members. The Chair has recognized the gentleman from West Virginia, who desires to make an excuse for an absent member.

Mr. MARTIN, of West Virginia. Mr. Speaker, I want to make a motion to excuse the gentleman from Kentucky, Mr. KNOTT, who is sick, I know.

The motion was agreed to.

Mr. ACKLEN. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. ACKLEN. I have sent to the desk an order of the House, which has been read, and, as I understand, is now pending before the House. What I wish to ask is, will not that have precedence of any other motion?

The SPEAKER *pro tempore*. If the gentleman will consult section 2 of Rule XV he will find that his resolution is not in order until gentlemen have been allowed an opportunity to offer excuses for themselves or for absent members, which opportunity the Chair is now offering.

Mr. ACKLEN. I yield very cheerfully to the superior parliamentary knowledge of the Chair.

The SPEAKER *pro tempore*. The Chair suggests no superiority of knowledge over the gentleman from Louisiana.

Mr. REAGAN. I desire to submit a motion, Mr. Speaker, as it is very evident that we will be delayed some time before we can succeed in getting a quorum, that perhaps it would be better to ask consent of the House to take a recess until ten o'clock in the morning.

Mr. CARPENTER. Mr. Speaker——

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Texas that gentlemen are on the floor offering excuses and that no business can be transacted until members take their seats and observe order.

Mr. TOWNSEND, of Ohio. I wish to state, Mr. Speaker, that my colleague, Mr. MONROE——

Mr. REAGAN. I move that the House take a recess until ten o'clock.

The SPEAKER *pro tempore*. The Chair has recognized the gentleman from Ohio and the gentleman from Iowa, who wish to make excuses, as the Chair understands, for absent members.

Mr. CARPENTER. I ask that Mr. DEERING be excused.

Mr. COOK. I move that all further proceedings under the call of the House be dispensed with.

The SPEAKER *pro tempore*. The gentleman from Georgia will remember that a question is pending upon which a vote is being taken. The question is on the proposition of the gentleman from Iowa, that his colleague, Mr. DEERING, be excused from the sittings of the House to-night.

The motion was agreed to.

Mr. COOK. I now make my motion to dispense with all further proceedings under the call.

Mr. PAGE. I move that my colleague, Mr. DAVIS, be excused——

Mr. COOK. This will accomplish what the gentleman desires.

The SPEAKER *pro tempore*. Does the gentleman from Georgia yield to the gentleman from Ohio, [Mr. TOWNSEND,] who was on the floor and desires to submit a motion?

Mr. COOK. I insist upon my motion.

The House divided; and there were—ayes 64, noes 41.

Mr. HUNTON. I demand tellers.

Mr. UPDEGRAFF, of Iowa. I make the point that no quorum has voted.

The SPEAKER *pro tempore*. The Chair will state that a quorum is not needed, in the judgment of the Chair, to dispense with further proceedings under the call of the House, or to transact any business in order under a call of the House.

Tellers are demanded; and the Chair appoints the gentleman from Georgia, Mr. COOK, and the gentleman from Virginia, Mr. HUNTON.

Mr. WHITE. On what question are tellers ordered?

The SPEAKER *pro tempore*. On the motion of the gentleman from Georgia, that further proceedings under the call be dispensed with.

Mr. SAMFORD. I desire to inquire of the Chair if tellers were ordered?

The SPEAKER *pro tempore*. A quorum not having voted, the Chair under the rule had the right to appoint tellers.

The House again divided; and the tellers reported—ayes 62, noes 59.

The SPEAKER *pro tempore*. The ayes have it.

Mr. HUNTON. A quorum has not voted.

The SPEAKER *pro tempore*. No proceedings under a call of the House, in the judgment of the Chair, require a quorum. The ayes have it, and further proceedings under the call are dispensed with.

Mr. KENNA. I move that the House resolve itself into Committee of the Whole on the state of the Union for the further consideration of the river and harbor bill.

Mr. RUSSELL, of North Carolina. Pending that, I move that the House do now adjourn.

The motion to adjourn was not agreed to—ayes 39, noes 69.

The SPEAKER *pro tempore*. The question recurs on the motion of the gentleman from West Virginia, that the House now resolve itself into Committee of the Whole on the state of the Union for the purpose of proceeding with the consideration of the river and harbor appropriation bill.

The question was taken; and there were—ayes 94, noes 8.

Mr. VAN VOORHIS. I raise the point that no quorum has voted.

Mr. KENNA. I move that there be a call of the House.

Mr. ATHERTON. Pending that, I move that the House do now adjourn.

The SPEAKER *pro tempore*. The point having been made that no quorum voted the Chair, under the rule and practice of the House, was about to appoint tellers.

Mr. ATHERTON. I think it is very clear we can do nothing to-night. I move we take a recess till ten o'clock to-morrow.

The SPEAKER *pro tempore*. That motion is not in order while the House is dividing.

Mr. KEIFER. Was the point made that there was no quorum?

The SPEAKER *pro tempore*. The gentleman from New York [Mr. VAN VOORHIS] made the point that a quorum had not voted on the motion of the gentleman from West Virginia; and the Chair will appoint tellers.

Mr. KENNA. As it is apparent there is not a quorum here, I move there be a call of the House.

The SPEAKER *pro tempore*. But the gentleman from West Virginia must be aware the House is now dividing. A quorum did not vote, and the point having been made, the Chair was about to appoint tellers, and the result of the vote has not yet been ascertained.

Mr. KENNA. Does not the vote stand in the absence of a demand for tellers?

The SPEAKER *pro tempore*. The gentleman from New York makes the point that no quorum voted.

Mr. ATHERTON. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. ATHERTON. It is whether pending the motion of the gentleman from West Virginia it be in order to move to take a recess?

The SPEAKER *pro tempore*. In the judgment of the Chair it is not in order to make that motion while the House is dividing. The Chair will appoint as tellers the gentleman from West Virginia, Mr. KENNA, and the gentleman from New York, Mr. VAN VOORHIS.

The House again divided; and the tellers reported—ayes 117, noes 4.

Mr. ATHERTON. Before the Chair announces the result of the vote by tellers, I want to press the point as to whether I cannot make the motion to have a recess. If the House resolves itself into Committee of the Whole, I cannot make my motion unless the committee rises for that purpose.

The SPEAKER *pro tempore*. The motion to take a recess would not be in order with an ascertained want of a quorum on the records of the House. It requires a quorum to take a recess.

Mr. ATHERTON. Although a quorum does not vote on one proposition it does not follow that it will not vote on another proposition.

The SPEAKER *pro tempore*. Nor can the Chair assume a quorum is present when a quorum has failed to appear. The Chair cannot entertain the motion or the suggestions of the gentleman from Ohio when the House is dividing, the result not having yet been announced from the Chair.

Mr. ATHERTON. I desire, Mr. Speaker——

The SPEAKER *pro tempore*. The gentleman from Ohio is not in order.

Mr. ATHERTON. I rose to a parliamentary inquiry.

The SPEAKER *pro tempore*. It was not in order for the gentleman to make a parliamentary inquiry while the Chair was engaged in ascertaining the result of the vote. The tellers report as the result of the vote on the motion of the gentleman from West Virginia—ayes 117, noes 4.

Mr. VAN VOORHIS. No quorum.

Mr. TALBOTT. I move a call of the House.

Mr. ATHERTON. I renew my motion that the House take a recess until ten o'clock to-morrow.

The SPEAKER *pro tempore*. That motion is not in order, because the vote just taken shows the absence of a quorum.

Mr. ATHERTON. A quorum did not vote on that proposition, but it does not follow that a quorum will not vote on another.

The SPEAKER *pro tempore*. The Chair has no information except that furnished by the tellers as to the number of members present. The question is on the motion of the gentleman from Maryland, [Mr. TALBOTT,] that there be a call of the House.

Mr. ATKINS. Is that motion debatable?

The SPEAKER *pro tempore*. The Chair thinks this motion is not debatable.

Mr. ATKINS. I was going to ask gentlemen to listen to me a moment. I suppose all the members of this House desire to get through with the necessary legislation and avoid an extra session. I know I do; and I have not found the first member of the House on either side who desires to so conduct the business as to necessitate an extra session. Now, I am very anxious to get this bill through so far as I am concerned; but I think there are measures more important than this bill. I have indicated heretofore that the bill in charge of the gentleman from New York [Mr. COX] is more important than this; and yet I think this is an important bill. Still, from the temper of the House to-night and from the fact the point is made every time a vote is taken that a quorum is not present, I am satisfied no good will be effected here to-night; and I believe we would facilitate the public business if we were to take a recess until half past nine to-morrow morning.

Let us lay aside our temper; and if I can do that, I think most of the gentlemen of the House can. Let us take up this bill in the morning, and we can probably get through it in time to take up the bill of the gentleman from New York, [Mr. COX,] so as to finish both measures to-morrow. Then we can take up the agricultural appropriation bill. By that time the sundry civil bill will be ready, and by the time we get through with that the deficiency bill will be ready. By the time we get through with that the funding bill will be here from the Senate. Unless we are very expeditious indeed, before we can get through with all these bills, and act on them as we ought to, the time will come for this House to adjourn *sine die*. I hope my friend from Texas will meet my proposition in the spirit in which I have offered it, and I trust members will agree to this suggestion.

Mr. REAGAN. The suggestion made by the gentleman from Tennesse [Mr. ATKINS] seems to me a practicable one. Anxious as I am to proceed with this bill, I see no reason to expect that we can make progress with it to-night; and if we stay here to-night without progress on the bill, we shall be disqualified for business to-morrow. I therefore accept the proposition of the gentleman from Tennessee that we take a recess till half past nine o'clock to-morrow morning.

Mr. ATKINS. I modify my suggestion so as to fix ten o'clock instead of half past nine.

Mr. TALBOTT. I made the motion for a call of the House. I have observed with a great deal of pleasure the map of our business, as made by the gentleman having charge of this bill and the gentleman from Tennessee, [Mr. ATKINS.] It is not the first time since I have been a member that I have known a map to be laid out by individual members for the regulation of the business of this House.

Mr. ATHERTON. I demand the regular order.

Mr. TALBOTT. One moment. My motion is the regular order.

The SPEAKER *pro tempore*. This debate is proceeding only by unanimous consent; and it must stop if the gentleman from Ohio objects.

Mr. TALBOTT. Very well, then; I call for a vote on my motion that there be a call of the House.

The question being taken on the motion of Mr. TALBOTT, it was not agreed to.

Mr. ATKINS. I now move that the House take a recess until ten o'clock to-morrow morning.

Mr. KENNA. If there be no objection, I desire to withdraw my motion that the House resolve itself into the Committee of the Whole.

The SPEAKER *pro tempore*. The gentleman from West Virginia withdraws his motion; and the question is on the motion of the gentleman from Tennesse, [Mr. ATKINS.]

The question being taken, there were—ayes 98, noes 23.

Mr. TALBOTT. No quorum.

The SPEAKER *pro tempore*. The point is made that no quorum has voted.

Mr. ATKINS. Then I move that the House do now adjourn.

The SPEAKER *pro tempore*, having put the question on the motion of Mr. ATKINS, said: The ayes seem to have it.

Mr. TALBOTT. I withdraw the point of order that no quorum voted.

Mr. ATKINS. Then I withdraw my motion to adjourn.

Mr. BRIGHT. I renew the motion to adjourn.

Mr. KENNA. I make the point that the gentleman cannot make the motion to adjourn pending the announcement by the Chair of the result of the vote on another motion.

The SPEAKER *pro tempore*. The gentleman from West Virginia will hardly insist upon that point, as the Chair interrupted the announcement of a vote to allow the gentleman from West Virginia to withdraw his motion.

Mr. KENNA. I beg pardon of the Chair, but I do not understand the fact as the Chair states it.

The SPEAKER *pro tempore*. The Chair withheld the announcement of the result in order to give the gentleman from West Virginia an opportunity to withdraw his motion; and the gentleman from Tennessee then moved to take a recess.

Mr. KENNA. I do not understand that the Chair withheld any announcement to give me an opportunity for anything.

The SPEAKER *pro tempore*. If the rule be insisted upon, the gentleman from Tennessee has no right to withdraw his motion to adjourn. Under a strict construction of the rule, while the House is dividing upon it, the Chair is compelled to hold that the motion of the gentleman from Tennessee [Mr. ATKINS] was in the possession of the House, was being voted on, and that it was not within his power to withdraw it.

Mr. COX. What has become of the motion of my friend from Tennessee for a recess?

The SPEAKER *pro tempore*. That motion did not prevail, because the gentleman from Maryland [Mr. TALBOTT] made the point that no quorum voted.

Mr. TALBOTT. I withdrew that point.

Mr. ATKINS. I demand tellers on my motion for a recess.

The SPEAKER *pro tempore*. No quorum having voted, the Chair would have been obliged, under the rule, to order tellers if the point had been made in time. But it comes too late, unless the gentleman states that he did make the demand in time.

Mr. ATKINS. I do not so state.

Mr. COX. Would it be in order to renew the motion for a recess till ten o'clock to-morrow?

The SPEAKER *pro tempore*. The pending motion is that of the gentleman from Tennessee, that the House adjourn.

Several MEMBERS. That is withdrawn.

The SPEAKER *pro tempore*. The gentleman had no right to withdraw it, if objection was made; and at any rate the gentleman's colleague [Mr. BRIGHT] renewed the motion.

Mr. KENNA. Then I hope the motion to adjourn will be voted down, so that we may take a recess.

Mr. BRIGHT. I withdraw the motion to adjourn so that we may have a recess.

The SPEAKER *pro tempore*. Is there objection to withdrawing the motion to adjourn?

Several members objected.

The question being taken on the motion to adjourn, there were—ayes 53, noes 82.

Mr. TALBOTT. I call for tellers.

Tellers were not ordered.

So the motion was not agreed to.

Mr. ATKINS. I now move that the House take a recess till ten o'clock to-morrow morning.

Mr. SINGLETON, of Illinois. I ask my friend from Tennessee [Mr. ATKINS] to give way for one minute.

Mr. ATKINS. I yield to the gentleman.

Mr. SINGLETON, of Illinois. I ask unanimous consent of the House to take up a Senate bill. [Laughter.] Mr. Speaker, I know this is an amusing proposition at this hour of the night, but I have not asked this House for such a favor at any time; I now ask this favor of the House.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Illinois, [Mr. SINGLETON?]

Several MEMBERS. What is it?

The SPEAKER *pro tempore*. The gentleman asks unanimous consent to take up for consideration a bill the title of which will be read.

The Clerk read as follows:

Senate bill No. 1874, to provide for the erection of a public building in the city of Quincy, in the State of Illinois.

[Laughter.]

The SPEAKER *pro tempore*. Is there objection?

Several members objected.

Mr. ATKINS. I move that the House now take a recess until ten o'clock to-morrow morning.

Mr. THOMAS. Pending that, I move the House adjourn.

The motion of Mr. THOMAS was not agreed to.

The question being taken on the motion of Mr. ATKINS, there were—ayes 116, noes 26.

Mr. FROST. No quorum.

The SPEAKER *pro tempore*. The point being made that no quorum has voted, the Chair will appoint tellers.

Mr. HAWK and Mr. KING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 131, nays 28, not voting 132; as follows:

YEAS—131.

| | | | |
|---|---|---|---|
| Acklen | Bright, | Cox, | Frye, |
| Aiken, | Buckner, | Crapo, | Geddes, |
| Atherton, | Calkins, | Cravens, | Gibson, |
| Atkins, | Cannon, | Crowley, | Gunter, |
| Ballon, | Carlisle, | Davis, George R. | Hall, |
| Barber, | Carpenter, | Davis, Joseph J. | Harris, Benj. W. |
| Beale, | Clardy, | Davis, Lowndes H. | Hawk, |
| Berry, | Clark, John B. | Deuster, | Hazelton, |
| Bicknell, | Clymer, | Dibrell, | Henderson, |
| Blackburn, | Cobb, | Dunn, | Henkle, |
| Blake, | Colerick, | Dunnell, | Hill, |
| Bliss, | Conger, | Elam, | Hostetler, |
| Bouck, | Converse, | Evins, | Humphrey, |
| Boyd, | Cook, | Forney, | Jorgensen, |
| Bragg, | Cowgill, | Forsythe, | Kenna, |
| Killinger, | Muldrow, | Richardson, J. S. | Turner, Thomas |
| King, | Murch, | Richmond, | Updegraff, J. T. |
| Kitchin, | Myers, | Robeson, | Updegraff, Thomas |
| Klotz, | New, | Ross, | Vance, |
| Ladd, | Norcross, | Russell, Daniel L. | Van Voorhis, |
| Le Fevre, | O'Connor, | Russell, W. A. | Voorhis, |
| Lowe, | O'Neill, | Sapp, | Waddill, |
| Manning, | Osmer, | Sawyer, | Ward, |
| Marsh, | Pacheco, | Scales, | Warner, |
| Martin, Benj. F. | Page, | Shallenberger, | Washburn, |
| Martin, Edward L. | Phillips, | Sherwin, | Wellborn, |
| Mason, | Phister, | Sparks, | White, |
| McGowan, | Poehler, | Stevenson, | Williams, C. G. |
| McKinley, | Pound, | Stone, | Willis, |
| McMahon, | Prescott, | Thompson, W. G. | Willits, |
| McMillin, | Price, | Tillman, | Wilson, |
| Monroe, | Reagan, | Townsend, Amos | Yeates |
| Morrison, | Reed, | Tucker, | |

NAYS—28.

| | | | |
|---|---|---|---|
| Briggs, | Frost, | Johnston, | Siemons, |
| Burrows, | Hatch, | Jones, | Talbott, |
| Cabell, | Herbert, | McLane, | Thomas, |
| Caldwell, | Herndon, | Scoville, | Townshend, R. W. |
| Culberson, | Hooker, | Shelley, | Upson, |
| De La Matyr, | House, | Simonton, | Valentine, |
| Errett, | Hunton, | Singleton, J. W. | Williams, Thomas. |

NOT VOTING—132.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Dick, | Keifer, | Robinson, |
| Aldrich, William | Dickey, | Kelley, | Rothwell, |
| Anderson, | Dwight, | Ketcham, | Ryan, Thomas |
| Armfield, | Einstein, | Kimmel, | Ryon, John W. |
| Bachman, | Ellis, | Knott, | Samford, |
| Bailey, | Ewing, | Lapham, | Singleton, O. R. |
| Baker, | Felton, | Lindsey, | Smith, A. Herr |
| Barlow, | Ferdon, | Loring, | Smith, Hezekiah B. |
| Bayne, | Field, | Lounsbery, | Smith, William E. |
| Belford, | Finley, | McCold, | Speer, |
| Beltzhoover, | Fisher, | McCook, | Springer, |
| Bingham, | Ford, | McKenzie, | Starin, |
| Bisbee, | Fort, | Miles, | Steele, |
| Bland, | Gillette, | Miller, | Stephens, |
| Blount, | Godshalk, | Mills, | Taylor, Ezra B. |
| Bowman, | Goode, | Mitchell, | Taylor, Robert L. |
| Brewer, | Hammond, John | Money, | Thompson, P. B. |
| Brigham, | Hammond, N. J. | Morse, | Turner, Oscar |
| Browne, | Harmer, | Morton, | Tyler, |
| Butterworth, | Harris, John T. | Muller, | Urner, |
| Camp, | Haskell, | Neal, | Van Aernam, |
| Caswell, | Hawley, | Newberry, | Wait, |
| Chalmers, | Hayes, | Nicholls, | Weaver, |
| Chittenden, | Heilman, | O'Brien, | Wells, |
| Claflin, | Henry, | O'Reilly, | Whiteaker, |
| Clark, Alvah A. | Hiscock, | Orth, | Whitthorne, |
| Clements, | Horr, | Overton, | Wilber, |
| Coffroth, | Houk, | Persons, | Wise, |
| Covert, | Hubbell, | Phelps, | Wood, |
| Daggett, | Hurd, | Ray, | Wright, |
| Davidson, | Hutchins, | Rice, | Yocum, |
| Davis, Horace | James, | Richardson, D. P. | Young, Casey |
| Deering, | Joyce, | Robertson, | Young, Thomas L. |

So the motion for a recess was agreed to.

The following pairs were announced:

Mr. THOMPSON, of Kentucky, with Mr. CARPENTER, the latter reserving the right to vote to make a quorum.

Mr. BLISS with Mr. KETCHAM, for the balance of the day.

Mr. HAWLEY with Mr. HOUCK, for the night session on the river and harbor bill; Mr. HAWLEY would vote against the bill.

Mr. FELTON with Mr. ATHERTON, on all questions for the day.

Mr. MULLER with Mr. BAILEY.

Mr. COVERT with Mr. CHITTENDEN.

Mr. HAMMOND, of New York, with Mr. EWING, indefinitely.

Mr. GOODE with Mr. LORING, for to-day and to-morrow.

Mr. BAYNE with Mr. MITCHELL, on the river and harbor bill; Mr. BAYNE would vote for it, and Mr. MITCHELL against it.

Mr. BAYNE with Mr. FROST, on all political questions until further notice.

Mr. ALDRICH, of Illinois, with Mr. O'REILLY, on the river and harbor bill.

Mr. BINGHAM with Mr. TAYLOR, of Tennessee.

Mr. ROBESON with Mr. MCKENZIE, who is called home by a death in his family.

Mr. NEAL with Mr. SINGLETON of Mississippi, on all votes relating to the river and harbor bill.

Mr. MANNING with Mr. ARMFIELD, on the river and harbor bill.

Mr. DICKEY with Mr. HARMER, on the river and harbor bill; Mr. HARMER would vote "ay," Mr. DICKEY "no."

Mr. HARMER with Mr. ELLIS, on political questions, until Wednesday, February 16.

Mr. BACHMAN with Mr. DICK.

Mr. JONES with Mr. LADD.

Mr. NICHOLLS with Mr. JOYCE.

Mr. VAN AERNAM with Mr. HENRY.

Mr. EINSTEIN with Mr. CLARK of New Jersey.

Mr. BLOUNT with Mr. CLAFLIN.

Mr. JAMES with Mr. O'BRIEN.

Mr. HUTCHINS with Mr. MORTON, to and including Thursday next.

The result of the vote was then announced; and accordingly (at eight o'clock and fifty-five minutes p. m.) the House took a recess until ten o'clock a. m. to-morrow.

MORNING SESSION.

The recess having expired, the House resumed its session at ten o'clock a. m., (Wednesday, February 16,) Mr. BLACKBURN occupying the chair as Speaker *pro tempore*.

ORDER OF BUSINESS.

Mr. REAGAN. I move that the House now resolve itself into Committee of the Whole on the state of the Union for the purpose of further considering the river and harbor appropriation bill.

Mr. STEVENSON. I ask the gentleman from Texas [Mr. REAGAN] to yield to me to call up a bill to which there will be no objection.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions and bills of the following titles; when the Speaker signed the same:

A joint resolution (H. R. No. 337) authorizing and requesting the President to extend to the Government and people of France and the family of General La Fayette an invitation to join the Government and people of the United States in the observance of the centennial anniversary of the surrender of Lord Cornwallis at Yorktown, Virginia;

A joint resolution (S. No. 152) granting the use of artillery, tents, &c., to be used at the soldiers' reunion to be held at Lincoln, Nebraska, in the month of September, 1881;

A bill (S. No. 711) amending the charter of the Freedman's Savings and Trust Company, and for other purposes;

A bill (H. R. No. 6201) granting a pension to Thomas Worthington; and

A bill (H. R. No. 6942) to fix the time of holding the district and circuit courts of the United States for the western district of Texas.

THOMAS SNELL.

Mr. STEVENSON. The gentleman from Pennsylvania [Mr. WHITE] withdraws the objection he made yesterday to the consideration of the bill (H. R. No. 6479) for the relief of Thomas Snell, and I ask that it be now considered.

Mr. REAGAN. I will not object if it leads to no debate.

The bill was read, as follows:

Whereas the circuit court for the southern district of Illinois did at the January term, 1879, render judgment against said Snell for the sum of $10,000, in favor of the United States, on a bond dated May 18, 1863, on which bond said Snell was surety for Captain S. H. Lunt, as quartermaster; and

Whereas the judge of said court and the district attorney have since certified that it is extremely probable that there was no defalcation on said bond; and

Whereas the pretended defalcation was the result of the failure of the officers of the United States to take possession of the papers and effects of the said quartermaster, at the time of his death, according to the requirement of the articles of war; and

Whereas the enforcement of said judgment would now be unjust: Therefore,

*Be it enacted, &c.*, That the district attorney of the United States for said district be, and is hereby, authorized and directed to release, cancel, and satisfy said judgment and discharge of record all liability against said Snell because of said judgment or any proceeding under the same; and that said Snell be relieved and discharged in law from all liability because of said judgment or proceeding.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and the same was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. STEVENSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUDICIAL DISTRICTS OF LOUISIANA.

Mr. ROBINSON, by unanimous consent, reported back from the Committee on the Judiciary the bill (H. R. No. 4050) to divide the State of Louisiana into two judicial districts, with Senate amendments thereto; which was referred to the Committee of the Whole on the state of the Union.

PROFESSOR SPENCER F. BAIRD.

Mr. CARLISLE. There is a bill of the Senate on the Calendar of the Committee of the Whole, No. 1928, to provide for remitting the duties on the object of art awarded by the Berlin International Fishery Commission to Professor Spencer F. Baird. I ask that it be considered now, as there will be no objection to it.

The SPEAKER *pro tempore*. The bill will be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he hereby is, directed to remit the customs duties chargeable upon the object of art given by His Majesty the German Emperor and King of Prussia to the Berlin International Fishery Exhibition, and by it awarded as the first grand prize of honor to Professor Spencer F. Baird, at the exhibition held in the city of Berlin, Prussia, in the month of June, 1880.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and the same was ordered to a third reading, read the third time, and passed.

Mr. CARLISLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EDWARD T. BROWNELL.

Mr. HAWK. I ask unanimous consent to have considered at this time House bill No. 1650, for the relief of Edward T. Brownell, which is now on the Private Calendar.

The SPEAKER *pro tempore*. The bill will be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay Edward T. Brownell the sum of $90, said sum being the amount of two drafts on the United States depository at Chicago, Illinois, drawn by R. J. Sweet, late pension agent, one draft of $30 payable to Syrena McDade, and one for $60 payable to Almira M. Bacon, both of said drafts being indorsed payable to Edward T. Brownell; and said drafts are still outstanding.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill; and the same ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HAWK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NICARAGUAN CLAIMS.

Mr. WILSON. I am instructed by the Committee on Foreign Affairs to report for consideration at this time the bill (S. No. 1650) authorizing the President to make the necessary arrangements to carry into effect the convention between the United States and Nicaragua for the adjustment of claims which may be duly concluded between the two governments.

Mr. REAGAN. If that leads to no discussion, I will not object.

Mr. WILSON. I do not think it will lead to debate.

The SPEAKER *pro tempore*. The bill will be read.

The bill was read.

Mr. WILSON. I call the previous question on the bill.

Mr. WARNER. We might as well know a little something about it.

The SPEAKER *pro tempore*. Does the gentleman from Ohio [Mr. WARNER] object to the present consideration of the bill?

Mr. WARNER. I do not object to its consideration; but before I am called upon to vote upon it I desire to have an opportunity to understand the bill.

Mr. WILSON. I demand the previous question.

Mr. WARNER. I should like to know something about this bill before I am called upon to vote upon it.

The SPEAKER *pro tempore*. The Chair cannot undertake to answer in reference to the bill. Is there objection to its present consideration?

Mr. HENDERSON. Yes, I object.

Mr. WILSON. I rise to a parliamentary inquiry, if I can be heard amid all this confusion.

Mr. HAYES. I demand the regular order of business.

The SPEAKER *pro tempore*. The gentleman from West Virginia rises to a point of order, and he will state it.

Mr. WILSON. Is it not too late, Mr. Speaker, to object to the consideration of the bill? The title was read, and the Chair called for objections, and there were none. Then the bill was read through, and I submit it was too late to make objection.

Mr. COX. The gentleman from Ohio on this side did not object.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. WARNER. I wish to have an explanation on a single point in reference to this bill before I am called upon to vote for it.

Mr. WILSON. Just one minute.

Mr. COX. I rise to a point of order.

Mr. REAGAN. I object to everything but the regular order, and I hope that will make an end to asking unanimous consent.

Mr. COX. I only rise, Mr. Speaker, for the purpose of stating to the Chair what I believe would obviate all this trouble. My friend from Ohio [Mr. WARNER] never made objection to the bill but merely rose for the purpose of asking for information concerning it.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. HENDERSON] on the left of the Chair and both the gentleman from Illinois [Mr. HAYES] and the gentleman from Texas [Mr. REAGAN] have demanded the regular order of business.

Mr. WILSON. This has been recommended by the Department, and has passed the Senate.

POST-OFFICE APPROPRIATION BILL.

Mr. ATKINS. I move by unanimous consent the amendments of the Senate to the Post-Office appropriation bill be taken up, referred to the Committee on Appropriations, and ordered to be printed.

The SPEAKER *pro tempore*. If there be no objection, the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes, returned from the Senate with amendments, will be taken from the Speaker's table, referred to the Committee on Appropriations, and the amendments of the Senate numbered and ordered to be printed.

There was no objection, and it was ordered accordingly.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I now insist, Mr. Speaker, on my motion that the House resolve itself into the Committee of the Whole House on the state of the Union, for the purpose of further considering the river and harbor appropriation bill.

Mr. TOWNSHEND, of Illinois. Before that is done, Mr. Speaker, I should like to correct a formal amendment in a bill which has passed both Houses. It is a mere formal amendment, and I do not think there can possibly be any objection to it.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Illinois? [Cries of "Regular order!"]

Mr. TOWNSHEND, of Illinois. I hope the mere formal amendment will be made.

The SPEAKER *pro tempore*. It is not in the power of the Chair to accede to the gentleman's request when objection is made on both sides.

Mr. TOWNSHEND, of Illinois. Did any one object to my request?

Mr. BRIGGS. Yes; I object.

Mr. REAGAN's motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. The House resumes the consideration of the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes. The Clerk will report the pending amendment proposed by the gentleman from Illinois, [Mr. DAVIS.]

The Clerk read as follows:

In line 160, strike out "twenty" and insert "forty;" so it will read: "Improving harbor at Calumet, Illinois, $40,000."

Mr. VAN VOORHIS. What is the condition of that amendment?

The CHAIRMAN. It is whether the Committee will adopt it or not, which is the usual question on all amendments.

Mr. VAN VOORHIS. But has not a vote been taken upon it?

The CHAIRMAN. There was an attempt to have a vote, but the gentleman from New York raised the question that no quorum had voted. The question, therefore, will be taken over again.

Mr. VAN VOORHIS. I demand a division.

Mr. DAVIS, of Illinois. Who calls for a division?

Mr. VAN VOORHIS. I do.

Mr. BURROWS. The gentleman from New York certainly must misunderstand the matter. He voted against the amendment, and his side has carried.

The CHAIRMAN. But the gentleman from New York has a right to demand a division.

Mr. VAN VOORHIS. If the gentleman will withdraw his amendment, or the House will agree to reserve the vote upon it until a quorum is present, that will obviate all further difficulty.

Mr. O'NEILL. I hope there will be no unanimous consent, but that we shall go on with the bill, paragraph by paragraph, until we have concluded action upon it. There is really no reason why the bill should not be acted upon without further delay.

Mr. REAGAN. I appeal to the gentleman from New York, as this is an important bill, to make such motions as he wants to correct the bill or modify or change such provisions of it as he objects to, but that he will allow the House to go on and proceed to its completion and not obstruct it by putting his single will in opposition to the wishes of the majority who desire its passage.

Mr. VAN VOORHIS. I desire to say, Mr. Chairman, that the insinuations made by the gentleman from Texas or anybody else that I am making factious opposition to this bill are false. I have not made any dilatory motions whatever except such as I thought were absolutely necessary in the consideration of a bill of the magnitude and importance of this, on the ground that I believe in its consideration there should be a quorum here present; and I say now in justification of the course which I have pursued here that those who want the bill to pass, but who keep out of the way as if trying to avoid, apparently, the responsibility of voting for it, ought to be required to come here and show their hand.

Mr. REAGAN. I sincerely hope that gentlemen will permit the bill to be proceeded with. I do not desire to be understood as making any insinuation against the gentleman from New York or anybody else. I simply appeal to gentlemen to allow the bill to be proceeded with that we may go on without obstruction and not undertake to defeat the manifest will of a majority of the House by interposing motions which can only have the effect of delaying the public business.

Mr. VAN VOORHIS. I desire to say, Mr. Chairman, that for the present I shall withdraw the objection which I have made to the absence of a quorum.

Mr. NEW. Mr. Chairman——

The CHAIRMAN. The point as to the absence of a quorum is withdrawn.

Mr. NEW. The gentleman from California [Mr. PAGE] said last night that if a recess should be taken until this morning there would be no further dilatory action or obstruction to the consideration of the bill. I hope the gentleman for whom that promise was made will not now forget or ignore it.

The CHAIRMAN. The Chair will state to the gentleman from Indiana that the call for a quorum is withdrawn by the gentleman from New York who made the demand. The Clerk will read the pending amendment.

The Clerk read as follows:

Improving harbor at Calumet, Illinois, $40,000.

The amendment was rejected.

Mr. ALDRICH, of Illinois. Mr. Chairman, I desire to offer an amendment to this paragraph.

The Clerk read as follows:

In line 160 strike out "twenty" and insert "thirty;" and at the end of the paragraph add the words "of which $10,000 shall be expended in straightening the river and deepening the channel inside the harbor."

Mr. ALDRICH, of Illinois. I want to say, Mr. Chairman, that when this harbor was opened there were no railroad bridges there. There was scarcely any business done at this point. It was comparatively an unimportant place, and was originally built as a harbor of refuge. Since that time three railroad bridges cross the river near the harbor, while above the bridges is a very sharp bend in the river, which was of no particular consequence until the river became necessary for the business of the vast manufacturing interests congregating at the place. Now, this bend, which I think is not a quarter of a mile across, requires a circuit to be made of quite or nearly a mile, in consequence of the railroad bridge and the difficult navigation there. This is a very important improvement, and earnestly demanded by the needs of the manufacturing interests there above the bend. It ought to be done. It is just, and I simply ask $10,000 in addition to what is given already. In point of fact we should have $50,000. The total amount, if the amendment which I have suggested be adopted, only makes this appropriation $30,000, and I hope the committee will adopt the amendment.

Mr. REAGAN. I desire, Mr. Chairman, to call the attention of the committee, for I do not want it to make any mistake in this matter, to the fact that the amount given in this bill for improving the outside harbor at Chicago is $150,000. We have already a good inside harbor, but the gentleman desires that the work in the Chicago harbor——

Mr. DAVIS, of Illinois. Will the gentleman from Texas permit me to correct him. My colleague is referring to the harbor at Calumet, Illinois, and not to the harbor at Chicago.

Mr. REAGAN. I understood the reference to be to the harbor at Chicago.

Mr. ALDRICH, of Illinois. I must have been very unfortunate in my remarks that the gentleman from Texas should so have misunderstood me.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Illinois, [Mr. ALDRICH.]

The amendment was again read.

The committee divided; and there were—ayes 31, noes 65.

So the amendment was not agreed to.

The Clerk read as follows:

Improving outside harbor at Chicago, Illinois, dredging in outer harbor, and constructing exterior breakwater, $150,000.

Mr. DAVIS, of Illinois. I offer an amendment to this paragraph.

The Clerk read as follows:

In line 164 strike out the words "fifty thousand dollars" and insert the words "forty thousand dollars, and the further sum of ten thousand dollars for the improvement of the inner harbor."

Mr. DAVIS, of Illinois. I wish, Mr. Chairman, to call the attention of the committee for a few moments to the fact that I have supported this bill in its entirety and desired it to pass under a suspension of the rules, for the reason that I believed it to be as fair a bill as we would be likely to get. Not that I was entirely satisfied with the bill, or that all the items contained in it were such as I would commend. I believe I could make reasonable complaint in some cases; but I thought it very probable that it was the best bill that would be presented to the House for its consideration. As it is now before the House, however, and being read by sections and subject to amendment, I simply desire to ask the attention of the committee for a moment to the appropriation which has been made for this harbor at Chicago, and ask that a portion of the fund set apart for this improvement shall be applied to the improvement of a portion of the inner harbor, which stands in much need of it. The appropriation of $150,000 at this time is ridiculously small; but I have not asked, as will be seen from the amendment, to increase the total sum. I simply ask that $10,000 of the $150,000 be diverted in such manner as to dredge out what is known as the main branch of the river for about three-quarters of a mile to a width of about three hundred feet. This is the channel through which more than 12,000 vessels annually pass to reach the forty miles of docks in the city where they have to discharge their cargoes, receive freight, and repass to the lake. It is this narrow channel through which over eight millions of tonnage pass each year that I ask a small amount to dredge out so that there shall be a channel about three hundred feet wide seventeen feet deep, instead of about seventy-five feet wide as at present.

Mr. DUNNELL. I wish to ask the gentleman from Illinois if there is anything in the report of the engineers that would justify that relative use of the money?

Mr. DAVIS, of Illinois. I will say in the general report before the House there is no reference whatever in regard to this. Be it remembered that at the last session of Congress the Engineer Department was instructed to make a survey of this river and ascertain what was required; and Major Leydecker, in a supplementary report, has reported that it requires about fifty thousand dollars to complete a channel three hundred feet wide and seventeen feet deep, the entire length.

But I understand further, because I do not wish to misstate the position of the Engineer Department, that Major Leydecker, the engineer in charge of the work, has reported against making this appropriation. I do not understand, however, Mr. Chairman, how it is possible for an engineer officer in one locality to report differently on a subject of this kind from what an engineer officer will report at another similar work; for all their instructions emanate from the

same source, and they receive their orders from the same headquarters. It will be noticed in the report before the House, and I do not make the comparison for the purpose of injuring any locality, that there are rivers that are being improved throughout the country where the property on each side of the river belongs to private parties, one of the principal reasons cited by Major Leydecker why this work should not receive governmental aid——

[Here the hammer fell.]

Mr. REAGAN. I desire simply to say there is no estimate and no recommendation for this; and I will say in addition, I am informed that the city authorities claim jurisdiction over this river; and with the numerous bridges built by the city authorities it would be a serious question whether it would not be resisted by the principal interests of the city of Chicago. And it is a channel that is within the suburbs of the city. There is no estimate, and there is an adverse report.

Mr. DAVIS, of Illinois. I would ask, would not the objection of the gentleman from Texas apply to the Schuylkill River, where there is a report of the engineer asking for $50,000 a year for many years to come?

Mr. REAGAN. I do not know in regard to the Schuylkill that there is any opposition by the city authorities of Philadelphia. And there has been a survey and estimate for the Schuylkill River and none for this.

Mr. DAVIS, of Illinois. I believe we have had a survey of this river and an estimate of the cost, as shown by Major Leydecker's report. Our city authorities do not oppose this improvement; the channel is not in the suburbs, but in the heart of the city.

The question being taken on the amendment offered by Mr. DAVIS, of Illinois, there were—ayes 40, noes 49.

So (further count not being called for) the amendment was not agreed to.

The Clerk read the following:

Improving Monongahela River, West Virginia and Pennsylvania, $25,000; but this sum shall not be expended until the Monongahela Navigation Company shall have undertaken in good faith the building of lock and dam number 7, at Jacob's Creek, and until said company shall, in manner satisfactory to the Secretary of War, give assurance of their ability and purpose to complete the same.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph just read. Here, Mr. Chairman, is a bad case of splatter-dock navigation. It is not proposed to make this stream navigable. It is not suggested that it ever was navigable, or ever can be navigable for anything under heaven but rafts and flat-boats, after the money estimated shall have been expended amounting to $164,000.

Now, it seems to me that there should be a line drawn somewhere. If the United States is to go into the business of improving every stream navigable for flat-boats and rafts by a system of locks and dams there is not money enough represented in the national debt multiplied by twenty-five to accomplish the purpose. Here is what the engineer says of this stream:

Owing, however, to the fact that this dam is several miles above the upper terminus of the slack-water system on the lower Monongahela the navigation through the lock has thus far been limited to the passage of rafts and flat-boats.

Mr. KENNA. I shall not detain the committee with reference to this matter further than to say that the Monongahela River is navigable in Pennsylvania and some distance into West Virginia. There is a lock and dam in the river built by the United States some miles above the continuous navigation. It requires two locks and dams to complete the improvement. The Monongahela Navigation Company have agreed to build one of these locks and dams, and the bill contains a provision that the company shall construct one and the Government the other. I think this is almost the only instance in the improvement of rivers and harbors throughout the country where private enterprise undertakes to go hand in hand with the Government, bearing an equal proportion of the expense.

Mr. ATHERTON. I desire to ask a question for information simply. It is whether this navigation company have a right to charge tolls on that stream?

Mr. KENNA. I presume they have over that part of the stream which their works reach. They have no control over that part of the stream improved by the Government.

Mr. ATHERTON. Are the improvements now proposed to be made above those of the navigation company?

Mr. KENNA. They are. They are between those of the navigation company below and those of the Government above. The Government has already improved the navigation above, and the navigation company has improved it below; and the purpose of the two locks and dams provided for in this bill—one to be built by the Government and the other by the corporation—is to close the gap between the two improvements so as to make them both available.

Mr. TOWNSHEND, of Illinois. If I can discuss the pending amendment I desire to do so; otherwise I will move an amendment.

The CHAIRMAN. But two minutes' time remain for the discussion of the pending amendment.

Mr. TOWNSHEND, of Illinois. Then I move to strike out the last word. I think this is the river to which I referred yesterday. I am of the opinion that it would be an act of justice to those who own corporate rights on this river that they should have compensation for their works. I rise, however, for the purpose of ascertaining whether the Committee on Commerce would be willing to allow an amendment to this clause similar to the one adopted in regard to the Louisville and Portland Canal.

Mr. WILLIS. The Louisville and Portland Canal was owned by the Government of the United States.

Mr. KENNA. I will say to the gentleman from Illinois [Mr. TOWNSHEND] that on several occasions the Committee on Commerce has investigated this matter very carefully, and they have always acted in reference to the Louisville and Portland Canal and other canals of a similar character as a whole; and this bill is now presented to the House in the shape which the committee prefers.

Mr. TOWNSHEND, of Illinois. I am in hopes that before the consideration of this bill shall have been concluded some such amendment as I have indicated will be adopted. This corporation, as I am told, has been entitled to the privilege of collecting tolls for thirty years past, and has collected enough to pay more than twenty times the value of the works they have erected. While I would not be willing to withhold any appropriation which may be regarded as necessary to keep open the navigation of this river, I feel that there should be some provision inserted in the bill somewhere by which these works may be appraised and devoted to the public use.

Mr. ATHERTON. I would inquire of the gentleman if the rights of this company are so limited that they cannot tax business out of existence if they see fit?

Mr. TOWNSHEND, of Illinois. I understand that to be the case, as I asserted yesterday. I am told that 48,000,000 bushels of coal went down this river to the Ohio River, and paid taxes to this corporation. I desired to call attention to the matter.

Mr. ERRETT. The Monongahela Navigation Company is a State corporation, and this Government cannot interfere with its rights conferred by State law.

Mr. TOWNSHEND, of Illinois. Then why ask the Federal Government to support the corporation?

Mr. ERRETT. The Government does not support it.

Mr. TOWNSHEND, of Illinois. We are asked to appropriate the public money for this improvement.

Mr. ERRETT. This appropriation is to construct additional dams on that portion of the river which is in West Virginia, entirely independent of and beyond the scope of this corporation.

Mr. McMILLIN. I most sincerely hope that at some stage of this bill those in favor of its passage will consent to some amendment by which, when we make an appropriation for the improvement of a river or a harbor of this country, it will not be to build up some private interest or corporation or to strengthen a monopoly already in existence.

The principal ground upon which a member of this House can justify the appropriation of from five to ten millions of dollars a year for the improvement of rivers and harbors is to be found in the fact that thereby will be given to the people of this country free means of transportation that cannot be scooped up or consolidated with some private company and taken away from them. When the Government joins with a corporation and gives it the benefit of the people's money, they have no refuge, and we will have come to a sad day in our public affairs.

Day after day we hear of telegraph companies combining. Week after week news is received of new railroad "scoops" and railroad consolidations. The rivers and waters of our wonderful Republic are the only commercial channels which have not come under the control of consolidating influences. Let us not now yield them up too, and thereby make the surrender complete.

Mr. SAMFORD. Will the gentleman allow me to make a suggestion?

Mr. McMILLIN. With pleasure.

Mr. SAMFORD. Propose an amendment of a general character at the end of the bill.

Mr. COX. You write out such an amendment.

Mr. McMILLIN. I will be in favor of it and intend to prepare and offer such an amendment if no one else does. I desire to state in the hearing of the chairman and the members of the Committee on Commerce that I voted for the last appropriation bill for the improvement of rivers and harbors, and the other day I voted to suspend the rules and pass this bill. I did so because I believed that at this day, when every right of the private citizen is threatened by corporate monopoly, when every means of transportation is about to be closed, organized against his interest, by corporations, it behooves Representatives to try to provide that the water highways which Heaven has furnished for the transportation of the people's commerce shall be left free for their use.

Now, when I find, as I have found in the progress of the discussion of this bill, that it contains in a slight degree the very evil of which we have complained, of which we have tried to rid the country, I shall do all I can to amend it, and will never vote for any independent measure the effect of which is to join hands with corporate monopolies, whether it be a monopoly in telegraph lines, in railroad lines, or in water lines of communication.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. TOWNSHEND, of Illinois. I will withdraw the amendment.

Mr. VALENTINE. I renew it.

Mr. REAGAN. If we cannot soon get a vote on this amendment I will move that the committee rise to close debate.

The CHAIRMAN. Is there objection to the gentleman from Illinois [Mr. TOWNSHEND] withdrawing his formal amendment?

There was no objection.

Mr. VALENTINE. I renew the amendment. I understand that the situation of affairs upon this river is this: the State of Pennsylvania has chartered a corporation which is known as the Monongahela Navigation Company. That corporation has erected dams, and has charged tolls up to a point near the line between the States of Pennsylvania and West Virginia. It is now proposed by this bill to make an appropriation to improve the navigation of this river in West Virginia beyond the point controlled by this navigation company.

But the proposition is to improve a river at a certain point in West Virginia for the benefit of commerce, which when it reaches a certain point in Pennsylvania must pay a toll. In other words, it is proposed that the Government of the United States shall improve in West Virginia a river on the commerce of which the State of Pennsylvania has laid an embargo. I say it is unjust, and it is wrong. As a matter of principle the Government of the United States ought not to expend a single dollar upon any river passing through two or more States, if either of those States lays an embargo in the way of toll upon the commerce of that river. I hope the amendment will prevail.

Mr. MARTIN, of West Virginia. I will inform the gentleman that the State of Pennsylvania has no control over that part of the river lying within the State of West Virginia.

Mr. VALENTINE. I understand that; but the gentleman, who represents a portion of West Virginia, must remember that whenever the commerce upon that river which it is proposed the Government of the United States shall improve reaches the State line of Pennsylvania it finds an embargo laid upon such commerce. Is not that the fact?

Mr. MARTIN, of West Virginia. Then the argument of my friend is that because in years past a corporation in the State of Pennsylvania may have had charge of one portion of a very important navigable stream, therefore the Government must never improve the rest of it. I maintain that we must have the river navigation improved all over this country, so as to afford competition with railroad transportation.

Mr. VALENTINE. And I maintain that the Government of the United States ought not to expend a single dollar for the improvement of any water-course passing through two States or more where one of those States lays an embargo upon that commerce.

Mr. WISE. I wish to inform the gentleman from Nebraska [Mr. VALENTINE] that he is mistaken when he supposes that any commerce coming from West Virginia and passing over this improvement in Pennsylvania is required to pay toll. I insist that there is a law on the statute-book of Pennsylvania which prevents the tolling of any trade passing in that way over the Monongahela River. The river is free to any trade coming from the State of West Virginia. Hence, the gentleman's statement is an entire contradiction of the real situation. All trade coming upon the Monongahela beyond the State line goes free through that improvement in the State of Pennsylvania. If I had a little time, I could produce the statute to that effect.

Mr. VALENTINE. The gentleman's colleague has not so stated the case.

Mr. WISE. I can show the law.

Mr. SPRINGER. If this formal amendment is withdrawn, I renew it.

The CHAIRMAN. It is not withdrawn.

Mr. VALENTINE. I withdraw the *pro forma* amendment.

The CHAIRMAN. The gentleman from Nebraska proposes to withdraw his formal amendment. Is there objection?

Mr. REAGAN. Let us have a vote.

The question being taken on Mr. VALENTINE'S motion to amend the amendment by striking out the last word, it was not agreed to.

Mr. SPRINGER. I move to amend by striking out all except the last word. Mr. Chairman, I have not offered any factious opposition to this bill. I voted against its passage under a suspension of the rules for the reason that it contained just such clauses as the one now proposed to be stricken out. I am in favor of liberal appropriations for the improvement of such rivers and harbors as are useful for interstate or foreign commerce. Further than that I do not believe we have a right to go; further than that, I think, in the interest of all the people and in the interest of economy, we ought not to go.

The provision which it is now proposed to strike out is this:

Improving Monongahela River, West Virginia and Pennsylvania, $25,000; but this sum shall not be expended until the Monongahela Navigation Company shall have undertaken in good faith the building of lock and dam No. 7, at Jacob's Creek, and until said company shall, in manner satisfactory to the Secretary of War, give assurance of their ability and purpose to complete the same.

By this provision it would seem that the Government of the United States is about to go into partnership with a private navigation company to improve something like slack-water navigation upon one of the streams of Pennsylvania and West Virginia; and I would like to ask what provision there is in the bill to prevent the navigation company from charging as toll any sum it may see fit in order to make profitable its investment in the improvement of this navigation. The Government is here going into partnership with a private corporation to make certain streams navigable. I have never known a private corporation entering into business without expecting to make that business profitable; and if this corporation is to make this investment profitable, it can only be by charging tolls upon the commerce passing over this stream. Now, I wish to ask the gentleman from West Virginia [Mr. KENNA] whether commerce coming out of this stream (for I believe none can go into it unless it goes up hill) is to pass through locks and dams provided by a private navigation company; and if so, must that commerce pay toll to the navigation company for such service?

Mr. KENNA. Now, if the gentleman will allow me, I will answer his question. Of course the commerce of that river must go through the locks and dams erected by this corporation if it goes entirely out of the river; but it is a fact that the improvement provided for in this bill reaches a part of the river which is not controlled by the corporation. It is also stated by the gentleman from Pennsylvania, [Mr. WISE,] who says he has investigated the matter, that while the company has no control over that part of the river which is reached by this improvement, it has by charter no control over the commerce which goes to that part of the river from West Virginia, and that corporation cannot be in any wise affected for good or for evil by the prosecution of this improvement, except to the extent of their own improvement in Pennsylvania, by the building of one more lock, while the Government extends it above by building an additional lock there.

Mr. SPRINGER. I do not understand the gentleman from West Virginia to answer my question.

The CHAIRMAN. One gentleman will please address the committee at a time.

Mr. SPRINGER. I have the floor, as I supposed.

The CHAIRMAN. The gentleman's time has expired.

Mr. ATHERTON. I should like to understand this matter a little more fully than I do, for it seems absolutely certain the matter of making this appropriation must in any event and on any explanation which has been given to the House be simply in favor of this appropriation. We have not yet been told whether the right to charge toll was limited by law. As a matter of course, the way in which this company would be benefited by this appropriation would be in the increased amount of commerce that would go down that stream, and if it be simply in that regard, then the appropriation of $25,000 is substantially a benefit to this corporation and there is substantially given to them the benefit of that much money. It gives them the right to charge tolls upon that much more. According to the amount to which the commerce of this stream is augmented, just to that extent will it be for the benefit of this corporation, which will be able to charge its tolls on that much more which passes over the bosom of the stream. If they have the right to charge any tolls they choose to charge, then it goes still further. It enables them to charge just such tolls on their portion of the river as will effectually keep commerce from the stream or make it pay toll equal to its value in passing over the stream. So in either event it is simply calling on the people of the United States to aid a corporation in respect to this appropriation, and it does seem to me whatever is done with river and harbor bills no such appropriation as this should be made that secures nothing to the United States, but is an effort to give to the company the full benefit of this appropriation.

[Here the hammer fell.]

The question recurred on the amendment of Mr. UPDEGRAFF, of Iowa.

The committee divided; and there were—ayes 33, noes 63.

Mr. UPDEGRAFF, of Iowa. I should like to have tellers on that amendment.

Tellers were ordered; and Mr. UPDEGRAFF, of Iowa, and Mr. KENNA were appointed.

The committee again divided; and the tellers reported—ayes 37, noes 105.

So the amendment was rejected.

Mr. FORT. I desire to offer an amendment to come in after the paragraph.

The Clerk read as follows:

Nor until said company shall agree that the United States may regulate the rate of toll on said river.

Mr. VAN VOORHIS. I move the committee rise, as the hour of eleven o'clock has arrived.

The CHAIRMAN. The gentleman from Illinois is on the floor, addressing the committee.

Mr. MARTIN, of West Virginia. I wish to make a point of order on that amendment.

The CHAIRMAN. The gentleman will state it.

Mr. MARTIN, of West Virginia. I submit the Clerk had passed over the paragraph and commenced reading the next one.

The CHAIRMAN. But the gentleman from Illinois was on his feet addressing the Chair when the Clerk proceeded to read the next paragraph.

Mr. VAN VOORHIS. I rise to a point of order, that the legislative day has expired.

The CHAIRMAN. It has not until the House has adjourned.

Mr. KENNA. I hope the committee will remain in continuous session until we have finished this bill.

Mr. FORT. Mr. Chairman, I do not expect this amendment will be adopted, but I do wish to test the sincerity of the chairman of the Committee on Commerce in his efforts to regulate the tolls and charges on commerce. For if this amendment of mine be voted down

it will be manifest this appropriation has been made for the especial benefit of this company and not for the benefit of the people.

Now, sir, there can be no reason if the Government expends a large sum of money for the benefit of this private corporation why it should not surrender to the Government the right to regulate the rate of tolls, a principle which the chairman of the Committee on Commerce is endeavoring to force upon the country, but which I see he is indisposed in this instance to take notice of or to give it his support.

Mr. COX. I rise to a point of order that the legislative day is done.

The CHAIRMAN. The legislative day has not expired until the House sees proper to adjourn. It is frequently in continuous session, as the gentleman is aware, for two or three weeks.

Mr. COX. I wanted the opinion of the intelligent gentleman now occupying the chair to stand as a precedent.

Mr. LOUNSBERY. Mr. Chairman, I hope this amendment will not be adopted by the committee. I can scarcely conceive of an evil which, as a precedent, could be inflicted upon this country greater than the adoption of this amendment. The provision inserted in the bill as it now stands provides that these corporations shall receive the benefit of certain improvements which it is proposed to make appropriations for in certain navigable waters. That is bad enough, but in my judgment it will be worse for the Government to enter upon a scheme of the kind suggested by this amendment which endeavors to give an equity to what must always, to a fair man, seem to be a very improper kind of legislation. If we adopt this amendment from year to year we will go on creating benefits for corporations and claim the right to control and regulate their actions. A more vicious system, a more vicious scheme, I can scarcely conceive could be presented or entertained upon this floor than this looks to accomplish.

Mr. Chairman, if we consider the Constitution under which Congress must act, if we are giving voice in our legislative action to the recognized principles and established theories of our Government, it seems to me that gentlemen will pause and consider carefully before they incorporate upon a bill of this character any such provisions as is proposed by this amendment. I am bound to assume that the clause in this bill is exceptional. It can only survive and become a law when coupled with other schemes in which gentlemen are interested and which they can only save by joining hands with this and kindred propositions. I think now that it is a very unwise way to take this exceptional case and put upon it a vicious amendment such as this.

Mr. ATHERTON. Mr. Chairman, I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. ATHERTON. I must ask that there be order in the committee. I am desirous of hearing the argument of the gentleman from New York. I was desirous of hearing the amendment read, but could hear neither.

The CHAIRMAN. The Chair desires to state that the confusion is the result of the action of the gentlemen themselves upon the floor who persist in talking, and thus obstruct the public business. If gentlemen are desirous of continuing conversation while the public business is under discussion in the House the Chair must request that they retire to the cloak-rooms.

Mr. LOUNSBERY. I was proceeding to state, Mr. Chairman, that it is to-day a question of grave doubt whether the United States Government has the power to give life to a corporation or create one; whether the power is contained under the Constitution to incorporate a company for other purposes than those which may be necessary to carry out the functions of the Government itself. This power is certainly not contained in the express language of the Constitution. It can only be argued from such clauses as may require a corporation for carrying out the express grants of certain powers. For instance, a corporation, it has been held, may be created by the Federal Government for the purpose of carrying the mail.

I think this a stretch of the express language of the Constitution. The national banks are incorporated by the United States Government, and if their charter of incorporation can be maintained, it must be under the general power of coining money, or under the general provision for the national defense. There must be an implied grant growing out of the express grant itself. Here, however, is a corporation created by the State of West Virginia——

Mr. KENNA. By the State of Pennsylvania.

Mr. LOUNSBERY. Or the State of Pennsylvania, as is suggested, and by the clauses in this bill it is provided that the Government shall do certain works of which that corporation shall receive the benefit. A more vicious, inequitable, and unfair provision of a bill I imagine could scarcely be attempted to be incorporated; and yet, inequitable and unfair as it is, I think it is not so dangerous or inequitable as this amendment which proposes to interfere with these corporations and control their actions and powers by the General Government.

Mr. ATHERTON. I ask that the amendment offered by the gentleman on the other side be again read. As I stated before to the Chair, I was unable to hear it when it was reported from the desk in consequence of the confusion in the Hall.

The CHAIRMAN. The Clerk will report the proposed amendment.

The Clerk read as follows:

It is proposed in line 176, after the word "same," to insert "nor until said company shall agree that the United States may regulate the rate of tolls on said river.

The amendment was not agreed to.

Mr. COX. I offer an amendment to this paragraph.

The Clerk read as follows:

Strike out all after the word "dollars," in line 170, and insert in lieu thereof "*Provided*, That no portion of the said sum of $25,000 shall be so applied until the Secretary of War shall be satisfied that no part of the said river so improved is subject to the exaction of tolls by any private corporation or otherwise for its use."

Mr. COX. Mr. Chairman, on yesterday I endeavored by an amendment to carry out the spirit and intent of this amendment. I failed. Every member who has suggested amendments fails on every proposition as against this bill—every member. There is a compact unity here to carry this bill without amendment.

A MEMBER. What are you going to do about it?

Mr. COX. What am I going to do about it? That is just what I am coming to.

Mr. ATHERTON. Show it up before the country.

Mr. COX. What am I going to do about it! I will ask that question prayerfully next Sunday. I have endeavored to do my duty on this bill. I have endeavored to have such a fair and equitable amendment presented here as would commend itself to the country. I may have failed. I have failed. I have failed in getting the amendment in, possibly because I may have been too impulsive or forward in opposing the bill. I understand my responsibility.

My friend from West Virginia, [Mr. KENNA,] whom I love to aid in all proper ways, representing in part a State that was brought into existence during the war by a Cæsarean operation which I always opposed, could not understand how it was I opposed everything from his State. He intimated I had some bad motive or some other motive.

Mr. KENNA. Some other motive. [Laughter.]

Mr. COX. A good motive, then. It was a good motive. I stand on the "ancient ways," from which, I fear, gentlemen around me have departed. I cannot vote for these appropriations even for my own city and State when I know that every one of them tends to the corruption of our Government, at least in the last resort. My friend has come here year after year because he has been faithful to his constituents. How faithful—[holding up a large newspaper volume]—I wish you would send the Sergeant-at-Arms here—[laughter]—how faithful will be seen if the Clerk will only read the extract which I have marked in the volume sent to the desk.

The Clerk read as follows:

KENNA, of West Virginia, is one of the members of the House Committee on Commerce, and in that capacity helps to prepare the river and harbor bill. He holds his seat apparently by the indulgence of his constituents in consequence of his activity as a "grabber;" and after the adjournment of each Congress returns to his district with a great flourish of trumpets on his river and harbor record alone. The Kanawha Gazette welcomed him home after his great exploits in very cordial terms, and gave him credit for securing the following appropriations:

| | |
|---|---|
| For Guyandotte River | $2,000 |
| For Elk River | 5,000 |
| For New River | 12,000 |
| For Big Sandy River | 55,000 |
| For Kanawha River | 200,000 |
| For Charleston custom-house | 75,000 |
| Total | 349,000 |

The Gazette commented on these appropriations as follows:

"Kanawha River receives as much as the harbor of the city of New York! Charleston as much as the city of Philadelphia for its harbor."

[Here the hammer fell.]

Mr. KENNA obtained the floor, and said: I wish to yield a few minutes of my five, that the gentleman from New York may have the continuation of that article read. It is very interesting matter.

Mr. COX. I wish to disavow one word in the article. I did not know the word "grabber" was there when I sent it up. I withdraw that word.

The Clerk continued the reading, as follows:

The third district receives more this year from the public Treasury than the net amount of all the taxes that have gone into the Treasury from the whole State of West Virginia for five years. Every dollar of it is now in the Treasury ready to be paid out as soon as it is called for. Since HEREFORD and KENNA have been our representatives the golden stream has poured steadily into our midst, refreshing the hearts and bearing blessings into the hands of our laboring-men, their wives and children.

Some of the results of democratic economy and southern supremacy may be seen in the river and harbor bill as applied to the great State of West Virginia. It has a solid democratic delegation at Washington.

Mr. COX. That is taken from a Chicago paper, the Tribune.

Mr. KENNA. I might appropriately ask the gentleman from New York if he does not wish somebody would write in that way about him? In so far as what is stated in that article involves a faithful performance on my part of my duties on this floor, not only to my own district and State but to every public interest of this entire country, it does no more than justice; and that is the only comment I have to make on it.

Mr. ATHERTON. I move to strike out the last word, and yield my time to the gentleman from New York, [Mr. COX.]

Mr. COX. I have nothing to say but commendation to my friend from West Virginia as to his regard for local interests. I never yielded to these shrieks of locality. But if some one does not stand up as I do, these bills will go through, accumulating each year by millions, as they have been growing in the past. I say let us call a halt and go to the consideration of the appropriation bill.

The question being taken on the amendment offered by Mr. COX, there were—ayes 60, noes 65.

Mr. LOUNSBERY. A quorum has not voted. I think there should be a full vote on that amendment.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers; and appoints the gentleman from West Virginia, Mr. KENNA, and the gentleman from New York, Mr. LOUNSBERY.

The committee again divided; and the tellers reported—ayes 56, noes 93.

So the amendment was not agreed to.

The Clerk read the following:

Improving Shenandoah River, West Virginia, $2,500; but this sum shall not be expended, nor shall the sum heretofore appropriated therefor be expended, until any corporate rights or franchises that may exist over said river shall have been relinquished.

Mr. VAN VOORHIS. I move to strike out the paragraph just read. This is an improvement not yet begun. The act of June 14, 1880, appropriated $15,000, but the Secretary of War has not yet expended a dollar of that. This bill gives $2,500 more. It is clear from the Engineer's report that nothing can be done with so small a sum. The estimate for the improvement is $72,000. When done this improvement is designed, if successful, to make a channel twenty feet wide and eighteen inches deep.

There are proprietary rights in this river. A corporation chartered under the laws of West Virginia has control of a lot of old locks in this stream. It is navigated only by gondolas or flat-boats, which are floated down and broken up or sold. The stream is too steep to navigate boats up-stream. The engineer, in his letter dated January 5, 1880, says:

The up-stream business was small, the navigation being difficult on account of its steepness.

The object of this large appropriation seems to be to make the grade a little better, so that the water will run down hill, I suppose. The engineer has grave doubts of its propriety. He says:

By the act of the Legislature of West Virginia, dated February 27, 1872, a company was incorporated for the purpose of "improving the navigation of the Shenandoah River. * * * It is supposed that the rights of the old Shenandoah Navigation Company still exist over the part of the river in Virginia as granted by that State.

And then follows a remarkable statement, when we consider that it comes from a river and harbor engineer. He says:

The question arises as to the propriety of expenditure by the General Government of funds from the United States Treasury until the rights of the companies incorporated under State laws are formally surrendered.

Here are two navigation companies having exclusive rights in this river, and for whose benefit this appropriation of $2,500 and that of $15,000 in 1880 are made.

[Here the hammer fell.]

The question being taken on the motion to strike out the paragraph, it was not agreed to.

Mr. UPDEGRAFF, of Iowa. I move to strike out the last word. I want to lay before the House a few sentences from the report of the engineer on this stream, without any extended remarks of my own. The engineer says:

A copy of the report is appended hereto. As therein stated the estimate contemplated—

"Contemplated," mind you—

the estimate contemplated an open river, down-stream navigation.

Mr. ORTH. That is easier than up-stream.

Mr. UPDEGRAFF, of Iowa. As the engineer says:

The estimate contemplated an open river, down-stream navigation, with channels through the bars and ledges of a width of twenty feet and a depth of eight inches at low stages of water.

Then, in speaking of the character of the boats which navigate this stream, he says:

These gondolas were from forty to sixty-five feet in length and eight to ten feet in width.

In another place he says:

All these reports indicate the very considerable expense of an attempt to slack-water or highly improve the navigation of the Shenandoah River. Its present importance as a route for moving freight is not sufficient to justify the expenditure of a large sum upon it. This is particularly true since, in addition to the existing valley branch of the Baltimore and Ohio Railroad, the construction of the Shenandoah Valley Railroad seems an assured fact. In the future, somewhat distant, when the population of this magnificent and productive valley becomes as dense as that of the European nations—as of France, for instance, where, notwithstanding the net-work of railways with which that fine State is covered, almost every river is made navigable if not so naturally, and many canals are in use and many more projected—the Shenandoah may be itself highly improved or become the water-supply of a canal along or near it.

Again, in speaking of this down-stream navigation, the engineer says:

The estimate, which is the result of Mr. Hutton's examination of the river, contemplates an open river, down-stream navigation, with channels through the bars and ledges of a width of twenty feet, &c.

In another place he says:

As is usual with mountain streams, the river flows alternately through pools of comparatively slack-water, and over the ledges and shoals, forming rapids and falls.

* * * * * * *

The depths over the ledges and shoals vary from four or five inches to eight or nine in their lowest places, as they generally, for considerable portions of their length, are above the plane of low water.

At page 675 he says:

The improvement, I am of opinion, should be of a capacity that would accommodate floats of thirty tons burden.

That is what the improvement should be; not what the condition of the stream is now.

One sufficient for floats much exceeding that burden would cost greatly more than the estimate given below.

And below I find the estimate to be "$2,000,000, exclusive of land damages."

Mr. ERRETT. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ERRETT. What is the pending amendment?

The CHAIRMAN. It is the motion of the gentleman from Iowa [Mr. UPDEGRAFF] to strike out the last word of the pending paragraph.

Mr. ERRETT. The gentleman has not been discussing his amendment.

Mr. UPDEGRAFF. I withdraw the amendment.

Mr. PAGE. In order to make this paragraph complete, I suggest that there should be inserted after the word "relinquished" the words "to the United States, to the satisfaction of the Secretary of of War." That is the usual phrase employed, and I presume when the committee in this place speaks of relinquishing any corporate rights or franchises over this river they mean that they shall be relinquished to somebody and to the satisfaction of somebody. Therefore I move to amend by adding to the paragraph, "to the United States, to the satisfaction of the Secretary of War."

Mr. KENNA. I hope that by unanimous consent that amendment will be adopted.

The amendment of Mr. PAGE was agreed to.

The Clerk resumed the reading of the bill, and read the following:

Improving river and harbor at Saint Joseph, Michigan, $3,000.

Mr. BURROWS. I move to amend the paragraph just read by inserting after the words "Saint Joseph" the words "and water channel leading up to Benton Harbor."

Mr. TOWNSEND, of Ohio. There is no objection to that that I can see.

Mr. BURROWS. The committee will observe that my amendment does not increase the appropriation at all, but merely makes this paragraph conform to the corresponding paragraph of the river and harbor bill of last session.

Mr. REAGAN. I suppose there will be no objection to the amendment.

The amendment was agreed to.

The Clerk read the following:

Improving the Ohio River, $350,000; of which sum $150,000 may, in the discretion of the engineers, be expended on Davis Island dam and $200,000 on the river from its mouth to its head: *Provided*, That $20,000 of the last-named sum may, in the discretion of the engineers, be expended on Indiana Chute.

Mr. NEW. I move to amend the proviso of the paragraph just read by striking out "$20,000" and inserting in lieu thereof "$50,000." The amendment which I offer will not increase the sum total of the appropriation for the improvement of the Ohio River.

The paragraph under consideration proposes to appropriate $350,000 for the improvement of the Ohio River, $150,000 of which may be used on what is known as Davis Island dam, and the remaining $200,000 for the improvement of the river from its mouth to its source, $20,000 of the sum last named to be used, in the discretion of the engineers, upon what is known as the "Indiana Chute." My amendment is to increase the last-named sum from twenty to fifty thousand dollars, to be expended on the Indiana Chute at the discretion of the engineers.

Mr. BUTTERWORTH. The gentleman does not propose to increase the sum total of the appropriation for the Ohio River.

Mr. NEW. I do not. I wish to say a word further in this connection. This chute is opposite Louisville, in or through what is known as the "falls" of the Ohio, near the Indiana shore. When there is water sufficient, and that is probably four months out of the twelve, boats pass through this chute.

The canal on the Louisville side and this chute on the Indiana side are the ways or routes over or upon which boats pass at this point on the Ohio River. The commercial importance of this chute and the necessity for its improvement will be seen when I state that much of the time the canal cannot be used. For example, in the past year, for seventeen days the canal was not used on account of repairs necessary to be made during that time, and for fifty-seven days it was not used on account of high water. Sometimes, too, the canal is frozen over, when the chute itself, as well as the river, both above and below, is open. The improvement of this chute will very greatly promote the navigation and commerce of the Ohio River. A thorough improvement of this important chute or channel will require, as shown by the estimates of the engineers, a much larger sum than $50,000, but I only ask that $50,000 be appropriated now, trusting to the futurefor further necessary appropriations. I hope the amendment I have offered will be adopted.

Mr. BUTTERWORTH. I heartily concur in supporting the amendment submitted by my honorable friend from Indiana, [Mr. NEW.] I know the importance of improving the chute to which he refers. The amendment does not increase at all the amount of the appropriation, but simply gives the Engineer Department discretion to use a certain part of the appropriation upon this chute. I hope the Committee on Commerce will not object to the adoption of the amendment.

Mr. TOWNSEND, of Ohio. It will be observed that by the terms of this appropriation the Engineer Department already has discretion

as to the expenditure of this money. The paragraph in question provides that if the engineers see proper $20,000 may be expended on the Indiana Chute; but there is no reason why they may not expend $50,000 or $100,000 at that place if they desire to do so. I think it best to leave this matter to be regulated in the wise discretion of the engineer who has charge of all the work on the Ohio, and who will no doubt spend the money where it is most needed.

Mr. BUTTERWORTH. I would like to call the attention of my friend to one consideration. The clause authorizing the engineer in his discretion to expend $20,000 for this particular purpose would, according to the rules of legal construction, prohibit him from using in any event a larger sum for that purpose. I think there is no doubt about that.

Mr. PRICE. He has a discretion up to $20,000, but cannot go beyond that.

Mr. BUTTERWORTH. It is very clear that such would be the legal construction; hence it is the object of the amendment to enlarge that discretion.

Mr. SHALLENBERGER. Mr. Chairman, I rise to oppose the amendment. In doing so I do not doubt the representations made by the gentleman from Indiana [Mr. NEW] or the gentleman from Ohio, [Mr. BUTTERWORTH.] They may be correct; but I do deny that this House can at any time safely direct the engineers in the expenditure of this money. There are other points on the Ohio River that need improvement. If we undertake now to direct the expenditure of this money, I can suggest a point on the Ohio River for which I have not asked from this committee one dollar of appropriation, relying upon the discretion and judgment of the engineers to appropriate that money.

Mr. NEW. Will the gentleman allow me a single suggestion? After my amendment shall have been adopted it will still be as now within the discretion of the engineer as to whether one cent shall be applied to the improvement of the Indiana Chute. I believe myself, however, that every dollar of the fifty thousand, and more than double that sum, ought to be expended on that part of the Ohio River.

Mr. SHALLENBERGER. Very true, Mr. Chairman; but I am opposed to giving even indirectly a direction to the engineers, upon the mere suggestion of one member on this floor, as to where any portion of this $200,000 shall be expended. Let this money be spent along that river from its mouth according to the discretion of the engineers. For instance, I propose to represent to them that at the mouth of the Beaver $1,500 or $2,000 can be safely and judiciously appropriated for an ice-breaker to protect the navigation which winters at that point from break-ups such as that which has just occurred, tearing away with it, perhaps, barge after barge. I say, let the expenditure be in the discretion of the engineers. Let us not use up this $200,000 by directing that $50,000 shall be spent at one point, $75,000 at another, $125,000 at another, and so on. We cannot safely do that when considering this bill on this floor under the five-minute rule. For these reasons I trust that the amendment will not prevail.

Mr. WILLIS. Mr. Chairman, I desire to say to my friend from Pennsylvania [Mr. SHALLENBERGER] that he is mistaken in his statement that no estimate has been made for the improvement of this Indiana Chute. He will find upon examination of the Chief Engineer's report that General Weitzel, who has immediate supervision of the subject, estimates that $110,000 are needed to complete this improvement. Instead of $50,000, as asked for in the pending amendment, I would be glad to see this committee appropriate the whole amount. Why should this not be done? Do gentlemen understand that this chute is the main channel of the Ohio River? Do they know that frequently for one-third of the year it is the only natural connecting link in the great chain of commerce between the cities of New York, Philadelphia, Baltimore, and other places east of the Alleghany, and the cities of Pittsburgh, Wheeling, Cincinnati, Louisville, Saint Louis, and numerous other important points west and northwest of the Appalachian range?

The immense tonnage which passes in this direction demands recognition at the hands of the Federal Government. Over a million and a half tons of freight pass annually through the canal and through this chute. What other appropriation in this bill can present stronger facts in its support? I do not, sir, wish to make invidious comparisons. I do not stand here to criticise the amounts appropriated in this bill to other localities. Not having the same opportunities for information which the Committee on Commerce has had, I am willing, as to the great majority of its acts, to yield to their judgment. There are, however, one or two instances where it seems to me the appropriations are utterly inadequate. The most striking case of this kind is the Ohio River. Need I say anything in this presence to magnify the importance of that river? The internal commerce of the Ohio to-day is greater than the whole external commerce of this country. We yearly give millions of dollars in the way of appropriations for harbors, light-houses, &c., for external commerce. What is given in this bill to the Ohio River? The whole amount is $350,000; and of that sum $150,000 is given to Davis Island Dam, leaving only the sum of $200,000 for the whole river from its head to its mouth. Such a sum is utterly out of proportion when we consider the immense commerce of the Ohio. We ought to have five times that amount. We ought to have, and I hope in the near future we will have, a sufficient amount to give us a continuous depth from Pittsburgh to Cairo of from five to six feet; and I declare here that as long as I am on this floor I shall continue to agitate and to present this subject until that result is attained.

The Representatives of the people owe it to the great and increasing commerce of the Ohio Valley to extend a just recognition to its demands. Every creek and every harbor in the country has its friend and representative before the Committee on Commerce and upon the floor of this House; but the Ohio, although conveying the commerce of fourteen great States of this Union, has been in great part ignored or neglected. It seems to have been thought large enough to take care of itself. The time has come for a change in this state of things. The cry for cheap transportation is coming up from every direction, and is coming in such a way as to compel attention. No more important question will come before the National Legislature in the future than the development, the improvement of our great waterways; and as a step in that direction I am glad to see that in this bill a million and a half of dollars is appropriated to the Mississippi. I hope and believe that an equally liberal policy will be observed as to the Ohio.

[Here the hammer fell.]

Mr. NEW's amendment was agreed to.

Mr. TOWNSHEND, of Illinois. I move to amend the clause by adding the following:

And $20,000 to be expended in opening the channel between Hurricane Island and the Illinois shore, near Elizabethtown.

This amendment does not increase the appropriation a single dollar. The object of the amendment is to save the existence of a town of considerable importance on the Ohio River. It is the county-seat of Harden County, and is in the midst of a very valuable and prosperous mining as well as agricultural region. I will send to the Clerk's desk to be read a petition from that town, setting forth the present condition of the channel opposite the town; and I wish to call the attention of the House particularly to this statement.

The Clerk read as follows:

Your petitioners most respectfully represent that the navigation of the Ohio River at and near the head of Hurricane Island, in said river, is rendered incommodious and perilous for the following reasons, to wit: The main current of said river used to flow upon the north side and to the right of Hurricane Island, and the channel was broad and deep, and navigation easy and safe; and the river continued so to flow till about —— years ago, when, owing to alluvion about one mile above the head of the island, the current began to deflect to the left, and gradually formed a channel upon the south side of the island, though a very narrow one, and filled with snags and obstructions that render navigation perilous, to the great injury of commerce and the carrying trade in said river. That at the breaking up of the ice in the winter of 1878 and 1879 the current of the river commencing at the head of Hurricane Island set in toward the south with greater force, and is now cutting off the soil on the left bank of the river and on the Kentucky shore at a rapid rate, to the great and permanent injury of the farmers upon that side of the river, whose farm lands are justly esteemed highly productive and valuable, but which will in the course of a few years be almost, if not quite, destroyed. Your petitioners further represent that the town of Elizabethtown is situated on the right bank of the Ohio River, near the foot of Hurricane Island, and that said town is the principal trading and shipping point for a large section of country lying to the north, east, and west of said town; that since the changing of the current of the river as above set forth, the bar projecting from the foot of the island has been gradually extending down the river toward Jack's Point, and will soon project far enough down the river to cut off the harbor at Elizabethtown to such an extent that steamers cannot land at said town; that the channel of the river on the north side of Hurricane Island is still broad and deep below the obstruction near the head of the island, and if said obstruction was removed, which could probably be done by a little dredging, the current would naturally flow on the north side of the island; but, owing to the obstructions above, will eventually fill up, and the channel will thereby be destroyed, to the great detriment of the inhabitants on the Illinois shore and the people of Elizabethtown.

Mr. TOWNSHEND, of Illinois. This is of the same nature as the amendment already adopted at the instance of the gentleman from Indiana at the Indiana Chute opposite Louisville, and does not increase the appropriation one dollar, but will prevent the town being isolated from the river which is the only connection it has with the outer world, it having no railroad connection.

Mr. OSCAR TURNER. Would it not interfere with the landings on the Kentucky side?

Mr. TOWNSHEND, of Illinois. Not a particle. The other channel will be left open and free by this amendment. It provides for dredging at the head of the island to enable the channel to run as heretofore on both sides the island.

[Here the hammer fell.]

The CHAIRMAN. The amendment is not agreed to.

Mr. TOWNSHEND, of Illinois. I shall ask for a division on this amendment. It is precisely like the one adopted at the instance of the gentleman from Indiana. If that was right, then this, of course, is right.

The committee divided; and there were—ayes 29, noes 66.

So the amendment was rejected.

Mr. WARNER. I move to insert the following:

And a like sum on the ice-harbor at the mouth of the Muskingum.

This does not change the appropriation at all, nor does it change the discretion of the engineer, but emphasizes that discretion, as it may become necessary in the continuance of that work he shall have such discretion. That is all I ask in this amendment, and I do not think there can be any objection to it.

The committee divided; and there were—ayes 17, noes 47.

So the amendment was rejected.

Mr. SHALLENBERGER. In line 241, after the word "chute," I move to insert the following:

*Provided*, That $2,500 may be expended at or near the mouth of Beaver River for the construction of ice-breakers, in the discretion of the engineers.

One word on that amendment. I think the engineers probably exercising their discretion would provide these ice-breakers now, but I desire to have it incorporated in this section so there may be no question as to the intent and willingness of Congress to permit it. During the recent break-up vessels were very much imperiled at the mouth of Beaver River, which forms a very good harbor for vessels coming up the Ohio River during the winter season. The Committee on Commerce could not have had it brought to their attention because of the lateness of the season. The chamber of commerce at Pittsburgh has very recently passed resolutions, which have been referred to the Committee on Commerce, calling attention to the very great necessity of several ice-breakers there in order to protect such vessels as come up the Ohio River and are detained by the accumulation of ice at this point.

At this point on the Ohio River vessels are lost every spring by the break-up of the ice and they absolutely need this appropriation for the protection of the navigation of this great river. It does not increase the appropriation, but simply allows in the discretion of the engineers an expenditure not to exceed $2,500 for that purpose. I trust if the House is willing to commit itself to anything like a direct appropriation of this kind it will not withhold this the only appropriation I have seen fit and proper to ask of the House or the committee on the pending bill.

The committee divided; and there were—ayes 27, noes 66.

So the amendment was disagreed to.

Mr. THOMAS. I move to strike out in line 236 the word "fifty," and add at the end of the paragraph the following:

And $50,000 shall be expended to continue the work at Grand Chain Rapids.

Now, Mr. Chairman, for the 1,000 miles of the navigable waters of the Ohio River $350,000 has been set apart by this bill for its improvement. One hundred and fifty thousand dollars of that sum has been placed in the hands of the engineers to continue the public works within the first five miles from the head of the river; $150,000 for Davis Island Dam, within five miles of the head of the river, and $200,000 for nine hundred and ninety-five miles—the balance of the river. It is urged here that Davis Island Dam is an important work, that large sums of money have been expended upon it, that it should be completed, and that it is of great importance to the commerce of the country. Five miles of navigable river is indeed important; but nine hundred and ninety-five miles is much more important. There have been appropriations for the last three years for the improvement of the work on Grand Chain Rapids. The commerce which floats over the Ohio River and passes Davis Island Dam passes over these rapids within twenty-three miles of the mouth of the river. The commerce of the Ohio River has been estimated by the best authority for the year 1879 at $694,000,000. That does not include the 1,200 miles of the navigable waters of the Tennessee River, over which Grand Chain Rapids all that commerce must pass. It does not include the eight hundred miles of the navigable waters of the Cumberland River, over which rapids all its commerce must pass. It does not include all the miles of navigable waters of the Wabash, over which rapids its commerce must pass. Nor does it include the Kentucky River, the Green River, and all the large tributaries to the Ohio River. These rapids are, as I have said, within twenty-three miles of the mouth of the river. The contracts have been let for the building of dikes there to improve the current.

This is a dangerous rapid now, and dikes have been begun to confine the waters within one channel whereby the navigation of the river may be rendered entirely safe. Contracts have been already awarded for the construction of these dikes to the amount of $87,117.70, and now I ask that inasmuch as this amendment does not increase the aggregate amount of the appropriation for the improvement of the Ohio River that $50,000 be allowed—in other words, that common justice may be done to the nine hundred and ninety-five miles of the balance of the river when you propose here to give $100,000 for the improvement of the first five miles of it. I am sure, Mr. Chairman, that there can be no valid objection urged against this amendment. It ought to be adopted, and I hope it will commend itself to the committee.

Mr. REAGAN. Mr. Chairman, the point indicated is upon the Mississippi River, and it is already contemplated by the committee to place some six hundred thousand dollars under the control of the engineers diverted for its improvement. We thought it best that the engineers should have the power to use this money——

Mr. OSCAR TURNER. The gentleman from Texas is referring to the Mississippi River. The amendment has reference to the Ohio.

Mr. REAGAN. I beg pardon; I should have referred to the appropriation for the Ohio River. I desire to state that we have already agreed to divert a portion of this appropriation of $350,000 for the use of this river, and the amount of $150,000 to be used under the discretion of the engineers at the Davis Island Dam; and also the sum of $50,000, of which sum $20,000 may be used in the discretion of the engineers on this Indiana Chute. This diverts, as I have stated, $200,000 for these improvements, and as I understand that there will be another amendment proposed, I think it is better that the committee should consider well before diverting any more of this money for local appropriations, remembering that it will take away the appropriations for the great river upon which floats so much of the commerce of this country.

Mr. THOMAS. I would like to ask the distinguished gentleman from Texas a question. Did I understand him to say that the sum of $600,000 was contemplated to be set apart in this bill for this improvement?

Mr. REAGAN. I did say so; but had reference to the Mississippi River. I immediately corrected it, however, and stated $350,000 was allowed. Already $200,000 of that has been diverted to local improvements, and this proposition is to divert $50,000 more to local work, leaving only $100,000 of the total sum for the improvement of the river from its head to its mouth. The committee think that it might leave $150,000 of this sum to be expended under the discretion of the engineers. We believe that it may safely be left to their discretion, and if necessary they will apply it to such local improvements or work as the exigencies of the case may demand. They are upon the ground understanding the conditions, and are in a better condition to decide upon the question than we at this point. I insist that this sum shall not be set apart specifically for this improvement, but shall be left to the judgment of the engineers in charge, who have the power under the terms of this bill to do the work if it be necessary.

Mr. THOMAS. A single word, Mr. Chairman, in response to the remarks of the gentleman from Texas. The engineer in charge of this work even went so far in his report as to recommend that the appropriation for the improvement of the Ohio River should make no specific direction as to how or where the money should be expended. He even went so far—subject to the local influence by which he was surrounded—as to suggest or recommend that the bill be entitled "A bill for the improvement of the Ohio River, and the Davis Island Dam," so that they might be entitled to appropriate or use the whole $350,000 if necessary to the improvement of that one point to the exclusion of all the balance of the river. Now, Mr. Chairman, engineers are subject to influences by which they are surrounded just as much as other men are. And they are no more capable or better qualified to give opinions as to the needs of the commerce and commercial wants of the country, or to say how this money should be expended, than other people. Their work and education enable them to decide upon the practicability or impracticability of certain improvements, but does not necessarily carry them beyond that point. Therefore, I say for the purpose of giving the lower nine hundred and ninety-five miles of the Ohio River a fair show, that Congress shall at least give its consent that a part of the appropriation made in this bill may be expended where it will benefit all the commerce of the river, and not confine it to a local point.

Mr. REAGAN. I will state, Mr. Chairman, that the engineer did make the recommendation to which the gentleman refers, but the committee did not think proper to incorporate it in this bill.

Mr. OSCAR TURNER. Is an amendment now in order?

The CHAIRMAN. It is.

Mr. OSCAR TURNER. Then I move to strike out the last word. Mr. Chairman, the "Grand Chain" is a ledge of rocks lying some fifteen or twenty miles above the mouth of the Ohio, in the river. It obstructs the navigation of the river which carries all the river commerce from the States of Ohio, Indiana, Illinois, Kentucky, and from the State of Pennsylvania, and also all the river commerce of the Tennessee and Cumberland Rivers, and prevents its connection with the Mississippi River. It cuts off navigation between Paducah, a flourishing and growing city in my district, and the Mississippi River at Cairo, except for small boats, for several months in the year. The water is reduced to thirty inches on this barrier, and can only be passed over by boats of very light draught. We have had so far not one dollar appropriated in this bill to remove that barrier, or the bars between Paducah and the mouth of the Ohio, or between Carrsville and Paducah.

I desire to invite the attention of the committee to some of the facts. The point was made here that these appropriations ought to bear some similitude with the amount of internal revenue which is paid by the States in which the improvements are made. I contend for no such proposition; but I think it ought to have great weight. Look for a moment at the facts I will briefly allude to.

In 1878 the State of Kentucky paid over six million dollars of internal revenue alone into the Treasury. The district, part of which I have the honor to represent, paid over one million dollars into the Treasury that year. I will state now the amount paid into the Federal Treasury by the States along the Ohio River since 1863. Illinois has paid $223,000,000, Kentucky has paid $101,000,000, Indiana has paid $72,000,000, and the great State of Ohio has paid $246,000,000 of internal revenue since 1863. And yet, sir, that barrier is permitted to remain there, destroying and locking up the river commerce of those great States. Mr. Chairman, it would not have been permitted to remain twelve months in front of a northern harbor. If it had been in front of an ocean harbor, or of a harbor upon one of the northern lakes, an appropriation would have been made to blow it out, even if it had cost a million of dollars. And yet, with these States paying this immense amount of revenue into the Treasury, we cannot get a dollar from the Committee on Commerce to improve the navigation and remove this barrier, which locks up all the commerce of the States lying on the Ohio, the Tennessee, and the Cumberland Rivers, all of them great national highways. And yet, sir, millions of dollars are given by this bill, as has been shown during this debate, to small, insignificant rivers and local creeks, which will be of no benefit

unless it be the spending of the amounts appropriated in those localities, while the great national rivers have not received any adequate appropriation—only $350,000 to the Ohio River and $150,000 of that to be expended on a dam near Pittsburgh, leaving the small balance to be scattered along over eight hundred miles of bars and obstructions without any system.

It has been said I was opposed to all appropriations in river and harbor bills. I am not. I am in favor of improving the navigation of all the great rivers which are national in their character and which are really navigable, and by which commerce may be benefited; but I am opposed to voting away the public money to many of those streams which have been described by the gentleman from Iowa, [Mr. UPDEGRAFF.]

I will support the amendment of the gentleman from Illinois, [Mr. THOMAS.] I would be willing to vote for double that amount. And at the proper time I will offer an amendment, that this matter be put under the direction of the engineers and that they be permitted to adopt such a plan as will remove this barrier, so that we can have permanent navigation for large boats from the mouth of the Tennessee to the Mississippi. And to that amendment I invite the support of every member who is interested in the commerce of the Ohio, the Tennessee, and the Cumberland.

Mr. Chairman, I discussed this question at the last session of Congress, and my remarks are to be found in the CONGRESSIONAL RECORD, Forty-sixth Congress, second session, pages 478 and 479, in which I pointed out the proper plan, in my judgment, for the improvement of the Mississippi River and its navigable tributaries in a systematic and economical plan, that would result in some benefit to the commerce of the West; and as I have not the time in the few minutes allowed under the rules of this debate, I refer the committee to those remarks, which under the privilege granted, I will append to these remarks. They were as follows:

Mr. Chairman, I did not desire to trespass on the time of the committee upon this question; but inasmuch as a part of the time that was allotted to the Committee on Levees and Improvement of the Mississippi River was taken up by gentlemen on the other side I have concluded to offer a few remarks explanatory of the motives of our committee in offering the amendment proposed by Mr. ROBINSON. And I will take occasion right here to say that there was no intention on the part of any member of the Committee on Levee Improvements to cast any reflections upon the Committee on Commerce, much less upon my distinguished friend the chairman of that committee, General REAGAN, of Texas. We all entertain for him the highest regard as a legislator—I know that I do personally—and would not reflect upon him in any way. But, sir, the question that we wanted to present to the Committee of the Whole was this: that the improvement of the navigation of the Mississippi River and of its tributaries was a question so momentous and involving so much labor that the Committee on Commerce had not the necessary time to devote to that specific subject. We thought that the House ought to act in accordance and in analogy with the precedent that has been set heretofore in regard to the Committee on Pacific Railroads. It is well known that we have the Committee on Railways and Canals, which has a general jurisdiction coextensive with the Union; but notwithstanding that when these railroads to the Pacific were projected a new Committee on the Pacific Railroad was formed in this House on account of the magnitude of the work and the labor which would be required in investigations of a proper character.

Mr. Chairman, appropriations have been made for many years without any general plan by which the navigation of the Mississippi and its navigable tributaries were permanently improved; appropriations have been made for this point and that, as the popularity of a member might secure them, under a log-rolling system, in harbor and river improvement bills, passed under a suspension of the rules without debate, in many instances appropriating public money to unimportant streams which I have not the time to refer to in my limited time. I refer to the defects in this system of improvements on the tributaries of the Mississippi as it has been carried on for many years, because it comes within my own knowledge and sad experience to know something about the matter, and because the people whom I have the honor to represent on this floor have felt the want of a proper and judicious plan of improvement of the Ohio River.

The amount of money which has been appropriated to the improvement of this river, which is the natural outlet of the larger portion of the agricultural products of Illinois, Indiana, Ohio, and Kentucky, might as well have been thrown into it, with but few exceptions. Small amounts have been appropriated to improve such particular points as could be secured by the influence of Representatives, with no view to any general or judicious system, but more to drop a few thousand dollars at a particular locality than to accomplish any general good.

Mr. Chairman, I will give you an illustration of what I mean. In the district which I represent is the city of Paducah, at the mouth of the Tennessee River, the emporium of Southern Kentucky and a part of West Tennessee, one of the best manufacturing points west of the Alleghany Mountains, with an inexhaustible amount of iron, coal, and timber just above on the Ohio, Cumberland, and Tennessee Rivers, all of which could be utilized and made to add to the general wealth and prosperity of the country; and besides this Paducah is surrounded by the finest tobacco-growing country in the United States, and is the second largest tobacco market west of the mountains, and yet we have been forced, poor as we are, to build railroads at our own expense, with no subsidies from the Federal Government, and at an immense and ruinous cost to our people, to remove the products of honest labor and to give us intercourse with other points on the rivers.

And why is this? Nature has given us the Ohio as a great highway, the Tennessee and Cumberland empty into the Ohio at our very doors, and we are only fifty miles from the mighty Mississippi; and yet, Mr. Chairman, we are debarred of these great natural commercial advantages because there is a ledge of rocks in the river called the Grand Chain, and one bar just above the mouth of the river, locking in not only our commerce, but the whole commerce of the States lying on the Ohio, Cumberland, and Tennessee by reducing the water at these points to thirty inches in the summer months, and forcing us to resort to railroads, with their high and extravagant rates of carriage, which swallow up the profits of the farmers and the artisans of our country. These barriers would not block a single harbor in the Northern States twelve months. The money would have been appropriated to remove them as soon as it was suggested, as the appropriation annually of millions to northern harbors shows.

Mr. Chairman, allow me to say something here in reply to an observation which was made by my distinguished friend from Texas, [Mr. REAGAN,] who said that there had been a spirit of liberality exhibited toward the Mississippi River and its tributaries by the Committee on Commerce. I desire to invite the attention of this House for a few moments to that matter. Since those improvements commenced we have had appropriated for that purpose only $7,000,000, while over two hundred million dollars have been appropriated for the improvement of northern harbors and unimportant rivers. Now let us look at the equity and justice of this thing. In 1878 the State of Kentucky paid over six million dollars into the Treasury, as shown by the report of the Commissioner of Internal Revenue, which I have here. The district, part of which I have the honor to represent, paid about one million dollars into the Treasury in that year.

I will refer to the amount paid into the Federal Treasury by States along the Ohio River since 1863. Illinois has paid $233,673,726.50, Kentucky has paid $101,012,299.47, Indiana $72,664,558.61, and the great State of Ohio $246,397,075.46 of internal revenue since 1863. As I have said, Kentucky in the last twelve months reported by the Commissioner has paid $6,880,614.15 into the Federal Treasury, which is more than double the amount paid by all the New England States in the same length of time.

Now, what have we had in return? It is true that we have not been urgent in our claims before Congress; but when gentlemen talk about the equity and justice that have been meted out to us I must say that I cannot see it. I do not contend that we ought to have improvements in proportion to the revenue which we pay; but it does seem to me that these facts ought to enter into the consideration of the question when we ask for an appropriation.

I shall vote to give entire jurisdiction over the subject of the improvement of the Mississippi River and its navigable tributaries to the Committee on Levees and Improvements of the Mississippi River, but have no objection to the supervision of the report by the Committee on Appropriations, to regulate the amount annually; for I am opposed to any extravagant or useless appropriations for this or any other purpose, and only advocate giving the jurisdiction to this committee because I believe it will utilize such appropriations as are annually made, and will be in the interest of retrenchment and reform.

The question being taken on the amendment offered by Mr. THOMAS, there were—ayes 32, noes 51.

So (further count not being called for) the amendment was not agreed to.

The Clerk read the following:

Improving harbor at Wilmington, California, $12,000.

Mr. PACHECO. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out "$12,000" and insert in lieu thereof "$33,000."

Mr. PACHECO. Mr. Chairman, the House is in receipt of a memorial to Congress from the citizens of Los Angeles, embraced within the district which I have the honor to represent here, praying for a further appropriation for the harbor improvements at Wilmington, begun there some time since. In view of the rapid increase in the population of that portion of the State, the existence of the Southern Pacific Railroad which intersects it, the fact that it is the great commercial outlet of Southern California and Arizona, it is of the utmost importance that a further appropriation should be made for the completion of the harbor improvements already under way.

The California coast from San Francisco to San Diego—a distance of five hundred miles—is unprovided with a single port of refuge for shipping in storms.

The United States Government, fully appreciating the necessity for creating a port of refuge, carefully surveyed the harbor of Wilmington, and has appropriated the sum of half a million dollars toward its improvement. With this money a breakwater 6,700 feet long has been constructed—the outer 2,000 feet of it, however, only to the level of low tide. The sum thus far appropriated and expended has proved entirely insufficient for the completion of the work in accordance with the plan of the Government engineers. Therefore, in order that the work already begun shall not be damaged by being exposed to storms in its present unfinished condition, and that the purpose for which it was begun shall be accomplished, the people of that section respectfully ask and pray for a further appropriation. After a careful consideration of the subject, the Government engineers in charge of the work have given it as their opinion that the sum of $33,000 can be advantageously expended upon it in the course of the present year. In conclusion I would state that from my own personal knowledge of the great wealth and importance of Southern California, its rapidly increasing commerce, and the importance of having at that point a secure harbor for shipping, I believe that the appropriation asked for should be granted, and am satisfied that it would serve greatly to promote the best interests of that part of the country.

The question being taken on Mr. PACHECO's amendment, there were—ayes 60, noes 61.

Mr. PACHECO. No quorum.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from California, Mr. PACHECO, and the gentleman from West Virginia, Mr. KENNA.

The committee again divided; and the tellers reported—ayes 74, noes 78.

So the amendment was not agreed to.

Mr. BERRY. I offer the amendment which I send to the desk.

The Clerk read as follows:

After the word "dollars," in line 271, insert "improving Humboldt Bay, California, $50,000."

Mr. BERRY. Mr. Chairman, there is no appropriation in this bill for Humboldt Bay. I presume the reason why there is not was because the report of the engineer was late in getting before the Committee on Commerce. In fact it was there, I believe, in their hands but a few days before they closed their labors on this bill. But, sir, at the last session of Congress an order was made directing the War Department to have that important bay surveyed. In obedience to that order it was surveyed, and the engineer reported that improvements were needed there, and recommended the appropriation of $50,000 to be expended this year.

I wish to state here that that is the most important harbor on the

Pacific coast north of the bay of San Francisco. The commerce of that bay amounts to more than $1,000,000 annually. There arrive and depart from that bay not less than three hundred vessels. There is a growing country around it.

In view of the fact that the commerce of our coast is growing, I think it is time that the people of the United States should recognize the importance of that growing commerce and the needed improvements which it demands should be made.

The channels inside of the bay, according to the reports of the engineer, need dredging at the city of Eureka. It is in that section of country that the famous redwood forests of that coast exist. It is from there we draw the supplies of the fine redwood lumber that is used in the construction of improvements upon that coast. Much of that lumber finds its way to Europe and other parts of the world.

For these reasons I claim that this harbor should not be overlooked. And I ask, in view of the fact that the Committee on Commerce had not an opportunity to fully investigate the report of the engineer and ascertain the necessities of the commerce at that point upon our coast, that the House will adopt this amendment and let it become a part of this appropriation bill.

I do not feel disposed to antagonize this bill. I wish to say here I am one of those who would like to see a legitimate expenditure of $25,000,000 for our internal improvements. I am not in favor of spending the money upon those small streams that are of no commercial importance. But, sir, upon our great rivers and our harbors I would like to see an expenditure of $25,000,000. In view of the fact that the transportation of our country is passing into the hands of corporate influence, I believe that is the only means we have left to protect the people from their extortions.

[Here the hammer fell.]

The amendment moved by Mr. BERRY was not agreed to.

Mr. BELFORD. I move to insert after the paragraph last read that which I send to the Clerk's desk.

The Clerk read as follows:

Sinking three artesian wells, one in the State of Colorado, one in the Territory of Utah, and one in the Territory of Wyoming, $30,000, said sum to be expended under the direction of the Secretary of the Interior.

Mr. REAGAN. I make a point of order on that amendment.

Mr. BELFORD. I hope the gentleman will withhold his point of order until I can be heard for five minutes on my amendment.

Mr. REAGAN. I will reserve the point of order.

Mr. BELFORD. Mr. Chairman, I feel a deep interest in everything that appertains to the promotion of our commercial relations. Commerce is a great civilizer, and its growth is a matter of universal concern. We are exceedingly proud of our rapid increase in population and of our augmentation of national wealth. A great writer has defined progress to be "such an improvement as can be verified by statistics, just as education is such knowledge as can be tested by examinations." Our census reports show that we have progressed in an amazing degree. The eastern portion of the country is duly sensible of this progress, and judging from the present bill proposes to avail itself of the surplus funds in the National Treasury. The disinterested members of the Committee on Commerce, acting on the scriptural ideas that a man who does not look after his own household is worse than an infidel, have feathered their own nests, and have treated with a very scant courtesy that portion of the United States lying west of the Mississippi River. Colorado, Nevada, Wyoming, Dakota, Arizona, and other Western States and Territories do not even receive the cold respect of a passing glance, and yet they have more trout streams than Pennsylvania, New Jersey, and West Virginia, that receive millions under this bill.

Commerce consists in the exchange of products, and the amendment I offer looks to the increase of products in that vast section of country lying west of the one hundredth meridian. In the State of Colorado, according to the report of the Commissioner of the General Land Office for 1879, there are 66,880,000 acres of land that can only be utilized by irrigation. In Wyoming, subject to the same condition, are 62,645,120 acres, and in Utah, 54,064,640. This land in the main belongs to the National Government. It is dry and arid, and can only be reclaimed by water. I ask that you make an appropriation to reclaim this land, to the end that the commercial interests of the nation be advanced. Reclaim this land, and a dense population will occupy it. This population will cultivate the soil and produce unnumbered articles that will enter into the commerce of the country. We have received but little aid from the General Government. Under the act of Congress of June, 1879, the sum of $300,000 was appropriated for the survey of these lands. Of this sum Colorado received $23,400; Wyoming received $12,000; Utah received $10,000. This sum constitutes the extent of your appropriations for that region; and what have you received in return? Colorado last year paid into the Treasury $168,259.54; Wyoming paid in $15,947.95; Utah paid in $74,352.48.

Since Colorado became a State she has paid into the national Treasury $1,610,611.64, and I cannot recall but one appropriation made for her benefit except $20,000 last year, and that was made to reclaim the public lands in that State.

Now, Mr. Chairman, one word in conclusion. For years the West has contented itself with voting appropriations to improve eastern rivers and harbors. It is right that judicious appropriations for such purposes should be made. But are we of the far West forever to be deprived of our share of national aid? While you are enlarging commercial facilities in the East, will you shut your eyes against that vast domain lying west of the one hundredth meridian? One of the great and growing dangers to the Republic is founded in the overcrowded population of our great cities. One of the problems of this age is to bring the empty hands and unoccupied lands together. Before these lands can be utilized they must be reclaimed and made fit for human habitation. This can be done by procuring a needed supply of water, and this can only be reached through the agency of artesian wells. If it is right to appropriate millions to improve eastern rivers in order that commerce may be promoted, it cannot be wrong to appropriate a few thousand dollars to rescue from aridity a vast domain capable of accommodating millions of people, capable of becoming the center of a constantly expanding civilization, capable of being converted into happy homes for the toiling millions who are to come after. "Water is the Wahan of creation," says the Buddhist, and this remark has been indorsed in his Winter Sunbeams by the distinguished gentleman from New York, [Mr. COX.] In Spain, that gentleman tells us, through the agencies of artesian wells and irrigation, the desert is made to blossom like a garden. Under their influence peppers and peaches, apricots and apples, olives and oranges, sugar and citron, cotton and corn, potatoes and pears have sprung into existence to gladden the hearts of the people.

Mr. RUSSELL, of Massachusetts. I wish to say in this connection that no Representative or Delegate from the State or the Territories to which reference has been made by the gentleman from Colorado [Mr. BELFORD] has asked for a single dollar in this bill, and not an estimate for that purpose has been laid before the committee.

I wish to call the attention of the committee briefly to a statement which I made hastily this morning, showing how the appropriations contained in this bill are distributed. For the Atlantic and Pacific coast, $3,000,000; for canals, $500,000; on the great lakes, $1,200,000; for surveys, $100,000; on the Mississippi River, $2,450,000; on the Missouri River, $350,000; on the Ohio River, $350,000; on the Tennessee River, $250,000; on the Illinois River, $250,000; on the Upper Mississippi, $150,000; on the Columbia River, $100,000; and on all the other rivers in the country and other works of improvement, $1,500,000.

The CHAIRMAN. The Chair does not think that the amendment proposed by the gentleman from Colorado is germane to the subject-matter of this bill, and therefore sustains the point of order made against it by the gentleman from Texas, [Mr. REAGAN.]

The Clerk read the following:

Improving Winnipiseogee Lake, New Hampshire: Completing improvement, $2,500.

Mr. HALL. I move to amend the paragraph just read by adding thereto that which I send to the Clerk's desk.

The Clerk read as follows:

*Provided*, That no right to raise or lower the water level of said lake is hereby granted to any person or corporation.

Mr. HALL. By oversight, as I conceive, this provision was omitted in the preparation of this bill. I understand there is no objection to it on the part of the committee in charge of the bill, and I trust there will be no objection to it on the part of any gentleman.

Mr. RUSSELL, of Massachusetts. There is no objection to it.

Mr. REAGAN. I do not think there is any objection to it.

The amendment was agreed to.

The Clerk read the following:

Improving Mississippi, Missouri, and Arkansas Rivers: Removing snags, wrecks, and other obstructions, $150,000; of which sum $80,000 shall be expended on the Mississippi River, $45,000 on the Missouri River, and $25,000 on the Arkansas River.

Mr. RYAN, of Kansas. I move to amend the paragraph just read by striking out all after the words "and other obstructions" and inserting that which I send to the Clerk's desk.

The Clerk read as follows:

Three hundred and fifty-five thousand dollars, to be expended as follows: $100,000 for building one iron-hulled snag-boat; $50,000 for repairing one wooden snag-boat and fitting it up for working purposes; for working expenses on Mississippi River, $90,000; for working expenses on Missouri River, $75,000; and for working expenses on the Arkansas River, $50,000.

Mr. RYAN, of Kansas, addressed the committee. [See Appendix.]

Mr. CLARDY. Mr. Chairman, I dislike to oppose the amendment offered by the gentleman from Kansas, because it looks to the improvement of the navigation of a river in which the people of the section from which I come are peculiarly interested. But, sir, the Committee on Commerce, after investigating this question with a degree of fairness commensurate as I believe with its importance, determined that the five boats already operating on the Missouri River are sufficient for the purpose of clearing that river of its snags; and hence the committee refused, as it did one year ago, to make an appropriation to increase the number of snag-boats. The committee, however, inserted in the bill a provision that $150,000 of the $200,000 asked for by the engineers should be used for continuing the operation of the snag-boats already at work, $45,000 of this sum being allotted to the Missouri River; and when it is considered that only about thirty-six thousand dollars was expended on that river during the last fiscal year, I take it that the Committee of the Whole will regard the amount named in the bill as entirely sufficient. One hundred and fifty thousand dollars, the amount recommended by the committee for these purposes, is a larger percentage than that recom-

mended for the Upper Mississippi River, the sum demanded for carrying on the operations of snag-boats there being $40,000, and the recommendation of the committee $25,000.

The amendment of Mr. RYAN, of Kansas, was not agreed to, there being ayes 17, noes not counted.

Mr. KING. I move to amend by adding at the end of line 300, these words:

And this work shall be prosecuted during the low-water season; to wit, between the 1st day of July and the 1st day of December of each year.

The provision I now offer is in accordance with a resolution adopted at a convention held in New Orleans last December, representing persons interested in the navigation of the Mississippi River. The amendment provides simply that the work of removing snags and other obstructions from these great rivers shall be undertaken during the period of low water.

Mr. UPDEGRAFF, of Iowa. I rise to oppose the amendment. As I understand, it proposes to require that this work be done at a low stage of water. I wish merely to read a line from the report of the engineers to show that it is impossible to get there unless the water is high. [Laughter.]

During the past winter:

This refers to the Arkansas River, one of the rivers embraced in this provision; and I do not wish to have it excluded:

During the past winter a snag-boat was dispatched to this field of operations to remove snags and other obstructions from such portion of the river as could be reached, but owing to the lateness of the season and the low water the boat could not get there.

Mr. KING. I ask to modify my amendment so as to apply to the Mississippi River only.

The CHAIRMAN. The gentleman can modify his amendment in whatever way he chooses.

Mr. YOUNG, of Tennessee. I hope the gentleman will allow the amendment to stand as it is; it is now in proper form. I have had occasion to investigate very closely, and to become thoroughly informed in reference to the matter to which the gentleman's amendment applies. On the Mississippi River, from Cairo to New Orleans, in the season of high water, that is, from the 1st of December to the 1st of July, there is scarcely ever a snag seen unless it is a floating one. The snag-boats heretofore employed on the Mississippi, on the Arkansas, and on the Red River have prosecuted their work in the winter months. On the Arkansas River, for forty miles above its junction with the Mississippi River, and on the Mississippi from Cairo to New Orleans, at the beginning of the warm weather, or the sickly season, as it is known in the South, the snag-boats stop operations; they anchor at Cairo and remain until the winter months. It has been a subject of complaint among river men on all these rivers for more than twenty-five years that the snag-boats operated by the Government have not removed on an average one snag a month, for the very reason that at the season of the year when they are prosecuting this work there are no snags to be seen in any of these rivers.

The gentleman from Iowa [Mr. UPDEGRAFF] is mistaken if he supposes that snag-boats are not able to navigate the Arkansas River at almost any season of the year. It is very rare—and I appeal to gentlemen representing that district—it is very rare, I think, that steamboats do not run as high as Little Rock. Whenever an ordinary steamer can navigate that river snag-boats can operate. But under the present system, these boats are a fraud and a delusion. They are utterly useless; and not a dollar ought to be appropriated for this purpose unless the snag-boats are required to prosecute this work at a low state of water. Every gentleman in this House familiar with these rivers knows the truth of what I state. Unless this amendment or some similar provision be adopted, I hope the House will strike out the appropriation altogether.

Mr. MARSH. I rise to oppose the amendment of the gentleman from Louisiana, limiting the engineers in their work to the period from the 1st of July to the 1st of December.

Mr. YOUNG, of Tennessee. The gentleman will pardon me a moment; I was not quite through. I intended to move as a substitute for the amendment of the gentleman from Louisiana a proposition which will obviate the objection of the gentleman from Illinois, [Mr. MARSH,] an objection which had already occurred to me.

Mr. MARSH. In some years the Mississippi above Cairo is at a low stage of water in the month of March, and these snag-boats can at that time be at work.

Mr. YOUNG, of Tennessee. I desire to offer this as a substitute for the amendment of the gentleman from Louisiana.

The CHAIRMAN. Does the gentleman yield the floor?

Mr. MARSH. I do.

The Clerk read as follows:

And the work herein provided for shall be prosecuted at all seasons of the year, and especially between the 1st day of July and the 1st day of November each year.

Mr. KING. I have no objection to that as a modification of my amendment.

Mr. MARSH. There should be added, "subject to the discretion of the engineers."

The committee divided; and there were—ayes 49, noes 29.

So the amendment was agreed to.

Mr. MARSH. I move, in line 296, after the word "construction," to insert "$349,000," and I make that motion, although a similar one has been just voted down by the committee. I make it in view of the terrific deposits of snow made this winter along the upper watercourses of the Mississippi River. Everybody who is familiar with that stream is apprehensive, owing to these immense falls of snow, of an immense flood in that river during the coming season. If there shall be such a flood, the higher it may be and more prolonged it may be in that upper river, then the more snags will be washed into the channel, and the more labor and consequently the more money will be required to keep it clear. While, during the ordinary season of the year and under an ordinary rise of water, the present appropriation of $150,000 might be sufficient, yet the engineers have recommended that $350,000 ought to be appropriated. And, in view of the danger of an unusual overflow of that river during the coming spring, this Congress ought not to fail to make ample appropriation to keep the channel of that great water-way clear from obstructions which may be washed there by reason of the coming flood. And, sir, it is for that reason, in the face of the vote of the House given a few moments ago, that I offer this amendment, and I offer it in good faith.

And right here let me say that I hope the statements which have been printed in the public press during the last few days are not true, to the effect that there are a number of men in this House who have signed a paper agreeing there shall be no amendment, however meritorious, to this bill as it has been reported from the Committee on Commerce. If that be the determination of members of the House, to oppose amendments whether meritorious or not, I, as a man who has always been in favor of river and harbor appropriations, say to them they may have trouble in getting this bill through this House during this Congress.

Mr. HENDERSON. I think they have already had a good deal of trouble. [Laughter.]

Mr. RUSSELL, of Massachusetts. As the gentleman has suggested that signatures to a paper have been obtained of gentlemen of this House agreeing to support this bill and to prevent any amendment being made to it——

Mr. MARSH. Will the gentleman allow me?

Mr. RUSSELL, of Massachusetts. Certainly.

Mr. MARSH. I stated that that statement has been circulated in the public press all over the country.

Mr. RUSSELL, of Massachusetts. I deny the truth of any such statement and I defy the gentleman or any other gentleman to produce a paper or to produce a gentleman who says he signed any such paper.

Mr. MARSH. I say in addition, if the gentleman will permit me, while I have made no such charge that such is the case, nevertheless I have seen the statement published broadcast in the papers of the country, and the action of this House is calculated by voting down every amendment offered to the bill, meritorious or otherwise, to give color to the truth of such statement.

Mr. RUSSELL, of Massachusetts. I deny any such paper is in existence or that any member of this House has signed any such paper.

Mr. VAN VOORHIS. If there had been such a paper signed as stated the action of gentlemen on this floor could not have been different from what it is in voting down every amendment offered.

The CHAIRMAN. The gentleman's amendment does not propose to strike out any words, but merely proposes to insert.

Mr. MARSH. Yes; I move to strike out "$150,000" and insert "$349,000."

The CHAIRMAN. The Chair supposed such was the gentleman's intention.

Mr. MARSH. And I do it in the interest of the navigation of a river now threatened with an impending overflow.

The amendment was disagreed to.

Mr. UPDEGRAFF, of Iowa. We have passed now the region of harbors and got into the region of rivers, and I ask to offer a general amendment which I ask the Clerk to read.

The Clerk read as follows:

In line 300, after the word "river," insert:

"*Provided*, That no money appropriated by this act shall be expended in the improvement of any stream, creek, rivulet, dam, lock, or modified mill-dam, notwithstanding the same may be designated and appropriated for by name herein, which is not within the admiralty and maritime jurisdiction of the United States."

Now, Mr. Chairman, it seems there ought to be a line drawn somewhere.

A MEMBER. We have heard that already.

Mr. UPDEGRAFF, of Iowa. Yes, and you will hear it oftener. There is at some point between the Atlantic Ocean and a dew-drop a place where it is proper to appropriate money and a place where it is not proper to appropriate money. I have endeavored all through this discussion to ascertain upon what principle this bill is based. Where are the limits? Where do appropriations properly stop? Where do they properly begin?

Now, I suggest that it be limited to those places which are within the admiralty and maritime jurisdiction of the United States. I understand that to be the opinion of the committee. The gentleman from Massachusetts, speaking the other day I suppose for the committee—he being a member of the committee, and who feels authorized to deny the existence of any written agreement here to stand by this bill intact—says this is the principle upon which the bill is drawn. If that be true, then I suggest that it will not be a violation of such

pledge, if it exists, to permit the insertion of this principle in the bill. The gentleman says in his speech—

A sufficient answer to this suggestion—

What suggestion is not made known—

is in the fact that the navigable rivers belong to and are under the control of the United States.

If this is the opinion of the committee, then let this amendment be incorporated in the bill. If it is not the opinion of the committee, then let the gentleman from Massachusetts retract his statement. At least let it go upon the record that the members of the Committee on Commerce are seeking to induce the passage of the bill by pretensions which they are not willing to stand up to and incorporate in it.

Mr. RUSSELL, of Massachusetts. I will only say in response to the gentleman that if that be the law of the land it will take care of itself and does not need the gentleman's amendment. Gentlemen are endeavoring to pile amendment upon amendment to satisfy their own personal pleasure, while we have a law here defining that matter clearly.

The CHAIRMAN. The question is on the amendment of the gentleman from Iowa.

The House divided; and there were—ayes 14, noes 68.

Mr. UPDEGRAFF, of Iowa. I do not want to obstruct public business but I do want an expression of opinion on the part of the committee upon this amendment; and I therefore ask for tellers.

The CHAIRMAN. No quorum having voted the Chair will appoint tellers.

Mr. UPDEGRAFF, of Iowa, and Mr. WILSON were appointed.

The House again divided; and the tellers reported—ayes 36, noes 82.

So (no further count being demanded) the amendment was not agreed to.

The Clerk read as follows:

Improving Connecticut River, below Hartford, Connecticut, $30,000.

Mr. PHELPS. I offer an amendment to that paragraph.

The Clerk read as follows:

Add at the end of line 308 "of which sum $10,000 shall be used to continue the work in progress on the bar at the mouth of the river, and $3,000 in dredging the channel below Rocky Hill."

Mr. REAGAN. I understand that there is no objection to the insertion of that amendment in the bill.

The amendment was agreed to.

The Clerk read as follows:

Improving Hudson River, New York, $15,000.

Mr. FORT. Mr. Chairman, I offer an amendment to this paragraph.

The Clerk read as follows:

Insert as a new paragraph after the word "dollars," in line 320, the following: "The Secretary of War is hereby directed to open negotiations with the State of New York with a view to ascertain whether that State would consent to enlarge the Erie Canal, so as to fully accommodate commerce and admit the use of steam vessels, and thus cheapen transportation; and in case said State does not propose to so enlarge said canal, then to ascertain on what terms it would cede said canal to the United States, or consent to its enlargement."

Mr. REAGAN. I make the point of order upon that amendment.

Mr. FORT. I do not expect the amendment to pass, but I hope the gentleman will withhold the point of order for a moment, as I have only a word to say upon it.

Mr. REAGAN. It might be a proper subject for a special bill, but it certainly is not appropriate to insert it in this bill. However, I will reserve the point of order upon it.

The CHAIRMAN. The gentleman from Illinois will proceed.

Mr. FORT. Mr. Chairman, I desire to say in reference to this matter that more commerce now floats through the Erie Canal than on all the rivers, creeks, bays, or bayous mentioned in this bill; and yet there is no appropriation for the improvement of that canal because it would not be proper to make an appropriation for that purpose. Almost the entire western country and the southwestern country are more interested in the improvement and enlargement of the Erie Canal than in any other enterprise, or in all other enterprises connected with water transportation of this country.

I make no complaint against the State of New York. She did well in first constructing the canal. It was a profitable enterprise for that State, and a profitable enterprise for the country. It has proved of immense value to the great western country, and to the eastern country also. The State of New York very properly, at one time, enlarged that canal. Originally its locks were only fourteen feet wide, I am informed, but the necessities of commerce demanded they should be enlarged, and the State subsequently enlarged the locks to a width of eighteen feet, a very considerable enlargement. But to-day the demands of commerce require that these locks shall be forty or fifty feet wide and two hundred feet—yes, and even larger—they ought to be seventy-five by four hundred, so that a propeller loaded in Chicago or other port on the lakes with 100,000 bushels of grain or other freight could pass through to New York City, and so that a whole fleet of small canal-boats of the present size could be locked through at one time.

I understand large locks could be added and leave the present locks to be used also. This canal should be so wide and so deep that the present mule-power could be superseded by steam-power for towage upon it. All this is even now demanded by the necessities of commerce, and more than this, will soon be a necessity for the western country. The broad, rich West has only just begun to send forward her millions and millions of tons of produce, and is just beginning to require the products of the East, all of which must pass through that canal. This amendment can do no harm. It only provides for procuring information. It involves no present expenditure. It may be only the beginning of what in the end might terminate in the enlargement of that canal either by the State of New York or by aid from the General Government, and make it what it ought to be, equal to the emergencies of commerce and the demands and necessities of a vast and growing trade between the East and the West. No gentleman can complain. Not a dollar is expended by this amendment. Nothing but information which may be of great importance is sought. Certainly no objection can be made by any member on this floor to this proposition, for the reason, as I have stated, that it is in the interest of the commerce of the country that this canal should be enlarged.

[Here the hammer fell.]

The CHAIRMAN. The amendment proposed by the gentleman from Illinois looks to the acquisition by the United States by purchase or otherwise of the Erie Canal, and is not germane to this bill. The Chair sustains the point of order.

Mr. FORT. Was the point of order insisted on?

The CHAIRMAN. It was.

Mr. FORT. Do I understand the chairman of the Committee on Commerce insists on the point of order against the amendment?

Mr. REAGAN. Yes, sir. The gentleman will understand that all matters about canals go to a different committee.

Mr. FORT. There are appropriations for canals in this bill. [Cries of "Regular order!"] As has just been stated by the gentleman from Massachusetts, [Mr. RUSSELL,] there are $500,000 appropriated for canals in this bill.

The CHAIRMAN. The Chair presumes the canals appropriated for in this bill belong to the Government; and this is a proposition to acquire by purchase or otherwise a canal belonging to the State of New York.

Mr. FORT. This is a proposition to connect the great navigable inland seas with a navigable river—Hudson River—and thus with the ocean; and it does seem to me when there can be no possible objection to such a proposition, the chairman of the Committee on Commerce will not insist on his point of order if it be admitted it is a good one.

Mr. REAGAN. I appreciate the great purpose the gentleman from Illinois has in view in offering his amendment; but he will remember such canals as the Des Moines Rapids Canal and the Portland Canal are so placed as to tide over interruptions in the rivers. Any question as to the construction of a canal, or such a question as that presented by the gentleman from Illinois, involving, as I take it, the purchase of a canal, would have to go to the Committee on Railways and Canals.

Mr. FORT. This only tides over the interruption between the great lakes and the Hudson River. I do not see why the gentleman from Texas should object.

Mr. BRAGG. Am I not correct in understanding that the Chair has ruled that amendment out of order?

The CHAIRMAN. The Chair did so; but the Chair permitted the gentleman from Illinois to appeal to the gentleman from Texas to withdraw the point of order.

The Clerk read the following:

Improving Cheesequake's Creek, New Jersey, $5,000.

Mr. TOWNSHEND, of Illinois. I ask my friend from Iowa [Mr. UPDEGRAFF] if he can inform the committee where Cheesequake's Creek is? I fail to find it in any gazetteer or on any map.

Mr. UPDEGRAFF, of Iowa. I cannot find Cheesequake's Creek without a telescope, except in the engineer's report. [Laughter.]

The CHAIRMAN. Does the gentleman from Iowa send up an amendment?

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph. I wish to read an extract or two from the reports of injudicious friends in regard to Cheesequake's Creek:

Cheesequake's Creek is in the collection district of Amboy, and Perth Amboy is the nearest port of entry. The amount of revenue collected is $21,499.50. The amount of commerce to be benefited by it is ——.

The creek is bounded by salt-marsh its whole length, occasionally coming near the firm land in some of its bends. The drainage area is small, and there are no large fresh-water streams running into it, the largest being Buck Creek, which joins it a little above the railroad bridge.

The principal and nearly the only navigation of the creek is for the purpose of transporting clay for making stone-ware and molding-sand. A large proportion of this shipment is from the head of the creek, where there are several clay pits; and at the point called Salt Works and also at Forman's Dock there are clay pits being actively worked at present.

Another person says in a letter indorsed by the engineer:

Answering your favor of the 13th instant, the commerce of Cheesequake's Creek consists principally of clay and sand from the banks of Messrs. Forman, Whitehead Brothers, and myself. [Laughter.]

I have also a new brick-yard just opened and two more and a glass factory talked of being established on the creek, [laughter,] the latter improvements being made contingent, however, as I understand, on the improvements contemplated or planned by your office.

It is intended as soon as business revives to again commence the manufacture of brick. Parties are negotiating for a site to build a large glass-works on the creek and railroad.

I am reminded in connection with this appropriation and some

others of an old story about Davy Crockett, according to which it appears he was able with one coon-skin to do all his treating on election day. In a rude grocery with a counter built upon poles, a coon-skin being a legal tender, he would treat his friends with one coon-skin. After he had given one treat the bartender would draw the coon-skin under the counter; and when Davy wanted to treat again he would draw it back through the poles and treat again, and so do all his treating for election day. [Laughter.] So with this port of entry collecting $21,000. I find the amount reported differently in two places. In one place the amount collected is stated as $5,000 and in another as $21,000. You pay your money and you take your choice. [Laughter.] I take the amount at $21,000; and I find there are five or six appropriations here, for which the revenue at this port of entry collecting $21,000 is cited as the basis upon which these appropriations should be granted, and $191,000 is the aggregate amount. Here are some of them: South River, New Jersey, $6,000; Cheesequake's Creek, New Jersey, $5,000; Rahway, New Jersey, $10,000; Shrewsbury River, New Jersey, $86,000 for that alone.

Mr. TOWNSHEND, of Illinois. I wish to ask the gentleman if the Cheesequake's Creek empties into the Shrewsbury?

Mr. UPDEGRAFF of Iowa. No; but it is in the same $21,000 district. The Raritan River gets $25,000. If anybody will take the trouble to look through the Engineer's report, at pages 517, 519, 524, 542, 546, 547, &c., he will find that every one of those pages contain an estimate for an appropriation varying from $5,000 to $80,000; and this $21,000 revenue collected in this district is urged as the basis for all those appropriations. Now, if that is not equal to Davy Crockett's coon-skin I do not know what is.

Mr. ROSS. I do not propose to waste any of the time of this committee by replying to the remarks of the gentleman from Iowa, except so far as to have read by the Clerk some communications which I send to the desk.

Mr. WHITE. Let them be printed in the RECORD.

Mr. TOWNSHEND, of Illinois. Let them be read.

The Clerk read as follows:

UNITED STATES ENGINEER OFFICE,
*New York, March* 11, 1880.

DEAR SIR: I showed the inclosed to General Newton, and he said that it would be best now for you to send it directly to Mr. ROSS, so I return it to you.

Yours, respectfully,

R. H. TALCOTT,
*Assistant Engineer.*

T. W. MOORE, Esq., 36 *Elizabeth Street, City.*

*Present commercial statistics of Cheesequake's Creek.*

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|---|---|
| Sand, 40,000 tons, at $2 | $80,000 |
| Pottery-clay, 18,000 tons, at $3 | 54,000 |
| Hay, 4,000 tons, at $12 | 48,000 |
| Sage for the manufacture of paper, 1,500 tons, at $3 | 4,500 |
| Fertilizers, 37,500 tons, at $2 | 75,000 |
| Wood, 1,000 cords, at $4 | 4,000 |
| Ashes, 10,000 bushels, at 12 cents | 1,200 |
| Lime, 5,000 bushels, at 20 cents | 1,000 |
| Oysters, 2,300 bushels, $1 | 2,300 |
| Farm products | 300,000 |
| General merchandise | 100,000 |
| Total | 670,000 |

There are on the creek three brick-yards, five clay-pits, ten docks, and one railway.

Five hundred and fifty-one sloops, schooners, &c., 44,000 tons, passed through the railroad draw at high tide during the past season.

Three-quarters of the pottery-clay used in the United States and Canada is taken from this creek, although it is now necessary to lighter a large portion of it at great expense.

Not over one-quarter of the beds are yet developed.

Before the bar obstructed navigation steamboats ran up to Jacksonville and the head of the creek, bringing out regularly full freights of produce, fruits, &c.

Long lines of farm-wagons waited their turn to discharge at the docks.

There are now five times as many truck farms as then, the products of which are driven from six to twenty miles to Keyport over often very bad roads, which very much reduces the profits.

A rich country extending twenty miles inland would be brought in communication with the New York markets by this improvement and increased in value at least 100 per cent.

Mr. VAN VOORHIS. What paper is that which has just been read? I did not hear what it was.

The CHAIRMAN. If the gentleman did not hear it read——

Mr. VAN VOORHIS. I heard it read; but I do not know who authorized it.

The CHAIRMAN. It was read as a portion of the remarks of the gentleman from New Jersey, [Mr. ROSS.]

Mr. VAN VOORHIS. It is not in any report of an engineer.

The question was taken upon the motion of Mr. UPDEGRAFF, of Iowa, to strike out the pending paragraph; and upon a division there were—ayes 15, noes 102.

Mr. UPDEGRAFF, of Iowa. No quorum has voted. I want a quorum to vote on making this appropriation for Cheesequake's Creek.

Tellers were ordered; and Mr. UPDEGRAFF, of Iowa, and Mr. WILSON were appointed.

The committee again divided; and the tellers reported that there were—ayes 12, noes 135.

So the motion to strike out was not agreed to.

The Clerk read the following:

Improving Cohansey Creek, New Jersey, $7,000.

Mr. VAN VOORHIS. I move to strike out that paragraph. I have been looking over the engineer's report and I find that this is a little, short, tidal stream about four feet deep. But it seems to be sufficient to furnish a pretext for New Jersey, following the example of West Virginia and of Texas, to secure a few thousand dollars for every little mud-hole that can be discovered in that State.

Mr. CONGER. I think there is a very great misunderstanding in regard to the kind of navigable waters of the United States which it is proper for Congress to improve. I do not know anything in our law or practice that confines improvement of navigable waters to the great lakes, the great rivers, and the great channels of commerce. The whole commerce of our land is gathered from the places where the products are found, and carried by rail, by wagon, by boat down the smaller streams to the larger ones, and the commerce of the country is gathered together more or less at places on the larger streams and floated down to the lakes and finally to the ocean.

I did not, however, rise to comment upon that subject, but to say to this House that Congress has determined what kinds of waters are the channels of commerce, and has many times reiterated that determination in the solemn form of law. In looking for an expression of the opinion of Congress on that subject, I find that in 1871, when Congress passed a law in relation to navigation, to steamboats and vessels, and the security of life on such steamboats and vessels, Congress solemnly declared over what kinds of waters should be extended the laws of the United States relating to all questions of commerce, navigation, and the security of life. It is a short, simple, comprehensive, conclusive statement.

In February, 1871, Congress made that declaration of the kinds of waters over which these laws should extend. When Congress passed the compilation of the laws of the United States after mature and careful consideration it re-enacted that provision, and I desire to read it.

I will first state that when Congress had determined over what kinds of waters the laws of the United States regulating steamboats, vessels, and other craft should be exerted, it thereby determined what kinds of waters the commerce of the United States floated upon, and what kinds of waters it was proper to appropriate money for. In 1871 Congress passed an act to provide for the better security of life on board vessels plying on the navigable waters of the United States. In that act it declared that it should apply to "all lakes, bays, inlets, sounds, rivers, harbors, or other navigable waters of the United States, when such waters are common highways of commerce, or open to general or competitive navigation."

Now, that definition is as clear and conclusive as the Committee on Commerce at that time, after spending hours in trying to frame a definition, with the assistance of the head of the Treasury Department and with the aid of many other persons who were called in—there is the definition as clear as the Committee on Commerce could frame it; the one they presented to the House and which has been the law of the land ever since.

When the laws of the United States were compiled, years later, after reviewing the whole subject, and endeavoring to put in the best possible shape a definition of the navigable waters of the United States, Congress enacted this proposition:

Any waters of the United States which are common highways of commerce or open to general or competitive navigation.

[Here the hammer fell.]

Mr. ROBESON obtained the floor and said: I only want three minutes. I give two to my friend from Michigan, [Mr. CONGER.]

Mr. CONGER. I refer to this section of the Revised Statutes in order that every gentleman may see how careful is the definition of waters recognized as waters for commerce and navigation under the laws of the United States. I say that under the definition I have read, solemnly enacted and repeated, all the waters of the United States open to commerce or open to competitive navigation are navigable waters of the United States. The definition is clear and distinct. If there be a river so small that it is owned by a company it is not navigable water, and does not come under the operation of this law, but if the vessels navigating it are subject to these laws of the United States, then Congress has power to improve it; and whether the improvement shall be made is a matter of judgment or discretion.

Now as to the definition of navigable waters under the English common law. It happened that there was no navigable stream of Great Britain that was not a tide-water stream. Hence the navigability of a stream was made to depend in the common law upon whether it was a tide-water stream. That would exclude the Mississippi, the Ohio, all the great lakes, all the great inland rivers of the United States. But our courts have extended admirality jurisdiction over the lakes, contrary to the common-law doctrine, because although not tide-waters, they are in effect the great navigable waters of the United States.

The definition of our courts has, I think, been made in a very precise form in regard to what kinds of waters are public waters of the United States; and I call the attention of gentlemen on both sides to this definition: All streams capable in their natural state, at any season of the year, of valuable floatage, are public highways, subject to the easement and rights of the public thereon.

Those are the definitions adopted in our laws, and sanctioned by our courts; and when any of these streams over which our navigation laws extend are presented in the discretion of the Committee on Commerce for improvement, so as to make these streams capable of more valuable floatage, if in the judgment of this House they be such trib-

utaries to commerce as to warrant the appropriation proposed, I think all this talk about large streams and small streams as a means of prejudicing appropriations are an attack on the commerce and navigation of this whole great land of ours. [Applause.]

The CHAIRMAN. The gentleman from New Jersey [Mr. ROBESON] has only one minute remaining.

Mr. ROBESON. I only want one minute. Cohansey River is in my district.

Mr. TOWNSHEND, of Illinois. Cohansey Creek, not river.

Mr. ROBESON. We call it "river" down in New Jersey.

Mr. TOWNSHEND, of Illinois. The committee calls it "creek."

Mr. ROBESON. Mr. Chairman, I am not a member of the Committee on Commerce. The appropriations for the Cohansey River and for Salem River, making together $10,000, are all that I have received in this bill for my district. I think I have deserved as much as that.

Now, the reason why this appropriation ought to be made is that Cohansey River is a direct tributary of the Delaware. For one hundred and ten miles the Delaware flows alongside my district, bearing to the ocean a commerce second only to that of the Mississippi and the Hudson. The Cohansey is one of the tributaries of the Delaware. Nature has made our country down there "stale, flat," and unproductive.

A MEMBER. Unprofitable.

Mr. ROBESON. But our people rise above the dull level of the country. [Laughter.] Because of the character of the country, many of our towns do not lie directly on the banks of the river, but are seated four or five miles back from it, beyond the sand spits and salt marshes which lie upon its immediate borders. Therefore we need that these tributary streams should be dredged out to facilitate the commerce of a great State.

[Here the hammer fell.]

Mr. COX. Mr. Chairman, never in my life have I heard an argument for the payment of money by the American Congress like that which has been made by my friend from Michigan, [Mr. CONGER,] supplemented by the wonderful argument of the gentlemam from New Jersey, [Mr. ROBESON.] In response to the gentleman from Michigan, I say that because our statute law or our Federal judges have declared what are the waters of the United States for purposes of navigation it does not follow that we must necessarily appropriate money for all the objects that may be cooked up by a committee. Must we appropriate here, Mr. Chairman, for all the "valuable floatage" upon waters which are "public highways" by the decision of some court? Must we appropriate for rivers and streams which have never been heard of because they happen to run in the district of my friend from New Jersey? What is the name of the river he champions here?

A MEMBER. It is a creek.

Another MEMBER. Cohansey Creek.

Mr. COX. Cohansey! Whoever heard of Cohansey before? When was it ever before crystallized into eloquence? Why, here is Cohansey in the Gazetteer:

Cohansey, a post-office in Cumberland County, New Jersey.

What have we to do with "post-offices" in an appropriation bill of this kind? Does the gentleman want a one-horse mail run there by water navigation? [Laughter.] Cohansey! Mr. Chairman, this bill is nearly played out and is running emptyings. [Laughter.]

Mr. ROBESON. So I think.

Mr. COX. The gentleman is entitled to think so after his speech, for he said New Jersey had failed in many natural advantages, stale, flat, and unprofitable, except in men.

Mr. ROBESON. I said unproductive, and when I said that I remembered the gentleman derived his lineage from that State.

Mr. COX. But I never was a very productive person. [Laughter.] What has not my friend done for the Government of the United States? Just think of it! Here is a statesman who served with Grant. His mind expanded beyond the ordinary rivers in our States and beyond our harbors. He had the whole, universal marine element in his command, and then he comes down here to the little creek of Cohansey. [Laughter.] He sent out his navies irrespective of law—I was about to say, and of morality, but I will not say that since he has been elected to Congress. [Laughter.] He has gone all around our star, floating our flag everywhere. Now he comes down and asks for a little appropriation for a creek in New Jersey called Cohansey. [Laughter.] Great God! have we not run emptyings to come down to Cohansey? [Great laughter.]

[Here the hammer fell.]

Mr. CONGER. Mr. Chairman, I will not pause to notice the swallows floating on the bosom of the stream or nesting in the trees, but come right down to the point at issue in this discussion. I desire to continue what I had to say and which time prevented me from saying in my previous five minutes. I will read for the benefit of the gentleman the decision of the United States Supreme Court in 10 Wallace, 363, defining the meaning of the law which I have heretofore read in my remarks:

A different test must therefore be applied to determine the navigability of our rivers and that is found in their navigable capacity. Those rivers must be regarded as public navigable rivers in law which are navigable in fact, and they are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition as highways for commerce over which trade and travel are, or may be, conducted in the customary modes of trade and travel on water. And they constitute navigable waters within the meaning of the act of Congress in contradistinction from the navigable waters of a State when they form in their ordinary condition by themselves or by uniting with other waters a continued highway over which commerce is, or may be, carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water.

Now, sir, the question of a stream being within a State, or lying on the borders of a State, is entirely different and separate from entering or running through many States. The United States courts, which I take it have some authority here, decide against any such question, and declare that all these rivers and streams which are capable, in the language which I have used, of valuable floatage of trade, of commerce upon them, if they, by their continuance, flow into other rivers, and they into others and those to the sea are navigable waters within the meaning of the law of the United States.

The term "valuable floatage" is sufficient to cover all that is valuable in commerce. You may restrict it down to the flat-boats or you may enlarge it if you will to the greatest steamer which ever floated on our waters. All is valuable. That is the definition. Now, sir, I think the law is with the Committee on Commerce. I think the streams on which it is proposed to make the improvements come within the definition of the statute and is confirmed by the highest authority in our land. Therefore I think it is perfectly proper there should be given these appropriations to the improvement of these thousand arteries of commerce reaching up into the interior of our land and making the means of traffic and trade to the sea and out into the markets of the world.

[Here the hammer fell.]

Mr. REAGAN. If it is not the wish of the committee to vote on this pending amendment I will then move the committee rise. I will not, however, make that motion if it is the desire of the committee to vote. [Cries of "Vote!" "Vote!"]

Mr. UPDEGRAFF, of Iowa. Is there an amendment pending?

The CHAIRMAN. There is.

Mr. UPDEGRAFF, of Iowa. It is not in order to rise while an amendment is pending.

The CHAIRMAN. It is; but not to rise and report the bill.

Mr. UPDEGRAFF, of Iowa. I desire to offer as a substitute for the pending amendment the following:

No money appropriated herein shall be expended on any stream which does not come within the definition of navigability as made by the laws of the United States.

Mr. REAGAN. I move the committee rise to close debate on this section and amendments thereto.

Mr. UPDEGRAFF, of Iowa. I want to say a few words.

The CHAIRMAN. The question is on the motion of the gentleman from Texas that the committee rise.

Mr. UPDEGRAFF, of Iowa. Have I not the floor?

The CHAIRMAN. The Chair recognized the gentleman from Texas and he made the motion that the committee rise, and yielded to the gentleman from Iowa for a moment, saying that if anything should be offered which would produce debate he would insist upon the motion that the committee rise.

Mr. UPDEGRAFF, of Iowa. I wish to say a few words in regard to that amendment. [Cries of "Vote!" "Vote!"] I do not think time will be saved by that kind of conduct. [Cries of "Regular order!"]

The CHAIRMAN. The Chair understands the gentleman from Texas as willing to yield to the request of the gentleman from Iowa.

Mr. REAGAN. If it will close debate I will yield.

Mr. UPDEGRAFF, of Iowa. I am willing to close debate if this is allowed.

The CHAIRMAN. That, then, is so understood.

Mr. UPDEGRAFF, of Iowa. I desire to say, then, Mr. Chairman, that I am glad the attention of the House and the country is called to this subject. I am glad that the attention particularly of the great lawyers of this House is directed to this question. Every man in this country knows that every dollar of this appropriation ought to be confined to the navigable streams. I make no issue with gentlemen who have sought to define the navigability of waters. We might perhaps not agree entirely upon that point in the narrow limits of this debate. But that question has been settled by law and I am content to accept the gentleman's suggestion or implied suggestion to amend the bill so that the expenditure of this money shall be confined, as we deem it ought to be confined and as every man knows that it should be confined, to the navigable waters and none others. Now, I offer this as a substitute which I think can meet with no objection. It will commend itself to everybody; we can all agree upon it. If the definition is as the gentleman says it is, then I think we will all agree that this appropriation should be confined to the navigable streams, and with that view and accepting his suggestion I seek and hope to incorporate this in the bill. It has been urged here in behalf of the Committee on Commerce, and also urged as a reason why this bill should pass, that they have confined appropriations to streams navigable under the laws of the United States. That being so, then I ask how in the name of good faith can they refuse to incorporate this provision in the bill which they say to the country is there now? If it is there now it can do no harm to put it in expressly as I desire.

The CHAIRMAN. The question is on the adoption of the amendment of the gentleman from Iowa as a substitute.

Mr. MARSH. Let it be again read.

The amendment was again reported.

The House divided; and there were—ayes 67, noes 91.

Mr. UPDEGRAFF, of Iowa, demanded tellers.

Tellers were not ordered, eight members only voting in favor thereof.

So the amendment was not agreed to.

The CHAIRMAN. The question is on the adoption of the amendment proposed by the gentleman from New York.

Mr. COX. I move to strike out the last word, not for the purpose of debating this question, but simply to ask leave to print some extracts from the messages of democratic Presidents, which show the nature and character of their opposition to this bill.

There was no objection.

The extracts are as follows:

President Polk, in his veto of the river and harbor bill in 1846, goes on to say:

Should this bill become a law, the same principle which authorizes the appropriations which it proposes to make would also authorize similar appropriations for the improvement of all the other bays, inlets, and creeks which may with equal propriety be called harbors, and of all the rivers, important or unimportant, in every part of the Union. To sanction the bill with such provisions would be to concede the principle that the Federal Government possesses the power to expend the public money in a general system of internal improvements, limited in its extent only by the ever-varying discretion of successive Congresses and successive Executives. It would be to efface and remove the limitations and restrictions of power which the Constitution has wisely provided, to limit the authority and action of the Federal Government to a few well-defined and specified objects. Besides these objections, the practical evils which must flow from the exercise on the part of the Federal Government of the powers asserted in this bill impress my mind with a grave sense of my duty to avert them from the country as far as my constitutional action may enable me to do so.

It not only leads to a consolidation of power in the Federal Government, at the expense of the rightful authority of the States, but its inevitable tendency is to embrace objects for the expenditure of the public money which are local in their character, benefiting but few at the expense of the common Treasury of the whole. It will engender sectional feelings and prejudices calculated to disturb the harmony of the Union. It will destroy the harmony which should prevail in our legislative councils.

It will produce combinations of local and sectional interests, strong enough, when united, to carry propositions for appropriations of public money which could not of themselves, and standing alone, succeed, and cannot fail to lead to wasteful and extravagant expenditures.

It must produce a disreputable scramble for the public money by the conflict which is inseparable from such a system between local and individual interests and the general interest of the whole. It is unjust to those States which have with their own means constructed their own internal improvements to make from the common Treasury appropriations for similar improvements in other States.

In its operation it will be oppressive and unjust toward those States whose representatives and people either deny or doubt the existence of the power, or think its exercise inexpedient, and who, while they equally contribute to the Treasury, cannot consistently with their opinions engage in the general competition for a share of the public money. Thus a large portion of the Union in numbers and in geographical extent, contributing its equal proportion of taxes to the support of the Government, would, under the operation of such a system, be compelled to see the national treasure—the common stock of all—unequally disbursed and often improvidently wasted, for the advantage of small sections, instead of being applied to the great national purposes in which all have a common interest, and for which alone the power to collect the revenue was given.

* * * * * * *

The wisdom of the framers of the Constitution in withholding power over such objects from the Federal Government and leaving them to the local government of the States, becomes more and more manifest with every year's experience of the operations of our system.

Mr. Pierce, in his internal improvement message in 1854, says:

It is a remarkable fact, that for a period of more than thirty years after the adoption of the Constitution all appropriations of this class were confined, with scarcely an apparent exception, to the construction of light-houses, beacons, buoys, and public piers, and the stakage of channels; to render navigation "safe and easy," it is true, but only by indicating to the navigator obstacles in his way, not by removing those obstacles, nor in any other respect changing artificially the pre-existing natural condition of the earth and sea. It is obvious, however, that works of art for the removal of natural impediments to navigation, or to prevent their formation or for supplying harbors where these do not exist, are also means of rendering navigation safe and easy, and may in supposable cases be the most efficient as well as the most economical of such means. Nevertheless, it is not until the year 1824, that in an act to improve the navigation of the rivers Ohio and Mississippi, and in another act making appropriations for deepening the channel leading into the harbor of Presque Isle, on Lake Erie, and for repairing Plymouth Beach in Massachusetts Bay, we have any example of an appropriation for the improvement of harbors in the nature of those provided for in the bill returned by me to the House of Representatives.

* * * * * * *

One other peculiarity in this course of legislation is not less remarkable. It is that when the General Government first took charge of light-houses and beacons it required the works themselves and the lands on which they were situated to be ceded to the United States. And although for a time this precaution was neglected in the case of new works, in the sequel it was provided by general laws that no light-house should be constructed on any site previous to the jurisdiction over the same being ceded to the United States.

The question being taken on the motion of Mr. COX, it was not agreed to.

The Clerk read the following:

Improving South River, New Jersey, $6,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out this paragraph.

This South River, New Jersey, is one of the coon-skin creeks. The length of the stream is given here in the report of the engineer as six miles. I do not wish to read much from the report. I will read only a single sentence, and then I am through.

It is proposed—

The engineer says—I read from page 520—

It is proposed to obtain six feet at mean low-water from the village up to Bisset's brickyard.

That is the object of this appropriation; to obtain a six-foot channel from the village up to Bisset's brickyard. That is all. [Laughter.]

The amendment was not agreed to.

The Clerk read the following:

Improving Broad Kiln River, Delaware, $5,000.

Mr. EINSTEIN. I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert after the paragraph just read the following:

"*Provided*, That no appropriation shall be made for improvements local to any State that has repudiated the payment of interest on its interest-bearing indebtedness or has refused to recognize the validity of any bonds it has issued."

Mr. WARNER. Is that aimed at the State of Minnesota?

Mr. REAGAN. I make the point of order on that amendment.

The CHAIRMAN. Will the gentleman from Texas state the grounds on which he makes the point of order?

Mr. REAGAN. I make the point of order on the ground that the amendment attempts to regulate a subject unconnected with rivers and harbors; that it prescribes a rule that shall affect the action of States with reference to their debts.

The CHAIRMAN. Is not that a question for the committee to determine, whether it has power to do that or not, and not a question for the Chair?

Mr. BLAND. It is not germane.

Mr. REAGAN. It seems to me, Mr. Chairman, that an amendment can hardly be considered germane to the bill which provides a regulation to govern the conduct of a State with reference to its indebtedness and to determine whether it shall have benefits by the payment or non-payment of its indebtedness. That is a subject entirely foreign to this bill.

The CHAIRMAN. It relates, however, to the expenditure under this bill, and the committee has power to regulate that. Of course it would not regulate the action of a State because a State could still persist in any policy it saw proper to adopt. But the object is to prevent the expenditure of money in a State which pursues a certain line of policy; and that is a question, the Chair thinks, for the committee and not for the Chair to determine.

Mr. REAGAN. Very well.

Mr. MARTIN, of Delaware. I would like to ask the gentleman from New York to what State he makes reference in his amendment?

Mr. EINSTEIN. Mr. Chairman, I do not wish to detain the committee very long in discussing the amendment I have offered. I claim that it is pertinent and germane to the bill, inasmuch as it reduces expenses and affects interests connected with it. The gentleman from Delaware has just asked me what States I refer to in my amendment. I am sorry to answer a great many, and also I regret very much to find that he knows so little of his country's history, or rather the disgrace that rests on individual States of our country in the estimation of the civilized nations of the earth, that he should not know that this repudiating business has extended from away up in the far northwest, in a State whose soil and wealth has become a proverb, down along the Mississippi River and the Southern Atlantic seaboard to the very Gulf of Mexico. I do not wish to say much on this subject; unfortunately it is too familiar to us all; but I do assert that in all fairness, in all equity, in all decency, and in all justice, the people of the United States, many of whom have been defrauded by the repudiating States (widows and orphans among the number) and who pay taxes to support this Government, should not be called upon to contribute toward local improvements in a portion of the land where everything has been done to impoverish them and make worthless their investments. On these broad principles I submit my amendment to the sense of justice of the House and of the American people.

Mr. WHITTHORNE. I desire to make an inquiry of the gentleman from New York. I understand him, then, that he will inhibit the city of New York from purchasing tobacco of Virginia and cotton of Mississippi?

Mr. EINSTEIN. The gentleman from Tennessee knows very well that he has just made a fallacious insinuation and a very poor argument. Traders will go anywhere to purchase whatever articles they can reap a profit from and will not trouble themselves very much about the moral status of the State government.

Mr. McMAHON. I ask the gentleman from New York whether the citizens of his city and State did not get all their money back when in 1869 an act was passed making their bonds that had cost them forty cents on the dollar payable dollar for dollar in gold?

Mr. EINSTEIN. I do not know what the gentleman means by his question and what possible bearing it can have on the amendment I have offered or the remarks I have made.

Mr. REAGAN. I move that the committee rise for the purpose of closing debate on the pending amendment. [Cries of "Vote!" "Vote!"]

Mr. REAGAN. If there is to be a vote, I will withdraw the motion.

The question being taken on Mr. EINSTEIN'S amendment, it was not agreed to.

The Clerk read the following:

For the improvement of the Mississippi River, in accordance with the plan therefor adopted by the Mississippi River commission, to be expended by the Secretary of War, with the advice and under the supervision of said commission, the sum of $1,000,000. And it shall be the duty of said commission to take into consideration, and of the Secretary of War to extend operations, under their supervision to, tributaries of the Mississippi River to the extent, and no further, that may be necessary in the judgment of said commission to the perfection of the general and permanent improvement of said Mississippi River; but this clause shall not be construed to interfere with the prosecution by the War Department of the improvement of said Mississippi River and its tributaries under general appropriations made therefor.

Mr. MARSH. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. MARSH. The first line of the clause which has just been read is as follows:

For the improvement of the Mississippi River in accordance with the plan therefor adopted by the Mississippi River commission.

The point I make is that the paragraph is not germane to this bill. This is a bill for the improvement of the navigation of the rivers and the harbors of this country; and while a cursory view of this clause might induce us to believe it was an attempt to improve, yet in order to understand it correctly it is necessary that the Chair should make reference to the plan that is proposed by the Mississippi River commission.

Now, Mr. Chairman, that plan is very distinctly set forth in the report of that commission, known as House Executive Document No. 53 of the second session of the Forty-sixth Congress. That plan has two objects in view; the plan referred to in this bill, and which is the plan of the Mississippi River commission. One is the improvement of the channel, and thereby the navigation of the river; and the other is the building up, the repairing, and the maintaining of levees from Cairo to the city of New Orleans. I hold that the construction of levees for the purpose of reclaiming land from overflow, or for the purpose of protecting post-roads upon these low lands, or for the purpose of protecting railroads that have been built or that may hereafter be built upon these low lands, is not germane to a bill that proposes to appropriate money for the improvement of rivers and harbors.

I will call the attention of members of this Committee of the Whole to portions of that report of the Mississippi River commission, in which is embodied the plan for the carrying into execution of which it is proposed to appropriate $1,000,000. That commision says distinctly that "while it is not claimed that levees in themselves are necessary as a means of securing ultimately a deep channel for navigation," yet further on the commission says that "a levee system aids and facilitates the postal service by protecting from injury and destruction by freshets and floods the various common roads and railways upon which that service is conducted to and from the river bank, and generally within that portion of the alluvial region subject to overflow." Now, it must be clear to the mind of any gentleman from the report of the majority of this commission——

Mr. BLAND. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. BLAND. My point of order is that the gentleman from Illinois [Mr. MARSH] is proceeding out of order.

The CHAIRMAN. In what respect?

Mr. BLAND. There is no amendment pending before the committee.

The CHAIRMAN. The gentleman has made a point of order against the pending paragraph. The Chair is of the opinion that the gentleman is not confining himself strictly to the point of order, and will request him to do so.

Mr. MARSH. I think I am confining my remarks strictly to the point of order.

The CHAIRMAN. Does the gentleman from Illinois [Mr. MARSH] suppose it to be the province of the presiding officer of the Committee of the Whole to pass judgment upon the merits of the various plans of improvement contained in this bill?

Mr. MARSH. I do not; and with all respect to the Chair there is nothing in my remarks to justify that inquiry. I am confining my remarks to the plan upon which it is proposed this $1,000,000 shall be expended. That plan is not to be found in this bill. The gentlemen who prepared this bill carefully avoided anything which would permit the House to determine from the bill itself what is the plan upon which this $1,000,000 is to be expended.

I understand that this report of the Mississippi River commission contains the plan which is referred to in this bill, and it is to the contents of that plan that I am endeavoring to direct the attention of the Chair, in order to show that the expenditure of money under such plan is not germane to a bill that proposes to appropriate money for the improvement of the navigable rivers and of the harbors of the country.

As I stated in my first remarks, I have endeavored to show that there are two distinct plans, or rather two distinct objects to be accomplished under the plan referred to in this bill. One is the building of levees to protect from overflow the alluvial lands from Cairo to New Orleans; the other is to build levees to protect the post-roads that are upon those low lands.

The CHAIRMAN. The gentleman will allow the Chair to call his attention to the fact that this appropriation——

Mr. MARSH. Allow me to make one other remark. Another object is to protect from overflow those low lands so that railroads may run over them unobstructed.

The CHAIRMAN. The bill expressly provides that this appropriation is "for the improvement of the Mississippi River." The Chair cannot determine whether the plan is good or bad.

Mr. MARSH. That is very true. But when the bill so says, it also says that the improvement shall be carried on in accordance with the plan proposed by the Mississippi River commission.

The CHAIRMAN. The Chair cannot determine or decide whether that plan is a good one or a bad one.

Mr. MARSH. I am not discussing the question whether it is a good or a bad plan; but I am discussing the question whether the building up or maintaining of a levee system on the Mississippi River is a matter germane to the improvement of the navigation of that river.

Mr. MONEY. I rise to a point of order.

Mr. MARSH. I do not want to be taken off the floor.

The CHAIRMAN. The Chair is entirely willing to listen to the gentleman from Illinois [Mr. MARSH] for any reasonable length of time to discuss the point of order. But the Chair does not see any point of order in this question at all; it is a matter for the committee to decide.

Mr. MARSH. If the Chair will permit me to proceed a few minutes longer, perhaps I can enable the Chair to see my point.

The CHAIRMAN. Certainly the Chair will hear the gentleman.

Mr. HOOKER. I submit that the gentleman is out of order unless he states his point of order so that the Chair can decide upon it.

The CHAIRMAN. Will the gentleman from Illinois state distinctly what is his point of order?

Mr. MARSH. My point of order—I thought I had stated it distinctly—is that this proposed appropriation of $1,000,000 for the improvement of the Mississippi River from Cairo to New Orleans according to the plan—mark the language—according to the plan which has been proposed by the Mississippi River commission, is not germane to a bill proposing to make appropriations for rivers and harbors. In good faith, Mr. Chairman, I was endeavoring to call your attention and the attention of this House to the fact that the plan referred to, instead of being a plan for the improvement of the channel of that river in the interest of navigation and the interest of the great commerce that floats upon the river, has in view the building up of the levees and reclaiming the alluvial and overflowed lands of that country.

The CHAIRMAN. The question resolves itself——

Mr. MARSH. And in evidence of that——

Mr. FROST. I call the gentleman to order.

Mr. MARSH. I desire further [cries of "Order!"] to call attention——

Mr. FROST. I call the gentleman to order, and I insist upon my point of order.

The CHAIRMAN. The Chair might as well state now as at any time that he will not look into the plans upon which these improvements are proposed to be made, for the purpose of determining their merits or demerits.

Mr. MARSH. I did not ask the Chair to do that.

The CHAIRMAN. Why, the gentleman has read from the report of the commission, and has asked the Chair to go into an examination of the plan embraced in that report.

Mr. MARSH. For the purpose of showing——

Mr. FROST. I make the point that the gentleman from Illinois, having been ruled out of order, must, under the rules of the House, take his seat. I demand the enforcement of the rule.

The CHAIRMAN. The Chair is always willing—not only willing, but anxious—to hear the views of gentlemen on any point of order that may be submitted.

Mr. FROST. I demand the enforcement of the rule.

The CHAIRMAN. But the Chair does not see that any point of order for the decision of the Chair is involved in the proposition of the gentleman from Illinois.

Mr. MARSH. Well, Mr. Chairman, suppose, if you will permit me——

Mr. FROST. I rise to a parliamentary inquiry. Is not the gentleman from Illinois compelled to take his seat under the rules of this House, having been ruled out of order?

The CHAIRMAN. All gentlemen will suspend until order is restored. Gentlemen will take their seats and preserve order.

Mr. MARSH. Let me say, Mr. Chairman——

Mr. FROST. I ask for the ruling of the Chair on my parliamentary question.

The CHAIRMAN. The Chair has ruled that the gentleman from Illinois——

Mr. MARSH. I say, in answer to the remark of the Chair——

The CHAIRMAN. The Chair has ruled that the gentleman from Illinois is not, in the opinion of the Chair, discussing the question of order, but a question as to the merits of the bill, and that the discussion ought to be addressed to the Committee of the Whole, not to the presiding officer.

Mr. MARSH. Then I will try to conform myself to the rules of order according to the construction given by the Chair.

Mr. ATHERTON. I want to make just one suggestion.

The CHAIRMAN. The gentleman from Illinois is on the floor, and the Chair hopes he will not be interrupted until the Chair can hear what his point of order is.

Mr. MARSH. In answer to the remark made by the Chair to me that he would not look into the plans under which this money was to be expended in order to determine whether the provision is germane to the bill, permit me to say that if the plan had been embodied in the bill *verbatim et literatim* as it appears in the report referred to by the bill, the Chair would have been bound to look at it; and it seems to me, by parity of reason, it is his duty to look into the plan, whether it is embodied in the bill *verbatim et literatim* or whether it is simply referred to in the bill. It is made a part of the bill by the

reference of the bill to the plan as the plan under which this million dollars shall be expended.

Now, suppose, Mr. Chairman—and I am sorry that I am wearying you; it is not often I take the time of this House, and it is somewhat mortifying to me to find that in the few moments I have occupied I have wearied the chairman—suppose, sir, that this plan is adopted by the Mississippi River convention provided for the construction of a railroad from Cairo to New Orleans, and that an appropriation was made in language like that in the bill referring to that plan; suppose it should be found that the plan embraced in the report was for the construction of a railroad from Cairo to New Orleans, could not the chairman look into that plan—[cries of "Order!"]

Mr. HOUSE. I rise to a point of order.

The CHAIRMAN. The gentleman from Tennessee will state his point of order.

Mr. HOUSE. The gentleman from Illinois is not discussing the point of order. If he is not, he has no right to consume the time of the House, however loud he may speak or however anxious he may be to be heard.

Mr. MARSH. Mr. Chairman, the gentleman from Tennessee has not correctly represented me or the Chair. The Chair decided five minutes ago that I was not discussing this point of order, but he has not decided since that decision that I am not. [Laughter.]

The CHAIRMAN. The Chair thinks there is no real question of order—that is, a question for the presiding officer of the committee to decide—involved in the proposition which the gentleman has made. Now, if the gentleman is not satisfied with that decision, the Chair hopes he will take an appeal to the committee and let the committee decide.

Mr. HOUSE. And I object to any further discussion.

Mr. KENNA. Mr. Chairman, I desire to say just one word if the House will hear me.

Mr. MARSH. I desire to amend this bill.

Mr. KENNA. I decline to yield the floor.

Mr. MARSH. If the point has been overruled, I desire to move an amendment.

Mr. KENNA. I only wish to say a word.

Mr. MARSH. I desire to offer an amendment, and I have not yielded the floor.

The CHAIRMAN. The gentleman was addressing the Chair and not the committee, and the Chair has recognized a member of the committee, and he will recognize the gentleman from Illinois in due time.

Mr. MARSH. Will the Chair recognize me to offer an amendment?

The CHAIRMAN. Certainly; at the proper time. The Chair will not pass from this or any other paragraph so long as any gentleman on the floor desires to move an amendment to it.

Mr. KENNA. I wish the House to hear me in a mere statement. A great deal has been said by the gentleman from Illinois about the effect which the clause of the bill criticised by him will have; and something has been said in not the kindest strain by the gentleman in reference to the purposes of the committee.

Mr. HAZELTON. On what point is the gentleman addressing the committee?

Mr. KENNA. I will move to strike out the last word, if the gentleman is particular about it.

Mr. PAGE. I call the gentleman to order.

Mr. KENNA. I have the floor.

Mr. PAGE. But there is a point of order pending.

Mr. KENNA. No; there is not a point of order pending.

Mr. PAGE. Then I make one.

Mr. KENNA. I decline to yield.

The CHAIRMAN. But the gentleman desires to rise to a question of order, and that the Chair must entertain before the committee proceeds to the consideration of the paragraph.

Mr. PAGE. The gentleman is not speaking on a question before the committee.

Mr. KENNA. I made a motion to strike out the last word.

Mr. PAGE. That is not in order so long as a point of order is pending. I rose for the purpose of making a point of order after the gentleman from Illinois had been ruled out.

Mr. KENNA. The gentleman from California cannot take me from the floor to make a point of order.

Mr. PAGE. Why not? The gentleman from Illinois made a point of order, and while on the floor the Chair made some suggestion, and he then said, after the point of order was ruled out, he desired to move to amend. I immediately rose and said I desired to make a point of order.

The CHAIRMAN. All points of order having been reserved against this bill, the Chair thinks he ought to allow all gentlemen to present points before we proceed to consider the paragraph; for if not, it would then be too late.

Mr. KENNA. I hope the gentleman will withhold his point of order for a few moments.

Mr. PAGE. I will not be a moment in making my statement.

Mr. KENNA. It is due to the committee who reported this bill that the statement should be at least allowed to be made here that the criticism——

Mr. PAGE. I have no objection to the gentleman making it after I have made my point of order. I make the point that the provision in this bill for the improvement of the Mississippi River in accordance with the plan adopted by the Mississippi River commission changes existing law; that there is no law for any appropriation for the improvement of the Mississippi River in accordance with that plan, and all appropriations heretofore have been made under the supervision of the Secretary of War, and this clause provides that the work shall be taken away from the Secretary of War and completed under the direction of the Mississippi River commission, which I claim to be a change of existing law and not in the interests of economy.

The CHAIRMAN. The Chair decided yesterday after very full debate and after a good deal of consideration of the subject that the river and harbor appropriation bill is not technically a general appropriation bill so as to come within the rule relating to that character of bills; and if the decision be correct, then the fact that it changes existing law would not be ground for the point of order.

Mr. PAGE. I then ask the Chair what rules govern this committee on a special appropriation bill?

The CHAIRMAN. Just the same that govern this committee in the consideration of any other bill except the general appropriation bills, which have a peculiar rule for themselves.

Mr. VAN VOORHIS. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. VAN VOORHIS. I make the point of order that this is a bill to appropriate a million dollars for certain levees on the Mississippi River. This bill makes the report of the commission a part of it, and by that report we see that this money is wanted to build levees and not for making the river navigable at all. I make the point of order on that that it is not a proper appropriation to be made in such a bill.

The CHAIRMAN. The Committee on Commerce report a bill for the improvement of the river. Now, it may be that the committee was of opinion that the river could be best improved by the construction of levees, in which opinion the Chair might not concur, but it is not a question for the Chair to determine, as the Chair understands, now.

Mr. VAN VOORHIS. That is the condition that the bill is in at all events. It so provides, and I make the point of order.

Mr. FROST. On the point of order I would like to say a word——

The CHAIRMAN. The committee will rise to receive a message from the Senate.

### MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. ROBESON having taken the chair as Speaker *pro tempore*, a message from the Senate, by Mr. BURCH, its Secretary, was received, announcing that the Senate insists upon its amendment to the bill of the House No. 3047, to authorize the commissioners of the District of Columbia to recommend a proper site for a union railroad depot in the city of Washington, disagreed to by the House of Representatives, and agreed to the conference asked; and further that Messrs. WHYTE, WITHERS, and ROLLINS had been appointed conferees on the part of the Senate.

The message further announced that the Senate had passed bills and joint resolutions of the following titles, in which concurrence of the House of Representatives was requested:

Joint resolution (S. R. No. 70) to provide for the detail of retired officers of the Army to colleges, universities, and other incorporated institutions of learning;

Joint resolution (S. R. No. 162) to grant the use of artillery, tents, &c., to be used at the soldiers' reunion to be held in Maine in 1881;

A bill (S. No. 1432) granting a pension to Angus McAuley;

A bill (S. No. 2094) for the relief of M. J. Flood, widow of George W. Flood; and

A bill (S. No. 2184) to authorize the commissioners of the District of Columbia to appoint additional policemen for temporary service in the District, and for other purposes.

### RIVER AND HARBOR APPROPRIATION BILL.

The committee resumed its session.

Mr. KENNA. I desire now, Mr. Chairman, to say a word in answer to the remark made by the gentleman from Illinois, and also the gentleman from New York, which should be answered by somebody in order that the attitude of the Committee on Commerce may not be misunderstood in reference to this provision. I will state now emphatically that there never was and never has been a purpose on the part of the committee in reporting this bill, or this clause of the bill, to undertake to provide a system for building levees or for reclaiming the swamp and overflowed or alluvial lands on that river, or for any purpose looking to such a result. The only object in view has been the improvement of the navigation of the Mississippi River. The Committee on Commerce believes that this clause, as incorporated in this bill, seeks to accomplish that purpose, and none other. But whether it does accomplish it or not I am quite sure, and I hope the House will understand it, that whenever a proposition is introduced here which seeks to impose restrictions upon the expenditure of this money for any purpose other than that contemplated in the mind of the committee in framing the bill, there will be no objection on the part of the committee to its adoption. That is all I desire to say.

Mr. THOMAS. I offer an amendment at this point.

The Clerk read as follows:

Add to the paragraph the following:

"*Provided*, That no part of such sum shall be expended for the purpose of

reclaiming the swamp, overflowed, or alluvial lands along said Mississippi River, but shall be confined strictly to improving the channel and thereby the navigation of said river."

Mr. THOMAS. Mr. Chairman, a member of the Committee on Commerce has notified this committee that it was not the purpose of that committee in recommending this appropriation to apply any part of it to building levees, reclaiming swamp, overflowed, or alluvial lands; and if such is the case—if the improvement of the navigation of the Mississippi River is the only object in view—then the amendment I have offered must be satisfactory to all concerned as it confines the appropriation strictly to that purpose.

It has been suggested by the Chair that the building of levees at certain points might benefit the——

The CHAIRMAN. The Chair said that such might be the opinion of the committee.

Mr. THOMAS. It was suggested by the Chair that the plan might involve the building of levees, in which plan the Chair might not agree, as I remember his language: that by the building of levees at certain points the navigation of the river might thereby be improved. Now, I submit that it is not the duty of this House, it is not the duty of this nation to make appropriations of the people's money for the purpose of reclaiming these swamp and overflowed lands: and that any money appropriated in this bill should be confined to those improvements and works which are clearly within the scope and legitimate purpose of the bill, which is to improve the navigation of the river and thereby add to the commerce of the country.

Mr. GIBSON. I would like to say, Mr. Chairman, to the gentleman from Illinois, and repeat now what I said on a former occasion, that his amendment or that of the gentleman from New York, or Massachusetts, or any amendment that is deemed essential to confine the appropriation to the absolute improvement of the navigation of the river is perfectly acceptable to gentlemen representing that section of country on this floor. They have no purpose to reclaim these lands: they have no object to accomplish save the absolute improvement of the river itself. It is not contemplated or sought to reclaim the alluvial or overflowed lands.

Mr. BUCKNER. There is nothing in the bill that looks to the accomplishment of that purpose, as far as I can see.

Mr. ROBINSON. If the gentleman from Illinois [Mr. THOMAS] will give me his attention for a moment I wish to suggest to him that I have prepared an amendment somewhat in the line of the remarks I made a few days since on this very point; and since it seems to me it covers some points his amendment does not, I would like to have it read, and perhaps the gentleman may accept it instead of his own.

Mr. THOMAS. I have no objection to hearing it read.

Mr. ROBINSON. And perhaps you will accept it.

Mr. THOMAS. I can judge of that after hearing it.

The Clerk read as follows:

At the end of line 364 add the following:

"*Provided*, That no portion of the sum hereby appropriated shall be used in the repair or construction of levees for the purpose of preventing injury to lands by overflow or for any other purpose whatever, except as a means of deepening or improving the channel of said river. And it shall be the duty of said commission to make report on or before the 1st day of January next to the Secretary of War, for transmission by him to Congress of a detailed statement of the work done, and of the expenditure made from the sum hereby appropriated, with their judgment upon the effect of such work and the general practicability, and estimates of the total cost of such improvements along such river from Cairo to the head of the passes."

Mr. GIBSON. I will say to the gentleman from Massachusetts [Mr. ROBINSON] that that amendment certainly confines the appropriation to its legitimate purposes, and is perfectly acceptable to the gentlemen who are interested in these improvements.

Mr. ROBINSON. I move that as a substitute for the amendment of the gentleman from Illinois, [Mr. THOMAS.]

Mr. REAGAN rose.

The CHAIRMAN. The gentleman from Massachusetts [Mr. ROBINSON] is entitled to the floor to speak on his amendment.

Mr. REAGAN. I will ask the gentleman from Massachusetts to let me say a word.

Mr. ROBINSON. I yield to the gentleman if I do not thereby lose the floor.

Mr. REAGAN. I merely wish to say that the entire committee, as I understand, approve of the amendment offered by the gentleman from Massachusetts.

Mr. ROBINSON. If I can have a few minutes, I think I can explain this amendment.

My purpose the other day, Mr. Chairman, was to say I was not in favor of repairing or building the levees for the protection of lands along the river. The commission, composed of several very eminent gentlemen whose names are well known throughout the country, are not united in their recommendation. The majority, however, say—as gentlemen will find by examining the report, my friend from Illinois only reading a part of what is said on that point in the report—they say it will be desirable to hasten the work of channel improvement through the increased scour and depth of the river-bed.

Now, as you, Mr. Chairman, very wisely said a moment ago, you might not agree with the engineers and I perhaps differ with them; but I certainly hold my judgment subordinate to theirs in that I think the House and the country are quite ready to submit to the views of men learned and experienced in such matters.

I have drawn the amendment so that the commission may, if they deem it necessary in the improvement and deepening of the channel of the river, repair the break in a levee. If they believe that when the water is at a high stage, by stopping it from overflowing and creating a swifter and deeper and stronger current, a greater scour of the river can be accomplished, I want to leave them that power. I would not take it away from them. I regard this as experimental in a large degree. Gentlemen differ about it, but I believe we are ready to try to that extent the plan the commission have recommended. I think the provision I have suggested will not be objected to. I think nobody upon that commission is willing the Secretary of War should expend any money for the purpose of protecting the lands from overflow.

Now I ask the gentleman from Illinois [Mr. THOMAS] who offered the amendment to observe that his language goes further—and, I submit to him, in a dangerous way—it goes further than he thinks, if he will allow me to say so; because he uses the word "navigation." And no gentlemen understand the force of that word better than the gentlemen who want to have the levees repaired to make landing places for boats and facilities for trade. In my amendment I leave that out; and I submit to the gentleman he ought to have left that out of his amendment, because with the phrase "navigation" in addition to "improving the channel" it might be plausibly urged that Congress intended those great works to include the purpose of bringing the boats to land. If the gentleman will examine the report of the commission he will find that on the fifteenth page the commission discuss that view of the navigation of the river. In my amendment I confine it simply to the deepening and improvement of the channel of the river—not even of the river simply, for fear it would take too wide a range. I have taken care that the words should be very precise. If they do not precisely meet the case I would be glad to have them amended. But I submit to the gentleman from Illinois [Mr. THOMAS] that he has in his amendment, as I conceive, some dangerous words which would take the force very much out of what he proposes.

Mr. DUNN rose.

Mr. COWGILL. I would be glad to have the substitute offered by the gentleman from Massachusetts again read.

The proposed substitute was again read.

Mr. ROBINSON. If the committee will allow me I will say just one word further. I have provided in this amendment for a report to be made on or before the 1st day of January next. Let these gentlemen go out hedged as they will be by that provision, and come back here and make report of their doings and their expenditures to the next Congress, and Congress will then be ready to determine what action it should take.

Mr. DUNN. I am satisfied that there is a great deal of unnecessary apprehension in regard to this plan of improving the Mississippi River. I oppose this amendment because I think it is altogether unnecessary as providing against a thing not contemplated.

I desire to call the attention of this committee to the original act creating this commission. I call attention of gentlemen to the language employed in that act, and I ask attention to the plan of improvement in connection with that act, for I think it is worthy of consideration and attention. The fourth section of the act is as follows:

It shall be the duty of said commission to take into consideration and mature such plan or plans and estimates as will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River; improve and give safety and ease to the navigation thereof; prevent destructive floods; promote and facilitate commerce, trade, and the postal service; and when so prepared and matured, to submit to the Secretary of War a full and detailed report of their proceedings and actions, and of such plans, with estimates of the cost thereof, for the purposes aforesaid, to be by him transmitted to Congress: *Provided*,—

I call attention now to the proviso:

*Provided*, That the commission shall report in full upon the practicability, feasibility, and probable cost of the various plans known as the jetty system, the levee system, and the outlet system, as well as upon such others as they deem necessary.

Now, the commission, in their report, have reported, first, upon the outlet system, and condemned it; secondly, upon the levee system separately and distinctly, which they set out, not as an absolute plan of improvement, but as a system both for improvement and for reclamation. They do not recommend its adoption, but they state the cost of filling the gaps in the levees. That part of their report is as follows:

THE LEVEE SYSTEM.

Levees have never been erected upon the banks of the Mississippi River except for the special purpose of protecting the alluvial lands from overflow. They have therefore always had sole reference to the high-water stage; and the degree to which levees might be prudently relied upon "to improve and give safety to navigation," "promote and facilitate commerce, trade, and the postal service," has not hitherto entered into the question of the construction and maintenance of a levee system.

There is no doubt that the levees exert a direct action in deepening the channel and enlarging the bed of the river during those periods of "rise" or "flood" when by preventing the dispersion of the flood-waters over the adjacent low-lands, either over the river banks or through bayous and other openings, they actually cause the water to rise to a higher level within the river-bed than it would attain if not thus restrained.

It would seem to follow, from the law that the volume of water flowing in the bed determines the size, that prior to the construction of levees the area of the mean cross-section of bed of the Mississippi River must have been less than it was after the levees had reached their most efficient condition, assuming, what is believed to be true, that the average rainfall in the Mississippi Valley has not materially changed within the last hundred years.

There is some evidence in a comparison of the results of Young, Poussin, and Tuttle's examination of 1821, with later surveys, that the width of the river has increased since that date.

As silt-bearing streams in alluvial districts have a tendency to assume in the straight reaches cross-sections which are arcs of circles, and in the bends curves of deeper forms, it follows that any general widening of the river resulting from concentration or increase of volume, which may have taken place, would as a rule be accompanied by a general and corresponding deepening as the result of such general enlargement, although local shoalings, temporarily injurious to navigation, might occur.

There is reason to believe that during the period when levees were in their most perfect condition, from 1850 to 1858, the channel of the river was better generally for purposes of navigation than it has been since that time.

It is known that during the last twenty years the levee system has been continuously interrupted by a great number of crevasses between Cairo and Red River.

Before the levees were built, a large portion of the flood-waters spread out over the banks of the river in a thin sheet, of which the average depth at the margin of the stream, where it escaped, did not probably exceed a few inches, or, at most, a foot. The immediate effect of the leeves would be to increase the volume and height and accelerate the velocity of the flood-waters between them, resulting in an erosion and deepening of the river-bed, and ultimately in a corresponding lowering of the flood slope in accordance with the general law already quoted, that an increase in the normal volume of discharge in a sedimentary stream, flowing through alluvial deposits, results ultimately in a lowering of the flood surface. It would seem, therefore, that a closure of the crevasses might be expected to accelerate the removal of those shoals which have been produced by them, and if their closure be accompanied by the requisite contraction of the channel to a more nearly uniform high-water width, a lowering of the flood level may be expected to such extent as will ultimately render the maintenance of the levees as an aid to navigation practically needless above Red River, and greatly lessen the necessity of their permanent maintenance for that purpose below Red River, even at a reduced height.

While it is not claimed that levees in themselves are necessary as a means of securing ultimately a deep channel for navigation, it is believed that the repair and maintenance of the extensive lines already existing will hasten the work of channel improvement through the increased scour and depth of river-bed which they would produce during the highest river stages. They are regarded as a desirable, though not a necessary, adjunct in the general system of improvement submitted.

It is obvious that levees are, upon a large portion of the river, essential to prevent destruction to life and property by overflow. They give safety and ease to navigation and promote and facilitate commerce and trade by establishing banks or landing places above the reach of floods, upon which produce can be placed while awaiting shipment, and where steamboats and other river craft can land in times of high water.

In a restricted sense as auxiliary to a plan of channel improvement only, the construction and maintenance of a levee system is not demanded. But in a larger sense, as embracing not only beneficial effects upon the channel, but as a protection against destructive floods, a levee system is essential; and such system also promotes and facilitates commerce, trade, and the postal service.

A levee system aids and facilitates the postal service by protecting from injury and destruction by freshets and floods the various common roads and railways upon which that service is conducted to and from the river bank, and generally within that portion of the alluvial region subject to overflow. Moreover, the permanent maintenance below Cairo of a connected levee system, a system of sufficient strength to inspire confidence in its efficiency, or the demonstration, by the achieved results of an improved river, that overflow need no longer be seriously apprehended, would act as a prompt and powerful stimulant in rapidly developing a largely increased trade and commerce in all the products of agricultural industry indigenous to that region, and in those branches of manufacturing enterprise related thereto.

The foregoing is submitted as the opinions of this commission, with regard to the attributes and functions of levees, and their general utility and value. The views of the several members, however, are not in entire accord with respect to the degree of importance which should attach to the concentration of flood-waters by levees, as a factor in the plan of improvement of low-water navigation, which has received the unanimous preference of the commission.

The breaks in the levees were estimated in January, 1875, by the commission for the reclamation of the alluvial basin of the Mississippi River, to amount to 8,065,700 cubic yards. It is believed that the repairs done in Louisiana and Mississippi since that time will fully equal the enlargement of the openings in Arkansas and Missouri. The estimate of the cost of closing the breaks in the existing system of levees to the former height is based upon this hypothesis.

The want of completed surveys and the limited supply of labor would render difficult the construction of more than one-half of this amount of work in any one year.

*Estimate of cost.*

| | |
|---|---|
| For closing to their former height the gaps in the existing levees between Cairo and New Orleans, 8,065,700 cubic yards of earthwork, at 23 cents per yard | $1,855,111 |
| Add for contingencies | 164,889 |
| Total for repairs of existing levees | 2,020,000 |

This does not include the cost of maintenance, for which no reliable estimate can be made in the absence of data giving the required dimensions of the levees and their positions relative to caving banks. For the absolute prevention of destructive floods the former height of the levees would have to be increased, but no exact estimate of the cost of these higher levees can be made at present for want of the necessary data.

It will be seen that this report and estimate of *probable cost* is a literal compliance with the proviso of the act which directs the commission to *report in full upon the practicability, possibility, and probable cost of* the several plans mentioned.

The commission take them up and dispose of them *seriatim*. This levee system is taken up, reported upon, and its probable *cost* separately and distinctly stated not as a distinct plan for the improvement of the navigation of the Mississippi River, but as a *levee system*. True, its relation to, and value as a factor in the great plan of improvement adopted, is clearly shown and forcibly stated; but that is not the *plan of improvement* of the channel which is adopted and recommended. The plan recommended by the commission is as follows, and appears, as others, under a distinct heading. The language employed by the commission is:

PLAN OF IMPROVEMENT RECOMMENDED.

The bad navigation of the river is produced by the caving and erosion of its banks, and the excessive widths and the bars and shoals resulting directly therefrom.

It has been observed in the Mississippi River, and is indeed true of all silt-bearing streams flowing through alluvial deposits, that the more nearly the high river width, or width between the banks, approaches to uniformity, the more nearly uniform will be the channel depth, the less will be the variations of velocity, and the less the rate of caving to be expected in concave bends. This would seem to be so in the very nature of things, because uniformity of width secured by contraction will produce increased velocity, and therefore increased erosion of bed at the shoal places, accompanied by a corresponding deposit of silt at the deep places, and consequently greater uniformity of depth.

Uniform depth joined to uniform width, that is to say, uniformity of effective cross-section, implies uniform velocity, and this means that there will be no violent eddies and cross-currents, and no great and sudden fluctuations in the silt-transporting power of the current. There will therefore be less erosion from oblique currents and eddies, and no formations of shoals and bars produced by silt taken up from one part of the channel and dropped in another. As the friction of the bed retards the flow of the water, any diminution of the friction will promote the discharge of floods. The frictional surface is greater in proportion to volume of discharge where the river is wide and shoal than where it is narrow and deep. It follows, therefore, that after the wide-shoal places are suitably narrowed, and the normal sectional area is restored by deepening the channel, the friction will be less than it was before. This will result in a more easy and rapid discharge of the flowing water, and consequently in a lowering of the flood-surface. It would seem, therefore, that the plan of improvement must comprise, as its essential features, the contraction of the water-way of the river to a comparatively uniform width, and the protection of caving banks, and this is presumed to be the plan referred to in the act as the "jetty system." It is known, from observation of the river below Cairo, not only that shoals and bars, producing insufficient depth and bad navigation, are always accompanied by a low-water width exceeding three thousand feet, but that wherever the river does not exceed that width there is a good channel. In other words, bad navigation invariably accompanies a wide low-river water-way, and good navigation a narrow one.

The work to be done, therefore, is to scour out and maintain a channel through the shoals and bars existing in those portions of the river where the width is excessive, and to build up new banks and develop new shore-lines, so as to establish as far as practicable the requisite conditions of uniform velocity for all stages of the river.

It is believed that this improvement can be accomplished below Cairo by contracting the low-water channel-way to an approximately uniform width of about three thousand feet, for the purpose of scouring out a channel through the shoals and bars, and by causing, through the action of appropriate works constructed at suitable localities, the deposition of sand and other earthy materials transported by the water upon the dry bars and other portions of the present bed not embraced within the limits of the proposed low-water channel. The ultimate effect sought to be produced by such deposits is a comparative uniformity in the width of the high-water channel of the river.

It is believed that the works estimated for in this report will create and establish a depth of at least ten feet at extreme low stages of the river over all the bars below Cairo, where they are located.

It is the opinion of this commission that, as a general rule, the channel should be fixed and maintained in its present location, and that no attempt should be made to straighten the river or to shorten it by cut-offs.

The borings which were made in 1879 at New Madrid and Plum Point, by direction of the board of engineers for the improvement of the low-water navigation of the Mississippi River below Cairo, and those of more recent date at Memphis and Helena, made under the orders of this commission, as well as those near Lake Borgne, reported by the levee commission of 1875, and others made along the proposed line of the Fort Saint Philip Canal, and the artesian well sunk at New Orleans, all furnish concurrent evidence of the yielding character of the strata forming the river-bed. This evidence, taken in connection with the fact that deep water is found in all the bends of the river where the width is not excessive, and that these bends have, by their shiftings at one time or another, probably occupied and covered nearly every part of the belt from ten to twenty miles in width from Cairo to the Gulf, point to the conclusion, if it does not indeed justify it, that there is no extensive stratum of material capable of resisting erosion and preventing the river from deepening its own bed. In exceptional localities, where the material is too tough, or the gravel too heavy for removal by scour, dredging may have to be resorted to as an auxiliary, the depth secured by this means being maintained by the works erected for narrowing the stream.

Experience, as well in this country as in Europe, justifies the belief that the requisite correction and equalization of the transverse profile of the stream, by developing new shore lines and building up new banks, may be made chiefly through the instrumentalities of light, flexible, and comparatively inexpensive constructions of poles and brush, and materials of like character. These constructions will commonly be open or permeable to such a degree that, without too violently arresting the flow of water, thereby unduly increasing the head and causing dangerous underscour, they will sufficiently check the current to induce a deposit of silt in selected localities.

The works which have been used in similar improvements are of various forms and devices, such as the hurdle, composed of a line of stakes or light piles, with brush interlaced; the open dike, formed of stakes with waling strips on both sides filled in loosely with brush; the continuous brush mattress, built or woven on fixed or floating ways and launched as fast as completed as a revetment to a caving bank, the mattress used as a vertical or inclined curtain, placed in the stream to check the current, the same laid flat on the bottom as the foundation for such a curtain or as an anchorage for other brush devices; curtains of wire or brush netting, placed vertically or inclined in the stream; and various other forms of permeable brush dikes, jetties, or revetments. Some of these methods of construction have been used on the Mississippi and Missouri Rivers with increasing satisfaction and success, although they cannot yet be regarded as entirely beyond the experimental stage. In some, perhaps in many localities, works of a much more solid character than those above indicated may be necessary.

The closure of deep channels or low-water chutes, with a view of confining the flow to a single passage, may require substantial dams of brush and riprap stone or gravel, but it is believed the lighter and less costly works will generally suffice.

By a permeable dike located upon the new shore-line to be developed, connected with the old bank at suitable intervals by cross-lines of like character, or by jetties of hurdles or other permeable works projecting from the bank with their channel ends terminating on the margin of the proposed water way, or by any other equivalent works, the area to be reclaimed and raised will be converted into a series of silting basins, from which the water, flowing through the barriers with diminished velocity, will, after depositing its heavier material, pass off and give place to a new supply. In this manner the accretion will go on continuously through the high-water season, or through two or more seasons if necessary, the works being renewed on the higher level as occasion requires.

Wherever necessary, the new bank must be protected by a mattress, revetment, or some equivalent device.

That these methods of improvement are practicable is shown by the works already executed on the Mississippi and Missouri Rivers.

The plan submitted by the board of engineers for the improvement of the low-water navigation of the river below Cairo, in their report dated January 25, 1879, (see House Executive Document No. 41, Forty-fifth Congress, third session,) in which it is recommended that $600,000 be asked for the improvement of the Plum Point Reach, and "that the improvement be effected by narrowing the shoal and wide portions of the low-water river to about 3,500 feet, and by protecting caving banks where necessary," is substantially adopted for the initial works submitted for construction in this report.

An accurate estimate of the cost of properly improving the entire river below Cairo cannot be made until after the completion of the surveys now in progress. Moreover, estimates based upon the latest data from those surveys will doubtless require modification in some particulars to meet subsequent changes in the river, and will perhaps be considerably reduced in the aggregate amount by improved methods of construction developed during the progress of the work.

INITIAL WORKS.

Under the authority conferred in section 5 of the act, estimates of cost of certain initial works, constituting a component part of the general system of works contemplated, are submitted.

Those works of channel contraction and bank protection, which in the judgment of the commission may be advantageously undertaken during the coming fiscal year, or as soon as Congress supplies the means, are confined to an aggregate length of nearly two hundred miles of the shoalest water below Cairo, embracing the following localities, namely, New Madrid, Plum Point, Memphis, Helena, Choctaw Bend, and Lake Providence.

The estimates are intended to cover the cost of works for contracting the channel and for securing and protecting the banks; for the necessary outfit of boats, tugs, tools, &c., to carry on the work for local surveys, the salaries of engineers, superintendents, and inspectors, and the necessary office expenses. Further appropriations will be needed to complete the works, secure their permanence, and develop the full benefit of the system.

As regards the final cost, the novelty of the devices to be employed and the absence of experience with respect to the rapidity and degree of their results, forbid any exact estimate; but it is believed that such additional works as will ultimately be required to complete and render permanent the improvement contemplated in this system at the localities specified will not exceed the amount hereinbelow stated as needed for initial works.

It is considered necessary that a contingent sum, which is inserted in the estimates for initial work, be appropriated for use in any emergency that may arise for securing or protecting the works at any point after the specific appropriation may have been exhausted.

*Estimates.*

| | |
|---|---|
| New Madrid Reach, forty miles long: | |
| Works for contracting the channel and protecting the banks | $776,000 |
| For outfit, superintendence, inspection, office expenses, and local surveys | 147,000 |
| Total for New Madrid Reach | 923,000 |
| Plum Point Reach, thirty-eight miles long: | |
| Works for contracting the channel and protecting the banks | 599,000 |
| For outfit, superintendence, inspection, office expenses, and local surveys | 137,000 |
| Total for Plum Point Reach | 736,000 |
| Memphis Reach, sixteen miles long: | |
| Works for contracting the channel and protecting the banks | 282,000 |
| For outfit, superintendence, inspection, office expenses, and local surveys | 100,000 |
| Total for Memphis Reach | 382,000 |
| Helena Reach, thirty miles long: | |
| Works for contracting the channel and protecting the banks | 515,000 |
| For outfit, superintendence, inspection, office expenses, and local surveys | 112,000 |
| Total for Helena Reach | 627,000 |
| Choctaw Bend, thirty-five miles long: | |
| Works for contracting the channel and protecting the banks | 464,000 |
| For outfit, superintendence, inspection, office expenses, and surveys | 112,000 |
| Total for Choctaw Bend | 576,000 |
| Lake Providence Reach, twenty-five miles long: | |
| Works for contracting the channel and protecting the banks | 507,000 |
| For outfit, superintendence, inspection, office expenses, and local surveys | 112,000 |
| Total for Providence Reach | 619,000 |
| Contingencies | 250,000 |

Should it be determined not to appropriate the amounts estimated for all the initial works, it is considered important that the reduction should be made rather in the number of places at which work is proposed than by reducing the estimates for any one place.

*Estimates for works of improvement for the first fiscal year.*

| | |
|---|---|
| Initial works for channel contraction and bank protection | $4,113,000 |
| Closing gaps in levees | 1,010,000 |
| Checking enlargement of Atchafalaya | 10,000 |

*Estimates for surveys and for expenses of commission for fiscal year ending June 30, 1881.*

| | |
|---|---|
| For surveys and examinations above and below Cairo, and the necessary salaries and other expenses of the Mississippi River commission | $200,000 |

If Congress shall authorize any extensive works of improvement on the Mississippi, we would respectfully suggest that provision be made by law for the appropriation of such land and materials as may be needed in the work when the same cannot be obtained upon equitable terms by purchase from the owner. We do not contemplate that a resort to such proceedings would often be necessary, but in the absence of any such provision of law individual owners of the property required might greatly and unjustly enhance the cost of the work.

Authority to file in the proper court of the United States an article of appropriation describing the property to be taken, and to have an assessment by competent appraisers of its value, would tend to prevent extortion, and at the same time secure to the individual a just recompense for the property taken.

We venture to suggest further that, in case the commission should be continued in existence and the works recommended by it be in whole or in part authorized by Congress, the execution of the work and the expenditure of the appropriations therefor shall not be made part of the duty of the commission. We think the duties of the commission should be limited to the preparation of plans, their modification when necessary, the advisory supervision of the work, and the completion of the surveys and observations. This would secure unity of plan, greater efficiency in the work, and a better system of checks upon the expenditures than we could hope to secure if the entire work of devising, executing, and disbursing were cast upon the commission.

All of which is respectfully submitted.

Q. A. GILLMORE,
*Lieut. Col. Eng., Bvt. Maj. Gen., Pres. Miss. River Com.*
CHAS. R. SUTER,
*Major of Engineers, U. S. A.*
HENRY MITCHELL,
*Coast and Geodetic Survey.*
JAS. B. EADS.
B. M. HARROD.

Hon. ALEXANDER RAMSEY,
*Secretary of War, Washington, D. C.*

Here we have the "plan of improvement adopted." It admits of no doubt nor misconstruction; and, as all will readily see, it includes no levees for reclamation purposes. There is no occasion for the alarm and anxiety manifested. I make no doubt of the wisdom, judgment, and fidelity of the commission, nor do I doubt their full appreciation of the grave responsibilities put upon them by the law, and I shall not expect them to put other than a strict construction upon the acts under which they act. I do not believe they will use or sanction the use of any public moneys for any purpose except that for which it was appropriated. Why, then, shall we encumber the bill with amendments prohibiting that which is not intended nor contemplated? It would be equally as logical to put in an amendment providing that no money hereby appropriated shall be used for the construction of outlets, seeing that they are not included in the plan of improvement recommended and adopted.

The language of the paragraph of the bill under consideration is:

For the improvement of the Mississippi River, in accordance with the plan therefor adopted by the Mississippi River commission, to be expended by the Secretary of War, with the advice and under the supervision of said commission, the sum of $1,000,000. And it shall be the duty of said commission to take into consideration, and of the Secretary of War to extend operations, under their supervision to, tributaries of the Mississippi River to the extent, and no further, that may be necessary, in the judgment of said commission, to the perfection of the general and permanent improvement of said Mississippi River; but this clause shall not be construed to interfere with the prosecution by the War Department of the improvement of said Mississippi River and its tributaries under general appropriations made therefor.

Mr. Chairman, it seems to me that nothing can be clearer, more conclusive and logical than all this. The commission have reported distinctly upon the specific plans indicated in the original act giving probable cost; and have distinctly adopted and recommended a plan or system of improvement, and that plan admits of no doubt. I exhort gentlemen to possess their souls in security and patience, and beg to assure them that we have no sinister designs upon the Treasury. Great caution and care has been observed by Congress in the progress of this proposed plan of improvement, much greater than that which has been observed in the improvement of any other river or harbor in the country. Ordinarily we are content to direct the Secretary of War to cause a survey of a stream to be made, and he causes an engineer officer to be detailed for that duty. Such officer makes a survey and reports a plan and estimates for the work, and an appropriation is made, and no questions asked. Such plans and estimates have been for more than twenty-five years submitted for various parts of the Mississippi River, but nothing of consequence has been done. This river has hitherto seemed to baffle the skill of the engineer, and, until now, none have been found bold enough to undertake the great work of controlling the mighty forces and permanently improving the navigation of this great river, upon which not only the commerce of this continent may float, but that of all the nations of the earth may also be borne in safety.

In abundance of caution Congress passed a law creating this great improvement commission, composed of the greatest military and civil engineers in the country, for the specific purpose of making a thorough study of this river and reporting plans and estimates for its improvement. That commission after one year reported the plan I have before stated.

It would seem that that elaborate and painstaking survey and examination would have been sufficient for Congress to act upon, and ordinarily Congress would have made the necessary appropriation without further ado. But it did not. This report was referred to the Committee on Levees and Improvements of the Mississippi River, accompanied with an order by resolution directing that committee or a sub-committee thereof to proceed down the Mississippi River to the head of the passes, in company with the commission, and make careful observation and examination of the proposed plan of improvement, and report thereon. That order was obeyed. A sub-committee of that committee was appointed to perform that duty, of which the distinguished gentleman from Louisiana [Mr. GIBSON] was appointed chairman; but that gentleman being detained here by more urgent duties, I had the honor to go as chairman of that sub-committee in the performance of that important duty.

We were engaged during the entire month of May, 1880, in its performance, and I can assure the committee that we made a most thorough and painstaking examination, with most satisfactory results. That committee was thoroughly convinced of the practicability, feasibility, and economy of the proposed plan.

At the conclusion of that examination the committee made the following unanimous report:

The sub-committee of the Committee on Levees and Improvements of the Mississippi River, to whom was referred the report of the Mississippi River commission, and who, by the resolutions of the House of Representatives and of the Committee on Levees and Improvements of the Mississippi River, were directed "to proceed down the Mississippi River to its mouth, at such time as the committee may determine, for the purpose of acquiring a knowledge of its peculiar conditions and wants, and to gather information relative to the best methods for its improvement," &c., submitted the following report:

In obedience to said resolutions your sub-committee left Washington City on the 2d day of May, 1880, and proceeded direct to Saint Louis, Missouri, by railroad, arriving at said city on the evening of the 4th, from which point they proceeded to the mouth of the river.

On the 6th passage was taken on the steamer James Howard, from Saint Louis to New Orleans. This vessel has a beam of 55 feet, a length of 322 feet, and a registered tonnage of 2,321 tons. Her carrying capacity is about 3,000 tons on a

draught of 11 feet. The displacement is about 1 foot for 450 tons. Her cargo aggregated about 3,100 tons in weight, and was composed as follows:

| *Cargo, May 5, 1880.* | *Average weight.* |
|---|---|
| 3,781 barrels flour | 216 |
| 2,422 barrels meal | 220 |
| 937 barrels pork | 330 |
| 53 barrels whisky | 375 |
| 50 barrels tallow | 400 |
| 66 barrels oil | 400 |
| 7,490 sacks corn | 165 |
| 6,593 sacks oats | 165 |
| 708 sacks bran | 180 |
| 1,007 bales hay | 300 |
| 854 bales cotton | 500 |
| 250 pieces bagging | 100 |
| 2,061 packages sundries. | |

This cargo was carried unbroken to Vicksburgh. Below that point it was distributed at about seventy landings, including towns, country stores, plantations, and farms. The trade seems to be direct between the producer and customer, and thus yields the largest benefit to both.

On starting, the river at Saint Louis was about half stage, or midway between high and low water. This condition indicated a depth of about sixteen feet more than the low-water channel, which may be assumed at four feet, (that prevails, disturbing navigation three or four months annually.) A channel of about twenty feet depth might, therefore, have been expected, affording unobstructed navigation even for the very large vessel on which we had embarked. But, in fact, frequent soundings were found necessary, which in many places showed a depth not exceeding twelve or fourteen feet.

Owing to the incessant shifting or changing of the channel, it was found necessary to tie up at night on the upper part of the river. This phenomenal condition is characteristic of parts of the stream where the width is excessive, or where it is divided into separate channels or chutes by bars or islands, and is explained by the principles enunciated and the processes described in the report of the Mississippi River commission.

Approaching Cairo, navigation was found better, on account of the back-water from the Ohio. The high-water prevailing on this stream filled the Mississippi nearly to danger-line from Cairo down. There was abundant evidence, however, that earlier in the season few, if any, points had escaped the general and disastrous overflow. Examinations of the river should be made during a great flood, and also at extreme low water. These conditions exhibit most clearly, and from different points of view, the necessity of "correcting, permanently locating and deepening the channel, and protecting the banks of the Mississippi River, improving and giving safety and ease to the navigation thereof, preventing destructive floods, and promoting and facilitating trade, commerce, and postal service."

A study of these conditions is therefore necessary for the proper consideration of and maturing a plan for accomplishment of these great objects.

Although your committee did not enjoy the advantages of observation afforded by either of these extreme conditions, they returned fully impressed with the importance and necessity of the proposed improvements, and with defined opinions concerning the character of the methods required for its attainment.

A sub-committee should visit the river during that part of the autumn when the lowest water may be expected, provided with sufficient appropriations to travel to such points and remain such time as a more thorough investigation may require.

The constant association of characteristic phenomena, wherever the navigation is very good or very bad, indicates clearly the relation of the cause and effect existing, and suggests the appropriate means of improvement.

Wherever the width of the river is unusually great, or where it is divided into separate channels, serious obstructions occur. Through a narrow and undivided bed deep water is always found. Inequalities of width are caused by the caving of the banks. As bars and islands are formed by this process they serve to intensify the original cause.

No natural cessation of the agencies now at work—destructive to navigation—can be anticipated.

We are of opinion that a process that will arrest the caving of the banks and will develop the bars outside the width of channel assumed as necessary into new shore lines, conserving and strengthening the scouring power of the current, instead of retarding, diverting, and dissipating it, as they do in their present condition, is eminently necessary not only for restoring the measure of navigation already lost, but to arrest the progress of deterioration which is steadily going on.

Your sub-committee have found that the parts of the levee system remaining range from about four to twenty feet high, comprising dikes attaining the height of thirty-five feet over bayous and sloughs. Where such dimensions are reached their maintenance is important in preventing the depletion of the river and the resulting injury to navigation through the outlets which their destruction would cause.

The present provision by the States in which these works are located for their preservation or restoration is inadequate and uncertain. It is also doubtful whether these States should be solely charged with these works, which, while they were built by them exclusively for protection from overflow, serve a national purpose in preventing destructive floods and in maintaining and improving by the removal of sand-bars the navigation of our inland waters.

In referring to this connection of levees with the navigation of the river, we quote from a board of engineers:

"The next obstacle to the improvement of the low-water navigation and to maintaining a levee system is one and the same for both, namely, the instability of the river from the caving of its banks. When this can be overcome by means not inordinately expensive (on which subject we have treated more fully in our preliminary report on the low-water navigation of the river) we may expect a deepened channel, a lowered high-water surface, and a stable river, the margins of which shall be securely cultivated to the enormous development of the wealth and population of the region."

From a careful comparison of our observations with the report of the Mississippi River commission, we are of opinion that the description and explanation contained therein of the natural operations now progressing to the detriment of the navigation of the Mississippi River are apparently correct; and, also, that the methods therein recommended for the treatment of the Mississippi River appear to be correct, and should be tested.

This is demanded both by the steady increase of the evils to be abated and by the trade of the Great Mississippi Valley seeking distribution and outlet.

Your committee forbear to enter upon any elaborate statement of facts showing the vast interests involved, preferring rather to confine themselves to the best means for benefiting and improving the navigation of the river in the interest of production, commerce, trade, and the general welfare.

All are familiar with the great resources of this mighty valley, embracing an area of about 2,000,000 square miles, with a population of near 30,000,000, and in 1879 producing 87 per cent. of the entire corn crop, 69 per cent. of the wheat, 72 per cent. of the rye, 75 per cent. of the tobacco, 74 per cent. of the cotton, 71 per cent. of the hog crop, and almost the total sugar crop of the country, which, less the cost of transporting, represents the immense productive powers of the valley. Carefully gathered statistics also show that the manufacturing and mining interests and capabilities of this region will soon equal, if they do not surpass, the older communities in other parts of the country.

It has been well said that "manufacturers run along the lines of least resistance;" and, with the abundant supply of raw material, with food and land cheap and plentiful, the Mississippi Valley is destined to develop upon as grand a scale in this direction as it has already done in the line of agriculture.

The foregoing statements give some conception of the territory, population, products, commerce, and manufactures affected, in a local sense, by the proposed improvements. But we may here repeat, with emphasis, what was said by a member of the House when the subject of this river and valley was before it:

"The magnitude of the interests involved may properly be held to concern the whole country, and if the 'general welfare' clause of the Constitution can be invoked at all, surely it would apply here. Indeed, we may go further and, adopting the language of the memorial of the late Quincy improvement convention addressed to Congress, fairly say 'that the subject presented for your consideration is, in its full bearing, not confined to the interesting region for the needs of which we speak, nor yet to the whole country, which you represent. It is lifted to a higher plane; becomes international in its character; and is, in a large degree, of interest to the whole civilized world.'"

Permanent resuscitation and maintenance of all commercial and business industries must come from the soil. The question for solution is not how much can we produce, but how much can we sell?

The vital point of the whole matter is found in the proposition that the interest and value of this immense product and commerce are dependent upon the methods by which the markets of consumption can be most cheaply reached:

"At the foundation of this inquiry," say the memorialists above referred to, "lie three propositions, so clear that they may be regarded as commercial axioms.

"These are—

"First. The price obtained for the surplus fixes the value of the whole production—as the home market generally rules at the prices of the foreign—less the cost of transfer. Thus the saving to the people of the valley who till the soil of one cent per bushel on wheat and corn for the year 1879 would, according to the figures of production, aggregate a sum total of nearly $15,000,000."

It is not unreasonable to estimate that the deepening of the channel of the Mississippi River will lessen the freight, carriage, and insurance rates of the cereals alone to the seaboard at least five cents per bushel, which gives in round numbers $75,000,000 per annum on the present yield.

"Second. The rate by river determines the rate by rail. But we are confronted here by the difficulty that there is a limit to railway capacity. * * * The improvement of the water-ways is as necessary to bear away our enormous and constantly increasing surplus of productions as it is to regulate the rates at which products shall be moved.

"Third. The deeper the channel, the larger the vessel employed; the greater the capacity of the vessel, the less the cost of carriage, is the law of water-freights. Thus cheap transportation is the basal thought of all that can be planned or accomplished. It is the vital and paramount, as it is, throughout the country, the all absorbing and overshadowing question."

In conclusion, adopting the eloquent language of a distinguished member of this House, your committee asks, the whole country asks:

"Why should you not improve the Mississippi River? It belongs to no State; it cannot be monopolized; it is beyond the reach of corporations; it is the nation's free highway; it is the national outlet of a mighty valley, fifteen hundred miles wide and two thousand miles long, the richest and largest in the world, penetrated by fifty thousand miles of boatable streams; it affords the cheapest navigation known, furnishing itself propelling power. A single steam-tug with barges will bring down more wheat than can be moved on fifteen hundred freight cars, and at half the cost."

We are spending between three and four millions of dollars per year, wisely as we think, to improve the tributaries of the Mississippi River, and should improve the Father of Waters itself, this great trunk-line, this central highway of commerce, so that it shall not remain blocked up or be permitted to convert itself into a shallow waste, useless and dangerous.

P. DUNN,
W. R. MYERS,
B. W. HARRIS,
C. D. PRESCOTT,
H. L. HUMPHREY,
*Committee.*

This report was made to the last session of this Congress, and now at length, after two years of careful study, surveying and examination we are about to institute the initial works. Great and unusual caution has been observed at every step of this scheme. It seems to me that all should feel safe in voting this small appropriation—one-fifth of the sum asked for by the commission. I would rather vote five millions than one, for I feel confident it will be a great success and of inestimable value to the whole country. I feel deeply and earnestly interested in this great work, and hope it will not be handicapped with unnecessary amendments.

Let the commission go forward with their plan. They will not misapply the money.

Mr. ROBINSON. Will it be agreeable to the gentleman to be interrupted at this point?

Mr. DUNN. Certainly.

Mr. ROBINSON. If the gentleman will turn to page 19 of the report of the commission he will find "estimates for works of improvement for the first fiscal year." And in those estimates he will find this item: "Closing gaps in levees, $1,010,000."

Mr. DUNN. That is in accordance with the original act which I have read, and which directs the commission to report upon these separate plans and to state the probable cost.

Mr. ROBINSON. Are you in favor of expending this money to protect the alluvial lands?

Mr. DUNN. I am not in favor of expending one dollar of this money for that purpose exclusively.

Mr. ROBINSON. Then why object to my amendment which makes plain that it shall not be so expended.

Mr. DUNN. I am in favor of the jetty plan of improving the navigation of the Mississippi River, because I believe it will reduce the high-water level of the river's surface on that river, as it has succeeded on the Rhine. This same plan has reduced the high-water level of the Rhine by many feet in a short time.

I beg leave to call attention to a brief extract from a discourse on the Rhine before and after the regulations of its course from the French-Bavarian frontier to Germersheim, by Henry Grebenau, royal inspector of public buildings at Germersheim, September 11, 1869.

This distinguished engineer, in commenting upon the work of the Rhine commission, a body similar to our Mississippi River commission, says:

If one observes a river for a long time, the following phenomena may present themselves:

First. Falling and rising of the river, to be observed two or three times a day on the water-marks at different stations, and the laws to be derived from such observations during a certain number of years.

Second. The different breadth and depth at different stations.

Third. The fall and its gradual decrease from the mountains where the river rises to the sea.

Fourth. The velocity of the water resulting therefrom, not only in the so-called valley road, but also on the other parts of the cross-cut, and the law of the distribution of this velocity over the whole cross-cut.

Fifth. The amount and kind of deposit, and the law of the movement of the rubble, (gravel and sand masses which the river carries on its bed.)

Sixth. The carrying of mud or the quantity of those dissolved or suspended earthy parts carried by the river during inundations or high water, and which form fertile deposits on both sides of its banks.

Seventh. The temperature of the water at different seasons and in proportion to the temperature of the air.

Eighth. The formation of ice obstructions and their bad results, the more so if, at the same time, inundations set in.

To reduce from these observations the rules for the correction of river courses is the province of the hydrologist.

Almost every river takes its origin from a former lake basin. River valleys are bordered by parallel mountain chains but for certain distances; all at once the river breaks through across the mountains. For instance, the Danube, after running for a good while through lowlands, breaks near Weltenberg, above Ratisbonne, through a small jurassic spur, and between Passau and Linz mostly through gneiss; the same between Linz and Vienna, and near Theben and Gran again through the mountains. All these breakings through correspond with as many flowings off from former lake basins. The same with the Rhine; and quite similar circumstances have lately been pointed out on the Mississippi by the American engineer officers, Humphreys and Abbot. In close connection with the history of the former Rhine basin, is the formation of the so-called Rhine high banks, between Lauterburg and Mannheim, on both sides of the river. (See map, table 1.) This high bank belonging to the diluvial period is, almost at all points, of the same height, or upon an average, thirty feet over the so-called low ground of the Rhine, and consists entirely of extremely fertile clay soil mixed with sand, while the low ground of the Rhine, that is to say, the former Rhine bed, belongs to the alluvial period, and is generally covered with a fertile clay stratum of but from six to eight feet high; under this fertile couch to a depth of fifty feet and more it consists entirely over the whole breadth of gravel. This high bank or diluvial terrace shows quite peculiar contours, which at the first glance greatly surprise the hydrologist, and which remind him of events which happen on rivers left to themselves to this day in carrying rubble. The contour of this diluvial terrace forms a repeated crossing of circular curves, showing at some places quite distinctly, and which cannot be accidental, but which on account of their constant repetition, are to be attributed to a constantly acting cause. (See map, table 1.)

The immense masses of gravel on the bottom of the Rhine basin between the now existing diluvial terraces must be looked at as the principal cause of transforming the last rest of the lake into a serpentine and gravel-carrying river. In observing the farther law of the movement of water in rivers carrying gravel, viz, that in one and the same cross-cut the greater velocity corresponds with the greater depth, and *vice versa*, it becomes evident that when a mountain projecting from the right bank obstructed the river, causing it to turn to the left, the signal was given to the serpentine formation in the old lake basin; and that, further, where the water-masses were collected together, thereby producing a greater depth, also was caused a greater velocity on the bottom of the river, or, in other words, the formation of a serpentine river channel. The lowlands owe their fertility to the inundations of the Rhine before its regulation. The mean annual flowing-through quantity of the Rhine at Germersheim is about 37,162,000 cubic meters, or about one-fifteenth of that of the Mississippi.

From 1817 to 1825 six contractions were executed between the French frontier and Germersheim. They resulted in a shortening of two and five-eighths hours of the river course, and in 1828 an exceedingly salutary sinking of the water-surface was observed to the amount of five feet. The normal breadth between both the banks was fixed at two hundred and forty meters. In 1868 eighteen contractions in all were accomplished. The principal results of these works were the following: The river had been canalized, partly in straight lines, partly in soft windings, between parallel and stone-paved banks two hundred and forty meters from each other. The former length of thirty-one hours from Luterburg to Worms was reduced to eighteen, or shortened thirteen, this being a great gain for navigation. The fall of the water-surface having formerly been *echelon*, like in the serpentine river, and alternately greater or less, so that the vessels to be drawn up the river wanted sometimes one and sometimes five horses, is now quite uniform, decreasing from four-tenths per millimeter at Lanterburg to one-tenth per millimeter at Worms. This requires but one and the same drawing force for the whole way. The fall of the water-surface of the Rhine amounts to two and twenty-five hundredths meters, and all the spots exposed to inundations before 1817 continue now to remain dry. Ninety-two hundred and twenty-five acres of land were thus gained and adapted to culture. Finally, the profitableness of the correction of the Rhine consists in the quicker carrying off of the high water, and the rarer happening of ice obstructions on account of the straight course, and also it reanimated navigation, and consequently contributed to the prosperity of the inhabitants.

Mr. GIBSON. Will the gentleman allow me a moment?

Mr. DUNN. Certainly.

Mr. GIBSON. I understand the gentleman does not differ at all with the gentleman from Massachusetts, [Mr. ROBINSON,] but he regards the amendment offered by that gentleman as superfluous.

Mr. DUNN. That is all.

Mr. GIBSON. Then why not accept it? We gentlemen who have endeavored to attend to this interest know perfectly well that every word is true which the gentleman from Arkansas [Mr. DUNN] has said; but there are apprehensions in the minds of many gentlemen on this floor that this commission will build levees or dikes in the interest of riparian owners of land on the banks of the Mississippi River.

Now, those gentlemen who represent that portion of the country disavow any such purpose, and we declare that the report of the commission proposes no such plan. The gentleman from Massachusetts, [Mr. ROBINSON,] who has given attention to this matter, brings in here an amendment to prohibit the commission from doing what, in the opinion of the gentleman from Arkanas, [Mr. DUNN,] it does not propose to do; that is, to build levees for the purpose of protecting lands from overflow. Now I hope the amendment will be adopted by the House.

The CHAIRMAN. The time of the gentleman from Arkansas [Mr. DUNN] has expired.

Mr. DUNN. Allow me to say in conclusion——

Mr. MARSH. I move to strike out the last word.

Mr. DUNN. I simply desire to say that I will not oppose the amendment of the gentleman from Massachusetts, [Mr. ROBINSON;] but I wanted to show that, in my judgment, it was not necessary.

Mr. MARSH. I am opposed to this particular appropriation, because I believe it is in the interest of building up the broken down levees from Cairo to New Orleans. I take it that if gentlemen will look into the law which authorizes and creates this commission, and which my friend from Arkansas [Mr. DUNN] has cited to the House, and will look at the report made by the commission, which report embodies the plan that is referred to in this bill——

Mr. BUCKNER. Will the gentleman allow me to ask him a question?

Mr. MARSH. I have not time in my five minutes; I would be glad to do so if I had time.

Every gentleman must be convinced that one of the objects of this appropriation is to fill up the gaps in these broken down levees. In the plan proposed $2,020,000 is estimated as necessary simply to fill the gaps; and an appropriation of $1,010,000 is asked for this purpose for the first year; and this bill proposes to give within $10,000 of the amount asked.

Now, as to the amendment offered by my friend from Massachusetts, [Mr. ROBINSON.] I am not surprised that the gentleman from Mississippi and other gentlemen on this floor who live down in that region and are advocates of this clause readily accept the proposition offered by the gentleman from Massachusetts, because under it, if the commission that is to control the expenditure of this money—not the Secretary of War, as was intimated by the gentleman from Massachusetts—thinks it best to use the money for the building up of these levees, then under the provisions of the gentleman's amendment that commission will have the right to do so.

The amendment of the gentleman from Massachusetts still leaves with these commissioners the power to do that which they say in their report ought to be done, because they say that in order to improve the navigation of the river the building of these levees is an incidental adjunct; and where is the safeguard against their expending this million of dollars for the incidental adjunct rather than for the main purpose of deepening the channel of the river?

I wish to say to gentlemen who are opposed to this levee system of the Lower Mississippi River that the amendment offered by my friend from Massachusetts—offered no doubt in perfect good faith—is but a blind, and a cover beneath which the original design can and will be accomplished, notwithstanding the pretense that that design is prevented by the amendment. I am not surprised that gentlemen favoring this measure so readily accept the amendment.

Mr. THOMAS. Mr. Chairman, I rise for the purpose of opposing the substitute offered by the gentleman from Massachusetts, [Mr. ROBINSON,] and also to accept the suggestion made by him in his remarks in reference to the amendment offered by myself. The gentleman's substitute provides that the commission may use this money in repairing breaks in the levees or banks—I do not pretend to quote the language exactly—when in their opinion the navigation of the river or the depth of the channel will be improved by such expenditure. Every gentleman who lives in the valley of the Mississippi knows that the channel of that river is never deepened when it is sufficiently high to break over the levees and banks. Scientific investigation has shown that during high water the bottom of the river is filled up by deposits continually, and that the channel is only washed out and deepened when the river is low. The channel of the river cannot be deepened during high water, or its conditions benefited by applying this money to repair the breaks in the levees. It seems to me that there is a gap in the gentleman's amendment sufficiently large, not only for the million of dollars, but for the whole Mississippi River to run through.

Now, my proposition is a plain, square test question. There is no surplusage in it. It presents directly the question whether this $1,000,000 is to be used in reclaiming the swamp, overflowed, and alluvial lands, by the building of levees or the repair of breaks in the levees and banks of the Mississippi, or whether it is to be used in deepening the channel, and thereby improving the navigation of the river. It has been suggested that the word "navigation" is a dangerous one. Upon reflection I see that it may be, and therefore I ask leave to modify my amendment by striking out "and thereby the navigation."

The CHAIRMAN. The gentleman has a right without leave to modify his amendment.

Mr. THOMAS. Then I will modify the amendment so as to read as follows:

*Provided*, That no part of said sum shall be expended for the purpose of reclaiming the swamp, overflowed, or alluvial lands alongside the Mississippi River, but shall be confined strictly to improving the channel of said river.

Mr. ROBINSON. Will my friend give me his attention for a moment? He is clear in the use of language; but does he not see that if he talks about a great "gap" in anybody's amendment, there is a tremendous one in his own? His amendment provides that this

appropriation shall not be used for reclaiming swamp and overflowed lands, but shall be used for the purpose of deepening and improving the channel. My friend will see that while the commission under his own amendment will not build levees to reclaim swamp and overflowed lands, they will, if their judgment so directs, repair the levees to improve and deepen the channel. That is what the gentleman wants to do, just as I do; and that is the effect of my amendment.

Mr. THOMAS. That is exactly what I want them to do.

Mr. WARNER addressed the House. [See Appendix.]

Mr. REAGAN. I hope we will rise and go into the House to close debate.

Mr. VAN VOORHIS. I have an amendment to offer. It is proposed to strike out of the substitute all after the word "levees," so it will read:

*Provided*, That no portion of the sum hereby appropriated shall be used in the repair or construction of levees.

Mr. Chairman, we either want to prevent the building of levees with this money, or we do not. If we wish to prevent it, we might as well say so in the bill, and not leave it as a matter of opinion.

According to the substitute, if the engineer builds a levee, although it may have operated to protect the land of the gentleman, it will be enough for him to say that he did it for the purpose of navigation, and then it is all right.

Now, this Mississippi River commission say that levees have never been erected on the banks of the Mississippi River except for the special purpose of protecting the alluvial lands from overflow. They also say, and they say theoretically, a levee might possibly help navigation. Here is what they say about it:

The immediate effect of the levees would be to increase the volume and height and accelerate the velocity of the flood-waters between them, resulting in an erosion and deepening of the river-bed, and ultimately in a corresponding lowering of the flood-slope in accordance with the general law already quoted, that an increase in the normal volume of discharge in a sedimentary stream flowing through alluvial deposits results ultimately in a lowering of the flood-surface.

Now, the minority of the committee say that is not so, and I ask the Clerk to read the portion I have marked.

The Clerk read as follows:

2. We do not concur with the majority of the commission in their estimate of the value of the closure of gaps in existing levees as a factor in the improvement of low-water navigation; this estimate being derived in part from the theoretical views already referred to.

Existing evidence seems to show that during low-water stages the bars below Cairo are usually cut out by the river, and that when the period of low river in the following season approaches these low-water channels are found filled up, the low-water bed of the river in these shoal places having risen, to be again cut out by the low river. (See Major Suter's report in Report of Chief of Engineers, 1875.)

At the Horse Tail Bar, below Saint Louis, the bed of the river has been observed to rise eight or ten feet above low-water in the interval between two low-river periods. (See General Simpson's report in Chief of Engineer's Report, 1876.)

If, then, the final effect of a flood which rises from thirty to fifty feet above low-water is to raise the low-water bed of the river at shoal places, may it not be possible that if the height of this flood be somewhat increased by levees the bed may rise still further instead of being depressed, thus injuring instead of improving navigation.

But even if a rise or fall of a foot or two in the bed of the river were produced by levees, it is difficult to see how this would sensibly affect the low-water width of the river. Bad navigation arises from excessive low-water width at certain places, and is to be cured by contracting that low-water width to about three thousand feet. This contraction must be effected by works in the bed of the river, and not by levees on top of its banks, out of contact with the low-water river.

Mr. VAN VOORHIS. When experts differ in so important a matter as that, it seems to me we do not want to invest a million dollars in the experiment.

Mr. HASKELL. I rise to oppose the amendment to the amendment offered by the gentleman from New York, and I hope the amendment of the gentleman from Massachusetts will prevail. I desire to say but a word or two on this Mississippi River plan. I have personal knowledge for over twenty years of the intense desire of the shipping interests of Saint Louis and other cities on that river to have it improved, and I know it is the wish of the people in that valley to have it improved, and I have no doubt there may be attached to the improvement of the river interests of planters here and there which would be protected by a levee; but this is not the main object in all honesty and truth of this movement for the improvement of the river. There is, Mr. Chairman, a desire to have the river improved. This is but the culmination of attempts made twenty years ago to begin the work. I believe that the amendment of the gentleman from Massachusetts sufficiently guards it. I think we can well afford standing on the threshold of an improvement that will cost millions of dollars to trust under these guards and restrictions the operations of this board for one year at least. Then they are to make a report. They are then to come to Congress for the continuation of this work. No one expects it to be completed by this appropriation.

I desire to say here that, for one, I shall not object if in the method adopted for the improvement of that river a single planter on the Mississippi River shall obtain some benefit if the grand work of improving the channel is accomplished. I say God speed the planter who gets a small advantage from the great work of the Federal Government in the main line of improving the river. I think this is about the best and cheapest provision incorporated in this whole bill, and I hope the committee will not be prejudiced nor blinded, or get mad over the consideration of a bill like this, and really shut their eyes to the benefits to be derived from the deepening of the channel on that magnificent river—benefits which will extend to every portion of the common country.

Mr. HUMPHREY. Mr. Chairman, I desire to say a word in regard to the amendment to the amendment proposed by the gentleman from New York in regard to the repairs of the levees of the Mississippi River. No one acquainted with the facts in connection with this matter can contend for a moment that in some cases it may not be necessary that the levees of the river shall be utilized for the purpose of this improvement. The plan adopted by the commission sent there to examine into and report upon that river is not to use the levees, but to adopt a system which is in use in many rivers in Europe of improving it by revetments, and any one who knows anything of alluvial streams knows that by sinking these wire mattresses or brush along the banks below the bed of the stream, a corresponding wash is made in the channel which entirely sweeps away the collecting débris and other matter, and eventually secures a depth of water that could not otherwise be obtained, so that by the scouring process the channel may be deepened so as to do away entirely with the levee system. If it should happen eventually that the improvement of this river should reclaim lands belonging to private individuals, surely no complaint of wrong could be entered against a beneficial system by reason of that fact. The plan of the commission is to so deepen the channel by the revetment system, which has proved so satisfactory on alluvial rivers in Europe and elsewhere, and by using these sunken mattresses, wires, or brush so as to lower eventually the banks of the river to their natural level, in place of allowing the river to run, as it does now, on the top of a ridge or causeway for hundreds of miles, and at the same time increase the depth to a uniform figure of ten feet by the scouring process, so that at all seasons of the year there may be sufficient depth for vessels drawing seven or eight feet of water. When we went to New Orleans in the spring upon the steamer James Howard she had on her decks 3,150 tons of freight, equal in amount to thirteen trains of thirty cars each. If the plan which the commission have adopted and by which they propose to take and expend a million of dollars was practically successful, the result will be that the commerce on that river will swell to such magnitude that it will pay the whole cost of the improvement, even if it costs $50,000,000 by its reduction in transportation of the products of the country, and the people of this whole country will be richer by $500,000,000 in the next twenty years. [Applause.]

Mr. REAGAN. I now move that the committee rise.

Mr. MARSH. Mr. Chairman, I desire to offer an amendment to this paragraph.

The CHAIRMAN. The motion to rise has precedence.

The motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN, as Speaker *pro tempore*, having taken the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the river and harbor appropriation bill, and had come to no conclusion thereon.

### ORDER OF ADJOURNMENT.

Mr. CARLISLE. Mr. Speaker, in order to avoid a conflict between the legislative day and the calendar day, I move that when the House adjourns to-day it adjourn to meet on Thursday next at eleven o'clock.

The motion was agreed to.

### LEAVE TO PRINT.

Mr. FINLEY. I desire to ask unanimous consent to print some remarks in the RECORD in reference to the tariff.

There was no objection, and it was ordered accordingly. [See Appendix.]

Permission to print remarks in the RECORD on the river and harbor bill was given to Mr. ACKLEN, Mr. KING, Mr. TOWNSHEND of Illinois, Mr. BERRY, and Mr. THOMAS TURNER. [See Appendix.]

Mr. CONGER. I ask consent, Mr. Chairman, to add to the remarks I made this morning some quotations from one or two other sources.

There was no objection, and it was ordered accordingly.

Mr. BROWNE. Mr. Speaker, I move that everybody have leave to print who desires it on the pending bill.

There was no objection, and it was ordered accordingly.

### RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I move that the House now resolve itself in Committee of the Whole on the state of the Union to consider the river and harbor appropriation bill; and pending that motion I move that all debate on the pending paragraph and amendments thereto be limited to one minute.

Mr. MARSH. If this amendment prevails I desire to ask the chairman whether the limitation on the debate will apply to subsequent amendments which are not now pending?

The SPEAKER *pro tempore*. It will apply to all amendments to the pending paragraph.

Mr. MARSH. I desire to offer an amendment to the paragraph myself.

The SPEAKER *pro tempore*. If the motion shall prevail it does not prevent the offering of any additional amendments to the pending paragraph, but it limits debate upon all amendments to one minute.

Mr. MARSH. I wish to ask the gentleman in charge of this bill if he will not make the limitation of debate ten minutes instead of one minute, and allow me a portion of the time, as I desire to offer some amendments? This is an important provision and ought not to be acted upon hastily.

Mr. REAGAN. I will modify my amendment and make it five minutes, which time I will yield to the gentleman from Illinois if he so desires.

The motion to limit debate was agreed to.

The SPEAKER *pro tempore*. The question now recurs on the motion of the gentleman from Texas that the House resolve itself into Committee of the Whole on the state of the Union to proceed to the consideration of the river and harbor appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole to consider the river and harbor appropriation bill. By order of the House all debate upon the pending paragraph and all amendments thereto is limited to five minutes.

Mr. MARSH. I rise to ask whether it is now in order to offer an amendment to the text of this paragraph.

The CHAIRMAN. It is not at this time. But the Chair will recognize the gentleman at this time to speak to his own amendment, if he desires to do so; or he can reserve his five minutes till he offers the amendment.

Mr. MARSH. I will reserve my time till I offer my amendment.

The question being taken on the amendment of Mr. VAN VOORHIS to the substitute of Mr. ROBINSON, it was not agreed to.

The CHAIRMAN. The question recurs on agreeing to the substitute proposed by the gentleman from Massachusetts [Mr. ROBINSON] for the amendment proposed by the gentleman from Illinois, [Mr. THOMAS.] They will be again read.

The amendment and substitute were again read.

The question being taken, the substitute was adopted.

The CHAIRMAN. The question recurs on agreeing to the amendment as amended.

Mr. GIBSON. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GIBSON. If we vote "ay" do we adopt the substitute offered by the gentleman from Massachusetts, [Mr. ROBINSON?]

The CHAIRMAN. The committee has agreed to the substitute of the gentleman from Massachusetts in lieu of the amendment of the gentleman from Illinois, and it has now become the only amendment pending to the section. Those who vote "ay," vote for the adoption of the substitute.

The question being taken, the amendment, as amended by the adoption of the substitute, was agreed to.

Mr. MARSH. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 350, after the word "river," insert "from Saint Paul to New Orleans;" in line 352, after "commission," insert "for the improvement below Cairo;" and in line 353 strike out the words "with the advice and under the supervision of said commission;" so that that portion of the paragraph will read as follows:

"For the improvement of the Mississippi River from Saint Paul to New Orleans in accordance with the plan therefor adopted by the Mississippi River commission for the improvement below Cairo, to be expended by the Secretary of War, the sum of $1,000,000."

Mr. MARSH. Now, Mr. Chairman, if the American Congress are prepared to make a new departure and appropriate the public money for the purpose of building up levees in this country, I see no reason why these appropriations should be confined to the States south of Cairo; and hence my first amendment is to extend that system up to Saint Paul; because between Cairo and Saint Paul there are more acres of overflowed lands, rich alluvial soil, than there are below. If the money is to be taken out of the Treasury for these purposes do not let that money be used for a sectional purpose. Do not give encouragement to the cry which has prevailed in a certain section of the country for years past, "the old flag and an appropriation." Do not cut this Mississippi River in two at Cairo and give the appropriation to the South and not give it to the North. So much for the first part of my amendment.

I come now to the next part of my amendment. The bill says this money is to be expended by the Secretary of War. But how expended by him? It is to be expended by him "with the advice and under the supervision of said commission." This commission, Mr. Chairman, in my opinion, is not the body under which $1,000,000 of the public money should be expended. That commission was not organized for the purpose of expending money or directing its expenditure. Congress authorized the creation of that commission and it was appointed solely for the purpose of examining the Mississippi River below Cairo and offering such suggestions as to the improvement of the navigation there as seemed best to them. Now it is attempted by this bill to clothe the commission with the control and expenditure of this money, but my amendment proposes to strike that out so that the money, this $1,000,000 of money, will be expended by the Secretary of War as every other dollar of money that has been authorized by Congress in years past for the improvement of rivers and harbors has had to be expended. Why make an exception of these levees? Why take this levee system out from the control of the Secretary of War and place it in the hands of a commission that never was appointed for that purpose but for an entirely different purpose?

The question on the amendment offered by Mr. MARSH having been taken *viva voce*, the chairman [Mr. SPRINGER] said that in the opinion of the Chair the "noes" had it.

Mr. MARSH. I call for a division. I want to know who are in favor of levees in the South and who are against levees up North.

The committee again divided; and there were—ayes 26, noes 87.

Mr. MARSH. No quorum.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers; and appoints the gentleman from Illinois, Mr. MARSH, and the gentleman from Texas, Mr. REAGAN.

The committee again divided; and the tellers reported—ayes 37, noes 120.

So the amendment was not agreed to.

Mr. ROBINSON. There is a verbal amendment necessary in line 351. I move to strike out the word "adopted" and insert in lieu thereof "recommended in Executive Document No. 58, second session Forty-sixth Congress."

Mr. KENNA. There is no objection to that.

The amendment offered by Mr. ROBINSON was adopted.

Mr. COX. I wish to have printed in the RECORD a letter pertinent to this bill.

There was no objection.

The letter is as follows:

LANCASTER, *February* 12, 1881.

SIR: Recognizing the soundness of your position on the harbor bill, and supposing that you will favor truly meritorious national improvements, I want to tell you that some sly people in Minneapolis and Saint Paul who wish to force the products of Northern Dakota and Northern Minnesota around through their towns, and to go to Chicago on the way to the eastern markets, have got into the harbor bill a large sum for a system of reservoirs at the headwaters of the Mississippi, under the pretense of improving the navigation of the Upper Mississippi above Saint Louis, while really the project is simply to improve the water-power at the Falls of Saint Anthony, which lacks water in the late summer season.

That is all there is of it. You will see the water-shed at the headwaters of the Mississippi is very limited; the river area below, down to Saint Louis, is not far from one thousand square miles. At times there is but a foot of water at Saint Paul. All the water that could be stored up would not keep up navigation a week.

What is wanted for the wonderful region of the Red River Valley is a slack-water and canal connection of the Lake Superior with the Red River, a feasible project fraught with vast advantages to our northwestern country, (and to New York.)

This project is not favored by Saint Paul, Minneapolis, or the southern portion of the State; they prefer to send the products of the northern portion of the State through Chicago, though it is just as far from that place to Buffalo as it is from Duluth, 1,000 miles in each case.

You would do these people of the great Northwest a favor to have twenty or thirty thousand dollars put into the harbor bill for this survey, and this reservoir item taken out, as it is antagonistic to a really national work.

Mr. Charles Ellet years ago projected a system of reservoirs at the headwaters of the Ohio; they cover a vast water-shed in several States; but the idea was generally thought to be impracticable, and given up after much discussion.

The water route is as 15 or 20 to 1 for economy in competition with railroad carriage. If we intend to hold our grain trade with Europe we must have cheap freights. It costs two cents a bushel to bring a bushel of wheat from the West 1,000 miles in a steamer, a price which would only pay for its carriage sixty-six miles on a railroad at one cent per ton per mile.

JAMES M. PERRY.

Hon. S. S. COX, *Member of Congress, &c.*

The Clerk read the following:

Improving Broad Creek from its mouth to Laurel, Delaware, $10,000.

Mr. SIMONTON. I offer the amendment which I send to the desk to come in as an independent clause preceding the clause last read.

The Clerk read as follows:

The engineers having in charge the improvements appropriated for in this bill shall report what effect the expenditures and improvements theretofore may have had upon the convenience, increase, or diminution of commerce, local and general, relating to said improvements; and the Secretary of War shall transmit the same to Congress with his annual estimates for the improvement of rivers and harbors.

Mr. SIMONTON addressed the Chair.

The CHAIRMAN, (Mr. SPRINGER.) The Chair is of opinion this relates to the paragraph on which debate has been closed.

Mr. SIMONTON. I beg the Chair's pardon. I intend that to come in as a separate paragraph after the paragraph on which debate was limited and before the succeeding one.

The CHAIRMAN. But it is nevertheless an amendment to a clause upon which debate has been limited.

Mr. SIMONTON. It relates to the whole bill, and not to the preceding clause.

The CHAIRMAN. It is in order to move the amendment; but the Chair is of the opinion that limiting debate upon a clause also limits debate upon all amendments and propositions relating to that clause.

Mr. SIMONTON. My purpose is not to amend the clause we have just left, but to insert as a new paragraph by itself a provision relating to the whole bill.

Mr. KENNA. Will the gentleman from Tennessee [Mr. SIMONTON] allow me to call his attention to a provision of this bill?

Mr. SIMONTON. I will do so.

Mr. KENNA. The last clause in the bill is as follows:

And in every case where examinations or surveys are made, the report thereon shall embrace such information concerning the commercial importance, present and prospective, of the improvement contemplated thereby, and such general commercial statistics as the Secretary of War may be able to procure.

Mr. SIMONTON. I will withdraw my amendment until that portion of the bill has been reached.

The CHAIRMAN. The amendment is withdrawn; and the Clerk will proceed with the reading of the bill.

The Clerk read as follows:

For improving Choptank River between Denton and Greensborough, Maryland, $5,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph just read. I desire only to read a sentence or two from the report of an "injudicious friend" of this bill; otherwise called the Engineer. He says:

This is rather a tidal estuary than a river, in a proper sense. The distance from Denton to Greensborough by the river is nearly eight miles.

In another place in this bill there is an appropriation for "improving Threadhaven Creek." In regard to that the Engineer says:

With respect to the Threadhaven, the commercial importance of Easton, for the benefit of which Threadhaven Creek has to be improved, is such as to hold the key of the entire Choptank trade.

Now, I submit to the House that either the Choptank or the Threadhaven improvement could be dispensed with. If the Threadhaven holds the key to the Choptank trade, then what in the name of Heaven is the use of improving the Choptank? That is all I have to say on this amendment.

The motion to strike out was not agreed to.

The Clerk read the following:

Improving Elk River, Maryland, $5,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out that item. Another "injudicious friend" heard from. [Laughter.] He says:

At the same time it was recommended that if any appropriation were made it be not less than $20,000, as to carry the work through with successive small appropriations would increase very much the cost.

Now, as this river is of no earthly importance except to a little circle of fisherman down there, I suggest that this item be stricken out entirely, until such time as the greater amount of the national debt is paid, when we can appropriate the whole $20,000 and do up the business at once in an economical manner, if it is thought best at the time to do so.

The motion to strike out was not agreed to.

The Clerk read the following:

Improving Secretary Creek, Maryland, $3,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out that item. Here is another locality that wants "the golden stream" to flow into it from the Federal Treasury. And another "injudicious friend" is heard from:

The whole length is not much over three miles, entirely in Dorcester County. The rise of the tide one and one-half feet: the volume of the stream depending mainly upon the tide. This creek is the water outlet of the trade of the town of East Newmarket and the surrounding territory, which is very fertile and thickly settled, about eighty miles square.

I think I have read something about this before. ["Vote!" "Vote!"] I am through.

The motion to strike out was not agreed to.

The Clerk read the following:

Improving Threadhaven Creek for three miles below Easton, Maryland, $3,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out this item. The Engineer says that the name of this creek is not known. [Laughter.] He calls it "Threadhaven," as the best he can find. The only reason why an appropriation should be made for this improvement, that I can see, is the following:

Third Haven (not Threadhaven) Creek is an important tributary of the Choptank, and it holds the key to the Choptank trade.

Now, having improved the Choptank, what is the use of improving the key? I move that it be stricken out.

The motion was not agreed to.

The Clerk read the following:

Improving Wicomico River below Salisbury, Maryland: Completing improvement, $2,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out that paragraph. Another "injudicious friend" heard from. The "injudicious friend" says:

Some dikes also are to be built for the construction of a water-way, and as a place behind which to deposit material dredged from the channel. The natural channel is quite narrow and crooked, and at the shallowest place does not give over two or three inches at low water. Much injury has been for years and was then constantly being done to the river by the saw-mills turning their sawdust into it.

[Laughter.]

The motion to strike out was not agreed to.

The Clerk read the following:

Improving Blackwater River, Virginia, $1,500.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph just read. This appropriation seems to be for clearing off the "overhanging trees." I think perhaps if they would give the timber to the adjacent settlers they would remove those "overhanging trees" for the sake of the timber, and thus save the Government the expense. That is my reason for offering the amendment.

The amendment was not agreed to.

The Clerk read as follows:

Improving Chickahominy River, Virginia, $2,000.

Mr. COX. I move to strike out "Chickahominy." [Laughter.] The "Chickahominy" has never been navigable except for the average frog. Our soldiers will tell you that. The Chickahominy has a historic character. John Smith in the early days of Virginia history took a row-boat and went up the Chickahominy expecting to strike the Pacific Ocean. [Laughter.] He never struck it. He struck Pocahontas, who took him back to Jamestown; and the navigation of Virginia rivers has been more or less difficult—especially less—since that time.

Mr. HASKELL. I would like to ask the gentleman whether I am right in my recollection of an old tradition that some craft of John Smith ran aground on one of the bars.

Mr. COX. It stuck in a mud dam on the Kanahwa. [Laughter.]

The amendment of Mr. COX was not agreed to.

The Clerk read as follows:

Improving Dan River between Danville, Virginia, and Madisen, North Carolina, $8,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out this paragraph. [Cries of "Vote!" "Vote!"] I do not think gentlemen will hasten matters in this way. I will not read all that the report says in regard to Dan River; I will only take the sentences which my eye catches, as it were.

It is there stated that the distance from Danbury to Danville—

The section to be improved—

is 77.36 miles; and the cost of improving the river by means of locks and dams so as to give not less than three feet at low water will be $658,000.

* * * * * * *

I would, however, state for the benefit of those interested in the improvement of this section of the Dan, that the cost of preparing the river for steam navigation can be reduced by assuming a lesser depth of navigation as the basis of calculation. If a depth of one and a half feet in the pools and two feet in the rapids is assumed we have reason to believe that the ordinary stages of the river will maintain a navigation of not less than three feet for six months of the year. We should have by this method of improvement a slope at no point exceeding ten feet to the mile which if it should be found necessary, could be easily overcome with light-draught steamers by the use of a chain anchored at the head of the rapid and passed around a steam capstan placed in the bow of the boat.

[Laughter.]

Now, I have heard a good deal said about this bill breaking the backs of a couple of gentlemen who are supposed to control the great railroad interests. Just think how these gentlemen must shiver with fear at the thought of this mighty stream being subjected to the commerce of the country by a chain anchored at the head and a line reaching down to the mouth run by steam, so as to "yank" vessels up by the capstan. [Laughter.] The owners of the great railroads, the owners of this monstrous snake which we have recently seen represented with its tail coiled around the Capitol, must shiver with fear when they contemplate the improvement of the Dan River by this kind of means. [Laughter.]

The amendment of Mr. UPDEGRAFF, of Iowa, was not agreed to.

The Clerk read as follows:

Improving Mattaponi River, Virginia, $3,300.

Mr. UPDEGRAFF, of Iowa. Mr. Chairman, I move to strike out this paragraph. I have not had time to read the engineer's report in regard to the Mattaponi; but my eye caught a paragraph or two in regard to Pamunkey, and I think I can connect the Pamunkey with the Mattaponi. See whether I cannot. I read from the report:

This river—

The Pamunkey—

which has a greater length and depth than the Mattaponi, rises in Orange County, Virginia, and flows southeast. It takes its name from a tribe of Indians, a remnant of which may still be found on the reservation at Indiantown, near the White House. A survey of the upper part of the river was made by the authority of the State of Virginia in 1836 by Charles B. Shaw, an eminent engineer, whose report may be found in the archives of the State. My short stay in Richmond did not permit me to consult this report. The river above Hanovertown is narrow, tortuous, and much obstructed by logs and trees, but may be made navigable for barges for a distance of from ten to fifteen miles, whenever the trade will warrant the improvement.

That is the report in regard to the Pamunkey, which is stated to be a river of greater length and greater depth than the Mattaponi. The "injudicious friend" of the Mattaponi has spoken in this report; but his language is in fine print, and I cannot get at the points in five minutes. So I have tried to connect the Mattaponi with the Pamunkey.

Mr. BEALE. I wish to correct the pronunciation of the gentleman from Iowa. It is Mattaponi, and not Mattapony. [Laughter.]

Mr. UPDEGRAFF, of Iowa. Very well, I stand corrected.

The motion was rejected.

The Clerk read as follows:

Improving mouth of Nomoni Creek, Virginia, $2,000.

Mr. UPDEGRAFF, of Iowa. For reasons already given, I move to strike out that paragraph.

The amendment was rejected.

The Clerk read as follows:

Improving Pamunkey River, Virginia, $2,500.

Mr. UPDEGRAFF, of Iowa. Here is the Pamunkey River again. I thought we had already struck it out. I move, however, to strike it out now. I am sorry for the Pamunkey, but I will be glad to get rid of it. If I am wrong in the pronunciation, I will not pronounce it Pamunkey, but I will pronounce it Pamunki. [Laughter.] I want it stricken out all the same.

The amendment was disagreed to.

The Clerk read as follows:

Improving Elk River, West Virginia, $5,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out that appropriation. I believe some mention has been made in general debate of this mighty stream, but I think perhaps it will be well to put it here in this place.

I see the committee are anxious to correct any mistake they might have fallen into in their nightly studies. The injudicious friend here says:

Before the river can be considered properly prepared for the full development of the trade upon it, which the resources of the country will probably produce and maintain, some or all of the private mill-dams, should be certainly removed or modified. The unexpected cheapness of the project enables the engineer to reduce his estimate from $100,000 to $90,000. From Broxton Court House to the mouth of the Big Sandy the traffic consists almost exclusively of logs floated on the river and of canoes and small boats carrying country produce down the stream and returning with groceries or staves and hoop-poles.

[Laughter.]

Another engineer reports:

Those making use of Elk Creek for floating out logs from the headwaters to the mouth report the work of last season has been of great benefit to their interest, the stream in many places being in appearance a new water-course.

I should think it would.

At Blaine's Island, however, the brush now covering the bar causes the logs to lodge.

Now, if the appropriation were only enough to dislodge the brush there I perhaps would not say anything about it, but considering it goes to the whole extent of the river and involves $90,000—but not in this bill—and as the appropriation is therefore of no value, I will move to strike it out.

The amendment was rejected.

The Clerk read as follows:

Improving Great Kanawha River and operation of works, West Virginia, $200,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out that paragraph. Another injudicious friend heard from. The engineer says:

The object aimed at is to collect the water-supply by dams, making at low-water a succession of navigable pools connected by large locks. The peculiarity of most of the dams is they can be lowered when the stage of water in the river will suffice for navigation over the shoals. This gives them the name of movable dams.

They are somewhat different, I presume, from the modified mill-dams, and enables an open river to be had when the water is high enough. [Laughter.]

It is plain, however, that, as the whole system can be completed in the same time as any one of the similar parts, by far the most advantageous course, looking to the utilization of the whole improvement, whose benefits we cannot fully realize until it covers the whole river, would be to make the remainder of the estimate for this work $2,410,000. The whole work could then be finished probably in two or three years.

Well, indeed, may the Kanawha Gazette say that "ever since HEREFORD and KENNA have been our Representatives, the golden stream has poured steadily into our midst, refreshing the hearts and bearing blessings into the hands of our laboring men, their wives and children." It is a good thing to pour blessings down among the laboring men of Kanawha; but other laboring men should have this opportunity, men who like golden streams flowing in upon them just as much as the laboring men of Kanawha.

Mr. KENNA addressed the committee. [See Appendix.]

Mr. COX. Is an amendment necessary?

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. COX. Then I move to strike out the last word. I am glad I have roused my eloquent friend from West Virginia at last. We are asked, Mr. Chairman, to appropriate large sums of money for these Kanawhas; $200,000 dollars more for this river, the Great Kanawha, tortured with tolls and vexed with all sorts of embarrassment and impediments to navigation.

Mr. KENNA. In what respect?

Mr. COX. By the laws of West Virginia.

Mr. KENNA. I hope the gentleman from New York will yield to me for a minute to answer that question.

Mr. COX. It will afford me a great deal of pleasure to do my friend that courtesy.

Mr. KENNA. I merely want to say in response to that remark that the only tolls that were collected upon that river were collected by a sort of general consent, and were collected by a board created by the Legislature of the State of West Virginia to improve its navigation facilities. That board has acted in co-operation with the Government in improving the river, and never, in any sense, in conflict with it, and will be abolished at any time, without opposition, when its action is regarded as conflicting in any sense whatever with the interests of the Government or the commerce of the river. It was created to facilitate that commerce, and not in any sense to embarrass it.

Mr. COX. Well, I knew they were making money out of somebody. Now, we are giving money out of the Federal Treasury from Texas to Maine and for the improvement of rivers that tax everything from a hoop-pole down to a stave. Why, Mr. Chairman, even in that river a catfish has to wear his nose off in getting over the sand-bars. [Great laughter.]

This money is scattered all the way from New York, Illinois, Texas, all these great items of the bill which it is proposed to pass under some peculiar motion in this House.

Oh, I wish we could just call a halt. People are calling a halt now. The people in this country are opposed to all this business. They think this democratic Congress is dying with a hip, hip, hurrah. False economy, all that sort of thing, is going to be brought up here against us.

I am waiting for somebody interested in this measure to say something. I say that the people all over this country do not like these great appropriations for such objects. They will call a halt before long.

Now I ask my friend from Maryland, [Mr. MCLANE,] who I see is on the alert, to look up the old messages embodying good old democratic doctrine, irrespective of all else, and give us the dividing line on this question. That is what we want.

Mr. VAN VOORHIS. I send an amendment to the Clerk's desk.

Mr. COX. I did not call upon that gentleman from New York.

The CHAIRMAN. The gentleman from Maryland [Mr. MCLANE] is recognized.

Mr. MCLANE. I rise to oppose the amendment of the gentleman from New York; and in the five minutes I have at my command I want to cover two points made by that gentleman.

In the first place, as to these canals and dams and all this interior navigation, looking only to my own opinion and to my own political leaning, I should have preferred, doubtless, as my friend from New York who usually sits near me, to follow my instincts of human nature and to have looked after the harbors on the seaboard and the great rivers that flow into the Atlantic. And if I had been as selfish as that honorable gentleman and his colleague from New York supposes, I would have confined my support to those harbors on the Atlantic and those great rivers that run into the salt water. But through a long life in public affairs I have come to know that the interior rivers and the great headwaters of the country are as much involved in the common welfare and are as completely in the power of Congress as the harbors on the Atlantic and the streams that run into the Atlantic; and therefore I am disposed in this bill to give the same facilities to the primitive people who live upon the headwaters of these great streams that I give to the harbors on the Atlantic and the streams that run into the Atlantic. That has guided me, and that has guided the committee in the preparation of this bill. And woe be to the gentleman from Iowa if his people ever have to sit in judgment upon him for standing here to-day ready to vote the money of the country for the harbors on the Atlantic and the great rivers that run into the ocean when he denies to the Upper Mississippi and the Upper Missouri the same facilities that we give to the Atlantic coast and to the rivers that are mere estuaries of the sea.

And now a word to my friend from New York on the left, [Mr. COX.] He has undertaken to give us a lesson in democracy. Mr. Chairman, I wish I could know in him an individual democrat who by his practice can afford to teach us fidelity to the democratic party. I wish I could know in him (a gentleman whose intelligence and brightness we are constantly called upon to admire) one who could teach us the application of sound democratic principles. I wish we could look to him as a tried guide to control us either in the precedents or the principles of the democratic party.

That gentleman has stood here day after day talking to us about democratic Presidents who have vetoed river and harbor bills. Does he recollect that Thomas Jefferson signed a river and harbor bill, that James Madison signed a river and harbor bill, that James Monroe signed a river and harbor bill, that Andrew Jackson signed river and harbor bills, and that Martin Van Buren signed a river and harbor bill? Does the gentleman forget when he quoted the message of James K. Polk that James Buchanan was his Secretary of State, that William L. Marcy was his Secretary of War, that Robert J. Walker was his Secretary of the Treasury, and those three men, more distinguished in intelligence and experience than any three men that my honorable friend can name, were fully committed to the support of river and harbor improvements? So when he quoted the veto message of President Pierce, does he recollect that W. L. Marcy was his Secretary of State, James Guthrie, of Kentucky, his Secretary of the Treasury, and Robert McClelland, of Michigan, his Secretary of the Interior, all fully committed to the support of river and harbor improvements? I have further to remind him that these veto messages are only of interest as criticisms upon the details of river and harbor bills, and in nowise conflict with the principle that the navigable waters of the United States should be improved by the Government of the United States, and that these navigable waters have been defined by the laws of the United States since 1789 to extend to fresh waters navigable from the sea, and since 1845 to extend to the Great Lakes and waters not navigable from the sea.

[Here the hammer fell, and Mr. MCLANE asked permission to publish in the RECORD further criticisms on these messages.]

Mr. FROST. I move to strike out the last two words, and give the gentleman from Maryland [Mr. MCLANE] my time.

The CHAIRMAN. That amendment is not now in order, as there are two amendments pending.

Mr. COX. Let the gentleman be permitted to go on.

Mr. REAGAN. I hope we will go on and vote.

Mr. COX. I can answer all the gentleman has said in one word.

Mr. MCLANE. I do not feel disposed to trespass long upon the indulgence of the committee.

The CHAIRMAN. The gentleman's time has expired.

Mr. MCLANE. I thought I was permitted to proceed by unanimous consent.

Mr. COX. I have been trying for two days to get my friend from Maryland to make this speech, and I want to hear the end of it. It is very eloquent

Mr. REAGAN. The debate is very interesting; but I am much more anxious for the bill than for the debate.

The CHAIRMAN. The gentleman from Iowa [Mr. UPDEGRAFF] moves to strike out the paragraph, and the gentleman from New York [Mr. VAN VOORHIS] offers an amendment to amend the text, which the Clerk will read.

The Clerk read as follows:

In line 420 strike out the words "hundred thousand," so that it will read:
"Improving Great Kanawha River and operation of works, West Virginia, $2."

Mr. VAN VOORHIS. I wish to call this discussion back to the question before the House. Already $1,142,000 of the people's money have been sunk in the bed of the Great Kanawha. The engineers estimate that $2,410,000 more are needed to finish the job. All told, this aggregates the snug little sum of $3,552,000 salted and to be salted away here. When done this improvement is worthless. It is a lock-and-dam improvement. And every such improvement is practically worthless. In other words, a canal is to be made of this river, with locks made at the cost of the Government around private mill-dams. In the words of the engineer's report:

The object aimed at is to collect the water supply by dams, making at low-water a succession of navigable pools connected by large locks. The peculiarity of most of the dams is that they can be lowered when the stage of the water in the river will suffice for navigation over the shoals. This gives them the name of movable dams and enables an open river to be had when the water is high enough.

Here it is easily seen the United States has gone into the canal business. It must for all time man this canal and superintend its operations. It must provide men to move the dams when a raft comes along and the water is high enough to permit it to sail over the dam when thus modified.

There are seven or eight of these locks and dams, and they are to cost $350,000 apiece. It was expected that tolls would be charged on this canal. The engineer says, speaking of the expenses of the care and operation of the locks and dams when completed:

It was supposed these expenses would be covered in the usual way, by the collection of tolls on freights passing through and using the improved channels.

* * * * * * *

Congress did not adopt this view, but included the cost of maintenance among others to be paid from the last appropriation.

So somebody else pockets the tolls and the Government pays all the working expenses. There are no statistics given by the engineer showing that there is any considerable commerce on this river.

I judge from the proposal published in the engineer's report that timber is scarce and the price high in that locality. The offers to sell timber to the Government for this work range from $26 to $35 per 1,000 feet. Plank, probably hemlock, are offered from $23 to $29.90 per 1,000 feet. These high prices of lumber are doubtless owing to the fact that it has to be transported a long distance to reach that locality. The item in this bill is only $200,000.

Mr. BOWMAN. I have taken no time of the committee before, and I propose to take but a few minutes now. I do so only because of the general remarks of the gentleman from New York and others. The search of Japhet for his father was nothing compared to the search of this House for the principle at the foundation of this bill. There is no principle upon which this bill is founded except that of political expediency.

I say that these bills brought in here year by year should be founded on some settled principle. Such a principle exists, though it is not that stated by some members of this House. The question of navigability has nothing to do with it. Inland streams or land-bound lakes may be navigable, but not national water-ways in any true sense of the word. Judge Story, in his work on the Constitution, lays down the exact doctrine, closely and critically, which should be maintained in these cases. He says:

A true test is whether the object be of a local character and local use, or whether it be of general benefit to the States.

That is, to the nation.

If it be purely local, Congress cannot constitutionally appropriate money for the object.

That is the test. It is not a test of law; it is not to be decided by the opinions of a court. The question is one of common sense, one of practical business judgment. Now, when I ask a member of this House if the Cowlitz River, or the Tickfaw River, or the Yallabusha River, or the Tchula Lake is a national water-way, a national river, every man knows without splitting hairs that they are not national water-ways, not great water-ways for the vessels and the commerce of the nation; but they are merely local streams or bayous or inland lakes.

Take the great harbors on the Atlantic coast. The harbors of Baltimore, Philadelphia, New York, and Boston do not belong to New York, Pennsylvania, Massachusetts, and Maryland. They are the harbors of the country, and they bear upon their bosoms the wheat and the corn and the products of the great West. They are the doors of the whole country, through which pass the manufactures, the products, and the commerce of this country to foreign countries. The harbor of Boston belongs to Minnesota and to Iowa and to the whole country. So does the harbor of New York.

There is the great test. These great rivers, the Mississippi and the Ohio, which flow through the country and empty into the Gulf, are national highways, national water-ways, for the benefit of all the people of the country, irrespective of locality. That, I believe, is the test which should be brought to bear here.

Now, apply that test to this bill item by item, and how it would shrivel up and disappear. How many items of this bill will stand that test? When I ask the chairman of the Committee on Commerce if this creek or that bayou or that stream, with six inches of water and overhanging trees and mill-dams, is a national highway, a national water-way, as an honest man he must reply, "No; it is not a national water-way."

Mr. REAGAN rose.

Mr. BOWMAN. In a moment. He must say, "It is not a national water-way, but I differ from you on your doctrine of law." He may consistently differ with me on the doctrine of law, but can he, will he tell me that those are national water-ways?

Mr. REAGAN. That is not the question. The question is not, "Is it a national river?" but it is, "Is the improvement for the benefit of national commerce?"

Mr. BOWMAN. The question as laid down by Judge Story is: Is it an improvement of a local character, for local benefit, for the benefit of a brick-yard, or a saw-mill, a country village, or a country town, or even a county? Is it of local benefit, or is it of national benefit for the whole country and for all the people of the country?

[Here the hammer fell.]

Mr. REAGAN. Let us have a vote.

The CHAIRMAN. Debate has been exhausted upon the pending amendment.

Mr. REAGAN. If we cannot have a vote now, I will move that the committee rise for the purpose of closing debate on the pending paragraph.

The CHAIRMAN. That is a matter which the Chair cannot determine.

Mr. REAGAN. I move that the committee rise.

Mr. PAGE. I think the committee is ready to vote. [Cries of "Vote!" "Vote!"]

Mr. COX. I wish my friend from Maryland [Mr. MCLANE] could be allowed to finish his remarks.

Mr. REAGAN. We have had debating society enough; we want to pass the bill.

The CHAIRMAN. Does the gentleman from Texas [Mr. REAGAN] insist upon his motion that the committee rise?

Mr. REAGAN. I will withdraw it.

Mr. VALENTINE. I renew the motion.

Mr. REAGAN. Let us have a vote on the amendment.

The question was taken on the motion that the committee rise, and it was not agreed to.

The CHAIRMAN. The question recurs upon the amendment offered by the gentleman from New York, [Mr. VAN VOORHIS.]

Mr. VAN VOORHIS. I withdraw the amendment.

Mr. ANDERSON. I move to amend the paragraph which reads "Improving Great Kanawha River, and operation of works, West Virginia, $200,000;" striking out "$200,000," and inserting the exact amount which is given for improving the Mississippi, Missouri, and Arkansas Rivers; that is, "$150,000."

Now, it seems to me that amendment should be adopted for the reason, first, that it will be a matter of economy and avoid a waste of the people's money; second, for the reason that the whole theory of this bill proceeds on the idea of national commerce. Now, I have nothing in the world to say against the commerce of the Great Kanawha; undoubtedly it is great.

But I suggest to gentlemen that if they will look at the map of the United States, and endeavor to comprehend to some extent the ideas which God Almighty had in His mind when He made this continent, with these great mountain ranges on the one side and the Rocky Mountains on the other, and between them the grand agricultural basin of the world, which is going to feed the world, and in that basin the Mississippi, the Missouri, the Ohio, and the whole system of streams, it will be seen that He knew something about what would be necessary for the commerce of this great nation. When as a nation we undertake to provide for the improvement of the Great Kanawha by expending $200,000, perhaps we had better give to the Mississippi, the Missouri, and the Arkansas a similar amount; or if the question is one of democratic "economy," and this nation cannot afford to do that, then perhaps we may as well reduce the appropriation for the Great Kanawha to the same amount that we give to the vast system of streams driving the very commerce of the continent.

The question being taken on the amendment of Mr. ANDERSON, it was not agreed to.

The Clerk read as follows:

Improving Guyandotte River, West Virginia, $3,500.

Mr. UPDEGRAFF, of Iowa. I move to strike out this paragraph. I desire only to call attention to the report of the engineers which the Committee on Commerce, through their chairman, say they have set up at nights to study since the commencement of this session.

The present plan of the improvement—

This is the Guyandotte—

was adopted in 1878, and has been carried on in accordance with this to date, the object being to improve the whole river for raft navigation primarily, and for push-boat navigation at certain special points. For both species of navigation the river was practically closed save on rises of considerable height.

Now, I take occasion to say in reply to the gentleman from West Virginia, that I have said nothing with reference to the Great Kanawha or the Guyandotte or the State of West Virginia or himself

except what I find in the reports of the engineers—reports which his chairman says he has studied sedulously night and day since this session commenced—and also what I find in an extract from his own home paper. My testimony against this bill is confined, as I have said, to the testimony of injudicious friends. I regret that I have nothing better; but so far as it goes there is no better testimony among mankind than the testimony of injudicious friends—that which is read "between the lines" or which escapes unconsciously. Well, indeed, did the Kanawha Gazette, speaking of the appropriations in the bill of last year, say:

The third district—

That is the district represented by my "injudicious friend" on the other side—

receives more this year from the public Treasury than the net amount of all the taxes that have gone into the Treasury from the whole State of West Virginia for five years.

Mr. BOWMAN. Mr. Chairman, [cries of "Vote!" Vote!"] I only want to say one sentence by way of personal explanation lest I be misunderstood. I am in favor of a river and harbor bill; I think it would be a great calamity not to have such a bill go through. I do not wish to be misunderstood; but I do say that, in the language of the gentleman New York, we ought to "cry a halt;" we ought to establish a principle which should be followed from year to year and from Congress to Congress; we ought to get rid of this desultory legislation and this passing of river and harbor bills for any purpose but the public good.

Mr. RUSSELL, of Massachusetts. I want to say a single word in reference to the remarks of my colleague, [Mr. BOWMAN,] who has attacked the small appropriations made in this bill. He has very well and very wisely pressed upon the Committee of the Whole the importance of improving the great harbors of Boston, Baltimore, and Philadelphia. He says that these are doors which we want to open wide for commerce to pour out. Now, I regret that his vision is so clouded he cannot see that into these doors must flow this commerce, and that it goes in small streams from these outlets and rivers. The cotton of the South comes into these great ports, and the products of the forest, the southern pine, &c., come from the small rivers of the South into these large ones. It is from these small streams that the great commerce coming into these ports is made up. It must come in as well as go out.

Mr. VAN VOORHIS. I move to amend the amendment by striking out in line 421 the word "three," and in line 422 the word "thousand," so as to make the appropriation $500. The engineer says of this improvement:

The operations have been in general a continuation of those of previous years, namely: improving the natural channel of the river *for raft navigation* by removing the natural obstructions in the river, and the artificial obstructions in the shape of the remains of the old lock at the falls of Guyandotte, and the wreck of an old mill-dam at Little Ugly Shoals.

Summarized, the operations covered about twenty miles of river, improving and rendering easier for rafting this stretch.

The engineer also reports:

No permanent or entire completion can be made of the present project—

I call particular attention to this—

No permanent or entire completion can be made of the present project; the most that can be effected * * * is to each year remove the obstructions due to the previous high water, and gradually enlarge and extend the improvement.

The cost of this work this year is to be $2,500; last year it was $5,000. The estimate is only $2,000, but somebody has a mill to sell and that is put into the estimate at $1,500, thus swelling the estimate to $3,500. This is one of the little frauds contained in this bill.

The question being taken on the motion of Mr. VAN VOORHIS, it was not agreed to.

The question recurring on the amendment of Mr. UPDEGRAFF, of Iowa, it was not agreed to.

The Clerk read as follows:

Improving Little Kanawha River, West Virginia, $20,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph just read. I desire only to read the testimony of another "injudicious friend." The engineer says, with reference to the Little Kanawha:

The present plan of improvement was adopted in 1877, having for its object the attainment of raft and push-boat navigation at lower stages than was before practicable and generally facilitating both classes of navigation, especially the former, from Bulltown to the present slack-water.

I wish the House and the country to understand that this stream is not now navigable for push-boats, that the object and the only object of this appropriation is to make it navigable for push-boats and rafts; and that is all that is pretended for it.

Now, one other consideration, and I do not wish to be considered sectional, and what I believe to be my duty to say I intend to say here. I wish to call the attention of gentlemen on the other side of the House to this fact: that the democratic party having a majority in this House and in the other, will be held responsible by the country for this bill. Furthermore, the southern section of the democratic party will be held largely responsible for it. I am rejoiced to see here men from that section who disdain its provisions, who have refused them, and cast at their feet its blandishments. But that section, nevertheless, will be chargeable with this bill, and I will prove it to you out of the mouth of the injudicious friends upon whom, as I have already said, most of my testimony, unfortunately, rests.

The Kanawha Gazette, the injudicious friend, said of the bill of last year, speaking of it in pride and exultation: "See," pointing with pride to it, "this is some of the results of the democratic economy and southern supremacy." [Cries of "Vote!" "Vote!"] Excuse me, but I have not read it correctly; I will read it over again. [Laughter.]

Some of the results of democratic economy and southern supremacy may be seen in the river and harbor bill as applied to the great State of West Virginia, which has a solid democratic delegation at Washington.

The Gazette further says:

The Kanawha River receives as much as the harbor of New York, and Charleston as much as the city of Philadelphia for its harbor.

I ask you, my southern friends, are you willing to take all this? [Cries of "Yes, yes; and more too!" and laughter.] Very well, then, having taken it, when your newspapers gloat over it, exult over it, and claim it as the result of democratic supremacy and southern supremacy, then when the people of the North who pay the money to furnish these appropriations object to it, will you come up and say they are sectional?

[Here the hammer fell.]

Mr. PAGE. I wish for a moment to ask the gentleman from West Virginia a question. I wish to ask whether the Legislature of West Virginia has incorporated a company for the improvement of this river and allowed that company to take toll?

Mr. KENNA. My colleague desires to answer the gentleman's question.

Mr. WILSON. Some years ago, when there was some difficulty in getting out timber and oil from that section of the country, we were compelled to organize a company for the purpose of building a dam just in the same way as it has been done upon other like streams in the United States.

Mr. PAGE. Do I understand the gentleman from West Virginia to say to the House that there is a company incorporated under an act of the Legislature of West Virginia that has improved this river and is now collecting tolls upon it?

Mr. WILSON. I will explain that a little more fully when I get the floor for that purpose.

Mr. PAGE. That is all I wish to know, whether any part of it for which appropriation is made in this bill——

Mr. WILSON. No part for which they ask a Government appropriation.

Mr. PAGE. But this is made for the whole Kanawha.

Mr. WILSON. This is made for that part where the Government has already made improvement.

Mr. PAGE. It is not limited in this bill.

Mr. WILSON. Oh, yes it is.

Mr. PAGE. No; it is for the improvement of the Little Kanawha River, West Virginia.

Mr. KENNA. And for the continuation of work which has been already commenced.

Mr. PAGE. There is nothing of that kind in the bill.

Mr. WILSON. But that is the fact.

Mr. PAGE. I do not rise for the purpose of objecting. I only want to know the fact, because I heard it stated, and sending for the statutes of West Virginia I found that a company has been incorporated with authority to collect toll. If that be true, it seems to me there should be some provision attached to this paragraph which will prevent these people from taking toll, or the Legislature of West Virginia should be compelled to repeal the law which allows private individuals to collect toll on a river proposed to be improved by the General Government.

Mr. VAN VOORHIS. I move in line 424 to amend by striking out the word "thousand." This Little Kanawha River runs through a country where the farms stand up edgewise. [Laughter.] This is a work on which about sixty thousand dollars have been spent, and nine hundred thousand more are wanted. I do not believe all the land on either side of that river from Parkersburgh to Burning Springs, for a distance of five miles each way from the river, is worth that sum. This is one of the mountain torrents of West Virginia. It is well watered only in times of freshet. This river is afflicted with numerous private mill-dams, and one object of the improvement is to provide chutes or sluices in these private mill-dams so as to permit logs to pass over when the water is high enough for that. The engineer says in his report:

To carry out this plan the natural obstructions to navigation (that is to say between mill-dams) have been removed, timber chutes provided with suitable gates built in private mill-dams, to pass rafts through, which otherwise would be held in the pool above.

It would be economy for the United States to buy all the logs and timber within reach of this river and present them to West Virginia in lieu of throwing a million dollars into this so-called improvement.

Mr. PAGE. The gentleman from West Virginia has prepared an amendment which will meet the objection I have made.

The CHAIRMAN. The first question is on the amendment of the gentleman from New York.

Mr. KENNA. I hope my colleague from West Virginia will not offer that amendment to this section.

The CHAIRMAN. The question is on the amendment——

Mr. PAGE. I supposed that the gentleman from West Virginia [Mr. WILSON] intended to offer an amendment at this point, and I now wish to state that I shall offer one myself, to insert or incorpo-

rate a provision that no tolls shall be permitted to be collected by any private corporation over any part of the river that is improved by the General Government.

Mr. KENNA. There certainly can be no objection to that. I did not understand the scope of the amendment which it was contemplated my colleague was to offer.

Mr. TOWNSHEND, of Illinois. Suppose the improvement is above where the tolls are collected, it will still inure to the benefit of the corporations.

Mr. PAGE. If the committee, after I have called its attention to this fact, do not deem it necessary to incorporate such a provision, I have no objection to allowing it to remain as it is.

The CHAIRMAN. The gentleman from West Virginia has forwarded to the desk an amendment which covers the point, which the Clerk will read.

The Clerk read as follows:

*Provided*, That no toll shall be collected by the Little Kanawha Navigation Company on that part of the river improved by the Federal Government.

The amendment was agreed to.

The CHAIRMAN. The question is now on the amendment proposed by the gentleman from Iowa, which is to strike out the entire paragraph.

The motion to strike out was not agreed to.

Mr. CALKINS. Mr. Chairman, I desire to offer an amendment to come in after line 424.

The Clerk read as follows:

For straightening and improving the Kankakee River in the State of Indiana, $100,000.

Mr. FORT. I ask the gentleman to modify his amendment so as to include also the State of Illinois.

Mr. CALKINS. I accept that modification. I hold in my hand, Mr. Chairman——

Mr. COX. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. COX. I have not been able to understand whether this amendment relates to a general or local river.

The CHAIRMAN. The Chair has not been informed as to that.

Mr. COX. I would like to have the amendment read again.

The amendment was again read.

Mr. CALKINS. I hold in my hand a joint resolution recently passed by the Legislature of the State of Indiana, asking for this appropriation, which I will incorporate here in my remarks. It is as follows:

Hon. W. H. CALKINS, *M. C.:*

I am directed by the General Assembly of the State of Indiana to transmit to you the following concurrent resolutions adopted by the senate and concurred in by the house of representatives, February 2, 1881.

Respectfully,

C. W. BROWNE,
*Principal Secretary of Senate.*

Concurrent resolution of the General Assembly of the State of Indiana.

Whereas the Kankakee River in the State of Indiana may be made a navigable stream through the counties of Lake, Newton, Porter, Jasper, La Porte, Starke, and Saint Joseph, a distance of eighty miles from the town of Momence, in the State of Illinois; and

Whereas the channel of the said river can be straightened and deepened for an expenditure of $100,000: Therefore,

*Resolved by the senate, (the house concurring,)* That the Senators and Representatives of the State of Indiana now in Congress of the United States are hereby requested to vote for an appropriation by the General Government of $100,000, to be applied in deepening, widening, and straightening, wherever necessary, the Kankakee River in the State of Indiana, and to use their best efforts to procure passage of the same.

*Resolved*, That the secretary of the senate be, and is hereby, instructed to furnish each member of Congress from this State a copy of the concurrent resolution of this General Assembly asking an appropriation of $100,000 by the General Government for the improvement of the Kankakee River, and the proceedings of the two houses thereon.

By the improvement of this river it will connect a net-work of railroads, I believe seven in number, and bring them all together. This has been recommended by the engineer, but has not been appropriated for.

While I do not complain generally of the Committee on Commerce, still the boundaries of my State have been so changed in this bill that I simply want to state them in order that they may be understood generally. They are as follows: We are bounded on the east by Ohio, $401,000; on the north by Michigan, $500,000; on the west by Illinois, $912,000; on the south by Kentucky, $304,000; and $75,000 for Indiana.

Mr. FORT. I wish to say only a word on this subject. On this river above Momence there is to-day four feet of water all the year round for a distance of one hundred and fifty miles. If twenty-five miles of this river is improved at the lower end, it will give one hundred and seventy-five miles of navigation, passing through a portion of Illinois and into Indiana; so that there can be no question but what this river is important. [Cries of "Vote!" "Vote!"]

Mr. FINLEY. Mr. Chairman, I rather favor that appropriation, myself. I have been up on that Kankakee River shooting ducks. The last time I was there for that purpose I had great difficulty in navigating its waters. The waters were a little low, however.

Mr. REAGAN. Mr. Chairman, no plan or estimate has been submitted for this improvement.

Mr. FORT. The gentleman from Texas is mistaken. The river has been surveyed, and the survey reports four feet of water all the year round.

Mr. FINLEY. I believe I have the floor.

The CHAIRMAN. The gentleman from Ohio has not yielded the floor as the Chair understands.

Mr. FORT. I merely wish to reply to the gentleman from Texas, the chairman of the committee.

Mr. FINLEY. Mr. Chairman, I do not know what part of the Kankakee River the gentleman proposes to improve, but I have shot ducks up in the district of the gentleman who moves that amendment.

Mr. BROWNE. Were they tame ducks? [Laughter.]

Mr. FINLEY. And I fully concur as to the difficulty in navigating that stream.

Mr. HUMPHREY. Perhaps they were canvas-backs.

Mr. FINLEY. And before you improve it, you must make arrangements for taking up the railroad bridge; and, secondly, pour water into the creek.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Indiana.

The amendment was not agreed to.

Mr. BROWNE. I move that the committee now rise, with a view not to move to adjourn but to take a recess. We have been here now for seven hours, and the committee will soon find itself without a quorum unless something of the kind is done.

Mr. REAGAN. I would be very glad if the committee would consent to go on a while longer.

The CHAIRMAN. The Chair would suggest that possibly the Clerk might be able to read for some time yet without amendment; and if so considerable progress might be made. [Cries of "Read!" "Read!"]

Mr. DAVIS, of Illinois. I offer the amendment I send to the desk, to come in as an additional paragraph.

The Clerk read as follows:

After line 424 insert the following:

"Improving main branch Chicago River, Illinois, by dredging, as suggested in Engineer's report, transmitted to this House by the Secretary of War, under date of December 15, 1880, $20,000."

Mr. BROWNE. I now insist on my motion that the committee rise.

Mr. DAVIS, of Illinois. I yield for no such motion. I would like the attention of the House for a moment, and I ask particularly the attention of the Committee on Commerce. This morning when I made an attempt to have some of the money appropriated to Chicago Harbor applied for the purpose of improving the inner harbor, it was stated by the chairman of the committee that no estimate had been made for that improvement, and that our people in Chicago did not desire it. I wish the Clerk to read the telegrams which I send to the desk, and to which I invite the attention of the House.

The Clerk read as follows:

FEBRUARY 16, 1881.

Hon. CHARLES RANDOLPH,
*Secretary Board of Trade, Chicago, Illinois:*

Is there opposition by our people to the Government's improving main branch by dredging to seventeen feet from wall to wall? Answer.

GEORGE R. DAVIS.

CHICAGO, ILLINOIS, *February* 16, 1881.

Hon. G. R. DAVIS, *House of Representatives:*

I have never heard of any opposition by our people to any dredging by the Government in our river or anywhere else about our harbor. Dredging in the river is greatly needed.

CHARLES RANDOLPH,
*Secretary.*

Mr. DAVIS, of Illinois. Now, on the 15th of December, last year, the Secretary of War transmitted to the Speaker of this House a report of the engineer on duty at Chicago, and in said report I find the following. Speaking of the main branch of the Chicago River, the engineer says:

That it is practically a narrow bay projecting from Lake Michigan into the business center of Chicago, through which the entire lake commerce of that city passes. * * * It has been widened and deepened to a width of from two hundred to three hundred feet, and a navigable depth of 14.5 feet at mean low water. * * * Evidently it is of great importance to the vessel interests that the largest craft shall be able to pass through this reach of the river with absolute certainty of always finding ample depth of water; for through this main river must pass all the commerce that penetrates to the extreme points of the north and south branches, which branches, with their slips and basins, give an aggregate water frontage of thirty-eight miles. Vessels lying at the docks, frequently from two to five abreast, contract the channel-way to very narrow limits, and it frequently happens that it is completely blocked by the grounding of a single large craft.

The loss occasioned by these delays and the actual damage to vessels, which are mixed up and jammed together when the blockade occurs, amounts to a very considerable sum every season. The most simple remedy is to dredge the river to a depth that will give ample water.

* * * * * * *

The approximate amount of dredging required for this purpose would cost about $55,000.

* * * * * * *

This estimate is based on dredging the full width of the river between the dock-lines.

I wish to add a single word. This district pays annually a revenue of eleven and a half millions of dollars into the Treasury of the United States. It has floating on this three-quarters of a mile over eight millions of tonnage per annum. I believe, in justice to the vast interests at Chicago, this House should give something for this improvement.

Mr. BROWNE. I now renew the motion that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BLACKBURN having taken the chair as Speaker *pro tempore*, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

Mr. REAGAN. I move that the House take a recess till half past seven o'clock.

Mr. VAN VOORHIS. And I move that the House do now adjourn.

LEAVE OF ABSENCE.

Pending a motion to adjourn,

By unanimous consent, leave of absence was granted, as follows:

To Mr. KITCHIN, from Friday, the 20th, until Tuesday, the 24th instant, on account of sickness in his family;

To Mr. CRAVENS, indefinitely, on account of sickness of himself and wife;

To Mr. CABELL, for two days, on account of important business; and

To Mr. VAN AERNAM, until the 21st instant, on account of important business.

Mr. CARLISLE. I ask leave of absence from this evening's session for the members of the committee appointed by the House to attend the obsequies of the late Hon. FERNANDO WOOD. They will be compelled to leave this evening to go to Pittsburgh.

There was no objection, and leave of absence was granted.

LEAVE TO PRINT.

By unanimous consent, Mr. BENNETT obtained leave to have printed in the RECORD some remarks on the bill H. R. No. 1306 and the bill H. R. No. 3225. [See Appendix.]

LEASING OF PUBLIC LANDS.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a memorial of the Legislature of Montana, protesting against the passage of any law authorizing the leasing by the General Government of any public lands; which was referred to the Committee on the Public Lands.

MONTANA PENITENTIARY.

The SPEAKER *pro tempore* also laid before the House a memorial of the Legislature of Montana, in relation to the Montana penitentiary; which was referred to the Committee on the Territories.

EDWARD FITZPATRICK.

Mr. MULLER, by unanimous consent, submitted to the House the following resolution; which was read and referred to the Committee on Accounts:

*Resolved*, That the Clerk of the House of Representatives be authorized and directed to pay out of the contingent fund of the House to the brother and sister of Edward Fitzpatrick, late messenger in the House Post-Office, a sum equal to his salary for three months, and also the necessary funeral expenses of the deceased, not to exceed the sum of $200.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The question is on the motion of the gentleman from New York, [Mr. VAN VOORHIS,] that the House do now adjourn.

The question being taken, the motion was not agreed to.

The SPEAKER *pro tempore*. The question recurs on the motion of the gentleman from Texas, [Mr. REAGAN,] that the House take a recess until half past seven o'clock this evening.

Mr. ANDERSON. I move to amend so that the recess shall be taken until half past nine on Thursday morning.

A MEMBER. Is that amendment in order when the House has determined that the session shall commence at eleven o'clock?

The SPEAKER *pro tempore*. The amendment is in order. The House might go into a recess until half past nine, and if it so determined could adjourn before eleven.

Mr. REAGAN. I hope the amendment will not be agreed to.

The question being taken on the amendment, it was not agreed to.

Mr. VAN VOORHIS. What becomes of my motion to adjourn.

The SPEAKER *pro tempore*. The motion was not agreed to.

Mr. VAN VOORHIS. I called for a division.

The SPEAKER *pro tempore*. The Chair did not hear the gentleman.

Mr. VAN VOORHIS. Then I renew the motion that the House do now adjourn.

The question being taken *viva voce*,

The SPEAKER *pro tempore* stated that the "noes" evidently had it.

Mr. VAN VOORHIS. I call for a division. [After a pause.] I withdraw the demand for a division.

So the motion was not agreed to.

The SPEAKER *pro tempore*. The question recurs on the motion that the House take a recess until half past seven o'clock this evening.

The question being taken, the motion was agreed to.

Mr. REAGAN. Before the result of the vote is announced I wish to say to members that I very much hope they will return to the session to-night; otherwise a call of the House will be necessary.

The result of the vote was then announced; and accordingly (at five o'clock and thirty minutes p. m.) the House took a recess until half past seven o'clock p. m.

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EVENING SESSION.

The recess having expired, the House reassembled at seven o'clock and thirty minutes p. m., (Wednesday, February 16,) Mr. BLACKBURN taking the chair as Speaker *pro tempore*.

ORDER OF BUSINESS.

Mr. ATKINS. I rise to make a privileged report.

Mr. TOWNSHEND, of Illinois. I ask the gentleman from Tennessee [Mr. ATKINS] to yield to me for a moment to ask a conference on a pension bill.

Mr. ATKINS. I will do so if it takes no time.

WILLIAM HAMILL.

Mr. TOWNSHEND, of Illinois. I ask consent to take from the Speaker's table House bill No. 3788, granting an increase of pension to William Hamill, returned from the Senate with amendments.

There was no objection, and the bill and amendments were taken from the Speaker's table.

Mr. TOWNSHEND, of Illinois. I move that the amendments of the Senate be disagreed to, and that a conference be asked on the disagreeing votes of the two Houses.

There was no objection, and it was so ordered.

The SPEAKER *pro tempore* appointed as the conferees on the part of the House Mr. TAYLOR of Tennessee, Mr. DAVIS of Illinois, and Mr. COVERT of New York.

MASONIC CELEBRATION AT LOUISVILLE, KENTUCKY.

Mr. WILLIS. I ask unanimous consent that the Committee on Military Affairs be discharged from the further consideration of the joint resolution (H. R. No. 393) authorizing the Secretary of War to loan certain tents, flags, &c., to the Masons at Louisville, Kentucky, and that it be considered in the House at this time.

The SPEAKER *pro tempore*. The joint resolution will be read, after which the Chair will ask for objections.

The joint resolution was read, as follows:

Whereas the Masonic fraternity of the State of Kentucky are preparing to hold a celebration of Saint John's Day for the benefit of the Masonic Widows and Orphans' Home located in Louisville, Kentucky: Therefore,

*Resolved by the Senate and House of Representatives, &c.*, That the Secretary of War is hereby authorized to send from some convenient Government arsenal or arsenals, to be used at said celebration to be held in June, 1881, four pieces of artillery, and such tents, tent-poles, flags, standards, guidons, and camp equipage as they may require, said cannon, tents, and other Government property to be returned after the holding of said celebration in as like good condition as when received: *Provided*, That the same can be spared without detriment or injury to the public service: *And provided further*, That all transportation of said articles to and from the place of celebration to the arsenal shall be without expense to the United States: *And provided further*, That the adjutant-general of the State of Kentucky, or other proper accounting officer, shall receipt for said arms, tents, flags, and camp equipage in the name of said State, and that such of them as shall not be returned shall be charged to said State and deducted out of the sum, amount, and share of the annual sum of $200,000 appropriated for the purpose of providing arms and equipments for the whole body of the militia which may be assignable, or distributable, or allotted to said State of Kentucky.

There being no objection, the Committee on Military Affairs was discharged from the further consideration of the joint resolution, and the same was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. WILLIS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. PRICE. I ask unanimous consent to take from the Calendar——

Mr. ATKINS. Mr. Speaker, I have not yielded the floor.

The SPEAKER *pro tempore*. The Chair cannot, in justice to the House, allow the gentleman from Tennessee [Mr. ATKINS] to take the floor and yield to gentlemen on one side of the House to the exclusion of those on the other side.

Mr. ATKINS. I have not been asked by any gentleman to yield.

The SPEAKER *pro tempore*. It is not the fault of the Chair.

Mr. ATKINS. It is not my fault, certainly. I could not yield when I was not asked to yield. I protest that I am not off the floor.

The SPEAKER *pro tempore*. The gentleman from Tennessee [Mr. ATKINS] will remember that no recognition to the floor can be made except by the Chair.

Mr. ATKINS. That is true; and the Chair recognized me.

The SPEAKER *pro tempore*. And the gentleman yielded twice; and the Chair now recognizes the gentleman from Iowa, [Mr. PRICE.]

Mr. ATKINS. I was not aware that when I yielded to either of the gentlemen I was giving up the floor. If I had so understood it, I certainly would not have yielded. It has been the common practice in this House for gentlemen to take the floor and yield to others before they called up their own business; sometimes to a half dozen of them.

The SPEAKER *pro tempore*. The Chair simply desires to state to the gentleman from Tennessee that it is not in the power of any member of the House to take the control of the floor away from the

Speaker. The Chair has recognized the gentleman from Iowa, [Mr. PRICE.]

UNCLAIMED DIVIDENDS OF NATIONAL BANKS.

Mr. PRICE. I ask unanimous consent that there be taken from the House Calendar to be considered at this time the bill (H. R. No. 6847) to provide for the distribution of unclaimed dividends among the creditors of national banks.

The SPEAKER *pro tempore*. The bill will be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the Comptroller of the Currency, three months before the declaration of the final dividend in favor of the creditors of any national bank, may publish for one month in a newspaper in the place where the bank is located, or in a newspaper nearest thereto, a list of all creditors who have not claimed their dividends, stating the amount thereof, with notice that such dividends must be claimed within three months from the date of such notice; and the Comptroller is hereby authorized to distribute, at the expiration of the said three months' notice, the amount of such unclaimed dividends, pro rata, among the other creditors of the bank.

Mr. PRICE. I desire to state that this is a unanimous report from the Committee on Banking and Currency. This bill is to enable the Comptroller of the Currency to make a final settlement with national banks that have been in the hands of receivers, some of them for years.

There was no objection, and the bill was taken from the House Calendar, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PRICE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE W. HENDERLITE.

Mr. RICHMOND. I ask unanimous consent to take from the Calendar for consideration at this time the bill (H. R. No. 6034) for the relief of the personal representative of George W. Henderlite, deceased.

The SPEAKER *pro tempore*. The bill will be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to make such an allowance to George W. Henderlite, deceased, late collector of internal revenue for the eighth collection district of Virginia, as will make his net compensation equal to $2,500 per annum for the time he held the office of collector as aforesaid; and a sum sufficient to make payment of such allowance is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the personal representative of said George W. Henderlite, deceased.

Mr. BURROWS. Is that a unanimous report from the Committee on Ways and Means?

Mr. RICHMOND. It is.

There being no objection, the bill was taken from the Calendar of the Committee of the Whole, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. RICHMOND moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. KELLEY. I desire——

Mr. WELLS. I rise to make a conference report.

The SPEAKER *pro tempore*. The gentleman will send it up.

Mr. ATKINS. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. ATKINS. My point of order is that the gentleman from Missouri [Mr. WELLS] cannot take the gentleman from Pennsylvania [Mr. KELLEY] from the floor after he has been recognized by the Chair.

The SPEAKER *pro tempore*. The Chair has not recognized the gentleman from Pennsylvania [Mr. KELLEY] as entitled to the floor.

Mr. ATKINS. Did not the Chair recognize the gentleman from Pennsylvania?

The SPEAKER *pro tempore*. The gentleman from Missouri [Mr. WELLS] states that he rises to make a conference report.

Mr. ATKINS. Precisely; and that is what I want to do.

The SPEAKER *pro tempore*. But the gentleman from Tennessee [Mr. ATKINS] never stated to the Chair that he rose to make a conference report.

Mr. ATKINS. I distinctly stated it.

A MEMBER. The gentleman from Tennessee [Mr. ATKINS] said he rose to make a privileged report.

Mr. KELLEY. I think one minute will be sufficient to dispose of the business to which I am about to invite the attention of the House, and as it is so meritorious I think that minute will be granted. There lies on the Speaker's table——

The SPEAKER *pro tempore*. The Chair must state to the gentleman from Pennsylvania that the gentleman from Missouri [Mr. WELLS] is in possession of the floor for the purpose of submitting a report from a committee of conference, which will now be read.

INDIAN APPROPRIATION BILL.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various tribes for the year ending June 30, 1882, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27, and agree to the same, with an amendment as follows: Restore in each case the words "including traveling expenses of agents;" and the Senate agree to the same.

As to amendments numbered 30 and 31, the committee are unable to agree.

ERASTUS WELLS,
O. R. SINGLETON,
JAY A. HUBBELL,
*Managers on the part of the House.*
JAS. B. BECK,
WILLIAM A. WALLACE,
WILLIAM WINDOM,
*Managers on the part of the Senate.*

Mr. CONGER. I call for the reading of the statement required by the rule to accompany a conference report.

The Clerk read as follows:

The effect of the report is to include the traveling expenses of agents under the "general and incidental expenses of the Indian service," so that such agents may be paid their traveling expenses out of the sums appropriated under that head.

And the report makes no recommendation in the matter of amendments numbered 30 and 31, which concerns the retention or abolition of the ten citizens known as the commission of citizens appointed by the President.

Mr. WELLS. Mr. Speaker, under the general incidental expenses of the Indian service in Arizona, New Mexico, and several other Territories, the bill as passed by the House provided for paying incidental and traveling expenses of agents as well as the transportation of supplies for these different Indian tribes. The Senate struck out the provision in regard to traveling expenses of agents and transportation of supplies. The House conferees have concurred in that portion of the amendment striking out the provision for transportation of supplies, but they recommend retaining the provision for traveling expenses of agents. This recommendation is made under the advice of the Secretary of the Interior.

It will be remembered that the bill as passed by the House contained a provision—

That all laws and parts of laws creating or authorizing the commission of ten citizens provided for in the act of April 10, 1869, be, and the same are hereby, repealed.

The Senate refused to concur in this provision. They struck it out, and inserted a paragraph reinstating the Indian commissioners by making an appropriation of $10,000 for their expenses. In regard to this question the conferees have been unable to agree. The House conferees felt that they were instructed by the yea-and-nay vote of the House to retain the provision as passed by the House, consequently we report a disagreement on that point, asking for instructions from the House or the appointment of another committee.

The SPEAKER *pro tempore*. What motion does the gentleman make?

Mr. WELLS. I move the adoption of the report.

Mr. CONGER. I make the point of order that this committee of conference have made no report under the rules. They should either report some agreement or report that they have been unable to come to an agreement.

The SPEAKER *pro tempore*. As the Chair understands, the committee of conference, in their report, state that the committees of the two Houses have agreed in part and disagreed in part. The requirement of the rule in regard to furnishing a written statement to accompany the report and explain the action recommended has been complied with. The gentleman from Missouri now moves the adoption of the report, which would leave those parts on which the committees of conference have disagreed to be settled by further conference.

Mr. WELLS. I will state that the Senate have not acted on this conference report; and they may recede from the position they have taken upon the question on which the conferees have been unable to agree. I think it important the report should go to the Senate for its action.

Mr. CONGER. I do not know that there is any conference report which the House can accept unless it reports an entire agreement or disagreement.

The SPEAKER *pro tempore*. The Chair thinks there are many precedents where the House has accepted reports of conference committees agreeing in part and disagreeing as to the remaining matters in dispute. The Chair knows of no rule which would deny to the House the power to accept such a report. He thinks that this report of the committee of conference is in order; but should it be adopted, the two Houses will only stand agreed upon such matters as the committees of conference of the two Houses have united upon. The other matters will still be left pending between the two Houses.

Mr. WELLS. I call the previous question.

The previous question was ordered, and under the operation thereof, the report was adopted.

Mr. WELLS moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WIDOW OF REAR-ADMIRAL PAULDING.

Mr. KELLEY. Mr. Speaker, I desire to call up Senate bill No. 1802, which provides for granting a pension of $50 a month to the widow of Rear-Admiral Paulding. She is now seventy-three years of age;

and, though her husband entered the service at eleven years of age, and died after the close of our recent war, through which he served faithfully, she was left with less than $5,000 upon which to live. I ask the bill may be considered and passed, that for the few remaining years of her life this venerable woman may thus be benefited.

The SPEAKER *pro tempore*. Is there objection to the present consideration of the bill indicated by the gentleman from Pennsylvania?

Mr. REAGAN. If it leads to no debate, I will make no objection.

The Clerk read as follows:

A bill (S. No. 1802) granting a pension to Ann M. Paulding.

*Be it enacted, &c.*, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ann M. Paulding, widow of Hiram Paulding, late senior rear admiral, United States Navy, and pay her a pension at the rate of $50 per month.

Mr. HATCH. Has that bill been before the Committee on Invalid Pensions of this House, or is it upon the Calendar?

Mr. KELLEY. It passed the House at the last Congress.

Mr. COVERT. If the gentleman from Pennsylvania will permit me, I will say that the bill is on the House Calendar. It was, however, considered by the Committee on Pensions.

Mr. KELLEY. A similar bill, in fact, in precisely the same terms, has been considered by that committee. This Senate bill is in precisely the same terms as that reported by the House committee.

Mr. HATCH. Has the bill been before the committee in the House and favorably considered?

Mr. KELLEY. It has.

There was no objection, and the House Calendar was discharged from the further consideration of the bill; and it was taken up, ordered to a third reading, read the third time, and passed.

Mr. KELLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVY APPROPRIATION BILL.

Mr. ATKINS. I send up a report from the committee of conference, which I ask the Clerk to read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 6969, making appropriations for the naval service for the year ending June 30, 1882, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 5, and 9.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same.

That the House recede from its disagreement to the amendment numbered 3, and agree to the same with an amendment, as follows: Strike out the word "fifty" and insert in lieu thereof "twenty-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert $875,000; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 10, and agree to the same with amendments, as follows: Insert after the word "statutes," at the end of line 2, the words "as heretofore amended." Strike out the word "sixteen," in line 4, and insert in lieu thereof the word "fifteen;" and the Senate agree to the same.

J. D. C. ATKINS,
THOMAS R. COBB,
FRANK HISCOCK,
*Managers on the part of the House.*
WILLIAM WINDOM,
H. G. DAVIS,
R. E. WITHERS,
*Managers on the part of the Senate.*

Mr. CONGER. Let the statement which under the rules should accompany the report from the committee be now read by the Clerk.

The Clerk read as follows:

The effect of the foregoing report, if adopted, will be as follows:

By amendment 3 the sum of $825,000 is appropriated in lieu of $850,000 as given by Senate.

By amendment 4 $55,000 is appropriated instead of $60,000.

By amendment 5 $1,500,000 is appropriated instead of $1,600,000.

By amendment 7 $875,000 is appropriated instead of $900,000.

By amendment 8 $75,000 of above-named sum is made immediately available.

By amendment 9 $250 is appropriated for two private horses for commanding officer at Mare Island, California.

By amendment 10 sections 1418, 1419, and 1420 of the Revised Statutes are amended to reduce the minimum age at which minors may be enlisted in the naval service to the age of fourteen years.

Mr. ATKINS. If the House desires a brief explanation of these amendments, I can give it in two or three minutes. [Cries of "Vote!"]

Mr. WAIT. The House is perfectly satisfied with the reading of the report and the accompanying statement.

Mr. ATKINS. The gentleman from Michigan asked for an explanation. It remains with the House whether or not it should be made. If it be desired I can give it in three minutes.

Mr. CONGER. I only asked for the reading of the accompanying statement.

Mr. ATKINS. I understand the gentleman from Michigan is satisfied; and if nothing further is desired in explanation, I have no wish to trespass on the House.

The report was adopted.

Mr. ATKINS moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MICHAEL MEENAN, DECEASED.

Mr. MARTIN, of Delaware. I appeal to the House to grant my request. I was absent when my State was called under the Frye rule, the other day, by reason of accompanying a member of this House home who was too sick to go alone. I ask, therefore, the House grant me unanimous consent to take from the Speaker's table and concur in Senate amendment to a pension bill, the object of which is to strike out arrears, and to which there can be no objection on the part of the House.

Mr. VAN VOORHIS. I am entitled to be recognized before the gentleman from Delaware, as I sought the attention of the Chair first.

The SPEAKER *pro tempore*. The Chair listened as well as he could to the gentleman from Iowa and the gentleman from New York.

Mr. VAN VOORHIS. I addressed the Chair, and my request is simply to have unanimous consent to concur in the amendment of the Senate to a pension bill.

The SPEAKER *pro tempore*. The Chair in the exercise of his duty under the rule is alternating between the two sides, recognizing a gentleman on one side and then a gentleman on the other. The gentleman from Delaware is now recognized.

Mr. PAGE. I demand the regular order.

The SPEAKER *pro tempore*. Does the gentleman from California insist on his demand for the regular order?

Mr. PAGE. I will yield for this, but then I shall insist upon the demand for the regular order.

The SPEAKER *pro tempore*. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 2331) granting pensions to the widow and minor children of Michael Meenan, deceased.

The SPEAKER *pro tempore*. This bill is reported from the Senate with amendments. The Clerk will report the amendments.

The Clerk read as follows:

Strike out all after the word "after," in line 12, down to and including line 13, and insert "the passage of this act;" so that, if amended as proposed, the bill will read:

"That the Secretary of the Interior be, and he is hereby, directed to place upon the pension-roll, at the rate of $8 per month, the name of Emma Meenan, widow of Michael Meenan, deceased, late a corporal in Company E, Second Regiment Delaware Volunteers, also the names of Mary Meenan, William Meenan, George Meenan, and Edward Meenan, minor children of the said Michael Meenan, deceased, at the rate of $2 each per month; the said pensions to be payable to the parties hereinbefore named, respectively, from and after the passage of this act."

Mr. CONGER. Do I understand that the gentleman from Delaware takes this in lieu of his right under the call of States to present a bill for consent?

Mr. MARTIN, of Delaware. I do, sir.

Mr. CONGER. So the gentleman will not have the privilege before other gentlemen are called in the regular order.

Mr. MARTIN, of Delaware. I will only take my turn in the regular call hereafter.

The SPEAKER *pro tempore*. The question is on agreeing to the Senate amendment.

The Senate amendment was concurred in.

Mr. MARTIN, of Delaware, moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Several members demanded the regular order.

The SPEAKER *pro tempore*. There is no motion pending.

Mr. REAGAN. I move that the House resolve itself into Committee of the Whole on the state of the Union, to proceed to the consideration of the river and harbor appropriation bill.

Mr. CANNON, of Illinois. I hope the gentleman from Texas will yield to me for a moment.

Mr. VAN VOORHIS. I also ask consent to offer a bill.

Mr. REAGAN. I yield to the gentleman from Illinois [Mr. CANNON] and also to the gentleman from New York [Mr. VAN VOORHIS] to introduce propositions, if there is no debate.

The SPEAKER *pro tempore*. The Chair cannot allow any gentleman to take the control of the floor away from the Chair. The Chair has no objection to the gentleman yielding the floor, provided that he alternates between the sides of the House.

Mr. REAGAN. Then I withdraw the motion.

Mr. VAN VOORHIS. Then I ask leave to take up for consideration the bill——

The SPEAKER *pro tempore*. The Chair will recognize the gentleman in his regular order.

JACOB H. EPPLER.

Mr. SAMFORD. I demand the regular order.

The SPEAKER *pro tempore*. There is no regular order pending. There is no motion before the House. The gentleman from Illinois [Mr. CANNON] asks consent to take up for consideration at this time a Senate bill the title of which will be read.

The Clerk read as follows:

A bill (S. No. 1070) granting a pension to Jacob H. Eppler.

The SPEAKER *pro tempore*. Is there objection to the present consideration of this bill?

There was no objection.

The SPEAKER *pro tempore*. The question is on the third reading of the bill. The Clerk will read the bill.

The Clerk read as follows:

*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob H. Eppler, late of Company B, Eleventh Regiment Indiana Volunteers.

The SPEAKER *pro tempore*. The question is on the passage of the bill.

The bill was passed.

Mr. CANNON, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZA BAILEY.

Mr. POEHLER. I ask unanimous consent to take up and pass the bill which I send to the Clerk's desk.

The SPEAKER *pro tempore*. The Clerk will report the title of the bill, after which the Chair will ask for objection.

The Clerk read as follows:

A bill (H. R. No. 1148) granting a pension to Lizzie Bailey.

Mr. SIMONTON. I call for the regular order.

The SPEAKER *pro tempore*. The Chair will again state that there is no regular order, there being no motion pending, except the request for unanimous consent.

Mr. SPRINGER. Would it be in order to have a morning hour now?

Mr. SIMONTON. I wish to state that I objected to the present consideration of that bill.

Mr. BOYD. I move that the House do now adjourn.

The motion was not agreed to.

Mr. POEHLER. The objection, I understand, is withdrawn to the bill which I have requested to be taken up for consideration.

Mr. SIMONTON. I have not withdrawn the objection.

Mr. REAGAN. If I am permitted to do so I will be glad to yield to the gentleman from Minnesota.

The SPEAKER *pro tempore*. The Chair will again cause the title of the bill to be read, after which objection will be asked for.

The Clerk read the title of the bill, as follows:

A bill (H. R. No. 1148) granting a pension to Lizzie Bailey.

Mr. POEHLER. This bill is reported favorably from the Committee on Pensions and is on the Calendar of the Committee of the Whole House. I move to discharge the Committee of the Whole House from its further consideration, and that it be put upon its passage.

The SPEAKER *pro tempore*. There being no objection to the present consideration of the bill, the question is on its engrossment and third reading.

Mr. SIMONTON. I have been steadily objecting to its consideration.

The SPEAKER *pro tempore*. The Chair understood that the gentleman had withdrawn his objection.

Mr. SIMONTON. I have not withdrawn it.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. Then I move that the House resolve itself into Committee of the Whole on the state of the Union to proceed with the consideration of the river and harbor appropriation bill.

The House divided; and there were—ayes 120, noes 8.

Mr. VAN VOORHIS. I make the point of order that no quorum has voted.

The SPEAKER *pro tempore*. The point of order being made that no quorum has voted, the Chair will order tellers, and appoints the gentleman from New York, Mr. VAN VOORHIS, and the gentleman from Texas, Mr. REAGAN.

Mr. VAN VOORHIS. I shall not insist upon the point of order, and will withdraw it.

The SPEAKER *pro tempore*. The point that no quorum voted having been withdrawn, the motion is agreed to. The gentleman from Texas now moves that the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. CARLISLE in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the further consideration of the river and harbor appropriation bill. The question is on the amendment offered by the gentleman from Illinois, [Mr. DAVIS.]

Mr. REAGAN. In order that the House may be in possession of all the facts in relation to that, I send to the desk the engineer's report, and ask that the paragraph I have marked be read.

The Clerk read as follows:

The river is in fact simply a line of communication through the city, as one of its streets, and which, under municipal direction, may be obstructed to any extent by the erection of bridges or other structures. Traffic on the river and across the river conflict with each other, and questions as to what extent one shall be sacrificed for the other involve purely local interests, and will be settled by merely local action.

In general the interests looking to the improvement of the Chicago River can hardly be received as having any national importance, but as simply local, for securing access to the river, and for constructing an outer harbor to relieve this overcrowded condition, the United States has expended to June 30, 1880, $1,087,713.01, and for further benefit——

Mr. REAGAN. That will do.

Mr. DAVIS, of Illinois. I would like permission to say just one word.

The CHAIRMAN. The time of the gentleman from Texas [Mr. REAGAN] has not expired. Does he yield to the gentleman from Illinois?

Mr. REAGAN. I will yield the balance of my time to the gentleman. Let me only say that is the description of the Chicago River furnished by the engineers in a report made last December.

Mr. DUNNELL. Let the pending amendment be reported.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois, [Mr. DAVIS.]

The Clerk read as follows:

After line 224 insert as follows:

"Improving main branch Chicago River, Illinois, by dredging as suggested in the Engineer's report, transmitted to the House by the Secretary of War, under date of December, 1880, $20,000."

The CHAIRMAN. The gentleman from Illinois [Mr. DAVIS] has two minutes yielded to him by the gentleman from Texas.

Mr. DAVIS, of Illinois. I only wish for a single word. I desire to place against this officer's opinion, that this is not of national importance, the opinion expressed by such men as Benton, Webster, and like statesmen who regarded the Chicago River, Illinois Canal and Illinois River as of national importance, and as the natural and national thoroughfare and connecting link, uniting the great lake system with that of the Mississippi and its tributaries. They spoke and favored its improvement some forty years ago from the fact that it was a national improvement which the Constitution could reach and the Treasury sustain. The nationality of the Chicago Canal and of course the harbor at its mouth is by no means a new conception to me, said Benton. I do not wish to say more in reply to that part of this officer's report.

Mr. ALDRICH, of Illinois. I would like to inquire what that document is that was read by the Clerk.

The CHAIRMAN. The gentleman from Texas announced it was the report of the engineer.

Mr. REAGAN. Let the Clerk give the name and date.

The Clerk read as follows:

OFFICE OF THE CHIEF OF ENGINEERS UNITED STATES ARMY,
*Washington, D. C., December* 11, 1880.

Signed by G. J. Lydecker, major of United States Army.

Addressed to Brigadier-General H. G. Wright, Chief of Engineers United States Army.

Mr. ALDRICH, of Illinois. Is that in the published report?

Mr. REAGAN. It is not.

Mr. ALDRICH, of Illinois. Well, I should think not. It does not sound much like a public report.

Mr. REAGAN. It is a report sent by the Chief of Engineers to the Committee on Commerce.

Mr. ALDRICH, of Illinois. How did the gentleman from Texas get that report?

Mr. REAGAN. It came addressed to the committee by the Chief of Engineers, at whose request I am not advised; but it came into our hands from the Chief of Engineers.

Mr. DAVIS, of Illinois. That is a report by Major Lydecker, transmitted by the Secretary of War to the Speaker of the House of Representatives.

Mr. ALDRICH, of Illinois. There is a general disposition, it seems to me, to cut off the rights of this little village of Chicago. I do not know how the big city of Michigan City and cities of that kind are favored with appropriations to build their inside harbors, and when this small village of Chicago makes a just demand for the same thing something is gotten up to set it aside. This city has been making its improvements upon the inside harbor and river there and I do not think it is fair to set aside its demands for an improvement which has been granted to so many smaller places. I simply ask for fair play.

The CHAIRMAN. Debate is not in order.

Mr. ALDRICH, of Illinois. I have got five minutes.

The CHAIRMAN. The gentleman has not got five minutes.

Mr. ALDRICH, of Illinois. He seems to have it, anyway.

The CHAIRMAN. The gentleman from Illinois [Mr. DAVIS] occupied five minutes in support of the amendment and the gentleman from Texas [Mr. REAGAN] obtained the floor for five minutes in opposition to the amendment.

Mr. FROST. I move to strike out the last word, and yield my time to the gentleman from Illinois, [Mr. ALDRICH.]

The CHAIRMAN. Does the gentleman from Illinois want to address the committee?

Mr. ALDRICH, of Illinois. I have been trying to find out who this distinguished gentleman is. Gentlemen all around me keep asking who he is, and I am not able to tell them exactly who he is. I do not think it is a fair thing on the part of the Committee on Commerce to introduce a statement of that gentleman in the way this has been introduced. I do not think it shows a disposition on the part of the Committee on Commerce to do a fair thing by my city. It is time that the West, as the distinguished gentleman from Colorado remarked, should stand together and have a fair show and see if this Committee on Commerce cannot be made to do us justice.

Mr. HAZELTON. Get a mandamus on them.

Mr. ALDRICH, of Illinois. I want to know if I have the floor?

The CHAIRMAN. The gentleman from Illinois will proceed.

Mr. ALDRICH, of Illinois. That is what I am trying to do, but I am constantly interrupted. All these honorable gentlemen around me know that this amendment is reasonable and just, and I hope this committee will agree with me that it should pass. There is a gentleman here who has expressed a desire to speak on this question; he knows that it should pass. I yield to him [Mr. FROST] for two minutes.

Mr. FROST. I am very much obliged to the gentleman fron Illinois [Mr. ALDRICH] for returning to me a small portion of the time that I yielded to him. I desire to say that, appreciating keenly as I do and as my colleagues do the fact that Chicago is, as the gentleman has described it, a somewhat important village, a sort of appendage to the city of Saint Louis, we are all very much in favor of any proposition which will redound to the benefit of the city of Chicago.

Having heard from the gentleman of the Illinois delegation and from the Representatives from the city of Chicago that this measure is desired by the inhabitants of that city, as was shown to-day by the telegram which the gentleman from Illinois [Mr. DAVIS] had read to the House, I hope this amendment will be agreed to as being one of importance to a city which would to-day be the foremost city of the West if the city of Saint Louis did not stand in its way. [Laughter.]

Mr. ALDRICH, of Illinois. I would like now to yield five minutes to my colleague from Illinois, [Mr. DAVIS.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. REAGAN. I desire to say——

Mr. DAVIS, of Illinois. I want to state this: I am responsible for having this report brought before the House; I quoted from it myself.

Mr. REAGAN. That is a part of what I wanted to state. The gentleman from Illinois who last spoke [Mr. ALDRICH] seemed to think that the Committee on Commerce was at fault somewhat in introducing a report here which should not have been brought in, and he did not seem to know who Major Lydecker was. I desire to state that this report comes from a major of engineers of the United States Army, made to the Chief of Engineers, and sent by him to the Speaker of the House of Representatives, and by the Speaker transmitted to the Committee on Commerce, and I would not have acted in good faith to the House if I had not asked the House to hear what that engineer said.

Mr. FROST. I withdraw my formal amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois, [Mr. DAVIS.]

Mr. DAVIS, of Illinois. And I ask that the vote be taken by division. I wish to see who will vote $20,000 for the Little Kanawha and nothing for the Chicago.

The question was taken upon the amendment of Mr. DAVIS, of Illinois, and upon a division there were—ayes 56, noes 73.

No further count being called for, the amendment was not agreed to.

The Clerk read the following:

Improving Cape Fear River, North Carolina, $10,000.

Mr. DAVIS, of North Carolina. I move to amend the paragraph just read by striking out "$10,000" and inserting in lieu thereof "$25,000, or so much thereof as may be necessary to preserve and maintain existing improvements and continue the present dredging operations." This amendment is only to carry out the recommendation of the engineers. The town of Wilmington is the largest shipping point in North Carolina, the most important port in that State. I yield the remainder of my time to my colleague from that district, [Mr. RUSSELL.]

Mr. RUSSELL, of North Carolina. It will be observed that this amendment does not necessarily increase this appropriation one dollar. It is in the interest of economy. It is to preserve and protect a work already completed, or approaching completion, on which has been expended by the Government more than one million dollars. This work has cost the Government of the United States eleven hundred and thirty odd thousand dollars. The engineer in charge of the work in his report asks simply that a sufficient amount shall be appropriated by this Congress to preserve the work already done and to protect the work upon which this vast sum of money has been expended. The work itself has been liberally dealt with by the country owing largely to the fact that we have been fortunate enough to have one of our Senators as chairman of the Committee on Commerce at the other end of this Capitol. [Laughter.] To him this liberality is to be largely attributed.

Here is the language of the engineer, to which I invite the attention of members of this House:

No sum is asked for the ensuing year beyond what is required for the operation of the dredge and the contingencies which may always arise in a work of such magnitude as this, where the hurtful effect of violent gales may be expected to a greater or less extent every year.

That is, he asks for $25,000 in case that amount is needed. That is all the engineer asks. He says that is necessary to preserve a work upon which you have already expended this vast amount of money.

I believe that the distinguished gentleman from Texas himself, [Mr. REAGAN,] whose patriotic motives and purposes and services are in my opinion entitled to the highest commendation, would not be opposed to this amendment but for the fact that he and those who are engineering this bill regard all amendments as dangerous to the success of their measure. The amendment itself is meritorious; it is in the interest of economy. It asks no increase of appropriation unless this work should be carried away by some violent gale during the year. It would be the grossest extravagance, I submit, if we should refuse to adopt this amendment under the circumstances.

[Here the hammer fell.]

The question being taken on the amendment, it was not agreed to; there being ayes 35, noes not counted.

The Clerk read as follows:

Improving Currituck Sound, Coanjok Bay, North River and Bar, North Carolina, $30,000.

Mr. UPDEGRAFF, of Iowa. I move to amend the paragraph just read by striking out $30,000 and inserting $15,000. I will state my reason for offering the amendment. I find in the report of the engineer——

Mr. O'NEILL. Never mind giving us the reason; let us vote.

Mr. UPDEGRAFF, of Iowa. Mr. Chairman, there are more "injudicious friends" of this bill than are represented in this book. On page 828 of the report I find that the estimate of the engineers for this improvement is $20,000. Now, I understood from the chairman of the Committee on Commerce that the estimates of the engineers had been reduced one quarter or thereabout.

Mr. KENNA. Will the gentleman allow me to correct his statement?

Mr. UPDEGRAFF, of Iowa. I cannot yield. I have made no statement except the statement here in the report of the engineer.

Mr. KENNA. There is another report, which the gentleman has not at his command, I presume, or he would not make the statement that he does.

Mr. UPDEGRAFF, of Iowa. The estimate here is $20,000. Now I propose to cut it down in about the proportion indicated by the chairman of the Committee on Commerce; that is to make the amount $15,000.

Mr. YEATES. Mr. Chairman, the gentleman from Iowa is entirely mistaken about the estimate. This item embraces four different places; let me read it:

Improving Currituck Sound, Coanjok Bay, North River and Bar, North Carolina, $30,000.

And the estimate is $70,000.

Mr. KENNA. That is right.

Mr. YEATES. Now let me tell the gentleman that from 1860 to 1880, 91,131 steamers, schooners, and other craft went through that river, as will appear by the following statement:

| Year. | Steamers. | Schooners. | Sloops. | Barges. | Lighters. | Boats. | Rafts. | Total. |
|---|---|---|---|---|---|---|---|---|
| 1860 | 116 | 393 | 29 | 67 | 248 | 136 | 10 | 999 |
| 1861 | 671 | 1,139 | 74 | 153 | 300 | 179 | 8 | 2524 |
| 1862 | 453 | 192 | 88 | 69 | 275 | 188 | ..... | 1,265 |
| 1863 | 377 | 62 | 71 | 16 | 292 | 125 | ..... | 943 |
| 1864 | 953 | 24 | 15 | 124 | 96 | 174 | 5 | 1,391 |
| 1865 | 1,300 | 266 | 190 | 122 | 79 | 602 | 3 | 2,562 |
| 1866 | 1,062 | 739 | 302 | 256 | 338 | 921 | 18 | 3,636 |
| 1867 | 1,112 | 907 | 358 | 313 | 763 | 761 | 29 | 4,243 |
| 1868 | 1,093 | 944 | 442 | 381 | 778 | 1,066 | 26 | 4,730 |
| 1869 | 1,093 | 752 | 398 | 297 | 950 | 1,077 | 36 | 4,603 |
| 1870 | 1,487 | 859 | 437 | 167 | 911 | 486 | 35 | 4,382 |
| 1871 | 1,659 | 941 | 555 | 183 | 1,030 | 483 | 49 | 4,900 |
| 1872 | 1,667 | 1,070 | 523 | 158 | 752 | 553 | 85 | 4,808 |
| 1873 | 2,075 | 1,380 | 592 | 225 | 886 | 469 | 152 | 5,779 |
| 1874 | 2,214 | 1,607 | 654 | 338 | 937 | 411 | 122 | 6,283 |
| 1875 | 2,408 | 1,837 | 722 | 340 | 697 | 425 | 73 | 6,502 |
| 1876 | 2,403 | 1,719 | 720 | 292 | 639 | 260 | 113 | 6,206 |
| 1877 | 2,376 | 1,626 | 508 | 344 | 587 | 277 | 123 | 5,841 |
| 1878 | 2,627 | 1,759 | 640 | 226 | 661 | 243 | 171 | 6,327 |
| 1879 | 2,798 | 1,615 | 569 | 334 | 552 | 379 | 186 | 6,433 |
| 1880 | 3,209 | 1,537 | 392 | 496 | 570 | 362 | 208 | 6,774 |
| | 33,213 | 21,368 | 8,279 | 4,901 | 12,341 | 9,577 | 1,452 | 91,131 |

During the year ending September, 1880, there passed through this river 77,568 bales of cotton; 221,245 bushels of corn; 58,178,803 feet of lumber; 30,646,814 shingles; 348,100 staves; besides various other products in large amounts. There is a larger trade there than upon any other of the waters of North Carolina, except at Wilmington.

The amendment of Mr. UPDEGRAFF, of Iowa, was not agreed to.

The Clerk read as follows:

Improving Great Pedee River, South Carolina, $6,000.

Mr. RICHARDSON, of South Carolina. I move to amend by inserting after the words "South Carolina" the words "between Little Bluff and Cheraw." The last river and harbor bill passed by this House appropriated for this river $6,000, which has been expended or is being expended in another part of the river. The amendment I offer provides simply that the amount now appropriated shall be expended between the points named, where it is most needed. I hope the amendment will be adopted.

Mr. REAGAN. There is no objection to that.

The amendment was agreed to.

The Clerk read as follows:

Improving Waccamaw River, South Carolina, from its mouth up to Waccamaw Lake, North Carolina, $5,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out this paragraph. I read again from the report of the engineers:

The obstructions to navigation consist of overhanging trees and sharp bends. In many places these bends have already been cut off by cutting ditches from one reach of the river to the one below, and allowing the current to wash them out. Only two of these cut-offs are at present navigable, (Sam's and Lawson's,) being too narrow; but they can all be made so, and more cuts made at small expense. Below Red Bluff the river is good to a point about one and a-half miles from Reeve's Ferry, South Carolina, where the Wild Horses commence. The Wild Horses (so called from the crookedness of the river and the swiftness of the current) extend within two miles of Grahamville.

Now, here is a mountain stream with a current so rapid and so crooked that it bears the name of "Wild Horses;" yet the Government of the United States is to undertake to make that stream navigable.

Mr. RUSSELL, of North Carolina. Now, Mr. Chairman, the gentleman from Iowa [Mr. UPDEGRAFF] has run against a snag certainly.

Mr. UPDEGRAFF, of Iowa. They say the river is full of them.

Mr. RUSSELL, of North Carolina. He has run against a genuine snag. He has demonstrated to this House what might have been suspected before, with all respect to the gentleman—that he does not know what he is talking about. [Laughter.] He says this is a "mountain stream." It is a stream about fifteen or twenty miles from the Atlantic, and running into it. It is three hundred or four hundred miles from any mountain or even a respectable hill. [Laughter.] It is a stream deep enough through most of its length to float the Great Eastern.

A MEMBER. Twelve feet?

Mr. RUSSELL, of North Carolina. Twenty feet—forty feet in places. The appropriation in this bill is, I believe, only $5,000. It ought to be $15,000 or $20,000, upon every principle by which this House should be governed in measures of this sort. This is an interstate stream, being in the States of North Carolina and South Carolina. It connects Waccamaw Lake, one of the most beautiful and useful lakes of this country, with the sea. This river, with a small expenditure of money at the hands of this Government, can be made capable of floating the commerce of nations. Yet the gentleman gets up here and talks about "snags" and "overhanging trees." Why, did it ever occur to the gentleman that the best rivers in this country have snags in them? Did it ever occur to him that the Mississippi River has snags in it? Did it ever occur to him that the Missouri and all the great rivers of the country have "overhanging trees" and "snags," which must be removed to facilitate navigation?

[Here the hammer fell.]

The question being taken on the motion of Mr. UPDEGRAFF, of Iowa, it was not agreed to.

The Clerk read as follows:

Improving Chattahoochee River, Georgia, $20,000.

Mr. UPDEGRAFF, of Iowa. I move to amend by striking out this paragraph. I am not responsible for what these engineers say. I have always regarded them as "injudicious friends." My friends can quarrel with them as much as they please, but I stand by their reports for the present at least.

Now, with regard to the Chattahoochee, from page 1705 of the report of the injudicious friends I read:

The most important element to be considered in connection with the feasibility of this improvement is the amount and distribution of fall to be overcome by locks and dams.

I should think it was, when we read a little further on. It goes on and states there are three hundred and sixty-two feet fall in thirty-four miles to be overcome by locks and dams. That river in thirty-four miles is to be raised by locks and dams three hundred and sixty-two feet. That is only one section of it. I cannot take the trouble to go through the whole of it. Further on it states that a single one of the forty-two locks getting out of order would render the improvement useless for the time being. Further on it says:

The smallest force of lock-tenders that could be expected to work the locks and attend to minor repairs would be four men, each at $1 a day, which for the forty-two places where locks would be required would cost $168 per diem, or $61,320 per annum, which capitalized at 4 per cent. would represent a permanent investment of $153,000.

Further on he says:

The general direction of the river is nearly at right angles to the line which commerce naturally seeks from the great Mississippi basin to the Atlantic Ocean. It is not likely, therefore, to form a link in any through or trunk route.

"It is always to be remembered," in another place it says, "that no advantage whatever will be derived from the money expended until a sufficient length of the river is made navigable to induce private parties to build steamboats and engage in commerce."

The amount estimated to complete the improvement is $1,533,000. But drop the thousands, for I am no small man, I do not care for a few thousands. Drop the thousands, and we have $3,000,000 in round numbers. The Engineer says your appropriation is of no true value until the United States has appropriated for it $3,000,000. This bill appropriates $10,000,000 as a whole. There is for this river Chattahoochee the sum of $20,000. Now, as $20,000 is to $3,000,000, so is the amount of this bill to the whole amount which the United States must shoulder by passing it. If you will make a calculation, if this bill is upon a correct basis and this appropriation is a fair criterion to judge by, the passage of this bill puts the United States in a situation of becoming responsible for $1,500,000,000, and your appropriation is not worth a peg. [Cries of "Vote!"] If you are not satisfied with it, go on and make your own figures. The estimates of your engineers justify every word I say in the matter.

[Here the hammer fell.]

Mr. REAGAN. The gentleman from Iowa has run on another snag. I will read from the official report:

The present project for the improvement of this river was adopted in 1873, the object being to afford a channel one hundred feet wide and four feet deep at low water from the mouth of the Chattahoochee to Columbus, Georgia.

The estimate is $50,000. The committee allowed $20,000. It is true, sir, there is a speculative report for slack-water navigation far above Columbus; but that was objected to by the committee. And we propose to improve a large river, one of the large rivers of this country, the boundary between Alabama and Georgia down in the low country, from Columbus down, no slack-water at all, no million dollars in it, $50,000 being estimated and $20,000 recommended by this bill.

Mr. HUMPHREY. Another snag removed.

The amendment was rejected.

Mr. UPDEGRAFF, of Iowa. I move to strike out the last word.

Now, Mr. Chairman, it has been charged here I did not read from the correct report. I could not hear exactly what the gentleman from Texas said; but I hear what his colleagues say behind me. I have a report here, and I read from pages 1705 and 1707. If that be not the report, then I do not know what is. It is a survey of the Chattahoochee River above Columbus, Georgia.

Now, as part of my remarks, I ask to have read from the New York Tribune——

Mr. RUSSELL, of Massachusetts. We are appropriating below.

Mr. UPDEGRAFF, of Iowa. There is nothing in the bill which designates any part of the river to be appropriated for.

Mr. RUSSELL, of Massachusetts. It says continuing.

Mr. UPDEGRAFF, of Iowa. "Improvement of the Chattahoochee River, Georgia, $20,000." Those are the only words.

As a part of my remarks, I send to the Clerk's desk a speech made last summer by a gentleman to his constituents, which will be found in the New York Tribune of the date designated.

Mr. REAGAN. I hope that will not be done.

The CHAIRMAN. The gentleman has a right to put anything in his speech which is parliamentary and respectful.

Several MEMBERS. Print.

Mr. UPDEGRAFF, of Iowa. No, I want it read.

The Clerk read as follows:

[From the New York Tribune, July 10, 1880.]

SOLID FOR BIG APPROPRIATIONS.

(From a recent speech by Georgia's new Senator, JOSEPH E. BROWN.)

We have had to abandon one of our old creeds. Before the war we were utterly opposed to internal improvements by the General Government as now practiced. We took none of the money; we took the honors and the North always got money at every Congress. It turned out when the struggle came that the money weighed a great deal more than the honors did. [Laughter.] In the future we must change that policy. We pay our part of the money necessary to run this Government and we are entitled to our part when it comes to a division. Our rivers and harbors need improvement as do their rivers and harbors. But we need it the most because they have long had the advantage. When we go up there hereafter we must go earnestly and honestly and faithfully for the old flag, but we must ask for the appropriation also. [Laughter and applause.] And, gentlemen, from what I have seen during the short period of my service, if we meet the Northern Senators and Representatives in the proper spirit, they are ready hereafter to give us our part and make a fair distribution. We ought to encourage it. We ought to take our share in every improvement; and especially to urge them to make such appropriations of the proceeds of the public lands as will give us for the time the lion's share, because we have the heavy task here that they do not have there, of educating the colored race. This is right, and it is what we should contend for. [Applause.]

Mr. REAGAN. Mr. Chairman, it will be observed that this is a fast age, and the gentleman has caused to be read a letter dated July 10, 1881, from the New York Tribune.

Mr. UPDEGRAFF, of Iowa. That was evidently an error in the reading. It should be 1880. I withdraw the *pro forma* amendment.

Mr. STONE. I offer an amendment to come in after line 447.

The clerk read as follows:

At the end of line 447 insert:

"For improving mouth of Grand River, Michigan, from its mouth to Grand Rapids, $25,000."

Mr. STONE. Mr. Chairman, I desire to state that I have not opposed the passage of this bill. I am in favor of the bill and voted for it as reported from the committee. I make this amendment in good faith and with the hope that it will be adopted by the committee. In the last river and harbor appropriation bill authority was given to the Secretary of War to have a survey of Grand River made. This survey has been made at an expense of about three thousand dollars, and a favorable report from the engineer in charge, recommending that an appropriation be made, has just been sent to the Secretary of War. It came too late for the use of the committee. It is not necessary for me to say that Grand River is the largest river in the State of Michigan. Grand Rapids, the point at which we desire to improve the river, is forty miles from the mouth of the river and the second city in size and importance in the State. This bill

provides an appropriation of $50,000 for the improvement of the harbor at the mouth of the river. I shall expect the gentleman from Iowa [Mr. UPDEGRAFF] to vote for this amendment because there is no question about the navigability of Grand River. It has been navigated for upward of fifty years. In 1870 the Supreme Court of the United States so decided its navigability in the case to which my colleague [Mr. CONGER] referred this afternoon—the case known as "The Daniel Ball." A question arose as to whether vessels navigating this river were required to obtain license. In that case the court uses this language. I quote from 10 Wallace, 564. Speaking of the true doctrine to apply to this river, Justice Field says:

If we apply this test to Grand River, the conclusion follows that it must be regarded as a navigable water of the United States. From the conceded facts in the case the stream is capable of bearing a steamer of one hundred and twenty-three tons burden, laden with merchandise and passengers, as far as Grand Rapids, a distance of forty miles from its mouth in Lake Michigan. And by its junction with the lake it forms a continued highway for commerce, both with other States and with foreign countries, and is thus brought under the direct control of Congress in the exercise of its commercial power.

That power authorizes all appropriate legislation for the protection or advancement of either interstate or foreign commerce, and for that purpose such legislation as will insure the convenient and safe navigation of all the navigable waters of the United States, whether that legislation consists in requiring the removal of obstructions to their use, in prescribing the form and size of the vessels employed upon them, or in subjecting the vessels to inspection and license in order to insure their proper construction and equipment.

I hope the amendment will be adopted. I cannot consume further time in the discussion of it, but submit the matter to the judgment of the committee, hoping that there will be no objection to it as a matter of right.

The committee divided; and there were—ayes 55, noes 68.

Mr. STONE. Mr. Chairman, as I made this amendment in good faith I ask for tellers.

The CHAIRMAN. Does the gentleman make the question of a quorum?

Mr. STONE. I do not wish to obstruct legislation. I make no question of a quorum, but I ask for a vote by tellers on the amendment.

Tellers were not ordered.

The Clerk read as follows:

Improving Flint River, Georgia, $15,000.

Mr. HAZELTON. I move to strike out the entire appropriation in this section contained in lines 450 and 451.

The House, I am sure, Mr. Chairman, will take cognizance of the fact that I have not in any way undertaken on this bill either to advance or impede its progress. It came to us from the Committee on Commerce, and so far as my own district and State are concerned, I believe our delegation stand here to-day in favor of the bill substantially as presented. But in the progress of this debate I have noticed on the part of the gentleman from Maryland, [Mr. MCLANE,] and perhaps he is the only man in the democratic party—I think he is—from its organization down to this time, who has ever claimed or will claim that the policy of improving the rivers and harbors of this country, as contemplated in this bill, had its authority originally with the democratic party; and it is because, perhaps, outside of this debate, he has undertaken to appropriate that glory, if there is any glory in it, that I call his attention to a few remarks that I may address to this point on this occasion.

If I understand the history of this kind of legislation we obtained it far back in the history of the whig party, and especially under that glorious old statesman, Henry Clay. I take up this book, which is a history of all internal improvements in this country, and I turn to the veto message on this very kind of legislation interposed by President Polk, in 1846, and read:

The Constitution has not, in my judgment, conferred upon the Federal Government the power to construct works of internal improvement within the States, or to appropriate money from the Treasury for that purpose. That this bill assumes for the Federal Government the right to exercise this power, cannot, I think, be doubted. The approved course of the Government, and the deliberately expressed judgment of the people, have denied the existence of such power under the Constitution. Several of my predecessors have denied its existence in the most solemn form.

The gentleman from Maryland is familiar with what I have read. It but declared the doctrine of the democratic party at that time and down to a very late date.

There has not been one declaration to the contrary in the long line of democratic Presidents, in the long line of democratic platforms. There has not been one declaration to the contrary of this proposition which I announce here as having come from Henry Clay and adopted by the republican party. [Cries of "Vote!" "Vote!"] No, you do not want to vote yet. The only way it seems for a man to make himself popular is to talk all the time and call for a quorum and interpose objections and amendments. [Laughter.]

Now, let us go back to the democratic platform of 1856, and I call the attention of my old friend from Maryland, whose life runs far back into the history of this nation, to what I now cite from that platform:

That the Constitution does not confer upon the General Government the power to commence and carry on a general system of internal improvements.

That was part of the platform accepted by Buchanan and that was the platform that my friend from Maryland made speeches for and voted for and stood up for, at the time it was adopted and ratified by the vote of his party. Now, in order that I may throw a little light down through his heart, in order that I may make him happy on this occasion, in order that I may call his attention to the record of this party that built all there is in this Government of improvement and of freedom, I invite his attention to our platform of the same date. When I say our platform I of course mean the platform of the republican party.

[Here the hammer fell.]

Mr. PAGE. I move to strike out the last word, and yield my time to the gentleman from Wisconsin.

The CHAIRMAN. Is there objection to the gentleman from Wisconsin proceeding?

There was no objection.

Mr. HAZELTON. This is from the republican platform. It is like the Sermon on the Mount. [Laughter.] It is magnificent; and we have never deviated from it. Your great and venerable Henry Clay, sir, was the friend and advocate of the doctrine and among the first to proclaim it, and I want this engraven on the heart of the gentleman from Maryland that he may take it down to the grave with him: "That appropriations by Congress for the improvement of rivers and harbors of a national character"—[laughter]—

A MEMBER. Skip that.

Mr. HAZELTON. "Required for the accommodation and security of our existing commerce are authorized by the Constitution and justified by the obligation of Government to protect the lives and property of its citizens."

Now, I say right here that I challenge the gentleman from Maryland, with his memory ranging far back, from all the investigation he can make, to bring one platform of his party from its birth down to this hour that ever declared or intimated that principle. Let him produce one—just one! [Laughter and applause.] I withdraw my amendment.

The Clerk read as follows:

Improvement of Flint River, Georgia, $15,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph just read.

Now, if any man thinks I have obstructed the passage of this bill, he simply mistakes me. I have not sought to occupy the time of this committee. [Laughter.] I have talked but very little. Not half the time when I have moved amendments, have I occupied the time allotted to me by the rule. I am as willing to work on this bill as any man in this House. I make the point of no quorum on no occasion. I am as anxious to get through with this bill as the chairman of the committee who reported it can be. And if any man says I have obstructed the passage of this bill in a factious manner, he is badly mistaken. I have only exercised the right in good faith to call the attention of the country to the reports of the "injudicious friends" of this measure; to the statements made in these "injudicious" reports; and I intend to continue to do it as long as it seems to be my duty, and I have the strength to do it.

Now, as to this amendment. I am not able—and it is perhaps fortunate that I am not able—to appeal to the friends of this measure on the ground that "I voted for the suspension of the rules and therefore you ought to support me; I belong to the ring; gentlemen, don't you know me?" I cannot say that. I did not so vote. I offer this amendment on its own merits, and all I want to say in support of it is simply to read an extract from the Engineer's report. This is in relation to Flint River, Georgia:

The project adopted for this portion of the river was to remove snags and overhanging trees so as to give a navigable channel through a distance of seventy-seven miles for light-draught steamers when the water was a little above the low-water stage.

A little above the low-water stage! In other words to give a channel for light-draught steamers in high water. That is what it means.

The estimated cost of the work as now carried on would therefore be $190,000.

That is what the appropriation for Flint River means. That is what the appropriation of $15,000 means. It means an appropriation of $190,000 and added to that the injuries which the water, weather, and time will make to the work as it is progressing.

Mr. KELLEY. I rise, as the gentleman said, not to consume the time of the committee, but to ask him a question. I want to know how much the gentleman wants for his district, so as to determine whether it might not be a matter of economy to give it to him at once. [Laughter.]

Mr. UPDEGRAFF, of Iowa. I am glad that one of the friends of this bill has placed it on its proper basis, that it is supported only by those who have had a "slice of the pork." [Laughter.]

Mr. KELLEY. Would not $40,000 for an ice harbor have made you a defender of the whole bill?

Mr. UPDEGRAFF, of Iowa. I cannot say it would.

Mr. KELLEY. Do you say it would not?

Mr. UPDEGRAFF, of Iowa. I have not put it on that basis. I have been waiting for the friends of this measure to put it on that basis, and they have done so at last, as I was sure they would.

The question was taken upon the motion of Mr. UPDEGRAFF, of Iowa, to strike out the clause, and it was not agreed to.

The Clerk read the following:

Improving Oconee River, Georgia, $2,500.

The Committee on Commerce recommend that the paragraph be amended by adding to it the following:

Of which sum $1,500 to be expended between Dublin and Oconee Bridge.

The amendment was agreed to.

The Clerk read the following:

Improving Oostenaula and Coosawattee Rivers, Georgia, $1,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out that paragraph. I desire to say that I am glad we are getting on solid ground and have come to an understanding. This bill is now, I suppose, understood to be a divide. Now as a divide it is unfair. I would have preferred to have got along on some other ground if we could have found any, but we could not find any. We now know what this bill is; it is a divide, and as a divide it is not fair.

Now in regard to Oostenaula River the Engineer says:

The Oostenaula is a small mountain stream, from one hundred to two hundred feet in width, with rapid current and short bends. It is navigable for six months in the year as far as Carter's Landing. The commerce on the river is small, consisting mainly of cotton, lumber, and wheat. It penetrates thirty miles from railroad transportation and furnishes the only means of egress, except by wagons, for a small but rich agricultural country. During the past winter steamers have not navigated it, but the farmers have constructed a kind of flat-boat in which they have floated their produce down to the railroad at small expense. These small barges are either pushed back with poles or hauled back in wagons.

What kind of a steamboat navigation is that, I want to know? Floated down the river in boats and the boats hauled back in wagons! Now, we can measure the character of that stream pretty well.

If I am not correct I would like to have some gentleman correct me, because I am liable to fall into mistakes about these matters. These reports occupy 2,000 printed pages, and they could not be obtained until recently. Even now the maps which ought to accompany them are not accessible. I have been trying for a week, or thereabout, to obtain the maps, but I have not been able to do so. After this bill shall have passed then the reports and maps will go in among the waste paper. We cannot now get any of them. I simply wanted to put on record the character of those streams as described by the engineers. With that I am content.

The motion of Mr. UPDEGRAFF, of Iowa, to strike out the paragraph, was not agreed to.

The Clerk read the following:

Improving Apalachicola River, Florida, $1,500.

Mr. UPDEGRAFF, of Iowa. I move to strike out this paragraph. The engineers say with respect to this river:

The present commerce on this river is insignificant when compared with its former proportions.

Now, mark you:

The diminution is due to railroad competition and the shallow outlet at Apalachicola.

I find on the same page of the reports a description of Apalachicola Bay; and I find in this bill an appropriation for Apalachicola Bay, for the purpose of removing the bar at the mouth. Now, that appropriation will answer all purposes and leave the river navigable, and there is needed no further appropriation.

The engineer says that the commerce upon this river is insignificant on account of the railroad and of the bar. The appropriation for removing the bar will leave the river all right.

Mr. REAGAN. I want to suggest to the gentleman that I appreciate the disadvantage which members labor under in not having these reports, and in not knowing exactly what is before the House. Many of these surveys have extended far up the river, beyond the portions which these appropriations are intended to improve.

I think if the gentleman knew what were the grounds of action of the Committee on Commerce, he would see that the appropriations contained in this bill do not apply to most of the parts of rivers to which his criticism has been extended. The engineer, in his report, says that the project for improving this very river was adopted in 1874, and was intended "to afford a good navigable channel six feet in depth from its mouth to its head."

I need not read more; but that is the information upon which we have acted. This is a large river with a channel which can be made six feet deep, so far as we propose to appropriate for the river.

The amendment was not agreed to.

Mr. VAN VOORHIS. I move to amend by inserting the following as a new paragraph:

The President of the United States is hereby authorized to appoint a commission of three engineers, one to be selected from the Army Corps of Engineers, the other two to be appointed from civil service, one of whom shall be appointed on the recommendation of the New York Chamber of Commerce, and the other on that of the New York Maritime Exchange, to consider to what extent the full proposed opening of Hell Gate will effect and shoal the channel over Sandy Hook bar, of New York; and said commission is to report their conclusions to the War Department within three months of the passage of this act, and until said report is made no part of the money appropriated by this bill shall be expended by the Engineer Department for the works at Hell Gate.

Mr. Chairman, it has been asserted on this floor by one of my colleagues that the improvement of Hell Gate is going to be very damaging to navigation at the Sandy Hook bar. In view of this statement, it is worth our while to look into the matter before we expend $200,000 more in improving Hell Gate.

Mr. REAGAN. It is only necessary to say that the great work at Hell Gate has been for years under the supervision, control, and direction of the ablest engineers in the United States; and there is no need for such an amendment as this.

Mr. VAN VOORHIS. This amendment does not stop the work at all; it only prevents the use of this appropriation until the engineers have made an examination and report.

The amendment was not agreed to.

The Clerk read as follows:

Improving Choctawhatchee River, Florida and Alabama, up to Newton, $7,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out this paragraph. I will consume no time in discussing the question but will simply read a few lines from the report of the engineer:

To improve this section of the river from Newton to Geneva for navigation by light-draught boats during the season of high-water, lasting about six months during each year, besides the removal of snags and logs, the construction of three locks and dams will be necessary. The cost of the whole improvement is estimated at $78,500. The probable commerce to be benefited by this improvement being comparatively small and naturally passing over the lower portion of the river to reach a market, I would respectfully recommend that it be deferred until the river below Geneva is completed.

Now, I am not able to say whether this section of the river is intended to be included in this bill. If not, it was an oversight on the part of the committee to omit to exclude it; for the bill appropriates $7,000 to the river generally. I move that the provision be struck out.

Mr. SAMFORD. Mr. Chairman, the gentleman from Iowa [Mr. UPDEGRAFF] makes the same mistake in his strictures on the Choctawhatchee River which he made a few minutes ago in dealing with the Chattahoochee. He reads from the report of the engineer as to that part of the river between Geneva and Newton. This is only a small part of the river.

Now, sir, if he were informed he would know that the Choctawhatchee is a very important stream. It is about two hundred miles in length, extending from a point in Alabama entirely through the west end of Florida. A regular line of steamers now make regular trips on it, and with a sufficient amount appropriated it would at once become one of the principal navigable rivers of the country.

The gentleman moves to strike out the small sum allowed by the committee; that I will never consent to if by any parliamentary means I can prevent it. And I ask this House to vote down his amendment.

Not only do I resist his amendment, but I shall offer one to increase the amount to $20,000. Every amendment offered here increasing the amount has been voted down. And it is now late at night, but I still hope this instance may be an exception. Why not, Mr. Chairman, give a sufficient amount at once? This way of expending small amounts annually is poor economy. If we can have a liberal amount at once the river can be cleared out entirely and be off the books.

The engineer's report shows that annually 25,000,000 cubic feet of lumber and an equal amount in value of other commerce seek an outlet down this river. And indeed there is no other way to market except by hauling in wagons forty or fifty miles.

The report only asks for $20,000, but I will remind the House that that estimate was only for the short portion above Geneva.

[Here the hammer fell.]

The amendment of Mr. UPDEGRAFF, of Iowa, was not agreed to.

Mr. UPDEGRAFF, of Iowa. Now, Mr. Chairman, before the gentleman from Alabama [Mr. SAMFORD] offers the amendment he has indicated, I wish to submit one which he will no doubt accept. It is to add after the word "dollars" this proviso:

*Provided*, That no part of this appropriation shall be expended between Newton and Geneva.

The adoption of this amendment will relieve us of the whole trouble about this matter, if the gentleman's statement is correct.

The amendment was not agreed to.

Mr. SAMFORD. I move to amend the pending paragraph by striking out "$7,000" and inserting "$20,000," so as to make the appropriation $20,000.

The amendment was not agreeed to

The Clerk read as follows:

Improving Suwanee River, Florida, $3,000.

Mr. DAVIDSON. Mr. Chairman, I move to amend by striking out "three" and inserting "five," so as to make the appropriation for improving the Suwanee River, Florida, $5,000. I do not wish to delay for a moment the passage of this bill, which, I hope, will soon become a law. But in justice to my constituents, and as a duty which devolves upon me, I have offered this amendment. I know not why the committee was induced to recommend only $3,000 for the Suwanee River. I believe the improvements of that stream and its commerce justify the amount which I have asked for, and I hope it will be adopted. I trust there is no gentleman on this floor who has so little music in his soul as that he will oppose this small increase on the Suwanee River.

The amendment was not agreed to.

Mr. DAVIDSON. I have another amendment to offer, which I hope will not be so unfortunate.

The Clerk read as follows:

After the word "dollars," in line 472, add the following: "Improving Withlacoochee River, Florida, $10,000."

Mr. DAVIDSON. In the appropriations proposed by this bill I notice that the lumber interests, the coal and iron interests, and the manufacturing interests of the country are all remembered. I now ask that in this appropriation the great fruit interest of Florida shall

be remembered, and that Florida, which has been so much overlooked in past years in the river and harbor appropriation bills, may now be granted something. I trust that the work on this historic stream, the Withlacoochee, will not be neglected.

The amendment was not agreed to.

The Clerk read as follows:

Improving Noxubee River, Mississippi, $3,000.

Mr. UPDEGRAFF, of Iowa. Mr. Chairman, I move to strike out that paragraph. I will read simply from the Engineer's report. The engineer says in reference to this river that—

With the exception of a few shoals the principal obstructions to the navigation of the river are snags, drift-logs, fish-traps, and overhanging trees.

He goes on to say:

It is estimated that it would require about sixty-five thousand some hundred dollars for such improvements as will enable light-draught steamboats to navigate the river about nine months in the year; and if the work is undertaken an appropriation of $50,000 is recommended.

He says:

Not only are the citizens of Macon, but also the whole community living near and adjacent to the Noxubee River, deeply interested in the project of making the river navigable as far as practicable for at least a great portion of the year, and I have no doubt that, should work actually be commenced, the Government will receive all the aid that can be reasonably expected from the population living near the river.

He says further:

Some thirty years ago the Noxubee River was navigated by small light-draught steamers. The last one, to the best of my information called the Little Jimmie, sunk in 1853.

He says further, in the same report:

By reference to the accompanying map it will be seen that the total length of the river from Macon to its mouth is sixty-nine and a half miles.

Further on he says:

In looking at the map the course of the river is tortuous and crooked; but with the exception of a few instances where either shoals are or where drift has accumulated, the bends are in almost every instance of sufficient width that, even in a very low stage of water, small steamboats of three or four feet draught, managed with proper care, can be easily piloted around the bends.

He says also that logs have accumulated in the river, and goes on to say that these can be removed far easier than the above-mentioned bed-logs, and as they diminish in number farther down the stream, where they occur only occasionally and where the river increases in width, they form only a part of the obstructions.

The next impediment to a free flow of water are the numerous fish-traps and a few mill-dams. While at Macon I was informed by parties whose information can be relied upon, that there was or would be a bill before the Mississippi State Legislature at its present session to enact a law to have all existing fish-traps and mill-dams in the Noxubee River removed at the cost of the respective owners, and make it a State offense to erect new ones, and so on.

I will not take up the time of the committee with reading further from this report. I have read enough to show the character of the stream it is proposed to improve here.

The CHAIRMAN. The question is on the adoption of the amendment of the gentleman from Iowa.

The amendment was not agreed to.

The Clerk read as follows:

Improving Tallahatchee River, Mississippi, $3,000, of which sum $2,000 shall be expended on the upper and $1,000 on the lower river.

Mr. MANNING. I suggest to the gentleman in charge of the bill that the language in lines 489 and 490 should be changed so that it will read after the word "reported," in line 489, "above the mouth of Cold Water River to Batesville."

Mr. REAGAN. I have no objection to that.

The amendment was agreed to.

The Clerk read as follows:

Improving Tombigbee River above Columbus, Mississippi, $1,000.

Mr. CHALMERS. I desire to offer an amendment after the section just read.

The Clerk read as follows:

For improving the harbor at Grand Gulf, Mississippi, $20,000: *Provided*, Any contractor or contractors will enter into bond with good security to complete the work necessary to restore that harbor for that amount.

Mr. CHALMERS. I have but little hopes, Mr. Chairman, after having watched the fate of many amendments which have been offered to this bill to-night, that this will be adopted; but I ask the attention of the committee because it introduces a new feature into this bill. The Engineer's report shows that if this harbor is improved according to the original scientific plan it will cost a very large sum. The citizens at that place, however, have expressed their willingness to do it for $20,000, although the United States engineers say it will cost several hundred thousand. I therefore ask that it may be allowed the Secretary of War to make a contract with any persons who will give good security that that improvement shall be made in the harbor and completed at a sum not exceeding $20,000. It will be a good experiment, sir, in view of the fact, as has been shown by many gentlemen who oppose the bill here to-day, that these appropriations going on year after year, and thousands upon thousands of money is wasted, or at least no visible results can be seen by the process of improvement adopted and carried out under the engineer system. I hope the committee will allow the amendment to be adopted, and test the question whether improvement of a harbor on the Mississippi River can be made for $20,000 by the citizens who will enter into a contract for that purpose, while the Government engineers say it will cost many thousands of dollars to do it.

The question being taken on the amendment offered by Mr. CHALMERS, it was not agreed to.

The Clerk read the following:

Improving Bayou Courtableau from Port Barre to Atchafalaya, Louisiana, $7,500.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph just read. The engineer with respect to this Bayou Courtableau from Port Barre to Atchafalaya declares:

To remove this bar by dredging would only benefit navigation for one low-water season as the succeeding high-water would cause it to reform. To further insure low-water navigation to Washington with Little Devil Bar, there will be required a lock and needle dam about four miles below Port Barre, and the commercial importance of the stream is deemed sufficient to warrant the additional plans for its construction.

Further on, with reference to this bayou, the engineer says:

The bayou at the low-water stage is very much too small for ninety miles above Washington for navigation, even with the small boats, as it is but one foot in depth in many places, and any deepening of these places would but draw off the water of the pool above and perhaps transfer the position of the shoal, but not in the least increase the depth for purposes of navigation.

The small barges which are at present used can take freight and the steamers can tow them, but for any really useful low-water transportation locks and slack-water navigation will be needed.

The depth on the first ripple below the Lamourie and the Boeuf was but one foot, and its extreme width but forty feet, giving a cross-section area at extreme low water of but twenty-eight feet.

The bed of the bayou has many logs and stumps and some standing cypress and gum trees. There are frequent bridges, all of which have draws for passage of steamers. The depth on the ripples is but one foot at extreme low-water, and in its narrowest place the width is but about twenty feet.

Again he says:

It would not have been of any use if it had been completed, which it never was; as when there was water enough to get to it there was enough to do without it. It now forms a slight obstruction where one corner projects into the channel, but it can be easily removed.

Further on he says:

The cross-section at low water on the bar varies hourly with the washing away of sand in any particular place. The narrowest place at the time of the survey was twenty feet, with a depth of two feet, but the shoalest place was but four inches deep.

I reserve the remainder of my five minutes in case I may require to use it.

The question being taken on the amendment, it was not agreed to.

The Clerk read the following:

Improving Bayou Teche from Saint Martinville to Port Barre, Louisiana, $20,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out the paragraph which has just been read. I shall content myself with reading an extract or two from the Engineer's report:

From Leonville to Port Barre, thirteen miles, there has not been sufficient water for navigation within the memory of the oldest inhabitants, except during the extreme high-water of 1874. For these reasons it is not deemed advisable at present to expend any of the appropriation for this year in improving the bayou above Leonville.

The small bars found in this bayou are caused by draining ditches, and some means should be adopted to stop this, and have the drainage ditches run into the swamps instead.

Further on, on page 1167 of the report, with respect to this bayou, the Engineer says:

During the high-water of 1874 flat-boats, loaded with lumber and fencing material, passed down through this channel; but it could only be used at very high water, when the lower willow trees were so covered with water that boats could bend them down and pass over them.

For the greater part of the year only a little stream of water, the drainage of the springs in the bank, finds its way down this channel. Four miles from the Courtableau the bottom of the channel is six feet above low-water in the Courtableau.

Mr. Harrod's survey was not made by way of Barry's Landing, but left the Courtableau about a mile below Washington, passing up the Caron for miles to the head of the Maricoquant, which runs about southward from the Caron. Above this point the Caron is but a rain-water channel, and below its banks are like those of the Courtableau and Teche, of Red River deposit, as are those of the Maricoquant, which from the Caron to the junction of the Teche, four miles from Barry's Landing and nine miles from the Caron, is but a small channel, and at the high water of 1874 it had but four and a-half feet depth on the top of the ridge over which it runs just below the place where it leaves the Caron. It is much overgrown with trees, and there is no chance for any navigation by it. For the nine miles it only consists of a series of pools, except during very high water.

The fall from the fourth mile to the thirteenth in the Teche is but little, but the channel is much obstructed by trees standing in it. At the nineteenth mile the Fusilier enters from the west, and from it comes the entire low-water supply for the Teche.

The only means available to make good navigation of the Teche for the year is to make such dams and locks as are recommended for the Courtableau and, except at high water for slack-water navigation, giving the locks a width of forty-five feet in the clear, so as to allow the passage of stern-wheel boats, but not wide enough to allow side-wheel boats to pass.

[Cries of "Vote!" "Vote!"]

The question being taken on the amendment of Mr. UPDEGRAFF, of Iowa, it was not agreed to.

The Clerk read the following paragraph:

Improving Bayou Terrebonne, Louisiana: completing the improvement, $8,800.

Mr. THOMPSON, of Iowa. I move to strike out the paragraph.

Mr. UPDEGRAFF, of Iowa. I have not marked the passages in the report in regard to this item, and will pass it.

Mr. SINGLETON, of Illinois. I ask the gentleman from Iowa to yield for a suggestion.

Mr. UPDEGRAFF, of Iowa. I yield to the gentleman.

Mr. THOMPSON, of Iowa. It was not for the gentleman, my colleague, to yield.

The CHAIRMAN. The Chair recognized the gentleman from Iowa, [Mr. UPDEGRAFF.] The Chair understood that that gentleman rose to propose an amendment.

Mr. THOMPSON, of Iowa. It was I who offered the amendment, and I desire to proceed.

The CHAIRMAN. Then the Chair will recognize the gentleman who offered the amendment. It is the desire of the Chair to give the preference to the gentlemen who rise to offer amendments.

Mr. SINGLETON, of Illinois. I know the gentleman from Iowa——

The CHAIRMAN. The gentleman from Iowa declines to yield.

Mr. THOMPSON, of Iowa. I think that I can very safely appeal to the House and to its justice to say that from the time that I have had the honor to have a seat in this body I have occupied but very little of its attention. I would not now ask a single moment had it not become apparent to me, as I think it must be to every member who occupies a seat at this time in the House or is within hearing of my voice, that it becomes an absolute necessity that each and every individual who is called upon to record his vote upon this bill should set himself right not only before the House but before the country. And especially do I so desire after hearing the remarks of my able, learned, and venerable friend from the State of Pennsylvania, [Mr. KELLEY,] whose wise counsels I have heretofore followed almost blindly. Only a few moments since, when the attention of the House was called to an amendment offered by my able and distinguished colleague from Iowa, [Mr. UPDEGRAFF,] providing that no money appropriated by this bill should be expended upon any river not navigable, or, in other words, that there should be no expenditure of money on any stream not within the maritime jurisdiction of the United States, the amendment was voted down. Now, I ask whether it is not sufficient to arouse a suspicion in my mind and in the minds of every enemy and every friend of this bill in regard to the influences which are relied upon to pass this measure?

Am I not right in inquiring whether it is not enough to arouse a strong suspicion that we will be called upon when we return to our homes to explain to our constituents why it is that we have supported what may be to a certain extent justly-termed a log-rolling bill? When my friend from Pennsylvania, [Mr. KELLEY,] or when any gentleman from any other State, rises and asks me or my colleague how much the State of Iowa desires, how much she obtains from this bill, if she has had a sufficient share of the "killed hog," I want to say to this House that, so far as I am concerned, you may strike out from this bill, if you please, every appropriation for the Mississippi and the Missouri Rivers, or if you will, you may add a million to that appropriation.

Now, if you will place this bill upon the platform which every respectable and honorable citizen of this country should support, that of improving rivers of a national character, whereby the commerce of the country will be extended and expedited, then I will vote for the bill; but the very moment you begin to show that it is a collection of merely local matters, and that our re-election as members of this House depends simply upon the number of dollars which we may be able to secure for our respective localities, then I think it is time the thing should be stopped, and that we should turn our attention to the improvement of such rivers and harbors as are of a national character. For such a bill I would be willing to vote.

But so long as this bill contains appropriations for the improvement of streams that are absolutely unknown to the maps of the world, I shall vote against it. While I believe this is the case with this bill, that millions are to be expended in the improvement of streams which will add nothing to the commercial facilities of the nation, on that ground and on that alone I shall oppose the bill.

The question was taken upon the amendment of Mr. THOMPSON, of Iowa, and it was not agreed to.

The Clerk read the following:

Removing obstructions from Red River, Louisiana, $10,000.

Mr. ELLIS. I move to insert, after the paragraph just read, that which I send to the Clerk's desk as an additional paragraph.

The Clerk read as follows:

And the Secretary of War is hereby directed to cause a thorough survey to be made of the mouth of Red River, and a plan for its permanent improvement, to be reported to Congress on or before the first Monday of December, 1881, with estimates of cost; said survey and plan to be paid for out of the unexpended balance already appropriated for the mouth of Red River.

Mr. ELLIS. Before offering this amendment I submitted it to the chairman of the Committee on Commerce, [Mr. REAGAN,] and it has been accepted by him.

It will be seen that it requires no appropriation of money; it does not increase the appropriations in this bill one dollar. It merely seeks to solve a problem which has very much bothered the engineers at the mouth of the Red River.

Three years ago Congress made a very liberal appropriation for the permanent improvement of that great river, the second commercial river of this country. It is now about to be destroyed by having all of its waters absorbed by the Atchafalaya.

Four miles from the junction of the Red River with the Mississippi River the Atchafalaya makes out of the Red River and flows in a southerly direction, and empties into Atchafalaya Bay, one hundred miles west of New Orleans. Twenty years ago Atchafalaya River was an insignificant stream, not as wide as this Hall, and not more than ten feet deep. To-day it is a stream three hundred yards in width and seventy feet deep at its month.

The Atchafalaya River now absorbs nearly all the waters of the Red River, and unless something is done, and done rapidly, the Red River will no longer empty into the Mississippi River, but will flow down the Atchafalaya and be lost to the Mississippi. Engineers have failed to solve this difficult problem. One set of engineers have reported one plan, and the Mississippi River commission have submitted another plan.

The object of the amendment I have offered is to take from an appropriation already made, and not yet expended, a sufficient amount to cause a thorough survey of the mouth of the Red River and the adoption and report of a plan for the improvement of the mouth of that river. I trust there will be no objection to the amendment.

The amendment of Mr. ELLIS was adopted.

The Clerk read as follows:

Improving Warrior and Tombigbee Rivers, Alabama and Mississippi, to be expended in the same proportions as the appropriation under the act of June, 1880, $25,000.

Mr. CLEMENTS. I move to amend by inserting after the clause just read the following:

For improving the Warrior River above Tuscaloosa, Alabama, $75,000.

Mr. Chairman, I offer this amendment to the river and harbor bill not with any view of impeding its progress or encumbering it for the purpose of defeating it. I offer the amendment in perfect good faith to the bill. I am in favor of the passage of the bill, and believe that it should pass, because in my opinion the water communications and the vast commerce of the country will be greatly benefited thereby.

My amendment applies to one of the most important rivers in Alabama, a river that extends from the mountains of North Albama to the Gulf at Mobile. This river bears upon it to our chief Gulf city the vast agricultural products of a rich valley extending along its whole length. It penetrates the great mineral regions of Alabama. It traverses almost centrally from the northeast toward the southwest through the most productive part of the vast coal measures of the Warrior basin, which greatly exceeds in extent those of both the others in Alabama, namely, the Cahawba and Coosa, embracing, as is the case, an area of more than 3,260 square miles. The width of this basin on the south line exceeds sixty-five miles, and the strata of millstone grit, sandstones, conglomerates, fire-clays, blackband iron-ore, coals, and shales composing it are synclinal from the northeast and southwest toward the Warrior River. As these strata approach the synclinal axis they become quite horizontal, affording exposures of bituminous coals frequently from ten to twenty feet wide in the beds of the creeks tributary to the Warrior River, and often in the river, also extending entirely across them, so that, at low stages of their waters, large quantities of coal have been taken out and sent to market.

It is only within the past few years, and since the completion of the South and North Alabama Railroad, which develops only the eastern part of this coal-field, that an approximation could be made as to the amount of coal contained in it, its quantities ascertained, or the best modes for mining it concluded on. By means of the cuts made for the track of this railroad and those natural ones of denudation made by the creeks tributary to the Warrior River, and by the river's own bed, as also by borings and diggings, there are at present revealed thirteen seams of bituminous coal in it.

Underlying the lowest of these yet discovered there is a thickness of several hundred feet of coal measures wholly unexplored, which, when penetrated, will no doubt add several more to these numbers. The aggregate thickness of the thirteen here given is thirty-five feet, but severally they are of various dimensions, from a few inches to upward of seven feet. Among the entire number exposed one of them measures six feet and upward, three four feet and upward, one five and a half feet, and two three feet and upward in thickness. These are extracts taken from a letter of Professor Gesner, to show the vast extent of the Warrior coal basin. The statement as above made shows the extent of coal on the extreme eastern line of this vast coal-field, which does not compare with the main portion of this basin, through the center of which the Warrior River flows, and to which the coal is synclinal from both sides.

With these improvements of the Warrior River, making it navigable to tugs and barges throughout the year, coal can be transported to the Gulf for fifty cents to seventy-five cents per ton. It can be placed upon the barges at a cost of from $1.75 to $2 per ton. This is the price now paid, I am informed, in some instances for Warrior coal delivered on railroad cars, and as the coal must ascend to the railroads while it would descend to the river, the cost in the latter case would not exceed and might not equal that in the former. The coal by river, then, could be delivered at the Gulf for the use of the steam marine, or for export, at a cost of $2.50 to $3 per ton.

Present quotations at the leading Atlantic and Gulf ports, are as follows: New York, $6.50 to $7.50; Baltimore, $4.65 to $5.50; Mobile, $10 to $12; Havana, $9 to $10, (in gold;) New Orleans, $7 to $9; Galveston, $13 to $15.

From an inspection of these rates, it is evident that the Warrior coal-field, made accessible by the improvement of the Warrior River, would be drawn on to supply the entire Gulf consumption, including the wants of the Navy Department. And in case of war with a maritime power the value to the Government of a coaling station on the

Gulf, that can be readily and cheaply supplied at all times without incurring the risk of sea transportation can be readily understood.

If the Warrior River were made navigable from the junction of the Locust and Mulberry Forks to Mobile, it would open up more of the coal resources of Alabama than has been done by all of the railroads now in operation or under construction in this State, as it would penetrate the very center of her largest and most economically to be worked coal-measures.

It remains now to consider the commercial and other interests involved in the proposed work of improvement, to see whether the benefits to be derived from it would be commensurate with its cost.

The Warrior River flows through or between the counties of Walker, Fayette, Jefferson, Tuscaloosa, Hale, and Greene, which had in 1870 an aggregate population of about ninety thousand, and yielded a crop of 40,000 bales of cotton. I am informed that the shipments down this river have averaged 30,000 bales of cotton annually, but for abundance of caution and for illustration I will say 20,000 bales are now annually going down the river and that 10,000 bales are transported by railroad. Taking $50 per bale as an averrge price, the value of the Warrior cotton crop amounts to $1,500,000. I have no means at hand to ascertain the value of shipments made up the river, but it is reasonable to calculate that they will equal in value that of the cotton crop forwarded to market.

This would seem probable from the well-known fact that Warrior Valley produces very little else than cotton, and that this is exchanged for provisions, corn, general merchandise, &c. The total value of Warrior River trade, going both ways, up and down, may then be safely assumed at $3,000,000. The freight charges on this large business are, for cotton transported by river, $1 per bale, and by railroad, $2.50 per bale. As this river is not boatable usually during the first three months of the cotton season, and as cotton begins to move to market the latter part of August, it follows that the planter is compelled to submit to the enormous charges of the railroad or withhold his cotton from market, and as a general thing they are under such pecuniary necessities as compel them to place a portion of their crops in the market at an early date. It will be seen that one-third of the crop goes by rail. The charges on return freight or up freight will average about four dollars and fifty cents or five dollars per ton, and the tonnage is estimated at about six thousand or eight thousand tons. The whole transportation or freight expense of the Warrior River trade may be taken as follows:

| | |
|---|---|
| 20,000 bales of cotton by river, at $1 | $20,000 |
| 10,000 bales of cotton by rail, at $2 | 20,000 |
| 8,000 tons return freight, at $5 | 40,000 |
| Total | 80,000 |

The improvement of the Warrior contemplated by the amendment which I propose will make the river navigable for tugs and barges throughout the year, and would reduce freight charges to fifty cents per bale and $2 per ton, showing a gain of 100 per cent. for profits and incidentals. With tugs and barges the present trade of the Warrior could be done at an expense as follows:

| | |
|---|---|
| 30,000 bales of cotton, at 50 cents | $15,000 |
| 8,000 tons return freight, at $2 | 16,000 |
| Total | 31,000 |

Showing a saving from present cost of $49,000 per annum.

The amendment of Mr. CLEMENTS was not agreed to.

The Clerk read as follows:

Improving Sabine Pass and Blue Buck Bar, Texas, $150,000.

Mr. UPDEGRAFF, of Iowa. I move to amend by striking out the clause just read. I find by the report of the engineers, if I am able to read it aright, that the estimate for this improvement is $114,317. If I am not correct in this statement I will very gladly be corrected. If I am correct I would like to have the chairman of the Committee on Commerce tell me how it is that $150,000 is proposed as the appropriation for this improvement. With the consent of the committee I will modify my amendment so as to move to strike out $150,000 and insert $100,000.

The CHAIRMAN. The gentleman has the right to modify his amendment.

Mr. UPDEGRAFF, of Iowa. One word more before I sit down. Ten million dollars is twenty cents per head for every inhabitant of the United States. For the State of Iowa, with about one million seven hundred thousand inhabitants, it is $340,000. Three hundred and forty thousand dollars of the money of the people of the State of Iowa goes into this bill. Seven hundred and fifty thousand dollars of these appropriations go into the State of Texas. I think I have a right to insist upon this amendment.

Mr. SINGLETON, of Illinois. I move to amend the amendment by striking out the last word. Mr. Chairman, I do not propose to discuss the merits of the amendment of the gentleman from Iowa. I give him great credit for his perseverance and for the great knowledge he has exhibited as to the subjects embraced in this bill. I know he means well. But I say to my friend from Iowa—I call him "my friend" because he is my neighbor, and I have a right to assume that my neighbors are my friends—I say to him that he is wasting the time of this House without benefiting himself, his constituents, or his country. I therefore suggest to him and to the House that he be permitted, by unanimous consent, to review this whole bill by printing all his objections to every clause in it.

Mr. UPDEGRAFF, of Iowa. I call the gentleman to order; he is not speaking to any amendment.

Mr. SINGLETON, of Illinois. Hear me, my dear friend. [Laughter.] I mean no disrespect at all.

Mr. UPDEGRAFF, of Iowa. Very well; I can take care of myself.

Mr. SINGLETON, of Illinois. I insist upon being heard through. I mean no disrespect at all to the gentleman from Iowa; but I insist that he will accomplish everything he proposes to accomplish by refraining from any further consumption of the time of the House in this discussion.

Mr. UPDEGRAFF, of Iowa. I again make the point of order, Mr. Chairman, that the gentleman is not speaking to any amendment.

The CHAIRMAN. The gentleman from Iowa makes the point of order that the gentleman from Illinois is not addressing himself to any proposition pending before the committee.

Mr. SINGLETON, of Illinois. The gentleman from Iowa is not to be the judge of the course of discussion the "gentleman from Illinois" should adopt.

The CHAIRMAN. The gentleman from Iowa of course makes the point of order for the decision of the Chair.

Mr. SINGLETON, of Illinois. Mr. Chairman, neither the Chair nor the gentleman from Iowa—I mean what I say—neither the gentleman from Iowa nor the Chair can put words into my mouth. I have a right to be heard.

The CHAIRMAN. But the Chair has a right to confine the gentleman within the rules, which requires that a member taking the floor shall address himself to the proposition pending before the committee.

Mr. SINGLETON, of Illinois. Exactly; I admit that; but the gentleman from Iowa or the Chair must furnish me with my words, if I am to be confined to their construction of the rules. [Laughter.] Persons differ very much in their modes of expression.

The CHAIRMAN. Why, the gentleman himself stated distinctly that it was not his purpose to speak to the amendment before the committee.

Mr. SINGLETON, of Illinois. But the announcement that such was not my purpose did not deprive me of that right. [Laughter.]

The CHAIRMAN. Then the gentleman will proceed to address himself to the amendment pending before the committee.

Mr. SINGLETON, of Illinois. Mr. Chairman, I say to the gentleman from Iowa that I sympathize, I harmonize with many of his objections to this bill; but I am in this position, that I must take the bill as a whole. While I feel that there are many objections which might be urged, I do not feel at liberty to urge them, because in doing so I should lend myself to those whose object it is to defeat the passage of the bill. I cannot do that. I have a district, I have a State, I have a country interested in the passage of this bill; and I will not be used for any such purpose as to defeat its passage.

I ask the gentleman from Iowa to take the course I suggest. His words as uttered here fall unheeded. He will save time and accomplish his object by adopting my suggestion. Let us save our time and the gentleman from Iowa his strength.

[Here the hammer fell.]

Mr. HENDERSON. I wish to say a word in regard to the amendment proposed by the gentleman from Iowa. That gentleman has fallen into a great many errors in his opposition to some of the provisions of this bill, for want of the full information which he says he has tried to obtain, but was unable to obtain. Now, in this particular case there was a subsequent report made by the Chief of Engineers to the Committee on Commerce, representing the importance of this work, and that the sum of $200,000 could be expended profitably in its prosecution.

Now, sir, I venture the assertion from the representations made before the Committee on Commerce, that there is not any work before that committee on the Gulf of Mexico and on our Southern coast of greater importance than that one work. I had supposed the remarks of the chairman of the Committee on Commerce the other day had made that sufficiently clear. But there is a subsequent report recommending the sum of $200,000 to be appropriated for the purpose of prosecuting this most important and useful work.

While I am upon the floor, Mr. Chairman, I want to say a little more. My friend has made a great deal of sport here in regard to the Choptank River. He seems to select a name of some peculiarity and then to take it for granted there is something dreadful in regard to that particular work. He ought to have learned long ago there is nothing in names. The Choptank is a river of greater depth than the Mississippi, at least in the upper portion of it in very many places. While it has not the same width, yet it has a regular line of steamers running from Baltimore to Denton on that river doing a considerable amount of business. And then Grand Haven Harbor, which he speaks of, with a few thousand dollars can be made to have a navigable channel of one hundred and fifty feet in width, and eight feet in depth, which is some feet more than the Mississippi River on Rock Island Rapids and some feet more than in some other portions of the river.

If my friend had been a little better informed in regard to many of these measures he would have saved himself and, I think, the committee the trouble which he has given in regard to this matter.

I can say the same with regard to several other improvements which he has made a great deal of sport about and talked about "injudicious friends" and modified mill-dams, where the work is shown, from reports of the engineers, to be of importance not only to the

locality in which it is carried on, but to other localities. I feel it only just and right to the committee that I should make these remarks.

Mr. VALENTINE. What is the amendment?

The CHAIRMAN. It is to reduce the amount from $150,000 to $100,000.

Mr. VALENTINE. It is for Sabine Pass.

The CHAIRMAN. That is the item.

Mr. VALENTINE. I desire to say that coming as I do from the Mississippi Valley, or rather the Missouri River Valley proper, I believe this Sabine Pass to be the most important to the great West of any on the whole southern coast. I have given it considerable attention and I am prepared to say I believe this appropriation is not too large, but ought to be larger than what is recommended by the committee. I say that, sir, after having given this matter considerable attention, I believe it to be the most important of the outlets on that coast for the great Northwest, which I in part represent on this floor. I have nothing further to say.

The amendment of Mr. UPDEGRAFF, of Iowa, was rejected.

Mr. UPDEGRAFF, of Iowa. I move to strike out the last word.

Mr. ROBESON. Will the gentleman yield to me?

Mr. UPDEGRAFF, of Iowa. I cannot yield now. Mr. Chairman, the member of the Committee on Commerce, the gentleman, my friend who has just taken his seat, charges me with having made many mistakes. He has, however, not proved one. He has studied these books ever since they came out, night and day, and he charges me with having made mistakes, and yet he has not proved one. I only got the book after great trouble and, in the way the old saints went up to glory, through great tribulation. They have had it in the Committee on Commerce all these months. It is not strange I should have made some, but it is strange there is none pointed out save the one by my friend from North Carolina. It is only remarkable I have not made more. I have had 2,000 pages to look over, unindexed and unsystematized. I have always stood ready to be directed, but the gentleman who has studied this book for three months and upward—I do not know how long, but since the session began—has not been able to correct me once.

I said nothing about the Choptank, except what I read from the Engineer's report, and if the name excites a smile, as it does, and as its business would if it were understood differently, I cannot help it, but I am not responsible for it, and I hope my friend from the Committee on Commerce will not feel aggrieved at a simple laugh.

One word further. If I overstep my time a minute or two, I think the committee will not object. I have called the attention of the country and this committee to the character of the streams in this bill. I do not care to consume the time of the House any further in calling attention to the character of these streams. I think I have done my duty in that respect and only my duty. If any man has taken offense at it, I am sorry for it, but I would have done the same had I known he would take offense. I would have felt obliged to do my duty. I am in favor of improving the navigable streams of the country, especially the great interstate streams, but I do say this bill is the greatest enemy to river and harbor improvement that it has been my fortune to meet. I have accepted the law which they have offered, but they have backed out from it. They say the bill only appropriates to streams navigable under the laws of the United States, and I offered to agree to that limit, but they have refused to stand by it.

Again, another member says the streams belong to the United States. I offered an amendment that the appropriations be limited to that, and they backed out of that. They would not consent to it.

I think I have discharged my duty so far as calling attention to the character of these streams is concerned. I believe I will offer no more amendments. I ask leave, Mr. Chairman, to compile these extracts which I have read and others, if I can find time to do so, and print them in the RECORD, with such comments as I may desire to make upon them.

There was no objection, and permission was granted accordingly. [See Appendix.]

The CHAIRMAN. There is a *pro forma* amendment pending.

Mr. UPDEGRAFF, of Iowa. I withdraw the *pro forma* amendment.

Mr. ROBESON. Mr. Chairman, in pursuance of a quasi-understanding which I trust will settle all questions of delay under this bill, I desire to offer an amendment to cover in general terms all that my friend from Iowa has been contending for. In offering this amendment let me say to him and to the committee that, disagreeable as his position may have seemed to himself, and annoying as it may have been to many members who had their wishes set on the completion of this bill, that he has done great service in my opinion to the country and to this House. He has shown many provisions in this bill which should not to be supported by men who have the right execution of the laws of their country at heart. And I honor him for the courage and constancy with which he has taken and maintained his stand before this committee and the country.

I have now sought to embody all the principles for which he has contended in an amendment to this bill, what I think will appeal to the good judgment and honest convictions of every man here; an amendment which embodies all of the principles for which he has contended, and meeting many of the objections which he has presented to these improvements.

I am an advocate of the improvement of rivers and harbors. I would to-day, if called upon in a proper manner, appropriate all the money in this bill for the wise improvement of the Mississippi River alone. I believe in keeping open that great river, which drains a vast region and with its great arteries unites our people and makes us a nation respected and powerful abroad and prosperous at home. If it had not been for the Mississippi River and her dependencies and the present and future interests involved in her free navigation, the Union of our country would hardly have been worth fighting for.

I have no objection to large appropriations for such an improvement as that. It is a duty which we owe to the commerce of the country. But we have obligations before the law. We have duties to our constituencies and our country which control our legislative action, and therefore I offer the following amendment——

Mr. CONVERSE. I rise to a point of order.

Mr. ROBESON. I hope everybody will be in favor of it, and none will oppose it, as it will settle this question definitely. [Laughter and applause.]

The CHAIRMAN. The gentleman from Ohio raises a point of order. The gentleman will state it.

Mr. CONVERSE. My point of order is that there is no proposition before the committee.

Mr. ROBESON. I move the amendment now.

The CHAIRMAN. The time for debate has expired. The Chair will state that the gentleman from New Jersey was allowed to make his remarks before he submitted his amendment.

Mr. CONVERSE. I would inquire if that is in conformity with the rules of the House?

The CHAIRMAN. It is not; but no objection was made to the gentleman's proceeding. The gentleman will now submit his amendment.

Mr. ROBESON. I will read the amendment myself:

*Provided*, That whenever the appropriation made by any section or provision of this bill is not in pursuance of a plan reported by the engineer or commission making the survey and estimate, the completion of which will render the river, harbor, or stream sought to be improved of sufficient depth and capacity to float for the length to be improved crafts of at least twenty tons, propelled by steam or sails, then the Secretary of War shall not draw from the Treasury the appropriation made for said improvement until further action thereon by Congress; and shall report to Congress at its next regular session the facts and statistics which in his opinion bring the said appropriation within the provisions of existing law as construed by the decisions of the Supreme Court defining the legitimate objects of national appropriation under the power to regulate commerce given in the Constitution.

Nobody, I imagine, can fairly oppose that amendment. If they cannot accept that they cannot expect us to accept the bill, even though it may include many proper appropriations.

Mr. CHITTENDEN. Mr. Chairman, I have not listened attentively to all the utterances of the gentleman from Iowa. I do not feel competent to advocate the amendment offered by the gentleman from New Jersey as the sum total of all that the gentleman from Iowa has sought to accomplish.

But if I understand the present position of the gentleman from Iowa he has gracefully announced to the committee and to the country that his opposition to the passage of this bill ceases. And if the gentleman from New Jersey [Mr. ROBESON] means to indorse the position of the gentleman from Iowa, I have arisen to second the motion.

I wish in doing this to say one word of justice to the chairman of the Committee on Commerce, and I confidently call the attention of the committee to what I am about to say. The chairman of the Committee on Commerce in introducing this bill made a statement which in my judgment lies at the bottom of this whole business. At any rate it lies at the bottom of this hostility to this bill. He said that ten millions was not too much to appropriate to the water-ways of this country. I believe it is too little. But I believe it is very much less than should be appropriated in this very year; and that is why I so confidently affirm my conviction that it is too late for the Congress of the United States to take care of its rivers and harbors by this process of log-rolling. I do not use that term in an offensive sense. One of the most respectable men who have lived in our country and been connected with its politics—I refer to Mr. Wigthrop, of Boston—has in years gone by made a serious argument that log-rolling was not only necessary in river and harbor bills, but was altogether moral and excusable. That may have been true. I will concede it is true with certain limitations. But it will not do for a people of fifty millions of population, with a hundred thousand miles of railroad, with monstrous water-ways, to be niggardly in this matter. [Here the hammer fell.] I would like to speak two or three minutes more.

Mr. REAGAN took the floor and yielded three minutes to Mr. CHITTENDEN.

Mr. CHITTENDEN. I wish to pass the bill to-night, within the next hour.

I state confidently, and it is no idle word, that our country is too large, that it is too full of resources, developed and undeveloped, for this Congress, composed of three hundred men, to come here and pass a bill on principles which underlie this. I say that I would vote here to-night for the appropriation of $15,000,000 to be put in the hands and under the control of a responsible commission whose business it should be to find where there was a great harbor or a little one that needed to be improved and to improve it. I would not lay a stone here and there that the first great tide should wash away. I would do something to prevent the next freshet from washing Washington away.

I would do something to save the hundreds of thousands of dollars of property, to keep off the malaria, and to preserve the honor and the welfare of the capital of this great country from what has occurred in the past week.

I would go wherever there was a river or harbor, little or big, that might be honestly improved, and I would improve them. And I venture to say now that the gentleman from Iowa [Mr. UPDEGRAFF] has opened the door for such measures at some future Congress, not remote, as shall result in the end which I would seek.

I have not quite said what I meant to say in respect to the proposition of the chairman of the committee in regard to the sum of $10,000,000 being a meager and inadequate amount. [Cries of "Vote!" "Vote!"]

Just one minute more. The gentleman said the railroads spend $400,000,000 annually in repairs of their roads. It is ridiculous that while the railroads spend $400,000,000 the rivers and harbors should have but $10,000,000.

The CHAIRMAN. The question is on the amendment of the gentleman from New Jersey, [Mr. ROBESON.] The Chair would state to the gentleman from New Jersey that the Secretary of War is directed by his amendment to "retain" the money in the Treasury. The Secretary, the Chair would remind the gentleman, draws his warrants.

Mr. ROBESON. I will modify the amendment to meet the Chairman's suggestion.

Mr. SINGLETON, of Illinois. I desire to say a single word.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. ROBESON. I wish, before the vote is taken, to insert——

[Cries of "Vote!" "Vote!"]

The CHAIRMAN. The gentleman has the right to modify his amendment.

Mr. ROBESON. I wish to insert, before the vote is taken, after the word "engineer," the word "commission."

Mr. O'NEILL. I wish to say Congress can legislate, and Congress does not intend or mean to put this in the power of the Secretary of War. This Congress is capable of legislating.

The question being taken on Mr. ROBESON's amendment, it was not agreed to.

The Clerk read the following paragraph:

Improving Cumberland River above Nashville, Tennessee: From Nashville to Kentucky State line, $15,000; from Kentucky line to Smith's Shoals, $15,000; at Smith's Shoals, completing improvement, $10,000.

Mr. SAMFORD. I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert after the paragraph just read the following:

"*Provided*, No money appropriated under the provisions of this bill shall be expended for the improvement of any waters controlled by a private corporation, and for the navigation of which tolls are charged by said corporation."

Mr. WILSON. That has been voted down three times.

The question being taken on Mr. SAMFORD'S amendment, it was not agreed to.

Mr. KEIFER. I want to submit this proposition to the committee—I do not think there can be any reasonable objection to it: that by unanimous consent the further reading of the bill be dispensed with, with the understanding that any gentleman desiring to offer an amendment may offer it as to any portion of the bill remaining unread.

The CHAIRMAN. That can be done only by unanimous consent.

Mr. KENNA. I think there will be no objection.

Mr. PAGE. I object. I have no objection to skipping over any portion of the bill that nobody wants to amend.

Mr. KEIFER. My suggestion is that amendments may be offered to any portion of the bill unread.

Mr. PAGE. Do you mean by that to cut off debate?

Mr. KEIFER. Not at all.

Mr. PAGE. I have no objection to that.

Mr. SPARKS. I object.

The CHAIRMAN. Objection is made, and the Clerk will proceed with the reading of the bill.

The Clerk read the following:

Improving Tennessee River below Chattanooga, including Muscle Shoals and shoal at Reynoldsburgh, Tennessee and Alabama, $250,000.

Mr. LOWE. I move to substitute "$350,000" for "$250,000" in the paragraph under consideration. This is an appropriation for the improvement of the Lower Tennessee River, including the Muscle Shoals and the shoal at Reynoldsburgh. It is a great work of acknowledged importance, looking to the speedy completion of a grand canal that opens up the whole navigation of that river to the commerce of the adjacent States.

Last year, Mr. Chairman, the appropriation for this canal was over three hundred thousand dollars; and in view of the official estimates of the engineers in charge of the work, I certainly think we should not reduce that amount. We might wisely increase it. This great improvement ought not to be delayed by a spirit of beggarly economy, but, with a progressive and intelligent sense of the public interests, should be completed as soon as practicable. The amendment I offer is within the estimates of the Department.

The amendment was not agreed to.

The Clerk read the following:

Improving Mississippi River from Des Moines Rapids to the mouth of Illinois River, Illinois and Missouri, $175,000.

Mr. MORRISON. I move to amend by inserting after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

And all sums of money heretofore appropriated for the improvement of the Mississippi between the Illinois and Missouri Rivers and unexpended are hereby appropriated, and shall be applied to the improvement of the harbor and Mississippi River at Alton.

Mr. REAGAN. That amendment does not propose to increase the appropriation, and I have no objection to it.

The amendment was agreed to.

The Clerk read the following:

Improving Mississippi River between the mouths of the Illinois and Ohio Rivers, Illinois and Missouri, $600,000.

Mr. THOMAS. I move to amend the paragraph just read by adding to it that which I ask the Clerk to read.

The Clerk read the following:

Out of which sum $50,000 shall be expended in continuing the work at Kaskaskia Bend, and $50,000 shall be expended in continuing work and removing obstructions at the foot of Dickey's Island.

Mr. THOMAS. In view of the record that has been made in this committee, as well in the evening session as during the day, I hardly hope that my amendment will receive the justice that it certainly merits. The Committee of the Whole seems determined to take the report of the Committee of Commerce without change, and that too without regard to whether any improvement which may be proposed has merit or not.

The first portion of my amendment proposes to take of the amount which has been set aside by this paragraph for the improvement of the Mississippi River the sum of $50,000 to prevent the Mississippi River from cutting through its banks into the Kaskaskia. A few years ago these two rivers at the point I have named were 1,200 feet apart. The banks have now been washed in by the encroachment of the Mississippi River until the two streams are within two hundred and ten feet of each other.

If this change is permitted to be made, there will be twenty miles of the worst possible navigation. Certainly no worse navigation could be found between the head and the mouth of the Mississippi River. I ask, then, inasmuch as the appropriation for this purpose will not be increased in the aggregate, that this work, which may not seem to be immediately important, or in the interest of navigation at this time, may now be made, so that in the years to come the Government will be saved the expense of improving that twenty miles of river, which certainly will follow a neglect to do this at this time.

The other $50,000 to be expended at the foot of Dickey's Island is for continuing a work which was begun in 1875. The Mississippi River there encroached upon the peninsula between the Ohio and the Mississippi Rivers, until the city of Cairo was very greatly endangered. Some years ago the Cairo Land Company for the protection of its property built two large dikes at the foot of Dickey's Island. The river has now cut in behind those dikes until they stand exactly in the middle of the river, so that during low water there are only thirty inches of water there, and tow-boats are compelled to break up their tows and take them around these two dikes on the one or the other side.

I now ask that these legitimate and most meritorious appropriations for improvements at these two points may be made.

Mr. CLARDY. I desire to say to the gentleman from Illinois [Mr. THOMAS] that it is true as he has stated that the engineer in charge of the Mississippi River between the mouth of the Illinois and the mouth of the Ohio recommends an appropriation for the points mentioned by him. He says further that the appropriation for Kaskaskia, to which the gentleman has alluded, does not seem to be necessary for the improvement of the general navigation of the river.

The Committee on Commerce determined that the whole amount appropriated for this portion of the Mississippi River should be left in charge of the engineer, with a view of allowing him to expend it at such points as in his opinion would best advance the interests of navigation.

Mr. THOMAS. I will ask the gentleman one question. [Cries of "Vote!"] If it has been thought wise by this committee to place all this appropriation at the command of the engineer having the work in charge, then I should like to have him explain to the committee why an appropriation of $10,000 is given to Minton's Point, immediately above this place, which every one knows who has examined it is not a pass so dangerous as this one?

Mr. CLARDY. I will state to the gentleman with great pleasure that in the case of Kaskaskia the engineer says, and the fact ought to be stated, that this work is not now in the interest of general navigation, but is mainly of importance as a protection to private lands. There is no such statement in regard to Minton's Point. That appropriation is insisted on by the Department.

Mr. THOMAS'S amendment was rejected.

The Clerk read as follows:

Improving Mississippi River from Saint Paul to Des Moines Rapids, Minnesota, Iowa, Missouri, Illinois, and Wisconsin, $200,000.

Mr. UPDEGRAFF, of Iowa. I move to strike out "two" and insert "three;" so it will read "$300,000." The only change will be in the word "two" to "three." [Laughter.] Here is a stretch of river about five hundred miles long, the greatest river on this continent,

the most important river to navigation on this continent. In this stretch of about five hundred miles there occurs some five or six or more through railroad routes from the East to the West. The preservation of this section of the river in a proper condition is of vast importance to the whole Northwest. With that navigation we are able along the line of the Mississippi to place these railroad lines in competition with each other by steamers and flat-boats, so that we have a choice between them. For these reasons and for others which I have not the strength now to enumerate, but which are patent to the whole country everywhere, I ask this appropriation be raised from $200,000 to $300,000.

I want to say in addition that the lower part of the river below the Des Moines Rapids has in this bill about two million dollars, while the upper part, which, under ordinary circumstances, would need a much larger appropriation to keep its navigation in perfect condition, has only this small sum.

Mr. WILLIAMS, of Wisconsin. Mr. Chairman, I have not during the present session of Congress trespassed upon the attention of the committee or the House, but I confess I begin to feel as the late Governor Williams, of Indiana, once related in this House of a traveler who had stopped at a wayside cabin when the kettle for the evening hasty pudding was over the fire. He said the mother came in and said she did not believe that pudding had been salted, and she threw in a handful of salt. Then the daughter came in and said she did not believe mother had salted the pudding, and she threw in a handful. After a time the old gentleman came in from doing his chores and said he "didn't believe them women had salted the pudding," and he threw in a handful; and as he passed out the stranger got up and said, "If you are all going to salt it, I'll salt it too," [laughter,] and he threw in a handful. Now, Mr. Chairman, if everybody is determined to talk on this bill, I do not know why I should not talk with the rest. [Great laughter.]

I have harbors in my own district as important I trust as those of others, and I would be very glad to have the appropriations for them increased; but I expect my constituents to trust me on practical and impracticable propositions and to discriminate between the two.

Now, I submit to this committee in all good faith that there is power in the House to pass this bill. If it could be defeated that would be another thing, but it cannot be. Good or bad, it is only a question of time when it must pass. I sympathize with the opponents of the bill. There are many things in it which I most seriously object to, but I think the good overbalances the bad, and the injury caused by the failure of a river and harbor bill *in toto* is hard to compute. I shall therefore give my vote and support to this measure. If, then, the bill is to pass; if it is to pass substantially without amendment, as we see it must; then, under the privilege granted to print objections and proposed amendments and remarks in the RECORD, and thereby emphasize and characterize its defects, I submit to gentlemen if that is not all-sufficient, and if we should not go on with the reading of this bill and pass it to-night? [Cries of "Good!" and applause.]

I was glad to hear the gentleman from Illinois, [Mr. SINGLETON,] something like an hour ago, appeal to what I thought was the common sense of the House. The session is waning and accumulated legislation is pressing for attention. An extra session already begins to threaten with all its expenditures and uncertainties. I say again, appealing to gentlemen with all respect and with no desire to dictate to or lecture the House, as it is only a question of time in passing this bill, should we not desist from these amendments and remarks, read the bill, and pass it to-night? [Cries of "Good!" and applause.]

The amendment of Mr. UPDEGRAFF, of Iowa, was rejected.

Mr. UPDEGRAFF, of Iowa. I have not got through with that section yet. I move the following amendment:

*Provided*, That $5,000 of this amount shall be expended in the completion of the work of dredging the channel opposite Guttenberg Island.

The amendment was rejected.

The Clerk read as follows:

Improving Mississippi River at Quincy, Illinois, $10,000.

Mr. SINGLETON, of Illinois. I desire to make a verbal amendment to which the chairman will consent. It is to strike out "Mississippi River" and insert "Quincy Bay," "Mississippi River" having been inserted by mistake.

The amendment was agreed to.

The Clerk read as follows:

Improving Des Moines Rapids, Iowa and Illinois, $25,000.

Mr. McCOID. I move to strike out "$25,000" and insert "$96,580."

Mr. Chairman, the Des Moines Rapids, at Keokuk—the canal there, in its successful operation, is necessary for the commerce of the river above that point. The work is not completed. The engineer in charge, Captain Stickney, says that $96,000, the amount which I have placed in that amendment, will complete the project. This is a very small addition to the total amount of this bill. The work should be completed. The committee have adopted that practice in other cases where small amounts were necessary to complete the work and included the whole amount in the bill. There are instances in the bill where the whole amount is given to complete any work. This small amount will complete this important work. If you do not do that, the amount appropriated is really money lost, for the reason that if the work is not completed the damage resulting in its present state consumes the amount of the annual appropriations. That has been the case in the past and is likely to continue until the work is finished. Now, the Committee on Commerce propose to give $25,000. This will simply tide over the year, the work not being completed, and will be practically lost money. There is no economy in that. The engineer in charge of the work is a careful man and has not overestimated the amount. I wish to print in this connection some letters which will make it clear, as well as his report in reference to this matter. These are as follows:

KEOKUK, IOWA, *January* 20, 1881.

DEAR SIR: I wish to call your attention to the importance of securing the appropriation to complete the Des Moines Rapids Canal. As the work now is, in its unfinished state, it is liable to be injured by floods, and suspend the operation of the canal to the great injury of commerce.

It should be completed and placed beyond the danger of being damaged, necessitating expensive repairs, and obstructing the great traffic upon the river.

I hope this will receive your support and the favorable attention of Congress.

Very respectfully, yours,

WM. A. BROWNELL.

Hon. M. A. MCCOID, *Washington, D. C.*

IMPROVEMENT OF THE DES MOINES RAPIDS OF THE MISSISSIPPI RIVER, AND OPERATING THE CANAL.

Officer in charge, Captain Amos Stickney, Corps of Engineers.

The present project for this improvement was adopted July 19, 1867, the object being to secure a channel over the rapids, navigable at all times, with five feet depth at the extreme low-water stage of the river. This has been essentially secured by the construction of a canal along the west river bank from the city of Keokuk, Iowa, to the village of Nashville, Iowa, a distance of 7.6 miles, and open cuts through the chains and patches of rock from Nashville to Montrose, Iowa, a distance of about 3.5 miles. The canal is three hundred feet wide with the exception of a little less than two miles of its length, which is two hundred and fifty feet wide. The open cuts when finished are to be two hundred feet wide.

The natural channel over the rapids was extremely narrow, crooked, and difficult to navigate even at medium stages of water, and was utterly impassable at extreme low water for boats of ordinary size; and even lumber rafts were often broken up and a large part of them lost in making the passage. The amount expended to June 30, 1880, is $4,303,495.06 for construction of improvement, and $127,565 for operating and maintaining the canal since the opening, August 22, 1877, and has resulted in essentially completing the canal and making a fairly passable channel above the canal. The balance of the amount appropriated up to date, $67,439.94, and the amount asked for, $136,580, are to be applied to the completion of the improvement and to operating and maintaining canal to June 30, 1882.

| | | |
|---|---|---|
| July 1, 1879, amount available | $85,875 06 | |
| Amount appropriated by act approved June 14, 1880: For improving Des Moines Rapids $20,000; for operating canal at Des Moines Rapids, $30,000 | 50,000 00 | |
| | | $135,875 06 |
| July 1, 1880, amount expended during fiscal year | 68,435 12 | |
| July 1, 1880, outstanding liabilities | 2,333 44 | |
| | | 70,768 56 |
| July 1, 1880, amount available | | 65,106 50 |
| Amount (estimated) required for completion of existing project | | 96,580 00 |
| Amount that can be profitably expended in fiscal year ending June 30, 1882: For improving canal, $40,000; for improving Des Moines Rapids, $96,580 | | 136,580 00 |

This work is located in the collection district of New Orleans; Saint Louis, Missouri, is the nearest port of entry.

The following is a statement of the collections at the port of Saint Louis, Missouri, during the fiscal year ending June 30, 1880:

| | | |
|---|---|---|
| Duties on imports | | $1,143,738 88 |
| Marine Hospital tax | | 13,680 93 |
| Fines and penalties | | 331 97 |
| Inspections—steam-vessels | | 6,097 70 |
| Licenses—officers of steam-vessels | | 8,275 00 |
| Storage | | 1,465 69 |
| Official fees | | 2,419 40 |
| Total | | 1,176,003 57 |
| Steam-vessels enrolled, 162 | tons.. | 59,699 13 |
| Barges enrolled 157 | tons.. | 82,275 81 |
| Total 319 | tons.. | 141,974 94 |

| | | |
|---|---|---|
| The estimated complete cost of this work as now being carried on is | | $4,437,315 00 |
| Cost of operating and maintenance of canal from August 22, 1877, to June 30, 1881 | | 157,565 00 |
| Estimated cost of operating and maintenance of canal for fiscal year ending June 30, 1882 | | 40,000 00 |
| Total | | 4,635,080 00 |
| Total amount appropriated for all purposes up to June 30, 1880 | | 4,498,500 00 |
| Amount required yet to be appropriated for finishing improvement and operating canal | | 136,580 00 |

*Money statement.*

| | | |
|---|---|---|
| July 1, 1879, amount available | $85,875 06 | |
| Amount appropriated by act approved June 14, 1880 | 50,000 00 | |
| | | 135,875 06 |
| July 1, 1880, amount expended during fiscal year | 68,435 12 | |
| July 1, 1880, outstanding liabilities | 2,333 44 | |
| | | 70,768 56 |
| July 1, 1880, amount available | | 65,106 50 |
| Amount (estimated) required for completion of existing project | | 96,580 00 |
| Amount (estimated) for operating and maintaining canal for fiscal year ending June 30, 1882 | | 40,000 00 |
| Amount that can be profitably expended in fiscal year ending June 30, 1882 | | 136,580 00 |

*Statement of steamboats, barges, rafts, &c., passed through the Des Moines Rapids Canal from July 1, 1879, to June 30, 1880—fiscal year ending June 30, 1880.*

| Month. | Steamboats. | Barges and flats. | Passengers. | Cargo. | | Rafts. | Cargo. | | | | Lockages at one lock. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | General merchandise. | Grain. | | Lumber. | Logs. | Shingles. | Lath. | |
| | | | | *Tons.* | *Bushels.* | | *Feet.* | *Feet.* | | | |
| July | 133 | 57 | 5,172 | 6,567 | 324,912 | 4 | 2,018,496 | 1,934,960 | 500,000 | ..... | 285 |
| August | 103 | 60 | 2,225 | 8,515 | 152,513 | 11 | 14,188,574 | 2,525,000 | 3,687,000 | 2,756,000 | 325 |
| September | 129 | 101 | 1,542 | 10,985 | 252,784 | 26 | 30,712,212 | 4,255,000 | 7,785,750 | 6,076,675 | 330 |
| October | 127 | 90 | 348 | 8,373 | 165,209 | 31 | 46,384,853 | 2,470,000 | 8,803,850 | 12,945,315 | 389 |
| November | 108 | 74 | 470 | 8,821 | 253,906 | 19 | 27,778,343 | 1,976,000 | 8,484,550 | 6,085,650 | 382 |
| December | 5 | 6 | ..... | 971 | 15,000 | .... | ..... | ..... | ..... | ..... | 6 |
| March | 39 | 30 | 86 | 2,373 | 74,733 | .... | ..... | ..... | ..... | ..... | 71 |
| April | 91 | 91 | 403 | 8,308 | 204,479 | .... | 750,000 | ..... | 1,300,000 | ..... | 134 |
| May | 142 | 90 | 1,261 | 23,713 | 428,420 | .... | ..... | ..... | ..... | ..... | 306 |
| June | 90 | 52 | 1,124 | 10,363 | 325,403 | .... | ..... | ..... | ..... | ..... | 409 |
| Total | 967 | 651 | 13,231 | 78,989 | 2,197,469 | 91 | 121,832,478 | 13,160,960 | 30,561,150 | 27,863,640 | 2,497 |

NOTE.—The canal was closed eighty-nine days, from December 9 to March 8, on account of cessation of river navigation, and seven days, from June 24 to June 30, on account of extreme high water. The boats and barges at work in the canal are not included in this statement except in the number of lockages.

I hope, Mr. Chairman, that the committee will not reject this amendment. It will, as I have stated, increase the amount of the bill but very little, the difference between $25,000 and $96,000 being all that is asked; and it will be remembered that this is asked simply to complete work now in progress and required as a matter of economy. The walls of that canal are subject to be damaged to such an extent that it may take the entire amount you now appropriate to repair it, besides immense damage to commerce. That has been to some extent the case in the past and will be again. In this report instances are given where heavy damage has occurred. Again, the walls in the locks are not high enough, and the careening of vessels causes damage, making an expenditure of money for their repairs, which should not be. I have personally visited and examined the work and know of the necessity of this appropriation. I appeal to the Committee on Commerce to accept the amendment, and the friends of the bill to adopt it. I am myself in favor of the bill and expect to vote for it for the reason that I believe in the principle; I believe that the total amount of the bill is not too much for this great work of improving our rivers and harbors. I believe that every dollar that we invest in different portions of the country in this kind of necessary work tends to bind it together as with hoops of steel. I wish we could build the necessary canals and solve the question of transportation in this way.

If our rivers are made inviting and sufficient for the transit of commerce to the sea, and the necessary canals were constructed, the Illinois and Fox River Canal, a canal from the mouth of the Mississippi to the Saint John's River, in Florida, and others, very much would be done toward the solution of the great question of interstate commerce. Accompany it then with a just regulation of railways and we will have met the demand for practical statesmanship which is felt in the country.

There are many subjects of just criticism in the bill, but take the great bulk of it and it is as nearly right as can be expected. Every other appropriation bill which passes might prove as vulnerable. Be guided by these criticisms and you will make no progress. For the evils in it the majority which have placed them there are responsible.

The necessity for the passage of some bill is justification for those who accept it as the best they can get. The adoption of this just amendment will in no way prejudice the measure but will win it friends. I hope it may be adopted.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Iowa.

The committee divided; and there were ayes 37, noes not counted.

So the amendment was not agreed to.

The Clerk read as follows:

Operating canal at Des Moines Rapids, Iowa and Illinois: Continued operation of the canal, $40,000.

Mr. CONGER. I desire, Mr. Chairman, to move to strike out that paragraph and when we reach them to strike out and modify two other paragraphs referred to in the amendment which I propose here, so that we may adopt a substitute for that and the others in this one's place, and I send to the desk the amendment to be read for the information of the committee, then I shall ask leave to submit a few remarks in connection with it.

The Clerk read as follows:

Strike out lines 625, 626, and 627, and insert "that a sufficient amount of money is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the operating and repairs of the Des Moines Rapids Canal, and Saint Mary's Falls Canal, and the Louisville and Portland Canal; and the Secretary of War is hereby authorized from time to time to draw his warrant upon the Treasury for such amounts as are necessary for the operation and repairs of said canals.

Mr. CONGER. In this bill there are appropriations in the places to which I have referred, pages 27, 29, and 34, in all appropriations for the repairs and operation of the three great Government canals, the Des Moines Rapids Canal, the Portland and Louisville Canal, and the Sault Ste. Mary's Canal. Congress heretofore made a general appropriation, or intended to, for the Portland and Louisville Canal, which, when presented to the Comptroller for the payment of the operating expenses this year, was found not to have in it the words "out of any money in the Treasury not otherwise appropriated;" so that the appropriation was not defined and the money could not be paid for that and the other canal.

Now, shipping men on the lake, on the Ohio and on the Mississippi Rivers, apprehend this difficulty under the annual appropriation, that if for any cause the river and harbor bill should fail to become a law there would be no money to operate or repair these canals, and no officer of the Government would have any right to use any money for the purpose of such operation or repairs upon the canals unless such appropriation had been theretofore made by law.

And the whole commerce of those rivers and lakes might be stopped by an accident requiring repairs or by the lack of a force to operate the canal.

After consultation with several gentlemen interested in these canals and with some members of the Committee on Commerce, I find that this is the usual form of appropriation for that class of works, and is the proper one to secure a sufficient sum for operating the canals and for their repairs; and that it will not depend upon the chance of the passage or the lack of passage of a river and harbor bill, if such a misfortune should occur as did occur once before.

One word more. We cannot tell at what time, for some cause, a river and harbor bill may fail to pass, and every gentleman can realize how great a misfortune to the commerce of these great highways of the country it would be if by any chance there was no money appropriated and the law made it a penal offense for any officer of the Government to use any money to open and operate and repair these canals.

Mr. WILLIS. I only desire to occupy a moment, to say that the law on the statute-book, so far as the Louisville and Portland Canal is concerned, covers the amendment which the gentleman from Michigan [Mr. CONGER] has offered. The difficulty in that case is that the First Comptroller of the Treasury, against the opinion of every lawyer who has examined the matter, has rendered a decision which nullifies this law passed by Congress last May. Under the peculiar organization of our Government the First Comptroller is higher than the President of the United States. By a two-thirds vote of this House we can override a veto of the President. But there is no appeal from the First Comptroller's decision. It becomes necessary, therefore, in order to meet his views, that an amendment of the character suggested by the gentleman from Michigan shall be passed.

I have already called the attention of over one hundred and six members of the House to this matter, and have obtained from them a written request to the Committee on Commerce asking the passage of this very amendment; and as the matter is thoroughly understood by the House, it is not necessary to occupy their time further.

The necessity for this amendment will clearly appear from a quotation from a letter recently addressed to the Cincinnati Board of Trade by General Godfrey Weitzel, who is the engineer in charge of the Louisville and Portland Canal. I will ask the Clerk to read the extract I have marked.

Mr. CONGER. I desire to say to the House that this amendment was drawn up and submitted to the First Comptroller of the Treasury and by him was supposed to cover entirely the case.

The Clerk read as follows:

If Congress will amend the statute so as to provide, without any question or doubt, for a continuing appropriation to operate and keep the canal in repair, it will be preferable to the re-establishment of tolls, because it will save commerce the amount of the toll and the Government the salary of a toll collector. If any

break or accident should then occur in the canal there would be nothing in a statute properly worded to prevent the Secretary of War from drawing his warrant on the Secretary of the Treasury for the amount necessary to repair said break or accident.

Mr. WILLIS. The amendment offered by the gentleman from Michigan meets that difficulty; and I do not think it will be objected to by any member of the Committee on Commerce.

Mr. HUBBELL. Mr. Chairman, only one word. I desire to say, on behalf of the Saint Mary's Canal, that Congress at its last session on the river and harbor bill accepted this canal and made it free; but for lack of the phraseology in the act making the warrants payable out of any money in the Treasury not otherwise appropriated, the ruling of the First Comptroller in the Portland Canal case is applicable in the case of this canal. It was the intention of Congress in that act to make this canal free; and I send to the Clerk's desk the provision of the last river and harbor bill upon that subject that it may be read.

The Clerk read as follows:

Improving and operating Saint Mary's River and Saint Mary's Falls Canal, $250,000. And the Secretary of War is hereby authorized to accept on behalf of the United States from the State of Michigan the Saint Mary's Canal and the public works thereon: *Provided*, Such transfer shall be so made as to leave the United States free from any and all debts, claims, or liability of any character whatsoever, and said canal after such transfer shall be free for public use: *And provided further*, That after such transfer the Secretary of War be, and hereby is, authorized to draw from time to time his warrant on the Secretary of the Treasury to pay the actual expenses of operating and keeping said canal in repair.

The question being taken on Mr. CONGER's amendment, it was agreed to.

The Clerk read the following paragraph:

Improving Missouri River at Saint Charles, Missouri, $15,000.

Mr. FROST. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In line 654 strike out "$15,000" and insert "$55,000;" so that it will read: "Improving Missouri River at Saint Charles, Missouri, $55,000."

Mr. FROST. I do not desire to occupy the time of the committee, but I want to make one remark with respect to this improvement. It is of a most important character. It is of a national character, and not local in any sense. The object of this improvement is to obviate the obstructions offered to the river by construction of the bridge of what was a few months ago the Kansas City and Northern Railway. That bridge has occupied such a position across the Missouri River as to have deflected the current; and if prompt measures be not taken within the next few months the result may be the closing of the Missouri River. The city of Saint Charles is situated about fifteen miles above the junction of the Missouri River with the Mississippi; and it becomes a question as to whether or not the entire navigation of the Missouri River shall or shall not be suspended.

With these remarks I leave the question to the committee. The appropriation proposed to be made in the bill, as I have been informed by the engineer in charge, will not be sufficient. The estimate in the report of the engineer requires for this fiscal year $55,000, and but $15,000 has been accorded by the committee. I am willing to predict that unless the appropriation be increased the entire navigation of the Missouri River will be closed within the next six months.

I hope the committee will adopt the amendment which I have offered.

The question being taken on Mr. FROST's amendment, it was not agreed to.

The Clerk read the following:

Survey of Missouri River from its mouth to Fort Benton, Montana: Continuing survey above Sioux City, $30,000.

Mr. SAPP. I move to insert after the paragraph just read that which I ask the Clerk to read.

The Clerk read as follows:

For improving main channel of the Missouri River from its mouth to Sioux City, through and along the States of Missouri, Kansas, Nebraska, and Iowa, $100,000; which sum shall be used in removing the worst bars and obstructions as shown by the surveys heretofore made.

The amendment was not agreed to.

Mr. SAPP. I now move to amend the paragraph by striking out "$30,000" and inserting "$50,000" for the survey above Sioux City.

The amendment was not agreed to.

The Clerk read the following:

Improving Saint Mary's River and Saint Mary's Falls Canal, Michigan: Completing improvement, $150,000; and for operating and repairs of said canal from the time the same shall be turned over to the United States by the State of Michigan, $50,000.

Mr. CONGER. I move to amend the paragraph just read by striking out the latter portion of it, relating to operating and repairs of the canal, it having already been provided for.

The amendment was agreed to.

The Clerk read the following:

Improving Yellowstone River, Montana and Dakota, $20,000.

Mr. WHITEAKER. I move to insert after the paragraph last read the following:

For protecting the beach at Point Adams, Oregon, $20,500.

I have but a word or two to say in support of that amendment. It is recommended by the engineer in charge of this district. The beach at this point is being worn away very rapidly, and the channel at the entrance of the river, which is always a difficult one, is being injured. The engineer says that in a very short time the reservation at this point will be interfered with by the washing away of this beach. This amendment has the indorsement of the board of engineers and has been submitted to the action of the House by the Secretary of War. I think it would be wisdom and economy to make this appropriation. It is necessary to protect the entrance of this great river.

The amendment was not agreed to.

Mr. ROBESON. I ask unanimous consent, as we have ten pages more of this bill to read, that the Clerk be authorized to merely mention the name of the river or harbor for which an appropriation is proposed, and as he passes along any member who wishes to move an amendment may call attention to the clause and offer his amendment.

The CHAIRMAN, [Mr. SPRINGER.] If there be no objection the Clerk will so read.

Mr. SPARKS. There is objection.

The CHAIRMAN. The Clerk will proceed with the reading.

The Clerk read the following:

Improving Sacramento River, California, $30,000.

Mr. BERRY. I move to insert after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

For protecting the navigation of the Feather and Sacramento Rivers, California, from injury by the débris washed into those streams and their tributaries by mining operations, $150,000.

Mr. BERRY. I do not propose to weary the attention of this committee. I only regret that I have not had an opportunity to bring this subject before the House at a time when members were disposed to listen to the discussion of a question which is growing in importance in our State, and which must be adjusted by the Congress of the United States.

It is a fact that by reason of mining operations in progress in the State of California during the last twenty-five years the navigation of the Sacramento River has been destroyed. Furthermore, the most competent engineers in the United States—Captain Eads, as well as Government engineers, and the best engineering talent that could be procured by the State of California—have expressed the opinion that not only will the navigation of that river be destroyed, but the Bay of San Francisco itself will be permanently destroyed. It has been ascertained by the engineers that within the last five years twenty-five billion cubic yards of the wash of these mines have gone into that bay.

Captain Eads, when he was employed by the governor of California as consulting engineer, said in his report that it was only a question of time when the navigation of Sacramento River as well as the bay of San Francisco would be destroyed.

And permit me to say here that the State of California, for the sake of protecting property adjacent to these streams which is in danger of being destroyed, within the last year has levied a tax of half a million of dollars, and is now expending it in an endeavor to impound this mining débris in the mountains and prevent it reaching the navigable waters of this State.

During the last session of this Congress there was incorporated in the river and harbor appropriation bill an amendment directing an examination of this question to be made. In obedience to that law a report has been made by the Engineer, and he recommends an appropriation of $150,000 to be expended upon the tributaries of these rivers for the purpose of preventing this débris from flowing into them. It is now calculated that one hundred and sixty-three miles of the beds of these streams have been raised upon an average about nine feet.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BELFORD. I want to say a word or two in reference to this amendment.

Mr. BERRY. Will the gentleman yield me a little more time?

Mr. BELFORD. I will in a moment. This subject, as I understand, was before the Committee on Mines and Mining of this House during the last session of Congress, and was very favorably considered by the members of that committee.

I think this appropriation is one that ought to be made, and I hope sincerely that this House will agree to the amendment offered by the gentleman from California, [Mr. BERRY.] I now yield the remainder of my time to that gentleman.

The CHAIRMAN. The gentleman has no right to yield. If he had taken the floor to oppose the amendment, he would have been entitled to five minutes; but having favored the amendment, he is not entitled to further time.

Mr. CONVERSE. I move to strike out the last word, and I yield my five minutes to my friend from California, [Mr. BERRY.]

Mr. BERRY. Now, Mr. Chairman, if this were any other question with which the Congress of the United States had to deal, I would not presume at this stage of our proceedings to inflict any remarks upon the House. But to-day by reason of these streams having been filled up by débris, their carrying capacity is virtually destroyed, and millions and millions of property in the Sacramento Valley are to-day rendered valueless. The Legislature of California has chartered two steamboats, one being sent up the valley and the other down, for the purpose of taking the people from the house-tops and out of barn-

lofts. In many instances the rivers have deserted their beds. The State of California is endeavoring to deal with this subject, and the Engineer Department of the United States has recommended that the Government make an appropriation to aid in the construction of the work now in progress. The State of California has constructed two dams more than two miles long to impound the débris and prevent it from reaching the lower drainage-way, hoping thus that the river will be able to carry off the débris and the channels permitted to reconstruct themselves.

In view of the fact that not only the rivers but the bays are being utterly destroyed, the Congress of the United States should do something to meet this question. There is now pending in the courts an effort to stop the process of hydraulic mining. Unless something is done, the whole Sacramento Valley must be inundated annually. To meet the exigency of the case some remedial measure must be adopted by Congress at once.

Mr. CULBERSON obtained the floor, and yielded to Mr. CONVERSE.

Mr. CONVERSE. I wish to occupy but a minute in behalf of the amendment of my friend from California, [Mr. BERRY.] The Government of the United States, by the use of its mining lands, is creating this silt and filling up the river. In view of this, it is the duty of the Government to keep the river clear. In my judgment an appropriation ought to be made for this river. A few thousand dollars expended now will save an expenditure of many millions a few years hence. I hope the appropriation will be made. I withdraw the *pro forma* amendment.

The question then recurred on the amendment of Mr. BERRY.

Mr. REAGAN. I want to call attention to the position of this matter, because I think we had better not make a mistake. The evils referred to by the gentleman from California are well and strongly stated. There has been a report of engineers which we have never had an opportunity to examine. My understanding is that this work, when inaugurated, will cost many millions of dollars. I do not think it ought to be inaugurated without an understanding of the effect, extent, and character of the work to be engaged in. Important as the question is to California, I think it would be a great mistake to move in the matter before we can do so advisedly.

The question being taken on the amendment of Mr. BERRY, it was not agreed to.

Mr. PAGE. Mr. Chairman, I move to amend the paragraph by striking out "$30,000" and inserting "$60,000," which is the amount mated for by the board of engineers. While I sympathize with the effort of my colleague [Mr. BERRY] to secure an appropriation to prevent débris from floating down into the Sacramento River from mining districts in the mountains, I am also in favor of appropriating now a sufficient amount of money, upon the recommendation of the board of engineers, to improve the navigation of that river as it now stands.

The Sacramento River is navigable for two hundred and ten miles, and by a very little expenditure of money could be made navigable for two hundred and fifty miles. This river for fifteen years—from 1849 to 1864—was the only means by which the commerce of the middle and northern portion of the State of California was carried to the bay of San Francisco. Since that time there have been some railroads built; but they are nearly all owned and operated by one company; and this river, if kept open, is the only transportation line that can compete with the railroads.

I am not here to ask for anything that has not been recommended by a competent board of engineers. I find that the engineers have made a very lengthy report on this subject. They say that the improvement of the river is the only means by which any competition in freight can be maintained:

There is a railroad on each side of the river, a few miles distant, both of which are owned by the same company. These roads adjust their freights in some degree in reference to river competition.

A vast amount of commerce coming from the middle and northern part of our State is carried over this river, and I say that it is unjust to propose so small an appropriation, $30,000, for this great river, which bears upon its bosom the commerce of an empire. Because no more than $60,000 was asked for by the engineers, the committee struck a dividing line and said they would give one-half. If there is any river in the United States appropriated for by this bill which is located within the boundaries of any State and carries so large an amount of the products of a single State as this river does, I would like to know it. While large appropriations are made ni this bill for "Duck creeks" and "Goose creeks" and "Little Kanawhas," the appropriation for the Sacramento River, carrying, as I said before, the commerce of an empire, is reduced to the pitiful sum of $30,000.

[Here the hammer fell.]

Mr. PAGE's amendment was disagreed to.

The Clerk read as follows:

Improving San Joaquin River, California, $30,000.

Mr. PAGE. This, perhaps, is the last time I shall trouble the House on this bill, and perhaps I ought to apologize for attempting to do what is impossible. When I look around and see the sleek and rotund forms of my friend from Texas and my other friend here from Maine, [Mr. REED,] and see with what glee they rub their fat sides and chuckle over the fact that Maine and Texas are well povided for, I have no doubt they wonder why we should have the temerity to move to increase the appropriation for this river in this river and harbor bill. I have no doubt of it. They are gorged with the pork of this river and harbor bill. [Laughter.] I will endeavor to make an amendment that will give us something like the amount we are entitled to for the improvement of this river.

The CHAIRMAN. Nothing is before the committee.

Mr. PAGE. I move to strike out "twenty" and insert "fifty," which is the amount of the estimate. I hold in my hand a petition sent here by many thousand residents of the San Joaquin Valley, and I desire to print the preamble:

We, your petitioners, respectfully represent that the San Joaquin River is the natural outlet to the counties of San Joaquin, Stanislaus, Merced, Tuolumne, Mariposa, Calaveras, and Fresno, embracing an area of 9,360,000 acres, more than half of which is arable land, now containing a population of about ninety thousand, shipping annually about five hundred thousand tons of grain, and receiving all that is necessary to supply a thriving agricultural and manufacturing community, including large importations of lumber. In consequence of natural and artificial obstructions the navigation of the San Joaquin River is both difficult and dangerous. We therefore petition your honorable body to make an appropriation of not less than $200,000 for the purpose of removing said obstructions.

This is no Kanawha or Duck Creek. This is a valley of 90,000 population, having an area of over 9,360,000 acres, which is annually producing 500,000 tons of grain. Over the San Joaquin River alone annually pass over 210,000 bushels of grain raised in this valley. I have here a map of the San Joaquin River, and it is shown this river is gradually shoaling, so much so it is dangerous to navigation. They ask for a reasonable sum for the improvement of this river.

Mr. Chairman, I am not here, nor are my constituents, to "crook the pregnant hinges of the knee where thrift may follow fawning." I am not here to obey the behests of the Committee on Commerce. I am here to represent what I believe to be in the judgment of my constituents and in the judgment of the honest thinking men of this House a meritorious proposition. I have asked to increase it by the votes of this committee, but I know it is useless. The edict has gone forth that no more money is to be appropriated; a portion of the members have got their amount of pork and nobody else is to have any; but I predict there is a time coming when these men who are now gorged with pork will perhaps themselves, in another Congress, be compelled to occupy the position we now occupy, and then, perhaps, they will not be so unanimous in favor of this bill as they are now. [Laughter and applause.] I ask to have printed a letter with my remarks.

The CHAIRMAN. The Chair hears no objection.

Mr. PAGE. The letter is as follows:

STOCKTON, *January* 27, 1881.

DEAR SIR: We, the undersigned, desire to call your attention to the urgent necessity that exists of asking for Government aid in order to save Mormon Slough, in the city of Stockton, from being filled up and destroyed for commercial purposes. We submit the following statement of facts and reasons in relation thereto:

First. The city of Stockton has 15,000 inhabitants. It is at the head of tide-water, and is the natural outlet for the large portion of the State known as the San Joaquin Valley, a valley two hundred and forty miles in length and from thirty to fifty miles in width. The water-front of Stockton consists of two sloughs, "Stockton" and "Mormon" Sloughs, of about equal length. These come together a short distance below the city and form a single slough thence to the San Joaquin River.

Second. Mormon Slough formerly had a channel of one hundred feet in width, with average depth of fifteen feet. To-day, owing to changes in the channel of the Calaveras River, by which a portion of its water at flood runs into Mormon Slough, the latter has become so filled up that it is scarcely four feet deep at low tide.

Third. On Mormon Slough are situated two brick warehouses, which contain at this time on storage 1,200,000 bushels of wheat, and which are most of the year receiving and shipping wheat.

Fourth. Unless this important channel is thoroughly dredged out it will have to be abandoned by these different enterprises and establishments. When, however, it is dredged out and made fit for the uses of commerce, its entire water-front (say nine thousand feet) will be used by other enterprises similar in character to those already established.

Colonel Mendell, chief of the Government Corps of Engineers on this coast, has made an accurate survey of Mormon Slough, and has asked of the General Government an appropriation of $50,000 to assist, first, in clearing away obstacles to the navigation of the San Joaquin River, and second, to dredge out Mormon and Stockton Sloughs.

In making the general appropriations by Congress for the present year this amount will or ought to form part of same.

Now, when this matter comes up, we desire you to use your influence that the amount asked for by Colonel Mendell be made part of the appropriations, and that it be not cut down. His intention, as he informs us, is to use a large part of the $50,000 to remove obstructions to navigation in the Upper San Joaquin River at points above where the slough from Stockton joins that river. In case the appropriation is cut down, there will not remain anything for the improvements at Stockton itself, and in such case, in another year this channel will be so shallow as to seriously interfere with navigation of vessels drawing even the lightest draught.

In this matter are most deeply concerned the inhabitants of the city of Stockton, and indeed of the whole San Joaquin Valley, and we do not doubt but that you will give the matter all the assistance you can in Congress.

STOCKTON WAREHOUSE COMPANY,
JOHN DUCKER, *President.*
A. D. MORA & CO.
CALIFORNIA PAPER COMPANY.
JAMES TATTERSON,
*Superintendent Stockton Woolen Mill.*
ALBERT DIBBLEE.
CYRUS AVERY.
STOCKTON GAS COMPANY,
H. ADAMS, *Superintendent.*
W. C. MILLER.
G. C. HYATT, *Mayor.*
EDWARD F. CADLE.
H. O. SOUTHWORTH,
T. G. HUMPHREYS,
D. L. CAMPBELL,
A. GALL.
C. A. RUGGLES,
ALFRED PARKER,
M. H. BOND,
W. C. WHITE,
A. C. FREESE,
*Members of Common Council of the City of Stockton.*

Hon. HORACE PAGE, *Washington.*

Mr. REED. I am sorry my friend from California has made his allusion to the figures of the gentleman from Texas and myself.

Mr. PAGE. You are not ashamed of them?

Mr. REED. By no manner of means. I sincerely believe that gentleman would make an acceptable addition to the couple and make a good trio with us.

I wish to say a word in seriousness about this matter. The gentleman from California has charged that certain other gentlemen have their proportion, and are therefore satisfied. Now, I wish to say to him and to other gentlemen here, had they been as reasonable as some other gentlemen on the floor it might have turned out that they would have been satisfied also.

The appropriation which is contained in this bill for Portland Harbor is only 33 per cent. of the amount which the engineer says can be made available this year. Certainly it is not unreasonable for me to wish to obtain that. If I had come here and proposed to obtain every dollar which the engineer recommended, I should expect this committee might treat me as it has treated other gentlemen, and for a plain reason. We have to do practical business in this House. Statesmanship does not consist in doing the best thing, but in doing the best possible thing. Now, the possible thing in regard to the river and harbor bill is just this: You cannot afford to make the bill too large; for if you do you cannot pass it. We have got a bill larger than has been the custom for a great many years; a bill appropriating more than $10,000,000, in which every improvement has been provided for as well as the judgment of the Committee on Commerce could suggest. And I submit the total result of this debate shows that the division among the different improvements of this country has been on the whole fairly made.

I freely admit that the gentleman from California has important enterprises which he represents, that he has an empire State and that he is entitled to a large amount, and in due time he will receive a large amount. For we are but at the beginning of the great work which is upon us, a work for the improvement of the rivers and harbors of this country, a gigantic work, a work which is going on year after year, and I believe is going to go on for ages. But we cannot do everything at once. We have to do what the resources of the country and, above all, what the sentiment of the country will support and sustain. I believe the time is coming when the public sentiment in this country is going to support a larger bill, and the gentleman from California will be completely satisfied. He made a struggle which was creditable to himself, and we have favored a bill which I believe is creditable to the committee.

The amendment was not agreed to.

The Clerk read as follows:

Examinations and surveys at South Pass of Mississippi River: To ascertain the depth of water and width of channel secured and maintained from time to time, by James B. Eads, at South Pass of the Mississippi River, and to enable the Secretary of War to report during the maintenance of the work, $10,000.

Mr. WARNER. Mr. Chairman, I desire to offer an amendment.

The Clerk read as follows:

And also to ascertain by soundings whether and to what extent, within a distance of five miles from the present mouth of the river at the South Pass, the Gulf has filled up by deposits from the river since the construction of the Eads jetties.

Mr. WARNER. I hope the committee will accept that amendment. When the work of constructing these jetties was begun engineers eminent in their profession predicted that new bars would be formed in front of those jetties in the Gulf. Others as eminent in their profession claimed that the littoral currents of the Gulf would carry the débris away and leave the Gulf clear at that point. It is now reported that the Gulf, from one to five miles out from the mouth of the South Pass, is filling up. This claim on the other hand is denied; and I merely ask for the adoption of this amendment in order that the information which this committee ought to have before it now may be obtained.

Mr. ACKLEN. I see no objection to the adoption of that amendment.

The committee divided; and there were—ayes 53, noes 29.

So the amendment was agreed to.

Mr. WARNER. I ask consent to print some figures in connection with this matter at this place.

There was no objection, and it was ordered accordingly.

Mr. WARNER. The figures to which I refer are as follows. I am informed that by surveys made in 1874 and 1879, by Major C. W. Howell and Captain M. R. Brown, it was ascertained that the fill in front of the jetties out the following distances from shore was—

| | Feet. |
|---|---|
| 820 feet out | 7½ |
| 2,000 feet out | 9 |
| 3,000 feet out | 9 |
| 4,000 feet out | 12 |
| 5,000 feet out | 9 |
| 6,000 feet out | 10 |
| 7,000 feet out | 8 |
| 8,000 feet out | 5 |
| 9,000 feet out | 5 |
| 11,000 feet or 2 miles out, (Gulf 132 feet deep) | 50 |
| 12,000 feet or 2 miles out | 55 |
| 14,000 feet or 2 miles out, (Gulf 173 feet deep) | 28 |
| 15,000 feet or 2 miles out | 46 |
| 18,000 feet or 2 miles out, (Gulf 205 feet deep) | 46½ |
| 19,000 feet or 2 miles out | 42 |
| 20,000 feet or 2 miles out, (Gulf 217 feet deep) | 40 |
| 21,000 feet or 2 miles out | 40 |
| 22,000 feet or 2 miles out, (Gulf 230 feet deep) | 52 |
| 24,000 feet or 2 miles out | 39 |
| 27,000 feet or 5 miles out | 60 |

At this point the Gulf is 240 feet deep, and at the same rate bottom will come to surface in eighteen or nineteen years.

The Clerk read as follows:

Improving Altamaha River, South Carolina, $5,000.

The CHAIRMAN. The committee propose to strike out, in line 725, "South Carolina" and insert "Georgia."

The amendment was agreed to.

The Clerk read as follows:

Improving Bayou Bartholomew, Louisiana, $8,000.

The CHAIRMAN. The committee propose to insert, after the word "Louisiana," the words "and Arkansas," in line 731.

The amendment was agreed to.

The Clerk read as follows:

Improving Rancocas River, Delaware, $10,000.

The CHAIRMAN. The committee propose, in line 739, after the word "Delaware," to insert "and New Jersey."

The amendment was agreed to.

The Clerk read as follows:

Improving Pasquotank River, Virginia and South Carolina, $5,000.

Mr. YEATES. I move to strike out in this paragraph the word "Virginia," as that Pasquotank River is not in Virginia. It is not in that State.

The amendment was agreed to.

The Clerk read as follows:

Improving Wateree River, South Carolina, $8,000.
Improving Santee River, South Carolina, $22,000.

Mr. RICHARDSON. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In line 786, after the word "Carolina," add the words "by deepening and straightening its outlet to Winyah Bay through Mosquito Creek."

Mr. KENNA. That carries out the purpose of the committee in making this appropriation, and there will be I imagine no objection to it.

The amendment was agreed to.

The Clerk read as follows:

Improving harbor at Brazos, San Diego, Texas, $75,000.

The CHAIRMAN. The committee propose to amend by inserting before the word "harbor" the words "bar and;" and also by striking out the words "San Diego" and inserting "Santiago."

The amendment was agreed to.

The Clerk read as follows:

For the expenses of operating and maintaining the Louisville and Portland Canal for the fiscal year ending June 30, 1881, $42,000, which sum shall be immediately available; and for the same purpose for the fiscal year ending June 30, 1882, $40,500.

Mr. BUTTERWORTH. Since the adoption of the amendment proposed by the gentleman from Michigan I presume that can all be stricken out.

Mr. CONGER. Not all of it. I move to strike out the last clause, beginning at line 806, with the word "and." It is provided in the amendment heretofore adopted by the committee for and after this fiscal year.

The amendment was agreed to.

The Clerk read as follows:

Improving entrance to Yaquina Bay, Oregon, $10,000.

The CHAIRMAN. There is a typographical error in this paragraph which the committee propose to correct. "Yaguina" should be "Yaquina."

The amendment was agreed to.

Mr. WHITEAKER. I offer the following amendment to come in after line 809:

For improving the entrance to Coquille River, Oregon, $10,000.

That amendment is justified by the report of the engineers, and is the exact amount of the estimates. I hope it will be agreed to.

The amendment was not agreed to.

The Clerk read the following:

Improving Richmond Harbor, Kennebec River, Maine, $10,000; of which sum $6,000 shall be expended for wing-dams and dredging at the head of Swan's Island and at Hatch's Rock, and $4,000 in dredging and deepening the channel at the foot of Swan's Island according to the plan recommended by Lieutenant Russell.

Mr. BRAGG. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by inserting after line 824 as follows:

"To enable the Secretary of War to pay the damages already ascertained by reason of the flowage and damage done private property by the construction of the improvements of the Fox and Wisconsin Rivers in the State of Wisconsin, $500,000. And the said Secretary is hereby authorized and required to apply the sum hereby appropriated, or so much thereof as may be necessary, to the payment of the damages so ascertained according to law."

Mr. BRAGG. I do not rise for the purpose of pleasing myself by the sound of my voice, neither do I rise with any great hopes of securing the passage of that amendment.

Mr. REAGAN. I reserve the point of order.

Mr. BRAGG. But I offer that amendment because I have heard very much said in this Hall about the necessity and the propriety of preserving the honor and the faith of the Government, and also to open the eyes of some of the members of this committee to what some of the legislation upon this class of bills leads to. I allude principally

to a clause in the paragraph next following the one to which I make this amendment.

In 1874, when the Fox and the Wisconsin Rivers Improvement Company turned over their work to the Government there was a provision in the law then passed by this Congress providing that damages done to private property by flowage, &c., resulting from the construction of that improvement should be assessed and ascertained according to the laws of the State. Under that clause the assessments have been made. The United States has appeared before the commissioners by attorney. They have attended with their witnesses, and there have already been piled up awards against the Government somewhere from one to five hundred thousand dollars. The property of the individual has been taken for the use of the Government, and not one dollar has yet been paid. But the answer to every claim for payment is, no money has been appropriated. The Government has taken the property. The damages have been ascertained by the means pointed out by the act, and yet the Government has not paid a cent, and there is no prospect of their ever paying a cent, for the reason that that little clause in the bill authorizing the improvement and the assessment of damages which seemed to be so small a thing to the committee has grown to be of such magnitude that no committee dare face their offspring. I withdraw the amendment.

The Clerk read as follows:

For reservoirs upon the headwaters of the Mississippi River and its tributaries, $150,000; and this sum, together with the sum of $75,000 heretofore appropriated for the construction of a dam at Lake Winnibigoshish, shall be expended at such places on said headwaters of the Mississippi River and its tributaries as the Secretary of War shall determine: *And it is provided*, That compensation for any private property taken or appropriated for any of said improvements, and all damages to private property caused by the construction of any of said dams, by flowage or otherwise, shall be ascertained and determined under and in accordance with the laws of the State in which such private property is situated. And the Secretary of the Interior is hereby authorized and directed to ascertain what, if any, injury is occasioned to the rights of any friendly Indians, occupying any Indian reservation, by the construction of any of said dams, or the cutting or the removing of trees or other materials from any such reservation for the construction or erection of any of said dams, and to determine the amount of damages payable to such Indians therefor; and all such damages to private property and to friendly Indians, when ascertained and determined in the manner herein directed and provided, shall be paid by the United States: *Provided, however*, That such damages shall not exceed 10 per cent. of the sums hereby and heretofore appropriated for the construction of said reservoirs.

Mr. McMILLIN. I should like to get some information as to this from the chairman of the Committee on Commerce. Not having the estimates and reports before me, I desire to know if the chairman or some member of the committee can inform me what that improvement will ultimately cost.

Mr. REAGAN. I am not able to give the aggregate. This is for making reservoirs at a number of points on the headwaters of the Mississippi River and its tributaries. There is a detailed report giving the cost for each one of the reservoirs which are being constructed on some general plan. I believe there are nine of them altogether; but the amount in this bill is intended to enable the construction of one reservoir for the purpose of testing the efficiency of the project.

Mr. SPARKS. Will the chairman of the Committee on Commerce state his judgment as to the practicability of this thing?

Mr. REAGAN. I cannot enter into a discussion of that now.

Mr. SPARKS. Do you not think it is impracticable?

Mr. REAGAN. The engineers do not think it is.

Mr. SPARKS. What do you think?

Mr. REAGAN. I cannot give the gentleman my opinion at present.

Mr. McMILLIN. I desire to state what I think. The subsequent history of this operation will prove that it is wholly impracticable. By any remarks I may make on the subject I do not wish to reflect on the thought or the earnestness bestowed by the committee upon this matter, for I have learned that the engineers have held that it is practicable. But from the very nature of the case, for a river rising in the northern latitudes and flowing through a sunny, hot region for two or three or four thousand miles to be supplied by reservoirs, and its tide kept up in that way, is as utterly impracticable as it would be to start persons with pans of water and pour it out when the season seemed to require it.

Mr. REAGAN. This is not intended to affect seriously the great body of the Mississippi River. It is intended to apply to rivers forming the headwaters of the Mississippi.

Mr. McMILLIN. Then it is not for the benefit of the lower streams?

Mr. REAGAN. It is not anticipated it can have any serious effect on the lower streams.

Mr. McMILLIN. I have been informed—how true it is I do not know—that a tide of thirteen feet as high up as Cairo does not give more than thirteen inches of flood at Vicksburgh. I have been told that by a gentleman from Mississippi, who lives on the river, and it seems to me we ought to go slow in a matter of this kind.

Mr. HUMPHREY. Have we not gone slow enough upon this bill?

Mr. McMILLIN. You cannot go too slow in this matter till you know more about it.

Mr. POUND. I am not surprised that some gentlemen upon this floor may not be informed fully upon the subject involved in this paragraph.

Mr. WARNER. That is exactly the situation of several of us; it is of myself, at any rate.

Mr. POUND. There is in this bill really no more valuable or important provision than the one now under consideration. There is no system of improvement of any stream which has been subjected to a more thorough examination and exhaustive inquiry than the one under consideration. It is impossible at this late hour, and in the limited time allowed for discussion, to even outline the arguments in favor of this proposition. Here are three very voluminous reports of the Engineer Department, which have been before this House and before Congress——

Mr. CLYMER. The gentleman will not say that, I am sure. I have besought him for three mortal days to get me a copy of one of these reports, and he would not let me have it.

Mr. POUND. I desire to say in reply to the gentleman from Pennsylvania [Mr. CLYMER] that he did make inquiry in reference to the annual report submitted by the Secretary of War, and I said to him that they might be had at the committee-room.

Mr. CLYMER. I went to the committee-room for them, and I have never been able to obtain one of them.

Mr. POUND. I desire to inform my friend that these are special reports.

Mr. CLYMER. Given to the members of the Committee on Commerce, I suppose.

Mr. POUND. No, but referring to this particular subject. There are great numbers of these reports now on file in the document-room which may be had by members.

I would be glad, if I had time, to outline some of the arguments and points involved in this question; but it is quite impossible to do so in the time allowed me, and I must therefore rest this case upon the favorable action of the Committee on Commerce, and indorsed by every member of Congress and every Senator from the portion of country to be affected by these works.

[Here the hammer fell.]

Mr. WARNER. I move to strike out the last word. We have had already presented here to-night a proposition to appropriate $500,000 to pay for damages similar to those provided for in this paragraph, and it was ruled out on a point of order.

The CHAIRMAN. The gentleman is mistaken in regard to that; it was not ruled out on a point of order.

Mr. WARNER. On which a point of order was made. I am glad to make the correction. Now, how many hundred thousand dollars for damages this will involve I do not know.

Mr. WASHBURN. Only 10 per cent. of the amount.

Mr. WARNER. How much is this likely to involve? Another $500,000 or $1,000,000?

Mr. WASHBURN. Only 10 per cent. of the entire appropriation.

Mr. WARNER. Of this appropriation?

Mr. POUND. Will the gentleman permit me to say one word?

Mr. WARNER. Certainly.

Mr. POUND. I desire to state that the land affected by these works is worthless for any other purpose than this.

Mr. WARNER. How much will the Government have to pay for this worthless land in Wisconsin?

Mr. REAGAN. I will answer the gentleman's question. The damages under this act cannot exceed 10 per cent. on $225,000. This provision limits the damage to that amount.

Mr. WARNER. Ten per cent. upon the present appropriation?

Mr. POUND. That is all.

The motion to strike out the paragraph was not agreed to.

Mr. CONGER. I desire to move an amendment, to come in after the paragraph now pending. Owing to the fact that two reports in relation to two improvements of harbors did not reach the Committee on Commerce until after this bill was printed, the provisions I desire to have inserted by way of amendment were not incorporated in this bill.

I desire to move an amendment appropriating $7,000 for continuing the improvement of Clinton River, Michigan, and $7,000 for removing the sand-bar and improving the harbor of refuge from ice at the mouth of Belle River on Saint Clair Straits, Michigan. The amount estimated for one of these improvements is $17,500, and for the other $15,169.

I think the Committee on Commerce—at all events I have been told so by some of its members—would have put these amounts in this bill if the reports of the engineers upon these improvements had been before them at the time the bill was being prepared. Some members of the committee, having examined this matter, have so said to me.

I have waited until all the provisions in this bill for improvements have been considered. These two improvements which I desire to have inserted are the only appropriations for my district. One of them is an appropriation for continuing an improvement which is absolutely necessary to permit the passage of steamboats and vessels up the harbor to Mount Clemens in my district from Lake Saint Clair, and is necessary to complete the improvement so as to make the river navigable.

The other is for removing the sand-bar at the mouth of Belle River, which empties into the straits of Saint Clair, and which is the only place for twenty miles where vessels passing out of Saint Clair River into a side river can be protected from the flow of ice down that river. More than fifty thousand dollars' worth of vessel-property was destroyed last year because this and other bars prevented the entrance of vessels into this side-channel or harbor of refuge from ice.

The reports of the engineers are now before this committee, and if

I had time I should like to read them. I desire to say to the committee that in my judgment these amendments are essential and worthy to be presented here. Having been for six years a member of the Committee on Commerce and one of the sub-committee to prepare these bills during that time, I know this to be within the line of appropriations which that committee has invariably followed.

I have the assurance of the gentleman from Ohio, [Mr. TOWNSEND,] who has examined these reports, that if they had been brought before the committee before the bill was printed, these amounts, less than half the amounts reported by the engineers, would have been inserted in the bill. I ask the gentleman to corroborate my statement.

Mr. TOWNSEND, of Ohio. I wish to say in behalf of this amendment that these reports were issued last spring, but did not reach the committee-room at that time. The committee was waiting for them, but they were not received until after we had closed the bill. The evening the bill was finished the gentleman from Michigan [Mr. CONGER] came into the room; but the reports could not be found, and he was very much disappointed. I am satisfied, from examination, that had these propositions been acted on by the committee, they would have been acted on as the gentleman from Michigan desired. I say this in justice to him and to the committee.

Mr. CONGER. This is my last request of the committee. I will take it as a peace offering. [Laughter.]

The question being taken on the amendment of Mr. CONGER, there were—ayes 51, noes 45.

Mr. DAVIS, of North Carolina. I make the point that no quorum has voted.

The CHAIRMAN. The Chair will state, in the interest of the transaction of business, that if this amendment be adopted in the Committee of the Whole, there will be a vote on it in the House.

Mr. DAVIS, of North Carolina. I insist on the point. Meritorious amendments have been offered here and voted down time and again; and I am not willing that now an exception should be made.

Mr. YEATES. This objection stops the whole bill.

Tellers were ordered; and Mr. DAVIS, of North Carolina, and Mr. CONGER were appointed.

Mr. PAGE. I hope the committee will not depart from their purpose by allowing any amendment to be made increasing the appropriations at this late hour. They have kept us here three days denying us the right to make any additions to the bill; and I hope that principle will not be deviated from now.

The CHAIRMAN. It is too late to discuss the amendment. The gentleman from North Carolina makes the point that no quorum has voted. The tellers will take their places.

The committee proceeded to divide; but before the count was concluded,

Mr. CONGER said: I withdraw my amendment. The brigadiers are against me in a solid body.

A MEMBER. The gentleman cannot withdraw his amendment.

The CHAIRMAN. The gentleman has the right to withdraw his amendment.

Mr. CONGER. There is a solid phalanx of brigadiers against my motion, as I believe, for some personal reason.

Mr. CULBERSON. I move to amend by inserting after line 851 the provision which I send to the desk.

The Clerk read as follows:

It shall be the duty of the Secretary of War, whenever any work herein provided for shall be undertaken under contract, as herein permitted in certain cases to be done, to report to Congress within ten days after its next session the bids received for such work, and the names of the bidder or bidders, and the amount of each bid.

And whenever any work herein provided for shall be in whole or part executed by an officer of the Government acting under orders of the War Department, such officer shall make a report to the Secretary of War, containing a detailed statement of all moneys disbursed by him for such work, and the names of the laborers and contractors to whom paid, which report shall be transmitted to Congress.

Mr. TALBOTT. I do not propose to say how I would vote on this amendment, but I think the gentleman offering it intended to say "ten days after the commencement of the next regular session."

Mr. THOMAS TURNER. The language of the amendment now is, "ten days after its next session," which would be ten days after the adjournment.

The question being taken on agreeing to the amendment, there were—ayes 26, noes 47.

Mr. CONGER. I make the point that no quorum has voted. I think we may as well stop the bill right here.

The CHAIRMAN. No quorum having voted, the Chair appoints as tellers the gentleman from Texas [Mr. CULBERSON] and the gentleman from Michigan, [Mr. CONGER.]

Mr. CULBERSON. I ask permission to say that this amendment simply requires that the officers executing the work under this bill shall make to the Secretary of War a statement how they performed that work. [Cries of "Regular order!"]

The CHAIRMAN. The tellers will take their places.

The committee divided; and the tellers reported ayes 51, noes 61.

Mr. CONGER. No quorum.

Mr. CULBERSON. I withdraw my amendment. I do not want to obstruct the passage of the bill.

Mr. STEVENSON. I move that the committee rise. I understand that no quorum voted on the last question.

The CHAIRMAN. But the amendment is withdrawn.

Mr. STEVENSON. Then I withdraw the motion that the committee rise.

Mr. CONGER. But the vote has shown that there is no quorum here.

The CHAIRMAN. If the gentleman from Michigan still insists that there is no quorum, the Chair must take notice of the fact, and no business can be transacted.

Mr. DE LA MATYR. I renew the motion that the committee rise.

The motion was not agreed to.

Mr. SIMONTON. I offer the amendment which has been sent to the desk.

The Clerk read as follows:

After line 851 add the following:

"The engineers having in charge the improvements appropriated for in this bill shall report what effect the expenditures and improvements theretofore made have had upon the convenience, increase, or diminution of commerce, local and general, relating to said improvements, and the Secretary of War shall transmit the same to Congress with his annual estimates for the improvement of rivers and harbors."

Mr. SIMONTON. That amendment does not increase the appropriations in this bill. It provides for no new improvements. It provides for no new report, yet it proposes to furnish information which is very valuable to this House. Doubtless members feel a want of information. We make expenditures of large amounts of money upon the various streams of the country, and yet we have no way of ascertaining what effect these expenditures have had in the way of facilitating or increasing commerce. Now, in order to furnish that information I have offered this amendment.

Mr. REAGAN. I desire to call the attention of the House and of the gentleman from Tennessee to a clause already in the bill reported, but not yet acted upon:

And in every case where examinations or surveys are made, the report thereon shall embrace such information concerning the commercial importance, present and prospective, of the improvement contemplated thereby, and such general commercial statistics as the Secretary of War may be able to procure.

This does not cover the whole of the information the gentleman asks for, but it covers all that is necessary to guide the House and its committee in determining the propriety of such appropriation. I suggest, therefore, the gentleman's amendment is not necessary.

Mr. SIMONTON. I suggest, Mr. Chairman, there is a greater difference than the gentleman from Texas seems to think. My amendment is intended to provide for works already begun and which have been in progress for years. It is to get information in regard to them after the work has been done or completed, if possible. This clause provides for getting such information before the work is commenced at all, when the survey is made preparatory to the work.

Mr. SIMONTON's amendment was rejected.

Mr. POEHLER. I move to amend by inserting after line 853 the following:

For the improvement of the Minnesota River, Minnesota, $60,000; to be expended according to the report of Colonel Farquhar, United States Engineers, of 1875.

Mr. Chairman, this is my last request, and it is also my first request. [Laughter.] I have not made any request of this House before. I do not make many, but I do request the committee to adopt this amendment.

I will make a statement of the importance of this improvement. The report upon it was very carefully made, and it was recommended as a work of great importance. I understand it was rejected in the committee because it had been made several years ago.

I do not know why we should make a new survey before we make any improvement. When we look over this bill and see the appropriations which have been made to places which do not have any portion of the commerce of the Minnesota River, I deem it my duty to claim for that river what the committee has refused to accord to it. I do not think injustice was done intentionally by the committee, but as I had only a short time to explain the matter to them, I do not believe they understood it.

The Minnesota River is navigable for nearly three hundred miles. It starts in Dakota and passes nearly through the whole State of Minnesota. There are not less than 10,000,000 of acres of the best agricultural land in the country washed by that stream. The Minnesota Valley lands are well known. It is the garden of Minnesota. It is inhabited, too, by nearly a quarter of a million of people. They raise not less than 20,000,000 bushels of wheat as well as other articles of great value. There are from fifteen to twenty villages and towns on that river with mills and factories of every description. I think it is entitled to some consideration. I did not ask an appropriation a year ago, as small appropriations do not do any good. I trust there will be no objection to this appropriation and that it will be adopted.

The committee divided; and there were—ayes 31, noes 54.

Mr. POEHLER. No quorum has voted.

The CHAIRMAN. The Chair will appoint Mr. POEHLER and Mr. KENNA as tellers.

Mr. POEHLER. I withdraw the amendment.

Mr. CONGER. I move to amend by inserting as an amendment the following:

For continuing the improvement of Clinton River, Michigan, $6,500.

The CHAIRMAN. Does the gentleman from Michigan desire to address the committee?

Mr. CONGER. No, sir; I have made my remarks upon it. I have reduced the amount somewhat.

The committee divided; and there were—ayes 21, noes 68.

Mr. CONGER. I make the point of order no quorum has voted.

The CHAIRMAN appointed Mr. WILSON and Mr. CONGER as tellers.

The committee again divided; and the tellers reported—ayes 28, noes 114.

Mr. CONGER. That is five short of a quorum.

Mr. TALBOTT. I move the committee rise for the purpose of having a call of the House.

Mr. REAGAN. No, let the roll be called under the rules.

Mr. BURROWS. I move the committee rise.

The motion was disagreed to.

Mr. REAGAN. If the tellers would only take their places, several members have come in and we might reach a quorum.

The CHAIRMAN. There are but a few votes lacking of a quorum, but every gentleman who desired to vote has had ample opportunity to do so. The Chair cannot compel members to vote.

Mr. WHITE. Let the tellers take their places again.

The CHAIRMAN. The Chair will cause the roll to be called under the rule.

The Clerk proceeded to call the roll, after the completion of which the committee rose; and Mr. BLACKBURN having taken the chair as Speaker *pro tempore*, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union, having had under consideration the river and harbor appropriation bill, finding itself without a quorum, had directed him to report the names of the absentees to the House.

Mr. CONGER. I ask the Speaker to report the number of members present.

The SPEAKER *pro tempore*. The Clerk informs the Chair that one hundred and forty-three members have answered to their names.

Mr. CONGER. I simply desire——

The SPEAKER *pro tempore*. The gentleman from Michigan will recall the fact that under the rule nothing is in order until after the completion of the report of the Committee of the Whole has been made to the House.

Mr. CONGER. It might facilitate business if the House would listen to me by consent for a few moments.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONGER. I desire to say that, as far as I am concerned myself, I will withdraw any point which I may have made if it shall occur again as to there being no quorum, and allow the bill to go on to its completion. I desire to say, however, in justice to myself that I did feel that after the committee had by some neglect of its own or its clerk not before it the reports for this improvement, and when and after I had gone before them, and presented the case clearly as their members will admit, and yet they failed to put it in before the bill was printed, and then said it should be inserted afterward, after they had got along with the bill, in which statement I am corroborated by at least one member of the committee—I say that I did feel that under such circumstances one-half of the appropriation that the committee were willing to give at all events should be allowed. This is a meritorious case, I think, and it is different from many other cases, because it was an oversight on the part of the committee, and I say that the committee having the report before it, and its omission being an oversight, it should have been put on the bill by consent of the committee.

Having said so much, I desire now to say that I shall not make the point of no quorum, and am willing that the bill, for the sake of all and for the interest of the improvement of the rivers and harbors, shall go on to its completion; and therefore I withdraw the point of order and hope the committee will proceed with the consideration of the bill.

The SPEAKER *pro tempore*. The Clerk will now report the names of the absentees to the House under the rule. The Chair will then entertain the motion that the committee resume its sittings; which the Chair doubts not will be entertained.

Mr. WAIT. I would ask if we cannot by unanimous consent dispense with further proceedings in this direction?

The SPEAKER *pro tempore*. It is not in the power of the Chair to alter the rule of the House, which says that the names of the absentees shall be reported to the House.

Mr. TALBOTT. I move to dispense with all further proceedings under the call.

The SPEAKER *pro tempore*. The gentleman from Maryland will remember that there has been no call of the House ordered.

Mr. REED. I rise to a parlimentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. REED. Cannot the reading of the names of absentees be dispensed with by unanimous consent?

The SPEAKER *pro tempore*. By unanimous consent that portion of the report of the chairman of the Committee of the Whole House can be dispensed with. Does the gentleman make the request?

Mr. REED. I do.

The SPEAKER *pro tempore*. The gentleman from Maine asks unanimous consent that that portion of the report of the Committee of the Whole House on the state of the Union be dispensed with.

Mr. THOMPSON, of Kentucky. I object.

The SPEAKER *pro tempore*. Objection being made, the Clerk will report the names of absentees to the House.

The Clerk reported the following members as having failed to answer to their names:

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Daggett, | James, | Overton, |
| Anderson, | Davis, Horace | Johnston, | Persons, |
| Armfield, | Deering, | Jorgensen, | Phelps, |
| Atherton, | Dick, | Joyce, | Prescott, |
| Atkins, | Dickey, | Kelley, | Rice, |
| Bailey, | Dwight, | Ketcham, | Richardson, D. P. |
| Ballou, | Einstein, | Killinger, | Robinson, |
| Barlow, | Errett, | Kimmel, | Rothwell, |
| Bayne, | Ewing, | Kitchin, | Russell, Daniel L. |
| Belford, | Felton, | Knott, | Ryan, Thomas |
| Beltzhoover, | Ferdon, | Ladd, | Ryon, John W. |
| Bicknell, | Field, | Lapham, | Scales, |
| Bingham, | Finley, | Lindsey, | Shallenberger, |
| Bisbee, | Fisher, | Loring, | Singleton, J. W. |
| Blake, | Fort, | Lounsbery, | Singleton, O. R. |
| Bland, | Frye, | Manning, | Slemons, |
| Bowman, | Gibson, | Marsh, | Smith, A. Herr |
| Boyd, | Gillette, | McCook, | Smith, William E. |
| Brewer, | Godshalk, | McGowan, | Speer, |
| Brigham, | Goode, | McKenzie, | Starin, |
| Bright, | Hall, | Miles, | Steele, |
| Browne, | Hammond, John | Miller, | Stephens, |
| Buckner, | Hammond, N. J. | Mills, | Taylor, Robert L. |
| Cabell, | Harmer, | Mitchell, | Tucker, |
| Calkins, | Harris, John T. | Money, | Tyler, |
| Camp, | Haskell, | Monroe, | Van Aernam, |
| Cannon, | Hawk, | Morse, | Voorhis, |
| Caswell, | Hayes, | Morton, | Weaver, |
| Chalmers, | Heilman, | March, | Wells, |
| Claflin, | Henkle, | Neal, | Whitthorne, |
| Clark, Alvah A. | Henry, | Newberry, | Wilber, |
| Clark, John B. | Herndon, | Nicholls, | Wise, |
| Cobb, | Hiscock, | Norcross, | Wood, |
| Coffroth, | Houk, | O'Brien, | Wright, |
| Cox, | Hubbell, | O'Connor, | Yocum, |
| Cravens, | Hunton, | O'Reilly, | Young, Casey |
| Crowley, | Hutchins, | Orth, | Young, Thomas L. |

Mr. REAGAN rose.

Mr. TOWNSEND, of Ohio. Is it in order to move that all further proceedings under the call be dispensed with?

The SPEAKER *pro tempore*. There has been no call of the House, and the motion would not be in order.

Mr. BLOUNT. The gentleman from Texas yields to me, that I may report for printing and recommitment a general appropriation bill.

The SPEAKER *pro tempore*. Is there objection to the gentleman from Georgia making a report from the Committee on Appropriations?

There was no objection.

### SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT, from the Committee on Appropriations, reported a bill (H. R. No. 7203) making appropriations for the sundry civil expenses of the Government for the year ending June 30, 1882, and for other purposes; which was read a first and second time, recommitted to the Committee on Appropriations, and ordered to be printed.

### ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The report which has just been made to the House from the Committee of the Whole House on the state of the Union does not show a quorum present.

Mr. HAZELTON. I move that there be a call of the House.

The SPEAKER *pro tempore*. The Chair will state that the necessity for the House to go back immediately into Committee of the Whole House on the state of the Union only arises in the event of the call of the roll disclosing the presence of a quorum.

Mr. REAGAN. I move that the House resolve itself into the Committee of the Whole House on the state of the Union to proceed with the consideration of the river and harbor appropriation bill.

Mr. HAZELTON. I rise to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HAZELTON. My inquiry is, whether we cannot send out for the absentees and bring them to the bar?

The SPEAKER *pro tempore*. It is in the power of the House, if it shall so determine, to compel the attendance of every absent member.

Mr. HAZELTON. I shall not make the motion.

Mr. WILSON. It is evident there is a quorum now present. Let us go on and finish the bill.

The SPEAKER *pro tempore*. The point that there is no quorum has been withdrawn, and the gentleman from Texas [Mr. REAGAN] moves that the House resolve itself into Committee of the Whole House on the state of the Union to proceed with the consideration of the river and harbor bill.

Mr. AIKEN. I desire to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. AIKEN. It has gone on the record that there are absentees. One of my colleagues is at home sick; and I want to know when I can have the opportunity to make an excuse for him.

The SPEAKER *pro tempore*. Under the rule, whenever a call of the House has been ordered and the roll has been called, it is then in order to make excuses for absent members; but no call of the House has been ordered, and the question is on the motion of the gentleman from Texas, [Mr. REAGAN.]

The motion was agreed to.

RIVER AND HARBOR APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, (Mr. CARLISLE in the chair,) and resumed consideration of the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes.

The CHAIRMAN. The pending question is on the amendment of the gentleman from Michigan, [Mr. CONGER.]

Mr. CONGER. I withdraw that amendment. I do not wish again to test the sense of the House upon it. I will make no further effort.

Mr. HAZELTON. I ask the Chair to enforce the rule against smoking, which is very offensive to me and others.

The CHAIRMAN. The Sergeant-at-Arms will see that gentlemen comply with the rule in regard to smoking. The gentleman from Michigan withdraws his amendment.

Mr. VAN VOORHIS. Now I offer my amendment to strike out the last two lines of section 1, namely, these words:

Improving Sumpawamus Inlet, New York, $5,000.

I was born in the State of New York and have never lived out of it, and I have never heard of this interesting inlet until I read it here. My object in offering this amendment, which I shall withdraw if any of my colleagues will say that of his own personal knowledge he knows of such an inlet, was to get some information in regard to it. I will ask the Clerk to read what the Evening Post of New York says of it.

The Clerk read as follows:

SUMPAWAMUS OR WAMPASUMSET?

Is it Sumpawamus or Wampasumset; and where is it? This grave and obscure question perplexed the river and harbor statesmen of the House of Representatives yesterday. The problem seems to have been still unsolved at the hour of adjournment.

Mr. CHITTENDEN, a member from Brooklyn, not altogether unfamiliar with New York and its neighborhood, had been poring over the bill which appropriates some eleven millions of dollars for all sorts of practicable and impracticable improvements of navigable and unnavigable streams, and had been discovering therein a great mass of hitherto unsuspected geographical details. Coming at last to his own State, and being commendably anxious to add to his stock of knowledge, he innocently asked Mr. REAGAN, of Texas, who had charge of the bill, where Sumpawamus or Wampasumset Inlet was, for which he observed an appropriation of $5,000 was made. The ignorance of Mr. CHITTENDEN is pardonable, because very few of his constituents could answer his question, if indeed there is one who could do so.

Mr. REAGAN's answer, however, was prompt and specific. Expressing his surprise and regret that "the gentleman was so illy acquainted with the geography of his own city," [laughter in the House at Mr. CHITTENDEN's expense,] Mr. REAGAN informed him that Sumpawamus was "an inlet of the East River in the upper portion of the city of New York." This is one report of Mr. REAGAN's description, which is imperfect because it omits to say whether the inlet is from the East River to Central Park or Madison Square or the proposed site of the World's Fair. According to another report the description was more precise. "Sumpawamus Inlet," Mr. REAGAN said, "was an offshoot of the East River into Long Island." These two reports place Sumpawamus or Wampasumset on opposite sides of the river. After a careful process of collation, comparison, and an analysis, we have arrived at the conclusion that what Mr. REAGAN had in mind was an inlet or offshoot between the East River and Long Island Sound.

We are not surprised to learn that poor Mr. CHITTENDEN was "stunned for a moment" upon the delivery of this authentic information. The only wonder is that he recovered during the session. Within his knowledge and memory and those of everybody else in New York and Brooklyn, including the oldest inhabitant of either town, the only inlet or offshoot between the East River and the Sound is Hell Gate. It should be remembered, however, that Mr. REAGAN comes from the far-off State of Texas. There might be in the State of New York a very considerable stream whose exact situation was not familiar to him—just as there are in Texas swelling floods six inches deep, which the river and harbor bill is intended to make navigable by Mr. BLAINE's first-class subsidy steamships, but of which we of New York know nothing. Mr. COVERT came promptly to the relief of Mr. REAGAN and Mr. CHITTENDEN. Mr. COVERT is a Representative from Long Island, and is "to the manner born" in respect to inlets. He may be accepted as an expert. The members therefore pricked up attentive ears, as who should say, Now we shall hear all about it. "Sumpawamus Inlet," Mr. COVERT said, "was the chief means of communication between the Sound and the Great South Bay." Strange to say, instead of being more stunned than ever, Mr. CHITTENDEN rapidly recovered. It is reported that he walked away entirely satisfied, and locked with Mr. COVERT in a fraternal embrace.

[Here the hammer fell.]

Mr. REAGAN. The gentleman from New York, after having had that article read, will no doubt sleep soundly and sweetly. I ask for a vote.

Mr. VAN VOORHIS. I desire to have the rest of the article read.

The CHAIRMAN. The time of the gentleman from New York has expired. Does he ask leave to have printed the remainder of the article?

Mr. VAN VOORHIS. I will withdraw the amendment if I can have the remainder of that article read.

The CHAIRMAN. It cannot be read except by consent. The time of the gentleman has expired.

Mr. DUNN. I rise to oppose the amendment, and yield my time to the gentleman from New York.

The CHAIRMAN. Is there objection?

Objection was made.

Mr. KEIFER rose and said: I desire to have read as a part of my remarks the remainder of that article.

The CHAIRMAN. The gentleman from New York has withdrawn his amendment.

Mr. VAN VOORHIS. I have changed my mind as to that and renew the amendment.

The CHAIRMAN. The gentleman from Arkansas proposes to yield five minutes to the gentleman from New York. Is there objection?

Mr. REAGAN. There is. I do not wish the time of the committee to be trifled with.

Mr. KEIFER. I thought that I was recognized.

The CHAIRMAN. The Chair did recognize the gentleman.

Mr. KEIFER. I want to have the remainder of the article read as a part of my remarks.

The CHAIRMAN. The gentleman from Ohio, [Mr. KEIFER,] then, proposes to continue the argument in support of the amendment?

Mr. KEIFER. In opposition to it.

The CHAIRMAN. The Chair does not understand these remarks to be in opposition to the amendment. The article was sent up to be read by the gentleman who offers the amendment. Is there objection?

Mr. REAGAN. I object.

Mr. DIBRELL. The gentleman from New York [Mr. VAN VOORHIS] has withdrawn the amendment.

The CHAIRMAN. The Chair thought so; but the gentleman from New York says he did not withdraw his amendment.

Mr. TALBOTT. The gentleman from New York certainly did withdraw it.

Mr. VAN VOORHIS. I said that I would withdraw my amendment, but I did not know that I was recognized to do so.

The CHAIRMAN. The Chair understood the gentleman from New York to withdraw his amendment.

Mr. KEIFER. If the amendment is withdrawn, then I renew it, and in support of the amendment I ask the Clerk to read as a portion of my remarks the remainder of the article sent up by the gentleman from New York, [Mr. VAN VOORHIS.]

The Clerk read as follows:

We confess, however, that we are by no means satisfied. The Sound is on the northern side of Long Island, and the Great South Bay is on the southern side. An inlet or strait or whatever connecting these two bodies of water is shut up to three courses. It must pass by way of Sandy Hook, the Narrows, the East River, and Hell Gate, or it must go around in the neighborhood of Montauk Point, or it must cut across the mainland of Long Island. The last is the most direct course and perhaps Sumpawamus prefers it. At least that is what we should do if we were in Sumpawamus's place. The next time Mr. COVERT rises to address the House on this important subject we wish he would lay down the course of the inlet distinctly. Does it skirt Garden City or pierce the heart of Jamaica? We have consulted the most complete gazetteer published, and can find nothing about Sumpawamus or Wampasumset. An examination of the map of Long Island in Colton's Atlas discloses no such inlet from the South Bay or the Sound to the curious and anxious eye.

While we are awaiting the solution of this puzzling problem of identity, it may be said that this alleged inlet very fairly characterizes the river and harbor bill, both in respect to vagueness and wastefulness. Anybody who knows anything of the character and manners of Long Island inlets knows that it is their confirmed habit to open and close with exasperating suddenness. If one is carefully dredged this week, it may be shut up tight next week. Spending money in its improvement is burying money in the sand. What is literally true of Long Island inlets is figuratively true of the river and harbor bill.

[The reading of the above was frequently interrupted by loud laughter.]

Mr. KEIFER. I now withdraw the amendment.

Mr. HAWLEY. I renew the amendment, and ask for a vote on it.

Mr. TOWNSHEND, of Illinois. To strike out Sumpawamus?

The question was taken upon striking out the item of $5,000 for improving Sumpawamus Inlet, New York, and upon a *viva voce* vote the Chairman announced that the ayes seemed to have it.

Mr. COVERT. I call for a division on that. [Laughter.]

The committee divided; and there were—ayes 38, noes 57.

No further count being called for, the motion to strike out was not agreed to.

Mr. HAWLEY. I have a very brief personal explanation to make. When I made the motion to strike out I forgot that I was paired, and was unable to vote in support of my own motion.

Mr. BURROWS. I move to amend by adding to section 1 the following:

Harbor of refuge at New Buffalo, Michigan, $10,000.

I know the committee will need simply to hear read the resolution of the Legislature of the State of Michigan which I send to the Clerk's desk to give its support to this amendment.

The Clerk read as follows:

Joint resolution asking Congress for an appropriation in money to secure an efficient harbor at New Buffalo, in the County of Berrien, and State of Michigan.

Whereas Congress has heretofore made appropriations for the establishment and improvement of the harbor of New Buffalo, Berrien County, Michigan; and

Whereas the said improvements are now rapidly going to decay and the harbor to ruin; and

Whereas the position of said New Buffalo (it being near the head of Lake Michigan) is a valuable one for a harbor of refuge for vessels in violent storms; and

Whereas the proper officers of the United States Government having in charge the improvement of lake harbors have heretofore officially reported that an efficient harbor could be made at said New Buffalo by the expenditure of a comparatively moderate sum, and thereby the property of the Government be preserved, a necessary harbor of refuge established, a once important shipping port renewed, and commercial interests developed and fostered: Now, therefore,

*Be it resolved by the senate and house of representatives of the State of Michigan*, That our Senators and Representatives in Congress are respectfully and earnestly requested to use all honorable means to procure the necessary appropriation to preserve improvements already made and to secure an efficient harbor at said New Buffalo; and

*Resolved*, That the governor be, and hereby is, requested to transmit a copy of the foregoing resolution to each of our Senators and Representatives in Congress.

MOREAU S. CROSBY,
*President of the Senate.*
WILLIAM BALL,
*Speaker pro tempore of the House of Representatives.*

(Original approved by the governor.)

Mr. BURROWS. I trust the committee will adopt the amendment.

The question was taken, and the amendment was not agreed to.

The Clerk read the following:

SEC. 2. That the joint resolution approved July 20, 1868, authorizing the construction of the bridge over the Mississippi River "to connect the island of Rock Island with the cities of Davenport and Rock Island," is hereby so amended as to require the Chicago, Rock Island, and Pacific Railroad Company to charge for any cars carrying freight other than its own, and for its own cars when carrying freight for other roads, which it may carry across said bridge, the sum of $5 for every car, and for each empty car other than its own the sum of $2, one-half of which sums shall be paid by said railroad company into the Treasury of the United States each month; and the monthly returns thus made shall be in such form, and with such authentication, as the Secretary of War shall direct.

Mr. WARNER. I suggest that this section should read "not exceeding the sum of $5 for every car." Do not compel this railroad company to charge $5 for every car.

Mr. PRICE. I have an amendment which will cover that, and which I offer after consultation with the chairman of the Committee on Commerce, and which will make this section conform more nearly to what the committee desire. It is to strike out "five," and insert the words "only three," before the words "dollars for every car;" strike out the words, "and for each empty car other than its own, the sum of two dollars;" also strike out "one-half," and insert in lieu thereof "two-fifths."

The amendment was agreed to.

The Clerk read the following:

SEC. 3. That the Secretary of War is hereby directed, at his discretion, to cause examinations or surveys, or both, and estimates of cost of improvements proper, to be made at the following points, namely:

Mr. HAWLEY. As a matter of form I move to strike out the paragraph just read, simply that I may submit a suggestion or two. I am opposed to this bill and shall vote against it, and will briefly give my reasons. I have no doubt whatever that the people of the whole country are perfectly willing to give very liberal appropriations for this purpose. And I do not impeach the patriotism or integrity of the members of the Committee on Commerce. But I am bound to say here that this bill blossoms with items of which, in my opinion, the American Congress ought to be ashamed.

I believe that the plan of preparing these bills and acting on this whole subject is open to very serious objections. I will mention one of them. We are constantly told here that the engineers recommend such and such and such an improvement. Now, that is not quite accurate; it is not quite just to the engineers. Read the clause in question here:

That the Secretary of War is hereby directed, at his discretion, to cause examinations or surveys, or both, and estimates of cost of improvements proper, to be made at the following points.

Now, the engineers are not thereby directed to express any opinion upon the wisdom or unwisdom of any of these improvements.

Mr. REAGAN. They do it.

Mr. HAWLEY. They are sent to Sumpawamus, and God knows where else, to report what can be done to make the stream navigable for push-boats, or any improvement which it is desired shall be made. The engineer is directed to go there and make some kind of a report. He asks the people there what they want to have done, and they tell him that they want to have the stream made so that it can be navigable for boats so many feet in length, drawing so many inches, old-fashioned stern-wheel steamers, push-boats, or whatever they may desire. The engineer goes to work to ascertain how it can be done. He finds that the whole thing would require the digging of a canal around some rapids, and if that is done it would cost a million of dollars. He makes his reports and prepares his sketches and maps showing a complete survey.

Mr. TOWNSHEND, of Illinois. And always expresses an opinion whether it should be done.

Mr. HAWLEY. He does not express an opinion about it.

Mr. TOWNSHEND, of Illinois. I take issue with the gentleman; the reports of the engineers show that.

Mr. HAWLEY. I do not think they all do.

Mr. TOWNSHEND, of Illinois. All that I have read.

Mr. HAWLEY. They say what the people want, and what should be done if that want is to be gratified; but they do not in all cases say that it would be wise to do it. For that reason, in my opinion, these reports of the engineers are quoted, as a general rule, simply to show what a certain improvement would cost; but the engineers are not to be held responsible for the wisdom or the unwisdom of the improvement.

One single point more. I am not prepared to accept all these engineers as good advisers upon these matters, any way as disinterested advisers, because much of this work is done by civil engineers employed by the War Department, the regular engineers of the Army being unable to do it all. Now, these civil engineers have the conduct of the whole affair, the expenditure of the money appropriated, and they are employed year after year in spending this money. These civil engineers are like other persons, desiring business and occupation, and many of them are willing to spend a million of dollars on some improvement, at the rate of a hundred thousand dollars a year, if it will give them employment for ten years. So they are liable to be misled upon this matter as are many others.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAWLEY. I withdraw my amendment.

Mr. PACHECO. I move to amend by inserting the following:

Harbor of San Luis Obispo, California.

This is one of our important harbors. I hope the amendment will be adopted.

The amendment was agreed to.

The Clerk read as follows:

Old Town Creek from where it empties into Tombigbee River to opposite Verona.

Mr. REAGAN. Some gentleman has indicated on my bill that Old Town Creek appears in two places in the bill. I therefore move to strike out this paragraph and insert the following, which was inadvertently omitted in drawing the bill:

Bear Creek, running into the Yazoo River.

The amendment was adopted.

Mr. HENDERSON. I move to amend by inserting the following:

Harbor at Port Huron, on Lake Champlain.

The amendment was agreed to.

Mr. WHITE. I move to amend by inserting the following:

Clarion River, from its mouth to its source.

The amendment was not agreed to.

The Clerk read as follows:

Survey for harbor of refuge in Lake Pepin, at Stockholm, Wisconsin, and Lake City, Minnesota.

Mr. WASHBURNE. I offer the following amendment:

Insert after "Lake City," in line 27, "and at Beaver Bay." Add at end of same line, "and at the port near the boundary-line between Minnesota and the Dominion of Canada."

The amendment was not agreed to.

Mr. VAN VOORHIS. I move to amend by striking out the section.

The CHAIRMAN. The whole section has not yet been read; it is being read by clauses.

The Clerk read as follows:

Maunce River from Delaware Bay to Millville, Cumberland County.

Mr. O'NEILL. I move to amend by striking out "Maunce" and inserting "Maurice."

The amendment was agreed to.

The Clerk read as follows:

Staunton River from Brook Neal, in Campbell County, to mouth of Pig Iron River, Virginia.

Mr. REAGAN. I move to amend by striking out the word "Iron."

The amendment was agreed to.

The Clerk read as follows:

Roanoke River from Gaston, North Carolina, to Clarksville, Virginia.

Mr. YEATES. I move to amend by inserting the following:

Oregon Inlet, in Dare County, North Carolina, and staking and buoying the same.

The Legislature of North Carolina has requested this House to adopt this provision. Through Oregon Inlet the waters of four or five of our large sounds pass to the ocean.

The amendment was not agreed to.

The Clerk read as follows:

Bar at mouth of Wingate Bay, near Georgetown, South Carolina.

Mr. RICHARDSON, of South Carolina. I move to amend by striking out "Wingate" and inserting "Winyah."

The amendment was agreed to.

The Clerk read as follows:

Young's, Lewis', Clarke's, and Skipanon Rivers, entering into Young's Bay, in the county of Clatsop, near mouth of Columbia River, Oregon.

Mr. WHITEAKER. The proper name of one of these rivers is "Lewis and Clarke's River." I move therefore to amend by inserting the word "and" after the word "Lewis."

The amendment was agreed to.

The Clerk read as follows:

Lynn Harbor, Massachusetts.

Mr. BRIGGS. I move to amend by inserting the following:

Merrimac River, from Lawrence, Massachusetts, to Manchester, New Hampshire.

This amendment has been submitted to members of the Committee on Commerce, and there is no objection to it.

Mr. KENNA. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. DE LA MATYR. I now move my amendment to the third section, in line 66, and I ask the Clerk to read it.

The Clerk read as follows:

Indian River, Florida, at North End, in view of opening a passage into the Lagoon one-half mile.

Mr. DE LA MATYR. Gentlemen who have examined it say it is an important matter, and I hope it will be accepted. An immense trade in fruit needs to go out that way. A small expense will open the way, and I hope this will be permitted to be surveyed.

The amendment was agreed to.

Mr. SPARKS. I move to strike out the whole section.

The CHAIRMAN. It has not been read through yet.

Mr. SPARKS. It think it has.

The CHAIRMAN. No; it has not. The Committee on Commerce has reported various amendments to it which will first be disposed of, and then the Chair will entertain the motion to strike out the entire section.

Mr. SPARKS. Very well; I will move to strike it out when the section has been read through.

The CHAIRMAN. The Clerk will now read the amendments reported from the Committee on Commerce.

The Clerk read as follows:

Potomac and Anacostia Rivers, in the vicinity of Washington, District of Columbia, with reference to the improvement of navigation, the establishment of the harbor-line, and the flats, so far as their improvement may be necessary to the improvement of navigation and the establishment of the harbor-line.

Mouth of Cedar River, Green Bay, Michigan.

Greenport Harbor, New York.

Mr. McLANE. There should be an amendment after the word "and," so as to make it read "and the raising of the flats." That was the intention of the committee.

The amendment was agreed to.

The amendments of the committee, as amended, were agreed to.

Mr. BURROWS. I move to insert the following:

Survey for harbor of refuge at New Buffalo, Michigan.

The amendment was agreed to.

Mr. POEHLER. I move to add the following:

Headwaters of Cannon River, in Minnesota, with a view that the same may be added to the reservoir system of the Upper Mississippi.

The committee divided; and there were—ayes 37, noes 12.

So the amendment was agreed to.

Mr. RICHARDSON, of South Carolina. I move the following:

Water connection between the Waccamaw and Cape Fear Rivers, with a view of ascertaining if a continued inland water connection can thereby be established.

The committee divided; and there were—ayes 30, noes 19.

So the amendment was agreed to.

Mr. YEATES. I move the following:

Oregon Inlet, in Dare County, North Carolina.

I ask the Clerk to read the resolutions of the Legislature of North Carolina.

The Clerk read as follows:

A resolution asking a survey of Oregon Inlet, in Dare County, by the United States Government, and for buoying and staking the same.

*Resolved by the house of representatives, (the senate concurring,)* 1. That our Senators and Representatives in Congress shall be, and they are hereby, requested to use their influence to obtain a survey of Oregon Inlet, in Dare County, North Carolina, and to have the same buoyed and staked at as early a day as possible.

2. That after the passage of this resolution, copies thereof shall be immediately sent to the representation for North Carolina in Congress.

3. That this resolution shall be in force from and after its passage.

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STATE OF NORTH CAROLINA, OFFICE SECRETARY OF STATE,
*Raleigh, North Carolina, February 7, 1881.*

I, W. L. Saunders, secretary of state, hereby certify that the foregoing is a true copy from the record in this office.

[SEAL.] W. L. SAUNDERS,
*Secretary of State.*

Mr. VALENTINE. That amendment has been submitted and voted down.

The CHAIRMAN. It was submitted, the Chair thinks, for an appropriation, and it is now submitted for a survey.

Mr. YEATES. It is not the same amendment.

Mr. RUSSELL, of Massachusetts. I rise to oppose this amendment. The Engineer Department have now three hundred and fifty works under way. Most of these are continuing works, and if we add forty or fifty new surveys you are laying the foundation of a great deal of trouble for the next Committee on Commerce. I have some pity for them, and I hope we will stop here.

Mr. YEATES. I wish to say that the waters of Albemarle, Currituck, Croatan, and Roanoke Sounds go through that inlet into the ocean. The work is of vast importance to all that section of the country, one of the richest and most fertile in North Carolina.

The committee divided; and there were—ayes 27, noes 39.

So the amendment was rejected.

Mr. WILLIS. If there is any objection to the amendment I send up I will withdraw it at once. [Laughter.]

Survey of headwaters of the Nile.

[Laughter.]

Mr. BURROWS. I object.

The amendment was rejected.

Mr. HURD. I move the following:

Toledo, Ohio, for a strait channel to Lake Erie.

The committee divided; and there were—ayes 42, noes 37.

So the amendment was adopted.

Mr. McCOID. I move the following:

Des Moines River, from the city of Keokuk to the city of Des Moines.

After consultation with some of the members of the committee, I offer that amendment and think it should be adopted.

The committee divided; and there were—ayes 32, noes 38.

So the amendment was rejected.

Mr. TALBOTT. I move the following:

Bush River, in the State of Maryland.

The committee divided; and there were—ayes 12, noes 37.

So the amendment was rejected.

Mr. SPARKS. My motion is to strike out the section.

The CHAIRMAN. Amendments to the section must first be voted on.

Mr. TOWNSHEND, of Illinois. We will not get through before to-morrow noon if we go on in this way.

The CHAIRMAN. The Chair must obey the rules, and is not responsible for how long it takes.

Mr. CONGER. I move the following:

For a harbor at Caseville, Saginaw Bay, Lake Huron.

The amendment was agreed to.

Mr. ALDRICH, of Illinois. I move the following:

The Calumet River, from South Chicago to the village of Pullman, on Lake Calumet.

That is a short distance of about two and one-half miles. There are on these waters twenty manufactories and 5,000 employés. I hope the amendment will be adopted.

The amendment was adopted.

Mr. WARNER. I offer the following amendment:

For ice-piers at Pomeroy and Middleport, on the Ohio River.

The amendment was not agreed to.

Mr. HORR. Mr. Chairman, in reference to these amendments I wish to say that if this thing goes on it will take more money to make these surveys than there is in the entire appropriation bill for these improvements. I move that the committee do now rise and report the bill to the House.

The CHAIRMAN. The motion of the gentleman is not in order at this time. The gentleman will remember that the bill has not yet been read through.

Mr. REAGAN. I desire to make an appeal to gentlemen who are offering these amendments to let us conclude this matter. There is an unusual number of these amendments being offered. I trust it will be the order of the House to go on with the bill and let us report it to the House without further delay.

Mr. WHITE. I move to insert the following:

Clarion River from its mouth to Ridgway.

Mr. VALENTINE. Upon that I make a point of order.

Mr. WHITE. I desire to say that this is one of the important rivers in Western Pennsylvania, an important tributary to the Allegheny——

Mr. VALENTINE. I hope the point of order will be decided before the gentleman proceeds with his remarks.

The CHAIRMAN. The gentleman from Nebraska will state his point of order.

Mr. VALENTINE. I make the point of order that this amendment has been voted upon already by the committee and rejected.

The CHAIRMAN. If that is correct the point of order is well taken.

Mr. WHITE. Excuse me; it is not correct, Mr. Chairman. The former amendment was to provide for a survey from the mouth of the river to its source. This is for a survey from the mouth of the river to the town of Ridgway, quite a different thing.

The CHAIRMAN. The Chair thinks it is a different proposition.

Mr. WHITE. In reference to this matter I wish to say a word. [Cries of "Vote!" "Vote!"] This river is one on which there are thousands of men employed in the lumber business and in the manufacture of boats and barges. Barges are made here—[cries of "Vote!" "Vote!"] I want to call the attention of the House to the fact that this is an important river in Western Pennsylvania, and has an important commerce upon it. Hundreds of boats and barges are manufactured annually there, and I want a survey made to determine the capability of the river for improvement, with a view to an appropriation hereafter. [Laughter.] That is what I want it surveyed for. I want to put it upon the same basis as the other amendments that have been incorporated in this bill.

The committee divided; and there were—ayes 10, noes 37.

So the amendment was not agreed to.

Mr. CLYMER. I wish to offer an amendment.

The Clerk read as follows:

For the survey of all streams in Pennsylvania not longer than five miles and not deeper than six inches.

[Laughter.]

Mr. CLYMER. I want to give all these creeks a chance.

The amendment was not agreed to.

Mr. WILSON. I desire now to have the fourth section of this bill read.

The CHAIRMAN. It will be read at the proper time.

Mr. SPARKS. I now move to strike out the third section, and I wish to say a word in that connection.

The great trouble in these river and harbor bills arises from provisions in them identical in import with the section now under consideration. By this section authority is given to survey a lot of contemptible little creeks and utterly useless harbors, that were they in the present bill, notorious and objectionable as it is for a violation of all propriety and constitutional restriction, would now be discarded from it, yet being brought in here simply for survey and report are allowed to go through. Now I warn gentlemen that if this section is allowed to remain as a part of the bill these creeks and harbors will have advocates urging appropriations for them at the next session in the next Congress, and they will then and there, under this system of omnibus legislation that has sanctioned the scores of like creeks and harbors in the present bill, come in for a share of the

general plunder. At least such has been the experience of the past, and there is nothing that gives promise for the future that a like policy will not be pursued. I hope the section will be stricken out.

Mr. VAN VOORHIS. As the gentleman did not occupy the entire five minutes, I wish to occupy the remainder of it.

The CHAIRMAN. The gentleman has not yielded the floor.

Mr. SPARKS. I have concluded what I wish to say, and do not yield to anybody.

Mr. VAN VOORHIS. I have a right to occupy the balance of the five minutes.

The CHAIRMAN. The gentleman has not the right. The gentleman might move an amendment, if he so desires, and under the rule he would have five minutes.

Mr. VAN VOORHIS. Then I move to strike out the fifth line. I wish to say that it costs money to make these surveys. The last river and harbor bill ordered about one hundred and twenty of them. These cost $150,000. Now, out of these one hundred and twenty surveys there were only about four that were of any use whatever, which have been incorporated in this bill. We have already a provision made for eighty in this printed bill, and probably twenty more have been added. It will take $100,000 for these surveys. Why do we want to make these surveys at all? Here is "Bear Creek" that is to be surveyed at a large expense. "Old Town Creek" is to be surveyed also at great expense. Corsica Creek, Dog Island Harbor, and every other dog thing under heaven is to be surveyed and at the expense of the United States! I hope the motion of the gentleman from Illinois will be adopted.

I withdraw my amendment.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois [Mr. SPARKS] to strike out the whole of the third section.

The motion was not agreed to.

The Clerk read the fourth and last section of the bill, as follows:

SEC. 4. That for the examinations and surveys herein provided for, and for incidental repairs of harbors for which there is no special appropriation, the sum of $100,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated; and in every case where examinations or surveys are made, the report thereon shall embrace such information concerning the commercial importance, present and prospective, of the improvement contemplated thereby, and such general commercial statistics as the Secretary of War may be able to procure.

Mr. SPARKS. I move to strike out the fourth section.

The motion to strike out was not agreed to.

Mr. UPDEGRAFF, of Iowa. I move to strike out all after the enacting clause and substitute what I send to the desk.

Mr. REAGAN. Does the gentleman wish to have that acted on now?

Mr. UPDEGRAFF, of Iowa. I desire it to be acted on now. I do not wish to occupy any time.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

"That $7,000,000 be, and are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War in the improvement of the rivers and harbors of the United States."

Mr. REAGAN. I move that the committee rise and report the bill and amendments to the House.

The motion was agreed to.

Mr. WARNER. I give notice that I reserve the right to call the yeas and nays on any amendments.

The committee accordingly rose; and Mr. BLACKBURN having taken the chair as Speaker *pro tempore*, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, and had instructed him to report the bill and amendments to the House with the recommendation that the amendments be concurred in and the bill passed.

Mr. REAGAN. I move the previous question on the bill and amendments.

The previous question was ordered.

Mr. KENNA. I move to reconsider the vote by which the previous question was ordered; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. REAGAN. I move that the House do now adjourn.

Mr. SPRINGER. I ask unanimous consent that the adjournment be till twelve o'clock.

The SPEAKER *pro tempore*. The House has already ordered that when it adjourns to-day it be to meet at eleven o'clock on Thursday.

Mr. BUTTERWORTH. Was there a reconsideration?

The SPEAKER *pro tempore*. The Clerk informs the Chair that a motion to reconsider was made and laid upon the table.

The motion of Mr. REAGAN was agreed to; and accordingly (at two o'clock and fifteen minutes a. m., Thursday, February 17) the House adjourned until Thursday at eleven o'clock a. m.

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## PETITIONS, ETC.

The following petitions, memorials, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of the National Division of Sons of Temperance, representing sixty thousand members, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Select Committee on the Alcoholic Liquor Traffic.

Also, the petition of citizens of Missouri, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. BALLOU: The petition of the National Supreme Council of Templars of Honor and Temperance, representing 21,000 members, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Select Committee on the Alcoholic Liquor Traffic.

Also, the petition of the Rhode Island State Temperance Union, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

By Mr. BERRY: The petition of Charles M. Hendspeth, for a pension—to the Committee on Pensions.

By Mr. BLISS: The petition of David Dows & Co., Jesse Hoyt & Co., and other members of the New York Produce Exchange, for an appropriation for the improvement of Gowanus Bay—to the Committee on Commerce.

By Mr. BURROWS: The petition of citizens of Michigan, for an income-tax law—to the Committee on Ways and Means.

Also, the petition of citizens of Michigan, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of citizens of Michigan, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of citizens of Michigan, for the regulation of interstate commerce—to the Committee on Commerce.

Also, the petition of citizens of Michigan, for legislation on the subject of interstate commerce—to the same committee.

Also, the petition of citizens of Michigan, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of citizens of Michigan, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of citizens of Michigan, for an income-tax law—to the Committee on Ways and Means.

Also, the petition of C. W. Davis and others, citizens of Fentonville, Michigan, for a commission of inquiry concerning the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. CABELL: The petition of A. L. Burwell, to be refunded certain taxes illegally collected from him by United States revenue officials—to the Committee on Ways and Means.

By Mr. CALKINS: The petition of Pine Lake Grange, Indiana, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of the same, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of the same, for an income-tax law—to the Committee on Ways and Means.

By Mr. CHITTENDEN: The petition of the National Temperance Society, for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. CONGER: The petition of citizens of Lenawall Junction, Michigan, for a commission of inquiry concerning the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. CONVERSE: The petition of Jonathan L. Jones, for compensation for use, by the Government during the war, of an invention of armor for vessels and other war structures—to the Committee on War Claims.

By Mr. DEERING: The petition of ex-soldiers, of Chickasaw County, Iowa, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. DUNNELL: Memorial of the Legislature of Minnesota, asking for appropriations for the improvement of the Mississippi River—to the Committee on Commerce.

Also, the petition of the Temperance Union of Minnesota, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. FRYE: The petition of the Grand Division Sons of Temperance of the State of Maine, for a commission of inquiry concerning the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. GIBSON: The petition of the officers and members of the Cotton Exchange and from 293 citizens of Memphis, Tennessee, that the health-inspection service be made permanent and its scope enlarged—to the Select Committee on the origin, introduction, and prevention of Epidemic Diseases in the United States.

By Mr. HOUSE: The petition of citizens of Nashville, Tennessee, and others, for building locks and dams on the Cumberland River—to the Committee on Commerce.

By Mr. HUNTON: The petition of J. Harrison Johnson, chairman of the South Washington (District of Columbia) Improvement and Protective Association, for the removal of the causeway at Long Bridge, and for a union depot in the city of Washington—to the Committee on the District of Columbia.

By Mr. LAPHAM: Resolutions of the New York State Merino Sheep Breeders' Association, favoring the passage of the Eaton tariff-commission bill—to the Committee on Ways and Means.

Also, the petition of L. P. Thompson and others, for the passage of

the bill donating cannon to Gordon Granger Post, Grand Army of the Republic—to the Committee on Military Affairs.

By Mr. LORING: The petition of the Massachusetts Temperance Alliance, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. MAGINNIS: Petitions of citizens of Montana, against the proposition to lease the public lands—to the Committee on the Public Lands.

By Mr. EDWARD L. MARTIN: The petition of the Wilmington (Delaware) Annual Conference of the Methodist Episcopal Church, for a commission of inquiry concerning the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

Also, the petition of J. H. Adams and 28 others, citizens of Delaware, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of J. A. Collins and 27 others, citizens of Delaware, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of G. W. Walson and 25 others, citizens of Delaware, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of Nathaniel Horsey and 30 others, citizens of Delaware, for legislation on the subject of interstate commerce—to the Committee on Commerce.

By Mr. McCOID: The petitions of 34 citizens and of 60 citizens of Iowa, for legislation to suppress the disease among cattle known as pleuro-pneumonia—to the Committee on Agriculture.

Also, the petition of 30 citizens of Burlington, Iowa, for the appropriations for the Mississippi River recommended by the river commission—to the Committee on Commerce.

Also, the petition of George Chapman, for an extension of time to settlers upon public lands to comply with the provisions of the homestead law—to the Committee on the Public Lands.

By Mr. McKINLEY: The petition of the Saint Paul's Methodist Episcopal church of Delaware, Ohio, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Select Committee on the Alcoholic Liquor Traffic.

Also, the petition of the Quaker Hill Temperance Association of Beloit, Ohio, for the enactment of laws prohibiting the manufacture and sale of intoxicating beverages in the District of Columbia—to the same committee.

By Mr. MITCHELL: The petition of the Temple of Honor of Pennsylvania, for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia—to the same committee.

By Mr. MORRISON: The petition of F. Mansfield, of Saint Louis, Missouri, for the abolition of the tax on friction matches—to the Committee on Ways and Means.

By Mr. MORSE: The petition of manufacturers of cigars, of Boston and Chelsea, Massachusetts, for a reduction of the tax on cigars—to the same committee.

By Mr. MULLER: The petition of Clara A. Thompson, for a pension—to the Committee on Invalid Pensions.

By Mr. MURCH: The petition of the Grand Division Sons of Temperance of Maine, for the prohibition of the manufacture or sale of all alcoholic beverages in the District of Columbia—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. MYERS: The petition of George Thompson and 30 other soldiers, of Booker's Mills, West Virginia, against the passage of the Bentley pension bill—to the Committee on Invalid Pensions.

By Mr. NEWBERRY: The petition of 20 citizens of Michigan, for the amendment of the patent laws so as to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of the same parties, for the regulation of interstate commerce—to the Committee on Commerce.

By Mr. O'NEILL: The petition of the Progressive Division Sons of Temperance, of Philadelphia, Pennsylvania, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. OSMER: The petition of Samuel Beaty and 26 others, citizens of Pennsylvania, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. OVERTON: The petition of Captain Daniel Meehan and 20 other soldiers of Bradford County, Pennsylvania, of similar import—to the same committee.

Also, the petition of Stephen Gleason and 21 other Pennsylvania soldiers, against the passage of Senate bill No. 496—to the same committee.

By Mr. PRICE: The petition of the National Temperance Society, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. RAY: The petition of W. A. Willis and 7 others, soldiers of the war of the rebellion, of New Hampshire, of similar import—to the same committee.

By Mr. REED: The petition of the Good Templars of Maine, for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia—to the same committee.

By Mr. JOHN S. RICHARDSON: The petition of the Grand Division Sons of Temperance of South Carolina, of similar import—to the same committee.

By Mr. ROBESON: The petition of the Grand Lodge of Good Templars of New Jersey, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the same committee.

By Mr. ROBINSON: The petition of the Massachusetts Temperance Alliance, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

By Mr. THOMAS RYAN: The petition of Kansas soldiers, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. SIMONTON: The petition of Sons of Temperance of Tennessee, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. A. HERR SMITH: The petition of citizens of Pennsylvania, against the extension of the John A. Cummings patent for improvements in artificial gums and palates—to the Committee on Patents.

Also, resolutions adopted at a meeting of sugar refiners, importers, and brokers of New York, relating to the collection of the duties on sugar—to the Committee on Ways and Means.

By Mr. STONE: The petition of Frank B. Cassey and 574 others, citizens of Detroit, Michigan, for a commission of inquiry concerning the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

Also, the petitions of H. F. Hull and 31 others, and of B. F. Granger and 22 others, citizens of Michigan, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of the same parties, that the Commissioner of Agriculture be made a member of the President's Cabinet—to the Committee on Agriculture.

Also, the petitions of E. E. Jones and 25 others, and of B. F. Granger and 22 others, citizens of Michigan, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petitions of V. D. Smith and 28 others, and of B. F. Granger and 22 others, citizens of Michigan, for appropriate legislation on the subject of interstate commerce—to the Committee on Commerce.

By Mr. EZRA B. TAYLOR: Two petitions of citizens of Ohio, of similar import—to the same committee.

Also, two petitions of citizens of Ohio, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, two petitions of citizens of Ohio, for the amendment of the patent laws—to the Committee on Patents.

Also, two petitions of citizens of Ohio, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

By Mr. TYLER: The petition of the Temple of Honor and Temperance, for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. J. T. UPDEGRAFF: The petition of Saint Paul's Methodist Episcopal church, of Delaware, Ohio, of similar import—to the same committee.

Also, the petition of D. Mumma and 161 others, citizens of Belmont County, Ohio, for the amendment of the patent laws—to the Committee on Patents.

By Mr. VANCE: The petition of W. H. Ellis and others, for a post-route from Linville Cove to Cranberry Forge, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. WARD: The petition of Job H. Jackson and others, citizens of Chester County, Pennsylvania, for a commission of inquiry concerning the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

Also, the petition of the Grand Temple of Honor of Pennsylvania, for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout the national domain—to the same committee.

By Mr. WASHBURN: The petition of the Temperance Union of Minnesota, of similar import—to the same committee.

Also, the petition of the Sons of Temperance of Minnesota, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

By Mr. WEAVER: The petitions of E. J. Whitehead, of Bloomfield, New Jersey, and 6,000 others, and of O. L. Doolittle and 1,000 others, asking Congress not to refund the public debt, but to pay the same—to the Committee on Ways and Means.

By Mr. WILLIS: The petition of Newcomb, Buchanan & Co., against the passage of House bill No. 6460, and in favor of House bill No. 4839, relating to the manufacture of vinegar—to the same committee.

By Mr. WILLITS: The petition of E. Steel and others, citizens of Almont, Michigan; of William P. Baird, H. F. Horten, and others, citizens of Allica, Michigan; and of Rev. T. G. Potter, Rev. William A. Pratt, and others, citizens of Lapeer, Michigan, for a commission of inquiry concerning the alcoholic liquor traffic—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. WILSON: The petition of Captain W. D. Logsdon and 100 other soldiers, of West Virginia, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions

By Mr. WISE: The petitions of the Boards of Trade of Indianapolis, Indiana, and Oswego, New York; of the Chamber of Commerce of Milwaukee, Wisconsin, and of the Produce Exchange of Wilmington, North Carolina, for the passage of a law to prevent the adulteration of food and drugs in the United States—to the Committee on Manufactures.

Also, the petition of members of the Produce Exchange of New York, of similar import—to the same committee.

By Mr. YOCUM: The petition of L. N. Weaver and others, citizens of Centre County, Pennsylvania, for an income-tax law—to the Committee on Ways and Means.

Also, the petition of A. A. Dale and others, citizens of Centre County, Pennsylvania, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of Leonard Rhone and others, citizens of Centre County, Pennsylvania, for a revision of the patent laws—to the Committee on Patents.

By Mr. CASEY YOUNG: The petition of the Grand Division of Sons of Temperance of Tennessee, for the prohibition of the manufacture and sale of all alcoholic beverages in the District of Columbia—to the Select Committee on the Alcoholic Liquor Traffic.

## IN SENATE.

### WEDNESDAY, *February* 16, 1881.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

POTOMAC LONG BRIDGE.

The VICE-PRESIDENT laid before the Senate a letter from the commissioners of the District of Columbia, transmitting, in response to a resolution of the 14th instant, a report of the damage done to the Long Bridge by the recent flood in the Potomac, and whether in repairing the same some method cannot be adopted that will diminish the probability of inundations of the city hereafter; which was referred to the Committee on the District of Columbia, and ordered to be printed.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Auditor of Railroad Accounts, setting forth facts and figures which in his judgment require an amendment of the sinking fund act of May 7, 1878, so far as relates to the Central Pacific Railroad Company; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Patents relative to the necessity of an additional appropriation to continue the photolithographing of the drawings for the current weekly issues of patents during the present fiscal year; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

Mr. HILL, of Colorado, presented a petition of citizens of Durango, La Plata County, Colorado, praying for the establishment of a new land district and that the office for said district shall be located in the city of Durango; which was referred to the Committee on Public Lands.

Mr. EATON presented the petition of E. L. Perry, of New York, praying for the extension of his patent on monitor rafts; which was referred to the Committee on Patents.

Mr. CAMERON, of Wisconsin, presented the petition of the Grand Lodge of Good Templars of Wisconsin, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

Mr. LOGAN presented resolutions of the Board of Trade of Chicago, Illinois, favoring an appropriation for the construction of a harbor of refuge in Milwaukee Bay, on the west side of Lake Michigan; which was referred to the Committee on Commerce.

Mr. WINDOM presented the petition of the Woman's Christian Temperance Union of Minnesota, officially signed, praying for a constitutional amendment to prohibit the manufacture and sale of all alcoholic beverages throughout our national domain; which was referred to the Committee on Finance.

He also presented resolutions of the Chamber of Commerce of Duluth, Minnesota, favoring an increased appropriation for the completion of the harbor of refuge at Grand Marais, for the establishment of a light at that harbor, and for a survey of the port at the boundary line and at Beaver Bay; which was referred to the Committee on Commerce.

Mr. PLATT presented a joint resolution of the Legislature of Connecticut; which was read, and referred to the Committee on Naval Affairs, as follows:

STATE OF CONNECTICUT, OFFICE OF SECRETARY OF STATE,
*General Assembly, January Session, A. D.* 1881.

Senate joint resolution No. 38, concerning the New London navy-yard.

Whereas by invitation of Congress the State of Connecticut conveyed, A. D. 1868, by deed of gift, to the United States a tract of land on the river Thames for naval purposes; and

Whereas the Government has expended large sums of money on the same in grading the grounds, constructing a large wharf, erecting storehouses, &c.; and

Whereas Congress at its last session authorized the erection thereon of a building to be used as a drill-room for the apprentices of the naval training-school, to be completed at an early day; and

Whereas the adoption of another site which has been suggested would involve large and unnecessary expense to the Government: Therefore,

*Resolved by this Assembly*, That our Senators and Representatives in Congress be requested to exert their most earnest and determined efforts to prevent the removal of said naval training-school from its location on the Thames and from this State.

*Resolved*, That a copy of this preamble and resolution be forwarded by the secretary of State to each of our Senators and Representatives in Congress.

Passed February 10, 1881.

STATE OF CONNECTICUT, ss.,
*Office of Secretary of State.*

I hereby certify that the foregoing is a true copy of record in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of said State at Hartford this 11th day of February, A. D. 1881.

[SEAL.] CHARLES E. SEARLE,
*Secretary of State.*

REPORTS OF COMMITTEES.

Mr. PUGH, from the Committee on Claims, to whom was referred the bill (S. No. 1856) for the relief of Mrs. J. P. Williams, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. GROOME, from the Committee on Claims, to whom was referred the bill (S. No. 2059) for the relief of Frank D. Yates and others, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. TELLER, from the Committee on Claims, to whom was referred the bill (H. R. No. 4434) for the relief of Mrs. Martha Bridges, of Bartow County, Georgia, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (H. R. No. 1996) for the relief of W. A. Reid, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. EATON, from the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 1359) for the relief of Louis P. Di Cesnola, late consul at Cyprus, reported it without amendment.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (H. R. No. 2705) for the relief of Joseph Clymer, of Texas, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. McMILLAN. I desire as a member of the Committee on Claims to note my dissent from the report just submitted by the Senator from Wisconsin.

Mr. PENDLETON, from the Select Committee to examine the several branches of the Civil Service, to whom was referred the bill (S. No. 2006) to regulate and improve the civil service of the United States, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. ALLISON. I am instructed by the Committee on Finance, to whom was referred the bill (H. R. No. 301) for the relief of William R. Wilmer, to report it favorably, and as it will take but a moment I ask unanimous consent for its present consideration. If it takes more than a moment, I shall not press it.

Mr. TELLER. I propose to object to every bill, I do not care whether it takes a minute or a week, until there is a disposition to go to the Calendar.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. ALLISON. I appeal to my friend to withdraw his objection.

Mr. TELLER. I enter an objection at this time.

The VICE-PRESIDENT. The consideration of the bill is objected to, and it will go on the Calendar.

Mr. McPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 2002) to regulate the promotion of midshipmen and cadet-engineers, and establish the grade of sub-assistant engineer in the Navy, reported it without amendment.

He also, from the same committee, to whom the subject was referred, reported a joint resolution (S. R. No. 161) authorizing Commodore R. W. Shufeldt, of the United States Navy, to accept a sword, a Persian carpet, and other articles from the Sultan of Zanzibar; which was read twice by its title.

Mr. ALLISON, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 6529) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1882, and for other purposes, reported it with amendments.

Mr. WHYTE, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 4607) for the relief of Passed Assistant Engineer Absalom Kirby, of the Navy, reported it without amendment.

ISTHMUS SHIP-CANALS.

Mr. EATON. The Committee on Foreign Relations have instructed me to offer a resolution; which I desire to have read, printed, and laid on the table.

The resolution was read, as follows:

*Resolved by the Senate and House of Representatives, &c.*, That the interests of the people of the United States of America and the welfare and security of their Government are so involved in the subject of the construction of ship-canals and other ways for the transportation of sea-going vessels across the isthmus connecting North and South America that the Government of the United States with

the frankness which is due to all other people and governments hereby asserts that it will insist that its consent is a necessary condition precedent to the execution of any such project; and also as to the rules and regulations under which other nations shall participate in the use of such canals or other ways, either in peace or in war.

Mr. WINDOM. I desire to give notice while that resolution is pending before the Senate, that at some convenient time before the close of this session I shall desire to submit some remarks to the Senate on that subject.

The VICE-PRESIDENT. The resolution will lie on the table and be printed.

BILLS INTRODUCED.

Mr. KERNAN asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2190) for the relief of John H. Templeton; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. CALL (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2191) for the relief of Captain and Brevet-Colonel Alexander E. Drake, of the United States Army; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

AMENDMENTS TO BILLS.

Mr. COKE, from the Committee on Indian Affairs, reported an amendment intended to be proposed to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. EATON, from the Committee on Foreign Relations, reported an amendment intended to be proposed to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BAYARD, from the Committee on Finance, reported an amendment intended to be proposed to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MAXEY and Mr. SAUNDERS submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. BROWN and Mr. BAILEY submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. BAILEY submitted an amendment intended to be proposed by him to the post-route bill; which was referred to the Committee on Post-Offices and Post-Roads.

ADJUSTMENT OF PENSION APPLICATIONS.

Mr. INGALLS. I ask that the resolution which I offered on a previous day relative to the appointment of a select committee to examine the condition of the pension laws may be reported.

The Chief Clerk read the following resolution, submitted by Mr. INGALLS on the 9th instant:

*Resolved*, That a committee of three Senators be appointed by the Chair, to sit during the recess of the Senate, with power to employ a clerk and stenographer, for the purpose of inquiring into the state of the law relative to the adjustment of pensions, with authority to report at the next session of the Senate, by bill or otherwise, what measures are necessary to secure the early adjudication of all applications for pensions.

Mr. INGALLS. The Senator from West Virginia [Mr. DAVIS] has offered a substitute, which I ask may be reported.

The CHIEF CLERK. It is proposed to strike out all after the word "resolved" and insert:

That a committee of three Senators be appointed by the Chair, to sit during the recess of the Senate, with power to employ a stenographer, who shall also act as clerk, to send for persons and papers, administer oaths, and examine witnesses, for the purpose of informing the Senate as to the defects of the present pension system, and the remedy therefor, with authority to report at the next session of the Senate, by bill or otherwise, what measures are necessary to prevent frauds and secure the early adjudication of all applications for pension.

Mr. INGALLS. The substitute offered by the Senator from West Virginia in my judgment will meet the necessities of the case better than the original resolution. It is more comprehensive and at the same time more definite, and I am willing that that shall be substituted and acted upon by the Senate.

Mr. HOAR. I desire to make to the Senator from Kansas a mere technical suggestion. This resolution now only applies to what little recess there may be between the adjournment of the Senate on the 3d of March and the convening of a new session on the 4th. I suppose it is really meant to apply to the summer recess.

Mr. DAVIS, of West Virginia. I did not understand the Senator from Massachusetts. What was his suggestion?

Mr. HOAR. I suggested that the resolution should direct the committee to report at the next legislative session of the Senate and allowing it to sit during the summer recess. Otherwise this would have to be renewed at the executive session, if there be one, after the 4th of March.

Mr. DAVIS, of West Virginia. I do not think it would be competent to consider this question at all at an executive session.

Mr. HOAR. Certainly it would.

Mr. DAVIS, of West Virginia. However, there is no objection to any amendment making it definite; and I suppose that will be accepted.

Mr. HOAR. I do not care anything about it.

Mr. DAVIS, of West Virginia. I think it is generally understood what this means. Now, Mr. President, I wish to state, what the Senate already know, that I have been opposed to the raising of special committees; but I shall favor this one. This pension subject is one which needs attention. It is a subject in which a great many people of this country are interested; in fact almost everybody is interested either in the way of receiving a pension or paying taxes. It is a question which in my judgment ought to be looked into very carefully. I believe that there are defects and that remedies ought to be applied both to make the examinations more prompt and to prevent frauds.

I have no doubt there are a great many deserving persons who ought to have pensions who are awaiting the decisions of the Pension Office; and I have as little doubt of the other proposition that there are persons receiving pensions now who ought not to receive them; and I suggested to my friend from Kansas the amendment which has been read and which he has accepted.

I would state to the Senator that it is most probable there ought to be a still further amendment making provision for paying the little expense, for I think the expense will be but little, there will be attending this investigation. There should be some provision for paying that expense, and I know of no better way than to add an amendment saying that it shall be paid out of the miscellaneous items of the contingent fund of the Senate.

The VICE-PRESIDENT. The resolution will be thus modified.

Mr. DAVIS, of West Virginia. I think a thousand dollars will cover the entire expense.

Mr. INGALLS. The amendment has been accepted, and the resolution modified in accordance with the suggestion.

The VICE-PRESIDENT. The resolution will be reported as modified.

The Chief Clerk read as follows:

*Resolved*, That a committee of three Senators be appointed by the Chair, to sit during the recess of the Senate, with power to employ a stenographer, who shall also act as clerk; to send for persons and papers, administer oaths, and examine witnesses, for the purpose of informing the Senate as to the defects of the present pension system, and the remedy therefor, with authority to report at the next session of the Senate, by bill or otherwise, what measures are necessary to prevent frauds and secure the early adjudication of all applications for pension, the expense thereof to be paid out of the "miscellaneous items" of the contingent fund of the Senate.

Mr. WITHERS. I had designed to call up for the consideration of the Senate the bill No. 496, reported from the Committee on Pensions, the object of which was to provide for precisely the same result that this proposed resolution seeks to attain. I do not know that I have any objection, however, to the adoption of this resolution in order that the inquiry may be made during the recess with ample time for a special committee to devote themselves exclusively to the consideration of this subject. If they can devise any scheme which will correct the evils that are now admitted to exist, I shall be very happy myself to know the fact. If the Senate adopt this resolution now offered, I shall of course assume that it is the desire of the Senate that no further action shall be had in that direction during the present session of this body.

Mr. GARLAND. With the purposes of this resolution I entirely sympathize; but I wish to ask the Senator from Kansas this question: What obstacle is there in the way of giving this authority to the Committee on Pensions?

Mr. INGALLS. There will be no Committee on Pensions after the adjournment of the present session of the Senate.

Mr. GARLAND. That may be, or may not be.

Mr. INGALLS. As a matter of fact, there will be no such committee after the adjournment of this session until committees shall be appointed at some subsequent session.

Mr. GARLAND. But we have voted down all propositions for special committees, as stated by the Senator from West Virginia; and while I am very desirous to see this examination take place, I am upon principle rather opposed to appointing special committees.

Mr. BLAIR. Of course we all sympathize with the purpose which this resolution has in view; but its adoption now is equivalent to a decision of the Senate that there shall be no further action at the present session on the bill which has been perfected with great effort and great expenditure of time by the Pensions Committee as it has previously existed, and in which investigation the honorable Senator who moved this resolution participated, and in the preparation of which bill the same Senator was quite active, and which bill he approves and has so admitted here on the floor of the Senate. That bill is now pending. At the time the discussion arose which has taken place at the present session, it was moved in the form of an amendment to the pension appropriation bill; but it is pending upon

the Calendar of the Senate, and I have myself introduced a bill since that discussion which embraces, as I think, provisions that meet the substantial objections urged by all parties to the bill as reported by the Pensions Committee. Whenever that bill shall be called to the notice of the Senate, as I think it ought to be as one of the most important bills that can possibly engage its attention, the one which I have introduced, I design to move as a substitute for the measure of the committee the bill I have introduced; and I have been informed by various members of the Senate who have examined it that in their opinion it meets very largely, if not wholly, the objections which have been urged to the bill reported by the committee.

Now, Mr. President, the evil exists and the appointment of the committee contemplated by this resolution will simply postpone all possible remedy for at least two years. It is not contemplated that this special committee shall investigate any subject-matter other than that which has been the subject of careful consideration for at least a year and a half past by the Pensions Committee of the Senate. It may not be, perhaps, assumed by the movers of this resolution that any more competent parties to examine the subject-matter will be obtained by the appointment under its provisions if it should be adopted. The honorable Senator from Kansas, the mover of the resolution, has only very recently left the Pensions Committee himself, and it cannot be supposed that the committee appointed under this resolution, a committee of three, will be likely to arrive at any different results from those which are represented by the bill that was reported by the Committee on Pensions, known as Senate bill No. 496. But I believe, however that might be, that action at the present session of Congress is attainable and that it ought to be arrived at. I myself have received many letters from soldiers in all parts of the United States, or those portions of the United States where they live, strongly insisting that there shall be no postponement of this bill, that no such resolution as this introduced by the Senator from Kansas shall be allowed to pass, that there be action now, and I do not think that anything other than action at the present time will be likely to be satisfactory at all to the country.

In regard to the other point, it haa been suggested that if this matter is to be investigated at all it be left to the Pension Committee, but the further suggestion has been made that there is to be no Pension Committee in existence after the 4th of March until a new one is constituted. Every member of the Senate well understands that the committees of the Senate will be immediately appointed upon the calling of the session of the Senate to consider executive business if for no other purpose.

Mr. HOAR. Our committees die with the session.

Mr. BLAIR. They do not die with the existence of the session if they are charged with any special duty or investigation during the vacation; they then exist until the next session, but at the next session the committees, to be sure, might be remodeled, might be changed.

Mr. HOAR. My friend from New Hampshire will permit me to ask him, as I am perhaps misinformed, is it not true that the committees of this body terminate with every session, so that if the gentlemen composing the Pensions Committee were authorized to pursue an investigation in vacation it would be as a special committee still?

Mr. BLAIR. I do not understand that that changes the nature of the subject at all. It might be, and be entirely consistent with the point which I am endeavoring to make, that the committees expire with the close of each session. Admit that to be so—for I will not raise an issue or undertake to advocate any special theory in that direction—why may not the regular Pensions Committee make this inquiry if that committee must necessarily be constituted at the commencement of the executive session, because it will be called upon to consider nominations as well as other committees? For that reason that committee must be constituted at the commencement of the next session. Why may it not just as well consider this subject as any other committee; and particularly why may it not as well, since the *personnel* likely to compose a special committee would probably be made up of individuals who lately have left the Pensions Committee and who have considered this same subject and arrived at conclusions upon it?

It seems to me that there is no occasion, in the first place, for postponing this subject-matter for two years, because the adoption of this resolution will come to that, and many applicants for pension will die meanwhile, and immense suffering will exist all over this country in consequence of the inaction of the Senate and of the other branch of Congress. To take this course will be equivalent, as I said before, to a decision of the Senate that there shall be no remedy sought or applied by the present Congress; and if it is to be done, I for my own part see no reason in the world—certainly none has yet been adduced—why the regular Pensions Committee should not be charged with the investigation of what is its own peculiar and special business, that for which it was created, for which it exists, and but for which it has no excuse whatever for existence.

Mr. LOGAN. Mr. President, there seems to be a disposition on the part of Senators who have favored Senate bill No. 496 to discuss the question just as though there was no other view of it except their own, and as if a great necessity had arisen that their views should be adopted. Now, I wish to notify the Senators that there are persons in the Senate who entertain very different views from those entertained by gentlemen who desire to have that bill ingrafted in the laws of this country.

I listened to the discussion and the remarks of Senators here who desire the passage of that bill, and I must say that I did not find in the arguments made by either of those Senators any suggestion of defects in any portion of the law as it now exists, or that it was not sufficient to do all that is required. I listened very patiently to the Senator from New Hampshire, and was very well entertained, too, but I must confess that no suggestion of his was made as to the weakness of the present law; but there seems to be a great desire to have some other law. That is about all I find in the arguments which have been made here in reference to this particular bill, called the sixty-surgeons bill.

The Senator from New Hampshire says a great many soldiers have written to him. I do not care about saying how many or how few have written to me. I do not care about this question being discussed here as to the views of soldiers on one side and the views of soldiers on the other side. That is not the importance of it. The importance of it is to get legislation, if you desire any, which shall accomplish certain objects. I do not think this bill will secure what is desired, and when the subject was under discussion I gave the reasons for my opinion. I think quite a number of those who have discussed the question have discussed it from the stand-point of economy, from an apprehension of some great imaginary wrong that is being perpetrated which they know nothing about. I do not apply that to the committee, however, but to the remarks of some other Senators.

So far as I am concerned, I am utterly opposed to any legislation of this character, for reasons which I have already given, because I do not believe that it will be beneficial to the pensioner, to the applicant for a pension, or to the Government. If there is a great desire to know what is necessary to be done, if anything is necessary to be done, to amend the law so as to make the ferreting out of frauds so complete that all frauds can be discovered, I am in favor of that; but I have not seen any proposition which satisfies my mind in that direction as yet, and I will say further to the Senator from New Hampshire that my judgment is that you can pass no bill of that character at this session; and to try it is only taking up time unnecessarily. There is not such a great necessity for any such law, and in fact no necessity in my judgment.

If Senators will tell us when they are discussing this proposition what the defects in the present law are, then we can know something about a remedy; but they do not tell us. They seem to confine themselves to admiring the beauty of the structure which they themselves have builded in reference to the granting of pensions, and not to expose the deformity of the structure which has now been builded by others. I should like to know something in that direction if we are to legislate.

Mr. CAMERON, of Wisconsin. This resolution appears to assume that there are defects in the present law; and the object, if there be any object, in adopting the resolution is to ascertain what those defects are and to recommend a better system.

Mr. LOGAN. Very well. I have not mentioned this resolution. I was speaking about the design on the part of Senators who seek to pass the bill referred to, which has been once voted down in the Senate. I will come to the resolution in a moment.

Mr. BLAIR. I wish, if the Senator from Illinois will permit me, as he seems to assume, in directing his remarks to me, that I am an advocate of the sixty-surgeons bill, to say that I was not a member of the Committee on Pensions when it was considered and reported by that committee; and the first time I said anything in regard to it I said I was opposed to the bill unless it was substantially modified. I say so still. My views in regard to the operation of the bill reported to the Senate are, in many regards at least, very much the same as those of the Senator from Illinois. I think it would be an impracticable measure; I do not believe it would result in the removal of scarce any of the evils that are complained of; but when so many of the members of the Senate are struck favorably with some of the features of that bill, and a protracted debate has developed almost all the evils, if not all, connected with the proposed system, and the objections which exist in the minds of Senators like the Senator from Illinois and myself to the bill, I do think that we might very readily formulate in a new bill whatever of good features there are in the old one, and also such provisions as will remedy the evils as they exist in the minds of other Senators.

As I have repeatedly said, not caring to go into its provisions at length, I have endeavored to prepare such a bill, and I think it covers whatever objections there are in the minds of the Senator from Illinois and others to Senate bill No. 496; and it seems to me that we could very readily, after a few hours discussion, pass a measure here which I think would go through the House of Representatives.

Mr. LOGAN. Mr. President——

The VICE-PRESIDENT. The Chair desires to remind Senators that the morning hour has expired. Does the Senator from Illinois desire to continue his remarks?

Mr. LOGAN. I do not wish to impose on the Senate at all. I can go on at some other time. I desire, however, if this matter is to be discussed, to say much more than I have said.

The VICE-PRESIDENT. The resolution goes over with the morning hour. The Chair presumes there will be no objection to the Senator from Illinois being heard.

Mr. LOGAN. I merely desire to say in reference to the objections

I was speaking about to the law as it now exists, that the real deformities, if there are any, or the weaknesses of the law, have not been pointed out. Now, I will give my own view about what remedy would be the better one at the present time.

Mr. BURNSIDE. Will the Senator allow me to state what I think would be a good remedy?

Mr. LOGAN. Of course I will allow the Senator.

Mr. BURNSIDE. I think a good remedy would be to bring the pensioner in closer communication with the employés of the Pension Department, and I will state, to be within the mark, that dozens of claimants for pensions come to see me every time I am at home for any period of time, and come from distances of thirty or forty miles, to know what they shall do and how they shall best furnish means to hasten action on their applications. I am not particularly wedded to the sixty-surgeons bill; but any law that will bring the pensioners and pension applicants themselves in closer communication with the employés of the Department will do good. I would go for that at any expense.

Mr. LOGAN. I do not know how you can make a law to bring them in closer communication with the employés of the Department than they are.

Mr. BURNSIDE. By having pension agents in each congressional district, whose duty it should be to hasten action on these claims.

Mr. LOGAN. We have had pension agents in every congressional district, but they are not called "pension agents." We have them now, so far as that is concerned, and it does not seem to remedy the difficulty; but I will make one statement and then I will desist for the present. In regard to the Surgeon-General's Office there might be a character of legislation perhaps that would facilitate pension claims; there might be in regard to other offices legislation which might facilitate pension claims. It is impossible to facilitate pension claims when the persons who are put to the work of facilitating them desire to delay them. That is one proposition.

Unless the departments are so arranged in the Adjutant-General's Office, in the Surgeon-General's Office, and in the Pension Office that you can readily ascertain a fact that you want from the record, you cannot facilitate the business by any legislation. For instance, in the Surgeon-General's Office—I will merely suppose a case, I do not know it to exist—suppose they have to examine but one book or one set of books, and when the Pension Commissioner sends there for a report in reference to a man, whether he was wounded at a certain time, or whether he was sick at a certain time, or whether he was in a hospital at a certain time, that inquiry must wait till the examination of the hundreds that are already pending before the clerks can get at this one. How are you going to facilitate that by sending out a surgeon into the country? Does that affect the Surgeon-General's Office? Certainly not. How can you facilitate? I do not know; I am not a surgeon-general; I am not a surgeon; I do not know anything about it; but it seems to me as a business matter it could be done. I think, instead of having one book of a hospital to examine, if there were twenty books of the same kind the examination could be made very easily and at very little additional expense, for then you could use twenty persons instead of one. There is one way you could facilitate it, and a way that would facilitate it very greatly, too.

I do not wish to go into any criticism, but just to say that as the records are kept and used and examined as they are here in Washington City, your legislation will amount to nothing. Here is the place to strike, and not at the pensioners or applicants over the country.

Mr. BLAIR. I provide for that in my bill.

Mr. LOGAN. Very well, have it in the bill. That does not require a new pension law; it only requires one of the Departments of the Government to furnish the Pension Office with certain evidence. That does not change the pension law, nor does it affect it except that it may affect the facilitating of the examinations; it has nothing to do with the Pension Office except in the relation that exists between it and other Departments in obtaining evidence.

Let us go a little further. Take the War Department. If you want to facilitate the examination of these claims, give them a force and require by resolution or law that their reports shall be made immediately to the Commissioner of Pensions. Then you will facilitate the settlement of claims, but you cannot do it in this way, in my judgment at least. I do not claim to know anything more about pensions or about the pension law than anybody else here; but I will say that I have read the pension law very carefully. I may not understand it as well as some other gentlemen, but I think a better understanding of the pension law as it exists to-day by Senators would be more satisfactory if they would examine it themselves and see what the powers are that are therein contained.

Now, sir, I have no objection to this special committee being appointed. If there is anything that can be done for the purpose of facilitating the business of the offices connected with pensions, let us have it; but as for taking up bills which have been introduced here without examination, merely upon the say-so of a man who seems very desirous of having changes of some character remodeling everything so that the new machinery cannot be put in motion unless he is the engineer, I am utterly opposed to that, so far as I am concerned.

If this committee is necessary let it be appointed, not from the Committee on Pensions alone, but let a committee of three be appointed from the diverse views of this subject so that all phases of the case may be examined, and then you will probably come at a proper result.

I did not get up here to oppose the resolution; I only got up to answer some of the suggestions made by the Senator from New Hampshire in reference to taking up a new bill and trying to pass it at this session. It is entirely unnecessary to undertake that, in my judgment; you cannot do it, and it would not be wise to do it.

Several SENATORS. "Regular order!"

The VICE-PRESIDENT. The regular order is demanded.

## THE FUNDING BILL.

Mr. ALLISON. I ask leave to offer an amendment to the funding bill, which I ask may be printed.

The VICE-PRESIDENT. The amendment will be received and ordered to be printed.

Mr. WHYTE. I should like to have that amendment reported, so that we may understand it.

The VICE-PRESIDENT. The amendment will be read.

The CHIEF CLERK. At the end of section 4 it is proposed to insert:

SEC. —. That before awarding any portion of the loan in bonds authorized by this act, the Secretary of the Treasury is directed to issue proposals for the same in the United States, and shall give not less than thirty days' public notice in two or more of the public newspapers in the city of Washington, and in such other places of the United States as he may deem advisable, designating the amount of such loan, the place and the time up to which sealed proposals will be received for the same, the periods for the payment, and the amount of each installment in which it is to be paid, if paid in installments, and the penalty for the non-payment of any such installments, and when and where such proposals shall be opened in the presence of such persons as may choose to attend; and the Secretary of the Treasury is authorized to accept, if in his judgment the same shall be advantageous to the Government, the most favorable proposals offered by responsible bidders: *Provided*, That no offer shall be accepted at less than par: *And provided further*, That if the whole amount of the loan in bonds herein authorized shall not be subscribed for in the manner provided in this section, then the Secretary of the Treasury is authorized to dispose of said bonds, in his discretion, at not less than par, as prescribed by the first section of this act.

SEC. —. That the Secretary of the Treasury shall report to Congress, immediately after the commencement of the next session, the amount he has borrowed under the provisions of this act, of whom, and on what terms, with an abstract of all the proposals, designating those that have been accepted and those that have been rejected, and the amount of bonds or Treasury notes that have been issued for the same.

## ADDITIONAL DISTRICT POLICE.

Mr. HARRIS. I ask the Senate to consider at this time Senate bill No. 2184, which I introduced yesterday morning, providing for the appointment of additional policemen for temporary service during the inaugural period. It will not take five minutes, in my opinion, to dispose of the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 2184) to authorize the commissioners of the District of Columbia to appoint additional policemen for temporary service in the District, and for other purposes.

Mr. HARRIS. The commissioners of the District have recommended to me this morning that the word "fifteen," in line 7, be stricken out, and "twenty" inserted; so as to make the term of service of these special policemen twenty days instead of fifteen days. I move that amendment.

Mr. DAVIS, of West Virginia. I hardly think that ought to be done. I do not see why twenty days' service is necessary.

Mr. HARRIS. The reason assigned by the commissioners, and it seems plausible and true, is that for some days before the inauguration and for several days after the inauguration there will be a very large and unusual concourse of people assembled in this city. The commissioners will dismiss this special force just so soon as they safely can. They have no motive to retain it one moment longer than is necessary. I only propose to give them authority to keep it twenty days if necessary.

Mr. DAVIS, of West Virginia. I think a week previous to and a week after the inauguration will be long enough. That is covered by the fifteen days named in the bill. I hope the Senator will not insist on the amendment. I have hardly ever known an appropriation with broad discretion where every dollar of it was not spent. I suppose the additional force is necessary, and I make no objection to that; but I do object to continuing the time of service. I hope the Senator will confine it to fifteen days; that is two weeks, a week before and a week after the inauguration.

Mr. HARRIS. I offer the amendment because it is recommended by the commissioners of the District, who are the police authority. I am perfectly content to take the judgment of the Senate upon it, and will consume no time in debating it.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Tennessee to strike out "fifteen" and insert "twenty."

The amendment was agreed to; there being, on a division—ayes 32, noes 12.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

## PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 15th instant approved and signed the following acts:

An act (S. No. 1457) to restore the lands included in the Fort Read-

ing and Fort Crook military reservations in the State of California to the public domain, and for other purposes;

An act (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland;

An act (S. No. 201) for the relief of Somerville Nicholson;

An act (S. No. 1193) granting a pension to Milton L. Sparr; and

An act (S. No. 752) granting an increase of pension to Crafts J. Wright.

EVENING SESSIONS FOR THE CALENDAR.

Mr. McDONALD. Mr. President——

Mr. TELLER. I want to call up the resolution for evening sessions if it is to be adopted. I do not desire to interfere with the Senator from Indiana who desires to submit some remarks. I think we can take a vote upon the resolution at once. It was amended yesterday.

The VICE-PRESIDENT. The Senator from Colorado asks that the Senate further consider the resolution which was considered yesterday. It will be read.

The Chief Clerk read as follows:

*Resolved*, That on and after Thursday, the 17th instant, the Senate will take a recess and meet again at half past seven p. m. of the same day, to consider the cases on the Calendar, unless upon motion the Senate shall otherwise order; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question; and the objection may be interposed at any stage of the proceedings.

The Senate resumed the consideration of the resolution.

Mr. WHYTE. The effect of that resolution is to require unanimous consent to take up any bill, and to get rid of that, if it is possible, I move to strike out the words:

And bills that are not objected to shall be taken up in their order.

And insert in lieu thereof:

The States shall be called in alphabetical order, and as each is called the Senators in the order named by the presiding officer may move the consideration of a bill, and all bills so called for, unless objected to by at least five Senators, shall be considered.

Mr. BURNSIDE. I move to amend by inserting after the words "17th instant" the words "unless otherwise ordered."

The VICE-PRESIDENT. The Senator from Rhode Island proposes a further amendment.

Mr. BURNSIDE. After the words "17th instant," I move to insert "unless otherwise ordered."

The VICE-PRESIDENT. This is not an amendment to the amendment of the Senator from Maryland. The question is first on the amendment proposed by the Senator from Maryland, [Mr. WHYTE.]

Mr. WHYTE. I only desire to say in regard to my amendment that it is the rule which has been adopted in the House of Representatives and under which they have been working for the last two or three days. It gives every State a chance, and does not require unanimous consent, but requires five objections to rule out the consideration of a bill.

Mr. HOAR. I understand that the effect of this resolution and that amendment is to introduce the previous question in the Senate and to permit a measure, against the remonstrance of four members of this body at least, to be passed with only five minutes' debate and only one Senator to speak on a side.

I do not wish to go into this question at length at this moment with the Senator from Indiana waiting; but I beg to say that I shall desire to address the Senate at great length upon this question before such an amendment as that is adopted. The Senate has carefully preserved in the Anthony rule and in all these orders for dispatching business the principle which the Senate has observed since its original inauguration, that it is not in the power of this body, against the will of a single member of it, to suppress debate on any matter of legislation, a principle deemed so important that when Mr. Clay proposed to introduce the previous question here in the first session or the second session of Mr. Tyler's administration the democratic minority threatened to resist by force and unto blood. I do not propose to enter upon that discussion; but if I understand the operation of the amendment, not the original resolution of my friend from Colorado, that is the effect of it.

The VICE-PRESIDENT. Is the Senate ready for the question?

Mr. HOAR. I ask that the matter may go over until to-morrow. Is the matter before the Senate by unanimous consent?

The VICE-PRESIDENT. The resolution has been taken from the Calendar, having been considered yesterday.

Mr. HOAR. I will not submit to have the amendment adopted without debate.

The VICE-PRESIDENT. The amendment will be read.

Mr. HOAR. I trust my friend from Maryland will withdraw it.

Mr. EDMUNDS. Let the amendment be read.

The VICE-PRESIDENT. The amendment will be read.

The Chief Clerk read Mr. WHYTE's amendment.

Mr. EDMUNDS. Mr. President——

Mr. HOAR. Now, I desire to call the attention of the Senator from Vermont, as he is about to address the Senate, to the effect of that.

Mr. EDMUNDS. I see it, and that is exactly what I want to say. I should be glad to dispatch the business of the Senate, but I would rather that not a single bill shall pass between now and the 4th day of March than to introduce into this body (which is the only one where there is free debate and the only one which can under its rules discuss freely measures of importance or otherwise) a provision which does in effect operate to carry a bill either to defeat or success with only a five or fifteen minutes' debate and one or two Senators on a side speaking. I think it is of greater importance to the public interest, in the long run and in the short run, that every bill on your Calendar should fail than that any Senator should be cut off from the right of expressing his opinion and the grounds of it upon every measure that is to be voted upon here. Under all the previous rules to get on rapidly and with short debate, there was the right of every Senator, if he did not have a chance that satisfied him, to let the measure go over and be taken up in the regular way. This cuts that off and requires five Senators to prevent the operation of the gag rule against debate in this body. As much as is said about debate in this body being a nuisance,—and I admit that much of it is useless, and I contribute my full share to that and more,—there is no security for public or private interests except that in one branch or the other (I wish it were in both) of these bodies there shall be absolutely free debate at the pleasure of every Senator.

Mr. WHYTE. Mr. President, I should understand the argument of the learned Senator from Vermont if he was making this address on the 12th of February; but inasmuch as the Senator has deliberately by resolution adopted on the 12th of February limited debate upon all bills under the Anthony rule to fifteen minutes, I really think that this does not make any limitation at all; it does not certainly put any stop to debate.

Mr. EDMUNDS. Mr. President, my friend will pardon me. The answer to that is that under the Anthony rule, at any stage in the proceeding a single Senator can raise the objection that that bill must go over, and over it goes. The Senator having it in charge, if he is dissatisfied with having it go over on a single objection, can move to set aside the Anthony rule and take up that bill. If the Senate agrees with him and takes it up, then it is under the general rules of the Senate where a Senator has a right to free his mind to the fullest extent.

Mr. WHYTE. So it would be under this rule.

Mr. EDMUNDS. I do not so understand it, because you limit it that a bill shall be considered and disposed of unless five Senators agree in asking that it go over.

Mr. WHYTE. But it is in the power of a majority to control it because it is "unless otherwise ordered."

Mr. EDMUNDS. That is exactly what I am complaining of, that it shall not be in the power of a majority of the Senate to say to the minority "you shall not adopt this measure under the general rules," and that it shall not be in the power of any four Senators failing to agree with the one to stop debate and have a measure passed or rejected without a full debate and investigation.

Mr. WHYTE. Then it is better to let one Senator have the power of putting an end to the consideration of a bill than to require five Senators to do it!

Mr. EDMUNDS. No, Mr. President, no one Senator has the power to put an end to the consideration of a bill. He has the power to put an end to the gag rule stopping debate; but then it is in the power of a majority of the Senate to take it up instantly and dispose of it under the general rule which allows free debate.

Mr. WHYTE. So it is when five object.

Mr. EDMUNDS. I do not so understand it.

Mr. WHYTE. Oh, yes, it is. If five object a majority can overrule them.

Mr. EDMUNDS. Yes; but if less than five object, if four object, they can be gagged and stopped, and the measure either goes to its death or its success without any debate at all. There is where the bite comes in.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Maryland, [Mr. WHYTE.]

The amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment proposed by the Senator from Rhode Island, [Mr. BURNSIDE,] after "Thursday, the 17th instant," to insert the words "unless otherwise ordered."

Mr. TELLER. If that amendment is agreed to, we might as well let the resolution go, because every night we shall have to take a recess specially or we shall have to adjourn at once. Somebody will rise and move to adjourn, and that motion will prevail. When the Senate meets in the evening it can take up anything beside the Calendar if it sees fit. My purpose is to give the evening to the Calendar, that is all. I do not think the amendment ought to be adopted.

Mr. BURNSIDE. The amendment does not impede the work in the least degree; it simply gives the Senate control of its own action, so that if on any day it desires to pass over a night session it can do so. It does not compel us to come here every night, but gives us the chance to say whether we ought to adjourn over a night or not. It puts it in the power of the Senate to say any day "we will not meet to-night." I hope the Senate will keep control of its action from day to day. That is my object in offering the amendment.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Rhode Island.

The amendment was agreed to; there being, on a division—ayes 26, noes 16.

The VICE-PRESIDENT. As amended will the Senate agree to the resolution?

Mr. EDMUNDS. Let it be read as amended, that we may see exactly what we are doing.

The VICE-PRESIDENT. It will be read.

The Chief Clerk read as follows:

*Resolved*, That on and after Thursday, the 17th instant, unless otherwise ordered, the Senate will take a recess and meet again at half past seven p. m. of the same day, to consider the cases on the Calendar, unless upon motion the Senate shall otherwise order; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only upon any question; and the objection may be interposed at any stage of the proceedings.

Mr. TELLER. I shall not be responsible, I suppose, for the language of that resolution. As it is now it is rather awkward.

Mr. McDONALD. I do not see the necessity of repeating the "not otherwise ordered."

Mr. EDMUNDS. That is necessary to make it technically safe on every point.

Mr. TELLER. Let it go.

The VICE-PRESIDENT. The question is on the resolution as amended.

The resolution as amended was agreed to—ayes 40, noes not counted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. THEODORE F. KING, one of its clerks, announced that the House had passed the bill (S. No. 1928) to provide for remitting the duties on the object of art awarded by the Berlin International Fishery Commission to Professor Spencer F. Baird.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1650) for the relief of Edward T. Brownell; and

A bill (H. R. No. 6479) for the relief of Thomas Snell.

The message further announced that the House had passed a resolution to print 15,000 copies each of the second and third annual reports of the Director of the Bureau of Ethnology of the Smithsonian Institution.

EQUALITY OF TAXATION.

Mr. McDONALD. I ask the Senate to take up the resolution submitted by me yesterday for the purpose of submitting some remarks on it at this time. I ask that the resolution may be read.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The resolution will be read.

The Chief Clerk read the following resolution, submitted by Mr. McDONALD on the 15th instant:

*Resolved*, That the people ought to contribute to the support of the Government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue they enjoy under its protection. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation.

Mr. McDONALD. Mr. President, we are in the fifth year of the second century of our national independence. The tenth census has just been completed, from which it appears we have a population in States and Territories of 50,152,866. Our exports of merchandise for the current year closing on the 31st of December last amounted to $889,649,840 and our imports to $696,803,433, making the balance of trade in our favor $192,846,407. The excess of specie imports over exports for the same period was $67,375,960. Our total population by the census of 1790 was less than four million, and our exports for the month of December last far exceeded our yearly exports at the time the first census was taken.

This wonderful increase in population and advancement in material prosperity seems almost fabulous, and yet no one can say but that the next hundred years will exhibit results equally marvelous.

During the civil war, and for some years after its close, a redundant and depreciated currency had caused such an advance in price of our productions at home as to almost close the foreign markets against them, so that from 1860 to 1875 the balance of trade was constantly against us, aggregating in that period the enormous sum of $1,195,800,083; but from 1876 to the present time it has been steadily and largely in our favor.

The effect of this change has manifested itself, not only in the revival of business, but in replacing our national finances once more upon a sound metallic basis; and the present indications are that we are entering upon a period of unexampled prosperity.

In the last twenty years we have passed successfully through the ordeal of a civil war, the most gigantic that any nation ever experienced, which was followed by the worst financial panic known to our history; and yet it would be difficult for a stranger to trace in our present condition the marks of the one or the effects of the other.

In the future we may be visited by financial panics; overtrading and speculation may bring bankruptcy upon us, but it is not probable that we will again be afflicted with civil war. It may require time to heal the wounds caused by the last war, but the theories which made such a war possible, and the causes that ultimately led to it, alike passed away with its close, and it is not probable that any considerable party in any State will assert again the doctrine of secession as a constitutional right, and in no section of our country will this doctrine find less support than in the States lately in rebellion, for in the maintenance of the Union under the Constitution will the people of those States find the best guarantees for domestic tranquillity, and in the aid which they will derive from the supporting arm of the Federal Government their most efficient material advancement. I would sooner far expect to see New England revive the doctrine of the Hartford convention than that the South should again assert the right of secession. It was not a native of the South, and nothing but the peculiar circumstances surrounding that people at the time could have given it growth or strength in that section. It was a fallacy that presupposed that the framers of our Federal Constitution while providing for a government had also provided for its dissolution.

In the future we may expect that new questions will arise and that old issues will be revived. The rapid growth of our country and its vast business, embracing its internal as well as its external commerce, must necessarily impose upon the Federal Government important responsibilities that may call for the exercise of latent powers. The aggregation of wealth in the great corporations of the country at present organized and existing under the laws of the several States will undoubtedly call for the exercise of such powers as may be vested in the Federal Government in connection with the regulation of commerce among States, to aid the States in exercising authority and power over such corporations to keep them within proper bounds, and to prevent them from oppressing the people by unjust exactions.

The right of secession may never again be asserted, but the right of the States will still remain, and should be clearly ascertained and guarded. The preservation of the powers of the Federal Government in all their vigor has been fully assured by the results of the civil war, and those powers are not likely to be diminished. It is now of the first importance that the rights reserved to the States and to the people should remain unimpaired. The leading purposes of the Federal Government are to maintain our relations with foreign nations, and to extend our trade and commerce, and to secure domestic tranquillity. The powers granted to secure these ends ought not to be exercised so as to encroach upon the rights of the States over the subject of home rule, so necessary to their peace and prosperity. In the future the preservation of these rights must in a great degree depend upon the representatives of the people who may be connected with the national administration.

But, Mr. President, it is not my purpose on this occasion to engage in any extended discussion of these grave and important questions, even if I felt myself possessed of the ability to do so. I know of but one safe rule by which they are to be determined, and that is to abstain from the exercise of all doubtful powers and adhere to a strict construction of the Constitution. Even then questions will arise in the application of this rule that it will be very difficult to solve.

I desire more particularly to present some views in reference to the proper execution of conceded powers, rather than discuss the questions arising on the boundaries of Federal and State authorities. The power "to lay and collect taxes, imposts, and excises" is one among the express grants of power to the United States, and without it the Government created by the Constitution could not exist. But duties, imposts, and excises are to be uniform throughout the United States. In order to guard this power against abuse the Constitution vests in the popular branch of the legislative department of the Government the sole power of originating "bills for raising revenue," in the belief that the immediate representatives of the people would not exact more than would be required by a strict and economical administration of the Government. To guard still further against excessive taxation it is provided that no capitation or other direct tax should be levied, except in proportion to the census or enumeration provided for in the Constitution, and that no tax or duty should be "laid on any article exported from any State."

It has not often been found necessary to resort to the power of direct taxation, but the revenues of the Government have usually been raised by indirect taxes, chief of which are tariff duties collected on foreign imports. The power to impose such duties has always been regarded as an important branch of the taxing power, and the revenue derived from that source has ordinarily been sufficient to meet the expenses of the Federal Government.

A tariff is a tax upon the people who consume the imports upon which it is imposed, and when fairly and justly levied it has always been a favored mode of raising revenue. There is no actual compulsory payment, and the sums paid go into the current expenses of the parties paying them, and the burden does not appear so great as when the payment is direct and at some stated period.

The power to tax is the power to take from the citizens a portion of their income or property, to be applied to the expenses of the Government, and the amount that each citizen should contribute to the support of the Government should be as nearly as possible in proportion to his abilities and the degree of protection afforded him by the State. These fundamental principles or maxims were clearly laid down by Adam Smith more than one hundred years ago, and have never been disputed, although they are often disregarded in actual legislation. They are flagrantly violated in every tariff law that has as a controlling element in it the doctrine of protection. No party in this country has ever contended that a tariff should be levied purely for protection. On the other hand, no party has claimed that we were in a condition to adopt the policy of unconditional free trade, but that the Federal revenue or the major part of it ought to be collected from customs duties. Those who favor, however, the doctrine of protection seek to establish it as an incidental or secondary right.

Free trade between nations, as between individuals, is undeniably

the foundation upon which commerce should rest, and the Government that can most nearly approach this policy, consistent with a proper administration of its own affairs, will in the end bestow the greatest benefit upon its people.

The practical wisdom of free trade is illustrated in our interstate commerce, and was well understood by the men who framed our Federal Constitution. "No tax or duty shall be levied on articles exported from any State," is the language of that instrument, while free and unrestricted commerce among the several States is secured by language equally strong and emphatic, so that no State of its own volition can place any restrictions whatever upon it.

In the rapid development of our country and in its varied resources it is easy to see that but for these wise provisions of the Federal Constitution the unwise and selfish policy of protection might have encumbered us at every step. There is no part of our country that has not some advantage over other parts in the matter of production. In manufactures the East has heretofore led all other sections, by reason of its capital and its facilities to market its productions, while the West and South, by reason of the fertility of the soil, has possessed great advantages over the Eastern and Middle States as to agriculture. The mining centers are constantly changing. Pennsylvania and New Jersey, which for a time held the monopoly of the manufacture of iron, have been hard pressed by Ohio, and will soon have to yield to Tennessee, Alabama, and Missouri. It is now a demonstrated fact that Chattanooga and Birmingham can manufacture pig-iron $5 per ton cheaper than Youngstown or Johnstown, while the Eastern and Middle States have long since ceased to compete with the great West in breadstuffs and provisions. And yet how much more prosperous all are than if a narrow policy had prevailed of attempting to protect one locality against another.

A tariff for revenue necessarily affords incidental protection, but when it is levied with a view to protect and not to secure revenue, then it becomes a bounty to the extent of the protection afforded paid by the consumer to the person producing the article protected; and as there are always more consumers than producers of any given article, it is a burden imposed upon the many for the benefit of the few. The moneys thus paid are not taxes that go into the Treasury for the support of the Government, but into the pockets of the producer or manufacturer, and thus add to their profits. Take our last fiscal year as an illustration. The revenue collected upon $419,506,090 of foreign merchandise amounted to $182,747,653, being an average duty, computed at ad valorem rates, of 43½ per cent.; that is, our people purchased for consumption foreign merchandise enhanced in price by the addition of the duty levied upon it to the amount above stated. So far they were simply paying the tax into the Treasury; but this forms but a fraction of the whole amount of the goods consumed in this country. A much larger quantity of domestic manufactured articles made up the balance, and upon these the consumers paid the enhanced price, caused by the protection afforded by the tariff, so that for every dollar paid by the consumer into the Treasury he was required to pay at least three, and by some estimates five, to the manufacturer or producer of the domestic articles consumed.

It may be true that in some exceptional cases, and for a limited period, it would be beneficial to give protection; but the evils of a general policy of protection have been so strikingly exemplified in our past history that, if there was no question of the power of Congress to pass protective legislation, as a policy it ought to be abandoned. Class legislation of this kind always increases its demands, and, under one specious pretext or another, is apt to secure the continuance of the system and the increase of the burden upon the consumer.

Our present tariff laws are full of exemplifications of this fact when compared with past legislation on that subject and the statistics which our foreign trade furnishes us. Take, for example, the imports and exports of cotton goods. The average tariff rate ad valorem on cotton goods is above 39 per cent., and the duty derived from imports for the last fiscal year on this class of goods amounted to less than $10,000,000; while our exports of the same class of goods equaled the revenue derived from the imports, so that the cotton manufacturers of this country not only supplied the greater part of the home demand at enhanced prices, but shipped to foreign markets their surplus productions, to be sold at reduced prices in competition with the foreign manufacturer. And this is true of nearly all classes of manufactured articles, as will be seen by examining a list of our exports. So that while our own people are paying the enhanced prices both upon foreign and domestic goods, caused by the protective tariff now in force, other countries are receiving the benefit of our surplus at reduced rates.

The tariff act of the first session of the First Congress, passed with a whereas declaring it to be "necessary for the support of the Government, for the discharge of the debt of the United States, and the encouragement and protection of manufacturers, that duties be levied on goods, wares, and merchandise imported," did not exceed 15 per cent. ad valorem; and now at the end of a century we find ourselves burdened with a tariff of nearly three times that rate. This great increase of the rate of tariff duties has been accompanied by some unjust discrimination against western interests. This is notably the case in regard to salt.

This article of prime necessity ought not to bear any unnecessary burdens, and yet all imported salt pays a duty equal to about 50 per cent. ad valorem, which amounts to prohibition, except as to so much as our people are compelled to use in curing provisions for shipment to foreign countries. The revenue derived from its importation for the last fiscal year was $845,293.

The first tariff provided for a drawback equal to the duty paid on all salt used in curing fish and provisions, which of course included salt used in curing meats and in packing pork and beef for market.

This policy of favoring fish and provisions was continued for many years, but in 1866 the drawback extended only to salt used in curing fish; and this discrimination has been carried forward into the Revised Statutes, as will be seen by section 3022, and is now in force. So that from the beginning salt has been virtually duty free to those who have been engaged in the fisheries, while at least for the last sixteen years it has been heavily taxed to those who are compelled to use it in packing beef and pork for foreign markets. As the tariff thus paid enters into the cost of provisions upon which the salt is used, this class of our exports is made to pay a duty to that extent, in violation of the Constitution, which provides that no tax or duty shall be laid upon any article exported from any State. Again, woolen fabrics, without any special discrimination as to fineness or quality, pay a duty, rated ad valorem, of 59 per cent., while ready-made clothing of the same material pay a duty of 50 per cent.; so that a suit of clothes such as laboring-men are compelled to purchase under the operations of the tariff costs from $12 to $18, which would otherwise cost from $8 to $12, causing a great inequality of taxation by making its principal burdens fall upon that class least able to bear them. But it may be in general stated that a tariff the purpose of which is protection fosters one branch of industry to the detriment of others, and must in the nature of things operate unequally by creating a favorite class where none should exist. All this is avoided by treating the powers of Congress over the subject as the Constitution evidently designed they should be, as conferred for the purpose of revenue. In the formal work of legislation this has always been done. No tariff bill has ever originated in this body. As between the two Houses of Congress, it has always been conceded that such a bill was a "bill for raising revenue." It has even sometimes been questioned how far such bills could be amended in the Senate, and it has on more than one occasion been contended that such amendments could go no further than to increase or diminish the rate of taxation prescribed by the House bill, and could not embrace for taxation new subjects not included in it.

The democratic party also has always taken this view of the powers of the Federal Government, and has opposed the so-called protection policy as unconstitutional as well as unwise, and especially in its platform of 1876 "demanded that all custom-house taxation should be only for revenue." The reassertion of this principle in the platform of 1880 it is true has been denounced in this Chamber as a "remarkable blunder," and it has been charged here and elsewhere that the assertion of it had caused the defeat of the democratic party in the last presidential election.

I deny most decidedly the truth of this charge, and if in the late political contest the republican party derived any advantage from the tariff issue, it was not by controverting the doctrine laid down on that subject by the democratic platform, but by falsely charging that the democratic party contemplated the repeal of all tariff laws and the establishment of unconditional free trade, well knowing at the time that our governmental necessities could not permit the adoption of such a policy. Our total ordinary expenses for the last fiscal year amounted to $267,642,957.78; for the present year the amount will be about the same. About ninety-six million dollars of this is for interest on our public debt, which may from this time forth decrease until it finally disappears by the full payment of that debt, which I hope will be accomplished at no distant period. Even then, without counting upon any great increase in our ordinary expenses, it will be necessary for us to raise over $200,000,000 annually, so that our governmental expenses require all the revenue that we can properly raise by customs duties, strictly confined to that purpose; there is no probability that the power to lay and collect duties and imposts will be discontinued so long as our Government continues to exist, or that the incidental protection will not be all that ought in justice to the great mass of our people be imposed. Even England in her greatest approach to free trade has deemed it wise and prudent to raise a large portion of her revenue from customs duties. But there was another element that mingled in this contest, and other forces that came to the support of the republican party to aid it in making political capital out of its false charge.

The men of New England and elsewhere who were enjoying the benefits of a protective tariff, fearing that their profits might be affected by its modification, administered to their employés what they called "persuasive advice," by threatening to close their factories and discontinue their business if the democratic party should prevail, and to aid this kind of peaceable coercion handbills and pamphlets were circulated predicting general bankruptcy and ruin if the assumed free-trade policy of the democratic party should prevail. These things so disreputable to the republican party and their aiders and abettors may have had some influence in controlling the votes of men who felt themselves in the power and at the mercy of their employers, and if the republican party can now boast of having succeeded by such means, it can furnish no argument against the soundness of the position taken by the democratic party. On the con-

trary, it reveals a danger to our free institutions that no right-minded man can contemplate without alarm, as it tends to destroy all freedom of the ballot; for the man who does not vote his own will but the will of another is no longer a free elector, and he who coerces him to cast his ballot under such circumstances is a tyrant.

No, Mr. President, the democratic party was not defeated because it advocated a constitutional tariff and opposed the doctrine of protection, and I trust on this subject it will "take no step backward." Let its motto be, "equal and exact justice to all men, exclusive privileges to none," and with an abiding faith in the honesty and intelligence of the people its final triumph is certain.

The PRESIDING OFFICER. Does the Senator from Indiana desire action on the resolution?

Mr. McDONALD. No, the resolution may lie on the table.

The PRESIDING OFFICER. The resolution will lie on the table, subject to the call of the Senator from Indiana.

SOLDIERS' REUNION IN MAINE.

Mr. HAMLIN. The Senate has on two or three occasions passed joint resolutions allowing equipments, tents, and flags for the use of soldiers' reunions. I have copied the one relating to Nebraska, which passed this body the other day, and I submit a joint resolution and ask the Senate to allow it to be considered at this time. It is an exact copy of the one in regard to Nebraska.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 162) to grant the use of artillery, tents, &c., to be used at the soldiers' reunion to be held in Maine in 1881; and it was read three times, and passed.

ORDER OF BUSINESS.

Mr. McPHERSON. I desire to call up for consideration the bill (S. No. 1050) for the relief of Thomas G. Corbin.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey?

Mr. COCKRELL. I call for the regular order.

The PRESIDING OFFICER. The regular order is demanded, and the Secretary will report the first bill on the Calendar of General Orders at the point last reached when the Calendar was under consideration by the Senate.

Mr. McPHERSON. I shall ask the Senate to take up this bill. I move to lay aside the Calendar of General Orders for the purpose of taking up Senate bill No. 1050.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey that the pending order be laid aside.

The question being put, there were on a division—ayes 18, noes 7; no quorum voting.

Mr. COCKRELL. I hope when there is a quorum the Calendar will not be laid aside. Half a dozen Senators have been protesting to have the Calendar taken up, and they are not here to vote to proceed with it. If we are to transact any business at all, we must stick to the Calendar.

Mr. EATON and others. Let the Senate be called.

The PRESIDING OFFICER. The Secretary will call the roll of the Senate.

The Secretary called the roll, and forty-six Senators answered to their names.

The PRESIDING OFFICER. A quorum is present, and the question is on the motion of the Senator from New Jersey to postpone the Calendar of General Orders for the purpose of considering the bill named by him.

Mr. COCKRELL. Before that motion is put I wish to say that the point reached when the Calendar was last under consideration is order of business No. 573. The Senator from New Jersey now proposes to skip all the cases and go to Calendar order of business No. 853, which is a bill for the relief of Thomas G. Corbin, reported from the Committee on Military Affairs. There are many cases on the Calendar which have been reported from that committee prior to that bill, which was reported January 12, 1881. It is gross injustice to all the cases preceding it that that bill should be given precedence. I hope the motion will be voted down.

Mr. McPHERSON. I desire to state in answer to the Senator from Missouri that it is true there are many bills on the Calendar which are House bills considered by the Committee on Military Affairs and reported favorably. This is a Senate bill, and in order that the House may have time to take action upon it (it will require a very short time to pass it; I suppose nobody will object to it) I ask that the bill may be considered so that it may be sent to the House in time for action there. I hope the Senate will take up the bill.

Mr. RANDOLPH. I dislike to oppose the motion of my colleague, but the Committee on Military Affairs has presented to this body over sixty reports, not one of which has yet been acted upon. Some of these reports were presented as long ago as last April. The Calendar has not been touched in twenty-seven days, and I ask now that when we can get to the Calendar at all, it shall be taken up regularly, giving every case its proper chance.

Mr. LOGAN. I desire to say to the Senator from New Jersey that I have been watching for several days to get up a little bill that is very important, reported from the Committee on Military Affairs. I have had the Calendar before me, thinking we should reach it very soon. We are within three or four cases of it now on the Calendar, and I certainly dislike very much to jump over two hundred cases in order to take up a bill that is not near so important in my judgment. I shall object to the proposition of the Senator from New Jersey for that reason. I want to go on regularly with the Calendar.

Mr. McPHERSON. I desire simply to say that for the past six days I have stood here in my place trying to get the eye of the presiding officer that I might move to take up this bill, but I have been superseded by other bills that other Senators desired to have considered. If it is the intent of the Senate not to consider this bill, I wish to give notice that I shall antagonize every bill which is not in its regular place on the Calendar and reached in its regular order.

Mr. COCKRELL. I trust that the motion will be voted down, in order that the Senator from New Jersey may be brought up to that standard of discharging his duty on this floor. It will be a great blessing if he will do it. I ask for the regular order.

Mr. BURNSIDE. What is the motion?

The PRESIDING OFFICER. The motion is to suspend the pending order, which is the consideration of the Calendar under the Anthony rule, which motion the Senator from New Jersey makes, as he states, for the purpose of calling up another bill on the Calendar.

Mr. BURNSIDE. May we know what the bill is?

Mr. COCKRELL. It is order of business No. 853, and we are now at order No. 573.

Mr. BURNSIDE. I should like to hear the bill reported.

The Chief Clerk read the bill for the relief of Thomas G. Corbin.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey, [Mr. McPHERSON.]

The motion was not agreed to.

DETAILS OF OFFICERS AS PROFESSORS.

The PRESIDING OFFICER. The Secretary will report the first business on the Calendar.

The joint resolution (S. R. No. 70) to increase the number of officers of the Army allowed to be detailed as professors of military science at colleges and universities was announced as being first in order on the Calendar; and its consideration was resumed as in Committee of the Whole.

The PRESIDING OFFICER. This joint resolution has been previously under consideration, and the pending question is on an amendment offered by the Senator from Vermont, [Mr. MORRILL,] which will be reported.

The CHIEF CLERK. The proposed amendment is to strike out the third section of the substitute reported from the Committee on Military Affairs in the following words:

All acts or parts of acts authorizing or permitting the detail of officers of the Army on the active list to act as president, superintendent, or professor of any college or university or other institutions of learning, and all acts inconsistent with any of the provisions of this act, are hereby repealed.

Mr. COCKRELL. I do not know whether we ought to consider this case in the absence of the Senator from Pennsylvania [Mr. CAMERON] who is very much interested in it. If any other Senator desires to take charge of it, it may be well enough to consider it, but if not it had better be passed over informally.

The PRESIDING OFFICER. Does the Senator from Missouri object to the present consideration of the joint resolution?

Mr. LOGAN. Let us go on with it.

Mr. COCKRELL. All right.

Mr. LOGAN. The section which it is proposed to strike out, as I understand, repeals the law that allows officers on the active list to serve as professors in the colleges, and I hope the amendment will be adopted.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the amendment reported from the committee, which has been amended on the motion of the Senator from Vermont, [Mr. MORRILL.]

Mr. LOGAN. Let the amendment as amended be read.

The CHIEF CLERK. The amendment of the Committee on Military Affairs is to strike out all after the resolving clause and to insert—

That for the purpose of promoting knowledge of military science among the young men of the United States the President may, upon the applicaton of any college, university, or other institution of learning incorporated under the laws of any State within the United States, having capacity to educate at the same time not less than one hundred and fifty male students, detail an officer of the Army on the retired list to act as president, superintendent, or professor thereof: *Provided, however*, Such college, university, or other institution of learning incorporated as aforesaid, to which such officer shall be so detailed, shall pay to him monthly during the time he is so detailed and serves as such president, superintendent, or professor thereof, a sum of money equal to the difference between the retired monthly pay of such officer and the monthly pay he would receive if upon the active list of the Army in the grade upon which he is retired: *Provided, also*, That officers of the Army so detailed shall be governed by general rules prescribed from time to time by the President of the United States.

SEC. 2. The Secretary of War is authorized to issue, at his discretion, and under proper regulations to be prescribed by him, out of any small-arms or pieces of field-artillery belonging to the Government, and which can be spared for that purpose, such number of the same as may appear to be required for military instruction and practice by the students of any college, university, or other institution of learning aforesaid, to which any officer of the Army may be detailed under this act, for which the officer so detailed shall receipt and account in the manner prescribed by Army regulations when like property is issued for proper purposes. And the Secretary of War shall also require from the proper authorities of such institution in each case a bond in double the value of the property for the care and safe-keeping thereof, and for the return of the same when required.

Mr. McMILLAN. I move to amend the amendment in line 9 of section 2 by striking out the words "under this act" after "detailed;" so as to read "to which any officer of the Army may be detailed."

Mr. MORRILL. That is right.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A joint resolution to provide for the detail of retired officers of the Army to colleges, universities, and other incorporated institutions of learning."

JABEZ BURCHARD.

The next bill on the Calendar was the bill (S. No. 543) for the relief of Jabez Burchard.

Mr. McPHERSON. I suggest that the bill be passed over without prejudice until the Senator from Pennsylvania [Mr. CAMERON] shall be present. He has especial charge of it, and I should like to have it the understanding that he may call it up at any time.

The PRESIDING OFFICER. The bill will be passed over, retaining its place on the Calendar, if there is no objection.

ANGUS M'AULEY.

The next bill on the Calendar was the bill (S. No. 1432) granting a pension to Angus McAuley, the consideration of which was resumed as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments: In line 4, before the words "the pension-roll," to strike out "place on" and insert "restore to;" in line 7, before "war," to insert "Creek Indian," and after the word "war" to strike out "of 1812, and pay him his pension from the time when he was dropped from the rolls," and insert "and pay him a pension from and after the passage of this act;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to the pension-roll, subject to the provisions and limitations of the pension laws, the name of Angus McAuley, of Suwannee County, Florida, a soldier of the Creek Indian war, and pay him a pension from and after the passage of this act.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SOLDIERS' HOMESTEAD LOCATIONS.

The next bill on the Calendar was the bill (S. No. 858) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands; which was considered as in Committee of the Whole.

Mr. COCKRELL. I should like for the Senator from Kansas [Mr. PLUMB] to let me know about how much this will involve, and how it comes that these are innocent parties to fraudulent claims?

Mr. PLUMB. I will state for the information of the Senator from Missouri and of the Senate that a great many cases have arisen where parties have been permitted to make entries within railroad limits, and the decision of the Department has subsequently been that the entries were void on account of conflict with the railroad grant. There are perhaps a thousand cases of that kind in the State of Kansas.

Mr. COCKRELL. Is that held to be a fraudulent and a void entry?

Mr. PLUMB. No; that is not a fraudulent entry.

Mr. COCKRELL. The relief seems to be confined to those entries which are fraudulent and void.

Mr. PLUMB. They were void, but not necessarily fraudulent.

Mr. COCKRELL. The point I want to know is, how innocent parties are connected with the fraudulent claims.

Mr. PLUMB. I have not a copy of the bill before me; but if the Senator will send me his copy of it, I can explain to him the two classes of cases which are covered by the measure. The bill which the Senator has called on me to explain was introduced by the Senator from California, [Mr. BOOTH.] The fraudulent and void entries referred to in the first section have reference exclusively to a class of cases where entries are made by what are called soldiers' floating homesteads. Some parties in the State which the Senator from Missouri so admirably represents in part got up fraudulent soldier-homestead rights and sold them to innocent parties, who afterward located them. The fraud inhered not in the location, but in the soldier's homestead which was so located, and those entries were afterward set aside because of the fraudulent character of the homestead right which had been located upon the land. The reference to fraudulent and void cases in the first section is to locations of that kind. The second section provides that in all cases where homestead or timber-culture entries or other entries of public lands, not fraudulent or void entries at all, but entries of the kind of which I spoke which have been made within railroad limits, and sometimes perhaps in other cases, but most particularly in that class of cases, the receiver of public moneys of the Land Office shall repay to the person who made such entry the fees and commissions and excesses paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to such lands.

Mr. SAULSBURY. If the Senator will allow me, I understand him to say that parties went into the market and bought fraudulent and bogus claims for rights of settlement to public lands with which the Government had nothing to do, and now it is proposed to repay them the expenses of the fees which they paid the Government upon those fraudulent claims. Is that true?

Mr. PLUMB. I can make this measure, I think, very plain in a moment.

The PRESIDING OFFICER. The hour of half-past one having arrived——

Mr. PLUMB. I should be glad to have this matter disposed of, so far as this explanation goes at all events, so that it may not be misunderstood.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. PLUMB. It will take me but a moment. The law provided for the location of certain soldiers' homesteads who had taken already eighty acres of land in railroad limits of an additional eighty acres of land, under the decision of the Land Office. They were what is called "floating locations;" that is to say, locations that might be located anywhere on public land. Certain persons personated these soldiers; that is to say, they got up papers which purported to be in behalf of certain persons who had before located public land and sold them to innocent purchasers, who proceeded to locate them. Subsequently it was ascertained that these locations were fraudulent and that the Department had not exercised proper scrutiny in regard to the locations. This bill is to provide for the repayment of the fees which these innocent persons who had purchased these rights had paid to the Government in the location of these lands. That is the subject to which the first section of the bill refers.

The PRESIDING OFFICER. The unfinished business now comes up; but prior to that the Chair will take occasion to present for reference the bills on his table from the House of Representatives.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1650) for the relief of Edward T. Brownell was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 6479) for the relief of Thomas Snell was read twice by its title, and referred to the Committee on the Judiciary.

REPORT OF BUREAU OF ETHNOLOGY.

The following concurrent resolution, this day received from the House of Representatives, was referred to the Committee on Printing:

*Resolved by the House of Representatives, (the Senate concurring,)* That there be printed at the Government Printing Office 15,000 copies each of the second and third annual reports of the Director of the Bureau of Ethnology of the Smithsonian Institution, with the necessary illustrations; 7,272 copies of which shall be for the use of the House of Representatives, 3,000 copies for the use of the Senate, and 4,728 for distribution by the Bureau of Ethnology.

BRIDGE ACROSS THE POTOMAC.

Mr. WITHERS. I ask leave now to submit the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to House bill No. 1381, and ask its present consideration.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senator from Virginia presents the report of a committee of conference, which will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1381) to authorize the construction of a free bridge across the Potomac River at or near Georgetown, in the District of Columbia, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from its disagreement to Senate amendment No. 1, and agree to the same.

That the House recede from its disagreement to Senate amendment No. 2, and agree to the same with an amendment, as follows: Strike out all the words in section 2, and, in lieu thereof, insert the following:

"SEC. 2. That for the purpose of establishing a free bridge, and in lieu of erecting the bridge provided for in the preceding section, the Secretary of War may, in his discretion, purchase the aqueduct bridge now crossing the Potomac River at Georgetown: *Provided*, Said bridge, with all the appurtenances, rights, and franchises connected therewith, including piers and real estate for abutments and approaches, can be purchased for a sum not exceeding $85,000, which sum, or so much thereof as may be necessary, may be paid out of the money appropriated by this act: *Provided further*, That a good and sufficient title thereto can be secured to the United States to be approved by the Attorney-General of the United States: *It is further provided*, That the Alexandria Canal Company or its present lessees shall have the right to maintain, at their own cost and expense, a canal aqueduct of the same width and depth as the one now in use, and to attach it to or suspend it from said bridge; and whenever a permanent bridge shall be erected upon said site, the same shall be of sufficient strength to sustain the weight of such canal aqueduct; but the construction, attachment, and maintenance of such aqueduct shall be such as the Secretary of War may determine, and shall be without cost or liability to the United States or the District of Columbia: *And it is further provided*, That if upon the erection of such permanent bridge the said canal company or their present lessees shall neglect or refuse to reconstruct, secure, and attach the said aqueduct at their own expense, or if at any time for the space of six months they shall fail to use such aqueduct for the purposes of a canal, or fail to keep the same in good condition and repair, or if at any time they shall use the same for other than canal purposes, then all rights of said canal company, its lessees or assigns, in said bridge and property shall cease and determine, and the said aqueduct shall be detached and removed by the Secretary of War."

And that the Senate agree to the same.

That the House recede from its disagreement to Senate amendment No. 3, and agree to the same, with an amendment, as follows: In line 2 of section 3, after the word "authorized," insert the words "in his discretion;" and that the Senate agree to the same.

R. E. WITHERS,
E. H. ROLLINS,
S. J. R. McMILLAN,
*Managers on the part of the Senate.*
NELSON W. ALDRICH,
EPPA HUNTON,
*Managers on the part of the House.*

Mr. INGALLS. I should like to see that in print.

The PRESIDING OFFICER. Objection being made to the present consideration of the report, it will lie over and be printed.

JOHN JONES.

Mr. McMILLAN. I ask unanimous consent to present a letter from the Secretary of War addressed to me, inclosing a report from the Adjutant-General on the military records of Mr. John Jones, late ordnance-sergeant, United States Army, together with a report of the engagement with the Sioux Indians in August, 1862, made by Commanding Officer T. J. Sheehan, at Fort Ridgley, Minnesota, and ask that the letter with the accompanying papers be referred to the Committee on Military Affairs in connection with the petition of John Jones now before the committee.

The PRESIDING OFFICER. The papers will be referred to the Committee on Military Affairs.

AMENDMENTS TO BILLS.

Mr. MORGAN submitted an amendment intended to be proposed by him to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

He also submitted an amendment intended to be proposed by him to the bill (S. No. 858) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands; which was ordered to lie on the table, and be printed.

Mr. McMILLAN submitted an amendment intended to be proposed by him to the bill (H. R. No. 7036) to establish post-routes; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. ROLLINS submitted an amendment intended to be proposed by him to the bill (H. R. No. 7035) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on the District of Columbia, and ordered to be printed.

THE FUNDING BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4592) to facilitate the refunding of the national debt, the pending question being on the amendment reported by the Committee on Finance, in section 1, line 18, after the word "three" to insert "and one-half;" so as to read:

The Secretary of the Treasury is hereby authorized to issue bonds to an amount not exceeding $400,000,000, of denominations of $50, or some multiple of that sum, which shall bear interest at the rate of 3½ per cent. per annum.

Mr. MORRILL. Mr. President——

Mr. KIRKWOOD. If the Senator will allow me a moment, I wish to submit a modification of the amendment offered by me yesterday, and I ask that it be printed.

The proposed amendment was ordered to be printed, and is as follows:

It shall be the duty of the Secretary of the Treasury, under such rules and regulations as he may prescribe, to authorize public subscriptions at not less than par to be received at all depositories of the United States, and at all national banks, for the bonds and for the Treasury notes herein provided for, for thirty days before he shall contract for or award any portion of said bonds or Treasury notes to any syndicate of individuals or bankers, or otherwise than under such public subscriptions; and if it shall happen that more than the entire amount of said bonds and Treasury notes, or of either of them, has been subscribed within said thirty days, he shall award the full amount subscribed to all persons who shall have made *bona fide* subscriptions for the sum of —— thousand dollars or less, at rates most advantageous to the United States, and the residue ratably among the subscribers in proportion to the amount by them respectively subscribed, at rates most advantageous to the United States.

Mr. WITHERS. Before the Senator from Vermont proceeds to the discussion of the question before the Senate, I desire to call attention to the fact that there are two appropriation bills now on our Calendar, one of which has been placed in my charge. While I recognize the importance of the bill now under consideration, and am not willing to displace it, provided there is a prospect of its being disposed of in a reasonable time, I merely ask the attention of the Senate to the fact, and also announce that should the discussion be protracted unreasonably, I shall feel it my duty to test the sense of the Senate as to the relative importance of the funding bill and an appropriation bill.

Mr. MORRILL. Mr. President, the very able speech of the chairman of the Committee on Finance yesterday leaves little room for anything more to be said in advocacy of the present measure. I shall therefore occupy but little time of the Senate.

The changes proposed to the funding bill by the Committee on Finance are few, and only such as are likely to bring the measure into practical accord with its title and make it a success. Anything less than this, wholly or only in part a failure, it is clear had better not find any place in our public statutes.

The unbounded prosperity which has been flowing over and fertilizing our country for a year or two past naturally inspires us with sanguine hopes for the future, but should not blind us to the fact that the work we have yet to accomplish in obtaining voluntary subscribers to a loan of not less than $671,000,000 at a heavy reduction in the rate of interest is, as Mr. Lincoln would have said, "a big job." This is to be a popular loan, obtained, as we hope, from the pockets of our own people. In order that such a measure shall from the outset be operative, with no foot out of joint, there should not be anything on the face of the act that shall breed any distrust in the minds of those who are to trust the Government, many of them, perhaps, with the chief part of all the fortunes they possess. It must not, therefore, be a forced or compulsory loan. If there were any persons or institutions so much within our power that we could say to them, this or worse, and thus obtain a part of what we need, instead of being an inducement to other persons or institutions not so situated to come to our help for the remainder wanted, it would only excite some pity for the sufferers and more for the Government reduced to such questionable expedients.

A resumption of specie payments has added largely to the volume of currency. A fruitful season has furnished the unprecedented crops that have brought millions of foreign gold into the hands of the cultivators of the soil, and our supply of home manufactures has so far given to us the power to keep the gold instead of surrendering it for the products of foreign machinery and of foreign labor. Money, until very recently, has been a drug in the market. New enterprises were long looked upon with suspicion; few were willing to risk capital anywhere; any loss of interest was not to be computed so long as the principal was safe. But all this seems to have suddenly changed. Lands and houses now are wanted; machinery is sought after; laborers everywhere find employment; there are no tramps; more railroads are projected and under way than ever before. The loans of banks and bankers have again reached their maximum point, and the price of loanable funds has everywhere advanced. This is the striking feature of the money market, not only here, but in France, in Germany, in England, and in all the great centers of capital throughout the world. Such a rise in the value of money is indicative of prosperity as much as it is otherwise when business is so stagnant that solvent men do not appear as borrowers even at the lowest rates. There is a new impetus felt among business men and enterprises requiring immense moneyed contributions are promptly undertaken. Capital, after a long season of idleness, is once more trying hard to earn something for its owners, and its absorption and activity are the leading features of the day. It is much sought after, and the bottom dollar may be found sooner than is expected.

But this may quickly change. Our foreign trade has already largely increased. Whenever our imports begin to exceed the exports the tide will be against us, and as specie is called for to settle the balance of trade the money market always tightens. Good crops abroad would be sure to shut out any large foreign demand for our surplus agricultural productions, and a short crop of these at home could not fail to produce some stringency in the cash accounts of the country. It is fair weather to-day, but it may not last forever. As prudent men we must so trim our sails as to withstand the storm whenever it comes.

It would be a mistake not to pass a funding act at this session, and it would be a greater mistake not to give the Secretary of the Treasuary an act that would be assured of success.

There are some persons who think a 3 per cent. bond might now be negotiated, but nearly all persons couple this idea with a longer term of time for the bonds to run. But any one who will compute the matter arithmetically will see that this would be the most costly and expensive provision that could be provided. Interest for a long term of years vastly exceeds any fraction for a short term of time. Undoubtedly there is a large outside influence brought to favor a 3 per cent. funding act on the part of those who have large sums invested in our four and four-and-a-half percents, which by their rise would put into the pockets of large holders some millions of dollars, whether the loan at 3 per cent. should be taken or not. There are others who are interested in floating 6 per cent. railroad bonds and other bonds of a miscellaneous and speckled character, and these persons desire to have the Government attempt to make a loan that will drag heavily and by comparison yield less interest nominally by one-half than the bonds which they represent.

There are still other parties, as so well said yesterday by the Senator from Kentucky, who now hold the 5 and 6 per cent. bonds of the Government, and they would like to hold them a good deal longer. They know that these bonds cannot be taken out of their hands and the interest will not stop until the Secretary of the Treasury has the cash in hand to pay for them. If not paid the difference of interest will be a loss to the Government of $12,000,000, or enough to cover a half of 1 per cent. in the whole loan for some time.

Of course all these parties make up a powerful combination in favor of a 3 per cent. funding act, and when passed their favor might be expected to cease.

To restrict a loan to the rate of 3 per cent. would necessarily confine its acceptance to the few places where at times there are funds seeking employment upon any terms, and there would be no market for bonds or Treasury notes to be found in the greater portion of our States where business is remunerative and where higher rates of interest prevail. To a great extent I should be glad to have these bonds distributed among all of the States. I hope that not a dollar will go abroad, thoroughly believing that it would be easier and better for the people of this country to support a public debt bearing 4 per cent. interest, paid to and expended at home by our own people, than a debt at 3 per cent. paid abroad and annually draining the country of a large sum to which we bid adieu forever.

If we were about to put even $100,000,000 more of 4 per cent. bonds upon the market instead of $671,000,000, there is no doubt it would depress the market price. The 4 per cent. bonds deposited for the security of national bank circulation, which are from week to week withdrawn in excess of the amount deposited, throws upon the market that amount of additional bonds, and, small as is this amount, it is very noticeable that it fully feeds the demand, and the market price is barely sustained. The public are not hungry for more. In the month of January, 1881, and twelve days of the month of February, $5,545,300 of the 4 per cent. bonds were withdrawn and $1,815,000 deposited. Thus in six weeks the excess of these bonds withdrawn from the Treasury and thrown upon the market was $3,729,500. The excess of 4½ per cent. bonds withdrawn during the same time was $1,467,900. If these small sums are all the market will now sustain, the effect of $671,000,000 of bonds at once thrown upon the market can be easily foreseen.

I know that on its face it would be popular to assert the power of the Government to obtain a loan at one-half of 1 per cent. less interest, and it might be still more popular to assert the power of the Government to obtain it at 1 per cent. less interest. That would double the popularity, but it would not dispose of a single bond. This is all mere matter of opinion, and the financial condition, present and future, of our country is to be taken into the account; and it is, I fear, a vainglorious assumption to start out with the idea that Americans have so much money that they do not know what to do with it, and that they will let the Government gobble it up upon its own terms without any reference as to what may be its marketable value for years to come.

It is a mistake to suppose that a 3 per cent. bond will yield as much interest as the 4 per cent., bought at the present price of 13 per cent. premium. The latter when issued had thirty years to run, and will yield more than 3 per cent. until the premium rises above 18 per cent. But even a fresh block of these long bonds suddenly put upon the market would cause them to sink in price.

Another great fact deserves notice. We all know that call loans are made in all money markets at the lowest rates. In the month of January last the call rates in Boston were from 4 to 7 per cent.; in Philadelphia, from 3 to 6 per cent.; in Cincinnati, from 4 to 5 per cent.; and in Saint Louis, from 6 to 8 per cent. It thus appears that money is nowhere going a-begging.

There is one skeleton in the closet of the United States Treasury, and however alarming its future aspect may be, the fact of its existence there remains indisputable. I hardly need to explain that I refer to the not less than $78,000,000 of silver in the Treasury, and which the people stubbornly refuse to touch or handle. It is a huge elephant on our hands, which we can neither chain nor let go free. I have seen with pleasure that there is a convention soon to assemble under the favor of France, Germany, and the United States, to consider what is best to be done with the silver question. That it is a question of the gravest difficulty, reaching round the world, will not be disputed. I regret that diplomacy has not urged the consideration of this subject at a much earlier day, but I confess with some doubt as to any acceptable result. It is, however, the only present promise of a remedy for the disjointed relations universally prevailing of gold and silver coinage. If the measure which shall finally be agreed upon by the proposed convention should be 15½ of silver for 1 of gold, instead of the present ratio of 16 to 1, while its intrinsic value or market relation stands at 18 to 1, it will be likely to plunge us into deeper and wider embarrassments than those which now seem to vex us.

I refer to this only to show that our bonds and credit have got to stand the shock threatened in the solution of this problem, and one graver has not perplexed statesmen during the present century. If the coinage of silver is to be maintained, it is obvious that any turn of foreign exchanges against the country would cause our stock of gold to run away from us more swiftly than it recently came to us. This would suddenly and violently reduce the value of all our public securities at least 12 per cent. or more. I cannot believe that it will be the policy of any one to have our securities, now or at any future time, unable to float at par in the general markets of our country. That is a degradation from which it is to be hoped we may escape.

I favored the half of 1 per cent. for expenses of engraving, printing, and negotiating the bonds instead of one-fourth of 1 per cent., because the experience of the Treasury Department in funding a very large sum at less cost than was ever before done by any government in the world proves conclusively that it cannot be done for one-fourth of 1 per cent., and that no more of the half of 1 per cent. will be used than is absolutely required. Under Secretary Sherman the cost of the funding operation was thirty-five one-hundredths of 1 per cent., and a large part (three hundred million) of the bonds disposed of by him went without any commissions whatever. If his successor does as well, the country will be fortunate.

The Committee on Finance propose to strike out section 5 of the House bill for the reason that it has no necessary or pertinent connection with a funding bill, but is revolutionary and destructive of the freedom and continuance of the national-banking system. It compels the banks to present their 5 and 6 per cent. bonds within thirty days after interest has ceased, and if they neglect to do so, the bank must go into the hands of a receiver. Such bonds cannot be held as security for circulation or for Government deposits, nor is the bank to be allowed to pay the Government in United States legal-tender notes for their outstanding circulation, but they must hunt them up one by one, far and near, and return them to the Treasury; a task which might require years to complete. Any bank having 5 or 6 per cent. bonds is to be compelled to take 3 per cent. bonds at par or to quit the business. Hereafter only the 3 per cent. bonds are to be received by the Government for security of bank circulation or for public deposits. The banks are to be made weaker and then allowed no option whether to stop or go on. The elasticity arising from increasing or diminishing their circulation, as the shifting seasons of business require, is to be hamstrung—not to be increased except by a deposit of 3 per cent. bonds, whether to be had or not, and not to be diminished save by the tedious process of finding and returning the identical issue which bears the name of the bank. An examination of this section, with what of the Revised Statutes it is proposed to repeal and what to re-enact, will show that I have not overstated its character.

It would not be difficult to create a panic among the stockholders of the national banks that would spread among the people and prove very damaging, if not disastrous, to any refunding measure. It is known that banking capital is severely, if not unjustly, taxed—in the Middle and Western States 3½ per cent., and in New England and the Southern over 2½ per cent. This accounts for the fact that there is a smaller number of national banks to-day than in 1876, and $49,994,429 less of capital. Their earnings in 1873 were over sixty-five millions, and only $30,605,589 in 1878, and in 1880 had still reached to no more than $45,186,034. Their dividends for years have averaged but a fraction over 6 per cent., and every year for the past five years from two to three hundred of the banks have paid no dividends whatever.

This proves, first, that the circulation of national-bank notes is growing less and less profitable; and, second, that any large amount of new bonds thrown upon the market must of necessity depress the price. In no event can it be expected that the whole amount of the new bonds will be exchanged for those now outstanding, which bear a higher rate of interest, and other parties willing to trust the Government upon cheaper terms must be found.

Since March 4, 1877, the public debt has been reduced about two hundred million dollars. Not esteeming a public debt a public blessing, I would gladly continue that good work; but I expect no such heavy reductions in the future as we have had in the past. Funding at a lower rate of interest will enable the Government to pay off millions more the coming year and every year thereafter than would be possible under the rates we are now paying. To be successful in our future financial negotiations I do not think it would be wise to go out of our way, and upon a different matter, to pick a quarrel with the national banks. It will be more to our advantage to use them as potential instrumentalities in promoting our refunding operations. If we do that, they will not only take their share of the new bonds, but they will largely aid in the disposal of the remainder. War should not be made upon the national banks at this time, not because we fear them, but because the continued prosperity of the country largely depends upon leaving them full power to co-operate with the Government and full power to loan their capital to the public.

I had hoped that the time had at length arrived when a financial measure involving no partisan irritabilities might receive nearly the unanimous support of the Senate. I had supposed the funding bill left the Committee on Finance with very much of its good-will. We had the aid of the Secretary of the Treasury, whose well-matured opinions the country has learned to respect, whether members of the Senate shall give them any heed or throw them aside as unworthy of the slightest consideration.

In the practical execution of this bill, should it become a law, as proposed by the Committee on Finance, I should rely with confidence upon the discretion of any Secretary of the Treasury to obtain the utmost price for the bonds and Treasury notes which the market would allow. If they were eagerly sought it would be his duty to seek a premium and the highest possible premium. If the rate of interest should then be found to be the smallest fraction too much, the premium by reducing to that extent the principal of the public debt would fully offset any loss in the rate of interest.

Although I am earnestly in favor of the lowest rate of interest at which our bonds can be refunded or floated, it will be seen that even a 4 per cent. bond, if sold for a proper premium, would extricate the Government from any loss.

The Treasury notes are to be issued at a rate of interest not exceeding 3½ per cent. While I am not much in love with this description of Government paper, fearing its temporary circulation may operate to inflate the volume of currency, yet it is probable that any skillful Secretary of the Treasury will seek opportunities by which large blocks of these notes may be temporarily used at as low a rate even as 2 or 2½ per cent.

Congress at this session has no higher duty to perform than that of enacting a wise and entirely practicable refunding act. The report of the Committee on Finance was made after very patient and careful deliberation. I think it would be a very serious mistake to reject any one of their recommendations, and the whole country, according to my information, would hail the passage of this bill as reported to the Senate with very great satisfaction. It deserves, in my judgment, the cordial and united support of every member of the Senate who wishes to preserve our present high standard of public credit, and who

also aims to extinguish the public debt at the earliest possible moment.

Mr. SAUNDERS. Mr. President, I do not expect to make any extended remarks on this subject; but, inasmuch as we are called on to vote on the rate of interest that shall be paid by the Government on the loan which is now proposed, I will simply define my position on that subject, and in a very few words.

I think it would be unfortunate if we were to make any mistake in putting upon the market a bond that would not sell or that could not be floated and the amount raised to pay off the debt that is so soon to become due. If I thought we could not sell a bond bearing a less rate than 3½ per cent., then I should very readily go with the committee in this proposed amendment, to enlarge or increase the rate of interest; but looking over the business of the past few years, seeing the amount of money that is now in circulation and seeing the amount, as was said awhile ago by the Senator from Vermont, [Mr. MORRILL,] of silver that is going a-begging now, it does seem to me that a bond at a lower rate than 3½ per cent. might be floated and the higher-rate debt paid off, and the people thus relieved to the extent of the difference of the interest.

When we come to look at this matter, it appears that we can very well afford to try a 3 per cent. debt or a 3 per cent. bond. I know that we often have quoted to us England's consols at 3 per cent., which are very generally a little under par; but there they never pay their debts; they do not expect to pay them. Here we do pay our debts, and everybody knows that the bonds will be par when the time comes for their maturity, and the nearer you approach their maturity the more certain they are to be worth nearly or quite their face, and generally more than their face.

I know if we had been asked the question four years ago whether we could float a bond at 4 per cent. interest we should have said no, and even up to the time, about two years ago, when we were putting upon the market the 4 per cent. bond, some that were supposed to be the best financiers in the country said that it could not be placed on the market, that it would be a failure. It was so said up to the very time that it was put upon the market, but when sale day came we found the people were not only willing to take them but really anxious to get them. We who were then in this city saw great lines of men around the Treasury waiting their turn to obtain the certificates on which these bonds could be obtained; parties were even hiring and paying men to go and take their turn in the line in order to secure the largest possible amount they could for investment. Those bonds in the short time of two years have gone up to a premium of 13 per cent., and I believe have sold higher than that. In my opinion, if you pass this bill for a 3 per cent. loan, the 4 per cent. bonds will go up to 17 or 18 per cent. premium the very next day after the passage of the bill.

Mr. ALLISON. No doubt of that.

Mr. SAUNDERS. That is my opinion of it. There is another thing. If we retain in this bill the section requiring the national banks to take these bonds in order to make their securities good, there is no question then about their sale, for that of itself will make a market for three-fourths of the bonds at once, or at least in a very short time. But even if we strike that out of the bill as has been proposed by the Committee on Finance, still I believe that there are demands for these bonds that will make them a very popular loan; not only that it can be forced on the market, but that it will be a popular loan sought for with avidity. Where can you invest money to-day that will pay a better interest? There may be some kind of manufacturing going on that is paying more, but it does not require very large sums compared with the amount the Government wants to borrow. I ask the question again, where can money be invested with certainty of payment of both interest and principal that would pay better than would these bonds?

Mr. MORRILL. Out in Nebraska and Colorado.

Mr. SAUNDERS. The Senator from Vermont says in Nebraska and Colorado. There is more money to-day in the banks in Nebraska than they can lend to be used in a legitimate way. I have received letters in the last two days from bankers in Nebraska to that effect, saying that they have more money than they can lend to be used in any legitimate business.

Mr. BALDWIN. Do they loan any portion of it at 3 per cent.?

Mr. SAUNDERS. No, sir; but I have not got through with my statement yet. I say if you take any other kind of bond, if you take a State bond or a railroad bond, the holder has got to pay taxes upon it, and the taxes in our part of the country will very generally average nearly or quite 3 per cent., and I believe from what examination I have given the subject that the taxation is more than 2 per cent. on the average of States. Now, if you add that to the 3 per cent. you have 5 per cent. for your money, and I want to know where people can do better than get 5 per cent. for money at the present time?

I say, then, if you retain that clause which requires the banks to take the bonds, there is no kind of doubt about their being floated. I believe even if that section be stricken out it can still be done. There is a demand all over the country for investments of this kind. There is a large amount of trust funds that by law are required to be invested in Government bonds. Besides, I am not one who is very anxious to pay off the national debt in a hurry. I want to pay a little of it each year, and am willing that the coming generation may help to pay it. It has been a great burden upon the people.

The present generation has fought the battle in the war, and have also borne the brunt of the payment of its cost; the hardest part of the work, to say the least, has fallen upon the present generation, and I am willing to extend the time and let others come in and help pay the balance of the debt. I want to keep the debt within proper bounds, and I want to keep the interest at as low a rate as we possibly can, and in my opinion, with the amount of silver and gold we are coining, this loan will be not only as I have said reasonably sought after, but it will be a very popular loan. There is not a business man in the country who has money unemployed who would not take such a bond in preference to gold or silver. The banks would in my opinion take the certificates or Treasury notes, as under the amendment they are to be called. The banks that have large capital and large deposits have to keep a very large surplus on hand at all times, and that surplus they would invariably, in my opinion, invest in the certificates or Treasury notes here provided for. They would be good in payment to anybody. They might not be a lawful payment, but very few would refuse them, and indeed I doubt if any one would. They would also be a popular currency among the people.

Mr. President, I did not intend nor do I now to make any extended remarks upon this subject. I simply wanted to say that I am in favor of voting for a 3 per cent. bond, believing as I do that it can be put on the market and that it can and will be sustained by the people and the capitalists of the country, and I want also an opportunity given, such as was proposed I believe by the Senator from Iowa, [Mr. KIRKWOOD,] to the people to invest their moneys in these bonds and notes as well as the capitalists. I would give them a chance to take a certain portion of the loan at any rate, because I am sure that there is a class of people in the country who want this kind of security. They want a kind that is not taxed, and where they would not be bothered about getting their interest money. At any rate I would like to see an opportunity given them to subscribe.

With these remarks, Mr. President, I will leave the subject. I desired to say this much before voting on this amendment. I believe a 3 per cent. bond can be sold, and if it can it certainly is our duty to do so. If we can save $2,000,000 a year on this loan it will be a great relief to the tax-payers. I will now leave the subject to others who are better qualified to discuss it than I am.

Mr. ALLISON. Before the Senator leaves this question I should be glad to know from him what length of time he proposes?

Mr. SAUNDERS. I should vote for a 5-20 bond. I want the time extended. I did not allude to that before, but I want the time extended; my remarks will show that I am not in a hurry about paying this debt, and I want to make this a little longer time than the House bill makes it. I shall vote for its being as long as twenty years.

Mr. ALLISON. I only wanted to know the Senator's position.

Mr. McDONALD. Mr. President, the bill under consideration, being entitled "An act to facilitate the refunding of the national debt," is certainly a very important one. From the monthly statements of the public debt as well as from the report of the Secretary of the Treasury we are informed what bonds are redeemable after the adjournment of this session of Congress and before the meeting of the next, and what bonds are payable. It appears that the amount to be paid absolutely is the Oregon war debt, amounting to $711,800. The amount that may be redeemed embraces the outstanding six percents of the July and August loans of 1861 and of the loan of 1863, and the five percents issued under the refunding act of July 14, 1870, as amended by the act of January 20, 1871. The five percents which are about to become subject to redemption form a part of the bonds that were issued under the act of July, 1870, for refunding the national debt. The amount of those bonds, as stated in the Secretary's report, is $469,651,050. The act of July, 1870, authorized the issuance of seventeen hundred millions of bonds in three classes, bearing three different rates of interest, and maturing at different times: First, 5 per cent. bonds to the amount of $200,000,000; next, four-and-one-half percents to the amount of $300,000,000; and next, $1,200,000,000 of four percents.

Mr. FERRY. May I remind the Senator that the five percents were increased?

Mr. McDONALD. Before any of these bonds were issued, on the 20th of January, 1871, Congress authorized the increase of the five percents from $200,000,000 to $500,000,000, and this necessarily took from the number of bonds at a less rate of interest that the act of 1870 authorized to be issued; so that after the amendatory act of 1871 the classes stood $500,000,000 of 5 per cent. bonds, $300,000,000 of 4½ per cent. bonds, and the four percents reduced by the amount that had been transferred to the fives. The first class of bonds were to mature in ten years; that is, they were to become redeemable in ten years, and those are the bonds that we are in part to provide for now.

It will be seen, Mr. President, that after Congress had provided for refunding the national debt in 1870, and had arranged for the classes of securities that were to be issued and the rates of interest that those different classes should bear, before any portion of them was put upon the market the arrangement was disturbed to the extent that I have already stated, by increasing the number of bonds at the higher rate of interest that might be issued by $300,000,000.

From the report of the Secretary of the Treasury it appears that the whole amount that might thus have been issued was not nego-

tiated, as the outstanding five percents now are set down at the sum I have already stated, $469,651,050. These five percents were placed upon the market, and the proceeds were used in taking up the then outstanding bonds that this refunding bill was intended to provide for. But before we reached the point of placing upon the market the 4½ per cent. bonds a movement was made here in the Senate designed to increase the quantity of 4½ per cent. bonds that might be negotiated and to extend the time of those bonds.

On the 25th of February, 1875, the then chairman of the Committee on Finance, Mr. Sherman, the present Secretary of the Treasury, moved that the Senate proceed to the consideration of Senate bill No. 478, amendatory of the funding acts of July 14, 1870, and January 20, 1871; which bill was as follows:

That the acts to authorize the refunding of the national debt, approved July 14, 1870, and January 20, 1871, be so amended that the amount of bonds bearing 4½ per cent. interest, authorized to be issued, be increased to $500,000,000; and that they be payable at the pleasure of the United States after thirty years from the date of their issue, instead of after fifteen years.

The second section provided that this should not operate to increase the amount of the bonded debt, and necessarily if it had passed it would have taken that quantity thus added to the four-and-a-half percents from the four percents. When that bill was under consideration in the Senate the question was raised whether the 4 per cent. bond could not be negotiated, and the question was asked why it was necessary in the opinion of the Finance Committee that this transposition should take place. The Senate was then advised that no effort had been made at that time to put upon the market or negotiate the four-and-a-half percents; that the provisions for negotiating the five percents had but just before that been completed, and it was the opinion of the present Secretary of the Treasury that 4½ per cent. bonds could not be negotiated, and certainly not at a fifteen-year option; that they must have this additional extension of time and that the additional one-half per cent. interest would be required to give them currency at par. Not believing that at that time, because the experiment had not been made, I moved to amend the bill by striking out of it that provision which proposed this transposition of bonds from the lower class of interest to the higher; but that motion did not prevail, and on the yeas and nays it was voted down, and the bill, in the form that it had come from the Committee on Finance, passed the Senate on the yeas and nays, but five Senators voting against it. It did not become a law, because it was not passed by the House of Representatives.

Just five years ago the Senate gravely determined and decided that the Government could not expect to negotiate its bonds for a lower rate of interest than 4½ per cent.; that the experiment proposed in 1870, modified by the legislation of 1871, could be carried no further in this gradation of interest from 5 to 4½ and from that to 4, or at least that the most we could expect would be after we had put 4½ per cent. bonds on the market running thirty years for the quantity provided for in that bill then before the Senate, there might be a possibility of our using a fragment of the $1,700,000,000 of the bonds which the act of 1870 authorized at 4 per cent. The 4 per cent. bonds were thirty-year bonds. The series as to time was ten, fifteen, and thirty years.

Fortunately for the country, as we all see now, that bill did not become a law; the House of Representatives declined to respond to it, and although it met with almost universal approbation in the Senate, receiving but five votes in the negative upon its passage, the country now is reaping the benefit of its failure, because shortly after that the Treasury Department was enabled to withdraw the four-and-a-half percents from the market, and even the $300,000,000 authorized by the act of 1870 were never negotiated; only $250,000,000 of them have been put out, having fifteen years to run from the date of their issue; and upon the withdrawal of the four-and-a-half percents from the market the four percents, with an extended time of thirty years, were negotiated without any difficulty, as we all know, and many more could have been taken, no doubt.

But we come now to the point where we are to provide, in part at least, for that debt which we refunded in 1870 and 1871. So far as these five percents are concerned, the ten-year bonds become due before another Congress shall meet after this adjourns, the number that were negotiated being less than the number that were authorized by law. They become due, or rather they become redeemable. The time will have arrived when it was the expectation of those who passed the act of 1870 that the Government would take these bonds up; not that she is bound to do it. They become redeemable on the 1st of May next. The bill before us is designed to provide for them and also for the 6 per cent. bonds that had been issued under previous loans that do not come in any way under the operation of the funding bill of 1870.

Our action in regard to the provision we are to make now for the bonds that thus come within our reach it seems to me ought to more clearly follow up the idea that has all along followed every authorization of the issuance of bonds, and that is that they are to be taken up and paid as soon as it is in the power of the Government to pay them, that there is to be no perpetuity of our bonded national debt. That one leading idea certainly ought to be clearly and distinctly embraced in anything we do now.

It is evident that we have not the money in hand to pay these bonds, although they are subject to be redeemed by us, except in part. It is in our power to pay some portion of them. Undoubtedly to the extent that that can be done it is our duty to do it, and to even go further so far as payment is concerned, and as far as it may be prudent to do so anticipate for a reasonable period any surplus that may come into the Treasury and apply it in that way. But if you delay the payment, as a matter of course that delay will be at some cost; there will have to be something paid for that delay for the use of the money, for money like any other property is entitled to compensation for its use, and that as a matter of course brings up the question of the rate of interest and also the time at which we shall undertake to make payment.

The bill reported by the Committee on Finance and the amendments that they report to it, so far as they relate to the time of payment, meet my fullest concurrence.

The bonds that this bill authorizes—to the amount of $400,000,000 if that number should be required—to be issued are to be what are termed 5-20 bonds; that is, we shall not have the right to pay them until five years, and they will become redeemable at the pleasure of the Government at the end of twenty years.

I am in favor of the amendment proposed by the Committee on Finance as to time. I think that if we succeed in refunding the amount of this debt that we cannot pay at present for a time it puts it in the best shape as a 5-20 bond. There is no reasonable expectation that we shall be able inside of five years to reach that portion of the debt that will be placed in the $400,000,000 of bonds that this bill authorizes; but there will be still enough left to which to apply the surplus revenue and the present balances in the Treasury, with the sinking fund filled up to its legal and proper standard, to be paid in the next five years, without in any manner affecting any right of the Government if the $400,000,000 of bonds should not be optional until the end of five years. I have no great hope that we shall be able to pay off the bonds we are now authorizing before the twenty years, if we are able to pay them then, for it seems to me that we are acting now on an exceptional case so far as our revenue is concerned, and one that we have no right to say from anything we can see now is to continue or at least to increase.

I think the present time, so far as revenue is concerned, is exceptional; but in addition to that, we shall have in 1891 $250,000,000 of 4½ per cent. bonds that were negotiated under the acts of 1870 and 1871 falling due, and it ought to be our object, if possible, not to refund them or any part of them. I should certainly be very glad if this provision that is made now, in view of the calling in of the bonds which are to become redeemable between this and the time the next Congress shall meet, shall be the last refunding act that Congress will be called on to pass with reference to our public debt, and that the $250,000,000 of 4½ per cent. bonds that will come due in 1891 will be taken up and paid without any attempt whatever to extend them. I therefore doubt very much whether the country will find itself, even at the expiration of the twenty years that this will give, more than able to take up and dispose of these bonds thus issued, and then the thirty-year bonds, the four percents that are outstanding and now running, will come in in 1907.

It will be seen that the purpose of this measure is to divide the classes of securities that are to be used in providing for the bonds coming in between the close of this session and the beginning of the next Congress into bonds running for five to twenty years and bearing, according to the bill as it passed the House, 3 per cent. interest; according to the amendment reported by the Committee on Finance, 3½ per cent.; and the residue of this debt to be provided for is to be taken up and paid by the use of Treasury notes bearing a rate of interest not exceeding that which is provided for the bonds. This will put out some $250,000,000 of Treasury notes that run one year without option and are to be redeemed at the end of ten years. You may call that a temporary loan, if you please, where the option comes in at the end of the first twelve months, and into this of course is to go the surplus revenue for the redemption of this class; but in the mean time that class of paper will unquestionably add to the volume of paper credits circulating in this country, not directly as money, but supplying money uses. It makes no difference what provisions may be made, Treasury notes in multiples of $10 up to $1,000 in size and bearing a rate of interest, whatever that rate may be, will unquestionably enter into the paper credits of this country in its business operations, not in absolute terms as money, but as supplying the place of it, and will to that extent increase the paper credit of this country in mercantile use, in business use; and that will have a tendency, in my opinion, to still further for the time being reduce the rate of interest upon Government securities that can be held as investments.

Therefore, while I agree with the committee as to the length of time that the bonds should run, I believe that the experiment of placing those bonds at the lowest rate of interest embraced in this bill is worthy to be made, and ought to be made; for it appears to me now that with this additional increase of a paper credit which this bill provides for, in the issuance of Treasury notes, the prospect of securing par for bonds that may become an instrument of investment and security for money, placed for the purpose of being held at a rate of 3 per cent., is better now than it was five years ago, when the present Secretary of the Treasury, then chairman of the Committee on Finance, informed the Senate that 4½ per cent. was the lowest rate in his judgment that the Government could expect to place her securi-

ties at par for, and that 4 per cent. bonds were not even at that time proposed to be placed on the market.

While I am anxious that this measure shall go forth in a form that will secure its adoption and its execution, my inclination is to vote for that rate of interest which the House has fixed in the bill it has sent us, and for the length of time which the Finance Committee proposes. I believe that the Treasury notes might be put at a much less rate of interest, at 2 per cent., but the bill only puts a limit above which they shall not go, and I apprehend that the Secretary of the Treasury, or whoever is charged with the execution of this law, will not increase the rate of interest upon that class of temporary paper used simply for the purpose of anticipating income or revenue and to be taken up inside of ten years. I apprehend that he will not place a rate of interest on it any higher than he can find will make it go in the markets at par, and its being used as a substitute for money in business operations will give it a value in that direction.

The Finance Committee proposed to strike out the fifth section entirely. It may be that that section ought to be amended. I have not examined it with sufficient care to determine whether it ought or ought not, nor do I know that I could suggest the proper amendments if I were to undertake to examine it; but there is one feature in it that I do not think ought to be eliminated from the bill, and that is that feature which requires that after a date named in the bill the bonds provided for here shall be those to be placed with the Government of the United States as a security for circulating notes. I do not think that feature ought to be taken out.

Mr. LOGAN. I am interested in what the Senator is saying, but would like, on that point, to know what difference it would make whether the banks deposited as security a 4 per cent. bond running a long time or a 3½ per cent. bond, so far as the security is concerned?

Mr. McDONALD. I am going to state that very soon. When the act of 1870, the original funding act, was before Congress, after it had passed the other branch of Congress and come into the Senate, it was amended in the Senate, upon the application of the then chairman of the Committee on Finance, Mr. Sherman, so as to require the banks then organized, or those that might thereafter be organized, to absolutely take and deposit the bonds provided for in that act as securities for bank circulation. Those who had already other bonds of a higher rate of interest on deposit in the Treasury were required, on and after a given day named in the amendment, to replace them with the bond provided for by the act of 1870, dollar for dollar, without expense to the Government, or, if the banks failed to do that, they were required to wind up. The present Secretary of the Treasury proposed that amendment in the Senate, and the Senate adopted it. It went to the House, the House refused to concur, and in some kind of a maneuver between the two Houses, through a committee of conference, it was dropped out. That was rather a harsh measure; and yet the Senate and the present Secretary of the Treasury then thought that it was none too harsh, and that the Government under the circumstances had a right to require that kind of a market for its bonds from corporations that were holding their franchise from the Government. That is what was thought then on the part of the Senate. It did not become a part of the law, but it showed very clearly what was thought then in regard to it by men who had given a great deal of thought and study to these questions, as to what right the Government had to make an exaction from corporations who were exercising their franchise rights from the Government.

The fifth section of this bill does nothing of that kind. It simply provides that hereafter when bonds are to be put up as security for bank circulation the banking corporation shall take these bonds. The Government to that extent discriminates in favor of one class of its securities, it is true, but it is a class that it is putting out, that it expects to run for a period of twenty years, a class of securities also that it provides in the very act itself shall not be disposed of except dollar for dollar in gold.

My friend from Illinois [Mr. LOGAN] has asked me what difference it makes, so far as security is concerned, whether the banks shall hold the 4 per cent. bonds which they may now have and that are to run some twenty-seven years yet before they become redeemable, or whether they shall be required to put up a 3½ per cent. bond. The banks that are holding the 4 per cent. bonds will hold them still. The banks that are hereafter to purchase bonds for banking securities would have to purchase those 4 per cent. bonds at their premium, whatever it was; and they would be worth just as much relatively and no more, so far as the money is concerned, as the bonds that are provided for in this bill.

If these bonds should be but par, or if there should be a discount upon them, the 4 per cent. bonds would sympathize with them. They would be sold either at 115, or 110, or whatever might be the difference between the cash value of these bonds which we propose to put out under the operations of this bill and the 4 per cent. rate by the difference of premium between the two values; so that the men who would purchase these bonds as securities for bank circulation in the future would not be required to pay any more for their bank securities than they had to pay when they bought 4 or 4½ per cent. bonds, for the Government creates a market for its bonds. The effect of the provision of the fifth section as passed by the House is to create a market for these bonds. The object of the entire banking system, started during the war as a temporary expedient with a power reserved in it of repeal, or alteration, or amendment, was for the very purpose of furnishing to the Government a market for its securities. That was its main object and purpose so far as the Government was concerned. The franchise was conferred upon these corporations in the beginning, as it was then supposed temporarily, with a right to repeal at any time reserved in the very law itself, for the very purpose of providing a purchaser for the bonds of the Government.

I would not do an act of injustice if I knew it in regard to these corporations or any others. I do not think it would be any injustice while the law continues authorizing these corporations to organize, to increase their circulation, or to retire it, to provide that whenever they have occasion to place new bonds on deposit with the Secretary of the Treasury as security for bank circulation, they shall put there these bonds, for which we are now finding a market, so as to aid us to that extent in putting them into circulation. I think it is a fair thing to do. Their securities will cost them no more than if they bought four percents. There is no coercion about it, because they are not bound to increase their circulation; they are not bound to organize banking associations; and if they do one or the other, I think we have a fair right to say this to them. The amendment the Senate put on the act of 1870 said to them: "You must by a given day make this exchange and transfer at your own cost and expense, and without any expense to us, or close up and go into liquidation, and retire your circulation;" but that is not what we say to them in this provision.

Mr. ALLISON. That is not the provision according to the amendment of the Committee on Finance.

Mr. McDONALD. No, sir, that is not the amendment, but the provision as it passed the House, that hereafter for a renewal of circulation or for any new banking institution this class of bonds shall be taken.

Mr. ALLISON. Would it interfere with the Senator if I should ask him a question?

Mr. McDONALD. Not at all.

Mr. ALLISON. Is it not true that the national banks that now hold 5 and 6 per cent. bonds, the bonds to be redeemed under this bill, will have to substitute the 3 per cent. bonds or retire their circulation if the fifth section of the House bill becomes a law?

Mr. McDONALD. No, sir; they may take their redemption after the bonds are advertised for redemption. Then they are required to replace them.

Mr. ALLISON. That is, they would be forced either to retire their circulation and go out of business, or take the 3 per cent. bonds?

Mr. McDONALD. No, sir; I do not understand the provision in that way. I have said that this fifth section as it passed the House might require amendment. I do not propose to put any unnecessary, or unusual, or unfair burden upon the national banks; but I do favor this provision of the House bill, which in regard to the deposit of bonds hereafter made as security for bank circulation, discriminates in favor of these bonds and requires them to be put up in place of others. I say that feature of it I certainly do favor. Whether this section as the House have sent it to us will simply effectuate that purpose or not, I am not able to say. As I said before, I do not know that I could make a proper amendment if I should undertake it, and I do not see any injustice to these banking corporations in thus requiring them to discriminate in favor of bonds that we are proposing to send to the market at par.

Mr. President, I believe I have said about all on this subject that I desire to say, except to call the attention of the Senate to some facts that are brought forward by the Secretary of the Treasury in his report, to indicate the necessity on our part of action in this matter.

Mr. FERRY. Before the Senator passes from the subject he has been discussing, will he give the Senate the benefit of his judgment on the question whether banking corporations would continue their charters if they were required to take circulation based upon a 3 per cent. bond?

Mr. McDONALD. Undoubtedly; as quick as they would upon a 4 per cent. bond, because they would not have to pay relatively any higher for one bond than the other.

Mr. FERRY. The Senator at the same time understands that they pay a taxation of over 3 per cent., national, state, and municipal.

Mr. McDONALD. They pay that tax under the present banking system.

Mr. FERRY. The Senator is aware of the fact that more than one-half of the bonds now held as security for the circulation of national bank bills are six and five percents. Is the Senator in favor of compelling the banks to receive the three percents in the place of those fives and sixes?

Mr. McDONALD. The fact that I wish to call to the attention of the Senate is thus stated by the Secretary of the Treasury in his last annual report:

> Under existing law there is still available for this purpose—

That is for the purpose of buying bonds that become redeemable this next season—

> 4 per cent. bonds authorized by the acts of July 14, 1870, and January 20, 1871, to the amount of $104,652,200. These could now be sold at a large premium, and, in the absence of legislation, it would be the duty of the Secretary, when any bonds became redeemable, to sell the four percents and apply the proceeds to the redemption of such bonds; but the amount of four percents authorized is inadequate to the purpose stated.

That is, they will not afford enough money to pay off all the bonds

that come in, the $672,000,000, or about that amount, which become redeemable during the present year. But there is another point in that same connection. Here are over $100,000,000 of 4 per cent. bonds. If they are sold at the present premium they will perhaps be sufficient to pay off the loan of July and August, 1861, which is set down at $145,786,520. Certainly they and the sinking fund would take up that issue. The next item following is the loan of 1863, leaving outstanding and unprovided for that part of the debt which we funded under the act of 1870 in 5 per cent. bonds that become redeemable next summer. That is $469,651,050 left unprovided for; but that would refund $104,652,200 in thirty-year bonds, for that is the time that the four percents would have to run; it would be an extension of that amount of our debt ten years beyond the time that is contemplated by even the amendments of the Finance Committee, and I do not think it is the desire or purpose of the Senate that this should be done.

The very fact that we are here in contention over whether we shall make these $400,000,000 of bonds, provided for in the bill, optional in five years, as five-tens or five-twenties, or even at a shorter period, indicates very clearly that to pass any part of the public debt that we are now seeking to provide for so far beyond the reach of the Government as thirty years is not in the contemplation of the Senate at all; and it makes it the more important that we should act now upon this question in such a manner as to cover the whole of the issue that will become due during the course of the coming summer.

It is true we might stop and do nothing. If we did, the Secretary of the Treasury has informed us in effect that he has control of bonds enough and of sinking fund enough, if he sells bonds at the present premium that they bear in the market, to take up all of the 6 per cent. of the debt that stood back of the funding bill of 1870, that was not embraced in that and was left unprovided for, and the $469,651,050 of the five percents negotiated under the act of 1870. That is the situation, it seems to me, that this matter is in; and if we can come to such a conclusion as will satisfy the public and the moneyed interest of this country that what we have done upon this subject is our ultimatum, that we are ready to put these bonds out upon the terms we prescribe, the bonds will be taken. But if we go at it like the boy who went to market to sell his horse with the declaration that we want $75 for our horse but if we cannot get that we will take $50, then as a matter of course I think we shall be found negotiating for the $50; we shall have to submit to what the moneylenders want.

Mr. COKE. I wish to submit an amendment to be proposed to this pending bill, and I ask that it be printed.

Mr. ALLISON. Let it be reported.

The CHIEF CLERK. In section 4, line 15, after the word "canceled," it is proposed to amend by inserting:

*And provided*, That nothing contained in this act shall be so construed as to authorize the cancellation or retirement of the existing volume of legal-tender Treasury notes, or any part thereof.

Mr. HEREFORD. Mr. President, I am in favor of three propositions: First, I am in favor of refunding this debt, if it is necessary, and I doubt that very much; but if it is necessary, I am in favor of refunding it at the lowest rate of interest; second, the shortest time; and, third, to pay off the whole debt as fast as it can be done without imposing too heavy a tax upon the people.

What argument has been adduced before this body to satisfy our minds that the debt cannot be refunded at 3 per cent.? The Committee on Finance tell us that certain bankers went before that committee and the Secretary of the Treasury went before that committee, and we have his examination before it here in print, and he informed them that it could not be done. But what does history teach us? A few years ago this same Secretary went before that same committee, and these same bankers went before that same committee, and told them that if we passed the silver bill resumption was a matter of impossibility; but we did not heed that Secretary of the Treasury nor those bankers and bankers' clerks who went before them, and we did pass the silver bill, and the Secretary of the Treasury himself afterward admitted that he was wrong and that Congress was right, that the passage of the silver bill, so far from impeding or injuring the resumption of specie payments, aided and abetted it, as I with other gentlemen had the honor on this floor to state that it would do.

We saw what his opinion was worth then, and what the opinion of these bankers and these bankers' clerks was worth. Furthermore, this same Secretary of the Treasury, the same bankers and bankers' clerks, went before that committee and told them that we could not refund our indebtedness at 4 per cent. We did not heed their advice then, and we did fund at 4 per cent., and our bonds were sold with greater rapidity than any that ever had preceded them; so much so that it astonished the Secretary himself and astonished the monetary world. Those four percents that he and those bankers said could not be floated at par are to-day worth 14 per cent. premium.

That is all the evidence that we have had adduced before us. No argument has been made to satisfy the minds of the members of this body that it cannot be done. Why can it not be done? How much is there to fund? Only a little over four hundred million dollars, if you deduct the amount that is in the vaults of the Treasury to-day.

The last statement of the Secretary of the Treasury shows us that there is in the vaults of the Treasury to-day in cash $221,674,535.08. Deduct that from the amount of the six percents and five percents, which aggregate $671,917,600, and you only have a little over $400,000,000 of indebtedness to fund. But it is said we must keep that two hundred and odd million dollars there for resumption purposes. That is very costly resumption, at the rate of ten and twelve million dollars a year. We do not need it there for resumption. As long as the silver act stands no man whom this Government owes $100,000 or a smaller amount is going to the Treasury and demand specie for it. The people of this country do not want it, and the Secretary of the Treasury says in this interview before the committee that the people of this country do not want either gold or silver coin; that they all prefer the national-bank and the Treasury notes. He need not have told us that. Every business man knows the same fact. No man wants to carry specie about with him. The great part of the business of this country and of all countries is not done by handling the money; it is done by clearing-houses and checks. No business man desires to handle the money.

We were told by the Secretary of the Treasury and we were told by Senators on this floor that if we passed the silver bill, as silver was worth less than gold, it was a political axiom which no man would deny that two currencies of different values could not remain in the same country, and that silver being worth less than gold, it would drive the gold out of the country. We asked upon this floor, even when that argument was adduced, why does not silver drive the gold out of France?

Mr. KERNAN. My information is that they have lost nearly all their gold in France, and that it is one of their troubles there.

Mr. HEREFORD. Their reports do not show that fact, and if it has gone from France it has come to our own country, where we have silver in great abundance. It did not seek Germany, where they have nothing but a gold standard; it did not seek England, where they have nothing but a gold standard; but it came to the United States, where we have silver, gold, and paper. Therefore, the argument of the Senator from New York will not do. It was said that this depreciated silver was going to drive gold out of the country. What did the Secretary, or rather Mr. Knox, the Comptroller of the Currency, tell us in his interview the other day with the Senate committee? He told us that there has been brought into this country since the 1st day of January, 1879, an increase in coin of $247,000,000 in two years. Your gold and silver has increased in two years alone in the aggregate of $247,000,000; yet we were told by these same financiers that the silver bill was going to drive it out. This is the authority given upon this floor to-day why we cannot pass and float this 3 per cent. bond.

Mr. TELLER. If the Senator will allow me, I should like to remind him that the then chairman of the then Finance Committee announced that if we passed that bill we should not sell any more bonds at par.

Mr. HEREFORD. Yes, sir.

Mr. TELLER. I thought that might have escaped the Senator's recollection.

Mr. HEREFORD. I am very much obliged to my friend the Senator from Colorado. The then chairman of the Finance Committee, Senator Morrill, of Maine, made the statement that if we passed that bill we could not sell any more bonds, but we have sold them with greater rapidity and at a lower rate of interest since that time than we ever did before, and our bonds are to-day worth more than they have ever been in the history of this country, notwithstanding the passage of the silver bill. When the Secretary was before the committee the other day he filed the following statement:

*Statement showing the net receipts, net expenditures, and surplus revenues of the Government for each fiscal year from* 1866 *to* 1880, *inclusive.*

| Year ending June 30— | Net receipts. | Net payments. | Surplus. |
|---|---|---|---|
| 1866 | $558, 032, 620 06 | $520, 809, 416 99 | $37, 223, 203 07 |
| 1867 | 490, 634, 010 27 | 357, 542, 675 16 | 133, 091, 335 11 |
| 1868 | 405, 638, 083 32 | 377, 340, 284 86 | 28, 297, 798 46 |
| 1869 | 370, 943, 747 21 | 322, 865, 277 80 | 48, 078, 469 41 |
| 1870 | 411, 255, 477 63 | 309, 653, 560 75 | 101, 601, 916 88 |
| 1871 | 383, 323, 944 89 | 292, 177, 188 25 | 91, 146, 756 64 |
| 1872 | 374, 106, 867 56 | 277, 517, 962 67 | 96, 588, 904 89 |
| 1873 | 333, 738, 204 67 | 290, 345, 245 33 | 43, 392, 959 34 |
| 1874 | 289, 478, 755 47 | 287, 133, 873 17 | 2, 344, 882 30 |
| 1875 | 288, 000, 051 10 | 274, 623, 392 84 | 13, 376, 658 26 |
| 1876 | 287, 482, 039 16 | 258, 459, 797 33 | 29, 022, 241 83 |
| 1877 | 269, 000, 586 62 | 238, 660, 008 93 | 30, 340, 577 69 |
| 1878 | 257, 763, 878 70 | 236, 964, 326 80 | 20, 799, 551 90 |
| 1879 | 273, 827, 184 46 | 266, 947, 883 53 | 6, 879, 300 93 |
| 1880 | 333, 526, 610 98 | 267, 642, 957 78 | 65, 883, 653 20 |
| Total | 5, 326, 752, 062 10 | 4, 578, 683, 852 19 | 748, 068, 209 91 |

The Secretary shows there that there has been collected from the people of this country, from 1866 to 1880, inclusive, the enormous amount of $5,326,752,062.10 in fifteen years. More than five billions and a quarter have been wrenched from the people, and at least one-third of that has been interest paid to the bondholders. I think it is high time that this should be stopped. Over five billions and a quarter in fifteen years have the people paid, more than twice the

whole amount of the debt at the time that this calculation commenced. The people have paid in fifteen years twice over the whole debt, and yet we are in debt one billion six or seven hundred million dollars. It is high time, brother Senators, that we should call a halt and do something to lighten the burdens of the people.

We are told that we must not experiment; that it is dangerous to experiment. I think we had better experiment a little in favor of the people. Why not experiment? The inference is that we might fail and thereby injure our credit. We had better take that chance, if by taking it we can lessen the burdens of the people. But our credit is not going to be injured by it if we should fail. Suppose you pass the bill and you cannot fund the debt, who is hurt? The debt is not due. We have not agreed to pay it this year or next year, nor at any future time, as was said yesterday by the Senator from Vermont; and if we cannot obtain this money at 3 per cent. what harm is done by the experiment? Let us make an experiment in favor of the people for once at least.

I undertake to say that the surplus money in this country will absorb the whole of this $400,000,000 that we have to fund. I am not mistaken when I say that it is only a little over four hundred million dollars that we have to fund, for it is not that amount, less the cash in the Treasury, as shown by the last statement of the Secretary of the Treasury. As I showed a moment ago, you have over two hundred million dollars in the Treasury.

The surplus money in this country would seek these bonds as an investment. For instance, here is a man who has $10,000. He does not know when he is going to use it; he thinks he may use it six months hence, but he does not wish it to lie idle. What would any successful business man do with it? He would go and invest it in these 3 per cent. bonds. Why? Because by the time he would want to use the money, in the near or far distant future, it will be bearing interest and hence he can always sell it, and if he does not want to sell it he can go to any Shylock in the country and pledge those 3 per cent. bonds of the Government as collateral security and borrow his money upon it.

What is the surplus capital? What have we now as the money that is in the United States? This same Comptroller of the Currency, Mr. Knox, when before the committee, said that we had, November 1, 1890, in round numbers, $346,000,000 of legal-tender notes, $343,000,000 of national-bank notes; of gold coin, $454,000,000; of silver coin, $158,000,000; making, in the aggregate of money that we have in this country to-day, $1,302,798,480. In addition to that, on a page immediately succeeding, he says we have from eighteen to twenty millions of silver certificates; which gives us as the money in this country November 1 $1,322,000,000, and that surplus money must seek an investment.

Mr. President, this debt of ours is a comparatively small one when we take into consideration the wonderful wealth and population and the increasing wealth and population of our country. Some years ago when there was a great debt imposed upon the city of New York that scared some of the tax-payers there, one said to another, "How are we going to pay this enormous debt?" The other gentleman replied, and that is my reply in this case, "Sir, we will grow out of debt." The city of New York did and can grow out of debt, and that is the way the people of the United States will grow out of this debt. Have Senators ever thought of one thing, that when we commenced to pay this debt we only had a population of 33,000,000 people? To-day, as shown by the last census, we have a population of over fifty million, and if we increase in the same ratio in 1891 we will have 66,000,000, and in 1901, only twenty years hence, we will have a population in this country of 90,000,000. Your business and the commerce of the country will increase in the same proportion; your banks and your bank capital will increase in the same proportion; your wealth will increase in the same proportion.

Then do you talk of the inability of this Government to float a 3 per cent. bond? I have listened attentively to all the arguments that have been offered upon this subject and no man yet has shown that the Government is unable to do it. Gentlemen have simply given us their *ipse dixit* and the *ipse dixit* of the Secretary of the Treasury and the bankers and the bankers' clerks who appeared before the committee; and we have seen in the past how they have failed in their predictions. We have seen how in the past these same men told us that we could not float a 4 per cent. bond. We have seen in the past how the same men told us that the passage of the silver bill would stop the resumption of specie payments and would drive gold out of the country.

Mr. President, I said that I am in favor of paying the debt off as rapidly as we can, without taxing the people too high. Why? Take these $1,700,000,000 that are to-day invested in Government bonds and pay them off, and let that $1,700,000,000 go into general circulation. Let it go to buy your farms, to buy your lands, your cattle, your horses, your sheep, to build up the manufacturing establishments of the country, and then you will see this country take such a bound as we have never seen in the past. I am against perpetuating the debt of this country. Why are your lands worth so little? Why is everything that the people have to sell worth so little? Simply because capitalists can invest their money in Government bonds. Pay off the debt, wipe out the bonds, and then this country will move onward and upward in prosperity and happiness in an unparalleled degree. Then the mighty West, the giant West, will take a step forward greater than it has ever done in the past. Then the down-trodden South will bloom and blossom as it never has done in the past. Then this money will be sent all over this country to seek investment.

For these reasons among others that I might add, Mr. President, if there is any necessity for funding at all, I am for the 3 per cent. bonds and the very shortest time that can be gotten.

Mr. EATON. I need not say that I regard this as an exceedingly important measure; I need not say that I believe it to be the duty of the Senate, the duty of the legislative authorities, including the Senate, the House of Representatives, and the President, who has his rights as well as we have ours, to pass a funding bill. I shall not go into any discussion with regard to the silver bill. I shall not say anything about the hundred million dollars balance of trade in favor of the United States which made resumption certain. The laws of trade do this, not the laws of Congress. We have to do now with the measure here, a measure of vital importance to the people of the whole country, and we want to do it at the least possible expense to the people of the country.

I cannot vote for this amendment of the committee unless I am compelled to in the end. I shall vote for a bill of some sort, if necessary for this bill, but I cannot vote for it yet. I think a 3 per cent. bond running five to forty years is the true bond to be issued. I want to give my reasons for thinking so. I do not think that a bond that has but five to ten years or five to fifteen years to run can be floated at 3 per cent. A bond running five to forty years, in my judgment, and I base my judgment upon the opinion of many of the shrewdest financiers of the United States, can be floated for 3 per cent. and would be at a premium in less than ten days. I want to show why. I want to show that although we hold the optional year of five it will make no difference here if we give the extent of time to forty years. A 5-10 bond cannot be floated; a 5-40 can, and why? Because we cannot pay the 5-40 at the end of five years; it is impossible; and the capitalists of the country, the people of the country, will see at once from an examination of the bonded debt of the country that it is impossible that these 3 per cent. bonds can be paid at the end of five years, or ten years, or twenty years. Why? We have on the 1st day of July, 1891, the option of paying $250,000,000 of four-and-a-half percents. We have on the 1st day of September, 1907, twenty-six years from now, the option of paying $738,000,000 of 4 per cent. bonds. If you make these bonds five-forties, the Government has really no option. The Government cannot pay the 3 per cent. bond in five years, in ten years, in twenty years, or thirty years, not even if the country has prosperity all the while during that time, and that is not to be expected by any wise man. We have, in other words, the option of paying four-and-a-half percents in ten years and four percents in twenty-six years, amounting to $1,000,000,000 in round numbers, in exact numbers $988,000,000. There are $1,000,000,000 of future interest-bearing bonds, one class 4½ and one 4 per cent.

Then I say to my distinguished friends upon the Finance Committee, and I have no doubt that they have taken that into consideration, if you make this a 5-40 bond, with the immense amount that we have the option of paying within the coming thirty years it will be just like making it a 10-40 bond precisely, and all the financiers of the country, all the business men of the country, all the intelligent men of the country will look at it in that precise light. In other words, we are placing now before the people of the United States a safe investment. By and by I shall have a word to say at another time with regard to the amendment offered by my distinguished friend from Iowa, [Mr. KIRKWOOD,] which I think is exactly in the right direction. The entire people of the country, the men and women of the country, leaving the term financiers, leaving the term men of wealth, leaving the term business men, the old lady in Alabama who has saved up $500 or $1,000, will know that there is a bond here to leave to children or children's children that will have forty years to run, a safe investment. The farmers of the country, the mechanics of the country who wish to invest $500 or $1,000 will see that here is a permanent forty years' investment.

I desire the Senate to think of this. I only wish to state it, not to consume the time of my brethren here. I wish to state plainly, briefly, succinctly, the reason why this bond will stand just as well before the people of the United States, will command investment just as readily as it would if it was a 10-40 bond and if the option was ten years instead of five years. If I fail in this, I shall then ask that this bond be 3½ per cent. if we cannot agree upon 3, which in my judgment we ought to agree upon. In doing so we should save $2,000,000 every year. The difference between 3 and 3½ per cent. is $2,000,000. The difference between 3½ and 3¾ per cent. is $1,000,000 every year. If possible that ought to be saved. The people are taxed enough.

I do not wish to detain the Senate. I have not the slightest doubt but what a 3 per cent. bond at a term of five to forty years can be placed. I know it is the opinion of men whose opinions are of value. Indeed, I do not call it an experiment. Bonds are changing hands every day now. Millions of 4 per cent. bonds are selling every day, and but a trifle over 3 per cent. interest is realized when you take the premium on the bond into consideration. Let us make this a 3 per cent. bond; let it run forty years. We have got our thousand million to pay within the coming twenty-six years, and therefore, in my judgment—I hope I am wrong—the country will not desire to take the option of 5 or 10 or 20. They have got too much to pay on a debt

bearing a larger rate of interest to desire to pay any part of the 3 per cent. bonds within twenty-six years, or even thirty years.

Therefore, I shall vote at present against the amendment of the committee.

Mr. VANCE. Mr. President, I feel that in a matter of this kind we ought to hear and to heed what the people say at home, who are most directly interested in a question of taxes, such as this is; and I propose as my contribution to the discussion upon this measure, involving so many millions of dollars to be raised by taxation off the American people, to have read by the Secretary an extract from a letter which I have recently received from one of the most eminent men in my section of the country in all matters that pertain to finance. I think it a compendium, a brief statement of the real truth in this case. I think it could not be stated any better, and that the conclusion to which my correspondent arrives is the one to which the Senate of the United States ought to come, to wit, that these bonds should bear the lowest rate of interest which will enable them to float, and to run the longest period of time that will be expedient. With these introductory remarks, I ask the Secretary to read the letter which I send to the desk.

The Chief Clerk read as follows:

The average rate of interest of this country is now not less than 7 per cent., (perhaps 8,) and the Government can borrow at 3 per cent. Why press these burdens upon its industries? If our industries will bear 7 per cent. and the Government can get money at 3 per cent., why not leave it with them? In a new and undeveloped country like ours, with so many objects of profitable investment, there must be a vast accumulation of surplus capital before money will command less than 6 per cent. We will not probably live to see it. The time never was so auspicious for the loan to be refunded at a low rate of interest, and may not occur again in a generation. A public debt is not a national blessing; but even the vast resources of this country may be damaged by the effort to pay such a sum in a few years. To negotiate the loan at 3 per cent. will be the triumph of the financial world, and the use of money at 3 per cent. in such a country as ours can hurt no one. Let foreigners take as many of the bonds as they will, or all, if they desire. It is not true that all the proceeds of the redemption of the present bonds go back to our people. Some are owned by foreigners, and the proceeds of these go abroad. Of the 3 per cent. bonds to be issued, as by Mr. WOOD'S bill, foreigners will probably own the larger portion not absorbed by our banks; but so much the better, as we use their money for development of our country at 3 per cent. This brings working capital in the country, even if we do have to pay back again in thirty or forty years. If in private transactions we require to borrow, and can do so at low rates, we had better take it as long as we will require it. Or if the nation can borrow at 3 per cent. from foreigners and make 7 per cent. per annum of it, it is a good financial operation. The bank rate of dividends or profits is now over 8 per cent. per annum, and they can afford to take the bonds and make fair profits. As you know, our great source of income from banks in the South is from discounts, while in large cities and dense populations the profit is largely from deposits; the rate of discount here being still from 8 to 12, and many persons still have to double these rates in order to get advances to make bread and cotton.

Mr. KIRKWOOD. I should like to have the attention of some member of the Committee on Finance a few moments on one point. We all doubtless wish to have the lowest rate of interest we can obtain for these bonds. I would be very glad if I felt satisfied that we could issue and sell at par bonds bearing 3 per cent. interest, but I am not satisfied that we can do that; and I shall therefore vote for the sum named in the amendment of the committee, which is 3½ per cent. But I want to ask the question, why not make the rate of interest provided for by the bill "not exceeding 3½ per cent.?" Why not give to the bonds the same elasticity in that regard that you give to the Treasury notes? There may be some good reason why this is not done, and I think it is due to the Senate from the Committee on Finance that the reason should be given. If you modify the language of the bill in that regard, it enables the Secretary of the Treasury, whoever he may be, to sell bonds at 3 per cent. if he can sell them at that rate. If he cannot, it will authorize him to sell them as high as 3½ per cent., or at any fraction between 3 and 3½, and thus we shall have the opportunity of getting the lowest rate per cent. and yet avoid the possibility of our loan failing. Thus it appears to me; and I should be glad to have the reasons, whatever they may be, that have induced the Committee on Finance not to adopt that language.

Mr. VOORHEES. I should like to ask the Senator from Iowa a practical question, which I address to him as a successful business man, whether he himself would buy a bond bearing 3 per cent. interest when he knew that if he did not buy it at that rate he would have an opportunity directly to buy a bond giving him 3½ per cent.? In other words, this option would simply result in selling the bonds at the maximum rate of interest. It would not operate to sell the low-rate bond. The 3 per cent. bond would not be purchased by the capital of the country when the capitalists knew that in the event of a failure to dispose of the bonds at that rate of interest they are bound to be disposed of at 3½ per cent. That is the reason that operated upon my mind as a member of the committee on this question, and I think it is the view that was taken by the committee entirely upon that point.

Mr. KIRKWOOD. I may not agree with the conclusion the Senator has reached as to the effect of such a provision. I think if we were to offer 4 per cent. bonds we could sell them at a premium. If in this bill we provided for the issuance of 4 per cent. bonds we should not sell those four percents at par in the present state of the money market, but would sell them at a decided premium. I do not think that the rate fixed in the bill would necessarily control the sale of the bonds. The point I wish to come at is whether or not, and if not, why not, the Committee on Finance deem it advisable to insert in the bill with reference to the rate of interest on these bonds the language I used, that it shall not exceed 3½ per cent.?

Mr. BAYARD. May I reply to the honorable Senator from Iowa? It would be a solecism in the practice of this Government respecting its funded debt if in the same issues, under the same law, classes of bonds were to be found bearing different rates of interest. There must be in a loan that is of a permanent character, permanent in contradistinction from a temporary loan, a professedly short loan like these exchequer bills or Treasury notes as they are termed in the bill now under consideration, a classification of the bonds, which heretofore has never been marked by having some at one rate of interest and others at a greater or lower rate; nor in offering those bonds which must be offered as a whole would it be desirable or well on any ground to couple with the offer the discretion of the Secretary to place one class or one lot of bonds at lower rates than another. In subscription to a loan many elements of consideration must combine. Not only its date and its permanence, not only its rate of interest but its amount must all be considered. If a loan of this magnitude were to be offered or proposed to be offered piecemeal it would destroy the competency of judgment on the part of those who were disposed to be its subscribers, and therefore diminish the practicability of effecting it.

It would be the first time in the history of this country, or, so far as I know, of any country, where the rate of interest upon a class of Government bonds was left to the shifting discretion of any single official of the Government. It is true of no other government. I hold in my hand a table which is before the Senate, of French loans that have been sold for such prices as they would bring. The table before me will show in the French loans a variation from 57 per cent. up to 82½ per cent. bid for the loan, none sold at par.

Therefore the same effect would be produced of an increased or diminished return to the investor in the rate of interest; but as for fixing a different rate of interest, or rather providing a discretion that should create a different rate of interest upon different bonds issued at the same time on the same loan, I think no precedent whatever can be discovered for that; and therefore I should say it would not be wise and it would be as I said a solecism, and one that I do not think ought to meet the approval of Congress or of the American people, that the rate of interest upon the funded loans of the United States should be discretionary with any official.

That is my reason, and I think we have gone to the very verge when in these short loans upon the Treasury notes, as they are termed, exchequer bills as they might be called, but temporary loans in their character, we propose to give the discretion to the Secretary that he may issue them at a rate of interest not exceeding 3½ per cent.

Mr. BLAIR. I should like to ask the honorable chairman of the Committee on Finance a question. It seems to be conceded that a bond at 3½ per cent. can easily be negotiated. There is no doubt in regard to that?

Mr. BAYARD. I hope not.

Mr. BLAIR. Some entertain the opinion that a bond at a still lower rate of interest can be placed upon the market; at 3 per cent. or 3¼ per cent., as the case may be. It appears to be the policy of the Government that no bond shall be placed upon the market at a lower rate than par. I am unable to see wherein it is to the disadvantage of the United States to issue a 3½ per cent. bond, as compared with a 3 per cent. bond, even assuming that the 3 per cent. bond will float and will be taken at par. I wish to ask the honorable chairman if there can be any such disadvantage, for if the market is such that a 3 per cent. bond will be taken by the capitalists of the country, what is the reason that inevitably a 3½ per cent. bond will not sell at such a premium as that the Government will realize the same as though she placed a 3 per cent. bond?

Mr. BAYARD. Of course the advantage to the Government cannot be excluded. It is certainly so. If the reasoning which has been adopted on the other side be true, it necessarily leads to the result stated by the Senator.

Mr. ALLISON. Mr. President, I wish to say a word in answer to my colleague, in addition to what has been already so well said by the chairman of the committee, with reference to this question of placing in the hands of the Secretary of the Treasury a discretion with regard to the rate of interest on these bonds. I do not think any Secretary of the Treasury would desire that Congress should place in his hands a discretion with regard to the rate of interest. That is one reason why it ought not to be done; but there is still another reason, which I think is potential in this regard. The question which we are really endeavoring to solve now is what rate of interest will be the average rate at which our securities can be sold at par. The policy of our Government is to receive par for all its securities. This bill, and every other bill, I believe, that has been passed looking to the funding of the public debt, provides that our bonds shall be sold at par.

Now, it is plain to my mind that if you put upon the market a 3 per cent. bond and say that it shall be sold at par, you become at once at the mercy of any class of speculators or owners of securities, whether of United States bonds or other bonds, who may choose to depress the market one-eighth of 1 per cent. Suppose, for example, that the 3 per cent. bonds should be put upon the market and the market be depressed one-eighth of 1 per cent. below par, the moment the depression is made the funding operation must cease. Now, therefore, if we wish to pass a bill which will stop the 5 and 6 per cent. rates of interest we must provide such a medium rate of interest for the new bonds

as will enable us certainly to sell them at par; and if the market would justify a higher rate, no prudent or honest Secretary would issue them to the public at par, but would do, as this bill contemplates may be done, offer them at such premium as they will bear in the market.

Mr. BOOTH. May I interrupt the Senator a moment by a question?

Mr. ALLISON. Yes, sir.

Mr. BOOTH. I desire to know if any securities ever offered by the United States were originally sold at above par?

Mr. ALLISON. Yes, sir; the present Secretary of the Treasury sold, if I remember rightly, either fifty or one hundred millions of 4½ per cent. bonds at a rate of 1¼ per cent. premium only two years ago.

Mr. FERRY. May I remind the Senator that the Secretary sold $200,000,000 above par?

Mr. ALLISON. I had forgotten the amount; I knew it was some sum.

Mr. BOOTH. Was there ever a loan offered by the United States that was not worth more than par after the loan was closed?

Mr. ALLISON. Mr. President, that of course depends upon a great many things. The United States Government has borrowed money hitherto at different rates of interest; and if the United States Government would offer a bond bearing 6 per cent. when another bond could be sold at a less rate, of course that bond would bear a premium. Everything depends upon the rate of interest and the condition of the money markets of the world.

Suppose this bond should be issued at 1 per cent. interest, is it likely, even though it might be sold for the moment at par, that it would ever go to a premium? Of course the question of premium depends upon the amount of the loan, the rate of interest, and the time it has to run.

I believe, from the best examination I have been able to make of this subject, that it is not safe for us if we desire to fund the bonds soon to become payable, to put gyves upon the wrists of the Secretary of the Treasury and manacles upon his feet, and say, "Here, borrow this money at 3 per cent. at par, and if the bonds of the United States go one-eighth of 1 per cent. below par, then stop your operation, and allow," as the Senator from Kentucky [Mr. BECK] said so well last night, "the present holders of the 5 and 6 per cent. bonds to put into their pockets $12,000,000 per annum until such time as Congress shall again meet and give the Secretary of the Treasury additional power."

It is for that reason that the Committee on Finance fixed the rate of interest at 3½ per cent., so that there would probably be no peradventure with reference to the ability of the Secretary to negotiate this loan. Then if these bonds go at a premium he can sell them at a premium and put the money realized into the Treasury, and thus secure what the Senator from Connecticut [Mr. EATON] hopes to secure, a low rate of interest on the investment. If a 3 per cent. bond was just that rate, I should be willing to make this a 3 per cent. bond; but I think it is not wise to do that.

But I only intended to answer for a moment my colleague and not to speak upon the bill itself at present. I think it is wise for us to place a fixed rate, and if that rate be too high, trust to the integrity and ability of the Secretary of the Treasury to secure a premium upon the bonds.

Mr. PENDLETON. Mr. President, I desire to ask the Senator from Iowa who sits before me [Mr. ALLISON] and who is familiar with this matter for an explanation. I sympathize in a great deal that he has said and am profoundly anxious that a funding bill shall be passed, that the option for redemption shall be confined to the shortest possible time, and that the interest shall be fixed at the lowest possible amount. The problem is how we shall do that.

I do not entirely sympathize with him in the statement that it would be unwise, improper, confiding too much power in the Secretary of the Treasury, to fix the limit beyond which the interest shall not go, leaving him, if he shall find the condition of the market suitable, to fix a lower rate. I do not think it necessary that different rates of interest should be fixed by the Secretary for this loan; but my mind has been inclined to the opinion that it would be wise to leave to the Secretary the fixing of the rate of interest in the interval between the passage of the bill and the negotiation of the bonds. Let them all be fixed, then, at the same rate of interest and the issue be made.

I was very much struck with the remarks made last evening by the Senator from Kentucky, [Mr. BECK,] in which he described the persons who came before the Finance Committee to give them advice. He stated that interested advice was given by men who assumed the utmost possible frankness. Those who are interested in having no funding bill, the owners of the 5 and 6 per cent. bonds, appeared before the committee and insisted that the rate of interest should be fixed at 3 per cent., in the hope and with the belief that they could so operate upon the market as that the loan would be a failure. I have reason to know that those same holders of bonds are advising other people to insist on 3½ per cent. being named in the bill as the fixed rate of interest, in the hope that there will be a failure to agree between the two Houses, and so the funding bill fail. Their interest is to prevent the funding of the debt. If the bill fails they have accomplished their purpose; if the loan fails they have accomplished their purpose equally well; and we have to-day put upon Congress, put upon the market, put upon public opinion the opinions of men in favor of a low rate of interest in the hope that the loan will fail, and the same men insisting upon a higher rate of interest to other parties in the hope that the bill will fail.

Now, what is the way in which to deal with that question? It seems to me that it is to confide to the Secretary of the Treasury the right to fix the rate of interest at any point below 3½ per cent. that he, instructed by the course of the market before the loan is put upon it, shall determine to be proper. What will be the result? Having the discretion to put a bond at 3½ per cent. upon the market he has secured the availability of the loan; he has secured from the market the possibility of putting out that bond and having it taken and refunding the debt. Therefore the interest of the holders of the 5 per cent. bonds and the 6 per cent. bonds has ceased; their bonds are to be funded at any rate; they go out of the market, whether it is by a 3½ or a 3 per cent. bond they are provided for. What interest is then operating on the market? Not the interest my friend from Iowa seems to suggest, but the interest of those people to whom it is a matter of great importance to float the loan at 3 per cent. They are the holders of the fours and four-and-a-halfs who, if another bond at 3 per cent. can be floated, will realize the benefit of the very large rise in their securities.

The general subject of the financial operations of the Government is one with which I am not familiar, and therefore I speak with all deference and humility; but it does seem to me that if we had a Secretary of the Treasury to whom we could confide a discretion of that kind, in whose honesty we had confidence, in whose integrity and intelligence we had confidence, the proper way to meet these conflicts in the market would be to give him the discretion so as that he could certainly float the loan in spite of the opposition of the holders of the 5 and 6 per cent. bonds, and then, having removed them from their antagonism to the loan, be able to bring to bear upon the market the operation of a large class of moneyed men of the country, the holders of the fours and the four-and-a-halfs, to secure for the Government the floating of this loan at 3 per cent. You put it in his hands to remove the objection of the holders of the five and six percents, and after having driven them from the field by the certainty that their bonds will be funded you bring into play the operation of these other forces in the market whose interest it is that your bonds shall bear only 3 per cent.

These are the suggestions that have occurred to me, and as the Senator from Iowa was on his feet on that subject I should desire, if he thought it worth while, that he should enlighten me and the country on that point. No doubt he can.

Mr. ALLISON. Mr. President, of course I cannot enlighten the Senator from Ohio upon that point or any other; but the difficulty that I see in the way of his suggestion is that you cannot get the 5 and 6 per cent. bonds out of the way until you have negotiated the loan provided for in this bill. I can very readily see that at some time, after this loan shall have been taken, it will be the interest of the holders of four percents and four-and-a-half percents to advance those bonds in the market, and in advancing them of course they will advance the bonds bearing a lower rate of interest, whether it be 3 or 3½ per cent., and if it be 3½ per cent. I think it quite likely that at some time in the future these bonds will bear a slight premium in the market; but it would be a very favorable money market that would induce a premium on even a 3½ per cent. bond. Now, the 4 per cent. bonds are selling in the market at 113 or perhaps 113¼ to-day. I do not know what the latest price is, as I have not looked; but these very bonds are fluctuating in the New York market at the rate of one-fourth, or one-half, or three-fourths of 1 per cent. every day. What does that show? It shows that if you put a 3 per cent. bond on the market and there is no fluctuation of a quarter of 1 per cent., the Secretary of the Treasury is stopped in his operations until the par is restored. Is it a wise thing to put any Secretary of the Treasury upon such a narrow margin as that, where it will be in the power of any set of men by bearing the bonds one-eighth of 1 per cent. to stop entirely the operations. And yet that is the difficulty you encounter when you undertake to put the Secretary of the Treasury upon this margin. The 4 per cent. bonds to-day are realizing to the investor 3½ per cent. interest per annum, or one-fourth per cent. higher than you propose. The Senator from Kansas [Mr. PLUMB] shakes his head. I have not trusted my own arithmetic, but have asked the arithmetician of the Treasury Department, Mr. Elliott, and he computed this for me at 113, the value of 4 per cent. bonds in the market. If the present market rate of four percents yields to the investor 3½ per cent., why is it that we should tie the hands of the Secretary and only authorize him to issue a loan bearing 3 per cent.?

The Senator from Nebraska [Mr. SAUNDERS] a while ago said a very true thing when he said that the effect of this bill at 3 per cent. would be to put the 4 per cent. bonds to 118. So it would and probably to 122, and the men who hold the 4 per cent. bonds to-day could sell them out a month or sixty days from now and receive a profit of 6, 7, or 8 per cent., put it in their pockets, and in the mean time the Secretary of the Treasury would be "whistling down the wind" in an attempt to negotiate the 3 per cent. bond. They would have no interest in the subsequent proceedings, having pocketed this premium of 6 or 7 per cent. realized by the legislation which we are enacting here to-day. That is the trouble.

Mr. PLUMB. Will the Senator from Iowa permit me to ask a question?

Mr. ALLISON. Yes, sir.

Mr. PLUMB. Why should any man buy a 4 per cent. bond at 122 in place of buying a 3 per cent. bond at par?

Mr. ALLISON. For the reason that the 3 per cent. bonds are to be payable presently; they are to be paid in five years from this time, for I have not much faith in the arithmetic of my honorable friend from Indiana [Mr. McDONALD] who in the early part of the day presented to us such a glowing picture of the growth and prosperity of our country and in a few hours afterward told us that we were not likely to have a large surplus of money by reason of taxation. The Secretary of the Treasury in his report shows that for the next ten years to provide for the sinking fund alone will require $520,000,000. Not one single dollar of our indebtedness can be redeemed except the bonds and Treasury notes authorized by this act. Therefore, it is safe to presume that nearly this entire loan will be redeemed and taken up within the next ten years, the sinking fund requiring $520,000,000. This then is a short bond. The 4 per cent. bonds run twenty-six and a half years. Is not time an important element in this affair? Would not the national banks prefer to pay a small shade of premium, nay, 1 or 2 per cent. more or 3 per cent. more, for a bond that is to run twenty-six and a half years, that they can put in their vaults for that length of time, rather than to use for bank circulation or bank reserve a bond which they know in the nature of things will be called in in five or six years? There is the difference.

I repeat, therefore, what I said before, that if this bill shall pass as it came to us, my opinion is that the 4 per cent. bonds will advance not to 18 or 19 premium—what would make the difference—but they will advance presently 2 or 3 per cent. beyond that, and then when the 3 per cent. loan fails, if it should fail, (as I hope it will not, because we are all interested in securing the loan at the lowest possible rate,) the four percents fall back again to their normal rate, and the speculators in them will have pocketed in the mean time the difference of 7 or 8 per cent.

Mr. McPHERSON. May I ask the Senator from Iowa a question before he sits down?

Mr. ALLISON. Certainly.

Mr. McPHERSON. He appears to express a great sympathy for the Secretary of the Treasury. I do not know whether it is the present Secretary or the prospective one that he wishes to keep out of difficulty; but there is one point in his argument upon which I want a little light. He discusses this question entirely upon the idea that this is a popular loan; that the people are to be permitted to subscribe to it. If that be so, it is a loan placed before the people of this country in an entirely different form from any other loan which has yet been offered to the people. The 5 per cent. bonds, the 6 per cent. bonds, the four-and-a-half percents, the four percents, were sold to a syndicate, not at their par value, but at a large commission below their par value. Had it been a popular loan the people or the Government would have been benefited to the extent of that which the syndicates have reaped as a reward for their toil.

Now, I submit that it makes no difference whatever to the Government what the market value of the bonds may be twenty-four hours after they have gone into the possession of the syndicate. You may issue to-day a 3½ per cent. bond. Within two weeks, within twenty days after that bond has been sold to the syndicate, it will be bulled in the market by them to a point where the investor must pay 5 or 6 per cent. premium upon the bond. I do not suppose that it is the intention of the present Secretary of the Treasury or the prospective Secretary of the Treasury to do otherwise with the 3 or the 3½ per cent. bonds than to know when the bonds are issued what the Government is to receive for them, what will be the price at the par value with the discount allowed to the syndicate. It matters not to the Government whether the bonds on the market be one-eighth per cent., one-fourth per cent., or one-half per cent. lower to-day than they are to-morrow. The Government has disposed of its securities; it has been paid the value for them, and the value we place upon them, not the value the Secretary may place upon them; for I submit he has nothing whatever to do with it. He is simply the agent of Congress, authorized, instructed by Congress to offer this bond to the public. What does he do with it? I have no way of judging of the future except by the past, and judging by the past, the present Secretary of the Treasury has in every case sold the bonds to a syndicate. I repeat it, sold the bonds to a syndicate of capitalists. They have reaped the profit that should have gone into the pockets of the people.

Mr. ALLISON. Why, Mr. President, the Senator from New Jersey forgets that the Secretary of the Treasury, only a few years ago, in pursuance of an act of Congress which we passed on the 25th of February, 1879, put out a large amount of the 4 per cent. loan to the public.

Mr. McPHERSON. I ought to have made that exception. I remember now that one particular case; it was at a time when I suppose it would perhaps not have been wise to have given the balance of that issue of bonds to a syndicate except at a very high premium.

Mr. ALLISON. The loan was put out by the Secretary of the Treasury as a popular loan, and people stood in rows at all the post-offices and sub-treasuries taking that loan; and why? Because by our act of February 25, 1879, we authorized that loan to be taken at par; and if the Secretary of the Treasury had not been directed to sell those bonds at par he would undoubtedly have realized a premium for the remainder of the $149,000,000, or whatever sum it was, of the 4 per cent. bonds at that time. But the Senator from New Jersey has not taken note of the fact that I offered this morning an amendment to this bill, with the informal sanction of the members of the Committee on Finance, proposing that this shall be a popular loan in the sense that it shall go to the people of the United States, who shall be permitted to offer proposals for the loan at not less than par, so that it shall be open to all the people, and not to a syndicate of bankers, as the Senator suggests.

Mr. FERRY. I desire to correct a statement the Senator from New Jersey has made. I think about fifty million dollars of the four per cents were sold for resumption purposes and about eighty million dollars through the syndicate and over six hundred million dollars by popular subscription.

Mr. VOORHEES. With the permission of the chairman of the committee having charge of the bill, I shall move that the Senate do now proceed to the consideration of executive business.

Mr. BAYARD. I hope the Senator will withdraw that motion. I am anxious to have the question settled as to the time when the Senate will decide this matter. I have no disposition to press the bill unduly; its importance must be recognized by the Senate and their discretion must control it. It certainly cannot be ended to-night, but I shall ask the Senate that it be ended to-morrow, and that we shall conclude the consideration of this bill before adjournment to-morrow. I would suggest to the honorable Senator from Indiana whether he had better not withhold his motion until five o'clock and then make it. It is now only half past four.

Mr. VOORHEES. I will withdraw the motion at the Senator's suggestion. I comply cheerfully with the request of the chairman having charge of the bill, with the hope that in the mean time the vote may be taken on this amendment, and at five o'clock I shall renew the motion.

Mr. PLATT. Mr. President——

Mr. EATON. I wish to ask a question before my colleague proceeds. A part of this section I approve of. I want to know if it would be competent to amend the amendment by striking out the words "and one-half," so that the vote might be taken on 3 per cent.? If that be adopted, I shall then desire to offer another amendment.

Mr. WHYTE. If the amendment be not adopted, 3 per cent. will be left as the rate.

Mr. EATON. I want to try 3¼.

Several SENATORS. You can do it now.

Mr. EATON. Then I move to amend by striking out the words "one-half;" so as to read, "at the rate of 3 per cent. per annum."

Mr. BAYARD. That amendment has not yet been adopted.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The question is on agreeing or disagreeing to the amendment reported by the committee to insert the words "and one-half."

Mr. EATON. Then let me ask the Chair for information. Suppose this amendment is adopted, is it competent then to move to amend the amendment by striking out the words "one-half" and inserting "one-fourth?" No. Therefore I desire a vote upon my amendment to the amendment to strike out the words "one-half."

The PRESIDING OFFICER. The Chair would suggest to the Senator from Connecticut that those words are not yet in the bill. The question before the Senate is whether they shall be inserted in the bill or not, as the committee have recommended.

Mr. EATON. That I understand; and then comes my other question: Suppose they are adopted, then is it competent in the Senate to amend by striking out "one-half" and inserting "one-fourth?" I think my amendment to the amendment is clearly in order. I will take the opinion of the Chair, of course.

The PRESIDING OFFICER. The Chair holds that the question before the Senate is whether the amendment proposed by the Committee on Finance, which is to insert the words "and one-half" after the word "three," shall be agreed to by the Senate.

Mr. THURMAN. I think, if the Chair will reflect for a moment, he will see that that is amendable. The amendment of the Senator from Connecticut is not too remote at all. There is an amendment proposed by the committee; it is to insert the words "and one-half." Now, that is amendable.

The PRESIDING OFFICER. The Chair did not hold that it was not.

Mr. THURMAN. The Senator from Connecticut may move, as he has a perfect right to do, to strike out the word "half" and insert "quarter."

The PRESIDING OFFICER. The Chair would suggest to the Senator from Ohio that the words "one-half" are not in the bill to be stricken out.

Mr. THURMAN. If the amendment is not agreed to then it will be "three," and the Senator can move to add anything; but the trouble he has is that if the Senate agree to the amendment of the committee and insert the words "and one-half," they are fixed.

The PRESIDING OFFICER. Will the Senate agree to the amendment reported by the Committee on Finance?

Mr. PLATT. Mr. President, I desire at some time before this amendment shall be acted upon to offer a few suggestions in relation to it. If the Senate desire that I should go on to-night I will do so, but I would prefer that the Senate should go into executive session at this time.

Mr. MORRILL. I move, then, that the Senate proceed to the consideration of executive business.

Mr. COCKRELL. Will the Senator from Connecticut yield a moment to the Senator from South Carolina?

Mr. PLATT. Certainly.

Mr. BUTLER. Mr. President, I shall not detain the Senate three minutes.

Mr. MORRILL. I withdraw my motion if any gentleman desires to speak.

Mr. LOGAN. Before the Senator from South Carolina proceeds I desire to ask a question whether the amendment Senators have been speaking to applies to both classes, to the bonds and the Treasury notes, or whether it applies to the bonds alone?

Several SENATORS. To both.

Mr. LOGAN. I want to understand from the chairman whether or not the amendment applies to the bonds or to the notes separately.

Mr. BAYARD. If the Senator will read a few lines further on he will see that there is a second amendment applying in different language to the Treasury notes. Therefore, this amendment will not affect the rate of the Treasury notes but only the bonds.

Mr. BUTLER. Mr. President, I simply desire to explain very briefly my vote on this amendment, I shall not attempt to go into a full debate of the whole subject. It has been so ably and fully argued by others that I shall not attempt it.

I shall vote for 3½ per cent., the rate recommended by the Finance Committee. I would have preferred a long bond, say 5-40 or 5-30, which by the concurrent testimony of all parties could be easily floated at par at 3 per cent. I am in favor of this long bond at a low rate of interest, and relief to the people by the reduction of taxation. This generation has paid very nearly one thousand millions of the public debt, besides the enormous current expenses of the Government, and it would be fair and proper, in my judgment, that posterity should pay their share of it. They will be better able than we are, and the burden would be much lighter upon them.

It is more important to reduce taxation *now*, and maintain Government securities at par at a low rate of interest, than to keep up the strain of high taxation upon the present generation, and in that proportion impair our vitality and energy.

I know, Mr. President, how easy it is to glorify and felicitate ourselves upon our ability to pay off our vast debt in a short time, and this glorification and assumption is in a large measure justified by the exceptionally prosperous times, large harvests, and marvelous development of the last few years. These conditions have given us a large balance of trade, and surplus revenues.

But reverse those conditions. Let us experience two or three crop failures and a falling off in our present great business activity, a stringency in our money markets, and we may have to resort to financial expedients to meet our obligations and maintain the public credit that would lose us much of the vantage-ground we have gained. And I therefore prefer to take no chances, but adopt such measures for funding the bonds coming due as will enable the Government to take care of its credit without embarrassment. I am admonished that a long bond, a 5-40 or 10-40 or 10-30, cannot pass this Congress, and as *some* legislation is said to be necessary, I shall take the next best proposition, which is a 3½ per cent. 5-10 or 5-20 bond.

If our present favorable conditions continue, the accumulation of surplus revenues will enable the Government to pay off the obligations at its option after five years and stop all interest. If not, we shall be able to carry the debt at par without trouble.

Mr PLATT. Mr. President——

Mr. CAMERON, of Wisconsin. If the Senator from Connecticut will give way, I move that the Senate now proceed to the consideration of executive business.

Mr. PLATT. With the understanding that I hold the floor.

Mr. BAYARD. I desire to ask the Senate to conclude the consideration of this bill in to-morrow's session before an adjournment.

The PRESIDING OFFICER. The Senate will take notice of the request of the Senator from Delaware. The Senator from Wisconsin moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-five minutes spent in executive session the doors were reopened, and (at five o'clock and twenty minutes p. m.) the Senate adjourned.

## IN SENATE.

### THURSDAY, *February* 17, 1881.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

#### DISTRICT LIQUOR LICENSES.

The VICE-PRESIDENT laid before the Senate a letter from the commissioners of the District of Columbia, transmitting, in response to a resolution of the 10th of January, the names of all persons applying for liquor licenses for the year commencing November 1, 1880, together with the signatures appended thereto, and their action on such applications; which was referred to the Committee on the District of Columbia.

#### PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a letter from the Secretary of War, transmitting the petition of Captain William Mills, Second Infantry, praying that he be granted pay as acting second lieutenant from January 5, 1862, to February 19, 1863; which was referred to the Committee on Military Affairs.

He also presented the memorial of Thomas Mitchell and others, citizens of Clark Centre, Illinois, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. INGALLS. I present a resolution adopted by the Legislature of Kansas relative to the diseases of live stock. It is customary, I believe, to have resolutions of State Legislatures printed in the RECORD.

The resolution was ordered to lie on the table and to be printed in the RECORD, as follows:

House resolution.

Whereas it appears that a malignant and fatal disease, heretofore unknown, is now prevailing among the herds of cattle on the Pecos Valley, New Mexico, which disease is spreading northward and is threatening to reach the herds of Kansas; and

Whereas the owners of said infected herds are now petitioning the national authorities to cause said disease to be investigated: Therefore,

*Be it resolved by the house of representatives of the State of Kansas*, That our Senators and Representatives in Congress be, and the same are hereby, requested to urge upon the proper Department of the General Government that a commission of competent veterinary surgeons be immediately dispatched to the infected region in order that the causes, remedies, and preventions of said disease be ascertained before it reaches the grazing regions of Kansas; and that a copy of these resolutions be forthwith transmitted by our secretary of State to each member of our delegation in Congress.

Adopted by the house, February 4, 1881.

Attest: WIRT W. WALTON,
*Chief Clerk.*

I, James Smith, secretary of State of the State of Kansas, do hereby certify that the foregoing is a true and correct copy of the original resolution which passed the house of representatives February 4, A. D. 1881, on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal at Topeka, Kansas, this 9th day of February, A. D. 1881.

[SEAL.] JAMES SMITH,
*Secretary of State.*

Mr. INGALLS presented a resolution of the Legislature of Kansas; which was ordered to be printed in the RECORD, and referred to the Committee on Public Lands, as follows:

House concurrent resolution No. 18, relating to lands in Allen County claimed by certain railroad companies and by settlers upon said lands.

Whereas a controversy has existed for many years between the Missouri, Kansas and Texas Railway Company and the Leavenworth, Lawrence and Galveston Railway Company, now known as the Kansas City, Lawrence and Southern Railway Company, upon the one side, and the settlers upon certain lands hereinafter mentioned upon the other side, respecting the title to certain lands in Allen County occupied by said settlers; and

Whereas said railway companies claim said lands by virtue of certain acts of Congress, making grants of lands to the State of Kansas for their benefit; and

Whereas said settlers claim that said railway companies have no right to said lands; that the same do not lawfully belong to said railway companies, and that the said railway companies have no just, legal, or valid claim to said lands; and

Whereas it is highly important to the material interests of this State, to the welfare of said settlers, as well as of said railway companies, that said controversy be settled and determined by the decision of the Supreme Court of the United States; and

Whereas it is impracticable and almost impossible to have the respective rights of the adverse claimants to said lands settled by the institution of private suits, because of the large number of tracts of said lands, aggregating not less than four hundred quarter-sections in said county of Allen; and

Whereas said settlers are, many of them, in poor and destitute circumstances, and unable to bear the expense of carrying on, each in his own behalf, a separate and independent suit, and have therefore united in an organization called "The Settlers' Protective Association," for the purpose of securing by due and lawful means a decision of the questions involved in said controversy; and

Whereas all questions affecting the title to said lands can be settled and determined in a single suit, brought in the name of the United States, for the cancellation of the patents issued to said railway companies for said lands; and

Whereas said settlers are willing to pay the expense of such suit, and only desire the use of the name of the United States to enable them to obtain their legal rights: Therefore,

*Be it resolved by the house of representatives of the State of Kansas, (the senate herein concurring,)* That we respectfully request the Congress of the United States to pass an act directing the Attorney-General of the United States to authorize a suit to be instituted in the circuit court of the United States for the district of Kansas, against said railway companies, to test the questions involved in the controversy above mentioned, and to settle the rights of the settlers and of the railway companies in said lands, under such rules, regulations, and restrictions as may seem proper to protect the United States from expense; and

*Be it further resolved*, That we most earnestly request our Senators and Representatives in Congress to introduce the proper measures to accomplish the desired result, and that they use all proper influence to secure the passage of such measures; and

*Be it further resolved*, That the secretary of State is hereby instructed to furnish a copy of this preamble and these resolutions to the President of the Senate and the Speaker of the House of Representatives of the United States, and to each Senator and Representative in Congress from the State of Kansas.

I, James Smith, secretary of State of the State of Kansas, do hereby certify that the foregoing is a true and correct copy of the original resolutions on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 10th day of February, A. D. 1881.

[SEAL.] JAMES SMITH,
*Secretary of State.*

Mr. FERRY presented the memorial of E. B. Bell and 20 others, citizens of Camden, Michigan, ex-soldiers of the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

Mr. PENDLETON presented resolutions of the Chamber of Commerce of Cincinnati, Ohio, favoring the repeal of the law levying a special tax on the capital and deposits of banks and bankers, and also the tax on bank-checks; which were referred to the Committee on Finance.

He also presented resolutions of the Bar Association of Cincinnati, Ohio, favoring the passage of the bill (S. No. 817) to authorize the erection of a statue in honor of Chief-Justice John Marshall, formerly of the Supreme Court of the United States; which were referred to the Committee on the Library.

Mr. WALLACE presented a memorial of citizens of Greenville Centre, Bradford County, Pennsylvania, remonstrating against the passage of the bill (S. No. 496) providing for the adjudication and examination of pension claims; which was ordered to lie on the table.

Mr. WHYTE. I present a memorial signed by George S. Brown, Francis T. King, Tucker Smith & Co., William Woodward, and nearly 500 prominent citizens of Baltimore, Maryland, in behalf of Indian schools. As it is very short I ask that the memorial itself may be read without the names, and the bill relating to these schools having passed, I ask that it lie on the table.

The memorial was read and ordered to lie on the table, as follows:

Memorial to the Congress of the United States in behalf of Indian schools.

We, the undersigned, citizens of the city of Baltimore, and of the State of Maryland, being thoroughly convinced of the necessity of making a proper provision for the education and civilization of the Indian youth in our Territories, by the agency of such schools as those at Carlisle, Pennsylvania, and Hampton, Virginia, do most respectfully petition the Congress of the United States to establish similar schools at military posts, and where they be most useful, by making such appropriations as may be necessary for their support; believing that in the end the measure will be justified, be the highest considerations of our duty and policy, in the best solution of the Indian problem.

Mr. MORGAN. I present a memorial of the General Assembly of Alabama; and, as it is brief, I ask the Secretary to read it.

The memorial was read, and referred to the Committee on Public Lands, as follows:

Joint memorial of the General Assembly of Alabama to the Congress of the United States, praying for a grant of land to aid in the construction of the Tennessee and Warrior Rivers Railroad.

Your memorialists respectfully represent that whereas the General Assembly of Alabama did, on the 14th day of February, A. D. 1872, adopt a joint memorial, addressed to the Congress of the United States, praying the passage of an act granting land in aid of the construction of the Tennessee and Warrior Rivers Railroad for the reasons therein set forth; and whereas the General Assembly of said State did, on the 26th day of January, A. D. 1875, adopt a joint memorial directed to said Congress of the United States, praying an appropriation of money for the improvement of the navigation of the Warrior River, between Tuscaloosa and Demopolis, in said State, setting forth in said memorial fully the reasons therefor; and whereas the General Assembly of said State of Alabama did, on the 4th day of March, A. D. 1876, adopt a joint memorial to the Congress of the United States, praying an appropriation of money for the survey of the Sipsey River, in said State, all of which said memorials had for their object the opening up, settling, and improving, and developing the same portions or sections of said State, and which memorials are fully set forth in the United States Senate Miscellaneous Document No. 55, second session Forty-fifth Congress; and whereas the Tennessee and Warrior Rivers Railroad Company, a corporation duly chartered, and existing by and under the laws of the State of Alabama, has a bill now pending in the Senate of the United States, praying a grant of land in aid of its construction; and whereas your memorialists looking upon the said railroad line and its early completion as a matter of vast public importance to both the said State and to the country at large in this that it will open up to settlement and to the commerce of the world a section (as set forth in the aforesaid memorial) valuable in mineral deposits, water power, timber, and agricultural resources which is now to the world like a sealed book; and in view of the great importance of this line of railway, and in view of the further fact that the section through which it passes still remains nearly in the same condition as described in said joint memorial approved March 4, 1876, to which especial attention is called, the said lands still remaining mainly in the hands of the General Government; and in view of the further fact that it seems impossible to open up or settle any section of country not possessing railroad advantages or facilities, your memorialists would therefore respectfully urge upon the Congress of the United States the passage of the bill now pending in the Senate, praying a grant of land to aid in the construction of said Tennessee and Warrior Rivers Railroad.

JOHN D. RATHER,
*President of the Senate.*
N. H. R. DAWSON,
*Speaker of the House of Representatives.*

Approved December 8, 1880.

R. W. COBB, *Governor.*

Mr. DAVIS, of West Virginia, presented a resolution of the Legislature of West Virginia in favor of the passage of a law to regulate the traffic on interstate railways; which was referred to the Committee on Commerce.

He also presented additional papers to accompany the bill (S. No. 1973) for the relief of the heirs of Nathaniel Kuykendall; which were referred to the Committee on Claims.

Mr. BOOTH presented the memorial of W. B. Williams, of San Francisco, California, in behalf of the match manufacturers of California, remonstrating against the repeal of the stamp tax upon matches; which was referred to the Committee on Finance.

### REPORTS OF COMMITTEES.

Mr. SLATER, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 1729) for the payment of certain Indian war bonds of the State of California, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. FERRY, from the Committee on Post-Offices and Post Roads, to whom was referred the bill (S. No. 2043) for the relief of Sabin Trowbridge, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BALDWIN, from the Committee on Commerce, to whom was referred the joint resolution (S. R. No. 159) in relation to the barge W. I. Spicer, reported it without amendment.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1796) to provide for the erection of a public building for the use of the post-office and Government offices at the city of Terre Haute, Indiana, reported it with amendments.

Mr. DAWES, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 2178) to authorize the construction of a fire-proof building at Columbus, Ohio, reported it with amendments.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 936) relinquishing the right of the United States to an island therein named, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

### POST-ROUTE BILL.

Mr. MAXEY. I give notice that by direction of the Committee on Post-Offices and Post-Roads, on Monday next I shall report back the bill (H. R. No. 7036) to establish post-routes, and I ask Senators interested in that bill to have their amendments referred to the committee that it may have time to consider them. I also give notice that I am directed by the committee to ask for the consideration of the post-route bill at that time.

Mr. JOHNSTON. I offer an amendment to the bill referred to by the Senator from Texas, and I move that it be referred to the Committee on Post-Offices and Post-Roads and printed.

The motion was agreed to.

### FRAUDULENT PATENT VENDORS.

Mr. VOORHEES submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the Judiciary of the Senate be, and it is hereby, instructed to inquire into the best method of protecting innocent purchasers from the impositions practiced by the fraudulent vendors of patents and patent-rights, and report by bill or otherwise.

### COLUMBIA RIVER IMPROVEMENTS.

Mr. SLATER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved by the Senate*, That the Secretary of War be, and he is hereby, directed to transmit to the Senate the late report of Colonel Gillespie submitting plans for the improvements of the mouth of the Columbia River, together with the report of the board of engineers thereon.

### BRIDGE ACROSS THE POTOMAC.

Mr. BAYARD. Mr. President——

Mr. WITHERS. I ask to call up, with the consent of the Senator from Delaware, what is always regarded as a matter of privilege, the report of the conference committee on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1381) to authorize the construction of a free bridge across the Potomac at or near Georgetown in the District of Columbia.

The VICE-PRESIDENT. The Chair hears no objection to the request of the Senator from Virginia. The report will be read.

Mr. INGALLS. The report has been read, and it was laid over yesterday at my request that it might be printed. I have examined it and am satisfied that the report is correct and that the Senate should agree to it.

The VICE-PRESIDENT. The question is, Will the Senate concur in the report of the committee of conference?

The report was concurred in.

### RIVER AND HARBOR BILL.

Mr. BUTLER. I offer an amendment relative to the survey of the Blue Ridge Canal to the river and harbor bill, and I ask that it lie on the table. I shall call it up at an early day with a view of submitting some remarks upon it.

The VICE-PRESIDENT. The amendment will lie on the table, subject to the call of the Senator.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6613) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1882, and for other purposes.

The message also announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 2331) granting pensions to the widow and minor children of Michael Meenan, deceased.

The message further announced that the House had passed the following bills:

A bill (S. No. 1070) granting a pension to Jacob H. Eppler; and

A bill (S. No. 1802) granting a pension to Ann M. Paulding.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes.

The message further announced that the House had concurred in

the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1882, and for other purposes.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 6034) for the relief of the personal representative of George W. Henderlite, deceased;

A bill (H. R. No. 6847) to provide for the distribution of unclaimed dividends among the creditors of national banks; and

A joint resolution (H. R. No. 393) authorizing the Secretary of War to loan certain tents, flags, &c., to the Masons at Louisville, Kentucky.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H. R. No. 3788) granting an increase of pension to William Hamill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. R. L. TAYLOR of Tennessee, Mr. G. R. DAVIS of Illinois, and Mr. J. W. COVERT of New York, managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the Vice-President:

A bill (S. No. 711) amending the charter of the Freedman's Savings and Trust Company, and for other purposes;

A bill (H. R. No. 6201) granting a pension to Thomas Worthington;

A bill (S. No. 1928) to provide for remitting the duties on the object of art awarded by the Berlin International Fishery Commission to Professor Spencer F. Baird;

A bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes;

A bill (H. R. No. 6942) to fix the times of holding the district and circuit courts of the United States for the western district of Texas;

A joint resolution (S. R. No. 152) granting the use of artillery, tents, &c., to be used at the soldiers' reunion to be held at Lincoln, Nebraska, in the month of September, of 1881; and

A joint resolution (H. R. No. 337) authorizing and requesting the President to extend to the Government and people of France and the family of General La Fayette an invitation to join the Government and people of the United States in the observance of the centennial anniversary of the surrender of Lord Cornwallis at Yorktown, Virginia.

WILLIAM HAMILL.

Mr. DAVIS, of Illinois. I ask that the request of the House for a conference on House bill No. 3788 be acted on now.

The Senate proceeded to consider the action of the House of Representatives non-concurring in the amendment of the Senate to the bill (H. R. No. 3788) granting an increase of pension to William Hamill, and asking a conference with the Senate on the disagreeing votes of the two Houses thereon.

On motion of Mr. DAVIS, of Illinois, it was

*Resolved*, That the Senate insist upon its amendment to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

*Ordered*, That the conferees on the part of the Senate be appointed by the Vice-President.

The VICE-PRESIDENT appointed Mr. WITHERS, Mr. DAVIS of Illinois, and Mr. KIRKWOOD, as the conferees on the part of the Senate.

INDIAN APPROPRIATION BILL.

Mr. WALLACE. I submit the report of the committee of conference upon House bill No. 6730, the Indian appropriation bill. The conferees have agreed upon all the items of disagreement between the two Houses, with a single exception, the item with reference to the expenses of the peace commission, as it is called, and they have disagreed upon that subject. I ask for the adoption of the report of the conference committee.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various tribes for the year ending June 30, 1882, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27, and agree to the same with an amendment, as follows: Restore in each case the words "including traveling expenses of agents:" and the Senate agree to the same.

As to the amendments numbered 30 and 31, the committee are unable to agree.

JAS. B. BECK,
WILLIAM A. WALLACE,
WILLIAM WINDOM,
*Managers on the part of the Senate.*
ERASTUS WELLS,
O. R. SINGLETON,
JAY A. HUBBELL,
*Managers on the part of the House.*

Mr. ALLISON. I ask what will be the effect of an agreement to that report?

Mr. WALLACE. The effect, as I understand it, is simply to agree upon all the items agreed upon by the conference, and the proposition disagreed to will be the subject of another conference.

Mr. ALLISON. Upon that single item?

Mr. WALLACE. Upon that single item. That is the effect of it.

The report was concurred in.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. EATON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6613) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1882, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "Chargé d'affaires and consul-general;" and the Senate agree to the same.

WM. W. EATON,
H. G. DAVIS,
WM. WINDOM,
*Managers on the part of the Senate.*
O. R. SINGLETON,
ERASTUS WELLS,
JAMES MONROE,
*Managers on the part of the House.*

The report was concurred in.

NAVAL APPROPRIATION BILL.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 6969, making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 5, and 9.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same.

That the House recede from its disagreement to the amendment numbered 3, and agree to the same with an amendment, as follows: Strike out the word "fifty" and insert in lieu thereof "twenty-five;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert $875,000; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 10, and agree to the same with amendments, as follows: Insert after the word "statutes," at the end of line 2, the words "as heretofore amended," and strike out the word "sixteen," in line 4, and insert in lieu thereof the word "fifteen."

WILLIAM WINDOM,
H. G. DAVIS,
R. E. WITHERS,
*Managers on the part of the Senate.*
J. D. C. ATKINS,
THOMAS R. COBB,
FRANK HISCOCK,
*Managers on the part of the House.*

Mr. WINDOM. I will explain this agreement if any one desires it. If not, I shall not take the time.

The report was concurred in.

HOUSE BILLS REFERRED.

The following bills received from the House of Representatives were severally read twice by their titles, and referred to the Committee on Finance:

A bill (H. R. No. 6034) for the relief of the personal representatives of George W. Henderlite, deceased; and

A bill (H. R. No. 6847) to provide for the distribution of unclaimed dividends among the creditors of national banks.

The joint resolution (H. R. No. 393) authorizing the Secretary of War to loan certain tents, flags, &c., to the Masons at Louisville, Kentucky, was read twice by its title, and referred to the Committee on Military Affairs.

THE FUNDING BILL.

Mr. BAYARD. I move that the pending and all prior orders be laid aside for the purpose of proceeding to the immediate consideration of the funding bill.

The VICE-PRESIDENT. The question is on agreeing to the motion of the Senator from Delaware, that the pending order, being the consideration of the Calendar of General Orders under the Anthony rule, be postponed for the purpose indicated by him.

The motion was agreed to.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4592) to facilitate the refunding of the national debt, the pending question being on the amendment reported by the Committee on Finance, in section 1, line 18, after the word "three," to insert "and one-half;" so as to read:

The Secretary of the Treasury is hereby authorized to issue bonds to an amount not exceeding $400,000,000, of denominations of $50, or some multiple of that sum, which shall bear interest at the rate of 3½ per cent. per annum.

The VICE-PRESIDENT. On this question the Senator from Connecticut [Mr. PLATT] is entitled to the floor.

Mr. FERRY. If the Senator from Connecticut will yield to me a moment, I wish to state that as a member of the Committee on Finance I desired an amendment to the bill which by a majority of the committee was deemed unwise, and I did not press it in committee. I felt a delicacy in presenting the amendment to the Senate until the Senator from Iowa, [Mr. ALLISON,] also a member of the committee,

submitted an amendment. I now feel justified in submitting the amendment which I proposed in committee but did not press. It is not in order to offer the amendment now, but I give notice to the Senate that at the proper time, when the amendments of the committee shall have been acted on, I shall move, in line 18 of section 1, to strike out the word "the," before "rate," and insert "a," and in the same line, after the word "rate," to strike out "of" and insert "not exceeding;" so as to read "which shall bear interest at a rate not exceeding 3½ per cent."

Mr. PLATT. Mr. President——

Mr. WITHERS. Will the Senator from Connecticut yield to me to make an announcement?

Mr. PLATT. Yes, sir.

Mr. WITHERS. I am instructed by the Committee on Appropriations not to press the appropriation bills which are now in my hands for consideration to-day, hoping that we may reach a vote on the funding bill now under consideration, but I am also instructed by the committee to press them to-morrow morning to the exclusion of everything else.

Mr. PLATT. Mr. President, I desire as briefly as I can to address the Senate upon the question as to the rate of interest this contemplated loan shall bear, and to give such reasons as occur to me for sustaining the report of the committee, and the rate of 3½ per cent. rather than any lower rate.

I remember once to have heard a remark which for the sound philosophy it contained, concisely expressed, seemed to me to have a right to take its place among the current proverbs of the country. It was this: "It is better to be safe than to be sorry." I think in the consideration of a question like this, the results of the decision of which may be so momentous, we may well apply that homely phrase. It is better in this matter to be safe than to be sorry hereafter.

What is the situation? What is the Government to gain by successfully funding the 5 and 6 per cent. bonds at 3½ per cent.? It is to gain a saving in the annual interest charge during the whole period of time which those bonds have now to run of $12,000,000 in each year. What is it to lose if the rate of 3 per cent. interest shall be adopted for this loan and there shall be a failure to refund it? It is certain to lose $12,000,000 for one year, because nobody will claim that any refunding bill could be passed to go into operation in less time than a year if the one now proposed shall fail. Very probably the period of time during which we shall fail to save this $12,000,000 per year will be indefinitely extended, and very probably, and almost certainly, we shall be unable at any future date to pass a funding bill which can be successfully put in operation by which we shall be able to save as much as we shall save by a bill in which the rate of interest is fixed at 3½ per cent.

It seems to me that Senators who do not agree with the recommendations of the Secretary of the Treasury, who do not agree with the recommendations of the Senate Committee on Finance, but who think they see in the present condition of affairs an opportunity to gain notoriety for this country by placing its bonds on the market at a lower rate of interest than that recommended by the committee and a lower rate of interest than that at which any government on earth has hitherto been enabled to sell its securities at par, fail to contemplate the possibility of a failure of this loan at a less rate of interest than 3½ per cent. They seem to take it for granted, notwithstanding this overwhelming weight of authority and opinion that a loan cannot be securely and certainly negotiated unless the rate of interest is as high as 3½ per cent., that it can be done at a less rate, even at a rate as low as 3 per cent. Probably in no other country on the face of the globe would there be any serious hesitation in adopting the recommendations of the minister of finance backed by the committee of the legislative department which had the matter in charge. In England, or in France, or in Germany, or in any other country whose credit is good, such recommendations would be adopted without hesitation and almost without discussion.

But here in this country it is entirely different. I know that Senators should not bind themselves to the judgment of anybody else. I do not ask that Senators shall surrender their individual opinions to the opinions of any other men; but nevertheless I cannot but deem it wise to follow the recommendations of those who have the best opportunities to know what is best in this matter, unless it is perfectly apparent beyond contradiction, beyond contingency and peradventure, that a loan can successfully be negotiated at a lower rate of interest than they recommend. For one, unless I felt absolutely certain after an examination of the whole field, if there remained in my mind the slightest doubt on the subject, I would not dare to disregard the recommendation of those who are so well qualified to speak upon this subject.

What this disposition to depart from the recommendations of the Secretary of the Treasury and the recommendations of the Committee on Finance arises from, I am unable to tell. Possibly it arises from the fact that every man deems himself the best financier in the United States individually. Possibly it arises from the universal tendency of the citizens of the United States to haggle and dicker in a trade. I believe if the present Secretary of the Treasury and the Committee on Finance had recommended the funding of this loan at 3 per cent. interest, men, I fear Senators, would have been found to say, "Let us try it at 2½; let us go lower;" and when the lowest possible rate had been named, men would be found to request that the loan should be put on the market at even a lower rate.

It seems to me that this is not wise statesmanship. I think that from the best information we can obtain we are warranted in the belief that 3½ per cent. is the lowest rate of interest at which this loan can be negotiated. Let me allude once more to the recommendations of the Secretary of the Treasury. What object has he to deceive in this matter? He has no glory or fame to acquire in the success of this funding operation. He is to leave that Department where he has so well won his fame as a financier, and the operation of funding the debt is to be intrusted for success or failure to a new man, to a man who, however much of honest purpose and ability he may bring to the question, will certainly be to some extent untried in the business of negotiating loans; and as with the Secretary of the Treasury so with the Committee on Finance. To whom should we listen? To those men who by careful study and long experience are best capable of judging what is the wisest rate of interest to be adopted, or to the speculators of Wall street who are interested in having a rate of interest adopted at which this loan cannot be floated at par?

When I consider these questions it seems to me my plain duty, unless somebody can show me that there is no question that it can be negotiated at a lower rate of interest, to follow the suggestions of the Secretary of the Treasury and the Committee on Finance. That has not been shown. None of the 4½ per cent. or other bonds of the Government are selling at a price to-day which shows that a 3 per cent. loan can be negotiated at par. England has put an East India loan on the market at 3½ per cent. and I do not believe, much as I would like to delight myself with the picture, that the credit of this country is yet stronger and better to any appreciable extent than the credit of Great Britan.

But Senators say the Secretary was mistaken once, and the members of the Finance Committee were mistaken once; they thought that the last loan could not be funded at 4 per cent.; others said the loan could be funded at a lower rate of interest than 4 per cent., and 4 per cent. was a compromise rate, and subsequent events have developed the fact that it might have been placed then at a lower rate of interest than 4 per cent., therefore they are mistaken now. I do not think that follows. Why were they mistaken, if mistaken at all? Because they failed, as well they might fail, to foresee the unparalleled prosperity which was just in advance of them. I think Senators who now suppose that this loan can be negotiated at a lower rate of interest than 3½ per cent. will find that they are mistaken, because they fail to see that just in advance of us is a condition of things in which it will be vastly harder to fund this loan than it is at the present hour.

The advocates of a 3 per cent. interest or a 3½ per cent. interest look only, as it seems to me, at the present moment. Let me suggest to them that we are to-day riding on the top wave of a wild speculation, and that they and that others seem to lose sight of that fact and to suppose that it is but just the setting in of the tide. It is always so. Past experience must teach every cool and level-headed man that the rise in values and the enormous volume of business and speculation have reached, or nearly reached, their maximum, and that there must come, and that not very remotely, I fear, indeed, before this funding operation shall be set in motion, reverses which will bring depression, a fall in values, a fall in prices, if not panic and ruin and disaster. I know that every man who refuses to believe that we have only just commenced this upward movement of values, who fails to admit that prices are going on increasing indefinitely, is called a croaker, an alarmist; but I think we ought to take counsel of our sound judgment rather than of our rosy hopes. I think we should realize the fact that in all human probability this loan will be put upon the market under less favorable conditions for its success than exist to-day, or, at least, that the condition of the market before it shall be finally placed will be far less favorable to placing it than now.

My colleague [Mr. EATON] has expressed himself in favor of a 5-40 bond, and thinks such a bond can be negotiated at 3 per cent. because of the belief which will exist among financiers and those who will invest in such bonds that it will be impossible for the Government to pay them before maturity; in other words, that such a security would be practically a forty-year bond, and therefore would sell at as low a rate of interest as 3 per cent. per annum.

I am compelled to differ with him as to the desirability of such a bond. I hope and I believe that with wise legislation, and consequently prosperous times, with peaceful relations at home and abroad, we shall have paid the last dollar of our national debt long before the lapse of forty years. That will be an achievement of which the nation may be justly proud. That will be a well-earned glory, beside which the glory of having borrowed cheaper than any other nation will fade and be unnoticed. I cannot believe that if the Government shall find itself unable to take advantage of its option to pay the bonds to be issued as proposed in this Senate bill after five years it will have any difficulty whatever in paying them at the end of twenty years. That period will occur in the interval between 1891 and 1907, when no other bonds are falling due, a most convenient time for their payment.

This nation differs from all other nations in that its people are fully determined that its debt shall be paid to the last dollar in the shortest time compatible with a taxation which shall not be too rigorous and burdensome. In this determination and in the efforts thus far made to that end may be found one great cause of our unparalleled credit, may be found the secret of our advancing power and greatness among the nations of the earth. I cannot believe that the people of Connecticut favor any policy which looks to the continuance of any portion of the public debt beyond the earliest day practicable for its payment.

Mr. President, this question has been argued hitherto as if the only thing to be considered was at how low a rate of interest it was possible to fix and place this loan; in other words, to use the current phrase, at how low a rate of interest can this loan be "floated?" I cannot agree that this is the only consideration to be taken into account. I cannot agree that there is nothing else to be thought of except how cheaply the Government may be able to borrow its money. We want not only to float this loan, but we want that it shall stay floated, and that is more important than that we shall at first be able to place it—more important to the people, more important to the business interests of this country, more important to its future prosperity, its credit, and its greatness. The question which wise statesmanship should consider and answer is this: What rate of interest ought the Government, having in view the best interests of all the people, to pay on this loan? not what is the cheapest rate of interest which it can obtain.

I was struck with the remarks of the Senator from Kansas [Mr. PLUMB] the other day upon the subject, wherein he said of the question under consideration:

> That question is of significance in two ways; first, as affecting directly the Treasury of the United States in regard to the amount of the interest, and, second, as affecting the rate of interest which the people of the United States shall pay upon obligations assumed in their ordinary business transactions.

That is a thought which may well be considered in determining this question, and which should be by no means overlooked. What is to be the business rate of interest in this country? What is a fair rate of interest for the Government to pay? There is such a thing as a fair rate of interest, and there is such a thing as an unfair rate of interest; and I hold it to be just as bad in kind, if not in degree, for a government to coax or coerce people to lend it money at a rate of interest which is too low as for the money-lender to take from the borrower a rate of interest which is too high.

What is a fair rate of interest? It is certainly not the highest rate which the lender would take if he could get it. It may not be the lowest rate at which the Government can induce the lender to part with his money. What is a fair rate of interest if we consider only this day and this hour may be a very unfair rate of interest before the five years' option shall expire or before the twenty years shall expire when these bonds mature. If it be found to be an unfair rate of interest the result will be that these bonds will go below par, a disaster I think which would more than overbalance all the benefits to be derived from the saving which the Government might make in the difference between 3½ and 3 per cent. I believe that rate to be fairest and wisest and best which, during the whole period that these bonds are to remain outstanding, will maintain them at or substantially at par, always excepting times of panic, against which we cannot provide, and the coming of which we cannot certainly foretell.

Does any one who does not listen to the interested speculators of Wall street, and whose eyes are not blinded with the glamour of stock speculation, believe that a 3 per cent. bond or a 3½ per cent. bond is to remain at par in this country during the next five, ten, or twenty years? I think I may safely assume that the answer to that question must be in the negative; and I suggest to those who desire to win a cheap glory for this Government in placing this bond at a lower rate of interest than any other Government has ever been able to place its bonds, to consider the probability of these bonds at a 3 per cent. interest being at 90 or 85, and to ask themselves whether the whole country will not then point to the unwisdom of their position of to-day.

Whom does the Government desire to take this loan? We are told that it is to be a popular loan, that the people at large are to take it, that the bill has been framed especially for that purpose, that as far as possible it may be kept out of the hands of the capitalists holding it in large blocks and distributed among the thrifty, humble people of this land. If we were dealing with the money-lenders of Europe the question would be entirely different; but we are dealing with our own people; we are dealing with women, with children, with those whose property is in the hands of guardians and trustees, with the farmer who has laid aside temporarily a little money, with the merchant who has a little balance which he desires to invest in a security which shall be not only absolutely safe, but which he may convert at any moment without loss. Do we want to stand—if I may use the word—jewing with this class of people to see whether this rate of interest shall be 3½ or 3¼ or 3 per cent.? We must remember that what the Government will save by cheapening the rate of interest this class of people of whom I have spoken will to a great extent lose.

I called this morning at the Census Office to look over some of the tables which have been prepared under the direction of the Superintendent of the Census, and he promised to send me some in time for use in my remarks; but they have not arrived, and I shall ask the liberty of appending them to my remarks.*

* DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
*Washington, D. C., February 17, 1881.*

SIR: The table issued last week by the wealth, debt, and taxation division of the census shows the amount of bonded debt of the three hundred cities and towns in the United States having a population of 7,500 and upward. The aggregate population of these cities and towns, according to this report, is 11,350,772, and the total bonded indebtedness $664,346,913, with an average per capita debt of $58.53.

This exhibit also shows the rates of interest which this immense debt draws. No less than $6,169,623 draws 10 per cent. interest; $11,000, 9 per cent.; $18,864,007, 8 per cent.; $356,500, 7½ per cent.; $16,385,560, 7$\frac{3}{10}$ per cent.; $188,265,829, 7 per cent.; $1,551,104, 6½ per cent.; $304,206,158, or nearly half the amount of this debt, 6 per cent. interest; $515,000, 5½ per cent.; $98,642,017, 5 per cent.; $4,688,150, 4½ per cent.; $21,458,835, 4 per cent.; $983,000 of the forced southern loan draws 3 per cent.; $2,250,040 seem to be unspecified, as the rates of interest on this amount have not yet been reported to the Census Office.

It will be observed that 4, 5, 6, 7, and 8 per cent. are the predominant rates of interest.

The following table shows the proportion of the total bonded debt bearing the following rates of interest. The fact that the combined percentages do not represent the whole of the debt is readily accounted for by the fact that only $631,000,000 is represented in the table of proportions, the other $33,000,000 drawing 7½, 9, and 10 per cent. interest.

*Proportion of the total bonded debt bearing following rates of interest.*

| | |
|---|---|
| 8 per cent | 0.03 |
| 7 per cent | 0.28 |
| 6 per cent | 0.46 |
| 5 per cent | 0.13 |
| 4 per cent | 0.03 |
| Total | 0.95 |

Referring to the tables showing the distribution of registered bonds, I have the honor to say that the total amount of 4, 4½, and 5 per cent. bonds at the date of this investigation was $992,822,550, distributed as shown in Table A. Mr. Hatch, of Fisk & Hatch, and other persons who deal largely in bonds, inform me that it is safe to estimate the distribution of the coupon bonds at about the same ratio as the registered bonds, allowing, however, from 10 to 15 per cent. more coupon bonds for the large cities, as the very nature of the registered bonds makes them a better investment for those who desire permanency.

There were at the date of the inquiry into distribution of the registered bonds about $474,717,400 coupon bonds which, if distributed at the same ratio as the registered bonds, not allowing for the extra amount of coupon bonds owned in the cities, would be as follows:

*Coupon bonds.*

| | |
|---|---|
| Eastern States | $80,701,958 00 |
| Middle States | 315,687,071 00 |
| Western States | 62,187,979 40 |
| Southern States | 16,140,391 60 |
| Total | 474,717,400 00 |

You can readily find the popular distribution of both coupon and registered bonds, at least approximately, by adding the above to the amount of registered bonds held in different sections of the country. Trusting this hurriedly-prepared data will be of service,

I have the honor to be, your obedient servant,

ROBERT P. PORTER,
*Special Agent.*

Hon. ORVILLE H. PLATT, *United States Senate.*

The tables referred to are as follows:

TABLE A.

| | | |
|---|---|---|
| Four per cent. registered bonds: | | |
| Individuals | $271,435,900 | |
| Banks and trust companies | 113,306,900 | |
| National banks | 136,526,700 | |
| Foreign holders | 6,831,450 | |
| | | $528,100,950 |
| Four-and-a-half per cent. registered bonds: | | |
| Individuals | 72,010,900 | |
| Banks and trust companies | 53,620,400 | |
| National banks | 39,461,950 | |
| Foreign holders | 5,187,550 | |
| | | 170,280,800 |
| Total of 4 and 4½ per cent. registered bonds | | 698,381,750 |
| Five per cent. registered bonds: | | |
| Individuals | 74,092,050 | |
| Banks and trust companies | 60,524,250 | |
| National banks | 143,949,150 | |
| Foreign holders | 15,875,350 | |
| | | 294,440,800 |
| Total of 4, 4½, and 5 per cent. registered bonds | | 992,822,550 |

The following table will show the total amount of 4, 4½, and 5 per cent. bonds held in the four different sections of the country, and also the amounts held by males and females respectively, and the percentages held by each:

| | Male. | Female. | Total. | Percentage owned by males. | Percentage owned by females. | Percentage held in different sections |
|---|---|---|---|---|---|---|
| Eastern States | $50,142,500 | $20,829,550 | $70,972,050 | 70.6 | 29.4 | 17 |
| Middle States | 223,225,150 | 55,763,100 | 279,008,250 | 80 | 20 | 66.5 |
| Western States | 43,576,600 | 10,842,150 | 54,418,750 | 80 | 20 | 13.1 |
| Southern States | 10,241,250 | 2,898,550 | 13,139,800 | 77.9 | 22.1 | 3.4 |
| Total | 327,185,500 | 90,353,350 | 417,538,850 | 78.3 | 21.7 | 100 |

From these tables it will appear that of that portion of the registered bonds of the United States now held by individuals 29 per cent. in the New England States is held by women, 20 per cent. in the Middle and Western States, and 22 per cent. in the Southern States. That of course does not include those held by guardians nor by trustees nor by savings-banks, where the poor and the humble have so largely deposited their surplus earnings; but it shows this significant thing that the loan is passing out of the hands of capitalists and passing into the hands of the common people of the country, and in that fact is an element of strength of which this country ought not to be forgetful.

Before I pass from this part of the subject in relation to the inquiry what is a fair rate of interest, I will say that I expected to have from the Superintendent of the Census a table showing at what rate the bonded indebtedness of the cities of the United States amounting to nearly seven hundred million dollars is held. Some of the cities of the United States are paying as high as 10 per cent. None of them except in an exceptional instance lower than 4 per cent. The great bulk of the bonded indebtedness of the cities of the United States pays between 6 and 7 per cent. interest. Those bonds to-day, although they may be nominally taxable, are practically untaxable and untaxed.

If it be said that 3 per cent. is a fair business rate of interest, I ask Senators if they propose to invest their capital in enterprises, however safe they may be, which will return them only 3 per cent. after deducting taxes? For the purposes of this argument they may think that they will, but as a practical fact you will find them investing their money in enterprises which they think will yield 6 per cent. or 5 per cent. at least, as the lowest rate of interest, deducting taxes, which is compatible with successful business.

Who in fact is to take and hold this loan? It is said that the banks are largely to take it, and the inference is that it is no consequence at how low the rate of interest, you may compel the banks to take these bonds and be satisfied. I have no interest in national banks; I do not own a dollar of stock in a bank, and therefore I may say that I have no patience with the sentiment abroad in this country which cries "down with the national banks." We should not have a country to-day if the banking system had not been adopted and put in operation; we should not have prosperous business to-day; we should not have good times to-day, if it had not been for that wise system of banking—the wisest and the best in my judgment that exists on the face of the earth—a system which furnishes absolute security to the bill-holder. No man in this broad land ever lost one dollar upon the bills of a national bank and no man ever will.

It is said they make a great deal of money, and therefore they can afford to take these bonds at a very low rate of interest. I believe the fact is, Mr. President, that during the last five years the dividends paid by national banks upon their capital and added surplus has not exceeded upon an average 6 per cent., and those dividends are taxable in the hands of the stockholders. I ask Senators to consider this fact, that the circulation of the national banks is not as high by several millions as it was five years ago, that it has been decreased in the last six weeks. I read an extract from the speech of the Senator from Vermont, [Mr. MORRILL,] yesterday:

> In the month of January, 1881, and twelve days of the month of February, $5,545,300 of the 4 per cent. bonds were withdrawn and $1,815,800 deposited. Thus in six weeks the excess of these bonds withdrawn from the Treasury and thrown upon the market was $3,729,500. The excess of 4½ per cent. bonds withdrawn during the same time was $1,467,900.

Putting those items together, there is an aggregate of the excess of bonds withdrawn from the Treasury within the last six weeks of more than five million dollars, a sum which is substantially represented, deducting 10 per cent., in the retirement of the circulation of national banks during these last six weeks. When you consider the tax upon national-bank circulation, which, it is safe to say, will not be repealed by this Congress, it is idle to suppose that the banks will take 3 per cent. bonds in place of the bonds which they now hold to the extent which they now hold them. They may not entirely refuse to take them; but they will refuse to that extent which will bring upon us a sudden and violent contraction of the circulation of this country. Let any Senator ask his conservative banking friend, as every Senator has such a friend, in whom he places implicit confidence, and he will tell him that even at 3½ per cent. interest the bonds held now by national banks will not be fully replaced by the new bonds; and the only thing which makes me satisfied with the feature of Treasury notes in this bill is the fact that I believe there must be a sudden and violent contraction of the national-bank circulation. If it were not for that fact I should regard the issue of Treasury notes as a dangerous measure, in that it would inflate suddenly the currency of the country, and then as suddenly, when interest had accumulated upon them, contract it again. It will be my hope that to some degree they may supply the place made by the retirement of the national-bank circulation under this act.

Having considered whether the banks are to take these bonds or not, who are to take the rest of them? Not the capitalists. Capitalists may hold Government bonds at 5 per cent. or at 6 per cent. and find their money in them. They are not going to take Government bonds and hold them at 3 and 3½ per cent. to any great extent. They are to be taken by the class of people of whom I have spoken; they are to constitute the little surplus which has been left to the children by the New England mechanic and the western farmer, who has laid up by steady attention to his business a little competency; and I hold it to be unfair and unjust for this Government to put a rate of interest on these bonds which shall not, during all the time which they have to run, be reasonable and fair to such people and maintain their securities at or about par.

For one, if this be a popular loan, as we hope, and if I knew that persons such as I have described could be induced to take and hold this loan at 3 per cent., I would not vote for that rate. I would rather pay 4 per cent. than 3 per cent.; and putting aside the men who desire to speculate in Government bonds and who are to-day running them up in Wall street beyond their intrinsic value, as they are non-dividend-paying stocks to the neighborhood of par, I do not believe that the business men of this country desire a loan to be placed lower than 3½ per cent., and I think they would prefer that it should be 4 per cent. rather than less than 3½. This Government, if the bond is really worth more than par at 3½ per cent., will reap its advantage in the increased premium; the Government will lose nothing; and it will thus prevent a loss falling eventually upon that class of people who are least able to bear it, to a great extent, and whom we least desire should bear the loss, if any there is to be.

But the rate of interest that is to be paid in business transactions during the next five, ten, or twenty years is to be largely affected by the rate of interest which the Government places upon this loan. I know that the Government rate of interest is not the only thing which influences the business rate of interest; but it does influence it, it does have its effect upon it. When you reduce the Government interest there follows or goes along with it a reduction in the business rate of interest. The business rate of interest is a most important factor in the future prosperity of this country. If it be too low there is danger in it as surely as if it be too high. If the rate of interest be too high, what is the result? It eats up capital, it eats up the capital invested in all business enterprises, and bankruptcy follows, hard times follow. And what if it be too low? The capitalists seek other avenues for investment, they are tempted into speculative enterprises, and they will do what they are doing to-day, put their money at risk for the sake of obtaining a higher rate of interest than the current rate. What is the result of that? Overspeculation, overtrading, followed by panic, by depression, by hard times. What this country needs, what the business of the country needs, is a stable, fair rate of interest, one which shall neither be too high nor too low; and I think in fixing the rate of this Government loan we should have in view the influence that the Government rate of interest is to have upon the business rate of interest.

Mr. President, all these considerations lead me to hope that the recommendation of the committee will be adopted; that we shall neither make the rate 3 per cent. nor 3½ per cent., nor shall we change the recommendation of the committee by saying at a rate not exceeding 3½ per cent. I think there is great force in the fact that when you are dealing with the men of Wall street, as you must to a certain extent deal with them in placing this loan, it is not wise to say to them, "We will sell our bonds at 3 per cent. if you will take them; if not, we will let you have them at 3½." I believe that the legislative branch of the Government should fix a rate at which it knows as well as it can be assured of anything that the loan will be placed, and placed quickly, and that rate should be certain, not left to the discretion of the Secretary of the Treasury.

Mr. President, I have but imperfectly expressed the ideas which I meant to convey, and I have ventured to make these observations with great diffidence in the presence and hearing of Senators who from long study and long observation and experience are so much better qualified to discuss this subject than I am. I do not pretend to be a financier, but I have thought that the suggestions which I have tried to make, some of them at least, might claim the merit of being in accordance with common sense; and, if so, what I have said will not be an entirely unworthy contribution to this discussion.

Mr. PUGH. Mr. President, I shall occupy only five minutes in stating a few reasons for my vote on this funding bill.

Shall we authorize the refunding of all our national debt that is redeemable the present year? Shall the debt now drawing 5 and 6 per cent. interest stand as it is until we can pay it with the sinking fund and any surplus in the Treasury not otherwise appropriated? For the fiscal year 1882 the sinking fund will amount to $43,386,645; for the year 1883 to $45,122,110.80; for 1884 to $46,926,995.24; for 1885 to $48,804,075.04; for 1886 to $50,756,238.04; for 1887 to $52,786,487.56; for 1888 to $54,897,947.07; for 1889 to $57,093,864.95; for 1890 to $59,377,619.55; for 1891 to $61,752,724.33. The sum total of the sinking fund for the next ten years is $520,904,907.58. So that without any surplus revenue we can pay an average of $50,000,000 per annum from the sinking fund alone, nearly enough to extinguish the debt if it runs only ten years. If we were to leave the 5 and 6 per cent. bonds unrefunded and apply to them the $50,000,000 per annum of the sinking fund until they were extinguished, the following would be the interest result between refunding and not refunding. We would pay, if not refunded, an aggregate in interest of $232,500,000. If refunded at 3½ per cent. we would pay an aggregate in interest of $159,250,000—a saving, by refunding at 3½, of $73,250,000. If refunded at 3 per cent. the interest would be $136,500,000—the one-half per cent. making a difference in the aggregate of interest of $22,750,000. This calcula-

tion demonstrates the valuable benefits of refunding the 5 and 6 per cent. bonds redeemable the present year at 3 or 3½ per cent. interest, whether we desire to pay them sooner or later.

Deciding, then, that it is best to refund as a business transaction, upon what terms shall it be done or proposed? The principal and most troublesome question is, what shall be the rate of interest, and one-half of 1 per cent. is the subject of controversy. No one proposes less than 3 or more than 3½ per cent. Either rate is an unprecedented and most gratifying rise in national credit and fall in interest in the short period of ten years—nearly 100 per cent. Nothing is more cautious and cowardly than capital. It never approaches where there is the least suspicion of danger. No class in the world is wider awake to all the perils of capital than its owners. The paramount consideration with them is the unsuspected safety of the *corpus* of their wealth. They never care so much for more or less interest as they do for the undisturbed repose secured alone by the conviction of perfect safety. No sense is so painful and persistent in its annoyance as the sense of insecurity of capital and its investment. Hence the preference for safe long bonds even at the lowest interest. It is to secure the freedom from uneasiness that comes from the satisfaction of the perfect safety of what they have already accumulated. Look at the unknown millions in Europe and America hoarded in utter idleness, satisfied with the unproductive safety of the money chest. Show these capitalists the iron casemates of United States bonds, and they will run into them immediately without inquiry as to how much interest they are to get in addition to the consideration of safety to their capital.

No country in the world's history ever exhibited to timid, cautious capital so many and such undeniable and reliable evidences of undoubted and everlasting security of the principal and interest of capital and of its freedom from incumbrance or disturbance of its investment in its obligations as is now furnished by this country and its Government. No country in the world is as free from all the possibilities of irrepressible conflicts, dangerous antagonisms, or disruption. No country or government in the world stands upon as firm or reliable peace basis, or is as well established in the confidence and affection of its own people or in the confidence and friendship of foreign nations. In almost a single decade it has extinguished a thousand million dollars of its national debt and made the most rapid strides in wealth, power, prosperity, and progress. Its securities are exempt from taxation, and take the place of specie as the basis of the safest currency and the most profitable banking system in the world.

How is it in Europe? Burdened by a national debt, all the time on the increase, with no prospect of diminution; with vast standing armies and expensive royal establishments; widespread and deep-seated discontent among its populations, forming dangerous elements of irrepressible conflict and possible revolution; rival nations in close proximity, and full of jealousy and ambition, the existence of many of them dependent upon the present distribution and the preservation of the balance of power in Europe; with no securities free from taxation, none that supply the basis of banking and currency. For these reasons I am fully persuaded that time and circumstances, the existence and relation of things, can never be more favorable for the establishment by our Government of 3 per cent. as its normal rate of interest. The other questions of time, &c., arising on the bill are comparatively immaterial, and I forbear to delay action by any further remarks. I am indifferent about the time these bonds have to mature, if the Government has the option to pay them when it has the money, without increasing the burdens of the people.

Mr. VOORHEES. Mr. President, it was not my purpose until a few hours ago to take part in this debate. It has been, and still is, my intention to assist in making as good a funding bill as possible, with as much benefit and as little evil to the people in it as can be procured in such a measure. Whether I shall finally vote for it or not will depend upon its condition when a vote is reached upon its passage, after all amendments have been considered. A low rate of interest on bonds of brief duration, with no discrimination in favor of national banks, will, in my judgment, make the best funding law attainable.

The amendment offered by the Senator from Texas, [Mr. COKE,] together with some things which have fallen from other Senators, have induced me to change my purpose of remaining silent. The amendment of the Senator from Texas relates to a subject of great importance to the American people. Its object, if I understand it correctly, is to protect the greenback currency now in circulation from possible destruction under the operations of the pending bill. With that object, it is perhaps needless for me to say, I deeply and earnestly sympathize, and I embrace the opportunity presented by that wholesome amendment to express my views of its propriety and necessity.

Sir, it is now something more than a year since a needless, uncalled-for, and alarming financial agitation sprang up, instigated by associated bankers and capitalists, in favor of the wholesale destruction of the entire legal-tender note or greenback currency of this country. The systematic efforts made in the same interest to force a resumption of specie payments on a gold basis alone are fresh in the minds of all. By the act of 1873 silver was destroyed as money, and by the act of 1875 provision was made for the retirement and destruction of legal-tender notes until they were contracted within the reach of a gold basis for the purposes of redemption. This policy was the most baneful and truly infernal one ever inflicted upon the people of this country. The memory of it starts afresh the curses of its victims. It destroyed all values both of property and labor. It bankrupted millions of honest people, deprived laboring men and women of a chance to earn bread, drove thousands and tens of thousands to vice and crime, filled the prisons with despairing inmates, and stained the earth with the blood of suicide and murder. This is the true record of the years between 1873 and 1878. The patience of the people at last gave way. They turned upon this accursed policy of destroying money, the measure of all values, and broke it down. The year 1878 is one long to be remembered by the laboring people of this country. In that year they gained the only victories they have had on the financial question since the republican party came into power, nearly twenty years ago. On the 28th day of February, 1878, the Congress of the United States, by an overwhelming vote over the veto of the President, restored the old American silver dollar to coinage and circulation.

The struggle here was protracted and determined. The advocates of the gold basis, the monometallists, the adherents of silver demonetization, filled the country with predictions of the evils which would flow from its restoration. No act of Congress, however, has ever given greater satisfaction to the masses, irrespective of party, their only regret being that it did not go far enough; that it did not place the coinage of silver on the same free and unlimited basis with gold. In my judgment, this defect of the law will be cured at no distant day. But the work of financial reform in 1878 did not stop with the restoration of silver money. By the act of May 31, 1878, the further destruction and contraction of greenbacks was prohibited. They were recognized by this legislation as a permanent part of our currency. They were no longer left to the caprice or interested motives of their enemies. The business world took notice of this fact and their credit rose at once. Under the apprehension of being compelled to do so by law, the Secretary of the Treasury agreed to receive them in payment of customs duties on imports, and they immediately took their place in the money markets at par with gold. On this fact is based the claim that specie payments have been resumed. I am glad to know that the Senator from Delaware [Mr. BAYARD] looks upon this claim of specie resumption as I do, for it is a pleasure to concur with him whenever I can. In the opening sentences of his speech of January 27, 1880, he says there is no actual resumption of specie payments at this time, and, after describing the present law on that subject, he declares that "to resume by such a delusive process is as idle as to bail water with a sieve."

It would be difficult, indeed, to describe more forcibly a foolish effort to do an impossible thing. That Senator, I am sure, will therefore agree with me that the revival of business throughout the country is not in any respect due to the so-called resumption of specie payments, when in point of fact such a resumption has not taken place at all. In my judgment the legislation of 1878, legalizing silver money and protecting the greenback currency from further destruction and consequent contraction, did more than all other causes combined to restore confidence in business circles and to bring about whatever degree of prosperity we have since enjoyed. We have had bountiful harvests, it is true, but without financial stability and without confidence in the quality and amount of money regulated by law, no favorable change would have occurred. The President of the United States, however, at the opening of Congress in December, 1879, and again at the opening of the present session, asked us to undo all we have done on this great subject. In his annual message of December last he strongly urges Congress to authorize the Secretary of the Treasury to suspend the coinage of the silver dollar of 412½ grains; and then with daring hardihood he recommends the retirement from circulation of the entire volume of legal-tender notes, commonly called greenbacks.

Sir, this is a tremendous issue. It is the boldest attempt at outrage on the people, as it seems to me, in the whole range of our financial history. It is not equaled even by the act of March, 1869; for while that act plunders the tax-payers of hundreds of millions they never agreed to pay, yet its grasp at power was not so great as we are now confronted with. This demand upon us to destroy at one fell blow nearly three hundred and fifty millions of the debt-paying money now in use comes as that of the President, but it is not merely his. It is the demand of more than two thousand national banks organized as the National Bank Association, that Congress shall abandon to them the absolute control of every feature of our financial system. The President in his message simply speaks for them when he attempts to excite distrust against United States notes made by law a legal tender. It is evident they think no money should reach the people except through their own agency. If the greenback currency was swept from existence the banks would have the financial field to themselves, and their currency with its profits to them and its expense to the people would soon fill the place of that which had disappeared. This is the vast stake for which the money power now plays. It involves not only millions, but power. It involves the abdication by Congress of all its powers over the currency and the surrender of the whole subject to a moneyed autocracy before which every interest and every department of this Government will be powerless.

Such corporation wealth and far-reaching financial dominion as that to which the National Banking Association now aspires have

hardly a parallel in the history of the world. Is it not time to look to the terms and the principles of the Constitution? In whose hands does that instrument place the power to create a circulating medium for the use of the people? We constantly hear about the duty of driving the financial question out of Congress. To read from day to day the organs of the banks it would appear to be an usurpation on the part of Congress to consider the question at all. From them it would appear that the Federal Government was entirely incompetent to endow its paper currency with debt-paying functions. Such, too, I understand to be the position of the able chairman of the Finance Committee of this body.

Let us examine briefly and see whether the founders of this Government did in fact fetter its hands and cripple its powers to the extent claimed. In all governments among men sovereign power is lodged somewhere. There is always a place beyond which you can go no farther. In the words of William Pitt, in the House of Commons, in 1799, "In every government there must reside somewhere a supreme, absolute, and unlimited authority." Sovereignty is rightfully claimed on some subjects by the States of this Union, and with equal justice by the Federal Government on other subjects. Each has a limited sphere of sovereignty beyond which it cannot go. Each has prescribed bounds, and there must stop. But with the people, back of all Federal and State governments, is lodged the supreme, absolute, and unlimited authority from which emanate all constitutions, laws, and policies. They can bind and they can loosen. They made the government of the States, and they made the Federal Government. Chief-Justice Marshall, the master mind of American jurisprudence, in deciding the case of McCulloch *vs.* The State of Maryland, says:

> The Government of the Union, then, (whatever may be the influence of this fact on the case,) is emphatically and truly a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them and for their benefit.

The great purposes for which the people created the Government of the Union are also specifically declared. In the decision just cited Chief-Justice Marshall again says:

> The Government proceeds directly from the people, is ordained and established in the name of the people, and is declared to be ordained in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

With these purposes in view—purposes as beneficent, as vast, far-reaching, and glorious as ever sustained the hopes of the human race—did the framers of that sacred instrument, the Constitution, make a close and narrow limitation of the means by which to carry them out? We have heard much, throughout all our history, of strict constructionists of the Constitution. I hope and believe that I belong to that party. I am in favor, however, of strictly construing the Constitution for the accomplishment of the great and declared ends of Government, rather than for their defeat. I believe the power to carry out and establish these ends is vested by the Constitution in the Government of the United States. By the last clause of section 8 of the first article of the Constitution it is declared that Congress shall have power—

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof.

That is a broad and sweeping provision, and it has been held to bestow a wide discretion upon Congress in the selection of the necessary and proper means with which to execute the powers of the Government and to fulfill the purposes of its creation. The decision of the present Supreme Court of the United States, in 12 Wallace, holding the laws creating legal-tender notes to be constitutional on the ground that such a currency was necessary for the preservation of the Government, has been harshly criticised. The Senator from Delaware, in his speech of more than a year ago, saw proper to say:

> Nor do I care now to recite the sad history of the overthrow of one of the most deliberate decisions ever reached by the Supreme Court, accomplished so speedily by the active interference and power of President Grant and Mr. Hoar, his Attorney-General, by the change not in the opinion but in the *personnel* of the tribunal, and an increase in its numbers.
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> * * * * * * *
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> On May 1, 1871, this decision was overruled by the reconstructed court by a vote of 5 to 4, and their judgment is to be found in the twelfth volume of Wallace's Reports.

Sir, the Senator might have spared the Supreme Court his grave censure. Every principle of law as to the power of Congress found in 12 Wallace, upholding the constitutionality of the legal-tender acts of 1862 and 1863, is to be found in 4 Wheaton, in the case of McCulloch *vs.* The State of Maryland, enunciated by Chief-Justice Marshall in 1819, now more than sixty years ago.

All there is of the question of power is stated on page 421 of 4 Wheaton:

> We admit—
>
> Says Chief-Justice Marshall—
>
> as all must admit, that the powers of the Government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the National Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.

Under the doctrine here laid down, the issue of legal-tender notes in 1862 and 1863 was left by the Constitution to the discretion of Congress, to be decided by that body in view of all the facts then before it. This ruling indeed makes the power of Congress depend on a question of fact.

The Government in 1862 and 1863 was striving to maintain its own existence. Was that end legitimate and within the scope of the Constitution? It had to support great armies in the field and equip fleets on the ocean to insure self-preservation. Was the legal-tender note currency an appropriate means of assistance for that purpose? Was it adapted to the service it was expected to perform? Was it a necessary and proper means to a legitimate end? If so, it was a constitutional currency unless prohibited by the letter or the spirit of the Constitution. It is not pretended that such a prohibition exists in terms. Is it prohibited by the spirit of the Constitution or by any implication arising out of any of its provisions? We are all familiar with the argument on this point. Because the Constitution gives to Congress the power "to coin money and regulate the value thereof and of foreign coins" it is insisted that the power to make money out of anything that cannot be actually coined is excluded. But those who take this position and urge a technical construction cannot themselves adhere to the term "coin" without giving it an explanation which does not appear in the Constitution. The Constitution does not speak of the coinage of gold or silver. All kinds of metals may be coined. Iron, zinc, lead, and all other metallic substances might be used to comply with the mere verbal phrase of the Constitution. Nor does the Constitution expressly authorize Congress to declare any kind of money, even gold and silver, a legal tender. These facts show that in order to restrict the term "coin" to the precious metals, instead of allowing it to apply to all metals, and in order to give Congress the power to declare them a legal tender, we have to go outside of the express words of the Constitution to obtain its meaning.

Nobody questions that so far as the coinage of metal money is concerned no other substances except gold and silver can be coined, and yet the Constitution does not say so. Nobody questions that Congress can make gold and silver a legal tender, and yet the Constitution is silent on that point. If, therefore, so much of the power of Congress over the question of money, on points where there has never been any dispute, is derived from inferences arising out of the Constitution, rather than from expressions to be found in it, might we not with safety apply the same rule to the matter that is in controversy? I do not believe that the power of Congress is exhausted by the mere coinage of metallic money. Let it be understood that all money is created by law, and that all power to declare what shall be money is vested in Congress. The Supreme Court of the United States says:

> If the power to declare what is money is not in Congress, it is annihilated.

It is expressly taken away from the States. Section 10 of the first article of the Constitution provides that—

> No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

This is a sweeping prohibition of the exercise of power by the States. It is a total negative, and taken in connection with the affirmative grant of power on this subject, it demonstrates the original purpose to confer upon Congress a full and complete power over the currency of the people. There is one feature in this prohibitory clause of the Constitution more suggestive than any other. The power to make anything but gold and silver a legal tender in payment of debts is expressly denied to the States, but not to Congress. The subject was before the minds of the framers of the Constitution; they considered it; and the fact that they denied to the States, in express words, the power to make paper money a legal tender, and were totally silent as to the power of Congress on that subject, is a strong implication in favor of that power in Congress. This implication is greatly strengthened, too, when we reflect that the power of Congress to make gold and silver a legal tender in payment of debts is also an implied power, and not an express grant. If it was the intention of the framers of the Constitution that Congress should not have the power to make anything but the precious metals a legal tender, how easily, how certainly, how inevitably would they have inserted such a provision when they were treating of that very question! Would they have used express language in order to deprive the States of this power, while Congress, to whom every vestige of power over money was transferred, was left untrammeled, unless it was their design to permit Congress a discretion on the subject? If it is said that this is a Government of delegated powers, and that while the power to make anything but gold and silver a legal-tender was prohibited to the States, yet it was not delegated to the United States, the answer is, that neither was the power to make gold and silver a legal tender expressly delegated to the United States. So that if by reason of its full general control of the question of money Congress derives a power, unexpressed in the Constitution, to declare what shall be a legal tender in the payment of debts, what is there to confine it merely to the precious metals? On this point the reasoning of the Supreme Court, to my

mind, is just and unanswerable. It is found on page 546 of 12 Wallace, and is as follows:

Why, then, it may be asked, if the design was to prohibit to the new Government, as well as to the States, that general power over the currency which the States had when the Constitution was framed, was such denial not expressly extended to the new Government as it was to the States? In view of this it might be argued with much force that when it is considered in what brief and comprehensive terms the Constitution speaks, how sensible its framers must have been that emergencies might arise when the precious metals (then more scarce than now) might prove inadequate to the necessities of the Government, and the demands of the people; when it is remembered that paper money was almost exclusively in use in the States as the medium of exchange, and when the great evil sought to be remedied was the want of uniformity in the current value of money, it might be argued, we say, that the gift of power to coin money and regulate the value thereof was understood as conveying general power over the currency, the power which had belonged to the States and which they surrendered. Such a construction, it might be said, would be in close analogy to the mode of construing other substantive powers granted to Congress. They have never been construed literally, and the Government could not exist if they were. Thus the power to carry on war is conferred by the power to declare war. The whole system of the transportation of the mails is built upon the power to establish post-offices and post-roads. The power to regulate commerce has also been extended far beyond the letter of the grant. Even the advocates of a strict literary construction of the phrase "to coin money and regulate the value thereof," while insisting that it defines the material to be coined as metal, are compelled to concede to Congress large discretion in all other particulars. The Constitution does not ordain what metals may be coined, or prescribe that the legal value of the metals when coined shall correspond at all with their intrinsic value in the market, nor does it even affirm that Congress may declare anything to be a legal tender for the payment of debts. Confessedly the power to regulate the value of money coined, and of foreign coins, is not exhausted by the first regulation. More than once in our history has the regulation been changed without any denial of the power of Congress to change it, and it seems to have been left to Congress to determine alike what metal shall be coined, its purity, and how far its statutory value as money shall correspond from time to time with the market value of the same metal as bullion. How, then, can the grant of a power to coin money and regulate its value, made in terms so liberal and unrestrained, coupled also with a denial to the States of all power over the currency, be regarded as implied prohibition to Congress against declaring Treasury notes a legal tender, if such declaration is appropriate and adapted to carrying into execution the admitted powers of the Government?

But it has been strenuously insisted on this floor that the obligation of contracts was impaired by the passage of the legal-tender acts, as they are known, of 1862 and 1863. Even if this position could be sustained, it is not clear that it would render them unconstitutional. The States are prohibited from making any "law impairing the obligation of contracts." Is that true, however, as to Congress? We do not find it so in the language of the Constitution; neither do we find it in the practices of the Government. What is a general bankrupt law except a provision by which contracts may not only be impaired but abrogated, totally destroyed? A bankrupt law applies to all contracts, past and future, and provides legal methods for their entire obliteration. It may be said that the power is expressly granted in the fourth clause of section 8, article 1 of the Constitution to enact a general bankrupt law. That is true, but if Congress is prohibited from impairing, under any circumstances, the validity of contracts, how can two such antagonistic principles stand together in the same instrument? Congress can declare war, before whose blasts contracts are withered and blown away. Congress can pass non-intercourse acts, and enforce embargoes by which contracts may be hindered, impaired, and annulled. But I am very far from admitting that the legal-tender acts do impair the obligation of contracts, whatever the power of Congress may be on that subject. The argument on this point, however, can of course apply only to contracts made prior to February, 1862. All contracts made since the passage of the first legal-tender act have been made with reference to the existence of the legal-tender-note currency.

The complaint in regard to contracts prior to February, 1862, is that a man who owed a debt at that time might afterward pay it in legal-tender notes, or greenbacks, as they are popularly styled, and that his creditor had to take them. Was this an impairment of an ordinary contract to pay money, in which there was no mention of any special kind of money, and in the discharge of which both parties simply contemplated the use of the lawful money of the country? I say it was not. Numerous decisions of the Supreme Court of our own country, and of the highest courts of all other civilized countries, might be cited to show that "the obligation of a contract to pay money is to pay that which the law shall recognize as money when the payment is to be made." Every contract is made subject to the power of the Government to enact new laws and to repeal old ones. All human conduct is governed by the same rule. We all take the risk of not only what the law now is, but of what it hereafter may be. This is a risk which every citizen shares at every step and on every conceivable subject. The legal-tender acts are not the only financial hazards the American people have encountered in the way of a change of laws. The acts of Congress regulating the coinage of gold and silver have been repeatedly altered and amended. The number of grains of gold in the gold eagle was reduced 6 per cent. in 1834, without changing its legal-tender value. The same thing has been done more than once with silver coin, and it has never been contended that such legislation impaired the obligation of contracts. The position assumed by the Supreme Court on this point is the only one which can be upheld. It is stated on page 548 of 19 Wallace, as follows:

It is true that under the acts a debtor, who became such before they were passed, may discharge his debt with the notes authorized by them, and the creditor is compellable to receive such notes in discharge of his claim. But whether the obligation of the contract is thereby weakened can be determined only after considering what was the contract obligation. It was not a duty to pay gold, or silver, or the kind of money recognized by law at the time when the contract was made, nor was it a duty to pay money of equal intrinsic value in the market. (We speak now of contracts to pay money generally, not contracts to pay some specifically defined species of money.) The expectation of the creditor and the anticipation of the debtor may have been that the contract would be discharged by the payment of coined metals, but neither the expectation of one party to the contract respecting its fruits nor the anticipation of the other constitutes its obligation. There is a well-recognized distinction between the expectation of the parties to a contract and the duty imposed by it. (Speden *vs.* Austin, 5 Adolphus and Ellis, N. S., 671; Dunn *vs.* Sayles, *Ibid.*, 685; Coffin *vs.* Landis, 10 Wright, 426.) Were it not so, the expectation of results would be always equivalent to a binding engagement that they should follow. But the obligation of a contract to pay money is to pay that which the law shall recognize as money when the payment is to be made. If there is anything settled by decision it is this, and we do not understand it to be controverted. (Davies, 28; Barrington *vs.* Potter, Dyer 81, b. fol. 67; Faw *vs.* Marsteller, 2 Cranch, 29.) No one ever doubted that a debt of $1,000 contracted before 1834 could be paid by one hundred eagles coined after that year, though they contained no more gold than ninety-four eagles such as were coined when the contract was made; and this, not because of the intrinsic value of the coin, but because of its legal value. The eagles coined after 1834 were not money until they were authorized by law; and had they been coined before without a law fixing their legal value, they could no more have paid a debt than uncoined bullion, or cotton, or wheat. Every contract for the payment of money simply is necessarily subject to the constitutional power of the Government over the currency, whatever that power may be, and the obligation of the parties is therefore assumed with reference to that power.

In the discussion of this great question, however, we have always heard much stress laid on what have been termed the "war powers" of the Constitution. There are those who, while admitting that Congress has the power to make legal-tender notes, still insist that such power only exists during war. They hold that a state of war gives rise to a power in the Constitution, and confers it upon Congress, over the currency of the country, which has no existence in time of peace. It is certainly true that great war powers belong to this Government. But is the power on the part of Congress to create a legal-tender note circulation for the people one of them? That is the plain question. The powers of Congress on the subject of war are specifically named in the Constitution. It may be profitable to read them.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

Sir, if the power of Congress, or any part of it, over the currency is derived from the grants of the Constitution in relation to war, it must be found somewhere in the clauses which I have just read. They contain all the power which has been given to Congress on the subject of war. Those who contend that the legal-tender notes are constitutional in war, but not in peace, claim that their argument is sustained by the two clauses just quoted:

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

They contend that the power to raise and support armies and to provide and maintain a navy implies the power to resort to an issue of legal-tender notes if necessary. It is clear to my mind that in these clauses the framers of the Constitution were providing a power in Congress for the appropriation of money for the support of our military and naval forces rather than for a power to create money to be appropriated. The same sentence which provides for raising and supporting armies treats of appropriations of money for that purpose, and limits the time for which they may be made. The thought connected with that clause of the Constitution at the time it was written, so far as money was concerned, evidently dwelt on the power to appropriate money from the Treasury and not upon the power of Congress to declare what should be the money of the country. The truth is that the power of Congress over the currency is far broader than all the war powers of the Constitution combined. War is not the chief pursuit of this Government, nor of any other, except a government of savages. War is not the only condition in which the American people may need financial relief. Peace may have its financial emergencies as well as war. Peace, the friend of industry, the promoter of trade, the builder of cities, the patron saint of commerce; peace, the best gift of God to nations and to men; why should it have less power in the Constitution with which to execute the purposes of the Government than war? Why should the long reign of peace be less able to preserve the Government and to promote the general welfare than the brief periods of strife and bloodshed?

Sir, Chief-Justice Marshall did not speak of a time of war or a time of peace, but for all times and for all conditions of public affairs, when he said that—

The sound construction of the Constitution must allow to the National Legislature that discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people.

This principle here laid down by the mighty mind of Marshall recognizes in Congress, in the immediate representatives of the people, the power, without respect to a condition of peace or war, to adopt such measures as in their judgment are best calculated to promote the general welfare, provided simply that the measures adopted are not prohibited by the Constitution and are consistent with its letter and

its spirit. I think I have shown that the power to make paper currency a legal tender in payment of debts is not prohibited to Congress by the Constitution, neither by the letter nor by the spirit of that instrument. No conclusion of law was ever plainer to me than that such a power exists at all times, subject to be exercised by Congress in its wisdom and in its discretion. The necessity for the exercise of the power is left wholly with Congress. Chief-Justice Marshall, in McCulloch *vs.* The State of Maryland, again says:

> But where the law is not prohibited, and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the degree of its necessity would be to pass the line which circumscribes the judicial department and to tread on legislative ground. This court disclaims all pretensions to such a power.

It is a satisfaction to know that the Supreme Court in making its decision on this subject, in twelfth Wallace, made no claim that the power of Congress to authorize legal-tender notes was derived in any respect from the war powers of the Constitution. All concede that it is a power not to be exercised needlessly; neither is any other power of Congress to be exerted without reason. But of the occasion when the public good or the safety of the Government calls for its exercise the Congress itself is the judge, subject only to the limitations heretofore stated. I cannot refrain from quoting the reasoning of one of the concurring justices on this point. It is found on page 567 of twelfth Wallace, in the following language:

> It follows as another corollary from the views which I have expressed that the power to make Treasury notes a legal tender, while a mere incidental one to that of issuing the notes themselves, and to one of the forms of borrowing money, is, nevertheless, a power not to be resorted to except upon extraordinary and pressing occasions, such as war or other public exigencies of great gravity and importance, and should be no longer exerted than all the circumstances of the case demand. I do not say that it is a war power, or that it is only to be called into exercise in time of war, for other public exigencies may arise in the history of a nation which may make it expedient and imperative to exercise it. But of the occasion when, and of the time how long it shall be exercised and in force, it is for the legislative department of the Government to judge. Feeling sensibly the judgments and wishes of the people that department cannot long (if it is proper to suppose that within its sphere it ever can) misunderstand the business interests and just rights of the community.

If I am to be reminded at this point, as I have been heretofore, and as some sort of answer to my argument, that I voted when a member of the other branch of Congress against the first act creating legal-tender notes it will cause me no embarrassment to make reply. In 1862 this question was wholly new to every mind in this country. An experiment in the issue of currency was about to be tried, the appropriateness of which to the purposes in view was involved in a wide field of conjecture. Without the time or opportunity to examine the subject which I have since had, and with a very short experience in legislation, I voted, not that the power was denied to Congress, but against its exercise at that time. May I not revise my opinion as others have done? Chief-Justice Chase, an upright and a very able man, recommended, while Secretary of the Treasury, in letters of January 22 and 29, 1862, to the Committee of Ways and Means the passage of the law making our present greenback or legal-tender note currency. On the Supreme Bench he held that law to be unconstitutional. In dissenting from the opinion of the court, in 12 Wallace, 576, he refers to this fact. Speaking of the opinion he gave to the committee in favor of the act, and speaking of himself as Secretary of the Treasury in the third person, he says:

> It was under these circumstances that he expressed the opinion, when called upon by the Committee of Ways and Means, that it was necessary; and he was not sorry to find it sustained by the decisions of respected courts, not unanimous, indeed, nor without contrary decisions of State courts equally respectable. Examination and reflection under more propitious circumstances have satisfied him that this opinion was erroneous, and he does not hesitate to declare it.

If the late Chief-Justice of the Supreme Court of the United States could afford thus from the bench to declare the most important act of his official life an error as to constitutional law, may I not be permitted to say, in his language, that "examination and reflection under more propitious circumstances have satisfied" me that the better vote to have given in February, 1862, would have been in favor of the legal-tender act, and not against it? The currency authorized by the acts of 1862 and 1863 proved a more staunch, reliable, and powerful money than either its friends or foes expected. No one could have foreseen the success that attended it. It fed and clothed the soldiers and sailors in the field and at sea and their families at home. It preserved the Union of these States as that Union exists to-day. And since the advent of peace it has blessed every hour of the last fifteen years with its useful adaptation to the wants of the people. All this is more easily comprehended now, looking back through the strong light of experience, than it was eighteen years ago, looking forward into the darkness of the future.

I might also lean for support at this point on the authority of another name, as renowned for financial wisdom perhaps as any this country has produced, from Alexander Hamilton to the present day. R. M. T. Hunter, while a Senator from Virginia, was chairman of the Finance Committee of this body during the long period of nineteen years, and during that time he won the confidence of the financial world as a wise and prudent statesman. In a letter published in October, 1879, over his name, and in speaking of a United States note-currency, he wrote as follows:

> But it is said the Government has no constitutional right to make it a legal tender. Without this feature, it would circulate readily. But why not exercise this right? The Supreme Court has decided that Congress possesses the power. I know that objections have been raised to the manner in which the court was constituted which gave that decision. Indeed, I myself once thought that Congress had no such power, and so spoke and voted. But I believe I was in error, in common with a large portion of the community. Subsequent reflection has convinced me of that error, and I hasten to acknowledge it.

The Constitution has declared that no State shall make anything but gold and silver a legal tender. But it has not extended this prohibition to Congress, which is allowed to enact all laws necessary and proper to carry out the granted powers. Is it not necessary to enable the Congress to regulate commerce between the States that it should have the right to declare something else but gold and silver a legal tender? If these metals alone are a legal tender, or if there is no legal tender, all contracts must be settled on specie, at the pleasure of the creditor; and, as there is not specie enough in the country to do this easily and conveniently, the commerce of the country and the country itself are placed in the power of the holders of the specie. Trade and production may be stopped and have often been stopped to a great extent at their will. To start these again, debtors must exchange their property for small amounts of specie. This is a condition which those who hold the specie will surely require hereafter as heretofore. If, then, it is manifest that without some legal tender other than gold and silver the holders of specie will rule the commerce of the country, and as a consequence the country itself, the property of the debtor class will be placed at the mercy of the creditor class. Is it not manifest, too, that the entire production of the country will be at the pleasure of those same holders of the precious metal? Then it follows that it is necessary for the proper regulation of commerce that a legal tender should be made of some such notes as I have described; for, that being done, the credit of the United States would enable it to issue a currency which would prevent all these ruinous effects.

But, sir, aside from the constitutional power of Congress to make this kind of currency a legal tender, it is now vehemently insisted in certain quarters that its legal-tender quality has been from the first injurious to the best interests of the country. It is absolutely urged that the power to pay debts with this currency, standing firmly the equal of gold if not better, is a great and dangerous evil to the people. It is in daily use at this hour in all the transactions of life, from the most minute to the most extensive, from the purchase of a night's lodgings to the purchase of a railroad, or a line of ships. It is now transacting the business of every neighborhood, every village, and every city in the United States. It has been the basis of all contracts among the people for the last eighteen years. It is the measure now, at this very moment of time, of the obligation of parties to nine hundred and ninety-nine contracts out of every thousand in existence. Yet we are asked to believe that the legal-tender quality of this money, that quality which enables a party to pay a debt contracted with reference to it, is injurious to the public interests, and ought at once to be withdrawn. It has even been claimed that the money would be better without such quality, and that it would still circulate, with increased vigor and usefulness, after it had received the fatal blow aimed at it by its enemies.

As well might you expect a man to walk erect through this Hall after his heart had been taken from his body. The Senator from Delaware, on a former occasion, in strong, figurative language, said, "This assumed legal-tender power is like the germ of a deadly fever." He said he would destroy that germ without delay. Rather is the legal-tender power of our currency like the benignant action of the human heart, carrying a healthy and an indispensable circulation to the remotest extremities. The people of that great State—the fifth in wealth and population in the galaxy of thirty-eight—which I have the honor in part to represent in this body do not want this life-giving power taken from the money now in use in their hands. I speak for them, and I assume to speak for nobody else. Every page of history, and all the teachings of experience and reason prove, if anything can be proven in advance of its occurrence, that the destruction of the legal-tender quality of the greenback currency would be followed by such a paralysis in trade, such a prostration of confidence, such confusion, and such a financial panic as have rarely, if ever, taken place in any quarter of the civilized globe. The morning after the enactment of a law to that effect the farmer would find the ten-dollar note which was good the day before shorn of all its strength and powerless to pay a debt. All classes engaged in active business would find that in a single night something worse than a killing frost had stolen into their homes, and nipped with a deadly blight the root of their present prosperity. The people, the plain, laboring people, from ocean to ocean, would not know where to turn for relief against their obligations. Am I to be told that by virtue of what is called specie resumption the holder of a greenback note can obtain coin money for it, and therefore he will not be injured by the destruction of its debt-paying power? Where can the farmer or the mechanic or any one else living in Indiana, or in any of the other States, get coin money for the legal-tender note which he will find withered and dead in his pocket?

Proclamation has been made of a place in the city of New York, and perhaps in other far-distant cities, where such an exchange can be accomplished. A person holding fifty dollars and upward and living perhaps a thousand miles or more from the place designated for redemption has the right to demand coin upon presentation at that place. And this is the provision on which the greenback is to rely for credit in all the far-extending transactions of life after its legal-tender power has been demolished! What a mockery! What a snare! Sir, I do not for a moment doubt the sincerity of any Senator on this floor; but whatever may be said here it is not the intention of the prime movers against the debt-paying quality of our legal-tender-note currency that it shall long survive. It is intended by them that this currency of the people shall perish. It has been determined, to use the language of Mr. Stevens, in "the caverns of bullion brokers and in the *salons* of the associated banks," to destroy it from the face of the earth. That is the real meaning of this movement. The New York Times, speaking on this subject with as much

authority from the interest-income classes as any other of their organs, revealed their true object in the following statement made in reference to the resolution of the Senator from Delaware of January, 1880:

> This would be a decided step in advance, though its principal value would lie in the probability, amounting to almost a certainty, that the notes would then be gradually withdrawn. They would at any rate cease to be money in the legal sense of the term. They could not be used to pay debts without the consent of the creditor. * * * They would be sent to the Treasury for what they were worth, and not being legal tender for dues from the Government, they would tend to disappear, and this would be a very great advantage.

The same paper, in further allusion to the resolution of the Senator from Delaware, said that it was—

> But a partial solution of the vexed problem of the currency, and that it would be valuable chiefly as leading to a solution more radical and permanent, that of the retirement and cancellation of the notes.

Much more might be cited of a similar character from other powerful sources, proving conclusively the genuine motives which inspired this unexpected and startling attack upon our present system of currency. Indeed, the Senator from Delaware himself, with characteristic frankness and courage, avowed his purpose to stop the reissue of the legal-tender notes when they have once been returned to the Treasury, thus insuring their cancellation and destruction as fast as that Department can obtain possession of them. This he deemed necessary in order "to bring about an actual resumption of specie payments." I am not opposed to an actual resumption of specie payments, whenever I can be satisfied that such a policy will best promote the public welfare. I am wedded to no mere theory of finance which will not yield to a sense of the public interests; but I see no good end to be attained through the destruction of three hundred and forty-six millions of money now fully equal to gold in value and performing every useful purpose ever performed by the best money in the world.

Sir, I might pause here a few moments to contemplate a strange feature in the history of the times in which we live, and through which we have passed. The extreme and unceasing denunciation of the legal-tender note currency extending from year to year without abatement or intermission has filled me with amazement, although the selfish and interested motives were all the time apparent. It has seemed most remarkable that a currency with such a history should be held up with envenomed rancor to the scorn of the world. If, instead of having performed services to the country beyond the reach of estimate, it had infected the American people with all the crimes from larceny to high treason, and with every disease from common malaria to yellow fever, it could not have been assailed with more fury than we have heard poured out against it. The ancient hue and cry in England after a fleeing blood-stained felon, was a mild display of passion compared to the blind, unreasoning hostility of the national-bank system and its adherents toward the greenback money. Every adjective of contempt and hatred in the English language has been applied to it. There has been no epithet too coarse, vulgar, or brutal to describe it. Men of apparent intelligence and fairness, on other subjects, have vied with each other in the invention of new and sensational phrases with which to load it with ridicule. They have ransacked dictionaries to be sure that they had overlooked no term of derision or abuse with which to bring it into public odium. The fact that this money paid the soldier for his life as he lay dead on the field; that it has paid many who survived for the agony of amputation, and for carrying their maimed bodies on crutches through life; that it has been received, oh! how gratefully, by the widows and orphans of the war for the loss of husbands and fathers—such facts as these give no respectability even to the greenback in the estimation of its sordid, avaricious enemies. It is with them dishonest money, with no palliating circumstances. They have made the country ring for years with their stereotyped cry of "dishonest money." Having enriched themselves by depreciating it at the start, and purchasing the bonds of the Government with it in that depreciated condition, they have been engaged ever since in trying to spurn it away for fear they would have to take it in payment of something due them on their bonds. Would it not be marvelous, indeed, if the fruits of such a course of conduct did not grow and ripen in some shape or other in the public mind? The soldier himself has at last been taught by the enemies of the greenback currency the full measure of his injustice. You pay the bondholder in gold, and you pay the soldier in what you yourselves style "dishonest money."

Why should you gape and wonder that he who left his home behind, marched, toiled forward to the battle-field, fought by day and watched by night for one year, or four years, thinks himself entitled to as good money in pay as the man who staid in the rear, purchased bonds at fifty cents on the dollar, and is now receiving, by a legislative violation of the contract, a premium on their face in gold? If there are those here who voted for the act of March, 1869, changing the law for the payment of the national debt so as to make it a coin debt, and who have joined in characterizing the greenback as dishonest money, they are the real authors of the soldiers' petitions which some time ago poured by every mail into this Capitol. They have taught a lesson which is coming back to plague them. They wrought an offense to every soldier in the Union by preferring the bondholder above him in making payment for the suppression of the rebellion. The response has been coming in from more than a million and a half of soldiers who survived the war. They simply ask to be remunerated for their perils and sufferings to the same extent as those who risked nothing except their speculative investments. Do you wonder at it? I leave to others the task of disputing their claim or gainsaying the justice of their appeal. Let those who have raised the storm by open and flagrant injustice quell it if they can.

Sir, I shall in a few moments take leave of this great question for the present. I have detained the Senate longer than I desired, but as a member of the Committee on Finance I have conceived it my duty to submit the reasons which govern my action. Let no one suppose that the financial question will disturb us here no more. The holders of amassed capital are grasping for additional power, and this question will come again and again as long as human cupidity can spy out new fields of profit to occupy, and new bounties and still further special privileges to demand from the labor of the people. A vast money corporation, the most gigantic on earth, is aiming to centralize within itself all the powers of this Government over the currency, and consequently over the entire trade and business of the American people. That corporation, the National Bank Association, possesses already a combination of powers inconsistent with the safety of free government, and we have seen it within the past year clutch at all the remaining powers connected with the subject of the finances. The holders of privileged capital are also uttering their battle-cry for the future. Their demand for a strong government is now heard on every hand. No one need mistake their meaning. A strong government, in their estimation, is one in which the people are deprived as far as possible, and the farther the better, of all power to control public affairs. A call for a strong government today in our midst has the same meaning it has had in all the ages of the past—a government of the privileged few. Sir, I too am in favor of a strong government, but the strength which I wish my government to have is to be found only in the hearts of a free, self-governing people, inspired with a love of country because of its just and equal laws. On such a foundation no government can be overthrown; on any other, no government ought to stand.

Mr. LOGAN. Mr. President, I desire only a moment to state the reasons why I am in favor of the rate of 3½ per cent. and an objection that I have to another portion of the bill, not with a view, however, of defining my action finally on the bill. I shall very briefly give the reason why I disagree with many of my associates on the subject of declaring in the bill the amount of interest that shall be paid upon the bonds. There are many different views entertained on this proposition. Some are in favor of 3 per cent., others are in favor of 3½ per cent., and others are in favor of making a sliding scale, providing that the rates shall not exceed 3½ per cent.

Without going into any elaborate argument, I will state that I am in favor of 3½ per cent. on the bonds, as fixed in the bill, for the reason that I believe it is as low a rate as we can float this amount of bonds at this time. I think it ought to be very gratifying to us that we at least have reason to believe that we can do this. My reason, however, for not agreeing to the proposition to give to the Secretary of the Treasury the right to sell these bonds at not exceeding 3½ per cent. is, if you put a provision in the bill that the interest shall not exceed the rate of 3½ per cent., the Secretary of the Treasury will attempt as a matter of course to sell the bonds to persons who desire to purchase them at a less rate of interest. A combination would be formed, which is very easily done, so as to prevent the sale of these bonds at a less rate of interest than 3½ per cent. Why? Because it will easily be seen that finally they will get them with a rate of interest at 3½ per cent. When that is done a great many persons will at once say that the Secretary of the Treasury has acted dishonestly; that he could have put these bonds before the country and sold them probably at 3 per cent., and that it has been merely a speculation that the sale at 3 per cent. was prevented. Hence my judgment is that it is best to fix in the bill the rate of interest for which the Secretary of the Treasury shall be entitled to sell the bonds. I will be very glad if we can sell our bonds at this rate; it will be a saving of many millions of interest.

Mr. FERRY. Will the Senator allow me to interrupt him?

Mr. LOGAN. Certainly.

Mr. FERRY. I hope the Senator will then support the amendment which I propose to offer to provide as to the $400,000,000, as well as the $300,000,000, that the rate of interest shall be left to the discretion of the Secretary of the Treasury, not exceeding 3½ per cent., giving him the option to place the bonds in open market as the condition of the money market may be. I propose to offer such an amendment.

Mr. LOGAN. No; the Senator misunderstood me. I disagree with that amendment. I say my judgment is that the rate of interest should be fixed so that the Secretary of the Treasury will not have an option for the reason, as I said, if he does he will finally float these bonds at the highest rate of interest fixed in the law, and combinations will force him to do it. I am not saying that I would object to a rate of interest being fixed lower than 3½ per cent. if it is best, but whatever the rate of interest is, it ought to be fixed and certain so as not to embarrass the Secretary of the Treasury.

Mr. FERRY. The Senator has not lost sight of the fact that when that discretion was left to the present Secretary of the Treasury to place bonds at 4½ per cent. and at 4 per cent. he withheld the four-

and-a-half percents and placed them at 4; and that also Secretary Chase, when the discretion was left to him to place loans not higher than 6 per cent. placed them at 5?

Mr. LOGAN. I understand that perfectly. There is a great difference, however, between 6 per cent., 4 per cent., 4½ per cent., and 3½ per cent. bonds. I am speaking of the probability that there is now of floating this amount of indebtedness of the Government. As I said, I think we ought to be very well satisfied if we can float this amount at the rate of interest proposed by the Committee on Finance. If those who have an opportunity of knowing or forming correct opinions believed that we could float this indebtedness at a less rate of interest, as a matter of course I would agree to it, and so would everybody; but that information is of such a character that I am satisfied with the report of the committee on this point.

The objection to this bill is, first, I do not believe it is wise or good policy to make two classes of indebtedness, one of which is called a 3½ per cent. bond and the other called a Treasury note drawing 3½ per cent. interest. I think that is not wise, and that the better policy would be to make all of one class; it should all be a bond and I will give my reasons for that. I do not propose to go into details because I only wish to put on record my views in general terms. Not that I desire to put anything in the way of the passage of the bill but to give my reasons for my objections and my reasons for being in favor of that portion of it which I have mentioned.

We have doubtless as much current money at this time as the business of the country requires. To-day the business of this country is not complaining on account of a scarcity of money. If we issue these Treasury notes, $300,000,000 in addition to the present circulation, drawing 3½ per cent., or not to exceed that amount, for they may be issued at a less rate of interest; I do not, however, think they will; this issue will throw upon the country $300,000,000, or whatever amount of them may be issued as Treasury notes, or I might say currency, as they will at first go into circulation.

It is not denominated currency, it is denominated "Treasury notes," drawing interest payable in one year or redeemable in ten, giving the option to the Government of one year or ten years. It is to my mind perfectly certain that these notes, particularly of the smaller denominations, will go into the hands of the people as currency. Then what will be the result? They are sold at par; every person will take them; they will float as currency. As the interest upon these notes accumulates the banking interest of the country will gather them in, and at the end of six months, when the interest has accumulated on the notes, the banks will have the notes, and to that extent they will be gathered in, thus contracting the currency. When that interest is paid the notes will at once go out again among the people, and increase the volume of currency to that extent, so that we shall have every six months a contraction and every six months an expansion. That will be the result. It will be like the waves which roll up and recede; and it is my judgment that these $300,000,000 of Treasury notes, as proposed, is one of the greatest inflation measures yet presented to Congress.

I am opposed to that. I am opposed to inflating the currency except just as the natural business interests of the country require and demand its expansion and contraction according to the business wants of the people. These Treasury notes, or whatever you may term them, will for a while float as currency, and will produce both inflation and contraction as the interest accumulates or decreases.

That portion of the bill I dislike. I do not think that business in the healthy condition it is now in this country desires an inflation or contraction, as this bill will force and bring about. I do not think it will continue a healthy condition, but more likely an unhealthy condition of the business interests of the country.

However, as I said, I merely desired to give my opinion; I shall not stand out and try to defeat a measure which is deemed a wise one. I shall not try to defeat it, for the reason that I think the times demand a bill of some kind for refunding the portion of the public debt soon to be redeemable. For that reason I acquiesce in it if it cannot be changed, but at the proper time I shall move—I do not know that anybody will agree with me—to make under this bill one entire issue; that is, that all this indebtedness shall be of one character of bonded indebtedness. That will fail, probably; and if it fails, I then would fix the rate of interest on these Treasury notes not at 3½ per cent., for if these notes will be used as currency they will go at 3 per cent. just as well as it will at 3½.

I would make that distinction between this portion of the bill and that portion which applies to the bonds. For the bonds I think the rate of interest at 3½ per cent. is probably correct, and as low as we can float the $400,000,000, and perhaps we shall not require that much; but when it comes to Treasury notes going before this country at 3½ per cent., the same rate as the bonds, I say that is not wisdom in my judgment. I notice that they are to be in denominations of $10 and up to $1,000, and to tell me that a $10 Treasury note will not pass in this country drawing 3 per cent. interest, redeemable in twelve months, is simply to me incomprehensible.

Mr. FERRY. Will the Senator allow me to make a suggestion, as I want to get at what is best on this question? The Senator, as I understand him, suggests as his judgment that all this loan should be in the form of a bond.

Mr. LOGAN. Yes, sir.

Mr. FERRY. Now I ask him, as forty-odd millions are required for the sinking fund each year, if he places this all in a bond redeemable after five years and not payable until twenty years, how does he provide for the Government making provision for the sinking fund unless he compels the Government to go into the market and pay a high premium for the bonds?

Mr. LOGAN. I am not on the Finance Committee and had no hand in making this bill, and I am not going into a discussion with the Senator in reference to the sinking fund.

Mr. FERRY. We are sorry the Senator is not on the committee.

Mr. LOGAN. When it comes to providing for the sinking fund, the Senator understands perfectly well that it is the simplest process in the world to do that. There is no difficulty on that point. We are not of necessity required to float $300,000,000 of Treasury notes at 3½ per cent. to provide for the sinking fund. There is no such necessity as that upon the country, and the Senator well knows it.

Mr. FERRY. I know the Senator would not misrepresent my views in that respect. The requirements of the sinking fund for five years would be only about two hundred million dollars.

Mr. LOGAN. Very well.

Mr. FERRY. And the Treasury notes, as provided for in this bill, are issued for that purpose, reserving after one year the right to the Government to retire them and in that way supply the 1 per cent. upon the public debt required for the sinking fund. The point the Senator made was that this loan should all be put in the form of bonds. If so, they must be under the bill redeemable in five years and payable in twenty years or some longer time. By that course, for the five years you shut the Government off from the right or the privilege of taking up the bonds for the sinking fund. There is the difficulty that I perceive; and I ask the Senator for an explanation.

Mr. LOGAN. I will ask the Senator how do you provide for the sinking fund now suppose this bill does not pass?

Mr. FERRY. We provide that after the first year these notes shall be redeemable and the Government can give notice and retire them.

Mr. LOGAN. Very well.

Mr. FERRY. But if the Senator proposes to put them all in the form of bonds redeemable after five years, how can he compel holders or investors in these bonds to surrender them until they are redeemable or payable?

Mr. LOGAN. We all understand that the Government would have to buy in the market, or provide in some other way as we do now.

Mr. FERRY. That comes to the point I stated in the first question I put to the Senator. It compels the Government, then, to enter into competition and pay a high premium on these bonds for the sinking fund, which is guarded against by these Treasury notes redeemable after one year.

Mr. LOGAN. The Senator says it is guarded against by these Treasury notes. If the Government has to enter into competition and these Treasury notes are placed at 3 per cent. interest, is it going to cost the Government any more to buy them if they are at 3 per cent. than if they are at 3½ per cent.?

Mr. FERRY. That is not the point.

Mr. LOGAN. What is the point?

Mr. FERRY. If the Senator succeeds in his proposition of having the loan wholly upon a bond basis, in that form you cannot compel the holders of the bonds to surrender them if they are not redeemable. There are two parties to the bargain, the holders and the seller—being the Government.

Mr. LOGAN. That is perfectly simple. We all understand that there is no contract without two parties.

Mr. FERRY. Now I say without these notes the Government must enter into the market and bid up for the bonds in order to compel their retirement.

Mr. LOGAN. There is no difficulty about providing for the sinking fund. As I said I did not intend to enter into a long debate or to make a long argument, but merely to give my reasons for objecting to a portion of this bill. I could go further and give my views about how to provide for the sinking fund, for it can be done without any difficulty whatever, and make all these securities bonds. It is very easy to put in a provision for the sinking fund. You may retain a portion of these bonds for that purpose if desired. There is no difficulty on the score of providing for the sinking fund; we heretofore provided for it without difficulty and can now do it, without a grand scheme of inflation.

My trouble is to know why it is that you undertake to float $300,000,000 of Treasury notes—pretending to be bonds and yet you call them Treasury notes—and allow them to be floated at 3½ per cent. interest in denominations running from $10 up to $1,000, which makes them a currency—nothing more, nothing less.

Mr. FERRY. The Senator will see that the committee have in view the probability of using the surplus money of the Government, to avail itself of the favorable condition of money affairs to float these $300,000,000 from one to ten years, at a less rate than 3½ per cent. The discretion is given to the Secretary of the Treasury, giving him the maximum of 3½, and still the belief of many is that these notes will be placed at much less than that.

Mr. LOGAN. Very well. The belief of many is that it will be placed at much less than that. There can be no doubt that it can be

placed at 3 per cent. if it is to circulate as money, as it will just as the demand notes did. That is all they are, mere notes of the Treasury payable in twelve months, drawing a certain rate of interest. The idea that the silver certificates circulate, and that a Treasury note payable in twelve months, drawing a rate of interest, will not circulate at par, is in my judgment very absurd.

Mr. McPHERSON. Even at 1 per cent.

Mr. LOGAN. As I said I did not desire to discuss the bill at any length, but to give the reasons why in my judgment this bill should be changed either to make the issue all bonds, or if you have both the bond and the Treasury note, let the bond rate at 3½ per cent. and the Treasury note 3 per cent.

As I said I am opposed to inflating the currency except in the manner in which the natural process goes on according to the expansion of our commerce and our business. I am for keeping our money on a solid and sound basis. I am not for raising the prices of everything all over the country to an extravagant rate, as in my judgment this would do. We see the effect of the very prospect of it. We see stocks in the market to-day, some of them at 124, paying but small dividends; others going up to 150 and 160. I do not think it is a wise proposition, but at the same time that I put my views on record I do not wish to stand in the way of a funding scheme which will save to this Government the amount of millions of dollars that we shall have to pay unless we do refund our debt at a lower rate of interest.

Mr. BROWN. Mr. President, so much has been said upon this question that the Senate is doubtless fatigued with the discussion, and they could not patiently hear further speeches of any great length. It is not my purpose, therefore, to enter into a general discussion of the questions involved in the issue now before us. I am unwilling, however, to cast my vote without stating a few of the reasons which control my judgment in the premises.

As has already been said by other Senators, we have paid off a large part of the public debt incurred by the war within the last ten years; and while the taxes of our people have been heavy they have not been such as to prevent us from moving forward to a high tide of prosperity. The country as a whole has probably at no time been more prosperous than it now is. Within the last twenty years the area of production, or the increase in the acreage of cultivation, has been enormous. Our population has increased at a rapid rate, and it has already reached over fifty millions. We have a vast territory of unsurpassed fertility. The American people are a hardy, laborious people, full of energy and enterprise, ambitious for success, and determined to accumulate wealth. During the last few years our principal crops have been about doubled in quantity, and our facilities for transportation have been so largely increased that all our productions of every character, to say nothing of our manufactured articles, find a ready market either at home or in foreign ports. Not many years ago corn was a very common fuel in parts of the West during the winter season where wood was scarce, and wheat and pork and other productions of the country found scarcely any market, leaving the people on the fertile plains of the West, without market, with but little to stimulate their energy or enterprise, content to make enough produce to live upon, and to remain at home and enjoy it. Now we have some ninety thousand miles of railroad in operation, penetrating every section of the country that has been settled by our people, and pressing forward into the uncultivated wilderness, leading and inducing population to follow. This state of things, together with the wars and oppressions of some of the European governments, has brought to our shores a largely increased number of immigrants, each of whom finds a home in a rich country, where by labor he can soon make himself and his family comfortable.

A few years ago our exchanges were conducted almost entirely upon the cotton and tobacco crops of the South. Now the grain crop and the meat crop of the West enter very largely into the account. Why? Because the markets of the world are now open to these productions, which can be sent over long lines of railroad at low rates to the coast and then rapidly transported across the ocean upon steamships. The result has been that the last few years have shown an enormous balance of trade in our favor, which has poured a stream of gold into the United States from other countries to pay the balance due to us resulting from the usual interchange of commodities. This stream of gold and the large amounts that are made at home and taken from our mines is seeking investment. Large sums have fallen into the hands of capitalists of great wealth, many of whom do not desire to risk their fortunes upon speculation or upon the chances of an active business, and they naturally seek, even at a low rate of interest, first-class investments that are perfectly safe and free from taxation.

Not only is this true of the capitalists of large means, who invest heavily in the securities of the United States, but it is also true of a vast number of our best citizens and laboring people, who are making something to invest, and who desire to place it where it will be secure. And a bond on the United States, perfectly secure, if it is not taxable, which pays 3 per cent. interest, is a better investment for even a small capitalist than he finds in most of the channels into which he can put his capital. I think I may venture to say that a large proportion of the farmers of the United States, after they have paid all the expenses attending the production of their crops, and all the taxes assessed by the Government of the United States, the governments of the States, and of the counties where they reside, do not make clear more than 3 per cent. upon the capital invested. The same is true of a large proportion of the holders of real estate in our villages, towns, and cities. Real estate, when in the hands of men who manage well, where it is well located and properly improved, pays a better per cent.

But in every city, town, or village in the Union it would be found that much of the real estate is unimproved, and the owners are paying tax upon it without income. And of the improved real estate there is a large proportion that is not in the best location or under the best management, that does not pay 3 per cent. after all expenses of repairs, insurance, and State, county, and municipal taxation have been paid. Nor do I believe that the whole capital invested in railroads or in mining in this country has paid 3 per cent. net to the owners. Some railroads and some mines have paid largely; but I speak of the average, of the whole sum invested. And our people in this condition are beginning to calculate and properly to estimate their true situation. Hence it is that whenever the bonds of the United States have been offered, as on a late occasion, to the populace, they have taken them readily at the ruling prices even as low as 4 per cent. when our bonds brought no such premium as they now bring. And I have no hesitancy in saying that if this loan is offered to the people of the United States, and is placed within their reach in the different cities and larger towns all over the Union for as much as thirty days after having been advertised, that the country will be astonished at the amount that will be taken by citizens of small means, who desire to lay by something that they can calculate upon as positively certain, and that is absolutely free from the demands of the tax gatherer.

Senators doubt whether we can place bonds redeemable after five years at the option of the Government, but which the Government is not under obligation to redeem until the end of twenty years, usually called five-twenties, upon the market successfully at 3 per cent. I do not entertain any doubt on this subject. Fifteen years ago if the United States wanted to borrow money they had to pay 6 per cent. Then came a loan of 5 per cent., that was readily taken; and a loan at 4½, and then a 4 per cent. bond, and now the 4 per cent. bonds are selling in the market at 113 to 114. This shows the increased confidence of our people in our public securities, and their increased ability to purchase them. And the immense increase in the productions and the manufactures of the country, and the vast increase in the balance of trade in our favor, have placed in the hands of our people the means to gratify their disposition to invest in the bonds of their Government at a rate which, while it seems low, pays them a better income with absolute certainty than they can find elsewhere.

Reference has been made to the English consols, which at 3 per cent. have been most of the time a little under par. Yet it is admitted that within the last few years they have reached par. It is said, however, that this is on account of the long term they have to run, or, rather, on account of the fact that they run perpetually; and the owner is simply entitled to his 3 per cent. interest on the investment. That, with a certain class of wealthy men who desire to invest, is in their favor, and causes them to bear a better price. But another large class who would rather see the end of the loan occasionally, and know a particular day in the future, when they can demand, not what may be the market price of the consol, but the par value of it, would prefer that it should have some fixed period to run.

But there is another reason why United States bonds are naturally worth more in the market than British consols. The incomes from consols are taxable; our bonds are absolutely free from taxation. Again, this Government has a territory immensely larger and more productive than the British Government possesses. I do not speak now of the British colonies, many of which, when you deduct the expense of their wars, are not very remunerative to the mother country; but I speak of the domain that properly belongs to the British Government, and constitutes its home territory. There is not, therefore, room with them for the great expansion that we have in this country. There is nothing like so large a population in the British Isles as we have here. And while, on account of the fact that the country is much older, there has been a larger accumulation of wealth in proportion to numbers, there is no reasonable prospect that the wealth of that country will remain, as now, in excess of the wealth of this country in proportion to numbers.

But there is still another significant fact. The British Government, with all its strength and its naval power, is all the time engaged in war with somebody, which compels it to maintain large armies and navies. Those wars are expensive, and it cannot be denied that in the British Islands there is a growing discontent with the government.

At this very time the Irish question is one of great difficulty, and no one can say that the inhabitants of the British Islands may not be cutting each other's throats within the next six months. The tenants and peasantry everywhere in the islands are becoming restless at the present land laws and the present high rents they have to pay. This restlessness is also permeating the laboring masses in the iron and coal mines and the manufacturing districts; and stable and powerful as the British Government has been for a long while, its

prospects for future peace, prosperity, and stability are not, probably, as great as those of the United States. Its old land system and its aristocracy are in danger. We have passed through our internal struggle. It is not at all probable that we shall have another such struggle within a century or probably centuries to come. All patriots unite in the hope that we may never have another. Our country, then, with a well established government, and with resources unequaled by any other country, offers to the world assurances of peace, prosperity, stability, and ability to pay, that neither the British Government nor any other government offers.

We feel that we have an exemption from future foreign wars possessed by few other governments. Prior to the late war between the States, this Government was considered by the leading governments of Europe as a second-class power in a military point of view. But our own struggle developed on each side immense strength, gallantry, and skill. The southern confederacy, notwithstanding the great disadvantages under which it labored, brought into the field its half a million of gallant men. The Northern States after a long struggle of four years brought into the field an army of sufficient power to crush the confederate armies and dictate terms of peace. We have now laid down our past differences. The two armies and the two sections are now united, and in case of a foreign war the troops who fought under opposing banners in the late struggle would rally together, as a united force, grand and invincible, under the old flag of the Union. Our Government, with all its sections and all the States again cordially united, can put 5,000,000 men into the field if the exigencies should require it. And while we lack a navy, and on that account might be exposed to temporary inconvenience in case of a foreign war with a naval power, still the final result could not be doubtful. It is not the interest of any foreign power to attack us with our present united strength, nor is it our disposition unjustly to attack any other power. Therefore we have a freedom from war and the expenses of large armies and navies for a long period to come, which it is not likely Great Britain or any other of the great powers will enjoy. We naturally have a right, therefore, to expect, these points being all understood, that capitalists and persons generally who seek investment would pay a little higher price for United States bonds than they would for the securities of any other government.

In view of our vast territory, our great population, our immense resources, our unbounded facilities for transportation, our rapidly increasing crops, our growing manufactures, our limitless mineral wealth, the growth of our educational, moral and religious institutions, our freedom from prospective wars, the heavy balance of trade in our favor, and for other reasons that I might assign, but which I will not weary the Senate by giving at present, I shall vote for a 3 per cent. bond, redeemable at any time after five years and payable at the end of twenty. And I do not entertain the slightest doubt that the bonds can be negotiated in the market and disposed of at par without any difficulty.

One word about another point connected with the bill before I take my seat. On pages 3 and 4 I find the following language:

> And the expense of preparing, issuing, advertising, and disposing of the bonds and Treasury notes authorized to be issued shall not exceed *one-half* of 1 per cent.

What is the meaning of this, and what is the amount here given? It means that this one-half of 1 per cent. upon the whole amount is to be given or used for the preparation and negotiation of the bonds. In other words it means that we are to pay for the printing, executing, advertising, and disposing of the bonds one-half of 1 per cent. The House of Representatives fixed it at one-fourth of 1 per cent.; but the Finance Committee of the Senate has thought proper to change it to one-half of 1 per cent., and we were told by the honorable chairman of the committee, on day before yesterday, in substance, that he would not desire to take the responsibility of possibly defeating the loan by refusing to pay as much as one-half of 1 per cent. for negotiating it; and he called upon Senators to know whether they would desire to incur such responsibility. For one, I have no hesitation in responding that I will with pleasure take the responsibility of voting to pay a smaller sum for that service. What is the sum we propose to pay? The whole issue of bonds and Treasury notes which are interest-bearing, which it is proposed to put upon the market, amounts to $700,000,000. One-half of 1 per cent. for preparing and negotiating the bonds is to be paid on this whole amount. What is it? The snug little sum of $3,500,000. Now, I will be pardoned for expressing the belief that it will not cost half a million to pay for engraving, printing, issuing, and advertising these securities. Then what do we pay the other three millions for? For disposing of the bonds? In other words, we give that amount as a bonus; or, in steamship phrase, which has been so often used here within the last few days, we give it as a subsidy to a certain syndicate of bankers for the trouble of negotiating this loan for us.

Now, if I were not a Senator, I should like very much to take this contract, and guarantee the negotiation of the whole loan at par. And rather than miss the contract I might be willing to pay out of this bonus or subsidy, if it becomes necessary, to the national democratic executive committee or to the national republican executive committee, whichever may be in power, and have the right to expect it, the sum of a million of dollars to aid in conducting the campaign in 1884, if party exigencies should require it. And I should feel then that I had made the handsome sum of about two millions for my trouble. And if I could not succeed with the present syndicate, with $700,000,000 of United States securities under my control, I could readily form one with which I would succeed. And if my syndicate, after the populace had been served, should have the good fortune to take a large proportion of the bonds, I should not entertain any doubt that within the next twelve months we would make more than another one-half of 1 per cent. in premiums upon the bonds so taken.

But we are warned by Senators that if we should offer a 3 per cent. bond and the negotiations should fail, and we were unable to dispose of it at par, we should lose within the next year $12,000,000 in interest, being the difference between the rate we are now paying on the bonds and the rate of 3½ per cent. And this is held over us, probably not as a rod, but as a strong reason why we should issue a 3½ per cent. bond instead of a 3 per cent. But there is another side to this picture. Suppose we should issue a 3½ per cent. bond, when we could readily sell a 3 per cent. bond, what would this cost us? It would be an addition of three and a half millions per annum to the interest we would pay on the new loan. If the bond is a 5-20 we would be obliged to pay interest on it at this rate for five years. That would amount to $17,500,000. And if we could not at the end of the five years exercise the option given to the Government, and redeem the bond for another five years, it would add $17,500,000 more to the burdens of the people. In other words, in the event we should issue a 3½ per cent. bond, when we could negotiate a 3 per cent. bond, we would pay out of the taxes raised from the people $35,000,000 more interest in ten years than we would pay upon the 3 per cent. loan. And there would be no way of getting rid of $17,500,000 of this amount, and we would be obliged to pay it. Therefore the chances for loss to the Treasury are greater if we issue a 3½ per cent. bond than if we issue a 3 per cent. bond. In the one case we might possibly lose $12,000,000 of interest; in the other case we would lose $17,500,000 of interest; and if the bonds should run ten years we would lose $35,000,000 in interest. Taking into the account the chances in favor of the negotiation of a 3 per cent. loan, the prospects for loss are much greater in the event we determine to issue a 3½ per cent bond.

But it is intimated that the credit of the Government would suffer in that case. Why so? It would simply show that we had not been able to do that which other nations have not been able to do—float at par a 3 per cent. bond. But how would this injure our credit? Would it make our four percents now in the market less valuable? The only effect would be that we must continue to pay the present rate of interest on the bonds until another loan is offered to the country at a rate that could be negotiated.

But I am so thoroughly satisfied that there will be no difficulty about the negotiation of a 3 per cent. loan that I shall, as already stated, not hesitate to cast my vote in favor of 3 per cent. We have no right to tax the labor of this country or the property of this country to pay the capitalists or anybody else a higher rate of interest than the lowest rate at which the bonds of the Government can be readily negotiated.

And if we retain section 5 of the bill as it came from the House of Representatives, and compel the national banks in future to deposit the 3 per cent. bonds, and no others, as security for their issues, we will make assurance doubly sure.

Mr. CALL. Mr. President, the bill for refunding nearly seven hundred millions of dollars of the national bonds soon to be subject to redemption reported by the Senator from Delaware, as chairman of the Senate Committee on Finance, together with the able explanation of the bill made by him, in my judgment, is a safe measure for the committee to report. If it has erred, it is on the side of prudence and caution in dealing with the public credit and the national currency.

I have listened with much care and thought to the able discussion of the subject by the Senator from Delaware and others, and, while I commend with the praise of my own judgment the manner in which he has dealt with the subject as chairman of the committee, I have been drawn to the conclusion that a 3 per cent. bond is a safe rate of interest, and a practicable one for refunding the national debt.

I am impressed with the opinion that the option of redemption is the only material fact connected with the duration of the bonds, and I cannot see with this option fixed at five years that it is at all material whether the ultimate period of the bond is fixed at twenty or at forty years.

If the country should at any time be in a condition to call in these bonds it will do so; and if not, they will run to their full or an indefinite period.

I am also impressed with the conviction that it is better for the country that the debt should be paid at the earliest possible day, and the Legislature of the country relieved of the embarrassment of this great interest, which in many direct and indirect ways fetters and controls Congress in the exercise of its constitutional powers of legislation.

I do not share in the doubts which have been expressed as to the future increase and development of the productive powers of the country, nor as to its capacity to handle and dispose of the debt with ease, and without serious embarrassment to the industries of the people. On this part of the argument I concur with the opin-

ions forcibly presented by the Senators from West Virginia [Mr. HEREFORD] and New Jersey, [Mr. MCPHERSON.] It is certainly true, in my opinion, that the public credit is to some extent and in some degree dependent on the support of the associations of credit on which the commercial world depends for the exchange of the productions of labor, and which, under our business economies, have almost absolute control of the results of labor in all its various forms. But, as the aggregations of money, or the accumulations which are made by the power of taxation from the labor of a great and prosperous people, are greater by immeasurable proportions than those which are gathered from any one, or from all other possible sources, the pledge of these accumulations must always be the great object of attraction to the enterprising and sagacious men who seek to handle these pledges for their own benefit.

There is but little ground, then, to fear that so long as the public faith is kept the pledge of the public credit of a great and prosperous people will ever lose its attraction to the financiers of the commercial world. Besides the system which has been practiced by nearly all the civilized nations of the world of connecting the circulating currency and the business of banking or of holding the money of a country on deposit with the form in which the pledge of the public credit has been made; and which was happily adapted to the necessities of the country during the late civil war by the institution of national banks, which were only a form of combining the deposits representing the gross proceeds of the industrial activities with the credit of Government and creating a currency with which to float all exchanges and control all the credits of the country as the representative of its industry and its values, furnishes a power always at hand and really under the control of the Government, and outside of this the imperative interest of which is connected with and draws its life from the organization of the public credit in the form of bonds and of a funded debt.

To me it seems, Mr. President, that there is no ground for apprehension that this Government can fail to refund its debt in the shape of bonds at almost any rate it pleases, so long as it keeps its currency at a par value. Nor have I any doubt, Mr. President, of the abundant capacity of this country under a wise and prudent system of financial economy to maintain at par any amount of circulating notes or short-time interest notes which it may reasonably see fit to use. The same facts which draw to this country the great tide of immigration—its free institutions, its freedom from war, the absence of great standing armies, its isolated situation, its vast and varied industries, its wonderful production—give it confidence throughout the world and give to its pledges of the public faith with all the syndicates and the institutions of associated credit, either public or private, throughout the world both attractiveness and absolute confidence.

I have no doubt that the Government may rely with absolute confidence upon the sale of these bonds through either syndicates of the wise men who now control by their gigantic operations the exchange and the value of all the products of industry, or they may rely on their sale to the producers, to the people at large, or on both, as perhaps would be the wiser plan. In either case the suggestion of the Senator from Delaware holds equally good. The power to sell the bonds of the United States, which are firmly and justly fixed in the confidence of the world on a safer and more stable basis than the securities of any other country stand, is a *corps de reserve* behind all plans for sustaining the public credit, for it derives its power and its value from the fact that this confidence appeals on all the grounds of self-interest to the men throughout the world whose business it is to make great fortunes by handling these pledges of the public credit of the governments of the world, and who are the mediums through which the productive industry of the world becomes invested in the securities of the world.

For these reasons I shall vote for a 3 per cent. bond and for an option of five years. And I am indifferent, with these provisions secured as to the other features of the bill, except that I would prefer that some provisions should be added to the bill by which subscriptions for the loans should be opened in all parts of the United States, and as would secure to the people the right of obtaining parts of the loan.

To me it seems clear that the same facts which constitute the recommendations of this country and of its forms of public credit to the commercial world clearly evidence the capacity of our people to furnish the money with which to refund the entire debt; or, in other words, establishes the value of our home market for this purpose.

I am aware of the value and do not underrate the power of the great organizations of credit, of the combinations of capable and thoroughly informed financiers who, in the great centers of commerce, combine to control the public securities of the world. I appreciate their great power and their great influence under the existing forms of trade, and commerce, and banking, and the facility with which these great funding operations may be conducted through them. I am not averse to paying them a reasonable compensation for their services in this respect, and of recognizing their usefulness to the country, but I do not believe that the Government is absolutely dependent on them.

I believe that the individual resources of the people, the producers of the country, the industrial and laboring classes, may be aggregated and brought to bear by small particles to the refunding of these bonds; for it is upon the people alone and upon their investment ultimately of their earnings in these bonds that the value of all securities must ultimately rest; and of all the people of the world the people of this country are beginning to be individually the most prosperous and the most able to make investments of money.

If this opinion is correct, we have both of these classes to rely on. We have the great capitalists of the world, the laboring people of foreign nations, the capitalists of our own country, and chief above all, the industrial-producing classes of our own people, who alone, in my opinion, are capable of themselves to refund this debt.

While it may not be prudent to rely on any one of these, yet they are all sources to be considered in estimating the probabilities as to the commercial value of these bonds.

For these reasons my own judgment is led to follow that of the House committee, and while recognizing the able argument of the Senator from Delaware and others of the committee, I am led to the conclusion that Congress may with entire safety rely on the sale of these bonds at not less than par, bearing a 3 per cent. rate of interest.

I am of the opinion that 3 per cent. is an abundant rate of interest for a government bond to bear. It is as great a rate of interest as the industries of any country can bear as a lasting and permanent burden. And while we hope to and I have no doubt can extinguish our debt within a comparatively short period of time, we cannot prudently fail to remember that the possible exigencies of government may, although the possibility is remote and uncertain, require other and great loans, and the rate of interest should be adjusted on the basis of this possibility.

I shall vote for a short option of redemption of five years, and for a 3 per cent. rate of interest; and I am not averse to a reasonable confidence and discretion to the Secretary of the Treasury, nor to a reasonable compensation to those through whom these bonds may be refunded.

Mr. SAULSBURY. Mr. President, I recognize fully the importance of this bill. It proposes to refund a portion of the public debt of this country amounting to somewhere between $600,000,000 and $700,000,000. I believe the statement was made that the exact amount is about six hundred and thirty-seven million dollars which it is proposed to refund by the operations of the bill now before the Senate. Of that amount I think about two hundred million dollars bear the rate at present of 6 per cent., and the residue, some four hundred and thirty million dollars, a rate of interest at 5 per cent. The aggregate interest, therefore, that we are paying upon these securities which it is proposed to refund amounts to thirty-four or thirty-five million dollars. Under the provisions of this bill we propose to refund $300,000,000 of that amount in Treasury notes, bearing a rate of interest not exceeding 3½ per cent., and $400,000,000 are to be refunded in bonds bearing the same rate of interest, 3½ per cent.

If we leave out of view entirely the amount that is to be refunded in the certificates or Treasury notes and confine ourselves exclusively to the $400,000,000 that it is proposed to refund in 3½ per cent. bonds, there will be a saving by the operation of some $12,000,000 annually. If we carry the examination a little further and ascertain what will be the difference between 3 per cent. and 3½ per cent., it will be found that we will save over three million dollars annually by adopting the lower rate of interest. It is impossible to tell exactly what would be the life of these bonds; but if the average life of the bonds should be ten years, there would be a saving to the Government by adopting the 3 per cent. rate, provided the bond can be floated at that rate, of not less than $30,000,000 in ten years. It is therefore very apparent that the question as to the rate of interest is a very important question for the consideration of the Senate.

I confess this is a question which is not entirely free from embarrassment to my mind. I have not sufficient data upon which I can predicate a positive opinion that we can float a debt of $400,000,000 or of $637,000,000 at the lowest rate of interest which is now proposed, namely, 3 per cent. We cannot determine that question by reference to the public loans of other countries, because the rate of interest in every country depends largely upon the amount of money seeking investment in the country, and in part upon the openings for investments. We cannot tell from the rate of interest of British consols or of any other securities of a foreign country what might be the fate of our own securities bearing a like rate of interest, because the conditions of the two countries are very distinct. We must therefore rely upon something else. We must look around in our own country and see if the conditions here are favorable or unfavorable to floating the debt at 3 per cent. While I have, as I say, some doubts as to the possibility of floating a 3 per cent. bond, I believe the probabilities are that we may do it.

Let us look at our resources. We have heard this morning from the Senator from Georgia [Mr. BROWN] and also from the Senator from Florida [Mr. CALL] of the resources and unbounded prosperity of the country. These are facts of which we all have knowledge. Perhaps no people were ever in a more prosperous condition than the people of this country at the present day. We cannot say assuredly that that degree of prosperity will last. That depends largely upon the productive industry of the country, and in the second place upon the foreign demand for our products. I discard entirely the view

that our financial legislation in the passage of the resumption act or any of the financial measures of the Government have had much to do with the present prosperity of the country. It has resulted from the bountiful harvests with which we have been blessed and the foreign demand for our surplus products. That has brought us prosperity more than any and all other causes combined. If that condition of affairs continues there can be in my judgment no question about the ability of the people of this country to absorb all this $637,000,000 even at the lowest rate of interest proposed.

In addition to that, I want to mention a further fact. This is to be a mere substitution for existing loans. When you put out $637,000,000 it is but to replace existing loans, and will furnish opportunities for investment for that amount which is already invested in the securities of the Government. What becomes of the $637,000,000 which are already invested in the securities of the Government unless it goes into these new bonds? Will the holders of that money put it on deposit in the banks and receive no interest, or will they seek for securities upon real estate or in some other way invest it so as to produce a larger amount of interest than the bond which is proposed in this bill? I apprehend not. Those who have now their money invested in Government bonds have invested in such securities because of their confidence in the ability of the Government to pay when called upon, because of their convertibility whenever they see proper to go into the market and sell them, and because of the certainty of the prompt payment of the interest. In my opinion a large percentage of the money already invested in five and six percents will necessarily go into the new loan because of the certainty which it offers for the prompt payment of the interest. In this way I think we may arrive at some conclusion that there is a possibility and a probability of floating the loan at either 3 or 3½ per cent., as Congress may determine.

I believe that the present rate of the securities of the Government in the market pay a little over 3 per cent. About 3½ perhaps is as near an approximation to it as possible; and if I could fix the rate of interest of these bonds, I would fix it as near what the present securities now in the market bring as I could approach. The four percents bring about 113 or 113½. I think that was about the price yesterday. That would make the interest upon the amount which would be required to purchase one of these bonds a little over 3 per cent.; less than 3½.

Mr. EATON. Less than 3½; about 3.15.

Mr. SAULSBURY. That would be the nearest approximation to the present value of those bonds; and if there was an amendment offered to that effect, I should vote for it in preference to a rate of either 3 per cent. or 3½ per cent., because it would be based upon the present value of the bonds of the Government in the market. I do not know that I shall have the opportunity to vote for such an amendment. The Senator from Connecticut, I believe, indicated a purpose to offer such an amendment, but I am not sure that he will offer it. I am driven, therefore, to determine the question between a rate of 3 or 3½ per cent., and I shall vote as the best consideration of my mind for the lowest rate of interest. I shall do so, however, with some doubt that we may not thus be embarrassed in the negotiation of these bonds. I am certain that the capitalists of the country will combine to depress, if possible, the market for these bonds. They are ever alert to their own interests, and if they could defeat the sale of these bonds in the hope of getting a larger interest on them in the future, I have no doubt they would do so.

The amendment offered by the Senator from Iowa [Mr. ALLISON] I believe proposes to place these bonds within the reach of the people of the country, and I think that that is a very wise arrangement. There are hundreds and thousands of men in this country with small means who would be glad to invest temporarily their money which they may want to use at no very distant day in some security that would pay them interest in the mean time. The banks of the country also have now in their vaults a large amount of deposits upon which they are paying a tax to the Government, and yet they find great difficulty in finding at times persons who want to borrow. I was told not more than two weeks ago, in speaking of this very bill, by a director of a bank in my State that his bank had recently gone into the market and bought bonds because they had in their vaults money of their depositors that they could not discount upon, and they had sought investment by buying bonds which they could convert again whenever they desired to do so for the purposes of discount. We have I believe in this country some eight thousand banking institutions.

Mr. BAYARD. About six.

Mr. SAULSBURY. About six, my colleague says. Each of those banks has to-day a surplus of money on deposit, I presume. I know that is said to be the case with most of the banks in my own State, and I presume it is the case with the banks all over the country. That money has to lie there or be invested in something that will pay them interest. A few years ago I know when the city banks were offering interest upon deposits, the country banks would frequently take their surplus and carry it to the city and loan it to the city banks at a nominal interest rather than have it lie in their own vaults until such time as they should want to use it for purposes of discount. My impression is that out of the six thousand banking institutions of the country a large part of this money will be desired for purposes of temporary investment, knowing as they will know that when the bonds are once floated upon the market they can convert them and realize upon them at their pleasure.

Therefore, in my opinion, while it may not be a matter of positive certainty that we can negotiate this loan at 3 per cent., the probabilities are that we can. If we can, we shall save the Government annually about three million dollars, and in the end, if the average life of the bonds should be ten years, we will have saved to the Government $30,000,000. That is a matter that I think ought to have weight and consideration in determining our votes upon this question. I should very much dislike to vote for 3½ per cent., and before one-half of the loan was on the markets of the country see the price in the hands of capitalists who had bought them up. Whatever can be saved ought to be saved. If these bonds are issued at 3 per cent. and go into the market, if there is no impediment to getting them once upon the market by combinations of the capitalists and money dealers, I have no fear then but that they will ever afterward bring par in any of the markets of the country.

There is another consideration that ought not to be lost sight of. This perhaps is the last bond which will be issued by the Government, at least for a great many years. We ought to be able to pay the entire indebtedness of the country before the four percents become due. By a proper husbandry of the resources of the country, by economical appropriations by Congress, we shall be able, in my opinion, to liquidate every dollar of the public debt before the 4 per cent. bonds become due. That end can be defeated by extravagant appropriations on the part of Congress, but a wise husbandry of our resources will, in my opinion, enable us to liquidate the debts of this Government as they fall due, so that there will be no further necessity for another issue of bonds of the Government. The class of persons who would rather have the securities of the Government than anything else for investment, will take notice of the fact and will, in my opinion, be induced thereby to place their money in this loan. Some of the States now are begining to think about negotiating their loans at a rate of interest not much higher than that proposed by the Committee on Finance of the Senate. In my own State, with the small debt that we have, bearing 6 per cent. interest, a bill is now pending in the Legislature to refund the debt before the time expires when it is absolutely payable, and there is no doubt in the minds of the people of the State but that the debt of that State will be taken at 4 per cent. readily, and yet the bonds are subject to taxation. While I have had some difficulty in arriving at a conclusion between the 3 and 3½ rate of interest, I shall give my vote for the lower rate for this loan.

I wish to notice one other provision of the bill, and that is the fifth section, which has been stricken out by the committee. I have looked at that provision, and I cannot see that there is any necessity for striking it out. There is nothing compulsory upon any bank whatever. It does not propose that every bank in the country shall surrender up its present securities and deposit with the Government securities bearing a lower rate of interest. It only provides that when a banking institution wishes to increase its capital or when a new bank wishes to start it must deposit with the Government its new loan. There is nothing harsh, nothing improper in that. On the contrary, I think it is the duty of Congress, when the Government is paying to the banks interest upon the bonds deposited with the Government, to provide that the lowest rate of interest-bearing bond shall be made the security for the circulation and the deposits of the banks. If you were to give it a retroactive aspect and attempt to compel banks to withdraw their present securities and deposit the 3 per cent. bonds, it might have the appearance of harshness toward the banks; but I do not think that the provision of the bill as it passed the House will bear hardly upon any banking interests of the country, and therefore I cannot see the propriety of striking that out.

In reference to the rate for negotiating the loan, I have not given much consideration to that point, but it does strike me that one-fourth of 1 per cent. is ample compensation for the negotiation, provided we have to resort to the agency of banking institutions or syndicates for that purpose; but I have no doubt if the amendment offered by the Senator from Iowa [Mr. ALLISON] is adopted, and the loan is offered to the public, it will be taken very largely without the intervention of syndicates or banking institutions, or any persons who have to be paid commissions. However, that is not a matter of so much importance as the interest to be paid on the bonds, which, I think, is the great question involved in the bill.

I shall vote cheerfully for the time designated by the Senate Committee on Finance. I believe that the option of the Government ought to be retained, and ought not to be parted with for a longer period than five years. Therefore I concur most heartily with the amendment of the Senate committee. As I shall have to vote upon this question I thought I would state some of the reasons which shall govern my vote.

Mr. COCKRELL. Mr. President, is there any necessity for this refunding bill, or for any refunding bill? Is there any obligation, legal or moral, requiring the refunding of any of the bonds of the United States at this time? Let us examine the facts and determine that question. I say that there is no obligation, legal or equitable, requiring the refunding, the redemption, or the payment of any of the bonds of the United States, now or in the immediate future, except only $710,550 bonds known as the "Oregon war debt."

Let us, then, ascertain the exact condition of the public debt to-day and our obligation at present and in the immediate future in relation to it.

I hold in my hand the public debt statement issued by the Treasury Department for the month of January, 1881, which shows the financial exhibit to January 31, 1881. The statement is as follows:

*Table showing the interest-bearing debt of the United States.*

| Title of loan. | Authorizing act. | Rate. | When redeemable. | Total. |
|---|---|---|---|---|
| | | *Per cent.* | | |
| Oregon war debt | March 2, 1861 | 6 | | $710,550 |
| Loan of July and August, 1861 | July 17 and August 5, 1861 | 6 | June 30, 1881 | 144,339,900 |
| Loan of 1863, (1881's) | March 3, 1863 | 6 | June 30, 1881 | 57,216,100 |
| Funded loan of 1881 | July 14, 1870, and January 20, 1871 | 5 | May 1, 1881 | 469,651,050 |
| Funded loan of 1891 | July 14, 1870, and January 20, 1871 | 4½ | Sept. 1, 1891 | 250,000,000 |
| Funded loan of 1907 | July 14, 1870, and January 20, 1871 | 4 | July 1, 1907 | 738,480,550 |
| Refunding certificates | February 26, 1879 | 4 | | 867,250 |
| Navy-pension fund | July 23, 1868 | 3 | | 14,000,000 |
| Aggregate of interest-bearing debt | | | | 1,675,265,400 |

Let us examine each one of these liabilities. The Oregon war debt was issued under the act approved March 2, 1861, which is found in the Statutes at Large, volume 12, page 198:

That for the payment of claims provided for in this act, the Secretary of the Treasury may, if he deem it expedient, issue to the claimants, or their legal representatives, bonds of the United States of a denomination not less than $50, redeemable in twenty years, and bearing interest at the rate of 6 per cent. per annum, with coupons attached, and payable annually or semi-annually at the discretion of the Secretary of the Treasury.

Of the amount originally issued $710,550 now remain unpaid. These bonds are absolutely payable on the 1st of July, 1881. There is no question of the ability of the Government to meet and pay them on that day. That, I say, is the only item of indebtedness which is absolutely and unqualifiedly payable now or in the immediate future.

Now we come to the second item, the loan of July and August, 1861. This loan was issued under two acts. The first was the act of July 17, 1861, volume 12, page 259. The first section provides:

That the Secretary of the Treasury be, and he is hereby, authorized to borrow on the credit of the United States, within twelve months from the passage of this act, a sum not exceeding $250,000,000, or so much thereof as he may deem necessary for the public service, for which he is authorized to issue coupon bonds, or registered bonds, or Treasury notes, in such proportions of each as he may deem advisable; the bonds to bear interest not exceeding 7 per cent. per annum, payable semi-annually, irredeemable for twenty years, and after that period redeemable at the pleasure of the United States.

The act of August 5, 1861, in regard to the redeemability says:

And payable at the pleasure of the United States after twenty years from date.

I will read a copy of the bond issued under the acts of July 17 and August 5, 1861, furnished by the Secretary of the Treasury. This is the form of the bond:

Acts of July 17 and August 5, 1861.

The United States of America are indebted unto —— —— or assigns the sum of —— dollars, redeemable after the 30th day of June, 1881, with interest from the first day of —— inclusive at *six* per cent. per annum payable on the first days of January and July in each year. This debt is authorized by acts of Congress approved July 17 and August 5, 1861, and is transferable on the books of this office.

That obligation, that class of bonds, can be paid at the pleasure of the Government at any time after the 30th of June, 1881.

The next item in the public debt is the loan of 1863, issued under the act of March 3, 1863. This was entitled "An act to provide ways and means for the support of the Government," volume 12, Statutes at Large, page 709, and provides:

SECTION 1. That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, a sum not exceeding $300,000,000 for the current fiscal year, and $600,000,000 for the next fiscal year, and to issue therefor coupon or registered bonds, payable at the pleasure of the Government after such periods as may be fixed by the Secretary, not less than ten nor more than forty years from date, in coin.

The Secretary had the authority under this law to prescribe the time not less than ten nor more than forty years. The Secretary prescribed the time, June 30, 1881. These bonds are redeemable, not payable, at any time after that at the pleasure of the United States. These bonds are payable in coin. The loan of July and August, 1861, was issued before anything save gold and silver had been made a legal tender in this country, and it is equitably, and properly, too, payable in coin.

The next item is the funded loan of 1881, and I will treat together the funded loan of 1881, the funded loan of 1891, and the funded loan of 1907. The bonds of those loans were issued under the funding act of July 14, 1870, entitled "An act to authorize the refunding of the national debt," volume 16, page 272. I will only read the clause of section 1 which refers to the redeemability or payment of these bonds:

And of denominations of $50 or some multiple of that sum, redeemable in coin of the present standard value, at the pleasure of the United States, after ten years from the date of their issue, and bearing interest, payable semi-annually in such coin, at the rate of 5 per cent. per annum.

That authorized the issue of $200,000,000. Then there was a further authority to issue—

A sum or sums not exceeding in the aggregate $300,000,000 of like bonds, the same in all respects, but payable, at the pleasure of the United States, after fifteen years from the date of their issue, and bearing interest at the rate of 4½ per cent. per annum; also a sum or sums not exceeding in the aggregate $1,000,000,000 of like bonds, the same in all respects, but payable, at the pleasure of the United States, after thirty years from the date of their issue, and bearing interest at the rate of 4 per cent. per annum.

These bonds were issued in pursuance of that act as amended by the act of January 20, 1871, which made the interest payable quarterly instead of semi-annually, and changed the amount that could be issued of the different classes of bonds. Each one of these bonds has certain words written upon its face. I will read one of these bonds; they are all the same. It is a bond furnished me at one time by my good friend from Pennsylvania, [Mr. WALLACE,] and I am sure it was returned to him—a $50 bond:

1877. Four per cent. consols of the United States. 1907.

Principal and interest payable in coin.

(50)

At the Treasury of the United States.

The United States of America are indebted to the bearer in the sum of Fifty Dollars.

7115 7115.

This bond is issued in accordance with the provisions of an act of Congress entitled "An act to authorize the refunding of the national debt, approved July 14, 1870," amended by an act approved January 20, 1871, and is redeemable at the pleasure of the United States after the 1st day of July, A. D. 1907, in coin of the standard value of the United States on said July 14, 1870, with interest in such coin from the day of the date hereof at the rate of 4 per cent. per annum, payable quarterly, on the 1st day of October, January, April, and July, in each year. The principal and interest are exempt from the payment of all taxes or duties of the United States as well as from taxation in any form by or under State, municipal, or local authority.

Washington, July 1, 1877.

S. J. MILLARD,
*Register of the Treasury.*

Act of July 14, 1870.

This is one of the bonds of the funded loan of 1907, but the bonds of the funded loan of 1881 and the funded loan of 1891, are in precisely the same form, using the same words, except as to dates, amounts, &c.

Thus, Mr. President, you will see that the law under which these bonds were issued makes them redeemable at the pleasure of the United States, at the option, the discretion of the United States after certain dates: the five percents after 1881, the four-and-a-half percents after 1891, and the four percents after 1907; and you will note another fact that these bonds, principal and interest, are payable in coin, and not only that, but they are payable in coin of a particular kind, and that is the coin of standard value on July 14, 1870, and the coin of standard value on that day was the old silver dollar of 412½ grains weight, .9 part fine, and the gold dollar of 25.8 grains, .9 part fine. These bonds must then be paid either in the silver dollar, or in the gold dollars; and the principal and the interest are exempt from all kinds of taxation. This exemption has not been extended to all bonds of the United States. The interest in this case is absolutely exempt, as well as the principal.

I shall not touch upon the refunding certificates of February 26, 1879, at 4 per cent. Only $867,250 remain unpaid. They can be funded into 4 per cent. bonds, or could have been at any time within a year after the date of their issue. Nor shall I treat of the Navy pension fund, $14,000,000, bearing only 3 per cent. interest, which is simply a trust fund created by an act passed in 1799.

The law and the bonds themselves show that there is no obligation, legal or equitable, existing upon the part of the United States to pass any kind of a funding bill now or in the immediate future. The next question is, is it the policy of the Government to pass a refunding bill at this time; is it to the interest of the tax-payers of the country to pass a refunding bill? That is the only question before the Senate to-day; is it to the interest of the tax-payers of this country to pass a refunding bill? There is no obligation upon us to redeem or pay off these bonds in the immediate future. We have the right now under existing law to let these bonds remain until we have paid them off. They are payable at our pleasure, when we choose.

Let us look for a moment to our obligation in regard to these bonds.

Under the act of February 25, 1862, the sinking fund was created. I will read section 5 of that act:

That all duties on imported goods shall be paid in coin, or in notes payable on demand heretofore authorized to be issued and by law receivable in payment of public dues, and the coin so paid shall be set apart as a special fund, and shall be applied as follows:

First. To the payment in coin of the interest on the bonds and notes of the United States.

Second. To the purchase or payment of 1 per cent. of the entire debt of the United States, to be made within each fiscal year after the 1st day of July, 1862, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt as the Secretary of the Treasury shall from time to time direct.

Third. The residue thereof to be paid into the Treasury of the United States.

There is the obligation in regard to the sinking fund and the ultimate payment of the public debt. That was affirmed by the act of July 14, 1870, in section 6:

In addition to other amounts that may be applied to the redemption or payment of the public debt, an amount equal to the interest on all bonds belonging to the aforesaid sinking fund shall be applied, as the Secretary of the Treasury shall from time to time direct, to the payment of the public debt as provided for in section 5 of the act aforesaid.

Referring to the act of February 25, 1862. Now, what are our obligations in regard to the sinking fund at this time? Have we met it? Are we free from any further responsibility? Or do we have to continue payments upon it, admitting the validity of the law and the policy of the law, bringing nothing of that into question? I read from the finance report of the Secretary of the Treasury of 1880, on page 7:

Thus it is probable that there can be applied to the purchase of bonds for the sinking fund during the present fiscal year—

The year ending June 30, 1881—

an amount sufficient to cover the whole deficiency now existing on the account of that fund, thus making good the whole amount of the sinking fund as required by law.

Then on the 1st of July, 1881, we shall simply be even with the sinking fund. The requirements of that sinking fund for 1882 are estimated at $41,639,840.20. That is given in one table upon page 8. On page 11 the Secretary has given a statement of the requirements of the sinking fund from July 1, 1882, up to June 30, 1891. He says:

The requirements of the sinking fund prior to the maturity of the 4½ per cent. bonds, for a period of ten years, from 1882 to 1891, both inclusive, are estimated as follows:

| | |
|---|---|
| For the fiscal year ending June 30, 1882 | $43,386,645 00 |
| For the fiscal year ending June 30, 1883 | 45,122,110 80 |
| For the fiscal year ending June 30, 1884 | 46,926,995 24 |
| For the fiscal year ending June 30, 1885 | 48,804,075 04 |
| For the fiscal year ending June 30, 1886 | 50,756,238 04 |
| For the fiscal year ending June 30, 1887 | 52,786,487 56 |
| For the fiscal year ending June 30, 1888 | 54,897,947 07 |
| For the fiscal year ending June 30, 1889 | 57,093,864 95 |
| For the fiscal year ending June 30, 1890 | 59,377,619 55 |
| For the fiscal year ending June 30, 1891 | 61,752,724 33 |
| | 520,904,707 58 |

June 30, 1891, the sinking fund will require over sixty-one million dollars. The amount between June 30, 1881, and June 30, 1891, ranges from $43,000,000 up to $61,000,000, increasing regularly year by year. Under existing obligations we must extinguish from $43,000,000 to $61,000,000 of the public debt each year between this and 1891. That is a duty which we owe to pay off not less than this amount under existing law. Now, I return to the question: Should it be our policy to pass a refunding law? Is it to our interest to pass a refunding law? We now have $202,266,550 of 6 per cent. bonds and $469,651,050 of 5 per cent. bonds, making a total of $671,917,600 of 5 and 6 per cent. bonds, which we can pay at any time we choose in the future. They are the only bonds that are payable, or even redeemable, at the pleasure of the United States.

The next item that becomes redeemable is the $250,000,000 item of the funded loan of 1891. Then the next item is the funded loan of 1907, $738,000,000. We must pay from $43,000,000 to $61,000,000 every year between this and 1891. After that the amount required for the sinking fund will increase, and we shall then have the four-and-a-halfs that we can reach and commence paying to the amount of $250,000,000. These bonds are all payable in coin.

Now, is it to our interest, to the interest of the tax-payers of this country, that we should change these obligations, change the character of the debt and the obligation existing under the law as to paying it off? There can be but one inducement, and that is the interest of the tax-payers. If we can change the status of the existing bonds and the laws under which they are issued and refund them into a new bond with new obligations and in the end pay off those new bonds with a less sum of money than it will require to pay off the existing bonds, principal and interest, then it will be to the interest of the tax-payers to do it.

Now, mark you, Mr. President, we must pay from $43,000,000 to $61,000,000 a year up to 1891. We must therefore keep a part of this indebtedness under our control. If we do not, if we refund all these bonds so that we cannot pay them between this and 1891, we shall be compelled to go into the market and purchase for the sinking fund from $43,000,000 to $61,000,000 annually, and at present rates pay from 13 to 15 per cent. premium upon them.

In determining whether it is to the interest of the tax-payers to pass a refunding bill we must look to certain guiding principles. The first principle that should guide us is that *the public debt should be paid at the earliest practicable time consistent with the best interests of the tax-payers.* That has been, is, and I trust ever will be the settled policy of the Government of the United States; it has been, is, and ever will be the settled policy of the great political party whose principles I espouse. The second principle to guide us is that *the largest possible amount of the public debt should be carried or borne in the form of non-interest-bearing obligations, such as Treasury notes, &c., which can be maintained by the people in circulation at par.* It is to the interest of this Government that just as much of its public debt as can be kept in circulation without any interest being paid upon it shall be so kept out. The third great principle is that *the remaining portion of our public debt should be carried or borne in obligations bearing the lowest possible rates of interest at which they can be sold and kept at par.*

With these three principles guiding us, let us examine and see whether we should pass a refunding bill. The refunding bill as it came from the House of Representatives, proposed to issue not exceeding $400,000,000 of 3 per cent. bonds, redeemable at the pleasure of the United States after five years, and payable ten years after the date of their issue, and certificates to the amount of $300,000,000, in denominations of $10, $20, and $50, registered and coupon, at 3 per cent., and redeemable at the pleasure of the United States after one year, and payable in ten years from the date of their issue; and both these bonds and certificates, as they are denominated in the House bill, are to be issued under the provisions and subject to the limitations of the act of July 14, 1870; that is, they will have inserted upon their face, "redeemable in coin of the standard value of the United States on said July 14, 1870," or on the day of the passage of this refunding act. In other words, they, too, will be payable in coin just as the present bonds are payable in coin, which coin will always mean gold and silver.

Section 2 of that bill authorizes the exchange of these bonds for the 5 and 6 per cent. bonds, the holders to receive the difference in interest from the date of the exchange to the date of maturity, but it excludes the Pacific Railroad bonds from the operation of this act.

Section 3 provides that the expense of negotiating these bonds shall be one-fourth of 1 per cent.

Section 4 gives the Secretary of the Treasury, if necessary, power to use not over $50,000,000 of the gold and silver coin now in the Treasury for the redemption of these bonds, and to apply any surplus money to the purchase or redemption of United States bonds or certificates, which shall not become a part of the sinking fund, but be canceled.

In the last clause there is a wise provision that they "shall constitute no part of the sinking fund." If they were made a part of the sinking fund, and we purchased them at the rate of $75,000,000 a year, as we have done the past year, it would only require a few years until the sinking fund would run up to such an amount that it would be very difficult for the taxes of the country, even with largely increased revenues, to meet it. The bonds paid by this $50,000,000 will be taken out of the operation of the sinking fund.

Section 5 provides that after May 1, 1881, the 3 per cent. bonds are the only ones that shall be receivable for national-bank circulation or for the security for Government deposits; but the banks can substitute for the call-bonds any other issues on which interest has not ceased.

That was the bill substantially as it came from the House. The Senate Committee on Finance propose to amend it by striking out the 3 per cent. bond and making it a 3½ per cent. bond; making the interest payable semi-annually, and specifying the denominations of the bonds to be in sums of $50 or multiples of that sum; striking out the ten years as the limit of payment and inserting twenty years; striking out "certificates" and inserting "Treasury notes not exceeding," and striking out the denominations of the Treasury notes and making them in $10 or some multiple of that sum, and prescribing a rate not exceeding 3½ per cent. as the interest on them, payable semi-annually

The Senate Finance Committee further propose to increase the amount allowed for negotiation to one-half of 1 per cent. The committee change section 4, and authorize the use of $50,000,000 in coin, gold and silver, temporarily only, and insert an amendment requiring it to be repaid into the Treasury out of the sale of these bonds or Treasury notes. The committee strike out the entire fifth section, and then they add another section in lieu of it.

Now, Mr. President, is it to our interest to pass the bill as it came from the House, or the bill as amended by the Committee on Finance? I say very frankly that the present financial system of this Government does not meet my approbation, and is not what I think it should be. A great deal of patchwork has been placed upon it. It has been greatly improved, it has been made successful by the patchwork legislation that has been put upon it, or it would have broken down under its own weight. On account of the contradictory views of Senators and members of the House, I cannot secure that better system I desire.

I say that it is to the interest of the tax-payers of this country that we shall pass a refunding bill, provided it is properly guarded and limited. It is to our interest to pass a funding bill placing the interest at 3 per cent., and keeping the indebtedness within our control. It is not our policy to place this indebtedness beyond redemption or payment at the pleasure of the United States.

Now, can we negotiate a 3 per cent. bond at par, and thus save to the tax-payers of the country 2 per cent. on the 5 per cent. bonds and 3

per cent. on the others? This must necessarily be very largely a question of speculation. No one can demonstrate mathematically that a 3 per cent. bond can be negotiated at par. We must necessarily look into the past history of the country, consider its present condition, and form our opinion. I see that the Finance Committee has been very largely guided by the opinion and judgment of the honorable Secretary of the Treasury, who has occupied this position for nearly four years past. I propose briefly to review the opinions of the Secretary of the Treasury in regard to refunding the bonds of the United States and the rate of interest at which they can be negotiated, and to see whether the Secretary even himself fixes 3½ per cent. as the lowest rate of interest at which a bond can be negotiated; and if he does fix that amount as the very lowest rate at which a bond can be negotiated, is it a correct judgment, and has he in the past proved that his opinions in regard to rates of interest are correct?

The first thing I shall notice in this connection is the finance report of 1878. On page 19 the Secretary in his report says:

The best mode suggested is that the Department be authorized to issue certificates of deposit of the United States of the denomination of $10, bearing interest at the rate of 3.65 per cent. per annum and convertible at any time within one year after their issue into the 4 per cent. bonds authorized by the refunding act, and to be issued only in exchange for United States notes sent to the Treasury by mail or otherwise.

In 1878 he thought a one-year Treasury note convertible into a 4 per cent. bond could be floated at 3.65 per cent. interest. I come now to the finance report of 1879. On pages 19 and 20 the Secretary says:

It is respectfully suggested that authority be given at the present session of Congress to issue, sell, and dispose of, at not less than par in coin, 4 per cent. bonds of the description set forth in the said act of July 14, 1870, and refunding certificates of the description set forth in the act of February 26, 1879, with like qualities, privileges, and exemptions, except as hereinafter stated, to the extent necessary to redeem the bonds falling due on or before July 1, 1881, above described, and to use the proceeds for that purpose.

In 1879 the Secretary recommended the refunding of these same bonds in 4 per cent. bonds; and hear what he says:

It is hoped that the advancing credit of the country will enable the Secretary to sell such bonds and certificates at a premium, but it seems better to maintain the general conditions of the 4 per cent. bond rather than to undertake to sell a bond at lower interest. The 4 per cent. consol is now universally known. The rate of interest is as low as will generally maintain the bond at par, and the premium will measure its advance above par at favorable periods.

Now I come to the finance report of 1880, made at the beginning of this session of Congress. What does he say on page 12?

The Secretary, therefore, recommends that provision be made for the issue of an amount not exceeding $400,000,000 of Treasury notes in denominations not less than $10, bearing interest not exceeding 4 per cent. per annum, and running from one to ten years, to be sold at not less than par, the amount maturing during any year not to exceed the sinking fund for that year, and the proceeds to be applied to the payment of 5 and 6 per cent. bonds maturing in 1881. It is believed that, with the present favorable state of the money market, a sufficient amount of such Treasury notes, bearing an annual interest of 3 per cent—

Mark the words, "bearing an annual interest of 3 per cent"—

can be sold to meet a considerable portion of the maturing bonds; but it is better to confer upon the Department a discretionary power to stipulate for a higher maximum rate, to avoid the possibility of failure.

He says further:

It is also recommended that authority be given to sell at par an amount not exceeding $400,000,000 of bonds of the character and description of the 4 per cent. bonds of the United States now outstanding, but bearing a rate of interest not exceeding 3.65 per cent. per annum, and redeemable at the pleasure of the United States after fifteen years.

That is his recommendation in 1880. Now I will briefly notice the views of the Secretary at other times. I hold in my hand "Notes of a conference between the Committee on Banking and Currency of the House of Representatives and Hon. John Sherman, Secretary of the Treasury, April 1 and 4, 1878." On page 9 the Secretary says:

To these I answer, that I believe that, with such auxiliary legislation as is pending in both Houses, we can sell enough 4 per cent. bonds to prepare for resumption; but, if I am mistaken in this, we can sell either 4½ or 5 per cent. bonds, which they admit will command gold, silver, and bank-notes, to maintain resumption. Some of these gentlemen have proposed to me that, if I sell them 4½ per cent. bonds at par in coin, they will guarantee enough coin for resumption; and I have some better offers from other banks and bankers, so that, on this point, it is only a question of rate of interest on bonds. When it becomes clear that money cannot be had for 4 per cent., it is time enough to pay 4½. The silver bill has crippled my power to sell 4 per cent. bonds, but a wise savings bill, that will enable me to deal directly with the people, would go far to repair this.

"Crippled" by the legislation of Congress in passing the silver bill in his refunding operations in selling 4 per cent. bonds!

Mr. TELLER. What is the date of that?

Mr. COCKRELL. This interview was April 1 and April 4, 1878, soon after the passage of the silver bill and soon after he had sold $50,000,000 of the 4½ per cent. bonds. Since the time that awful silver bill crippled the Secretary of the Treasury and made him lame and halt and blind, he has been enabled to sell over $700,000,000 in four percents at par, and to-day those bonds command a premium of 13 per cent. in the market, notwithstanding the terribly damaging, demoralizing influence of that obnoxious silver bill, as the Secretary of the Treasury and certain parties are disposed to term it.

I read further from page 10 of this interview. Secretary Sherman says, in answer to General Ewing:

I have written propositions from these gentlemen, and from Mr. Coe himself—

President of the National Bankers' Association—

that if I will give them 4½ per cent. bonds instead of four percents, they will guarantee resumption.

Yes, and to-day if the Secretary will give them 3½ per cent. bonds they will guarantee the sale of them; no doubt of it. Then they were trying to get the Secretary to sell a 4½ per cent., and they were throwing every possible obstacle in the way of resumption. To show that, I will read from page 9 again. Says Secretary Sherman:

Upon the second point, it may as well be understood that the national banks cannot throw upon the Government the burden of redeeming their notes. The attempt would be suicide. They are bound to redeem their notes on demand at the Treasury with United States notes or coin, and to maintain in their vaults very large reserves of United States notes. Any effort of theirs to force the redemption of their reserves of United States notes in coin would at once cause the Government to withdraw all Government deposits from them, to present all bank-notes held or received by the Government for redemption, and, if need be, to exchange United States notes for bank-notes.

Such a struggle as these gentlemen contemplate would end in their losing their power to issue circulating notes at all. Their talk about forming a line to break the Government is not discreet and is not dangerous.

I read again from Secretary Sherman, on page 11:

The reason why I cannot sell bonds, is because they have got the impression in Europe that this silver bill is going to derange matters, and that belief brought back upon us (as these gentlemen say) seventy-five millions of bonds. As a matter of course, they came into competition with the Secretary in selling bonds; and as long as they had their bonds to sell under a scaring market, I could not sell bonds unless the rate of interest was raised.

Secretary Sherman, in answer to another question put to him by Mr. PHILIPS, says:

Then you cannot resume safely unless you can sell bonds at a higher rate of interest?

I do not say that. I think I can. If you pass a bill to enable me to sell directly to the people, I think I can sell 4 per cent. bonds.

Now I come to the interview between the United States Senate Committee on Finance and Hon. John Sherman in 1880. We will come down to a close date——

Mr. FERRY. If the Senator will allow me in that connection, before he passes from the former interview, I think it is due the Secretary of the Treasury to remind the Senator that when the market changed, as the money market always changes by legislation whenever there is legislation pending, he acted accordingly. The market to-day fluctuates with the progress of this funding bill. When the Secretary of the Treasury found that the market did improve he arrested the sale of the four-and-a-halfs and sold the fours. So it is plain that the Secretary had his eye upon the money market and was seeking the interest of the Government and the people in the sales of four-and-a-halfs and fours.

Mr. COCKRELL. No question about that. That is a matter of history, as far as that is concerned; but the question is, would he have stopped the sale of the four-and-a-halfs at all if it had not been for the action that was taken by Congress.

Mr. FERRY. I would remind the Senator, since he has put that question to us, that there were sixty days when the fours could not be sold, nor the four-and-a-halfs either, owing to legislation and owing to the peculiar condition of affairs.

Mr. COCKRELL. What does the Senator say there was?

Mr. FERRY. Some sixty days when they could not be sold at all.

Mr. COCKRELL. When?

Mr. FERRY. Soon after the sale of the first $75,000,000.

Mr. COCKRELL. Does the Senator refer to January 1, 1879?

Mr. FERRY. I do not.

Mr. COCKRELL. When the four-and-a-half percents could not be sold or the four percents?

Mr. FERRY. January 1, 1879, was the time of resumption.

Mr. COCKRELL. When was it after this interview with Secretary Sherman that 4½ per cent. bonds could not be sold?

Mr. FERRY. The following spring.

Mr. COCKRELL. The spring of 1878?

Mr. FERRY. Yes.

Mr. COCKRELL. The great boom came to the country when the democratic party assumed control of Congress in 1879?

Mr. FERRY. The 1st of January, 1879, we all know was the date at which the redemption act took effect.

Mr. COCKRELL. I am aware of what occurred about the 1st of January, 1879, when the 4 per cent. bonds, but not the four-and-a halfs, were only worth 99.64, I believe; I have the exact figures somewhere.

Mr. PLUMB. If the Senator from Missouri predicates his advocacy of a 3 per cent. bond upon the fact that the credit of the Government is greatly improved by the accession of the democratic party to power, where is his warrant for supposing that now that the democratic party is going out of power, there will be any credit left at all?

Mr. COCKRELL. The surety the people have that it will soon come back into power; and it has not gone out yet. It is a well-settled fact, not a debatable proposition, that the democratic party will survive all the defeats that it has met or ever will meet, and will ere long control the destinies of this grandest country on earth, and this best Government enjoyed by American or any other people.

Mr. FERRY. I am glad to learn that the Senator entertains as to faith the view of the Good Book as to charity, that it "covereth a multitude of sins."

Mr. COCKRELL. Mr. President, I will pass to Secretary Sherman in January, 1880. At page 46 of this interview, the Secretary says:

1. The 4 per cent. is already a very popular bond both in Europe and in this country, and is largely used in paying balances between bankers and between countries, as well as for trust-fund and savings-institution investment.

2. Experience indicates that the rate of interest is as low as it can be if the bonds are to be kept at par.

Now, mark you, we are discussing a refunding bill in 1880, and the Secretary says:

Experience indicates that the rate of interest is as low as it can be if the bonds are to be kept at par.

That is the four percents.

A statement of the issues of all the loans since the organization of the Government is published in the financial report of 1876. From that statement it will be seen that the Government has never been able to place a bond at as low a rate as 4 per cent., (until the recent operation,) and in only a few instances as low as 4½ per cent., and then for comparatively small amounts.

The table is given here. What does he further say in regard to the rate of interest? On page 48 he says:

As soon, however, as all the four percents were taken, and it was well understood that no more could be issued for refunding for several years, the price began to advance and has reached at the present time about 4 per cent. above par.

Was not that a wonderful thing that bankers, capitalists, men with money, would not loan that money to the Government at 4 per cent. as long as they could get 4½ per cent. for it, but the very moment the 4½ per cent. bonds were denied them and there was no Government investment at 4½ per cent., then the four percents went off by hundreds of millions! I believe the last purchase was $121,000,000.

It could hardly be expected, however, that should additional amounts be placed upon the market that any such premium as this would be maintained.

Oh, no; if we refund these bonds in four percents the present premium on the 4 per cent. bonds must be taken away. That was the financial opinion of the Secretary of the Treasury in 1880. We must pass a refunding bill issuing bonds bearing 4 per cent., notwithstanding the 4 per cent. bond was then 4 per cent. premium, because the issue of additional 4 per cent. bonds would bring the four percents down to par. Let us further see:

Should the exchange of four percents for the fives and sixes of 1881 be authorized as desired—

That was the exchange of the four percents in 1880 for a 5 or 6 per cent. bond at par—

the Government would undoubtedly be able to exchange a large portion, if not the entire amount, of the outstanding fives and sixes without using depository banks or syndicates to aid in the transaction, and without the payment of any double interest, the market value of the four percents being so high that holders of sixes would be glad to exchange bond for bond; and the Government cannot reasonably expect to make much better terms than these.

It is noticeable that there is not to-day a 3 per cent. or 3½ per cent. bond of any government which sells for par.

That is what Secretary Sherman said in 1880. I will in a few moments show that that statement is not true, and I will show it by Secretary Sherman's own tables.

Within the last century, the English 3 per cent. consols have sold as low as $47.20 for $100, yielding to the investor nearly 6⅜ per cent. interest.

The rate of 4 per cent. per annum is probably the most convenient rate in the calculation of interest that can be established.

* * * * * * *

Of course this would have no special bearing where it is only a question whether you pay 3.65 or 4 per cent interest.

* * * * * * *

Authority to issue the fours would make refunding a certainty from the start, which, I believe, would not be the case if any other bond should be authorized; and with authority to issue fours the possibility of being forced to pay a higher rate after 1881 can be avoided.

While we cannot foresee the future, it is not believed by any one—

Mark the language, the emphatic language—

that a lower rate of interest is likely to prevail next year or the year after than now exists.

Secretary Sherman, with his financial acumen and wisdom, tells us, 1880, in January, that a lower rate of interest is not likely to prevail next year or the year after that than now exists. He says:

On the other hand, there is great danger that the rate of interest in this country may advance.

Do we not hear precisely the same words from the same source to-day in regard to a 3 per cent. bond. He then held to the 4 per cent. bond. Now he has within one year himself dropped down in his recommendation to a 3½ per cent. bond, and yet in 1880 he said that there was no probability that the rate of interest would be any lower than 4 per cent. in the next year or two.

New railroads, buildings, and business enterprises of all kinds are being pushed, and they all require capital; and with the present resources of the country this capital can be made to pay better than 4 per cent. interest; and when confidence is fully restored there is no reason to believe that people will be willing to accept 4 per cent. in lieu of 6 or 8 per cent. on their investments.

* * * * * * *

Again, we are to consider that the issue of national-bank notes is based upon the Government bond as collateral. On every $100 par value of bonds the bank is entitled to receive not to exceed 90 per cent. in notes. Should the banks be permitted to deposit 3.65 bonds as collateral for circulation the notes received would not be as well secured as they are at present.

We were then proposing to issue a 3.65 bond, and Secretary Sherman points at the great danger there would be to the holders of national-bank notes, 90 per cent. issued and based upon a 3.65 per cent. bond.

It is possible that bonds might so decline in value that the holders of notes might not be secure.

That is what he says on page 50. Now listen again:

In the first place there is no certainty of our being able to sell either one of these bonds at par. Before a 3.65 bond can be sold at par the 4 would necessarily have to be sold at 109 in order to realize the same rate of interest to the investor. They are now selling at 104, at which price they yield 3.76 per cent., probably the lowest rate of interest ever known in this country. I submit some tables bearing on this matter which speak for themselves.

He said in 1880 that a 3.65 or 3½ per cent. bond could not be negotiated; that if 3.65 bonds were negotiated it would be only when the four percents were at 109. To-day the four percents are at 113. Listen again, to show the financial acumen of Secretary Sherman in regard to casting coming events. He says, on page 52:

It is admitted by all persons who desire to place the three-and-one-halfs or three-sixty-fives, that such bonds must have a term of fifty years to run, in order to make a success of the loan.

Fifty years to run in order to make a successful loan.

Mr. President, let us come down to Secretary Sherman at a little later date, in 1881. Secretary Sherman, in 1881, in his statement before the Committee on Finance of the United States Senate, on page 3, says:

As to the rate of interest proposed I can only say that I do not believe the loan proposed can be negotiated at 3 per cent. interest.

I hope the Senate will note this language. He says further:

I do not say that it cannot be, but that is my opinion, based—

Based upon what? Based—

mainly upon the fact that our bonds now in the market are selling at prices which yield more than 3 per cent. to the holders, showing that the borrowing power of the Government is not so low as 3 per cent., and that no government has ever yet sold its bonds bearing 3 per cent. interest at par.

These are the two facts: That the four percents are selling at a premium which makes them yield 3⅛ per cent. That is what it yields to-day, about 3⅛ per cent. Therefore you cannot negotiate a 3 per cent. bond. Then, no government in the world has ever negotiated a 3 per cent. bond at par.

Whenever bonds bearing that rate of interest have been offered they have been sold at enough less than par to produce to the investor about 3⅛ per cent. interest as a minimum. To ascertain this fact the Treasury Department obtained from several foreign governments the rates at which their loans had been disposed of, and I have tables based upon this information, some of the most important of which I will furnish to the committee.

The first one, in reference to Great Britain, shows only transactions in recent unrefunded loans. Let us look at that a moment. I hold in my hand a statement of the unfunded debt of Great Britain, 31st of March, 1880, prepared for the purpose of answering certain questions of the American Government. I desire to call attention to this, in connection with the statement of Secretary Sherman, that no bonds of any government have ever yet been sold at par bearing only 3 per cent. interest. I note here that exchequer bonds, £3,200,000, payable in 1880, in various dates, were issued and sold at par in 1879, bearing 2½ per cent. interest. I note that in 1877, exchequer bills, £1,471,300, payable in 1882, five years after date—mark the time—were negotiated at 2½ per cent. interest, at par, and to-day they are from par to four shillings premium. I note that in 1878, £464,000, payable in 1882, four years, bearing 2½ per cent. interest, sold in the market at a premium of one shilling. In 1879, £665,200, bearing 2½ per cent. interest and maturing in 1882, were issued and sold not only at par but at a premium of four shillings; and £26,000 in 1880; and they are all from par to four shillings premium.

I say there is no similarity whatever between the British consols and the bonds of the United States, and the comparison which is made between the consols or annuities of the British Government and the bonds of the United States is not a just or proper one. What is the difference? The consols are mere annuities; they are never payable; they are simply redeemable, and that is merely at the pleasure of the British Government. The United States bonds, on the contrary, are payable at fixed times; they are redeemable. The policy of the United States Government is to pay her bonds; the policy of the British Government is not to pay her bonds. There is another difference. The consols or annuities of the British Government are increasing in amount every year. There is no assurance given that they ever will be extinguished or paid off. On the contrary, the bonds of the United States are diminishing every year; and it is a certain, fixed, established fact that inside of thirty years every interest-bearing obligation of this Government will be totally extinguished and paid. There is another difference between them. The interest on the British consols is taxable; it is taxed to-day, and it can be taxed at the will and pleasure of the British Government. There is no limitation upon the power of the British Government to tax the income or interest upon its consols. On the contrary, in regard to the bonds of the United States, as I have shown, those issued under the act of July 14, 1870, and proposed to be issued under this refunding bill, the principal and interest can never be taxed, either by the General Government or any local or municipal authority. In the fourth place, the market for the British consols is confined almost exclusively to England, while the bonds of the United States are held and have a ready market in almost every country of the world. Without any disparagement to the mother country, I say to-day with pride that the credit, the stability, and the prosperity of the United States are far superior to Great Britain, and her future more splendid, promising, and glorious.

Therefore, to compare the British consols with the United States bonds is unjust; it is not legitimate. It is legitimate, however, to compare the United States bonds redeemable after five years and the Treasury notes with the exchequer bills, the table of which I have just read. England to-day can negotiate a 2½ per cent. treasury note, precisely like this we are proposing to negotiate at 3½ per cent. She can negotiate it at 2½ per cent. and put a premium upon it. The record shows that. We can do better.

Mr. ALLISON. We can issue them without any interest.

Mr. COCKRELL. A bond payable in five years, as is proposed here, is more nearly like the exchequer bills issued in England and payable in five years than to the British consols. I say the statement that Secretary Sherman makes that no government has ever negotiated a loan of bonds for 3 per cent. at par is not justified by the statement that he gives, that he has obtained from foreign countries. I know he makes a distinction; that he says the British consols and our regular bonds are parallel with each other and are the same, and that exchequer bills are different; but I say that distinction is not true. His comparisons of similarity are not true. The British consols and the United States bonds are not alike. The exchequer bills and the Treasury notes and the United States bonds redeemable in five years are nearer alike. I desire to read from another table in this same book:

As to the interest in New York at this time, which is an indication also, I have a table taken from the report of the Comptroller of the Currency, which Mr. Knox furnishes me. This is on call loans and on commercial paper, together with the average rate of discount in the Bank of England for the same time, showing the rates of interest. That probably would be better as an element of computation.

He gives this table. Then he says:

I wish to say that I have no doubt a portion of the Treasury notes, especially those which run a short time, can be sold as low as 3 per cent., and, therefore, I suggest, in addition to the amendments to the bill noted here, that if you should adopt the rate of 3½ for the certificates or notes, it might be made "not to exceed 3½," because I have no doubt that a short loan might be made at 3 per cent., or possibly less, judging from the English experience. They sold 2½ per cent. short-time notes, similar to those provided by this bill, at par at a time when money was lying idle. Investment in these short-time obligations was like having money on call. They did sell these 2½ per cent. notes at par; but they were either for three or six months; but I am inclined to think we could sell one-year Treasury notes, especially if our surplus revenue makes it a certainty they will be redeemed at maturity. I should think there might be a time when they would sell with a lower rate than 3 per cent.

On page 11 the Secretary says:

I would state that I have another table here which, I think, will be of value, and you will find it so when you come to study this matter. It shows the market value of a 3 per cent. bond at the present market rate. I think it is the same table that Senator FERRY has. It shows that a bond placed below the normal rate gradually runs down in value according to the period it has to run. A bond for $100 for one year at 3 per cent. will be worth $99.76, and will gradually run down until, if payable at the end of fifty years, its present worth will be only $93.80.

The Secretary further says:

Then, again, if you issue a 3 per cent. bond you would have to abandon the established policy of this country, which has always been to maintain its bonds at par. Ever since the scheme of Hamilton, it has been the policy of the Government to maintain its bonds at par, and not adopt the English system, to sell bonds bearing a fixed rate of interest at any price they would bring. Congress has always tenaciously held to the idea that the securities of the United States should be of such a character as would bring par. If, then, 3½ per cent. is the normal minimum rate of interest, the issue of bonds that would be continued below par would be a departure from that policy, and, besides that, it would impair the fund for the security of the note-holders in the banking system, and would compel the Comptroller of the Currency, as soon as this deficiency appears, to require the difference to be made good by additional bonds.

Senator KERNAN asked:

As I understand the secretary, in his judgment we should be able to negotiate a 5-10 bond at 3½ per cent.?

His answer is:

Yes; I think a 3½ per cent. bond, running for five years, would sell at par.

A year ago he did not think it would.

Again he says:

This is the table showing the net value of a 3½ per cent. bond, interest reinvested semi-annually, to run one, two, three, four, five, six, seven, eight, nine, ten, fifteen, twenty, thirty, and fifty years to payment, and of 3½ per cent. perpetuities, (or perpetual annuities,) computed on the basis of the present net prices in open market of the United States 4 per cent. consols of 1907.

According to this table, made within a year, in five years a 3½ per cent. bond would be worth 101.15. According to his own table he shows that the 3½ per cent. bond would be at par before it would be redeemable before five years from its date.

I have dealt thus with the Secretary of the Treasury because his opinions have guided in this matter; I am satisfied of it. I see how his opinions have varied, how he has asserted that a 4 per cent. bond could not be negotiated, how he has asserted that a 3½ per cent. bond or a 3.65 bond that did not run fifty years could not be thought of, that nobody would think of negotiating it. Now, I see he comes down to a 3½ per cent. bond and recommends it; but he does not say with as much firmness that a 3 per cent. bond could not be negotiated, as he said a year ago that a 3½ per cent. bond could not then be negotiated.

I hold in my hand a circular issued by Fisk & Hatch, of New York. I do not know them; I understand they are engaged largely in the sale and purchase of Government bonds. This circular treats of the rate of interest, and we are discussing that. What do they say? I have read from the report of Secretary Sherman, showing the rate of interest, and so on. They say:

During the same period the average rate of interest in the city of New York, for loans on Government bonds, as shown from our own books, has not exceeded 2½ per cent.

Mark you, that is not on a call loan. They say that money has been borrowed on a Government bond there in New York at 2½ per cent.

Mr. BAYARD. On call?

Mr. COCKRELL. Not on call.

Mr. BAYARD. It is on call.

Mr. COCKRELL. They do not say so. I will read what they say. I can read as well as the Senator from Delaware:

The Secretary of the Treasury, in a table furnished by him to the Finance Committee of the Senate, shows that the average rate of interest on call loans generally for various intervals during the same period was from 3.8 per cent. to 4.9 per cent. and that the average rate of interest on commercial paper was from 4.4 per cent. to 5.3 per cent.; from which it appears that the average rate of interest on loans on Government bonds has been but about one-half that on commercial paper, and but little over one-half the average rate on call loans of all classes.

That is the opinion of this gentleman, Mr. Hatch. Now I read just one moment. He says:

I believe that the practicability of negotiating a 3 per cent. funding loan at par depends now only upon the decision of Congress to make the rate 3 per cent. and no more; and that their action in so doing, and in thus removing from the public mind all hope of any higher rate, will of itself determine the result and insure success. I believe also that, should Congress authorize a funding loan bearing 3½ per cent., the bonds so authorized would, within six months after the Government had concluded their negotiation, advance in the market to a price at which they would not yield over 3 per cent. on the investment, and that it would thus be demonstrated that the Government might have saved the one-half per cent. per annum which investors and speculators had gained.

Fourth. The fact that the 4 per cent. bonds have not yet sold at a price at which they would not yield over 3 per cent. interest, (upon which considerable stress seems to be laid by those who doubt the ability of the Government to fund at 3 per cent.,) should not discourage the belief that a 3 per cent. loan can be negotiated at par; because, in the first place, the principal, if not the sole, reason why the 4 per cent. bonds have not already approached more nearly to the price at which they would yield but 3 per cent. is, as previously indicated, for the reason that the question not yet being decided, the hope remains with some that there may yet be 3 per cent. bonds offered at par; *and, in the second place, because a large proportion of investors* would prefer to buy a 3 per cent. bond *at par rather than pay a high premium for a bond*, even though it would ultimately yield a little more than 3 per cent. if held to maturity.

I think the facts that I have adduced here show conclusively that a 3 per cent. bond can be negotiated at par and that in a reasonable time it will be at a premium. I have gone over briefly the position of the Secretary of the Treasury, because he brings the strongest arguments that can be brought in favor of a higher rate of interest than 3 per cent., and I have done so in order to meet the strongest objections. I believe that a 3 per cent. bond can be negotiated at par, though it is largely a matter of speculation.

In the first place, the immense amount of capital, of money, in the United States to-day demanding, first, absolute security; second, freedom from anxiety to the mind of those who possess it; third, exemption from taxation of all kinds; and fourth, certainty and regularity in the payment of the interest and enjoyment of the income, makes me believe that a 3 per cent. bond can be negotiated. There are other reasons. There is the prospective increase of this amount of money. In 1880, during the last fiscal year, the deposits in the savings-banks in the State of New York alone aggregated $50,000,000 increase.

Mr. ALLISON. So Mr. Hatch says in his letter.

Mr. COCKRELL. I have the bank statement, which shows over forty-five million dollars, the bank examiner giving the names of the banks and the quantity of deposits, and showing the large increase. So it has been elsewhere.

Another thing that will aid greatly in securing the sale of a 3 per cent. bond is the payment of the bonds at the rate of $50,000,000 to $75,000,000 a year. We are paying and must pay from forty-odd millions to seventy-five millions of the debt annually. This money is paid to the holders of United States bonds. They are taken up and destroyed. That capital is forced to be invested in bonds or in the business enterprises of the country, and that of itself will greatly facilitate the sale of a 3 per cent. bond.

I have another reason for believing that a 3 per cent. bond can be negotiated; and that reason is that all the predictions for the last two or three years in regard to refunding at 4 per cent. and at 3½ have proved to be false. We were warned that the silver bill had crippled the Secretary of the Treasury, and he could not negotiate any more bonds; we were warned of this thing and that thing; and yet after all this, over six hundred million dollars of 4 per cent. bonds have been negotiated at par, and to-day they sell at 113. These bonds to-day only yield 3½ per cent. If you give $113 for a one-hundred-dollar 4 per cent. bond, it will only yield you about 3½ per cent.; my good friend from Connecticut, [Mr. EATON,] I think, says less than that. It may be a little less than that; I have not worked out the exact fraction.

Now, will any one give $113 for a one-hundred-dollar bond upon which he is only receiving $4 interest when he can buy just as good a bond bearing 3 per cent. interest at $100—at par? He gives $113 for a one-hundred-dollar 4 per cent. bond. If there is a fluctuation in the rate of that bond, he loses or gains. It is to the interest of this Government to maintain its bonds precisely at par and not above par. It facilitates their negotiation and their usefulness if we can maintain the bonds precisely at par.

Another reason why we can negotiate these 3 per cent. bonds is that this country to-day, the United States of America, the greatest country on earth, the Government of the United States, the best Government in the world, is in a condition to dictate honest, just, and reasonable terms in regard to the rate of interest that shall be paid by the people, the Government, the tax-payers, the sovereigns, to the individual citizens who hold the bonds. And they can do this, and it will have its effect upon all other business interests. They can do it justly, they can do it equitably.

I am in favor of a refunding bill. I will not consume the time of

the Senate in showing the amounts that would be saved by passing a 3 per cent. refunding bill over and above the amount that we should have to pay out to extinguish the 5 and 6 per cent. bonds as they are, but it is to the interest of the tax-payers. I am in favor of issuing a 3 per cent. bond. I am willing to give it the conditions and limitations prescribed in the House bill. I am opposed to a 3½ per cent. bond. I do not believe it is just or right to the tax-payers of this country to require them to pay that rate of interest upon the bond, for the bond will go above par and be at a premium.

I am opposed to nearly all the amendments proposed by the Committee on Finance to this bill. I am not particular as to the length of time these bonds shall run, provided the Government retains an option in regard to them. I do not care whether it is a 5-10 bond, a 5-20, a 5-30, a 5-40, a 5-50, or a 5-100. If we have the option of redemption at any time after five years for the $400,000,000, I am satisfied. That will give us then five years to pay off the $271,000,000 of Treasury notes that will be issued. That will be a little above the requirements of the sinking fund, and then we shall not be placed in any worse condition than we are. We shall have the control of the debt. If the bonds are redeemable at any time after five years, we can pay them when we choose. We may let them run for fifty years; the interest of the Government may justify us in doing it. We shall certainly not pay off any of the 3 per cent. bonds remaining after 1891 until we have first paid off the four-and-a-half percents, and then if we have not been able to extinguish the four-and-a-half percents before 1907, we shall not pay any of the three percents then remaining until we have paid off the four percents, $738,000,000.

Therefore, it is best to redeem or pay. All I ask is that this option shall begin at the earliest date when we will probably be ready to redeem some of these bonds, so that we can—after refunding as we can now—pay off our bonds at par whenever we have surplus revenues applicable thereto; and in meantime pay only 3 per cent. interest instead of the 5 and 6 per cent. we are now paying.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment proposed by the Committee on Finance, in line 18 of section 1, after the word "three," to insert "and one-half."

Mr. McPHERSON called for the yeas and nays, and they were ordered.

Mr. FERRY. I ask that my amendment be read.

The PRESIDING OFFICER. The amendment of the Senator from Michigan will be reported.

The CHIEF CLERK. In line 18 of section 1 it is proposed to strike out the word "the" before "rate" and insert "a," and in the same line after the word "rate" to strike out "of" and insert "not exceeding;" so as to read "which shall bear interest at a rate not exceeding 3½ per cent.

Mr. FERRY. This bears upon the amendment of the committee, and this is the time for the Senate to consider it. I move it as an amendment to the amendment of the committee.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan to the amendment of the committee.

Mr. BAYARD. My own judgment expressed to the Senate and by the amendment as reported by the committee is that those words had better not be applied to what may be termed the long bonds provided for in this bill. But, sir, it is evident that there is a great difference of opinion in regard to the rate, a most important difference. I have expressed before, and shall not fatigue the Senate by repeating, my reasons for believing it essential that the rate of interest proposed should not be less than 3½ per cent. I also stated yesterday that it would be a solecism in the classification of the loans of the Government to have them offered "at a rate not exceeding" so much, by which it might result that bonds of the same class or authorized by the same law might be negotiated at different rates, and I saw in that a possibility of confusion which I believe has been recognized by the Secretary of the Treasury. I am told that that is rather imaginary than real, and that there will be no practical confusion in the issuance and disposition of these bonds if the amendment now proposed should be adopted and a portion of these bonds be found negotiable at a less rate than 3½ per cent. It is not with me the question of obtaining the lowest possible rate for the Government loan, but it is to offer it at such a rate as shall make it a certainty and a success. Therefore I shall not oppose strenuously the adoption of the amendment of the honorable Senator from Michigan, and I say further that it is yielding something of my own judgment, for the purpose of strengthening the rate proposed by the committee. I am given to understand that in the opinions of gentlemen of this body, there are some who will be disposed to vote for the rate of 3½ per cent. provided these words "not exceeding" are added. I cannot withhold from the Senate the belief that the words are not needed, for under this bill, the Secretary may not sell these bonds at less than par; he can sell them at anything over par which their value in the market will bring. Therefore, if, as has been here said, a 3½ per cent. bond is worth more than par, my answer is, if that be the case the Secretary will obtain it, and obtaining more than par, of course the rate of interest will be less to the investor and the gain will be to the Government.

But I do not propose to detain the Senate by debate; my object is to come to a vote upon this bill, and to come to it to-night. I have merely thought it proper, having charge of the bill, and having yesterday made, in reply to some Senator, an objection to these words, to state now why that objection is for the present withdrawn, or at least not pressed.

LINCOLN MEMORIAL PAPERS.

Mr. FERRY. Mr. President——

Mr. VOORHEES. If the Senator from Michigan will yield to me, I ask that this matter may be suspended without prejudice to anything, to enable me to report from the Committee on the Library the joint resolution (H. R. No. 178) authorizing certain books and mementoes in the possession of the Government to be placed in Memorial Hall of the National Lincoln Monument at Springfield, Illinois, in which the Senator from Illinois, not now in his seat, [Mr. DAVIS,] is very deeply interested. It having passed the House and been referred to the Committee on the Library, and having been authorized to report it, I ask that it may be passed. It will not take two minutes.

Mr. BAYARD. If it takes no more than a minute I shall not object.

Mr. VOORHEES. That is all.

The PRESIDING OFFICER. The Senator from Indiana asks unanimous consent of the Senate to consider at this time the joint resolution which has been reported from the Committee on the Library.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. THEODORE F. KING, one of its clerks, announced that the House had passed the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, in which it requested the concurrence of the Senate.

AMENDMENTS TO BILLS.

Mr. BUTLER submitted an amendment intended to be proposed by him to the bill (H. R. No. 7101) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MORGAN, and Mr. HILL of Georgia, submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. HAMPTON and Mr. BAYARD submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

RIVER AND HARBOR BILL.

The bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes, was read the first time by its title.

Mr. MORRILL. I object to the second reading of that bill.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The bill has been read the first time, and will lie on the table.

Several SENATORS. Let it be printed.

The PRESIDING OFFICER. The bill will be printed.

Mr. VOORHEES. I desire to ask simply the effect of the objection of the Senator from Vermont?

The PRESIDING OFFICER. Any Senator has the right to object to the second reading of a bill on the same day that it has had its first reading.

Mr. VOORHEES. I understand he has that right, but I wish to know how far it extends.

Mr. MORRILL. I merely want to see the bill before it shall be suffered to be read again. I want one day's time.

Mr. VOORHEES. I want to know where it puts the bill.

Mr. MORRILL. It leaves the bill on the table to be read again to-morrow.

Mr. VOORHEES. Is that all?

Mr. MORRILL. That is all.

THE FUNDING BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4592) to facilitate the refunding of the national debt.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment of the Senator from Michigan [Mr. FERRY] to the amendment of the Committee on Finance.

Mr. FERRY. I share in the desire expressed by the honorable chairman of the Committee on Finance that we should arrive at a vote at the earliest possible moment on this bill; therefore, I shall forego saying what I intended to say upon the merits of the bill, but will simply say in behalf of the amendment which I have offered that it places the bonds on the same basis as the Treasury notes. The bill as reported by the Finance Committee gives the discretion to the Secretary of the Treasury to place the Treasury notes at not exceeding 3½ per cent. My amendment to the amendment makes the same provision, and gives the same discretion to the Secretary of the Treas-

ury. It does not touch the rate, it simply provides "not exceeding the rate of 3½ per cent."

I have listened with interest to what has been said on this bill, and I have observed that many of the Senators think that these bonds can be placed at a lower rate than 3½ per cent. All such Senators who thus believe should, in my judgment, support the amendment which I have offered. It gives the Secretary of the Treasury the power to place the bonds lower, as he will the Treasury notes.

My judgment, if I were to express it upon the merits of the bill, would be that the Secretary can perhaps place the Treasury notes at less than 3½ per cent. He has the opportunity and the discretion. I wish to give him the same discretion in placing the bonds; so that if the money market favors and the prosperity of the country as indicated by many Senators who have spoken shall be such, then the Secretary of the Treasury will not only have the right, but he will have the opportunity, of placing these bonds at a lower rate than 3½, and certainly every Senator should be anxious to place the bonds of the country at the lowest possible rate.

Mr. McPHERSON. I rise for the purpose of asking the Committee on Finance, who have reported this bill, and also the unanimous consent of the Senate, that no action be taken upon the question of fixing the rate until we determine the time the bonds shall be redeemable and payable. I think there are many Senators whose judgment will be controlled absolutely on the question of the rate per cent. by knowing what the time the bonds are to run is to be. I will therefore ask unanimous consent for the postponement of the vote upon the question of the rate per cent. until we first fix the time which the bonds have to run.

Mr. MORRILL. I will say to the Senator from New Jersey that that is entirely unnecessary, because the bill is now being considered in Committee of the Whole; and if the time fixed for the payment should be unsatisfactory to those who have voted for one rate or another, then the question will come up again.

Mr. McPHERSON. I understand that perfectly well, but at the same time we should then vote understandingly and we can reach a conclusion much earlier than we shall by pursuing any other course. Certainly, so far as I have heard expressions of opinion by Senators, it will be desirable to first fix the time. That having been determined, there certainly then will be but little doubt as to what the opinion of the Senate will be respecting the rate.

Mr. BAYARD. It is perfectly obvious that the two elements, the rate of interest and the time of payment, must be considered together, and they are before the Senate, and gentlemen can make up their minds as to the character of the bond both as to its rate and as to the length of time it has to run; but it is proper to pass upon the rate first. You cannot consider them by the same vote together, because we have amended both the rate of interest and the length of time. I submit to the honorable Senator that nothing then would be gained by considering the length of the bond first in anticipation of the rate of the bond. One must come before the other. They cannot be considered together except as there may be a plan in the mind of every Senator and there seem to be almost as many opinions as there are Senators.

Mr. McPHERSON. I understand it to be the policy of the Senate and I understand it to have been the rule adopted at the commencement of the consideration of this bill that the amendments offered by the Finance Committee should be first considered. The honorable Senator from Michigan, a member of that committee—whether speaking for the committee or not we are not advised—now offers an amendment to the text of the bill other than the amendments offered by the committee.

Mr. BAYARD. It is an amendment to an amendment.

Mr. McPHERSON. It does not appear as an amendment to the amendment, because it is an amendment to the text of the bill, entirely outside of any amendment the committee have offered.

Mr. FERRY. The rule has a reason for it. My amendment affects the amendment of the committee; otherwise it has no force whatever.

Mr. KERNAN. It qualifies it.

Mr. FERRY. The Senator from New York has given the point exactly; it qualifies and modifies the committee's amendment, puts it within the bounds of the judgment of many Senators on this floor, and that being the case it must necessarily be considered with the amendment of the committee, and having submitted to the Chair, the Chair, I doubt not, so considered it, for he has entertained it; and I think the objection of the Senator from New Jersey now is too late.

The PRESIDING OFFICER. The Chair will state that while the amendment proposed by the Senator from Michigan does not affect the language of the amendment reported by the committee, it does qualify and modify that amendment, and for that reason alone the Chair entertained it as being an amendment to the amendment because it did affect the amendment proposed by the committee.

Mr. McPHERSON. That is very true, Mr. President, but at the same time would not any amendment offered to the text of the bill qualify or modify in some sense or form the full intent and meaning of the committee's report? I take it that no amendment could be offered of any shape or character that would not to a greater or less extent modify the bill as amended by the committee.

Mr. KERNAN. Does the Senator raise any question of order?

Mr. McPHERSON. It is a question of order.

Mr. KERNAN. The Chair has decided it. Does the Senator wish to take an appeal?

Mr. McPHERSON. I wish to know in this connection whether the Committee on Finance accept the amendment offered by the Senator from Michigan as the act of the committee?

Mr. KERNAN. The chairman said they did not.

Mr. McPHERSON. I did not understand that.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan to the amendment of the committee.

Mr. ALLISON. I cannot permit a vote to be taken on the amendment proposed by the Senator from Michigan without entering my individual protest against it. I think that we are proceeding on this bill upon an entirely false basis. We are assuming here that we can by legislation fix a Procrustean bed for these bonds and make a rate of interest that will just provide a bond at par. It makes no difference whether this bond on its face provides for a 3½ per cent. rate of interest or whether it provides for a 3 per cent. rate, if you have an honest man and a faithful man in the office of the Secretary of the Treasury to administer this law. I have already proposed an amendment by which these bonds shall be sold first upon sealed bids in installments, or in numbers such as the market will take from time to time. Now, if the money market will secure more than par for these bonds they will be so sold, and the proceeds will go into the Treasury for the redemption of the bonds maturing.

The proposition of the Senator from Michigan is that these bonds shall be sold at a rate not exceeding 3½ per cent. How is that rate to be tested by the Secretary of the Treasury?

Mr. FERRY. Will the Senator allow me to answer that?

Mr. ALLISON. I want to answer it myself first, and then I will allow the Senator to make another answer.

How is that to be tested? He proposes a loan at 3 per cent.; he is tied down in this bill to the sale of a 3 per cent. bond at par. The words "at par" are the controlling words in this bill. No Secretary of the Treasury can sell these bonds at a less price than par. He offers the loan at 3 per cent. Suppose $20,000,000 are sold at par at 3 per cent.? Then suddenly the rate of interest by some machinery here or elsewhere reduces the 3 per cent. bonds so that they sell in the market at one-eighth of 1 per cent. below par, as I mentioned yesterday. The Secretary of the Treasury then cannot sell another bond at 3 per cent., and he is compelled then to put out another loan at a different rate, and so on.

If these bonds are offered for sale at 3½ per cent. or 3¼ per cent., as intimated by the Senator from Connecticut [Mr. EATON] then the bonds sell at par, and if they are worth more than par in the market they will bring a premium. I will say to the Senator that I was very much struck to-day with the statement made by the Senator from Illinois [Mr. LOGAN] with reference to the provision in the paragraph relating to the $300,000,000 of Treasury notes. There is a discretion left in the hands of the Secretary of the Treasury by which he can sell those notes at a rate of interest not exceeding 3½ per cent. Suppose a Secretary comes into the Treasury Department who believes it a wise thing to sell the Treasury notes immediately by an inflation of the currency. The lower the rate he fixes for the Treasury notes the more certain they are to float in the market as currency. They may go out for the time being at par, but they may soon be at less than par.

I think the Senator from New Jersey [Mr. MCPHERSON] intimated that they would float even if the interest was put at 1 per cent. Of course they would float at 1 per cent. We can issue if we choose to issue $300,000,000 of Treasury notes or at least $100,000,000 of Treasury notes payable within a reasonably short time and float them all at par for the time being. The question we are considering here is not whether we shall inflate the currency, not whether we shall find a Secretary of the Treasury who will bull and bear the market at his pleasure, but we are providing here a loan bill, a bill disconnected with national banks, disconnected with the inflation or contraction of the currency, related only to those questions in so far as it fixes a reasonable and fair rate of interest for money that seeks investment.

As is suggested to me by the Senator from Illinois, [Mr. DAVIS,] who knows more about banks and bankers than I do, the bankers may combine and compel the Secretary to issue a 3½ per cent. rate. Then another class of men may combine, too, with a view to have another result, to wit: that class of wise men who seem to know that in this country a 3 per cent. bond can be sold at par, when there is no such bond in existence to-day in any civilized country on the globe, and no civilized government in Europe or on this continent has ever yet negotiated at par a 3 per cent. bond.

Mr. McPHERSON. How does the honorable Senator know that the bonds will sell at a premium?

Mr. ALLISON. I do not know that they will sell at a premium.

Mr. McPHERSON. If they are worth a premium, these three-and-a-half percents will sell at a premium, I understood the Senator to say.

Mr. ALLISON. Undoubtedly if worth a premium they will sell at a premium. The money market controls the value of bonds. Can the Senator from New Jersey not understand that?

Take the 4 per cent. bonds. For a time they were below par; for months they were below par. What was it that controlled the value of those bonds? It was the money market. Does anybody doubt that our money market is better to-day than it was two years ago?

Of course this is a favorable time for the negotiation of this loan. The question for us fairly to consider is, what is the fair, reasonable rate of interest at which the money market will take $671,000,000 of bonds?

Mr. DAVIS, of Illinois. Let us fix it absolutely.

Mr. ALLISON. I agree with the Senator from Illinois, who prompts me, and I thank him for it. Let us agree upon a reasonable rate of interest, fix that rate absolutely, making it certain that the bonds will not sell below par, and then trust to receiving a small premium if they will secure a premium. I think if there is any one thing settled in the history of our country and the traditions of our people, it is that these bonds should be made redeemable within a reasonably short length of time, that we should have the control of them in our own discretion; and when we seek to do that we must expect that we shall pay a little higher rate of interest than we should be obliged to pay if we postponed the time of payment for thirty or fifty years. This Government of ours has never except in two instances procrastinated a loan beyond twenty years. When we refunded the debt of the Revolution it was made a debt payable at the pleasure of the Government after twelve years. We went through the war of 1812-'14 with a provision for a bond redeemable at the pleasure of the Government after twelve years. During the Mexican war of 1846-'47 the longest bond we issued was a twenty-year bond; and during the great rebellion of 1861-'65, when our ascertained debt reached the enormous amount of $2,700,000,000, every dollar of that debt was within our control except the portion issued to the Pacific railroads. We issued to them a bond running for thirty years. That bond is to-day over 120 in the market. In 1870, by the refunding act, we provided for 4 per cent. bonds that should run for thirty years.

I say, then, it is the fixed policy of the Government to make its loans redeemable, not at the pleasure of the holder of the loan, but at the pleasure of the Government itself. Why? Because our policy is as rapidly as we can to extinguish the debt. It is not the popular belief here that a public debt is a public blessing, but rather that it is an evil, and that it should be extinguished as rapidly as it can be extinguished, taking into account the necessary ability of the people to pay taxes, so that taxation on the people shall not be burdensome or oppressive.

These are the considerations which the Committee on Finance yielded to when they said this bond should run for a short period of time. It matters not, as the Senator from Missouri very well said, whether it is a five to twenty years bond or a five to one hundred years bond; the question is when this bond shall be placed within the control and power of the Government, and that power and control under the bill now before us will be had in five years from this time; and, if I mistake not, if we continue in the prosperous condition we are now in, nearly the whole of these bonds will pass from public view before ten years will have expired. In that time the sinking fund alone will require $520,000,000. Taking into account this short time of payment, I do not believe that it is safe for us as practical men to fix a rate of interest which may put the success of this loan under the control of men who are hostile to it, who do not wish it to succeed, and thus these bonds may be forced below par, in which event they cannot be sold at all.

Mr. McPHERSON. We have not fixed the time the bonds shall run as yet.

Mr. ALLISON. But, as many Senators have expressed their views on the subject, I believe all concur in the belief that this loan should be within a short period of time under the control of the Government; and I say if that be true—and I think it is the general judgment and sense of the Senate—then we must expect to pay something for that privilege. I do not know certainly whether it should be a half per cent. or a fourth more or less; I only say that I want to fix a reasonable rate, one that will make it certain that we can sell the bonds at par, and then if the money market will take them at a lower rate of interest than that named in the bill a faithful Secretary of the Treasury will sell the bonds at a premium. Therefore I regret that my colleague on the committee [Mr. FERRY] has thrown in here what I consider, as I did consider in committee, a damaging discretion in the hands of the Secretary of the Treasury, and one that will certainly embarrass him, and one that will at once invoke combinations of capitalists and bankers against him, and thus he will be compelled to put out the loan in a way that will either not secure the sanction of public judgment or cause the loan itself to be a failure.

I do not wish to embarrass the committee; and I see I am overruled in my judgment and opinion by my associates, in the judgment of many of whom I have great faith; yet I shall regret exceedingly to see us fixing the rate of interest here upon a sliding scale, and placing that power in the hands of the Secretary of the Treasury. I would rather fix a rate, and let that rate go to the people of this country, and if they want this loan at a higher rate of interest they will pay a premium for it. I wish to see a provision put upon this bill that will compel any and every Secretary of the Treasury to give the people of this country and every part of it a fair and legitimate opportunity to bid for this loan.

Mr. FERRY. Mr. President, if the argument of the Senator from Iowa applies to my amendment, certainly it must apply to the same amendment that was made in committee, for which he and I voted. As to the notes, it is disclosing nothing to say that, because this subject has been reported by the committee. The same amendment that I have offered as to the bonds was adopted by the committee as to the Treasury notes. I do not agree with the Senator from Iowa that the placing of these bonds is in the hands of the money-lenders. The reasons why I voted for the amendment as to the Treasury notes lead me to make the same application to the bonds. Why? Because in my judgment the bonds can be placed at a lower rate than 3½, and yet I so far surrender my judgment as to withhold the views which I intended to express on this question, and defer to the apparent judgment of the Senate. At the same time I do not wish to cripple or tie the hands of the Secretary of the Treasury.

When the Senator from Iowa states that this is an unsafe power to lodge in the hands of the Secretary of the Treasury, I merely recall his attention to the fact that we have had two distinguished Secretaries of the Treasury who have exercised this very discretionary power. Secretary Chase did it, and the present Secretary of the Treasury did it; and if common rumor is to be credited we may have the pleasure of seeing that very Senator himself exercising this discretionary power; and certainly we know that he possesses the honesty and fidelity to which he has alluded as necessary elements in the character of any Secretary of the Treasury.

This amendment of mine strengthens the bill. If there is any force in what the Senator has said, I should hope that he would move to strike this feature from the Treasury notes, for the Treasury notes alone are that form of credit which will tend to inflate the currency, if that result can be apprehended at all. These notes are redeemable within one year and payable in five. The bonds to which I am striving to apply this amendment are not redeemable until the expiration of five years, and not payable until ten, if the amendment of the committee is adopted by the Senate. So there can be no application of the objections now made to my amendment that does not apply with equal or greater force to the provision of the committee as to the bonds.

My object is to conform to the intimations by Senators who have spoken upon this bill. Many of them have expressed—the Senator from Connecticut [Mr. EATON] has expressed—the view that the bonds can be placed at 3½ per cent. My amendment will enable the Secretary of the Treasury to place them at 3½, and when Senators know that the Secretary of the Treasury and the Government are not compelled to fund the bonds now largely in the hands of the bankers, that we are not forced to fund them, I think they will see the propriety of the amendment. The Government was never in a better condition to fund the fives and sixes than now, because the Secretary of the Treasury can take his own time, watch the market, and place them when he can. If any combination of bankers or capitalists is made, he can break that combination by withholding the bonds. So the matter is not in their hands; it is in the hands of the Secretary of the Treasury; and if we confide the purse to any man, we should confide the discretion in the exercise of the interests of that purse. It is with that view that I have offered the amendment, and I have no fear that even if the Senator from Iowa becomes the next Secretary, but that he will faithfully and honestly execute that trust, and if there is any combination against him by the money-lenders in Wall street, he will, as I have stated, withhold the placing of the loan until that combination is broken and place the bonds whenever they can be placed at a low rate of interest.

Mr. TELLER, (at five o'clock and fifteen minutes p. m.) I do not want to interfere with this bill, but if we are going to "sit it out" we had better know it, and for the purpose of testing the sense of the Senate I move that we take a recess under the rule.

Mr. DAVIS, of Illinois. If we are going to pass a funding bill let us stay here to-night and do it. Appropriation bills will come up to-morrow. This subject has been discussed to death, literally to death, and how many new ideas have been given forth to the Senate I will not undertake to say. Let us vote. Every man in the Senate has made up his mind upon this bill; let us vote some time or other to-night; but I do protest against taking a recess and coming back again to-night. It is our duty to the Government to pass some funding bill now, and to stay here until it is passed. Why, sir, gentlemen can pair and go away; but for them to do so is not fair to their compeers. I do insist that we shall stay here until some funding bill is passed.

The PRESIDING OFFICER. Debate on this motion can be indulged in only by unanimous consent. It is not a debatable motion. The Senator from Colorado moves that the Senate do now take a recess under the rule until half past seven o'clock this evening.

Mr. BAYARD. I hope not.

Mr. VOORHEES. I ask the Senate to allow me to say a word. I hope that by unanimous consent we may dispose of the funding bill to-day; and when I say that, there is nobody interested in something else more than I am. I think we had better go on and dispose of the bill now before the Senate by a vote. After that I shall have my fight out with everything else that antagonizes the Library bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Colorado, that the Senate do now take a recess until half past seven this evening.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan [Mr. FERRY] to the amendment of the Committee on Finance.

Mr. DAVIS, of Illinois. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BAYARD. I wish to make one reply to the idea that by a very low rate of interest the bonds proposed under this bill can be turned into currency and have all the effects and results of ordinary United States notes. That is the bugbear, if I may so say, that has been held up, that by refunding this debt at a very low rate of interest you will produce a gigantic measure of inflation as if you would issue so many notes payable on demand without interest.

Mr. President, consider the reasonableness of this statement. To-day we have $79,000,000 of national-bank currency so called, which awaits the pleasure of the banks provided they can use it profitably; and it is already secured; the bonds are deposited in the Treasury for it, and they can call for that money whenever they please, and in the last twelve months that amount has been increased about ten or twelve million dollars. Such is the report of the Comptroller of the Currency, that at their will the national banks can to-day increase their currency some $79,000,000 if they see fit. Why do they not see fit? Because there is no demand for it. The commercial exigencies of the country do not make that currency profitable, and therefore it stays in the hands of the Government unissued.

Now see the proposition that because there is a discretion which may enable the Government to sell these certificates or notes at a less rate than 3½ per cent., *ergo* they will be sold for 1½ or 2 per cent., and the rate of interest being low your notes will become currency and will no longer be investments. Is not this the *reductio ad absurdum?* We are told on the one hand that there is employment for money in the shape of investment for Government securities, and then we are told that if your Government securities are floating at an exceedingly low rate the Government will get money for nothing at all and its notes will be turned into currency in active use.

Mr. ALLISON. I hope the Senator from Delaware does not mean that I made any such suggestion.

Mr. BAYARD. I will say frankly that I was surprised when my friend rose in opposition to this amendment. I had the impression, gathered I know not how, that I was to withdraw the objection to it in deference to his opinion and that of others that the same language "not exceeding 3½ per cent." which had been adopted by the committee after deliberation in regard to the United States certificates or Treasury notes could safely be adopted in regard to the bonds. If there is the danger apprehended by my honorable friend from Illinois [Mr. LOGAN] it is the same in regard to the bonds as the certificates for both are in fact obligations of the Government to pay a debt at different dates with interest from the date of issue.

Mr. LOGAN. Is the Senator speaking of the amendment of the Senator from Michigan?

Mr. BAYARD. The Senator from Michigan moves to apply the same language to the bonds, the five-twenties, as is recommended by the committee in regard to the Treasury notes.

Mr. LOGAN. The Senator will remember that one of the points I made against the bill was that there was a sliding scale to either. I object to a sliding scale at all.

Mr. BAYARD. The Senator is perfectly consistent. He made his objection to there being what he terms a sliding scale as to the rate of interest, and he thought we might reduce the interest so low that the note would not be held for its interest but would pass into currency in the hands of the holders. I have been unable to see that. I have been unable to see how any harm can come to the people of this country by borrowing their money at 1 or 2 per cent. per annum in preference to 3; but I do not believe it practicable, and it is for that reason that I have stuck to 3½ per cent. and expect to vote for it.

I believe I have stated heretofore that if 3½ per cent. does make a security that will sell for more than par, the Treasury will get the benefit of it by sale; and I also stated that I believed it was a solecism in the history of this Government to issue a bond with this discretionary power attached to it; but when I was told by those who are on terms with the Treasury to enable them to know—told here on the floor of the Senate—that the words "not exceeding" would not embarrass the Secretary, would not diminish in the least the power to control the issuing of these bonds, and was told that the amendment would strengthen the rate per cent. that we consider essential for the safety of the Government, I then yielded my opinion and said I should make no further objection; but I wish to say now that if gentlemen pursue the reason to its logical conclusion, if the lower the rate the Government can borrow at the more certain it is to produce inflation, then it seems to me you are only issuing paper for all your debt.

Mr. LOGAN. I should like to say to the Senator from Delaware, inasmuch as he referred to what I said, that a portion of his remarks does not apply to what I said. My objection to the reduction of the rate of interest was not as he thinks it was, but I will state my reason and the Senator can say whether or not in his opinion it is plausible. If I have bonds to sell and I know that the Senator is empowered to purchase will he not as a purchaser hold off until I am forced to sell at the higher rate of interest before he concludes to purchase?

Mr. BAYARD. If that be so, the effect of inserting these words would be mere *brutum fulmen*, they would mean nothing, because the purchaser of the bonds would wait until the three-and-a-half percents were offered and would not propose to take them at the lower rate.

Mr. LOGAN. That is exactly the point I suggested, that they would naturally be sold at 3½ per cent. if this sliding scale was put in. I say the effect of it would be to force the Secretary of the Treasury, whoever he may be—I do not know who he will be—to sell at the highest rate. I prefer to fix the rate here. Then we shall know exactly what we are doing. I would rather not give my vote to enable any Secretary of the Treasury to meet possible contingencies, and to hold this power in his hands to sell bonds at different rates of interest. Hence I said I was for a bond at 3½ per cent.; I would fix it in the bill, and I would fix the rate on the Treasury notes at 3 per cent.

That was my proposition, for the reason that the note proposed is really nothing more than currency. You may call it a bond, if you choose, but if issued it will go into circulation as currency whether you fix the rate of interest upon it at 3 per cent. or 3½, and you can float just as many notes at 3 per cent. as you can at 3½. The view of the Senator from Delaware seems to be that if a low rate of interest is fixed the notes will go into circulation, but if a higher rate is fixed they will not. I do not think there is much in that. I think a $10 note, a $20 note, a $50 note, and a $100 note issued under this bill will all go into the circulation as currency whether you fix the interest at 3 per cent. or 3½ per cent., and hence I prefer 3 per cent.

Mr. ALLISON. I only desire to say one word in response to the Senator from Delaware, the chairman of the Committee on Finance. I think the Senator will bear me witness that on every occasion—I will not name any particular occasion—I have opposed this discretion of "not exceeding 3½ per cent." He did come to my desk a few moments since and say that he thought we had better yield that point. I did not give my assent to or express my dissent from his statement, because I did not suppose that this amendment of the Senator from Michigan could be voted upon for some little time and I did not presume that at this time we should be confronted with that question. My judgment is against it and that is all I have to say. Of course if I misled the Senator from Delaware, I regret it; but having a distinct judgment upon the question I did not like to see a vote taken without expressing that conviction in the Senate.

Mr. DAVIS, of Illinois. Now, Mr. President, I hope we shall have a vote on these amendments one at a time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan [Mr. FERRY] to the amendment of the Committee on Finance.

Mr. McPHERSON. I am not disposed to vote on this question either to-night or to-morrow or the next week, until it is thoroughly and entirely understood. There are some questions here that I fail to understand if the committee are right. The honorable Senator from Iowa wishes to know if I cannot understand a plain financial proposition. I think I can; but there are some propositions that come to us from the committee that I certainly cannot understand, and one of the propositions is this: the honorable Senator from Michigan, a member of the Committee on Finance, is audacious enough to offer an amendment to the committee's bill. The honorable chairman of the committee and the honorable Senator from Iowa say he is not authorized by the committee to offer any such amendment, they do not accept it as the amendment of the committee. In reply to a question submitted to the Senator from Iowa by me he admits its force but says, "I expect to meet that difficulty by the amendment I have offered." Will that honorable Senator tell me whether the committee have instructed him to report an amendment, and whether he will not be guilty of exactly the same discourtesy to the committee that the Senator from Michigan has been?

Mr. ALLISON. There is no question of discourtesy, and I will answer the Senator; it was the opinion of the committee that what my amendment provides for was clearly provided for in the bill as reported; but criticism having been made upon it I submitted my amendment, so that there might be no question with reference to the price to be paid for the bonds; so that even a wayfaring man might not make a mistake.

Mr. McPHERSON. Mr. President——

Mr. FERRY. The Senator will not say I have practiced a discourtesy to the committee. I offered this amendment in my own behalf as a Senator; it was my right.

Mr. McPHERSON. I so understand.

Mr. FERRY. I did not do it until amendments had been offered to the bill, one or more, and further, until an amendment had been offered by a member of the committee; so that the Senator is a little too exacting, if not severe, in implying that I was guilty of any discourtesy to the committee by offering my amendment.

Mr. McPHERSON. I did not charge it at all; I was only repeating what the committee had charged.

There is another point I should like to have the Senator from Iowa answer me upon.

Mr. VOORHEES. Will the Senator from New Jersey allow me to ask, why not let us vote on the question that is pending before the Senate, and that is the rate of interest, and then we shall know where we stand?

Mr. McPHERSON. I wish to ask the Senator from Iowa one question before we vote on this amendment. I find in the report of the Comptroller of the Currency that there was an agreement entered into between the Secretary of the Treasury and Jay Cooke for the sale of $200,000,000 of 4 and 4½ per cent. bonds. There was a subsequent

agreement entered into with A. Belmont & Company for the sale of $300,000,000 of bonds; and there was a subsequent agreement entered into with a syndicate, as it was called—it is not stated who composed the syndicate—for the sale of 4 per cent. bonds authorized by the refunding act of 1870.

During the first four months of 1879 $497,000,000 of four percents were disposed of, of which more than $149,000,000 were sold at a premium of one-half of 1 per cent. Here is the particular point to which I wish to call the Senator's attention: of this amount $121,000,000 were taken by the First National Bank of New York and its associates; I know nothing about who were the associates of the First National Bank of New York; I have heard a great deal of suspicion expressed; and the balance of the $149,000,000, to wit, $28,000,000, were given to all other banks. Upon these bonds the First National Bank paid one-half of 1 per cent. premium, while one-half of 1 per cent. discount had been allowed up to that time on all sales to syndicates; but the Secretary of the Treasury took it from syndicates and gave it to a pet institution in the city of New York, at one-half of 1 per cent. premium, and he gave to all the other financial institutions only $28,000,000 out of the $149,000,000 issued.

Now, sir, another fact. Within thirty days after the First National Bank of New York had obtained the ownership of these bonds at a premium of one-half of 1 per cent., the value of the bonds was 2½ per cent. above the price paid by the First National Bank; and yet the honorable Senator from Iowa informs me that he will introduce his amendment which will compel the Secretary of the Treasury to allot these bonds by proposals in the open market. Why, Mr. President, it does seem to me as though the honorable Senator does not mean all he says with respect to that. I cannot conceive how any member of the Senate can vote to put into the hands of any Secretary or any other man the power to issue $400,000,000 of bonds and to fix the rate of interest on them at 3½ per cent. or any rate lower than 3½ that suits him. He may "bear" the bonds or "bull" the bonds as he pleases up to 3½ per cent. If you adopt this amendment, I think the rate per cent. will be 3½ whatever discretion you give to the Secretary of the Treasury, and the words of the amendment offered by the honorable Senator from Michigan mean simply nothing. Perhaps it will deceive somebody: it may deceive some Senator with respect to what may be the result if these words are incorporated in the bill; but the meaning is simply, if the Secretary of the Treasury is to issue a bond at 3½ per cent. interest or less, that it will be sold at 3½ per cent.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan [Mr. FERRY] to the amendment of the committee.

The Secretary proceeded to call the roll.

Mr. RANDOLPH, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. WITHERS.] I should vote "nay" if he were present.

Mr. RANSOM, (when his name was called.) I am paired with the Senator from Vermont [Mr. EDMUNDS] on all amendments to this bill. If he were present, I should vote "nay" on this particular question.

Mr. GARLAND, (when Mr. THURMAN'S name was called.) The Senator from Ohio [Mr. THURMAN] is paired with the Senator from Maine, [Mr. HAMLIN.]

The roll-call was concluded.

Mr. HOAR. My colleague [Mr. DAWES] is paired with the Senator from Tennessee [Mr. BAILEY] on the bill generally. I do not know how either of them would vote on this special amendment.

Mr. PENDLETON. I desire to announce that my colleague [Mr. THURMAN] is paired with the Senator from Maine, [Mr. HAMLIN.]

The result was announced—yeas 12, nays 46; as follows:

YEAS—12.

| | | | |
|---|---|---|---|
| Anthony, | Ferry, | Kirkwood, | Paddock, |
| Baldwin, | Groome, | McMillan, | Pendleton, |
| Cameron of Wis., | Hoar, | Morrill, | Windom. |

NAYS—46.

| | | | |
|---|---|---|---|
| Allison, | Davis of Illinois, | Jonas, | Rollins, |
| Bayard, | Davis of W. Va., | Kellogg, | Saulsbury, |
| Beck, | Farley, | Kernan, | Saunders, |
| Blair, | Garland, | Lamar, | Slater, |
| Booth, | Grover, | Logan, | Teller, |
| Brown, | Hampton, | McDonald, | Vance, |
| Bruce, | Harris, | McPherson, | Vest, |
| Burnside, | Hereford, | Maxey, | Voorhees, |
| Butler, | Hill of Colorado, | Morgan, | Walker, |
| Call, | Hill of Georgia, | Platt, | Williams. |
| Cockrell, | Ingalls, | Plumb, | |
| Coke, | Johnston, | Pugh, | |

ABSENT—18.

| | | | |
|---|---|---|---|
| Bailey, | Dawes, | Jones of Nevada, | Wallace, |
| Blaine, | Eaton, | Randolph, | Whyte, |
| Cameron of Pa., | Edmunds, | Ransom, | Withers. |
| Carpenter, | Hamlin, | Sharon, | |
| Conkling, | Jones of Florida, | Thurman, | |

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Committee on Finance, in line 18 of section 1, after the word "three," to insert "and one-half," upon which the yeas and nays have been ordered.

Mr. EATON. I desire simply to give notice that in the Senate I shall offer an amendment to this amendment of the committee.

Mr. McPHERSON. We are now to vote on the words "and one-half," I understand.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Finance to insert the words "and one-half" after "three."

Mr. McPHERSON. I hope that will not be agreed to.

The Secretary proceeded to call the roll.

Mr. BUTLER, (when his name was called.) On this question I am paired with the Senator from Nevada, [Mr. JONES.] If he were present, I should vote "yea."

Mr. HOAR, (when Mr. DAWES'S name was called.) My colleague [Mr. DAWES] is paired with the Senator from Tennessee, [Mr. BAILEY.] If he were present, my colleague would vote "yea" on this amendment.

Mr. MORRILL, (when Mr. EDMUNDS'S name was called.) My colleague [Mr. EDMUNDS] is paired with the Senator from North Carolina, [Mr. RANSOM.] If he were present, my colleague would vote in favor of the amendment proposed.

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "nay."

Mr. RANDOLPH, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. WITHERS.] I should vote "yea" and he would vote "nay" if he were present.

Mr. RANSOM, (when his name was called.) As has just been announced, I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, I should vote "nay."

Mr. PUGH, (when Mr. THURMAN'S name was called.) I am requested to announce that the Senator from Ohio [Mr. THURMAN] is paired with the Senator from Maine, [Mr. HAMLIN.]

The roll-call was concluded.

Mr. BRUCE, (after having voted in the affirmative.) I desire to withdraw my vote. I am paired with the Senator from Florida, [Mr. JONES,] and voted inadvertently. Were he here he would vote "nay," and I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 22, nays 34; as follows:

YEAS—22.

| | | | |
|---|---|---|---|
| Allison, | Cameron of Wis., | Hoar, | Paddock, |
| Anthony, | Davis of Illinois, | Kernan, | Platt, |
| Baldwin, | Ferry, | Kirkwood, | Rollins, |
| Bayard, | Groome, | Logan, | Windom. |
| Blair, | Hampton, | McMillan, | |
| Burnside, | Hill of Colorado, | Morrill, | |

NAYS—34.

| | | | |
|---|---|---|---|
| Beck, | Garland, | Lamar, | Slater, |
| Booth, | Grover, | McDonald, | Teller, |
| Brown, | Harris, | McPherson, | Vance, |
| Call, | Hereford, | Maxey, | Vest, |
| Cockrell, | Hill of Georgia, | Morgan, | Voorhees, |
| Coke, | Ingalls, | Pendleton, | Walker, |
| Davis of W. Va., | Johnston, | Pugh, | Williams. |
| Eaton, | Jonas, | Saulsbury, | |
| Farley, | Kellogg, | Saunders, | |

ABSENT—20.

| | | | |
|---|---|---|---|
| Bailey, | Carpenter, | Jones of Florida, | Sharon, |
| Blaine, | Conkling, | Jones of Nevada, | Thurman, |
| Bruce, | Dawes, | Plumb, | Wallace, |
| Butler, | Edmunds, | Randolph, | Whyte, |
| Cameron of Pa., | Hamlin, | Ransom, | Withers. |

So the amendment was rejected.

The PRESIDING OFFICER. The Secretary will report the next amendment of the Committee on Finance.

The CHIEF CLERK. In line 19 of section 1, after the words "per annum," the committee report to insert "payable semi-annually;" so as to read "which shall bear interest at the rate of 3 per cent. per annum, payable semi-annually."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 1, line 20, after the word "payable," to strike out "ten" and insert "twenty;" so as to read "redeemable, at the pleasure of the United States, after five years, and payable twenty years from the date of issue."

Mr. McPHERSON. I move to strike out "twenty" before "years" and insert "thirty;" and I shall ask for the yeas and nays upon that question.

The PRESIDING OFFICER. The question is upon the amendment of the Senator from New Jersey to the amendment of the Committee on Finance, on which the yeas and nays are demanded.

The yeas and nays were ordered; and the Secretary called the roll.

Mr. BRUCE. I am paired with the Senator from Florida, [Mr. JONES.] Were he here, I should vote "nay." I do not know how he would vote.

The result was announced—yeas 14, nays 44; as follows:

YEAS—14.

| | | | |
|---|---|---|---|
| Booth, | Grover, | Lamar, | Pugh, |
| Butler, | Harris, | McPherson, | Vance, |
| Cockrell, | Hill of Georgia, | Paddock, | Windom. |
| Groome, | Kellogg, | | |

NAYS—44.

| | | | |
|---|---|---|---|
| Anthony, | Davis of Illinois, | Jonas, | Plumb, |
| Allison, | Davis of W. Va., | Kernan, | Randolph, |
| Baldwin, | Farley, | Kirkwood, | Rollins, |
| Bayard, | Ferry, | Logan, | Saulsbury, |
| Beck, | Garland, | McDonald, | Saunders, |
| Blair, | Hampton, | McMillan, | Slater, |
| Brown, | Hereford, | Maxey, | Teller, |
| Burnside, | Hill of Colorado, | Morgan, | Vest, |
| Call, | Hoar, | Morrill, | Voorhees, |
| Cameron of Wis., | Ingalls, | Pendleton, | Walker, |
| Coke, | Johnston, | Platt, | Williams. |

ABSENT—13.

| | | | |
|---|---|---|---|
| Bailey, | Conkling, | Jones of Florida, | Wallace, |
| Blaine, | Dawes, | Jones of Nevada, | Whyte, |
| Bruce, | Eaton, | Ransom, | Withers. |
| Cameron of Pa., | Edmunds, | Sharon, | |
| Carpenter, | Hamlin, | Thurman, | |

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the committee, to strike out "ten" and insert "twenty."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 1, line 21, after the word "also," to strike out "certificates in the" and insert "Treasury notes to an;" and in line 22, after the word "amount," to strike out "of" and insert "not exceeding;" so as to read "and also Treasury notes to an amount not exceeding $300,000,000."

Mr. LOGAN. Before the vote is taken on that amendment, I presume it would be in order to perfect the text of the bill as we go along. If this is the proper time to do that, I propose in line 16 to strike out "four" and insert "seven;" so as to read "to an amount not exceeding seven hundred millions;" with a view to moving to strike out in line 21 the words which apply to the $300,000,000 Treasury notes.

The PRESIDING OFFICER. The Chair is of opinion that the amendments of the committee must be acted on first. The bill will then still be in Committee of the Whole and open to amendment. The question is upon the amendment reported by the Committee on Finance.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in line 23 of section 1, after the word "ten," to strike out the words "twenty and fifty;" and in line 24, after the word "dollars," to insert "or some multiple of that sum not exceeding $1,000;" so as to read "and also Treasury notes to an amount not exceeding $300,000,000, in denominations of $10, or some multiple of that sum not exceeding $1,000."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in line 25 of section 1, after the words "interest at," to strike out "the" and insert "a;" and in line 26, after the word "rate," to strike out "of" and insert "not exceeding;" so as to read "either registered or coupon, bearing interest at a rate not exceeding."

Mr. PLUMB. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. BAYARD. I think the amendment cannot be intelligently considered unless it is viewed in connection with the one that follows it. In line 26 the proposition of the committee is that the Treasury notes shall bear interest at a rate not exceeding 3½ per cent.

The PRESIDING OFFICER. The Secretary did not report the amendment so as to include "3½ per cent.," in line 26; but he will now report the whole amendment, including the language referred to.

The CHIEF CLERK. In line 25, after the word "at," it is proposed to strike out "the" and insert "a;" in line 26, after "rate," strike out "of" and insert "not exceeding;" and after the word "three," in the same line, insert "and one-half;" so as to read "bearing interest at a rate not exceeding 3½ per cent. per annum."

Mr. McDONALD. Is the proposition divisible?

Several SENATORS. No, no. Let us vote.

Mr. McDONALD. I want to vote for one part of the amendment but not for the other part of it.

Mr. DAVIS, of Illinois. The Senator can move an amendment to it afterward.

The PRESIDING OFFICER. Does the Senator from Indiana demand a decision of the question, and ask whether the amendment is divisible or not?

Mr. McDONALD. No, sir.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Finance Committee, which has been reported, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "nay."

Mr. RANSOM, (when his name was called.) On this question I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, he would vote "yea" and I should vote "nay."

The roll-call was concluded.

Mr. BUTLER, (after having voted in the affirmative.) I beg to withdraw my vote. I am paired with the Senator from Nevada, [Mr. JONES.] If he were present, I should vote "yea." I voted under a misapprehension, forgetting that I was paired.

Mr. HOAR. My colleague [Mr. DAWES] is paired with the Senator from Tennessee, [Mr. BAILEY.]

Mr. BRUCE. I am paired with the Senator from Florida, [Mr. JONES.] Were he here, I should vote "yea" and he would vote "nay."

Mr. RANDOLPH. I am paired on this question with the Senator from Virginia, [Mr. WITHERS.]

The result was announced—yeas 21, nays 34; as follows:

YEAS—21.

| | | | |
|---|---|---|---|
| Allison | Cameron of Wis., | Hoar, | Platt, |
| Anthony, | Davis of Illinois, | Kernan, | Rollins. |
| Baldwin, | Ferry, | Kirkwood, | Windom. |
| Bayard, | Groome, | McMillan, | |
| Blair, | Hampton, | Morrill, | |
| Burnside, | Hill of Colorado, | Paddock, | |

NAYS—34.

| | | | |
|---|---|---|---|
| Beck, | Garland, | Lamar, | Slater, |
| Booth, | Grover, | McDonald, | Teller, |
| Brown, | Harris, | McPherson, | Vance, |
| Call, | Hereford, | Maxey, | Vest, |
| Cockrell, | Hill of Georgia, | Morgan, | Voorhees, |
| Coke, | Ingalls, | Pendleton, | Walker, |
| Davis of W. Va., | Johnston, | Pugh, | Williams. |
| Eaton, | Jonas, | Saulsbury, | |
| Farley, | Kellogg, | Saunders, | |

ABSENT—21.

| | | | |
|---|---|---|---|
| Bailey, | Conkling, | Logan, | Wallace. |
| Blaine, | Dawes, | Plumb, | Whyte, |
| Bruce, | Edmunds, | Randolph, | Withers. |
| Butler, | Hamlin, | Ransom, | |
| Cameron of Pa., | Jones of Florida, | Sharon, | |
| Carpenter, | Jones of Nevada, | Thurman, | |

So the amendment was rejected.

Mr. McDONALD. Would it be in order now to move to amend the text of the bill?

The PRESIDING OFFICER. Not until after the amendments of the Committee on Finance have been acted upon. The next amendment of the committee will be reported.

The CHIEF CLERK. In section 1, line 27, after the words "per annum," it is proposed to insert "payable semi-annually;" so as to read "three per cent. per annum, payable semi-annually."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 1, line 29, after the word "issue," to insert "and no Treasury note of a less denomination than $100 shall be registered."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 1, line 31, after the words "bonds and," to strike out "certificates" and insert "Treasury notes;" so as to read:

The bonds and Treasury notes shall be, in all other respects, of like character and subject to the same provisions as the bonds authorized to be issued by the act of July 14, 1870, entitled "An act to authorize the refunding of the national debt," and acts amendatory thereto.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 1, line 40, before the word "notice," to insert "publication of;" so as to read:

That interest upon the 6 per cent. bonds hereby authorized to be refunded shall cease at the expiration of thirty days after publication of notice that the same have been designated by the Secretary of the Treasury for redemption.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 2, line 4, after the words "bonds or," to strike out "certificates" and insert "Treasury notes;" so as to read:

To exchange at not less than par any of the bonds or Treasury notes herein authorized for any of the bonds of the United States outstanding and uncalled bearing a higher rate of interest than 4½ per cent. per annum.

The amendment was agreed to.

Mr. PLUMB. I should like to call the attention of the chairman of the Committee on Finance to the text of the bill in section 2. In line 6 reference is made to the outstanding and uncalled bonds, and in line 10 the word "maturity" is used. The Secretary in that clause is authorized to pay "the difference between the interest on such bonds from the date of exchange to the time of their maturity."

Mr. BAYARD. That is the maturity optional with the United States; they can take the bonds matured by calling them in.

Mr. PLUMB. But if the Senator will permit me, this clause refers to bonds for which no time for maturity has been fixed either by law or by the Department. The law fixes no date of maturity; as they are uncalled bonds merely, and as the Treasury Department has fixed no time for maturity, it leaves it entirely loose, with a very wide discretion in the Secretary of the Treasury as to the time he shall allow this double interest.

Mr. BAYARD. No, I do not think that the section is open to that construction. In the first place, the Senator will observe that the two lines to which he calls attention are entirely separated in sense. Lines 4, 5, and 6 read:

Any of the bonds or Treasury notes herein authorized for any of the bonds of the United States outstanding and uncalled bearing a higher rate of interest than 4½ per cent. per annum.

That is, the Secretary can exchange them. Then further, beginning in line 7:

And on the bonds so redeemed the Secretary of the Treasury may allow to the holders the difference between the interest on such bonds from the date of exchange to the time of their maturity.

Mr. PLUMB. What is the date of their maturity, if the Senator please? They are described as "uncalled bonds," and there is no date of maturity fixed in the statute. They are the uncalled bonds of the United States; and consequently, as the calling for them fixes no date of maturity, there is no date of maturity.

Mr. BAYARD. I think if the Senator will look at line 10 of the section he will see that there is no such construction to be put upon it. "The interest on such bonds from the date of exchange to the time of their maturity," is the language.

Mr. PLUMB. It reads "from the date of exchange to the date of maturity;" and the point I make is that no date of maturity is fixed. This clause relates not to the sale of bonds, but to the exchange of one class of bonds for another; and if the time overlaps, double interest is paid.

The PRESIDING OFFICER. The Chair would state to the Senator from Kansas that his suggestion being in reference to a modification of the text of the bill, the Senate will proceed to act on the amendments of the Committee on Finance, and when they have been gone through with the bill will be open to further amendment.

Mr. BAYARD. I think in fact there is no bond of the United States bearing more than 4½ per cent. interest that does not mature at the option of the United States by the 1st of July.

Mr. PLUMB. But how is the option to be exercised except by a call? And this refers distinctly to the uncalled bonds; that is, to bonds as to which the Government has not given notice of its intention to exercise its option.

Mr. BAYARD. After we go through the amendments of the committee, the honorable Senator can propose an amendment which he thinks will guard against such a construction as he suggests.

The PRESIDING OFFICER. The next amendment will be reported.

The next amendment of the Committee on Finance was, in section 2, line 11, after the words "bonds or," to strike out the word "certificates" and insert "Treasury notes."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 2, line 12, after the word "issued," to strike out the words "but none of the provisions of this act shall apply to the redemption or exchange of any of the bonds issued by the Pacific Railway Companies."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 2, line 16, after the word "destroyed," to insert "but none of the provisions of this act shall apply to the redemption or exchange of any of the bonds issued to the Pacific Railway Companies."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 3 to strike out lines 1, 2, and part of line 3, in the words "authority to issue bonds and certificates to the amount necessary to carry out the provisions of this act is hereby granted; and."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 3, line 5, after the word "effect," to strike out the words "*Provided*, That" and insert the word "and."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 3, line 7, after the words "bonds and," to strike out the word "certificate" and insert "Treasury notes."

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 3, line 8, after the word "exceed," to strike out "one-quarter" and insert "one-half;" so as to read "and the expense of preparing, issuing, advertising, and disposing of the bonds and Treasury notes authorized to be issued shall not exceed one-half of 1 per cent."

Mr. INGALLS. I wish the chairman of the committee would state upon what ground it was thought necessary to increase this sum from one-quarter to one-half of 1 per cent. It makes the aggregate of $3,500,000 to be allowed for the expenditures in placing this loan.

Mr. BAYARD. The Senator will find the reason for that stated at length on page 37 of the report of the interview held January 30, 1880.

Mr. INGALLS. Will the Senator state in brief what the reason is?

Mr. BAYARD. There are given the details of the expenses of the funding in 1878 and in 1879; also at page 19 of the published interview with the present Secretary of the Treasury held a few weeks ago he gives a statement of the actual cost, which amounted to about thirty-five hundredths of 1 per cent.

Mr. INGALLS. What were the items of expenditures covered by that sum? My understanding is that in appropriations for this purpose made in previous loans the greater part of the sum has been expended in enriching favorites who were made the recipients of bounty in this way; and unless there can be some reason shown why it does cost $3,500,000 to print these bonds, advertise them, and pay the expenses, I shall be in favor of voting for one-quarter rather than one-half of 1 per cent.

Mr. BAYARD. Perhaps the shortest way would be to read the items of expenditure in the negotiation of 1878 and 1879 of the 4 per cent. consols of 1907. For the entire funding of $740,847,800 there was expended $2,645,892.60, as follows:

| | |
|---|---|
| Commissions paid to the syndicate | $386,369 68 |
| Commissions paid under the circulars | 1,563,523 28 |
| Extra force employed | 190,633 82 |
| Extra compensation paid | 9,968 55 |
| Engraving plates and printing bonds and certificates | 308,465 38 |
| Transportation by express, messengers, &c | 163,381 29 |
| Incidental expenses | 23,460 60 |
| Total amount expended | 2,645,892 60 |

Mr. INGALLS. Of which the greater part went in what are called commissions to the syndicate that bought the bonds and to other purchasers.

Mr. BAYARD. Let me say to the Senator that in 1870 it cost the Government $2,500,000 to fund $500,000,000 of 5 per cent. bonds; in 1878 it cost $2,645,000 to fund $740,000,000. In the funding operation by the present Secretary of the Treasury there was a gain of very nearly one-eighth of 1 per cent.; in other words he diminished the cost of refunding 25 per cent. as compared with the history of funding under the administrations of Boutwell, Richardson, and Bristow.

Mr. INGALLS. The amendment reported by the committee allows a larger sum than has been paid at any previous time for any funding operation, to wit, the sum of $3,500,000.

Mr. BAYARD. The proportionate amount has been paid heretofore, and it may reach that amount in case the Secretary finds its use essential in negotiating the loan.

Mr. INGALLS. The cost of funding the previous loan was thirty-five hundredths of 1 per cent., and the expenses are diminished. Why should the committee report in favor of paying fifty hundredths of 1 per cent.? Why should that provision be inserted?

Mr. BAYARD. The amount proposed by the House was less than the most economical funding heretofore could pretend to be done for, and we thought it proper that in an operation of this kind in the hands of a Secretary who had proved that he had saved $1,058,436 out of $3,704,239, it was perfectly safe and right not to run the risk of any embarrassment, but to let him have a sum not exceeding the amount that had been paid for funding the loan of 1870.

Mr. MORRILL. Will the chairman of the Finance Committee allow me to say a single word?

Mr. BAYARD. I have said all I wish to say.

Mr. MORRILL. We were informed that the negotiation attending the first part of making any such refunding would be plump up to one-half of 1 per cent., while there might be a very considerable amount saved in the latter part of the negotiation. In the first place, there is the expense of the plates and all the contingencies for starting the refunding. The bonds will have to be engraved and printed. Under the circumstances it may be deemed proper to leave the amount to the discretion of the Secretary, believing that any Secretary would be under the same necessity of expending a large amount at first, and a much smaller amount toward the end of the negotiation.

Mr. BECK. The reason that induces my action on this question I think I can state in a very few words. Secretary Sherman came before the committee and made a statement. Perhaps I can present it best by reading what the Secretary said:

There is another matter here which I do not wish to omit. The House has reduced the expenses of issuing the bonds to one-fourth of 1 per cent. I know that is founded upon the fact that with the four percents we reduced the expenses to a fraction over a quarter of 1 per cent.

Senator VOORHEES. You speak of the expenses of sale?

Secretary SHERMAN. The entire expenses of sale. I have got some figures here. The fact is that no government in the world, I think, has ever sold its securities at an expense of less than 1 per cent. until in this country, and we have done it by adopting the popular system. The French, you know, paid a great deal in various ways to the Bank of France, and England has always paid high rates, as has also Germany, but in our country but one-half of 1 per cent. is allowed. During the war the allowance on all the loans was 1 per cent. The funding act reduced it to one-half of 1 per cent., and very properly, because that was a refunding operation, and not an original borrowing. Here is a table showing the expenses and the nature of the expenses of disposing of the 4 per cent. loan, with the commissions to the syndicate. The amount paid to the syndicate was $386,000. That was in 1877 and the first of 1878. The commissions, however, paid under circulars to every public subscription amount to $1,563,000. Anybody could come in. For the extra force employed there was paid $190,000; extra compensation paid under the act of Congress for clerks who had to work night and day, $10,000; engraving plates, printing, &c., $308,000; transportation, $163,000; incidental expenses, $23,000. The total amount was $2,645,000. The amount allowed by the House would allow no commissions to banks and bankers.

Now, I cannot state too strongly the importance of such commissions. With it we can enlist the active assistance of all these financial agencies. Without it we would have them against us or indifferent. The small fraction paid them is insignificant compared to the saving to the Government of a prompt and rapid sale of these bonds. This saving is over one million one hundred and twenty-five thousand dollars a month. No one familiar with this business can doubt but that the aid of banks and bankers will expedite these sales several months. When the sales are under full operation we can then deny commissions, as I did with the four percents; but at the commencement of the loan we must offer them some profit or inducement.

Senator KERNAN. That was in disposing of the four percents?

Secretary SHERMAN. In disposing of the four percents. The amount appropriated was $3,704,000, and we saved $1,058,000, but the whole of that saving was in the sale of the last $300,000,000, when we paid no commission at all; the sales got to running so very well.

Senator FERRY. Have you a percentage of cost?

Secretary SHERMAN. No; but I can give it. It was from one-eighth to one-fourth.

Senator FERRY. There is a prejudice in the public mind in regard to the syndicates, that they have been very expensive, and it might be well to have those figures.

Secretary SHERMAN. The syndicate did not get one-seventh of the entire expense.

Senator WALLACE. The commissions paid to the syndicate amounted to $386,000.

Secretary SHERMAN. I say to you that you cannot start this loan on one-fourth of 1 per cent. You have got to follow the usual methods by allowing some commissions on sales.

Then he proceeded to show that while he paid up to one-half of 1 per cent. for handling the 4 per cent. loan at first, he was able to come down at last to nothing, and thereby saved the $1,058,436, of which the Senator from Delaware spoke. He paid no commissions on the last bonds of that loan, but the expenditure was incurred in the beginning of the negotiation.

Mr. KIRKWOOD. He got some premium on the last of those bonds.

Mr. BECK. Yes. I thought in committee, if I have a right to speak of that, and I believe now that he can do it for one-third of 1 per cent. I do not believe he can do it for one-fourth of 1 per cent.; but I do not believe any Secretary we are likely to have will expend more than is absolutely necessary. As the present Secretary has used $1,058,000 less than he was authorized to use, it is some assurance that whoever may succeed him will not spend any more than he is obliged to spend in making the loan.

Mr. KERNAN. I want to read a little of the reasons which induced me to favor this amendment. I read from the recent interview of the Secretary with the Finance Committee:

The amount allowed by the House would allow no commissions to banks and bankers. Now, I cannot state too strongly the importance of such commissions. With it we can enlist the active assistance of all these financial agencies. Without it we would have them against us or indifferent. The small fraction paid them is insignificant compared to the saving to the Government of a prompt and rapid sale of these bonds. This saving is over $1,125,000 a month. No one familiar with this business can doubt but that the aid of banks and bankers will expedite these sales several months. When the sales are under full operation we can then deny commissions, as I did with the four percents; but at the commencement of the loan we must offer them some profit or inducement.

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Senator WALLACE. The commissions paid to the syndicate amounted to $386,000.

Secretary SHERMAN. I say to you that you cannot start this loan on one-fourth of 1 per cent. You have got to follow the usual methods by allowing some commissions on sales.

Senator VOORHEES. How much is provided by the bill?

Senator ALLISON. The bill provides for one-fourth of 1 per cent.

The CHAIRMAN. You paid no commission on the last $300,000,000.

Secretary SHERMAN. No; simply because it was selling so fast. On that last loan we gave no commission to anybody. The loan was selling fast enough without.

Senator KERNAN. Is this commission anything except to make the discount when they take a certain amount?

Secretary SHERMAN. That is all. We say to the world, "If you come here and take $10,000 of this loan, we will give you a discount of one-eighth of 1 per cent. If you take $1,000,000, we will give you a discount of one-quarter of 1 per cent., and so on."

Senator KERNAN. And toward the last they came so freely that they took them without any discount?

Secretary SHERMAN. On the two last circulars issued under those loans we did not give anything at all. Indeed we raised the rates. We charged them a premium.

The CHAIRMAN. But the average was about three-eighths of 1 per cent.?

Secretary SHERMAN. Yes; but to commence, we must have a half, for the reason that you cannot purchase paper and make orders for engraving and printing for less, but then toward the end we might save.

Senator KERNAN. You would still expect to get through on a quarter of 1 per cent., but you want to begin on one-half?

Secretary SHERMAN. We got through on one-quarter and three-eighths. The transportation is a very large item. This is the statement:

*Statement showing the expenses of issuing the 4 per cent. consols of 1907.*

| | |
|---|---|
| Commissions paid to the syndicate | $386,369 68 |
| Commissions paid under the circulars | 1,563,523 28 |
| Extra force employed | 190,633 82 |
| Extra compensation paid | 9,968 55 |
| Engraving plates and printing bonds and certificates | 308,465 38 |
| Transportation by express, messengers, &c. | 163,381 29 |
| Incidental expenses | 23,460 60 |
| Total amount expended | 2,645,802 60 |
| Total amount of subscriptions to the 4 per cent. consols of 1907, to date | 697,939,550 00 |
| Amount exchanged for five-twenties and ten-forties | 2,895,500 00 |
| Amount of refunding certificates sold | 40,012,750 00 |
| Total | 740,847,800 00 |
| One-half of 1 per cent. appropriation on the above amount | 3,704,239 00 |
| Amount expended from this fund | 2,645,802 60 |
| Remaining unexpended | 1,058,436 40 |

TREASURY DEPARTMENT, SECRETARY'S OFFICE, *July* 1, 1880.

The Secretary told us he could not start unless we allowed one-half of 1 per cent. to get the loan moving, so as to do it cheaply.

Mr. VOORHEES. Mr. President, I have but a few words to say on this point. As a member of the committee I was guided by the judgment of the Secretary of the Treasury on this question. I am surprised, and I regret to hear the implied assault made on him by the Senator from Kansas, [Mr. INGALLS.] If we cannot rely upon the word of a Cabinet minister as to what it will cost to put these bonds on the market for sale and meet the expenses of their disposal, we cannot rely upon anything. The gentleman who came before the Committee on Finance and to whom I listened had been three times a member of this body and is for the fourth time elected for six years' service here. He has already served a term as Secretary of the Treasury. He is required to know the expense of this proceeding; I am not required to know; there is not a Senator here who can know as the Secretary of the Treasury is required by law to know. If we have been misled on this question it implies the direst and blackest and most infamous conduct that can befall an officer of this Government.

I do not know whether this engraving and putting to sale of the bonds can be done for less than is provided in the amendment of the committee, and there is not a member of this body who can know. We have to take such a matter on trust, and if the Secretary of the Treasury of the present administration has not willfully misled us, it is a case of supreme ignorance. If he has misled us at all, it adds one more to the sins of omission and commission on the part of the Administration now in power, and little as I am attached to the Administration by political ties and affiliations, I am not willing by my vote to say that the Secretary of the Treasury, Mr. Sherman, came before the Committee on Finance and there told us what was not true. It is not worth while to say he does not know, for he does know. Consequently, I shall follow the action of the committee, and if I find hereafter that I have been misled by him, I shall take my reprisal whenever I can.

Mr. MORGAN. Mr. President, I do not desire, for my part, to cast any censure upon any officer of the Government, nor do I desire to cast censure upon the House of Representatives when they came to the conclusion that one-fourth of 1 per cent. was enough to pay the expense of funding this loan. I find in the interview, or rather the examination and statement of Mr. Sherman, on page 19, which has been referred to this evening, that the sum of $740,847,800 of the 4 per cent. loan was funded by him at an expense of $2,645,802. Of that sum, $386,369 and some cents was commissions paid to the syndicate; $1,563,523, commissions paid under the circulars. Then the rest of the expense was for extra force employed, extra compensation paid, engraving plates and printing bonds and certificates, transportation by express messengers and incidental expenses, making the total $2,645,802.60 paid as commissions or discounts.

Mr. McPHERSON. Is the Senator also aware that the amount fixed by rumor, and pretty well fixed, I think, as having gone to Indiana to control the election in that State, mainly subscribed by this syndicate, was nearly $1,000,000?

Mr. MORGAN. I do not know anything of rumor, and I do not propose to base my remarks on this question upon rumor or political suggestion, because I am trying to consider it entirely aside from all partisan considerations. I believe one-fourth of 1 per cent. is money enough for refunding this loan and I think the testimony of Mr. Sherman in regard to the very large amounts used to fund the four percents is quite sufficient as a guide for our proceeding in this case. Mr. Sherman said in reply to the following question from the Senator from New York, [Mr. KERNAN:]

Is this commission anything except to make the discount when they take a certain amount?

Secretary SHERMAN. That is all. We say to the world, "If you come here and take $10,000 of this loan, we will give you a discount of one-eighth of 1 per cent. If you take $1,000,000, we will give you a discount of one-fourth of 1 per cent., and so on."

The whole of this being a discount, or rather a percentage, to put the bonds in the hands of the purchasers in consideration of the fact that they subscribed for large amounts, the Secretary would not pay this commission to any one who would take $1,000, or perhaps $5,000, altogether in one sum, so that the amount of commission to be paid must necessarily, upon the hypothesis which he states and the theory on which he acted heretofore, go into the hands of large capitalists, who are able to take large amounts of these bonds. In that I think there is striking injustice in the application of this money. When we raise the amount from one-fourth to one-half of 1 per cent., a large part of it is to be expended in commissions, and these commissions are to go to men who have the ability to control large sums of money. That may be a wise policy, so far as credit goes, if we have to induce men by compensating them to add to the value of our credit to take our bonds in this way. Perhaps it is a wise policy, but the circumstances of this case are altogether different from the circumstances which attended the 4 per cent. loan in one particular. This bill provides that $300,000,000 shall be in the form of Treasury notes bearing, as the Senate has now voted, 3 per cent. interest, in sums of ten dollars and multiples thereof, and no Treasury note of a less denomination than $100 shall be registered. Now, we take $300,000,000 out of the category of the subscriptions on which commissions are to be paid, and therefore leave one-half of 1 per cent. to be paid upon $400,000,000 of bonds, for those who take these Treasury notes in ten-dollar sums, or any multiples of ten dollars, will never receive a commission.

We understand that the amount of money to be funded in Treasury notes has to be so funded for the purpose of giving these notes circulation among our own people. No commissions will be paid to them for taking these sums of money. I hope none will ever be paid, even if this amount of money shall be voted to pay commissions, for

the reason that I want to see the people get hold of these Treasury notes. I want our people throughout the United States to have the possession of these Treasury notes and whatever benefit may be derived from them, and not one dollar of this commission is expected to be appropriated in putting them out among the people. If we have $300,000,000 taken out of the category upon which commissions are to be paid by the Secretary of the Treasury, where can be the necessity of raising the amount that we are to expend in this way from the fourth of 1 per cent. to the half of 1 per cent?

Mr. INGALLS. The Senator from Indiana [Mr. VOORHEES] made an observation which leads me to say that if he or anybody else supposed that I had any design of making any assault upon any official of the Treasury, he misapprehends the tenor of my remarks. I said, and I believe that history will carry me out in the statement, that on many previous occasions the expenses of placing loans had been the means of enriching favorites of the Treasury. I am also very thoroughly convinced that in placing the 4 per cent. loan the payment of nearly four hundred thousand dollars to the syndicate who took the bonds was a superfluous and unnecessary payment, and might have been saved to the Government. This arrangement appears to me to be simply a device for the purpose of preventing these bonds from being sold at less than par.

It has not appeared from the statement that has been made by any member of the committee that the actual expenses of placing this loan could be more than one-quarter of 1 per cent., and the rest must necessarily be used for the elastic purpose that goes under the name of "commissions," to be held out as inducements to persons to take the bonds whether they may be private persons or whether they may come under the name of syndicates who have taken them in large amounts. I believe that the amendment of the committee should be rejected.

Mr. McDONALD. As I understand the amendment, the percentage applies to the Treasury notes authorized by the bill, as well as the bonds; and understanding it in that way, I shall vote against the amendment and for the bill in that particular as it passed the House.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The question is on the amendment of the Committee on Finance.

Mr. McPHERSON. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. RANSOM, (when his name was called.) On this amendment I am paired with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, I should vote "nay."

Mr. WALKER, (when his name was called.) On this question I am paired with the Senator from Colorado, [Mr. HILL.] If he were present, I should vote "nay."

The roll-call was concluded.

Mr. LOGAN, (after having voted in the affirmative.) I voted under a misapprehension, and my attention was called to it by the Senator from North Carolina, [Mr. RANSOM.] I am paired with his colleague, [Mr. VANCE,] and therefore I withdraw my vote.

Mr. FARLEY. My colleague [Mr. BOOTH] asked me to announce his pair with the Senator from Massachusetts, [Mr. HOAR.] If my colleague were here he would vote "nay."

Mr. PENDLETON. I desire to say that my colleague [Mr. THURMAN] is paired with the Senator from Maine, [Mr. HAMLIN,] and I make this announcement to continue during the whole evening, and will not repeat it.

The result was announced—yeas 30, nays 20; as follows:

YEAS—30.

| | | | |
|---|---|---|---|
| Allison, | Call, | Kernan, | Rollins, |
| Anthony, | Cameron of Wis., | Kirkwood, | Saulsbury, |
| Baldwin, | Davis of Illinois, | Lamar, | Saunders, |
| Bayard, | Eaton, | McMillan, | Teller, |
| Beck, | Ferry, | Morrill, | Voorhees, |
| Blair, | Hampton, | Paddock, | Windom. |
| Burnside, | Johnston, | Platt, | |
| Butler, | Kellogg, | Plumb, | |

NAYS—20.

| | | | |
|---|---|---|---|
| Cockrell, | Harris, | McDonald, | Pugh, |
| Coke, | Hereford, | McPherson, | Randolph, |
| Farley, | Hill of Georgia, | Maxey, | Slater, |
| Garland, | Ingalls, | Morgan, | Vest, |
| Groome, | Jonas, | Pendleton, | Williams. |

ABSENT—26.

| | | | |
|---|---|---|---|
| Bailey, | Conkling, | Hoar, | Vance, |
| Blaine, | Davis of W. Va., | Jones of Florida, | Walker, |
| Booth, | Dawes, | Jones of Nevada, | Wallace, |
| Brown, | Edmunds, | Logan, | Whyte, |
| Bruce, | Grover, | Ransom, | Withers. |
| Cameron of Pa., | Hamlin, | Sharon, | |
| Carpenter, | Hill of Colorado, | Thurman, | |

So the amendment was agreed to.

Mr. HILL, of Georgia, (at six o'clock and fifty-two minutes p. m.) I move that the Senate adjourn. ["No!" "No!"] I withdraw the motion to adjourn, as there is an evident inclination not to do so.

The PRESIDING OFFICER. The motion to adjourn is withdrawn, and the next amendment of the Committee on Finance will be reported.

The next amendment was, in section 4, line 3, after the word "use," to insert the word "temporarily."

Mr. TELLER. That amendment ought to be acted on at the same time with the amendments in lines 7, 8, and 9. I call the attention of the chairman of the committee to that. They form one amendment.

Mr. BAYARD. I think the Senator is right.

The CHIEF CLERK. It is also proposed by the Committee on Finance, in line 6 of section 4, after the word "act," to insert "which shall from time to time be repaid and replaced out of the proceeds of the sale of the bonds or Treasury notes authorized by this act;" so as to read:

That the Secretary of the Treasury is hereby authorized, if in his opinion it shall become necessary, to use temporarily not exceeding $50,000,000 of the standard gold and silver coin in the Treasury in the redemption of the 5 and 6 per cent. bonds of the United States authorized to be refunded by the provisions of this act, which shall from time to time be repaid and replaced out of the proceeds of the sale of the bonds or Treasury notes authorized by this act.

Mr. TELLER. I desire to say that as far as I am concerned I am opposed to this amendment of the committee. The proposition of the House was to take $50,000,000 in the Treasury and use it for the purpose of redeeming the 5 and 6 per cent. bonds. The committee change that, and say that while the money may be so taken it shall be only taken as a temporary loan to be replaced. I believe that one hundred and forty-odd millions kept in the Treasury for the purpose of resumption is simply useless. I believe that we could take out $50,000,000 and not feel it; and I believe that $100,000,000 could be taken out, properly taken, and ought to be taken out of the fund that is reserved for resumption. During the last year the total amount of currency redeemed was less, I think, than half a million dollars. There is not any probability that the people will walk up to the Treasury at any time and demand that for their greenbacks they shall have gold or silver; and if they do, it will be only in limited quantities. We have kept in the Treasury now for the last two years nearly one hundred and fifty million dollars in gold under the expectation that somebody would come for it, and during that time the total taken out has been less than $12,000,000. It seems to me to be unwise to continue this system.

It is said by Senators that perhaps we cannot make this refunding a success if we disturb this gold accumulation. We can start by taking $100,000,000 of this money and retire the first $100,000,000 of 5 per cent. bonds, and when you have made a start of that kind the balance will come in. The banks hold over two hundred million dollars of the bonds that are to be redeemed, and when they find that the Government is able to take up $100,000,000 of them, they will be very anxious to come in and get the new bonds in exchange for what they now have of the higher rate of interest bonds, because it will be apparent when you have called in $100,000,000 of them, that this refunding will be a success, whether it is at 3 per cent. or 3½ per cent. I propose, if it is not done by somebody else, after we have passed on all the amendments of the committee, to move to strike out "fifty" and insert "one hundred," so as to make this sum $100,000,000, unless the Senate should indicate that they intend to adhere to the view of the committee, that we are only to take as a temporary loan this $50,000,000, and to replace it out of the first money realized from these bonds.

If I believed that there was any danger to be apprehended by reducing the fund, I should not think of doing it, because I believe that resumption has been of great advantage to the country, and I should regret to see the Government of the United States in a condition where it would not be ready to respond to any just and proper demands that might be made; but after two years of experience I think it safe to say that it is but suspecting something wrong to suppose that the people will in the future do differently from what they have done in the past. I believe $40,000,000 on deposit (and we have now a good deal more than that) will be sufficient at all times, and we could take out a hundred million dollars.

It is said here that we have $72,000,000 of silver, including some bullion and minor money. We have not that amount, but we have some silver on hand. Instead of having $47,000,000 on hand, as has been repeatedly asserted here on the floor, I am told that we have less than $13,000,000. However, whatever it may be, it is certain that we have not $47,000,000 on hand; but that has not very much to do with this particular question. What we do have can be used in addition to the $41,000,000 that will be left in the Treasury to meet any demand that may be made by parties holding our bills.

I have paid a good deal of attention to the suggestions of the Committee on Finance and to the suggestion of the Secretary of the Treasury since I have been in the Senate; but the experience of four years has demonstrated that they have guessed just exactly as the rest of us have guessed upon these financial questions, and they have guessed much wider than the majority of the Senate have guessed. In 1878, three years ago, it was said on the floor of the Senate by the then chairman of the Committee on Finance, that if we adopted what was called the silver bill, resumption would be an impossibility. It was said by the then chairman of the Committee on Finance, and in that he was fully supported by the present Secretary of the Treasury, and he was also fully supported by the present chairman of the Finance Committee, that if we passed the silver bill the greenbacks that were then at a discount of from 1½ to 2 per cent. would immediately fall still lower. The opposite result took place. The greenbacks did not fall, and in a few months after we passed that act it was apparent to everybody that the very passage of the act had aided in resumption.

If there had been any doubt whether resumption was possible or not to the people who looked at it carefully and intelligently, it was certain after the passage of that act that resumption was possible.

It was also said at the time, and it was said by the same Senators who to-day are predicting disasters with reference to this refunding, that if we passed that bill the gold would go out of the country, and silver from all parts of the world where it was not wanted and the people were anxious to get rid of it would come to this country. What has been the result? The gold has poured into this country as it never poured in before, and the silver has not come. The silver that came to this country last year is less than $2,500,000, while we have coined in the mints more than $60,000,000 of foreign gold this year. As was stated yesterday, since that act was passed $250,000,000 of foreign gold have come to this country and entered into the circulation of the precious metals here.

I have lost a little faith in the Finance Committee and a little in the prophecies of the Secretary of the Treasury. When the committee come here and the Secretary of the Treasury comes here and tell me that it is necessary to keep $140,000,000 or $150,000,000 of gold in the Treasury for fear that somebody will some day rush up to the Treasury with a few greenbacks and make a demand of gold for them, I have ceased to believe that there is any such danger. I do not believe it. I believe we ought to take this money lying in the Treasury and put it where it will pay the debts of the nation.

It has been the effort of the Secretary of the Treasury—and I do not say this now to reflect upon him particularly—to discredit the silver of this country, the great production of the country. We produce from $30,000,000 to $40,000,000 every year on an average of silver. We produce this year about eight million dollars less than last year, and we produce a trifle less of silver this year than we produce of gold. It is said by the Secretary, in his report which I have here, that it is impossible to continue the coinage of silver, that it is impossible to keep the silver in circulation; and he tells us that he has got $47,000,000 of silver that the people, as he says, decline to take. He ignores the fact that the Government is the holder, simply on deposit for the people, of almost twenty million dollars of this $47,000,000; so that, according to his own showing, he has only got about twenty-seven million dollars of silver money on deposit; and I am told that since this report was made that amount has largely decreased. During the last year, as shown by the Secretary's report, we put in circulation either of the coin itself or of certificates of silver more silver than we coined. It is not accumulating in the Treasury at all. The honorable Senator from Vermont [Mr. MORRILL] said yesterday that we had a skeleton in the closet, and that skeleton is the large amount of silver that we have piled up. There has been an effort made, from the Secretary down through every man in this country who is opposed to the use of the two metals, to make the people understand that there is a condition of affairs here that has never existed before.

Sir, the people of the United States are in favor of both metals, and they believe in giving both metals an opportunity, a chance. I am not going into a speech upon the silver question to-night, because there is not time and it is not entirely germane to this bill. I only allude to these things to say that all this claim that two or three men only are to judge of the financial conditions of the future is not a well founded claim, and that neither the Secretary of the Treasury, with all deference, nor the Finance Committee, have shown themselves so infallible upon this question that their word should be taken without some little examination.

I am opposed to this amendment. I want this section so amended that the Secretary of the Treasury shall be directed, compelled to take $100,000,000 of this money now in the Treasury and reduce the national debt; and then if, in the course of events, anything should happen in the distant future unforeseen, if there should be bad crops, if the balance of trade should be against us, there is a power given him under the resumption act to dispose of bonds and put back the money that may be necessary to meet the demands made upon the Government.

The PRESIDING OFFICER. The amendment will be reported.

The SECRETARY. After the word "use," in line 2 of section 4, it is proposed to insert "temporarily," and after the word "act," in line 6, to insert "which shall from time to time be repaid and replaced out of the proceeds of the sale of the bonds or Treasury notes authorized by this act."

Mr. ALLISON. I desire to say to the Senator from Colorado that the Committee on Finance, in their numerous guessings with reference to this bill, thought for the sake of safety it was a wise thing to insert the words here found in italics. We understood, and it was the common understanding of the promoters of this bill, that the language of the bill as it came from the House precisely covered the idea which we have put into it, and when we called the attention of the Secretary of the Treasury to this fourth section he said it was a wise provision and he did not care to have it changed in the least particular, because the promoters of the bill understood that the language plainly imported that when this money was taken from the Treasury out of the resumption fund it was only taken for a temporary purpose and could be replaced at any time.

That was the construction the Secretary of the Treasury put upon this section in his interviews with the committee; but upon a careful examination of the section the committee concluded that perhaps after all there might be some doubt about this phraseology, and thought that if that was what was intended we had better say so in unequivocal language, and therefore the committee inserted this amendment.

Now, let me say to my friend further, that it is not a matter of the slightest moment perhaps practically, because under the resumption act of 1875 the Secretary of the Treasury can sell just as many bonds as he chooses to sell. There is not the slightest limitation upon his power, except that he is confined to 4, 4½, and 5 per cent. bonds. So then if this provision be not inserted here at all, under that general power if the Secretary of the Treasury took fifty millions of this resumption fund to redeem 5 and 6 per cent. bonds, he could turn around the next day, if he chose to do it, and sell 4 per cent. bonds for the purpose of replacing that money.

Mr. EATON. I hope some gentleman will, before this bill is through, add to it a clause that the Secretary of the Treasury shall not sell any of the 4 per cent. bonds.

Mr. TELLER. I want to ask the Senator from Iowa a question. Does he suppose that any Secretary of the Treasury would, unless there was a pressing demand, sell 4 and 4½ per cent. bonds to replace the money taken out under this section?

Mr. ALLISON. Oh, Mr. President, I do not suppose the Secretary of the Treasury would use this resumption fund in any wasteful or extravagant way; he certainly would not replenish the fund unless it was absolutely necessary to do so, and if he did he could use the fund at any time. I want to call attention to the phraseology here, and to say to my friend from Colorado that he makes a point that was not intended by the House, and as for myself I am not particular whether this amendment is voted in or voted out; but I think it is wise to put it in, in order that the phraseology may be clear and unequivocal:

That the Secretary of the Treasury is hereby authorized, if in his opinion it shall become necessary, to use not exceeding $50,000,000.

The committee said, inasmuch as the Secretary believed that this was a power giving him discretion for that purpose, that fund should be replaced if taken in that way under this provision. That is all.

Mr. TELLER. The section as it came from the House will not justify the conclusion that this money was to be replaced; and that the committee knew very well, and therefore they put in "temporarily," and they were not satisfied with putting in "temporarily." If it had come from the House with the word "temporarily" in, it might have been said with some show of reason that it was to be replaced. Nothing of the kind was there. So the committee put in the word "temporarily," and then, to make sure, they add that it shall be replaced afterward. The proposition as it came from the House is that $50,000,000 shall be taken, leaving about one hundred million dollars still in the Treasury available for resumption purposes. I do not believe it is necessary to leave the $100,000,000. I believe $40,000,000 is enough to leave, and I have no doubt that $10,000,000 is enough. Unless there is some great financial disaster there will be no demand practically. The people do not want gold, and they do not want silver. The Secretary of the Treasury says that they do not want silver; he ignores the fact that they do not want gold; but he shows in his report that 55 per cent. of the money paid in for duties has been paid in gold, and only 31 per cent. in silver certificates, and still less in greenbacks—showing that the people want greenbacks more than they want either gold or silver or silver certificates. To meet the greenbacks I do not believe it is necessary that there should be $10,000,000 of gold in the Treasury. I do not believe there will be any demand more than there has been of $75,000 a month from people who want a little gold for some particular purpose, people who are going to Europe or somewhere else, or a few people who want to hoard it.

Mr. BECK. I believe that section 4 as it came from the House is right, and that the amendment of the Committee on Finance does not strengthen it at all. The Senator from Iowa seemed to think that it did, and after a good deal of discussion in committee it was inserted, I think, to please him. But the meaning of the section as it came from the House, as I understand it, is that there being a surplus of gold and silver in the Treasury, bearing no interest, that nobody wants, and as $650,000,000 of five and six percents are to fall due by the 1st day of July, and the holders of the five percents under the act of 1870 have a right to ninety days' notice before they can be called in, and thereby we are paying double interest during that time, and cannot get clear of it because the law gives them the right to it, all this surplus money now lying in the Treasury bearing no interest, doing no good, the Secretary shall have the right to take it out at once and call in $50,000,000 of the bonds soon to be redeemable. Let him make his call for the bonds and use this money to pay them, even though he does not sell the new bonds, the threes or three-and-a-halfs we are to issue now. By using $50,000,000 of coin in that way he will be able to bring in that amount of bonds now outstanding.

Mr. PLUMB. I should like to ask the Senator why the same argument does not apply in favor of taking $100,000,000 of that same money.

Mr. BECK. It might or might not.

Mr. EATON. Why not take it all?

Mr. BECK. Fifty million dollars was sufficient, the Secretary thought.

Mr. BAYARD. The intention was that there was not to be a permanent diminution of that fund. It was not intended that that fund

for which $80,000,000 of bonds were sold to get gold into the Treasury, should be permanently diminished.

Mr. BECK. The confession is, I think, that the sale of $95,000,000 of bonds to get gold for the Treasury has proved to be a blunder. If greenbacks had been taken for duties five years before, there would have been no necessity for the resumption act, and we should have resumed five years sooner than we did. The great blunder to-day is that we are now allowing the Secretary to take greenbacks for customs duties in violation of law and refusing to pass a law requiring him to take them, and winking at his doing it, and he is violating the law every time he does it. The trouble has been the attempt to keep the greenback down, to make it bad, and the Secretary will not consent to-day, nor does the Finance Committee consent to-day, that the greenback shall be received at the custom-house, although it is in fact received in violation of the law by an order of the Secretary. I want the law to be obeyed.

The Secretary sold $95,000,000 of bonds in order to get gold and hoard it there, and he is holding it now, and when he did resume, when everybody supposed there would be a rush for gold, there was no rush for gold; nobody wanted it. The struggle now is to see if we cannot do something to get the greenbacks out instead of the gold, because men do not want to pay the cost of the transportation of gold to the interior of the country, and the greenback to-day is at some points at a premium of one-eighth to one-fourth of 1 per cent. over gold because of the cost of transportation. When the Secretary came before the committee I put a question to him as to this section as it came from the House. Here it is on page 20 of the published interview:

Senator BECK. Is section 4, as it now reads, satisfactory, and does it give you the authority you desire?
Secretary SHERMAN. Yes, sir; I think that is all right.

Mr. McDONALD. Does that refer to the original section?

Mr. BECK. The original section as it came from the House; but the Senator from Iowa seemed to fear that there was some trouble about it afterward, and he proposed a modification of it against my judgment. The Secretary said, "Yes; I think that is right." And then:

Senator BECK. That would enable you to take the money out of the Treasury in surplus, so as to make this an appropriation by law.
Secretary SHERMAN. We can reimburse it by the sale of the bonds. It will tend to save interest.

The meaning of it all is, that if any run ever came on the Treasury, under the power he now had he could meet it; but in the mean time let him use this money that nobody wants, that is paying no interest now, and fund with it $50,000,000 of bonds, begin to pay off the fives and the sixes now outstanding, without having to wait until he makes sales of the new bonds. If a contingency shall arise (which I do not think the Secretary or anybody else contemplates for a few years or perhaps ever) then the power to sell bonds exists, and he can reimburse the funds; but if he does not need the coin of course he will not sell bonds. This money he confesses now is lying idle, and by using $50,000,000 of it we may save interest on that amount of bonds, begin the refunding of the fives and sixes at once by means of that fund, and the chances are a hundred to one that he never will need to sell more bonds for that fund. That is what the Secretary said to me.

Mr. EATON. I have not the book by me; but did the Secretary say he would reimburse this fund by the sale of bonds? Did he mean by that a sale of the bonds to be issued now, or of the old bonds?

Mr. BECK. By the sale of any bonds that he was authorized under the resumption act to sell, I presume.

Mr. EATON. Do you suppose he can sell the 4 per cent. bonds?

Mr. BECK. I suppose not. He would not sell any but the bonds now authorized; but he has authority now to sell them. I have no idea that he would sell any but those now authorized. But go a little further. The Senator from Michigan [Mr. FERRY] then asked the question which and the answer I will read:

Senator FERRY. In that section it is provided that you shall use not exceeding $50,000,000 of gold and silver coin in the Treasury, and then in another part of the section that you may at any time apply the surplus money in the Treasury.
Secretary SHERMAN. That is over and above.
Senator FERRY. It confines you to $50,000,000.
Secretary SHERMAN. I think myself it ought to be confined, because you would not like to leave the Secretary power to strip the Treasury bare of money.
Senator FERRY. But this leaves a discretion at any time to apply the surplus money.
Secretary SHERMAN. The truth is he has the power now, and has exercised it for twenty years.
Senator FERRY. Then what is the point of fixing $50,000,000?
Secretary SHERMAN. That is the limit, and I think a very wise limit.
Senator VOORHEES. I do not know that it would affect the operation of the bill, yet it is an awkward mode of expressing it, it seems to me, because in the forepart of the section there is a limit, and immediately afterward it is followed by no limit.
Senator KERNAN. That is the surplus money. He is to use money that is held there for another purpose to the amount of $50,000,000.
Secretary SHERMAN. He can use $50,000,000 of the resumption fund.
Senator FERRY. The bill does not say that.
Senator BECK. I understand that the Constitution provides that you can take no money out of the Treasury except by virtue of an appropriation made by law.
Secretary SHERMAN. That is true.
Senator BECK. Therefore, this surplus that you have over and above what is necessary for the sinking fund you cannot use unless there is an appropriation authorizing you to do it.
Secretary SHERMAN. No, we cannot use it. This fund is specially set aside by law for the redemption of United States notes, and the Secretary of the Treasury has no more power to diminish that fund than any other fund.
Senator BECK. Then there is a proviso at the close of section 4:
"That the bonds and certificates so purchased or redeemed shall constitute no part of the sinking fund, but shall be canceled."
That means that you shall not swell up your sinking fund by the use of this money beyond what is otherwise provided.
Secretary SHERMAN. That is right.

The meaning of this whole proviso is this: When money is in the Treasury—as there is a large amount of gold now held for resumption—to cover and protect resumption we cannot use it to buy bonds unless we authorize the Secretary by this law to do it, because the Constitution says he shall not take any money out of the Treasury except in accordance with appropriations made by law. No matter how much he has, no matter how useless it may be, how idle it may be, he cannot use it until we authorize him, as we propose to do by the fourth section of this bill, to take it out. It has to lie there and remain idle, because when put in for one purpose it cannot be used for another except in accordance with an appropriation made by law; and this fourth section does make that appropriation and authorize him to take it out and use it for the purchase of bonds, and thereby save interest. At the same time the power exists in him, if ever the emergency arises, to supply by the sale of bonds whatever is necessary to redeem the greenbacks.

Mr. EATON. I suppose the Senator from Kentucky does not desire the Senate to misunderstand the testimony of the Secretary.

Mr. BECK. Of course not; I have read it.

Mr. EATON. I know; but I call the Senator's attention to the meaning of the sale of bonds, and the Senator did not give it as the Secretary did:

Senator BECK. That would enable you to take the money out of the Treasury in surplus, so as to make this an appropriation by law.
Secretary SHERMAN. We can reimburse it by the sale of the bonds.

That is, the bonds which we are now about to authorize, those authorized by this act, not the bonds which he has in hand now, simply to save interest.

Mr. BECK. I read precisely what the Secretary said.

Mr. EATON. I know you did.

Mr. BECK. "We can reimburse it by the sale of the bonds. It will tend to save interest." What he meant by that each Senator can construe for himself as well as I can. I said that I believed he would sell bonds if an emergency arose, which never will arise and which nobody anticipates. We all know it is too remote a possibility to be well considered; but if he is to sell any bonds at all, he will sell these bonds. Under existing law he has a right to sell any of the bonds authorized by the resumption act, and that law has never been repealed, and the authority exists in him, while I do not believe he will exercise it.

Mr. MORRILL. Will the Senator from Kentucky allow me to ask him a question?

Mr. BECK. Certainly.

Mr. MORRILL. Will the Secretary of the Treasury after having once used this $50,000,000 of coin as the bill came to us from the House, and after having given the notice for calling in bonds, have power to repeat that process under section 4 so as to facilitate the payment of the loans without loss of interest from time to time; or will he be confined simply to the use of the $50,000,000 once and once only?

Mr. BECK. The section reads:

That the Secretary of the Treasury is hereby authorized, if in his opinion it shall become necessary, to use not exceeding $50,000,000 of the standard gold and silver coin in the Treasury in the redemption of the 5 and 6 per cent. bonds of the United States authorized to be refunded by the provisions of this act.

I understand that to mean that he has a right to take out of the surplus gold and silver coin now lying there and not needed, that much of it, to refund the fives and sixes we are now seeking to refund.

Mr. ALLISON. As I understand, the 5 per cent. bonds cannot be redeemed except upon ninety days' notice.

Mr. BECK. I have said so.

Mr. ALLISON. Very well. Now, if I understand that section, it is to give the Secretary of the Treasury a sort of floating fund, by which he can make a call for $50,000,000 of bonds, and pay them out of this fund in the Treasury, thus saving interest; and he then reimburses the fund from the proceeds of the bonds sold during the ninety days; and then he makes another call, and pays again out of the fund in the Treasury, and so on until the loan is completed. I see that that will be a very great saving of interest; but if only one sale can be made, of course the power is exhausted the moment it is once exercised. The section gives him $50,000,000 capital, as I read it, whereas if he can only use the fund once it is no capital.

Mr. BECK. The effort of the House was to enable him to take up $50,000,000 of bonds by using so much of this fund, which is now of no use, and use it to save interest.

Mr. BAYARD. The discretion is controlled by the use of the word "reimbursed." The standard gold and silver coin is to be reimbursed, that is returned and repaid out of the proceeds of the sales of the bonds authorized by this act, and the very last word the Secretary says upon page 21 is this:

The fact is that the gold and silver are kept there for the purpose of redeeming the legal-tender notes upon presentation, as required by law.

And then he goes on to give a statement showing the surplus revenues of the Government at different times. The bonds of this Government were sold under the resumption act of 1875 to get that gold and that silver there. It never was intended that that fund should

be destroyed and these $50,000,000 taken out not to be replaced. The object of the amendment of the committee was to make that fact clearer. It was the wish of the honorable Senator from Iowa, and I moved the amendment myself in order to prevent any misunderstanding on the subject. It never was the intention of the Secretary of the Treasury—and his testimony here proves it—to do otherwise than temporarily use this money; and it was to make that intent clearer that we used the language of the amendment. As the Senator from Iowa has well said, if the money can be used but once its power to assist in floating this loan would be ended by its single use. When you return it, you may use it over and over again, but you can only do that by reimbursing it, and it surely was not the intention of Congress to break up a resumption fund for which bonds were sold and to supply which more bonds must be sold.

Mr. KERNAN. I did not intend in committee, and do not now, to consent to any idea that the Secretary shall be authorized to use the fund of coin in the Treasury now for the redemption of our United States notes. They are good now, and why? Because we are prepared to cash them on demand in coin. They are convertible into coin. I am opposed to setting a precedent which will touch or exhaust that fund, which is there for that purpose, by allowing it to be used in any other way permanently. It was because I understood the bill as it came from the House to intend only that the Secretary should use it temporarily as a fund anticipating the sale of the bonds, and to save interest for the reason stated, that I consented to these amendments, which were reported to make it clear that we should keep faith with the holders of United States notes, keep them fully up to par as they only can be kept fully up to par by our being prepared to redeem them in coin. When that is apparent they will be at par, and there will be no calling for gold. If we begin now by taking $50,000,000 from this fund permanently, then, as my friend well said, why not take fifty millions more or one hundred millions more, and then your paper will depreciate and we shall again have the evils of a fluctuating standard of value.

Mr. McDONALD. I should like to ask the Senator from New York a question. Is there any coin in the Treasury at this time except that which is held there as a redemption fund?

Mr. KERNAN. I will answer that. First we were talking about taking from the redemption fund of the Treasury——

Mr. McDONALD. How much is there?

Mr. KERNAN. I will come to that in a moment and show what we did about that. The fact is that a certain amount of gold and silver is kept there for the purpose of redeeming the legal-tender notes on presentation as required by law, and we were talking about using $50,000,000 of that fund temporarily. Now, I will turn to the bill. There are two clauses; one is:

> And he may at any time apply the surplus money in the Treasury not otherwise appropriated, or so much thereof as he may consider proper, to the purchase or redemption of United States bonds or Treasury notes.

The Secretary was speaking of the $50,000,000 to come from the fund held to redeem United States notes, the resumption fund; and we say he may use temporarily that much of it, replacing it after he has saved the interest and sold the bonds; and then we also say that he may use the surplus money to redeem the notes. I do certainly understand that there is a clear distinction between the fund and the surplus money here referred to. The surplus money is what is not by law appropriated for any other purpose, in the Treasury. This fund is pledged to redeem United States notes. It makes them good, gives us a sound currency, is a pledge to be kept there to redeem the notes; and we say to the Secretary, "You may use so much of that temporarily to save interest." Then we say further, "You may use all the surplus money that is there," meaning something not pledged or not appropriated for the redemption of the legal-tender notes.

I trust we shall leave the Secretary this discretion, making it plain so that no Secretary can understand that we authorize him to use money appropriated or pledged to be kept in the Treasury to redeem our notes to pay them on demand, for any other purpose except as we provide for this temporary use to save interest and pledge the bonds to be held to repay it.

Mr. McDONALD. When looking at this section and the amendment proposed to it, it seems to me that to relieve it of all ambiguity there should be an amendment to the first part of the section to this effect, that this $50,000,000 authorized to be taken from the gold and silver in the Treasury for the redemption of bonds should be of the fund now held in the Treasury for the redemption of the circulating notes of the United States. If it applies to a different fund than that referred to in the latter part of the section, by which the Secretary of the Treasury is authorized to apply any surplus in the Treasury to the redemption of these new notes, then that distinction ought to be made clear that it does apply to a different fund, a fund held there for some other purpose, the purpose of which, however, may not be of such an exigency that it requires immediate use, so that it may be temporarily employed in the manner herein provided.

Mr. BAYARD. Let us adopt the amendment of the committee, and then we can prepare another amendment if it is necessary.

Mr. KERNAN. I am sure that both the Secretary and the committee understand it as I have stated.

Mr. McDONALD. If it is to withdraw temporarily any part of the coin held under the law for the redemption of the circulating notes of the United States, then I think it ought to be replaced; but if it is a surplus to be used, I see no necessity for its replacement. If it is intended to be of the first class, the bill ought to so specify.

Mr. KERNAN. Adopt this amendment, and we can be prepared to meet that point.

Mr. McPHERSON. Will the chairman of the Committee on Finance answer me one question? On the 1st day of January, 1879, the day fixed by law for the resumption of specie payments, there was a certain sum of money in the Treasury of the United States for the purposes of resumption. Experience proves that that sum was sufficient for the purposes of resumption, because all of the Treasury notes that were presented for redemption were redeemed. Now, will the honorable Senator tell me how much that has been increased?

Mr. KERNAN. The notes were redeemed and issued again, for by law we compelled the Treasury to keep reissuing them.

Mr. McPHERSON. But the fact I wish to get at is, how much that fund has been increased since January 1, 1879. I only wish to know how much increase of gold and silver there has been in the Treasury since the 1st of January, 1879.

Mr. BAYARD. I know about the amount there now.

Mr. McPHERSON. The statements of the Secretary of the Treasury should show it.

Mr. BAYARD. I have the Secretary's report, which shows the amount of gold and standard silver coin, and it is something near two hundred million dollars. I had the figures here and stated them in some remarks I made to the Senate in opening the discussion. I think the amount of gold is about one hundred and forty million dollars and of the standard silver about forty million dollars; that is, independent of certificates.

Mr. McPHERSON. Is the excess over what was there in 1879 equal to the $50,000,000 proposed to be taken from the Treasury?

Mr. BAYARD. I cannot answer as to the precise amount of gold and silver in the Treasury on the day fixed for resumption.

Mr. INGALLS. I can answer the Senator from New Jersey. The amount of gold coin and bullion in the Treasury January 1, 1879, the date of the resumption of specie payments, was $135,382,639.42, which had been increased up to the date of November 1, 1880, to the amount of $140,952,837.74.

Mr. BAYARD. That is gold. Then of silver there was about forty-eight million dollars besides.

Mr. INGALLS. Forty-seven million eighty-four thousand four hundred and fifty-nine dollars.

Mr. McPHERSON. Then there has been an increase of over fifty million dollars in gold and silver together since the 1st of January, 1879.

Mr. BAYARD. But the Senator will understand that the silver standard dollars have been coined since the date of resumption. There were none in the Treasury at that time.

Mr. TELLER. Does not the Senator know that that does not enter into the resumption fund at all? The silver dollar does not enter into that. There are one hundred and forty million dollars and odd, besides the $47,000,000 of silver.

Mr. BAYARD. I cannot state whether there is a separate fund kept. That is the reason why I objected somewhat to the amendment proposed by the Senator from Indiana, that we should say that this should be taken from the resumption fund. I know not whether there is a fund upon the Treasury books bearing that name.

Mr. ALLISON. There is no such fund designated on the books of the Treasury, but the sum set apart to it is about one hundred and forty million dollars.

Mr. BECK. Fifty million dollars more now than at the time of resumption.

Mr. ALLISON. But that $50,000,000 represents silver certificates and certificates of indebtedness held by people outside as a special fund. Look at the Treasury statement and you will see it.

Mr. McPHERSON. The reason for my asking the question was that I wished to be able to form a judgment whether I could with propriety vote for this section of the House bill without the amendment offered by the Committee on Finance. If there is any danger to resumption at all, I certainly am in favor of voting for a temporary removal of the fund, to be replaced again by the sales of the bonds or Treasury notes. If there is $50,000,000 standing to the credit of the Treasury to-day more than there was on the 1st of January, 1879, which experience has proved was all-sufficient, all that was necessary for the purposes of the resumption fund, then I shall vote for the House section pure and simple, and against the amendment of our committee.

Mr. INGALLS. The $141,000,000 that is held in the Treasury as a resumption fund, as I understand, rests entirely upon the will of the Secretary of the Treasury. The amount was not fixed in the law authorizing the resumption of specie payments, but he was directed to establish a fund sufficient to maintain resumption, and he has fixed upon the sum of $140,000,000 or $141,000,000.

Mr. McPHERSON. Now, will the Senator state how much has been redeemed by resumption?

Mr. INGALLS. I was going on to state that it is a very singular fact that during the twenty-two months elapsing from the time when specie payments were resumed up to the 1st day of November, 1880, the entire amount of legal-tender currency presented for redemption in coin was less than $12,000,000, and of that sum during the last ten months of that period the amount was a little over five hundred

thousand dollars. So that if the coin that was placed in the Treasury and set apart as a fund for the resumption of specie payments and redemption of the legal-tender notes had been placed at interest, the amount that it would have earned would have sufficed to have redeemed nearly every dollar that was presented, and it might have been put in the fire and burned up and the country would have been just as rich as it is to-day and would have an addition to its wealth of the amount of interest that would have been earned.

Now, Mr. President, I contend that experience has shown that the judgment of the Secretary of the Treasury is at fault. The law did not fix the amount of the fund to be placed in the Treasury for resumption purposes. The Secretary of the Treasury was directed to prepare and set apart a fund for that purpose, which he did, and experience has shown that that is vastly in excess of the amount necessary for that purpose.

Mr. BAYARD. But is not that made practicable only by the accompanying power to sell to an unlimited amount bonds of the United States bearing 4, 4½, or 5 per cent. interest to any extent necessary for the purpose of buying gold and silver to redeem the notes in case they are presented?

Mr. INGALLS. If that power exists in the Secretary of the Treasury, what is the use of keeping $140,000,000 of dead capital in the Treasury earning nothing?

Mr. BAYARD. Because it saves the issuance of the Government credit to sell the Government bonds.

Mr. INGALLS. The bonds would be redeemed if this coin were used for that purpose; and if the emergency should arise hereafter when there would be occasion for any increase in the amount of the public debt, the Secretary of the Treasury under the resumption act of January, 1875, is authorized to sell bonds for the purpose of making this fund, and he did sell bonds to the amount of $95,500,000 of fours and four-and-a-halfs.

Mr. BAYARD. And the gold and silver there now is the proceeds of that sale.

Mr. INGALLS. Ninty-five million five hundred thousand dollars is the proceeds of that sale, and the rest has been accumulated out of the surplus revenues.

Mr. BAYARD. Out of customs duties.

Mr. INGALLS. He has decided as a matter of judgment on his part that the amount of gold coin to be held in the Treasury necessary for redemption purposes is $140,000,000, and that in face of the fact that within the period of twenty-two months since redemption existed, up to the time when his last report was made, the entire amount presented had been less than $12,000,000.

Mr. McMILLAN. Will the Senator from Kansas allow me to ask him a question?

Mr. INGALLS. Yes, sir.

Mr. McMILLAN. If the Secretary of the Treasury had not reserved that amount of coin, what assurance has the Senator from Kansas that a very much greater amount of the currency would not have been presented for redemption?

Mr. INGALLS. Well, Mr. President, I have no assurance at all.

Mr. McMILLAN. Very well.

Mr. INGALLS. That is the most remarkable interrogatory that I have ever heard submitted by one human being to another. What assurance have we that if the Secretary of the Treasury had not set apart $140,000,000 in coin in the Treasury as a fund for redemption a vastly greater amount would not have been presented to be redeemed! Does the Senator from Minnesota present that as an argument, or is he inclined to be jocular? The fact is——

Mr. McMILLAN. If the Senator will return an answer to the question, perhaps it will appear whether the question is sensible or not. I have no doubt wisdom will die with the Senator from Kansas.

Mr. INGALLS. It never was born with the Senator from Minnesota. That is very evident.

Now, Mr. President, instead of saying, as the House bill does, that the Secretary of the Treasury is authorized to use $50,000,000 out of the resumption fund or the reserve gold in the Treasury, I would say that he should be required to use $100,000,000. Resumption has been established; and in case there should be any emergency arising hereafter by which it appeared evident that there was to be a demand upon the Treasury for the redemption of legal-tender notes, the power would still exist in the Secretary of the Treasury at any moment to increase the fund by the sale of any of the bonds authorized by law.

Mr. McPHERSON. The Senator appears to have the tables of the amount of money in the Treasury. Will he please tell me now what portion of the $140,000,000 was made up by a sale of bonds?

Mr. INGALLS. Ninety-five million five hundred thousand dollars.

Mr. McPHERSON. Does the Senator pretend to say that the Secretary of the Treasury in anticipation of the needs for resumption purposes sold $95,000,000 of bonds and placed the proceeds in the Treasury?

Mr. ALLISON. Certainly.

Mr. INGALLS. He sold $65,000,000 of four-and-a-halfs and thirty and a half millions of fours.

Mr. McPHERSON. And only $12,000,000 have been sent in for redemption?

Mr. INGALLS. During the period of twenty-two months from the 1st of January, 1879, to the 1st of November, 1880; and of that sum during the ten months of the last year, prior to November 1, the amount presented for redemption was a little in excess of $500,000, and during the month of October, 1880, the entire amount presented was $9,000. So the demand has been constantly diminishing from the time when specie payments were resumed on the 1st of January, 1879, down to October 31, 1880, when we have the last report, so that in that month the entire amount presented for redemption was $9,000, and for these purposes the Secretary of the Treasury holds in the Treasury the sum of $141,000,000 in gold coin, for which we are paying at the rate of 4 and 4½ per cent. on $95,500,000, and the balance of which might be put into similar securities and earn a like amount. As I said before, the interest that would be earned by this money if it were put at work would have redeemed almost the entire amount presented, and it might have been burned up and consumed and entirely wiped out from the national debt.

Mr. FERRY. I should like to ask a question of the Senator from Kansas. Is not the fact made known to the public that there is $140,000,000 of coin in the Treasury an assurance to the people that the currency, the greenbacks as they are termed, will be promptly redeemed or paid on presentation?

Mr. INGALLS. The public do not know that this money is in the Treasury.

Mr. FERRY. Certainly the fact is published.

Mr. INGALLS. It is published, but who reads it? Who has known it in this Senate until within the last twenty-four hours? Who could have told how much money there was in the Treasury held for resumption purposes?

Mr. FERRY. They might not have known the exact amount, but they get the monthly statements.

Mr. INGALLS. I ask, as a reply to the question of the Senator from Michigan, who in this Senate knew what the amount of gold coin was held in the Treasury for resumption purposes before this debate began?

Mr. FERRY. We knew it by the monthly statements.

Mr. INGALLS. I venture to say that the Senator cannot state now how much there is in the Treasury. When he speaks about this knowledge being an assurance to the people, I respond that the people do not know anything about it. The assurance the people have rests upon the fact, in the first place, that the currency has been promptly redeemed, and it rests beyond and far outside of all that on the fact that nobody wants any gold or silver; nobody asks for it. The people prefer the paper.

Mr. FERRY. I notice that the amount of coin in the Treasury which the Senator has stated, and we all know it now, is about 40 per cent. of the volume of greenbacks. That amount is based upon the judgment of all bankers——

Mr. INGALLS. Based on the judgment of the Secretary of the Treasury.

Mr. FERRY. Bankers consider that 40 per cent. of coin it is necessary to keep for the redemption of their bills; so that I take it the Secretary of the Treasury in fixing that amount has based it upon the common judgment of bankers.

Mr. McDONALD. Mr. President, with the explanation that has been made in reference to these two parts of section 4, I think perhaps it is proper that the amendment reported by the Committee on Finance should be adopted; but when it is adopted I shall propose an amendment in addition to line 4 to this effect, after the word "Treasury" to insert "now held for the redemption of United States Treasury notes;" so as to make the section read "to use temporarily not exceeding $50,000,000 of the standard gold and silver coin in the Treasury now held for the redemption of United States notes," &c. Then it will provide for the replacement of so much of that fund as the Secretary of the Treasury may think it necessary to use.

Mr. COCKRELL. Would that not have the effect of authorizing the Secretary of the Treasury to pay out gold coin alone, as that was the only coin that he absolutely purchased for redemption and holds as a redemption fund, and nullify the words "gold and silver coin?'

Mr. McDONALD. No; I apprehend not. I apprehend that the coin which he holds in the Treasury (which I understand is one hundred and forty millions) as a redemption fund embraces silver coin as well as gold coin.

Mr. COCKRELL. No.

Mr. TELLER. It embraces nothing but gold coin.

Mr. ALLISON. May I call the attention of the Senator from Indiana to one fact, and that is, that no money is held in the Treasury and set apart specifically for the redemption of United States notes by the name of a redemption fund? Therefore, if his amendment is added, I do not believe it will strengthen the bill at all.

Mr. McDONALD. I desire that there shall be a clear distinction drawn between the coin which the Secretary of the Treasury may use temporarily in purchasing United States bonds that may become due, and that application which in the latter clause of this section he is authorized to make at any time of the surplus in the Treasury not otherwise appropriated, for certainly all money that he may thus apply as money not otherwise appropriated would not be expected to be restored again to the Treasury, for it would be absolutely an appropriation. This section appropriates that surplus for that purpose. It seems to me, therefore, that the money which may be temporarily used to be refunded ought to be distinguished, and clearly

distinguished, from that surplus which this bill proposes to appropriate.

One word as to the amount of coin in the Treasury held for the redemption of United States Treasury notes, the one hundred and forty millions said to be there, and which my friend from Kansas thinks is entirely useless there. There may be no necessity for the amount now held, but I apprehend that if on the 1st of January, 1879, there had been but ten millions in the Treasury of gold coin, and if there had been no silver provided for by the act of 1878 that could be applied to the redemption of these circulating notes, the $346,000,000 of circulating notes then out and that are still outstanding would have long since been presented to the Treasury. If there had been but the sum which has been paid out in redemption the last twenty-two months in the Treasury, if there had not been back of that the means of repelling, if you please, the assaults that the men who held that currency would have made upon the Treasury, it would have been broken down long ago. Although Senators may not have known how much coin there was in the Treasury, and although the country at large may not have had specific information on that subject, I say to you, Mr. President, that the moneyed men of this country, the men who make money by the use of money, by, if possible, making a difference of a quarter of 1 per cent. between one class of circulation and another, would have very soon ascertained how much coined money there was in the Treasury, and how the credit of the Government was to be broken down by drawing it out.

Mr. EATON. They did know all the while how much was there, and therefore they made no effort to break it down.

Mr. McDONALD. Knowing that they could not make a run on the Treasury successfully they did not try it. That is all there is about it, and I do not think we have passed so far through this experiment of resumption that it would be very safe for us to reduce in any great degree the amount of that fund so held. Although we may have but little interest on it for the time being, it is a safety to the credit of the Government that it cannot very well dispense with at this time.

Mr. PLUMB. Mr. President, the law for the establishment of national banks fixed the maximum fund for redemption which the banks are required to keep for the payment of their deposits at 25 per cent. in what are known as redemption cities; in all other places it is fixed at 15 per cent. That law is said to crystallize the business judgment of men upon that particular question. In cities like New York, Cincinnati, and New Orleans, the amount required to be kept is 25 per cent. of the sum on deposit; in the country banks it is 15 per cent. That is to provide for the payment of an actual deposit; it is to provide for the payment of that which men need for the transaction of their business. That is deemed to be sufficient for all practical purposes and to protect the banks against the danger of a run, or of anything except a most extraordinary condition of things.

The law provides also for the deposit of 5 per cent. of the national-bank circulation in the Treasury of the United States as a redemption fund for the redemption of the national-bank circulation; in other words, for the $320,000,000 of national-bank circulation now outstanding $16,000,000 is required to be kept in the Treasury, and that $16,000,000 has performed fully and perfectly not only the office of redemption proper during the entire time it has been there, but also the office of the restoration of worn-out bank-notes. I venture to say that of all the national-bank notes which have been presented to the Treasury of the United States for redemption under the act requiring the banks to keep 5 per cent. of their circulation there for that purpose, not 1 per cent. has ever been presented because the bill was worn out. In other words, no man has ever practically presented a dollar of national-bank circulation to the Treasury of the United States for redemption because he wanted some other kind of money. And yet the national-bank note is not as good as the greenback.

Five per cent. has proved ample when the public knew there was only 5 per cent. in the Treasury to protect and keep at par the national-bank circulation of the United States. If my check were just as good as a greenback, if it were negotiable by delivery and were just as certain to be good a thousand miles away from where it is payable as it is at the place where it is payable and at all times, then I might or any other individual might draw 75 per cent. more against his account than the amount of money he had on his check-book. But the condition of things in relation to the Government transaction is entirely different. When a man takes a greenback he has that which performs all the offices which money can perform. It pays customs dues, pays his obligations to the Government, pays his obligations to his fellow-men; it is equally good everywhere. There is no inducement under the shining sun to him to present that for exchange into any other thing unless indeed it may be that a man has in his mind the producing of something else. The only inducement to anybody to come to the Treasury of the United States with any considerable sum of greenbacks and ask that he shall have gold and silver for them is that he may produce some ulterior purpose which is opposed to solvency and which is opposed to the ordinary methods of transacting business.

It has been said that there are some men who have the power to get together a large quantity of greenbacks and bankrupt the Treasury if the amount of gold there for the redemption of notes is small. There are two persons whose names have been mentioned, two prominent citizens of the city of New York, who it is said could get together in a few minutes $50,000,000 of greenbacks. Grant it. They can sell on the market perhaps at any time $50,000,000 of securities; but with what effect? In the first place, the selling of those securities in that sum, and during that period of time, or during any other reasonable period of time, would be productive of immense loss to them, not only upon the securities sold, but upon all the other property held and owned by them. Mr. Vanderbilt and Mr. Gould, or Mr. Anybody else cannot lock up $25,000,000 in the city of New York without producing a business depression which would rob him of any possible profit to be realized by that kind of a transaction. And when he came to the Treasury, what then? The Secretary is equally authorized to pay out gold or silver, and I am in favor myself of giving to every person who holds a Government obligation, whether in the shape of a contract or a bond, the kind of money he wants of the different kinds the Government issues, provided he wants it for legitimate purposes; and if one of these gentlemen or anybody else were to come to the Treasury with $25,000,000 of greenback funds and say: "I want gold," it would be at the option of the Secretary, and it would be not only his privilege but his duty to say: "Bring up your cart and take silver;" and that settles that question.

Mr. EATON. Carts?

Mr. PLUMB. My friend from Connecticut says "carts." He is right; I probably ought to use the plural term, and I will use it; it ought to be "carts."

In addition, if anything of that kind is to be done it must be well done in order to be successful. Who wants to try to break the Treasury of the United States unless he accomplishes it, unless the ruin which he seeks to make will be visited on somebody else besides himself? And who believes that with the power in the Secretary of the Treasury, as stated here by the chairman of the Finance Committee, to sell any amount of 4 and 4½ per cent. bonds that he desires, any man will ever undertake such a job with any expectation of success? It is just like the old Frenchman who came with his check to the bank and they paid him out every dollar. "Ah," said he, "you got him, then I don't want him; you no got him, then I do want him." If the money is there to pay—the power of the Secretary is there to pay at all times and in all cases every dollar that is outstanding—no man who has the paper dollar wants the gold; he wants simply the dollar which he has got.

It is a peculiarity of our method of doing business that we take hold of that alone which we can handle the easiest and the cheapest. All the tendency of modern business is to the short cut. We want that which can be carried from one section of the country to the other with the least expense. Therefore we take the greenback in place of gold, and we take the draft in place of either, and there is no condition of things possible, or at all events within the limits of any human probability, that will ever permit the presentation of even $5,000,000 of greenbacks at any one time for redemption to the Secretary of the Treasury; and for the same reason that, as I said before, 5 per cent. of the national bank circulation has been ample for its redemption. Here is a better currency, and an equal amount of money in the Treasury of the United States will suffice for the redemption of the greenback as well as it does for the national-bank note. But there is no use in higgling about a question of a few millions. No one proposes to cut the fund down to 5 per cent.; let it be 25 per cent., if you will; but where is the necessity in the present condition of things of keeping $140,000,000 of coin in the Treasury for that purpose? It ought not to be so, not only because we are losing the interest, but it ought not to be so because to-day the country needs that money for the purpose of transacting its business.

I speak of that which I know when I say that when the crops of the West come to be moved there is a great stringency; there is great need for more money, which is scantily supplied. Money has to be brought from New York and Chicago and Saint Louis, and the demands of business there are such that after it goes to the points where it is needed to move the crops it is immediately sucked up, as it were, and carried back to those money centers, leaving our section of country largely denuded of money. We are building new railroads in that section of country. Everywhere the spirit of enterprise needs more money, money that can be used not as checks, but as gold is used, as silver is used; that which actually is money, and not merely its representative. And as we go on extending our population west and building up these new enterprises we shall constantly need more; but during the time we need it the Treasury hoards it up, and not only deprives the people of the United States of the interest upon that money, but deprives them of what is of a great deal more consequence, the use of it meantime, retards their business, clogs it, to a certain extent breaks it up, makes the carrying of it on a great deal more expensive than it otherwise would be. It is the beginning of a wise policy, of a true regard for the credit of the United States, that a large sum, I say at least $100,000,000, should be taken from the Treasury of the United States and devoted to the redemption of that much of the interest-bearing obligations of the United States now outstanding, and that money put out, in order that it may fill the channels of trade and perform the office it was created for.

Mr. TELLER. The Senator from Minnesota [Mr. McMILLAN] inquired whether we have any assurance that if this coin had not been in the Treasury from January 1, 1879, there would not have been a greater demand for the redemption of legal-tender notes. Now, I am free to admit that in my judgment there would have been a demand

for more money than there was. There is not any doubt about that. The fact that the money was there kept a great many men who otherwise would have gone there with their greenbacks from going. They would not have gone to the Treasury because they wanted the money for its use, but because there had been for many years a speculation in gold. Now we have passed that period; nobody believes we can return to it unless some great disaster shall overtake us like the war that we had some years since. People did go to the Treasury and did take a million and a half of money the first month; the next month they took nearly a million; and the next month nearly a million. Then they began gradually to drop off, and it was apparent then that there was no speculation in it and none could be had; and then there was an opportunity for the Secretary of the Treasury to have reduced the money that he was authorized to hold, but instead of doing that he increased it. As the demand made on the Treasury for gold in exchange for paper money fell off, he increased his supply of gold.

Can anybody give any reason for that? In the ten months of 1880 preceding the 1st day of November, there was only $406,000 all told presented, and in the twenty-two months following resumption there was less than $12,000,000, as I stated before. Now, with the experience of two years, with no indication that there is to be any movement like a speculation in gold, the thing being impossible, we are told that we must keep piled up $140,000,000 of gold always, forever, until we see fit to retire the greenback money. Why, Mr. President, it is a proper thing, I admit, to keep some money in the Treasury for this purpose. I think that every prudent bank should keep some money on hand and every prudent bank in this country, even during the excitement when gold was up, attempted to keep some gold. They did it I know in some of the Western banks even at the high price of gold; they kept more or less, and as gold fell they kept more; and the Government ought to keep some gold and ought always to have some, but is it necessary to have $140,000,000?

Mr. PADDOCK. I should like to ask the Senator a question.

Mr. TELLER. I will answer if I can; I do not know that I can. I am not a financier.

Mr. PADDOCK. I supposed the Senator was, from the arguments I have heard him make here to-day. Suppose that the national banks were required to redeem their notes over their own counters in gold as they might be presented, what percentage of gold does the Senator think the banks ought to have in their vaults to keep themselves protected?

Mr. TELLER. I am not a banker. It has not been my business in life to handle money. I do not pretend to know very much about the practical details of banking, but I know that no bank in the country ever kept 40 per cent., when banks were worth having, and that would be considered, according to my judgment and my limited experience as connected with banks, an extremely stupid thing for banks to do.

Mr. PADDOCK. I think if the Senator will investigate he will ascertain that all human experience in banking has demonstrated that between 30 and 40 per cent. of specie is an absolute necessity.

Mr. TELLER. Never at any time. Under the old banking system there was no law that required them to keep more than 20 per cent., so far as I know. As was said by the Senator from Kansas, [Mr. PLUMB,] we require the national banks to keep the enormous sum of 5 per cent. in the Treasury of the United States to redeem their circulation, and that is ample, and that accomplishes the purpose.

Why do the people not go up to the Treasury to get gold? Because they do not want it; because they will not have it. I hold before me the report of the Secretary, in which he shows that 57 per cent. and a fraction of all the money received at our ports of entry is received in gold. Why? Because the people who had greenbacks would not pay the greenbacks out. Eleven per cent. of the amount received was received in greenbacks, and 31 per cent. was received in silver certificates. It is a fact pretty well understood that men have been found in this country so stupid as to exchange gold for silver certificates. Why? Because these Treasury certificates could pass more readily from hand to hand than the gold. People may talk as much as they please about the inconvenience of silver; when you come to handle gold it is just as inconvenient as silver. Put $500 of gold in your pocket and you cannot walk up and down the streets of this city without inconvenience. Anybody who has tried it knows it; but you can put a million dollars of greenbacks there if you are so fortunate as to have them, and do it. I have never tried that. The reason why they will not step up to the counter and demand gold is because they would not take it if it was offered to them, and the Government has found trouble in paying the gold. The railroad companies in the West have been paying gold, and the people who have been taking it from them have been clamoring for greenbacks, and have preferred the disgraced and debased representation called a silver certificate. They have been willing to take a silver certificate from a railroad company in payment of their debts rather than to take gold.

I repeat again that in my judgment (and I do not believe that anybody can give a good reason why we should do more) $10,000,000 is ample. If you have got $10,000,000 and the people come with $10,000,000 of greenbacks and they cannot aggregate more than that——

Mr. BLAIR. As the Senator is talking to me pretty much, I want to ask him a question.

Mr. TELLER. I will hear the Senator when I finish the sentence. If they go to the Treasury for gold, and it exceeded that amount, and I think it would be pretty difficult to exceed $20,000,000 or $25,000,000 which you will have left over, the Secretary can go upon the market and immediately offer 4 and 4½ per cent. bonds, and they would be snapped up as quickly as possible for the bankers to make their checks payable in gold. Therefore, it is practically impossible to make a raid upon the public Treasury. Now I will hear the Senator, if he has got any question he wants to ask, provided it is one that I can answer.

Mr. BLAIR. It has occurred to me that this discussion as to the amount of gold reserve, which has been going on for a long time, is treated with reference to resumption alone. I should like to ask the Senator if he does not believe the fact that this large amount of gold in the Treasury on deposit is a very significant and efficient factor in connection with refunding purposes themselves? I would ask the Senator if he believes that if there were only $10,000,000 of gold in the possession of the Treasury the rate upon the Government bonds to-day would be any less than 6 per cent.? But for this large deposit we should not be able to-day to be refunding the debt of the United States at anything like 3 or 3½ per cent.

Mr. TELLER. The amount of money in the Treasury in my judgment has nothing to do with the interest on the bonds. It is the ability of the Government to meet its bonds when it agrees to meet them that settles that question. What does the man who has a bond payable in 1907 care whether there are $200,000,000 or $250,000,000 of gold in the Treasury? What has he to do with it? He knows that the duties are ample to pay his interest. That has nothing in the world to do with it, in my judgment.

Mr. BLAIR. I do not suppose it is any use to discuss a matter of this kind with the Senator from Colorado. He says he is no banker, neither am I, nor the son of a banker, but I can comprehend it as a possible thing that if the confidence of the country in the ability of the Government to redeem, and redeem instantly, the legal-tender currency were in any wise shaken in the most infinitesimal degree, we should not be able to-day to be hiring money at less than individuals of good credit. There is no business man in the country who can hire money to-day for less than 5 or 6 per cent.; no matter how much he is worth, no matter how good his credit simply as a business man. I believe that nothing enables the Government of the United States to be refunding its obligations at 4½, at 4, and now at 3½ and possibly at 3 per cent., but the well-known fact that there is gold enough on deposit to break down any possible combination that might affect the public credit. It is not simply sufficient to protect the credit of the Government in the redemption of the greenbacks; we have got more than that to do; and that is done so far as refunding purposes are concerned by this immense deposit of gold.

Mr. TELLER. That is not a question, and I do not know when the Senator will get through.

Mr. BLAIR. If it is not a question, it may be taken as a matter of instruction by the Senator.

Mr. TELLER. It is a regular argument that the Senator has interjected into my speech. He says that he does not know anything about finance. I hardly believe he does, if he makes the statement now that interest on the public debt is lessened from the fact that the Government carries $200,000,000 when it is only 10 per cent. of the whole debt. If any man in my country owed $1,000 and had $200, and that was all he had, and it was on deposit, nobody would think that would strengthen his credit very much, and there would not be very much of a rush after his paper. It is not that. It is the ability that the Government has to meet its notes when they become due, and when the people demand them, and it is the knowledge men have that the people will not demand them in excess of the ability of the Government to meet the demand, and that if they should the Government can bring every dollar of gold in the United States into its coffers in twenty-four hours by putting upon the market its bonds bearing 4 and 4½ per cent. This is what makes the credit of the Government, and it is not anything else. As I said before, 57 per cent. of the revenues paid at our customs ports are paid in gold; there is an immense sum of gold pouring every day into the Treasury, and if any sudden emergency arises the Government can use that to pay its debt and then sell bonds afterward to replace it.

The PRESIDING OFFICER, (Mr. HARRIS.) The question is on the amendment of the Committee on Finance.

Mr. TELLER. Let us have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BOOTH, (when his name was called.) On this question I am paired with the Senator from Massachusetts, [Mr. HOAR.] If he were here, I should vote "nay."

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "nay."

Mr. WALKER, (when his name was called.) On this question I am paired with the Senator from Colorado, [Mr. HILL.] If he were present, I should vote "nay."

The roll-call was concluded.

Mr. ROLLINS. On this question the Senator from Massachusetts [Mr. DAWES] is paired with the Senator from Tennessee, [Mr. BAILEY.] The Senator from Massachusetts would vote "yea," if he were present.

Mr. MORRILL. I desire to say that on this question my colleague

[Mr. EDMUNDS] is paired with the Senator from North Carolina, [Mr. RANSOM.] If my colleague were present, he would vote "yea."

Mr. LOGAN. I am paired on the votes upon this bill with the Senator from North Carolina, [Mr. VANCE.] I do not know how he would vote on this particular amendment, but I shall not vote on account of the pair.

The result was announced—yeas 26, nays 19; as follows:

YEAS—26.

| | | | |
|---|---|---|---|
| Allison, | Call, | Kirkwood, | Rollins, |
| Anthony, | Cameron of Wis., | McDonald, | Saulsbury, |
| Baldwin, | Eaton, | McMillan, | Voorhees, |
| Bayard, | Ferry, | Morrill, | Wallace, |
| Blair, | Groome, | Paddock, | Windom. |
| Burnside, | Hampton, | Platt, | |
| Butler, | Kernan, | Randolph, | |

NAYS—19.

| | | | |
|---|---|---|---|
| Beck, | Harris, | McPherson, | Slater, |
| Cockrell, | Hereford, | Maxey, | Teller, |
| Coke, | Ingalls, | Morgan, | Vest, |
| Davis of Illinois, | Jonas, | Pendleton, | Williams. |
| Garland, | Kellogg, | Pugh, | |

ABSENT—31.

| | | | |
|---|---|---|---|
| Bailey, | Davis of W. Va., | Hoar, | Saunders, |
| Blaine, | Dawes, | Johnston, | Sharon, |
| Booth, | Edmunds, | Jones of Florida, | Thurman, |
| Brown, | Farley, | Jones of Nevada, | Vance, |
| Bruce, | Grover, | Lamar, | Walker, |
| Cameron of Pa., | Hamlin, | Logan, | Whyte, |
| Carpenter, | Hill of Colorado, | Plumb, | Withers. |
| Conkling, | Hill of Georgia, | Ransom, | |

So the amendment was agreed to.

The next amendment of the Committee on Finance was, in section 4, line 12, after the words "bonds or," to strike out "certificates" and insert "Treasury notes."

The PRESIDING OFFICER. The amendment is agreed to if there be no objection.

Mr. TELLER. I object to it.

The PRESIDING OFFICER. The question is on the adoption of the amendment reported by the committee.

Mr. TELLER. I move to amend the amendment of the committee by inserting, after the word "notes," the words "authorized by this act." Otherwise this redeeming and cancelling will apply to all Treasury notes. I suppose the object is to apply it to this class of Treasury notes.

Mr. ALLISON. There are no Treasury notes except these.

Mr. TELLER. That is a mistake. The greenbacks are called Treasury notes in the statutes.

Mr. ALLISON. Not at all.

Mr. BAYARD. No, they are termed "United States notes."

Mr. TELLER. They are called "Treasury notes," I think.

Mr. ALLISON. Nowhere in the statutes, I think.

Mr. TELLER. I can show the Senator.

Mr. DAVIS, of Illinois. Why object to the amendment of the Senator from Colorado? It will do no harm.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Colorado to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Finance was, in section 4, line 13, after the words "bond and," to strike out "certificates" and insert "Treasury notes."

Mr. TELLER. That should be amended in the same way. I move to insert after the word "notes" the words "authorized by this act."

Mr. ALLISON. I suggest to my friend from Colorado that that is wholly unnecessary. The language is, "Treasury notes so purchased."

Mr. TELLER. Perhaps it is unnecessary in this case. I withdraw the amendment.

The PRESIDING OFFICER. The amendment to the amendment is withdrawn, and the question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment of the Committee on Finance was to strike out section 5 of the bill in the following words:

From and after the 1st day of May, 1881, the 3 per cent. bonds authorized by the first section of this act shall be the only bonds receivable as security for national-bank circulation, or as security for the safe-keeping and prompt payment of the public money deposited with such banks; but when any such bonds deposited for the purposes aforesaid shall be designated for purchase or redemption by the Secretary of the Treasury, the banking association depositing the same shall have the right to substitute other issues of the bonds of the United States in lieu thereof: *Provided*, That no bond upon which interest has ceased shall be accepted or shall be continued on deposit as security for circulation or for the safe-keeping of the public money; and in case bonds so deposited shall not be withdrawn, as provided by law, within thirty days after interest has ceased thereon, the banking association depositing the same shall be subject to the liabilities and proceedings on the part of the Comptroller provided for in section 5234 of the Revised Statutes of the United States: *And provided further*, That section 4 of the act of June 20, 1874, entitled "An act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes," be, and the same is hereby, repealed; and sections 5159 and 5160 of the Revised Statutes of the United States be, and the same are hereby, re-enacted.

The PRESIDING OFFICER. The question is on agreeing to this amendment of the committee.

Mr. PLUMB. Is the amendment subject to a division? Can it be divided?

The PRESIDING OFFICER. In what way does the Senator from Kansas suggest a division of the question?

Mr. PLUMB. I suggest that the vote be first taken on striking out that part of the section down to the word "provided," in line 11.

The PRESIDING OFFICER. The Chair inclines to the opinion that the question may be divided if the Senator demands a division.

Mr. PLUMB. I should be glad to have a separate vote on striking out that part of the section.

The PRESIDING OFFICER. If there be no objection, the Chair will first put the question on striking out the first part of the section down to the proviso, in line 11. To this the Chair hears no objection.

Mr. McPHERSON. Will not some member of the committee explain the whole tenor and effect of the amendment striking out this section? For my part, I must confess that I have not been able to examine it critically, as I should like to do.

Mr. BECK. I hope the request of the Senator from New Jersey will be complied with by some other member of the committee. If by no other, I will explain why I think it ought not to be stricken out. I suppose some gentlemen can tell why it ought to be.

Mr. BAYARD. There is an amendment proposed by the Senate Committee on Finance that had better be read in connection with the amendment striking out section 5 of the bill as it passed the House. As the section came from the House it provides that after the 1st day of May next the bonds authorized by this act, 3 per cent. bonds, so described by the House, shall be the only bonds receivable as security for national-bank circulation. It therefore proposes to create a compulsory market for the bonds authorized by this act, and provides that the national banks or any persons hereafter proposing to invest capital under the law of the national-bank associations shall be obliged to deposit the bonds authorized by this act, and none others shall be received. That is the question presented to the Senate for its determination.

Mr. WILLIAMS. Let me ask the Senator, does that compulsion extend to bank circulation now existing, or only to such banks as shall hereafter be started or increase their circulation?

Mr. BAYARD. It would depend upon how much of the bonds bearing interest over 4 per cent. the banks now have deposited for circulation. The bonds belonging to the banks which are now pledged for circulation over 4½ per cent. will be paid off under the operation of this law. Then there is but one alternative left to them, either to wind up or to take the bonds provided for by this act. None others will do; they cannot bank on four percents in lieu of those to be authorized under this funding bill.

Mr. BECK. What is the Senator's statement?

Mr. BAYARD. I say all bonds that the banks have which are redeemable at the option of the United States must be replaced by these 3 per cent. bonds, or the banks must stop their operations. Only those bonds which are redeemable under the law by the option of the United States are to be funded into three percents. If Senators will turn to page 6 of the bill, and to section 6, they will find that the bonds authorized by the first section of this act shall be receivable as security for the circulation issued to the national banks; and then follows another provision, that hereafter only bonds and other interest-bearing securities of the United States shall be receivable as security under section 5153 of the Revised Statutes. That provision is an amendment proposed by the Finance Committee.

I think the Senate had better consider the whole action of the committee together. We did not agree that the 3 per cent. bonds should be the only bonds of the United States receivable as security for the circulation issued to national banks, but we agreed that they might be receivable just as others are, as the 4 percents. under the banking act. It was not considered by the committee a good feature that the bank should be compelled to buy bonds of this loan any more than any other class, but that the stockholders of the banks should be treated just the same as the rest of their fellow-citizens all over this country. Besides, the compulsory feature, in the view of the committee, did not in fact add to the strength of the bonds, but on the contrary it rather suggested a weakness. The bill as proposed to be amended by the committee enables these bonds to be receivable just as any other bonds, as a deposit for the currency to be issued at the ratio of 90 to 100 per cent. The provision further in regard to section 5153 is that whereas the banks which are now designated as depositories for public money can deposit as collateral security for public moneys temporarily left with them as agents of the Government other securities than bonds of the United States, we now propose, however, that where they do receive Government moneys they shall deposit as collateral security none but interest-bearing securities of the United States. The two sections which are re-enacted by the House proposition are 5159 and 5160. Those sections provided, under the national-bank act:

SEC. 5159. Every association, after having complied with the provisions of this title, preliminary to the commencement of the banking business, and before it shall be authorized to commence banking business under this title, shall transfer and deliver to the Treasurer of the United States any United States registered bonds, bearing interest, to an amount not less than $30,000 and not less than one-third of the capital stock paid in. Such bonds shall be received by the Treasurer upon deposit, and shall be by him safely kept in his office, until they shall be otherwise disposed of, in pursuance of the provisions of this title.

SEC. 5160. The deposits of bonds made by each association shall be increased

as its capital may be paid up or increased, so that every association shall at all times have on deposit with the Treasurer registered United States bonds to the amount of at least one-third of its capital stock actually paid in.

The act of 1874 which was designed for the purpose of allowing the currency issued under the national-banking system to be retired at any time and the bonds taken up, repealed the two sections which I have just read, so that a bank desiring to return its currency to the Treasury could take back the whole of its bonds, and if it could not get its own circulating notes into its possession it would take United States notes for the full amount, and by depositing them be exonerated from any liability for the outstanding notes of the bank.

Mr. COCKRELL. I will read section 4 of the act of June 20, 1874:

That any association organized under this act, or any of the acts of which this is an amendment, desiring to withdraw its circulating notes, in whole or in part, may, upon the deposit of lawful money with the Treasurer of the United States in sums of not less than $9,000, take up the bonds which said association has on deposit with the Treasurer for the security of such circulating notes, which bonds shall be assigned to the bank in the manner specified in the nineteenth section of the national-bank act; and the outstanding notes of said association, to an amount equal to the legal-tender notes deposited, shall be redeemed at the Treasury of the United States and destroyed as now provided by law: *Provided*, That the amount of the bonds on deposit for circulation shall not be reduced below $50,000.

Mr. BAYARD. But it did not provide as to one-third of the capital. It changed it in that respect. That was the change. The later law provided for facility of the return of circulation by a bank and the release of its bonds. It is not necessary for me to state the history of the action. The House bill proposes to re-enact the two sections, which provided for the permanent retention of the bonds to the amount of one-third of a bank's capital with the Treasurer of the United States. The unexpected and unexampled premium upon the bonds of the United States created such an inducement to certain banks that they returned their currency, in order to take up their bonds and avail themselves of the extraordinary premium which was obtainable in the market, and in that way, not waiting to get their own currency, they took United States notes dollar for dollar and deposited the full amount, and upon that being deposited they received their bonds and sold their bonds and got the premium on them; but they did not continue the deposit of one-third of the amount of their capital in bonds because they had been released from that by the enactment of the law of 1874 which substituted the arbitrary sum of $50,000 in lieu of one-third of their capital, however much that capital might be.

The Finance Committee considered that we were facilitating this mode much more, and not interfering with the business of the country, by providing simply that the bonds authorized by this act should become at the will of the owners of any bank the basis for banking circulation, and that there was no necessity for the re-enactment of the two sections which I have read providing for the deposit of one-third of the capital stock, but there was sufficient protection under the law of 1874 to keep $50,000, in lieu of one-third of the capital, in bonds. That is the difference, and now it becomes a question as to whether your committee or the House is right in this respect. We considered that it was not necessary to re-enact these laws that had been repealed. We considered that the present provisions of law were sufficient to give ample security for the currency, which either had to have bonds pledged for it in the hands of the Treasury, or an equal amount, dollar for dollar, of United States notes placed in its hands.

Mr. McPHERSON. Let me ask the Senator a question, and I believe, if I understand it, it will be plain to everybody. The answer of the honorable Senator to my interrogatory, if I understand him aright, is that under the bill as it passed the House bank circulation is secured by 5 and 6 per cent. bonds, which we now propose to refund——

Mr. BAYARD. That is as a matter of fact under existing law.

Mr. McPHERSON. We propose to refund the 5 and 6 per cent. bonds which to-day are security for banking circulation. Will the honorable Senator tell me what proportion of the banking capital of the country is secured by the 5 and 6 per cent. bonds?

Mr. BECK. Two hundred and twelve million dollars.

Mr. McPHERSON. The $212,000,000 circulation under the bill as it passed the House would require to be secured by the bonds we now propose to issue, the 3 per cent. bonds we have agreed upon, and we should force the banks to accept them. They have not the power to elect to purchase 4 per cent. or 4½ per cent. bonds and pay the premium now demanded in the market and use those bonds as a basis for banking. In other words, it is only another way of forcing the banks to make a market for the bonds we propose to issue. Is not that it?

Mr. BAYARD. That is precisely it. I used the word "compulsory."

Mr. McPHERSON. But in the committee's amendment—to wit, in the sixth section of the bill—you propose to make these bonds receivable for bank circulation, but you have no compulsory clause.

Mr. BAYARD. That is just it.

Mr. SAULSBURY. As I understand, there is no compulsion in this proposed law, and I think it is eminently proper that the Government which pays to these banks the interest upon their capital should provide that when they come to the Treasury for the purpose of depositing their bonds to secure circulation, and it is the interest of the Government and the duty of the Government and of the people to require that they should deposit that security upon which the Treasury will have to pay the least amount of interest. These banking associations are receiving from the Treasury interest upon their capital. They have been very highly favored; they have been drawing from the Government a large amount of interest upon their capital, 90 per cent. of which they have had returned to them in the form of circulation. They have drawn at least $300,000,000 since 1864 and 1865 from the public Treasury upon their capital; and, as I said, when they hold as security for their bank circulation bonds that we propose to take up, it is no hardship upon these banks to say to them "hereafter when you replace these bonds which you have now to surrender, you shall replace them with bonds upon which the Government will have the least amount of interest to pay." In my opinion it is our duty to say to them that the people of this country shall no longer pay any large amount of interest upon the capital of the banks of the country. They have received ample protection from Congress. They have been making money, and have made large amounts of money in every section of this country. Take up the list of bank-stocks; there is scarcely a single national bank that has been in existence for ten years the capital stock of which has not advanced 50 per cent., and in many instances 100 per cent.

When I am called upon to vote what class of bonds the people of this country shall hereafter pay interest upon, held by these banks, I feel at liberty to say—nay, I feel bound to say—that they shall deposit that class of the public securities upon which the people of the country will have the least amount of interest to pay.

The fact is, that I have always thought, and I believe now, that the franchise granted to the banks is a full equivalent for the interest upon the capital which they deposit to secure their circulation. I believe we have been paying them a gratuity that they ought not to have received, for when the Government gave to them the valuable franchise of banking it was a full equivalent for the interest upon the bonds which they deposited with the Government to secure their circulation.

It used to be the habit when the old State banks had their notes in circulation, that they went to the Legislatures of the States and actually offered a bonus for a charter. We have been paying to these national banks and have paid to them in the last ten or fifteen years out of the public Treasury a bonus of $300,000,000 to furnish a part of the circulation of this country. I have no prejudice against the banks; I would not disturb any of their vested rights; but when the time arrives when they have got to replace the bonds to secure their circulation by a new issue of bonds, then I, as one of the representatives of the people, demand that they shall deposit that class of public securities upon which the people of this country have the least amount of interest to pay. It is not doing anything unjust to the banks, because the interest they receive upon their capital is a gratuity, and they have received from the Government a franchise that is worth all the interest upon their capital.

Mr. HEREFORD. Mr. President, as I understand this fifth section it simply dictates to the banks that are hereafter to be incorporated under the laws of the United States what securities they shall deposit with the General Government for their bank issues which are given out by the General Government. Has it come to this, that the Government of the United States has no power to say to these banking institutions what securities they shall deposit? What wrong is done to the banks that are hereafter to be incorporated for Congress to say, you shall deposit, for the bank issues that we are hereafter to give you, a certain class of securities? Who is injured? Is anybody injured?

Mr. President, this is the great lever power in this country. We have been told upon this floor that the national banks will co-operate to make this law that we are seeking to pass, ineffectual, to let it fall still-born; but if you keep the fifth section in the bill your bonds will be sold and floated. We have that right, we have that power; and I must express my surprise that any gentleman on this floor should deny the right, should deny the power, and should deny the justice of the exercise of that right and that power, to say what securities these national banks shall deposit for their issues.

For that reason, I am in favor of retaining the fifth section just as it came from the House. It is in favor of the people.

Mr. BECK. Mr. President, I am not much wedded to the compulsory clause of the fifth section, and yet I am not disposed to reject all the good that is in the fifth section because of it. It is not a new feature, if it is called a compulsory loan, because by the act of 1864, section 21, I find that Congress made this provision:

That upon the transfer and delivery of bonds to the Treasurer, as provided in the foregoing section, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to 90 per cent. of the current market value of the United States bonds so transferred and delivered, but not exceeding 90 per cent. of the amount of said bonds at the par value thereof, if bearing interest at a rate not less than 5 per cent. per annum; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

That was construed up to the very latest as meaning that no bond bearing less than 5 per cent. could be deposited for circulation, requiring bonds of that character to be held as security for circulation, and nothing bearing a less rate.

Mr. McPHERSON. Was there an issue of any other bonds at that time?

Mr. BECK. There was no other issue of bonds until 1870, and it limited the right to bonds of that character. What I meant to say was that it is no new thing that we should say what character of interest-bearing bonds shall be deposited by the national banks as

security for their circulation. What I rose to speak about immediately was that portion of the fifth section which the committee seek to strike out, referred to by the chairman of the committee. I think the House was right in repealing the fourth section of the act of 1874 and restoring sections 5159 and 5160 of the Revised Statutes.

Mr. DAVIS, of Illinois. Will the Senator state the reason for that?

Mr. BECK. I will state the reason. Those sections were read a few minutes ago. I can explain the matter, I think, so that the Senator from Illinois will understand it fully. Under the provisions of sections 5159 and 5160 all the banks had to keep one-third of their capital stock in bonds of the United States. The act of 1874 repealed that and said no matter how much capital a bank had, $50,000 was all it should be required to keep in bonds. The Treasurer of the United States made a statement illustrative of the provisions of the law of 1864 in this way:

It is a provision in the interest of stockholders of national banks, who will, if it is re-enacted, upon failure of their bank find assets to the extent of at least one-third of its capital, which will reduce their individual liability to assessment to that extent. For instance, the National Bank of the State of Missouri failed in 1877; nominal capital, $2,500,000; all there was left, however, at date of failure was $50,000 in bonds on deposit in the office. Had the provision in question been in force, there would have been over $800,000 here.

Section 5160 provided that—

The deposit of bonds made by each association shall be increased as its capital may be paid up or increased, so that every association shall at all times have on deposit with the Treasurer registered United States bonds to the amount of at least one-third of its capital stock actually paid in. And any association that may desire to reduce its capital or to close up its business and dissolve its organization, may take up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter required, or may take up any excess of bonds beyond one-third of its capital stock, and upon which no circulating notes have been delivered.

That the House seeks to restore. Section 4 of the act of June 20, 1874, relieved them from all that and authorized them to deposit legal-tender notes if they chose, and take up their bonds. Here is the effect of that; this is the way it operated: The Treasurer of the United States in his annual report, as in his testimony before the committee, said he thought great irregularities grew out of that, that the whole system was vicious. Mr. Gilfillan came before the committee and said that the House was right, that these two sections ought to be restored, and that under the fourth section of the act of 1874 the banks were gambling to suit themselves, drawing their bonds one day and putting them back the next; that they had two accounts running, one up and the other down; and this case stated by him illustrates it:

An example will better illustrate these operations. In January and February, 1875, a certain bank reduced its circulation from $308,490 to $45,000 by deposits of legal-tender notes. Between September 26, 1876, and May 26, 1877, and before that deposit was exhausted, it increased its circulation to $450,000. Between August 14 and September 10, 1877, it again reduced its circulation to $45,000. On September 19, 1877, nine days after completing the deposits for this reduction, it again began to take out additional circulation, although $402,550 of prior deposits remained in the Treasury, and by the 26th of that month its circulation had again been increased to $450,000. July 22, 1878, it, for the third time, reduced its circulation to $45,000, and in August and September, 1879, again increased to $450,000, at which it now remains, the balance of its former legal-tender deposit then in the Treasury being $112,615. From January 13, 1875, to the date of this report, $778,275 of its notes have been redeemed, of which only $40,700 were redeemed at the expense of the bank, although, during more than one-third of that period, it had outstanding and was deriving the benefit from the full amount of circulation which its capital authorized. The only assessments which have been made on the bank for the expenses of redeeming its notes were $24.74 in 1875, and $4.39 in 1878. At one time—

I wish the Senator from Illinois to notice this expression:

At one time there were in actual circulation $852,550 of its notes, although the highest amount ever borne on its books was $450,000.

The highest amount of bonds it ever had was $500,000, and yet it had an actual circulation out of $852,550. That the Treasurer says is an improper thing to do. That I think every Senator will say is an improper condition of things, and the system is improper that allows it.

Mr. BAYARD. But I will say that while its notes were outstanding the bank had deposited dollar for dollar an equal amount of United States notes, so that they were brought in when the others were out.

Mr. BECK. I am coming to that directly. United States notes were deposited, but with all the care that Congress seems to have taken to have only 90 per cent. as much circulation out as there were bonds deposited, and requiring them for a long time to bear 5 per cent. interest or more than that, and with authority to the Secretary if the bonds ever fell below par to increase their amount so as to keep up the 10 per cent. margin of bonds more than circulating notes, during this time this First National Bank of New York did this, and perhaps others were doing the same thing. That was the case with the First National Bank of New York, of which I am speaking. They had out $880,000 of circulation, and there was no margin at all other than the legal-tender notes of the United States, no bonds held as security for it, no margin of security, simply United States notes and nothing more. The provision of the House makes that impossible. First, it requires one-third of all their capital to be held in bonds. Then it prevents them from taking out United States notes and depositing them and taking in their bonds, and having the condition of things that existed in this case.

Recollect that each time they deposited legal-tenders and called for more notes the new notes had to be issued to them, and the Government of the United States paid the expense of doing that. The bank paid but $32 one year, I believe, and $5 the next toward that. All these changes were made at the expense of the United States or if not wholly paid by the United States out of the fund provided by the banks, and banks other than this one. The Treasurer, I think, very properly said in regard to that matter:

Under the construction placed upon the law, banks which have thus reduced their circulation have been permitted to increase it again as often and as largely as they chose, whether their legal-tender deposits were exhausted or not. Although the exact amount cannot be ascertained, it is safe to say that many millions of dollars of additional circulation have been issued under the general provisions of the national currency act to banks which were still reducing their circulation under the act of June 20, 1874. The consequence has been that the new notes thus issued have, to a large extent, speedily been presented to the Treasury for redemption out of the legal-tender deposit. Banks which have applied in vain to the Treasurer for the surrender of their legal-tender deposits, have accomplished the same object by obtaining new circulation. The cost of printing the new notes thus issued is borne by the United States, so that the Government, though not deriving the remotest benefit from the transaction, has been obliged to bear the whole expense of their issue, and a part of the expense of their redemption, simply to enable a bank to do by indirection what it was not permitted to do directly. In several instances banks have repeated the operation of reducing and increasing their circulation several times within a brief period, taking up their bonds and selling them, it would appear, whenever the premium constituted a sufficient inducement, and increasing their circulation again whenever bonds could be bought at better rates, the United States all the while redeeming their notes at its own expense or that of the other banks, and issuing others, also at its own expense, whenever called upon by them.

That system the Treasurer of the United States very properly says is vicious; it is unjust to the United States, and the provisions of law, which are contained in the sections to which I have just referred, ought to be restored, so that when the banks seek to retire their circulation they shall themselves bring in their own circulation. That may be a slow and tedious process; but, perhaps, in some contingencies it may be very well to have it a little slow and tedious. Under the present provision, the banks in the United States, if they see fit to combine, in one night could draw in all their circulation, contract the currency to suit themselves, and no man could prevent them. If they have to pick up their own notes all over the country, then it becomes a different operation; and why should they not do that themselves, instead of requiring the United States to do it for them?

I think the Senate will find it difficult to see any reason for it. The House could see no reason for it; and, while the committee disagree with me in my view in regard to it, I hope the Senate will not. These provisions of the fifth section I trust will be retained. If Senators will read the statement made by Mr. Gilfillan before our committee, I think they will be convinced. I admit that Mr. Knox differed with him, but I would a good deal rather take the opinion of the Treasurer of the United States than that of the Comptroller of the Currency on such a point, because the latter naturally leans to the great corporations whose representative he necessarily is, whereas the former, looking solely to the Treasury, to the accounts, to their proper adjustment, to the fair management and the good of the whole Treasury Department, without having any bias or partiality to give any corporation an advantage, I think is the fair man to follow.

I can see no harm in requiring the banks to do what the fifth section requires them to do. I can see very serious evils if they are allowed to go on, as the Treasurer shows they have done and may do again whenever a profitable time for gambling comes; and it may come. I hope it will not.

I trust the House provisions will be retained, for the reasons I have briefly stated. I do not want to take time.

Mr. WALLACE. I agreed with my brethren of the committee in their change of the fifth section of the House bill. I did not believe in the policy of coercion of the national banks, which I thought it practically embodied. They have never been favorites of mine; they are not now; the reverse of this is true; but this is a funding bill, and this section properly has no place in it; it does not legitimately belong to the subject embraced in this bill, and it will be charged that it is placed here simply for the purpose of forcing the national banks into the adoption of this class of securities as the only one to be utilized for their purposes. My view about it is that pecuniary advantage and freedom of action by capital would be infinitely better than apparent coercion. These organizations are the only money organizations now recognized by law in this country, and we must treat them as such and remember that almost the entire business interests of the people are involved in the question before us now. The results from this bill may seriously affect every business interest, and we should move with care. We may have grave difficulties if we bring contraction by compelling the banks to take these 3 per cent. bonds or go into liquidation, as I fear many of them would.

There are $210,000,000 of our bonds now held by the national banks of fives and sixes to mature this year, and which we hope to refund under the provisions of this bill. They are a majority of the bonds which the banks now hold as security for circulation. They must be replaced with the three percents alone if this coercive feature remains in the bill. By retaining this section you face the contingency of forcing the retirement of $211,000,000 of your banking capital—which may become a very grave matter for business men. I refer Senators to the statement of the Comptroller of the Currency, found in his interview with the Finance Committee. There are $211,000,000 due in 1881, held by the banks, and to be compulsorily converted into three percents if we adopt this section. If they decline to convert them, their only choice would be to go into liquidation. By this policy we compel the banks to contract their currency if they will

not exchange their 5 and 6 per cent. bonds for these 3 per cent. bonds. I want to take no such responsibility in the present condition of the business of this country. I fear the possible results that may follow.

Mr. DAVIS, of Illinois. If the Government pays the 5 and 6 per cent. bonds, the banks will buy the others. That is all.

Mr. WALLACE. The Senator from Illinois certainly understands me, that it is optional with the banks whether they continue their business or go out thereof, and thus withdraw their currency. The Senator thinks that no difficulty will arise on that question. I refer him to the report of the interview of the Finance Committee with the Secretary of the Treasury and the Comptroller of the Currency. When they were called before us and this question was asked them they said the inevitable result would be to contract the currency.

I believe in a 3 per cent. bond; I believe in the policy of having the banks take these bonds just as soon as we can get them to take them, but I do not believe in a coercive policy on the moneyed institutions of the country. I believe it would be a ruinous policy for us, an unwise and dangerous policy.

Now, as to the other provisions of this section; section 4 of the act of June 20, 1874, is to be repealed by the House bill, and sections 5159 and 5160 of the Revised Statutes to be re-enacted. What is this proposition? Let us see. The Comptroller of the Currency says of it:

> Previous to the passage of this act of 1874, a national bank desiring to reduce its capital was obliged to pay a premium for its own notes and send them in for destruction before it could accomplish such reduction; and, if sections 5159 and 5160, Revised Statutes, should again become the law, no bank in the country whose capital should become impaired could continue its business unless it should make an assessment upon its shareholders for the purpose of restoring such capital under the restrictions of the act and retire its circulation, and continue as a legally organized bank.

Now, what is the difference in principle—not in effect, but the difference in principle—between the statements of the Treasurer of the United States and the Comptroller of the Currency—between the position of the Senator from Kentucky and that of the committee on this question? His doctrine is that of paternal government, that the Federal Government are to care for all the depositors of every bank in this country; that we are to see that their deposits are secure and the business of their agents, the directors, well managed. I want to go in the other direction; to let every business interest manage itself and simply and only to see that the circulation of the notes is secured so that the note-holder is protected. That is quite enough for us to take care of. Let banking stand upon the same basis that the legal profession, or making flour, or making bricks or merchandising, or insurance, or any other business in this country stands upon individual good management, and to let the men who elect the directors of the bank, who are the shareholders of the bank, see that its business is well conducted and well managed.

If I understand the doctrines of the political organization to which I belong, we are not for paternity in government, but are for individual control. So far as this system of banking is concerned, it is our duty to protect the note-holder to the utmost, to see that his security is absolute. The protection of the depositor is an entirely different question, and he must look to the men he trusts with his money; we have nothing to do with him. So far as the national-banking organization has regard to its deposits, I believe in allowing the banks to stand upon their own basis of good or bad management. The Government of the United States should only care for the safety of the circulation, the security of the note-holder, and the uniformity of the notes. These are the two great features of the national-banking system to which I yield my support. The protection of the depositor, it seems to me, is an entirely different question, and stands, as it should stand, entirely on the confidence of the depositor in the business management of the bank.

The two sections which are proposed to be restored provide for a large deposit of bonds for the protection of the depositors. We are to care for the stockholders; we are to take care of their interests and see that they elect men to manage their business providently and well, to have our agents and examiners paid to travel the country to see that everything connected with the bank is properly managed and conducted as the Federal Government thinks is right. I do not believe in that theory. I would prune this out of the system if I could. On the contrary, I think this organization ought to be held simply to circulation and security therefor, and thus be brought down to the lowest, narrowest limits possible. Our aim, I believe, should be simply to require security for the paper circulation that the people have to take and what necessarily flows from this. Does the act of 1874 do that? Unquestionably it does. No bank can take up any of its circulating notes without depositing in the Treasury legal-tender notes in their room, and thus the security is fixed beyond question for every piece of paper that is issued by the Government as bank paper.

The case of the Bank of Missouri and the case of the First National Bank of New York are exceptional cases, in which the stockholders stood idly by, supposing that their agents, the men whom they elected to take care of their money and manage the bank, were doing right by them, while they were either neglecting their business or cheating them all the time. Are we to protect the owners of the stock and the depositors also? Are we to make banking a business that the Government shall protect? That is not democratic doctrine. I would reverse that rule if I could. The only thing this Government ought to have to do with the national banks is to secure the people a uniform and a safe currency, and let the shareholders take care that the men who manage their business are honest and capable.

Our business is to protect the bill-holder, and let the men who own the capital and control the organization care for those who make their deposits. Men who make deposits of their money will be safe when they depend on business management and not on paternal government.

This idea of security, by the deposit of a large amount of bonds for the protection of the depositors, is simply paternity in government. If we secure the note-holder we are doing all that ought to be required of us. Let us lop off the excrescences of this system, if we can confine our supervision to circulation and security therefor, and allow the business of the bank, so far as deposits are concerned, to be guarded by the men who make the deposits and own the capital. Let them see that the directors are men in whom the community can have confidence and trust. Let them see that the business of the bank is managed as a careful merchant's business ought to be managed. Let them have their eyes open, and then there will come no such difficulties as those to which the Senator from Kentucky calls attention.

Mr. BECK. Only one word. The Senator from Pennsylvania is very much afraid of paternal government, and yet a thousand of these banks are under such government now. By the provisions of the act of 1874, the repeal of which is now asked, a certain number of bonds are required to be kept in the Treasury by the smaller banks. There is that paternal surpervision over the smaller banks now, and it is retained in this bill; and the Senator is complaining that I seek to put it over the large ones. It is only the large ones who are allowed to gamble. The small ones have to keep their bonds in the Treasury, and the restoration of these two sections would not affect them at all. They have each to keep up the $50,000 any way. As many of them have a capital of only $100,000, and some of them not over $50,000, the paternal supervision is rather over the small ones, while all the large ones are released, and they are allowed to gamble as they please. That is the distinction.

Mr. EATON. How large was the capital of that New York bank spoken of?

Mr. BECK. Four hundred and fifty thousand dollars.

Mr. EATON. Do you call that a large capital?

Mr. BECK. It is a good deal larger than most of the banks in the West and throughout the country have, which do not exceed $100,000 usually.

Mr. EATON. It is larger than $100,000, I know, but I supposed it was an immense thing from what has been said.

Mr. BECK. It was an immense thing for a bank with $450,000 capital to have $880,000 of circulation out.

Mr. EATON. I do not think it ever had that much.

Mr. BECK. The Treasurer of the United States said it had, in making his official report, and the Comptroller of the Currency said it had.

Mr. EATON. My impression is that there was an error, and when you come to examine the facts you will find that the First National Bank of New York had no such circulation.

Mr. BECK. Then the Comptroller of the Currency and the Treasurer of the United States and all their official statements are false. Nobody has contradicted them until the Senator from Connecticut thought it was his duty to do so. We had it officially from both of them, and I read their statements in the hearing of the Senate.

Now, another thing. We have required all the State banks to go out of existence; we have taxed them out of existence. The Senator from Pennsylvania does not propose to restore them, I presume, and we have made the national-bank system the only place where men can make deposits; we have taxed all the other banks out of existence; we have given them a monopoly, and why should we not throw safeguards around them? I do not think there is any vice in the section, but I think it is a proper protection.

Mr. McDONALD. The more I examine the provisions of the fifth section of this bill the more I am satisfied that it is right. I think the Senator from Kentucky has quite clearly demonstrated the propriety of restoring sections 5159 and 5160 of the Revised Statutes.

As to the part of section 5 which relates to the sale of the bonds provided for in this bill, I do not understand that it is placing any unfair or any unreasonable burden upon these institutions. I do not exactly like the term of the Senator from Pennsylvania, that this is an attempt to "coerce" these banks. In the first place, it provides that—

> From and after the 1st day of May, 1881, the 3 per cent. bonds authorized by the first section of this act shall be the only bonds receivable as security for national-bank circulation or as security for the safe-keeping and prompt payment of the public money deposited with such banks.

That provides for two classes of cases, the security of the circulation and the security of the moneys the United States may deposit with these banks as Government depositories. I suppose no one will question the right of the Government to prescribe what kind of security may be taken from its depositaries; and if it sees proper to require a certain class of its own bonds, there is certainly nothing improper in that. Banking institutions need not receive the Government deposits if the security which they are required to give is not convenient to them. They certainly will not receive them if it is not beneficial to them to do so; but I apprehend in receiving and paying

out the Government revenues as depositories of the Government, holding them frequently for months, using them as a part of their discounting capital, there will be no difficulty in finding plenty of banking institutions in this country that would be very willing to put up this class of securities for such a privilege.

Mr. WALLACE. Does the Senator know that the law now is that securities for deposits of the Government money may be in other kind of securities than bonds—mortgages for instance?

Mr. McDONALD. I understand that. I say we have a perfect right to change the nature of that security and make it better if we think proper.

Mr. BAYARD. Section 6 proposed by the committee does that very thing.

Mr. McDONALD. Yes, sir; the Committee on Finance have retained in a subsequent part of this bill the very provision making that requirement. As to requiring bonds hereafter to be deposited as security for bank capital to be of this issue, I see no hardship in that whatever. We at present require that bonds of the United States shall be the only securities received for bank circulation, we discriminate in favor of Government bonds. Now, may we not select of the class of Government bonds that shall be deposited, and when we are putting forth the bonds provided for in this bill, have we not a right to call in to the aid of the Government the assistance of these banks for the purpose of placing them?

Mr. LOGAN. Will the Senator allow me to ask, for information, upon what principle can the Government of the United States, in disposing of its bonds, by law declare that any individual shall purchase those bonds, a bank being a corporation on the same footing as an individual?

Mr. McDONALD. If it was nothing more than an individual, perhaps the Senator's question would be more difficult to answer.

Mr. LOGAN. I will use the word "person" and say "corporation or person." Upon what principle has the Government a right to require of any person that he shall be the purchaser of its indebtedness?

Mr. McDONALD. I shall answer that question in the course of the few remarks which I propose to submit, not categorically, and perhaps not to the satisfaction of the Senator from Illinois, but to my own satisfaction.

Mr. President, these banking institutions are not mere private corporations. If they were that, I should deny the power of this Government to grant charters to them. They are, so far as their connection with the Government is concerned, its fiscal agents. When the constitutionality of the Bank of the United States was under consideration in the case of McCulloch *vs.* The State of Maryland, the decision of the Supreme Court sustaining its constitutionality rested upon the sole ground that it was created as a fiscal agent of the Government. It was not claimed in that decision that Congress possessed the power to create private corporations, moneyed corporations, for the mere transaction of private business; but it was in connection with the Government in its fiscal operations, in the management of its monetary affairs, that it was held to be a proper instrumentality, decided to be so by the Congress that created it, and sustained by the Supreme Court upon that ground, and upon that ground alone. And when the banking law was passed, authorizing the present banking associations to be organized, it was with a view of creating fiscal agents to aid the Government in its moneyed operations, mainly for the purpose of creating a market for Government bonds, reserving in the act the right of alteration or repeal.

These banking institutions to-day are acting as the fiscal agents of the Government in receiving the public moneys and in disbursing them. So far, it is beneficial to them, because it strengthens their credit, it furnishes them with means to carry on their business from time to time. The Government deposit in the vaults of banks is not dead capital there, but it is used for the private benefit and advantage of those who are interested in the banking association, who are its stockholders, its shareholders. It is very willing to act as the Government agent in matters of that sort; but when called upon to aid and assist the Government in placing its securities, then it insists upon making a profit, then it retires into its place of "private banking institution."

What more important interest has the Government in connection with its fiscal affairs than to properly handle and place its securities? And here are over two thousand banking institutions holding their charters simply because the Government had a right to create fiscal agents; and it is said to be a coercive measure to ask them to take or place one particular class of our securities, which it is important for us to place now, as a security for the circulating notes that they are authorized to receive and use in their private business.

Mr. PADDOCK. Is the Senator prepared to express an opinion that a single one of the refunding operations of the Government would have been successful without the hearty co-operation of all these banks?

Mr. McDONALD. I do not know, sir. I am simply speaking now about our right to say that hereafter banking institutions that are called upon or desire to deposit bonds as a security for circulation shall deposit a particular class of bonds. That is what I am talking about now. Those who hold securities at present that do not fall due within the next twelve months are in no manner affected by this, and those who do hold such securities will get the full amount that is due upon those securities by their redemption, but they will have to replace them, if they carry on their business of banking, with this particular class. That is all that is required.

Mr. EATON. Will my friend permit me to ask him will there be any other securities of the United States which they can employ?

Mr. McDONALD. Yes, sir.

Mr. EATON. What?

Mr. McDONALD. The four percents and four-and-a-half percents.

Mr. EATON. But they have those after we have redeemed all that are due—if I may use the word "due"—all that the Government has a right to pay in 1881. Suppose my friend and myself were the proprietors of a bank in Indiana of a million dollars' capital—I wish we were; it is hardly supposable in our case; but suppose we associated our friend from Illinois [Mr. DAVIS] with us, then we might—suppose we had a million dollars in bonds not due until 1907, does the Government propose to pay those bonds?

Mr. McDONALD. No.

Mr. EATON. Then why undertake to use the word "compulsory?" If the bank goes on at all it must go on with the new issue of bonds; there is no other way.

Mr. McDONALD. If they are bound to use the new issue of bonds, as a matter of course they are not coerced. This does not take from them the securities they have until they become redeemable.

Mr. EATON. I understand that perfectly. Then you are setting up a man of straw and knocking him down.

Mr. McDONALD. Not at all.

Mr. ALLISON. May I ask the Senator a question?

Mr. McDONALD. Certainly.

Mr. ALLISON. Admitting what the Senator says, that we have a right to make rules and regulations for the government of these corporations, they being fiscal agents of the Government, should not those rules be uniform in their operation and character? And if so, have we not just as good a right to say that a bank which now holds 4 and 4½ per cent. bonds shall after the 1st of May only hold these bonds, as we have to say to a bank that now holds 5 per cent. bonds: "You must hold these three percents?"

Mr. McDONALD. We have just as good a right, and the Senate in 1870 did say to the banking institutions of this country, so far as it had the power to say, that they should take the bonds provided for in the act of 1870 by a given date, and surrender the bonds they then held, dollar for dollar, without expense to the United States, or if they did not do so they must go into liquidation.

Mr. ALLISON. Now, then, do we not discriminate in favor of one portion of these banks against another portion if we simply apply this to those banks having bonds maturing now?

But I want to call the attention of the Senator particularly to the phraseology of this bill. I want his construction of the first clause to see whether or not this provision applies only to banks who now hold bonds maturing or redeemable and to the banks hereafter organized, or whether the word "receivable" would not be fairly construed by the Treasurer of the United States to mean that after that particular date the bonds provided for in this act, and those bonds only, shall be used as security for national-bank circulation; and if so, then it will be impossible under the provision of this bill to ever increase the national-bank circulation beyond the amount that may be issued under this law.

Mr. McDONALD. The Senator from Iowa has answered his own question, and shown very clearly by his answer to it that it does not and cannot fairly receive the construction he suggests. The provision as it came from the House is:

> From and after the 1st day of May, 1881, the 3 per cent. bonds authorized by the first section of this act shall be the only bonds receivable as security for national-bank circulation.

As a matter of course, it can only apply to bonds tendered after that time, either for an increase of circulation to banks already authorized, or for the circulation of banking institutions hereafter created and formed under the law, for there is but $400,000,000 of bonds authorized by this act, and that is less than the amount of bonds deposited for the present circulation of national banks, and would require a reduction now.

Mr. ALLISON. Oh, no. There are only $356,000,000 of bonds now held as security for circulation; or about that.

Mr. McDONALD. Then this issue is but little more than the bonds at present on deposit, but they are "receivable," not those that have been received; and the subsequent clause shows very clearly that that is the meaning of it, because it goes on to say:

> But when any such bonds deposited for the purposes aforesaid shall be designated for purchase or redemption by the Secretary of the Treasury, the banking association depositing the same shall have the right to substitute other issues of the bonds of the United States in lieu thereof: *Provided*, That no bond upon which interest has ceased shall be accepted or shall be continued on deposit as security for circulation or for the safe-keeping of the public money.

Now, I suppose the Senator from Indiana would not contend that the Government would receive that as a security for circulation.

Mr. ALLISON. The Senator from Delaware [Mr. SAULSBURY] said a few moments ago in debate that it was sufficient for these banks to hold these bonds, receiving no interest on them.

Mr. McDONALD. The Senator from Iowa quotes the Senator from Delaware, but he does not state his position.

Mr. BECK. While the Senator from Indiana is being interrupted,

allow me to ask if it is not the fact that the fours and four-and-a-halfs now held by the banks will continue undisturbed by the passage of this act?

Mr. McDONALD. That is my opinion.

Mr. BECK. That is absolutely so.

Mr. McDONALD. Entirely so, in my opinion.

Mr. BECK. Then is not this the fact, that we have nearly $750,000,000 of four percents, and $250,000,000 of four-and-a-halfs, and if these gentlemen see fit to exchange fives and sixes for fours and four-and-a-halfs before the 1st day of May, they can hold them to the whole extent of their circulation undisturbed by this act, if they prefer it?

Mr. McDONALD. This simply calls on these banks to perform what, under the circumstances, is not a very onerous duty in connection with their office as fiscal agents of the Government. They were created, so far as the public is concerned, for that purpose, and not for their mere private gain. That is an incident which they enjoy under the franchise the Government has given them for public uses. The franchise was not given them for a private purpose, but for the public benefit, for their aid and assistance as agents of the Government in managing its fiscal affairs; and this is no very great burden to them, because these bonds will be worth what they pay for them, and will be the equivalent to them of the bonds now outstanding. If there should be any difference, as there would undoubtedly be, in the price, because the premium would have to be paid upon these other bonds, they would have to pay the difference between the value of a 3 per cent. bond and a 4 and a 4½. So it simply does this, and nothing more, it uses them in the very line for which they were created, to act as the agents of the Government in effecting this purpose, without cost to us and without detriment to the banks. That is all there is of it. It simply cuts off from them the chance of private speculation growing out of the matter of negotiating these bonds, and that I say they ought not to complain of.

Mr. McPHERSON. May I ask the Senator a question? He says in effect it really amounts to nothing. In that I concur, because it certainly makes but little difference in effect whether you have a 3 per cent. bond at par or a 4 per cent. at a premium; but is it not in fact under the law compulsion?

Mr. McDONALD. Of course it is.

Mr. McPHERSON. If I desire to go into a banking operation in the State of Indiana with a capital of $100,000, if I elect to purchase bonds bearing 4 per cent. interest, for which I pay to-day at the rate of 113, why should I by any legislation of Congress be prevented from using that bond which Congress by its own laws makes?

Mr. McDONALD. If the Senator were to do that in his individual right, I say there should be nothing to prevent him. If he was the president of a State corporation created by State law, exercising simply such powers as were conferred upon him by State authority, I should say there would be no such right on the part of the Government; but when he is a member of an agency created by the Government for its benefit, as well as for the benefit of those who may be engaged in the association, I say we have a right to put upon it such responsibilities and such burdens, if you please, as are consistent with the purposes for which it was created. It is not a mere private corporation. If it stood as the gentleman suggests, I would say that the charter under which it was acting was void for want of authority on the part of Congress to grant it. The Supreme Court, in the decision which has been referred to again and again, would have so said in regard to the Bank of the United States if it was created for the sole purpose of transacting business as a private banking corporation, and not as one of the agents of the Government in its fiscal affairs.

Mr. EATON. Mr. President, as a member of this body I propose to do what is just and right toward all the business corporations of the country. There are a great many banks in my little State. Members of the Senate will remember that before the war no State in this Union had better banks, more thoroughly organized banks, than the State of Connecticut; that her bills were good in New Orleans, all through the West, and all over this broad land.

Now, my friend from Indiana talks about a fiscal agent of the Government. What did the Government do? It said to the banks of Connecticut, "Come in here, or we will destroy you." It taxed them out of existence, unless they would accept the provisions of this general banking law, banks no better to-day than they were then—the old Hartford, the Phœnix, the Connecticut River, and a half dozen others that I might name—banks whose own bills, I undertake to say, were better than the bills of the Government are now, because, in addition to the bonds of the Government, they held money of equal value in the bank.

Mr. McDONALD. I wish to state to my friend from Connecticut that the banks of Connecticut were no better than the banks of Indiana. Our banks continued to pay specie long after the Government ceased to pay it.

Mr. EATON. I am speaking of the institutions of my own State, and not of those of any other State. I have not said that they were even better in Connecticut than they were in Indiana. They were as good then as they are now. I am under no obligations to the banks in my State; I do not own a dollar of stock in any one of them, and never did. They are not managed by men belonging to the same political organization to which I belong; and I rather think if the chairmen of the two great national parties of the country were called here and put under oath, you would find which of them received the larger subscription from nearly every bank in my State and which did not. Enough to say that I have no particular friendship for these institutions; but I do not intend that they shall be wronged or injured by the enactment of any law that I can prevent. They are sound, well-managed, and managed by honorable gentlemen.

And now let me see if the amendment which is proposed by the committee is not all that this Government ought to demand of their fiscal agents. I will take the proposed section 6:

> That the bonds authorized by the first section of this act shall be receivable as security for the circulation issued to the national banks; and hereafter only bonds and other interest-bearing securities of the United States shall be receivable as security under section 5153 of the Revised Statutes.

What more do you want? My friend from Indiana with great fairness admitted, when I questioned him, that if three or four of us had now a banking charter, and if we had the four percents that were not payable till 1907, we could not be compelled to change them. The bill, he says, does not compel that. I do not know that it does, but I have some doubt about it. I have great confidence in my friend as a lawyer; but that section, whether it accomplishes it or not, was drawn for the very purpose of doing it. I think my friend from Kentucky [Mr. WILLIAMS] says in his opinion it does, and, therefore, he wants it. That is my opinion, and I vote against it. There I differ with my honorable friend from Kentucky. I say it would be bad faith in the Government toward these institutions, not that it created but that it took by the throat after they were created by the States.

Now, what else do you want? We say here all banks organized hereafter shall take these securities of the United States. That is right; that is just. If we three choose to go into banking hereafter we know that we go in upon the 3 per cent. securities of the United States. That is just; that is fair. A mere statement of the case, it seems to me, would satisfy every member of the Senate.

Then, as to the idea of my honorable friend from Kentucky, the senior Senator, [Mr. BECK,] who desires that one-third of the capital stock of these institutions shall be placed somewhere for the purpose of protecting depositors, what has the Government of the United States to do with regard to business in the State of Minnesota between the people of Minnesota and the shareholders or stockholders of a banking institution? Nothing. If they violate any law of the land and become criminal, let them be punished. It is the province of the United States, having assumed the duty, having taken this power out of the hands of the several State governments, now to protect the bill-holder; that is all. To that extent I go, and no further. The bill-holder will be protected, amply protected.

The corporation starts with a million dollars capital and it buys a million dollars of these 3 per cent. bonds, it takes out $900,000 of currency for the purpose of circulation, and so long as the bonds of the United States are good the bill-holder is protected, and that is the end, in my judgment, of what the Government of the United States ought to do. It would be so, as my friend from South Carolina [Mr. BUTLER] suggests, if the bonds were at 1 per cent.; it would be so if they were at no per cent. so long as the credit of the United States was good and the Government of the United States paid its dues.

I oppose the House bill and am in favor of the amendment of the committee, and hope it will pass.

Mr. ANTHONY. Mr. President, it seems manifest that we shall not get a vote upon this measure this evening, and I would suggest to the Senator from Delaware, who has charge of the bill, that he propose to take a vote at a fixed hour to-morrow by general consent.

Mr. ALLISON. The Senator from Delaware is not here. I trust the Senator from Rhode Island will wait until he comes in before making the proposition.

Several SENATORS. Let us vote!

Mr. ALLISON. We can vote on this section now.

Mr. ANTHONY. I would rather vote than adjourn.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The question is on the amendment striking out the fifth section down to the word "provided" in line 11.

Mr. DAVIS, of Illinois. I ask for the yeas and nays on that.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. PLUMB, (when Mr. BOOTH's name was called.) I am requested to state that the Senator from California, [Mr. BOOTH,] whose name has just been called, is paired with the Senator from Massachusetts, [Mr. HOAR.] The Senator from California would vote against the amendment of the committee.

Mr. KIRKWOOD, (when Mr. BROWN's name was called.) Upon this section I am paired with the Senator from Georgia, [Mr. BROWN.] If he were present, he would vote against striking out, and I would vote to strike out. I am paired with him on all votes upon this section.

Mr. McMILLAN, (when the name of Mr. CAMERON, of Wisconsin, was called.) The Senator from Wisconsin [Mr. CAMERON] is paired with the Senator from Louisiana, [Mr. KELLOGG.] If they were here, the Senator from Wisconsin would vote for the amendment reported by the committee and the Senator from Louisiana against it.

Mr. FERRY. My colleague [Mr. BALDWIN] is paired with the Senator from Delaware, [Mr. SAULSBURY.]

Mr. HARRIS. I desire to state that my colleague [Mr. BAILEY]

is paired with the Senator from Massachusetts, [Mr. DAWES.] If my colleague were here, he would vote "nay."

Mr. LOGAN, (when his name was called.) I am paired with the Senator from North Carolina, [Mr. VANCE.] I do not know how he would vote on this question. If he were here, I should vote "yea."

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "nay."

Mr. ROLLINS, (when his name was called.) On this question I am paired with the Senator from Vermont, [Mr. WITHERS.] If he were present, I should vote "yea."

Mr. WALKER, (when his name was called.) On this question I am paired with the Senator from Colorado, [Mr. HILL.] If he were present, I should vote "nay."

The roll-call was concluded.

Mr. FARLEY. My colleague [Mr. BOOTH] requested me to announce his pair with the Senator from Massachusetts, [Mr. HOAR.] If my colleague were here, he would vote "nay."

The result was announced—yeas 19, nays 21; as follows:

YEAS—19.

| | | | |
|---|---|---|---|
| Allison, | Call, | Kernan, | Platt, |
| Anthony, | Eaton, | McMillan, | Teller, |
| Bayard, | Ferry, | McPherson, | Wallace, |
| Blair, | Groome, | Morrill, | Windom. |
| Burnside, | Hampton, | Paddock, | |

NAYS—21.

| | | | |
|---|---|---|---|
| Beck, | Garland, | McDonald, | Vest, |
| Butler, | Harris, | Maxey, | Voorhees, |
| Cockrell, | Hereford, | Morgan, | Williams. |
| Coke, | Ingalls, | Pendleton, | |
| Davis of Illinois, | Jonas, | Pugh, | |
| Farley, | Lamar, | Slater, | |

ABSENT—36

| | | | |
|---|---|---|---|
| Bailey, | Conkling, | Johnston, | Rollins, |
| Baldwin, | Davis of W. Va., | Jones of Florida, | Saulsbury, |
| Blaine, | Dawes, | Jones of Nevada, | Saunders, |
| Booth, | Edmunds, | Kellogg, | Sharon, |
| Brown, | Grover, | Kirkwood, | Thurman. |
| Bruce, | Hamlin, | Logan, | Vance, |
| Cameron of Pa., | Hill of Colorado, | Plumb, | Walker, |
| Cameron of Wis., | Hill of Georgia, | Randolph, | Whyte. |
| Carpenter, | Hoar, | Ransom, | Withers. |

So the amendment was rejected.

The PRESIDING OFFICER. The question is on striking out the rest of the section.

The amendment was rejected.

The PRESIDING OFFICER. The next amendment of the Committee on Finance will be read.

The CHIEF CLERK. It is proposed to insert, as section 6, the following:

That the payment of any of the bonds hereby authorized——

Mr. INGALLS. Should not the words "and notes" be inserted there, after "bonds?"

Mr. BAYARD. The words "said terms of one and" were stricken out. It was a clerical error that it should have been inserted.

The SECRETARY. It is proposed to insert:

SEC. 6. That the payment of any of the bonds hereby authorized, after the expiration of the five years, shall be made in amounts to be determined from time to time by the Secretary of the Treasury, at his discretion, the bonds so to be paid to be distinguished and described by the dates and numbers, beginning for each successive payment with the bonds of each class last dated and numbered; of the time of which intended payment or redemption the Secretary of the Treasury shall give public notice, and the interest on the particular bonds so selected at any time to be paid shall cease at the expiration of thirty days from the date of such notice.

Mr. INGALLS. Have the words "and Treasury notes" been inserted after "bonds" in the first line of the section?

Mr. WALLACE. This section only relates to the bonds; it has no reference whatever to Treasury notes.

Mr. INGALLS. It appears in the second line that the "terms of one and five years" are mentioned.

Mr. BAYARD. Those words are stricken out.

The PRESIDING OFFICER. Those words are stricken out. The question is on the amendment to insert the matter just read.

The amendment was agreed to.

The next amendment reported by the Committee on Finance was to insert as section 7 the following:

SEC. 7. That the bonds authorized by the first section of this act shall be receivable as security for the circulation issued to the national banks; and hereafter only bonds and other interest-bearing securities of the United States shall be receivable as security under section 5153 of the Revised Statutes.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments of the Committee on Finance are disposed of.

Mr. ALLISON. I have an amendment which I propose to offer to the bill, which is printed. I ask that it be submitted to the Senate.

The PRESIDING OFFICER. The amendment of the Senator from Iowa will be read.

The CHIEF CLERK. After section 4 it is proposed to insert——

Mr. DAVIS, of Illinois. Has section 7 been adopted, "that the bonds authorized by the first section of this act shall be receivable as security for the circulation issued to the national banks," &c.?

The PRESIDING OFFICER. That has been adopted.

Mr. DAVIS, of Illinois. Section 5 covers that.

Mr. KIRKWOOD. I have an amendment I should like to offer.

The PRESIDING OFFICER. Does the Senator from Illinois make any motion?

Mr. DAVIS, of Illinois. Not now.

Mr. TELLER. It seems to me it is pretty evident that we cannot finish this bill to-night; there are several amendments yet to be acted on; and therefore I move that the Senate do now adjourn.

Mr. BAYARD. I hope the Senator will withdraw the motion for a moment.

Mr. TELLER. I withdraw it.

Mr. KIRKWOOD. I offer an amendment——

The PRESIDING OFFICER. The amendment of the Senator from Iowa will be reported.

Mr. ALLISON. What has become of my amendment?

Mr. DAVIS, of Illinois. I should really like to know from the chairman of the Committee on Finance, with the fifth section remaining in this bill, what is the necessity of the seventh section, which has been added?

Mr. BAYARD. I think the only operative part of that will be the last part.

Mr. DAVIS, of Illinois. Of course. The fore part certainly is not.

Mr. BAYARD. The last part I think is important and useful. The proposition is that bonds and other interest-bearing securities shall be receivable as security. That is a new feature of the law.

Mr. DAVIS, of Illinois. Why not allow the other portion to be struck out? There is no necessity for it. The bill is bungling with it in after the fifth section has been adopted.

The PRESIDING OFFICER. Does the Senator from Illinois make any motion? If not, the different amendments now upon the table will be taken up in their order, and the first one is the amendment offered by the Senator from Iowa, [Mr. ALLISON.] The Secretary will report it.

Mr. KIRKWOOD. The amendment offered by me was the first offered.

The PRESIDING OFFICER. The Senator's colleague had offered an amendment, which is already on the table as the Chair is informed.

Mr. KIRKWOOD. Mine had been offered and printed before that of my colleague was offered. My colleague has called attention to his just now, but my amendment was first offered, I believe.

Mr. DAVIS, of Illinois. First offered, but not first printed. That is the real truth. Your colleague's was first printed.

Mr. KIRKWOOD. That may be. I am not sufficiently familiar with the rules of order to know which is entitled to precedence.

The PRESIDING OFFICER. Will the Senator from Iowa indicate where his amendment comes in, and then the Chair will determine which shall have precedence?

Mr. KIRKWOOD. It comes in after the section providing for the issuance of these bonds. I do not think it is of very great importance at what particular place it comes in now. Let it come in immediately following section 1.

The CHIEF CLERK. At the end of section 1 it is proposed to insert:

It shall be the duty of the Secretary of the Treasury, under such rules and regulations as he may prescribe, to authorize public subscriptions, at not less than par, to be received at all depositories of the United States, and at all national banks, and such other banks as he may designate, for the bonds and for the Treasury notes herein provided for, for thirty days before he shall contract for or award any portion of said bonds or Treasury notes to any syndicate of individuals or bankers, or otherwise than under such public subscriptions; and if it shall happen that more than the entire amount of said bonds and Treasury notes, or of either of them, has been subscribed within said thirty days, he shall award the full amount subscribed to all persons who shall have made *bona fide* subscriptions for the sum of ——thousand dollars or less, at rates most advantageous to the United States, and the residue ratably among the subscribers in proportion to the amount by them respectively subscribed, at rates most advantageous to the United States.

Mr. KIRKWOOD. I have but a word to say in regard to that amendment. I think we have made a mistake n relation to our debt in not having endeavored to popularize it more than we have done. I do not have much faith that we can do that with this loan as it now stands by the action of the Senate; but still I should like to give an opportunity to the people of the country generally to take these bonds if they feel inclined to do so. That is my purpose in introducing the amendment. It provides for an opportunity to be given all over the country, in every State and Territory where there is a national bank, for any man who desires to take these securities to subscribe for them, under such regulations in regard to the safety of the Government as the Secretary of the Treasury may prescribe. That is the sole and only purpose of it, and if I thought the bonds would be taken, I should feel much more anxious about it than I do now.

Mr. EATON. I should like to have the amendment offered by the other Senator from Iowa [Mr. ALLISON] reported now, as it is of the same character, so that the Senate may have both before them. Of course they cannot vote on both at once.

The PRESIDING OFFICER. The amendment of the other Senator from Iowa [Mr. ALLISON] will be reported.

The CHIEF CLERK. At the end of section 4 it is proposed to insert:

SEC. —. That before awarding any portion of the loan in bonds authorized by this act, the Secretary of the Treasury is directed to issue proposals for the same in the United States, and shall give not less than thirty days' public notice in two or more of the public newspapers in the city of Washington, and in such other places of the United States as he may deem advisable, designating the amount of such loan, the place and the time up to which sealed proposals will be received for the same, the periods for the payment, and the amount of each installment in which

it is to be paid, if paid in installments, and the penalty for the non-payment of any such installments, and when and where such proposals shall be opened in the presence of such persons as may choose to attend; and the Secretary of the Treasury is authorized to accept, if in his judgment the same shall be advantageous to the Government, the most favorable proposals offered by responsible bidders: *Provided*, That no offer shall be accepted at less than par: *And provided further*, That if the whole amount of the loan in bonds herein authorized shall not be subscribed for in the manner provided in this section, then the Secretary of the Treasury is authorized to dispose of said bonds, in his discretion, at not less than par, as prescribed by the first section of this act.

SEC. —. That the Secretary of the Treasury shall report to Congress, immediately after the commencement of the next session, the amount he has borrowed under the provisions of this act, of whom, and on what terms, with an abstract of all the proposals, designating those that have been accepted and those that have been rejected, and the amount of bonds or Treasury notes that have been issued for the same.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa, [Mr. KIRKWOOD.]

Mr. KIRKWOOD. We had better have the yeas and nays on it.

Several SENATORS. Oh, no; we are all for it!

Mr. KIRKWOOD. Very well.

The amendment was agreed to.

Mr. LOGAN. I desired to offer an amendment in line 16 of section 1. I suggested to the Senate that I should offer at this time an amendment to strike out the provision for issuing $300,000,000 of Treasury notes and to strike out "4" and insert "7," in line 16, so as to provide for issuing $700,000,000 of bonds; but seeing the temper of the Senate, and being satisfied that they will not agree with me in that proposition, the bill having been so radically changed from what I supposed it would be, I shall not propose the amendment. I merely make this statement as a reason why I shall not propose the amendment after announcing that I should.

The PRESIDING OFFICER. There is on the table an amendment proposed by the Senator from Iowa, [Mr. ALLISON.]

Mr. TELLER. I move that the Senate adjourn.

Mr. ANTHONY. Let us fix a time for taking the vote.

Mr. TELLER. I am willing to withdraw the motion for that purpose.

Mr. BAYARD. I think we can get through with the bill to-night.

Mr. TELLER. I withdraw the motion.

The PRESIDING OFFICER. The next amendment is that offered by the Senator from Iowa, [Mr. ALLISON.]

Mr. EATON. We have adopted an amendment of a somewhat similar character, offered by the other Senator from Iowa, [Mr. KIRKWOOD,] and I move that this lie on the table for the present.

The PRESIDING OFFICER. The amendment will be laid on the table for the present, if there be no objection. The next amendment is the amendment offered by the Senator from Texas, [Mr. COKE.]

Mr. HARRIS. There was evidently some misunderstanding when the last vote was taken on the amendment of the Senator from Iowa, [Mr. KIRKWOOD.] A number of Senators around me supposed it to be the amendment of the other Senater from Iowa, [Mr. ALLISON.]

Mr. KERNAN. I supposed so, and so voted.

Mr. HARRIS. A number of votes were cast under that impression. I move to reconsider the vote by which the amendment last adopted was adopted, with a view to, at least, allowing Senators to determine whether they prefer that amendment to the one presented by the other Senator from Iowa, [Mr. ALLISON.]

The PRESIDING OFFICER. The Senator from Tennessee moves to reconsider the vote by which the amendment offered by the Senator from Iowa [Mr. KIRKWOOD] was adopted.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Iowa, [Mr. KIRKWOOD.]

Mr. HARRIS. I move the amendment offered by the other Senator from Iowa [Mr. ALLISON] as a substitute for the amendment now before the Senate.

The PRESIDING OFFICER. The Secretary will now report both amendments.

The Secretary read the amendment submitted by Mr. KIRKWOOD and then the amendment submitted by Mr. ALLISON.

Mr. KIRKWOOD. There is a blank in the amendment offered by me, which, I suppose, should be filled before the vote is taken. I move to fill it with the word "two;" so as to read "he shall award the full amount subscribed to all persons who shall have made *bona fide* subscriptions for the sum of $2,000 or less," &c.

I will again repeat, if the Senate have any desire to understand just what I wish to effect by this amendment, that it has been a matter of complaint throughout the country that heretofore in placing loans they have been placed in such a way that the great mass of our people who might have desired to subscribe for them had not the opportunity of doing so. That has been one subject-matter of complaint, and much prejudice has been created against the Government and against the holders of bonds by reason of the fact that the great mass of our people had not this opportunity. The amendment which I propose gives them that opportunity. It does more; it provides that when subscriptions shall have been made, if any shall be made, through the country, those who have subscribed small sums, if their subscriptions are as advantageous to the Government as other subscriptions, shall have the preference. The subscriptions to the amount of two thousand dollars and under, if as advantageous to the Government as subscriptions of millions, shall be preferred so far as they go; and after these small subscriptions have been cared for, then, and not until then, the large blocks of subscriptions, made as they have heretofore been made, shall be allowed to take up the balance.

Now, whether the proposition offered by my colleague—with whom I do not desire to come in competition in any way, and I regret the circumstance that we appear to be placed in competition in this matter—does afford to any of our people, if there shall be such, scattered all over our country as well as those in our great money centers, the same facilities as are afforded by the proposition submitted by me, I must express very grave doubt. He may be able to show that it does. If it does, I am content.

Mr. ALLISON. I only desire to say a word with reference to these two amendments. I think the amendment offered by my colleague is a right and proper amendment, but I think in practice it may not fully provide for what is intended. It is true it does provide that the designated depositaries of the United States may take these subscriptions, and the Secretary of the Treasury may also designate other persons to take subscriptions under this amendment.

Mr. COCKRELL. The depositaries of the United States and all national banks.

Mr. ALLISON. That provides 2,000 places, at least, where these bonds can be subscribed for. It seems to me, if we desire to make this a popular loan, the utmost publicity should be given as to the time and place where the subscriptions are to be made, and that is the chief feature in the amendment which I have proposed. I desire the Secretary of the Treasury shall be required to give public notice to all the people of the United States that this loan is to be had, and that then persons can by sealed proposals subscribe for the loan. I admit that when my amendment was prepared I anticipated that the rate of interest would be 3½ per cent. I do not think there is likely to be any severe competition for this loan above par when the rate is 3 per cent. Probably the feature of sealed proposals may not be as important now as it would have been in the case of a 3¼ per cent. loan. I still think that my amendment affords all the protection that the amendment of my colleague affords, and in addition it provides that the Secretary of the Treasury shall make report of everything he does under this loan, in order that it may be publicly known hereafter what he has done, and that Congress may have full and complete information with reference to the proposals received and the proposals rejected, so that there will be no opportunity for complaint afterward.

Mr. KIRKWOOD. That section can easily be added to the proposition submitted by myself.

Mr. ALLISON. Of course; it is a matter I care nothing about.

Mr. LOGAN. I desire to call the attention of the Senator from Iowa [Mr. ALLISON] to two objections that I have to his proposition, and I wish to know whether there is anything in them or not. I have tried to read and to understand the two propositions before the Senate; and if I understand them correctly I prefer the proposition of the junior Senator from Iowa, [Mr. KIRKWOOD.] I will state the objections I have to the amendment of the other Senator from Iowa, [Mr. ALLISON.]

In line 8 of that amendment provision is made for "designating the amount of such loan, the place and the time up to which sealed proposals will be received for the same." I do not understand that under this provision in reference to sealed proposals being received the Secretary of the Treasury is required to give his notice as to any number of places where the proposals may be received, but he may designate New York, Chicago, Cincinnati, and three or four cities, and there it may end. Therefore, one objection that I have is that it is in the discretion of the Secretary of the Treasury to name a few places where sealed proposals will be received.

Mr. KERNAN. Let me make one suggestion as to the places. If there are different places he will have to open the bids at different times at the different places.

Mr. LOGAN. The amendment reads:

> Designating the amount of such loan, the place and the time up to which sealed proposals may be received for the same.

There is but one place where they are received. Notice is given; you send your sealed proposals there, and they may be opened in the presence of such persons as desire to see them opened. That seems to me very loose; it seems to me that it does not afford to the people all over the country the opportunity that the amendment of the junior Senator from Iowa does.

Another objection I have to the amendment of the senior Senator from Iowa [Mr. ALLISON] is that I object to sealed proposals. I do not see why there should be any secrecy about bids for these bonds. They are to be sold at par. Why then is there any secrecy? Why should I be required to seal up my proposal? Why should I not just say to the Secretary of the Treasury or whoever he may designate, "I will take $10,000 of these bonds," or whatever amount I might be able to take? I put my name down and subscribe for them. It is like all sealed proposals. I do not say that there would be any fraud or anything of that kind; I intimate no such thing; but I am for an open, square, daylight thing, that people all over the country may have an opportunity to subscribe for these bonds.

Mr. BAYARD. They will be opened after they are sealed.

Mr. LOGAN. Of course they will be opened afterward; but why should they be sealed at all?

Mr. HARRIS. Will the Senator from Illinois allow me to interrupt him?

Mr. LOGAN. Certainly.

Mr. HARRIS. If this amendment is adopted as a substitute, with the approbation of the Senator who is the author of the amendment I will move to strike out the word "sealed" from the amendment that is now offered as a substitute.

Mr. LOGAN. I am merely stating my objections to it, and I said when I got up that the Senator from Iowa might possibly obviate all serious objection that I might have to it if I may not understand it. But I have another objection to the amendment. It provides that—

The Secretary of the Treasury—

That is, after the sealed proposals are opened—

is authorized to accept, if in his judgment the same shall be advantageous to the Government, the most favorable proposals offered by responsible bidders.

Of course upon the face of that it is all right; but there is in my mind a very serious objection to it. To illustrate my objection, suppose there are two of us who are bankers. We bid for these bonds. I propose to take $100,000,000 of them at par. The other banker proposes to take all of them at par. That, then, is the most favorable proposal to the Government of the United States. It cuts me out of getting a cent of them. The Secretary of the Treasury has it in his power then to give all the bonds to one syndicate or one banker or one individual. I do not think that is right. If I can understand the English language, that is exactly what this proposition means.

Mr. PADDOCK. It is an invitation to form a corner.

Mr. LOGAN. It means exactly what the syndicate has meant heretofore, that they may gobble the whole thing, provided the Secretary of the Treasury thinks theirs is the most favorable proposition, and the Secretary of the Treasury would most naturally think it was a favorable proposition which proposed to take all the bonds in one bid. That, then, is just as it has been heretofore. Nobody else would have an opportunity to get them. Some great wealthy corporation could take the whole of them at par; and then in the next four weeks, with this section that you have in the bill, which forces the banker who has his 5 per cent. and his 6 per cent. bonds on deposit as security for a circulation, to come and purchase these new bonds, the Secretary of the Treasury may allow them all to go into the hands of a syndicate under this proposition, and then, under your law forcing the banker to take them, he will pay 5 per cent. premium on them. I do not say that it is intended for any such purpose, but that is exactly one effect the proposition may have. I mean by that that it can be so construed as to allow this thing to be done.

If I understand the intention of this refunding bill, it is that the people may have an opportunity to subscribe. You say you desire them to take these bonds. In fact, you put a provision on here that forces $210,000,000 of them to be taken. Adopt this amendment, and you force these bankers to go out of the banking business or force them to purchase their bonds from the party who may be the most favorable bidder for all of this loan.

These are the objections I have to this proposition. If it can be changed so as to avoid these objections, I have nothing to say about it; but I do think these are very serious objections.

Mr. KIRKWOOD. I should like to ask my colleague whether I may misunderstand his proposition, but it seems to me the meaning of it would be that persons living in Iowa and Kansas or further west, if they have any money to spare and want to put it into bonds, would have to send bids here to the Treasury, and if they wanted to see that the thing was done fairly, they would have to have somebody here when the bids were opened to inspect them and to overlook them, and would have to send certificates that they were responsible persons to make good their bids. I may misunderstand the proposition of my colleague.

Mr. ALLISON. Of course, it is easy to criticise a proposition, and it is easy to imagine (I know my colleague does not intend to do so) that a Secretary of the Treasury will do this, that, or the other, with reference to such a thing. Of course, a Secretary of the Treasury might designate but very few places under this amendment of mine; and I will repeat what I said before, that my amendment had in view the fact that we should agree upon a 3½ per cent. bond, and that that bond would probably sell at a premium. It was with the intent to protect the Government of the United States in securing the best possible sale of these bonds that I offered this amendment, and at the same time to give entire publicity to everything that occurs in the placing of the loan, and also to give an opportunity to every section of the Union and every portion of it to subscribe for these bonds. I say with this bill, as it stands now, I think the amendment of my colleague carries out his view, and I am quite certain that we are not likely to get a premium upon these bonds. The Senator from Illinois, of course, finds objections, which may or may not have force.

It is true that the Secretary of the Treasury might in his discretion give the whole of this loan to a single syndicate, as the Senator says, but that certainly is not the aim and object of the amendment; and a Secretary of the Treasury who would be guilty of that would deserve little less than impeachment if he would undertake to so dispose of these loans. But inasmuch as it is a loan that will undoubtedly now be negotiated at par it matters very little whether these proposals are sealed proposals. It matters very little with reference to the machinery which I propose here, because I have not the slightest idea that anybody in Iowa or in Kansas or anywhere else will propose to give a very large premium for these bonds. I think the limit placed upon them by my colleague of $2,000 will amply protect all the people in Iowa who wish to subscribe. I think they will have a full and free opportunity to take all these bonds they may desire.

So far as the national banks are concerned, who are compelled under the compulsory processes of this bill to take these bonds, I am quite sure that they will be as agile and as active in making subscriptions as any other class of people. If they want to continue the business of banking under this bill as it stands, of course they will subscribe for the full amount of bonds that they propose to surrender, and in that way they would undoubtedly receive them.

I have no feeling about this matter, of course; I only offered my amendment with a view of thoroughly protecting the public in case we should issue a bond which might sell at a premium. If these bonds are to be sold at par I am as indifferent as any Senator can be whether the proposition of my colleague is supported, or whether my own proposition is supported. I did not even choose to offer my amendment as a substitute for his, because I regard it as wholly immaterial which is adopted.

Mr. LOGAN. I desire to ask the Senator from Iowa [Mr. ALLISON] a question, because what I said about the two amendments was for the purpose of trying to get at the facts and understand which would be the best for the country. Under the Senator's amendment as I read it, "the Secretary of the Treasury is authorized to accept, if in his judgment the same shall be advantageous to the Government, the most favorable proposals offered by responsible bidders." Does not that authorize the Secretary to reject a responsible bidder? Is not that true?

Mr. ALLISON. The lowest bidder?

Mr. LOGAN. No, not at all; that is not it. I am trying to get at the meaning of the proposition. Suppose there are three of us bidding for these bonds. I bid for $25,000; the other two bid for $300,000,000, and mind we are all bidding at the same price. I am a responsible bidder, but the other two bids are the more advantageous to the Government because of the amount that they bid for. Now, under this proposition, has the Secretary of the Treasury the right to reject my bid and accept the other two?

Mr. ALLISON. I do not think he has.

Mr. LOGAN. I do; I think most certainly he has. I do not think there is a particle of doubt about it at all. He would so construe it, if in his judgment it was the more advantageous to the Government to accept the bid of the other two.

Mr. ALLISON. How can it be so?

Mr. LOGAN. It can be so. Let me illustrate again. You have $400,000,000 that you want to put on the market. I send in a sealed proposal for the whole $400,000,000. Another man sends in a sealed proposal for $100,000,000. Is not mine the most advantageous bid for the Government? Is not that true? It certainly is, for it takes them all in one bid at the same price, but it does not give the other man an opportunity, and you propose under this law that all shall have a fair chance to purchase these bonds. It being the most advantageous bid to the Government to take all of them together for the same price it gives me the bonds, if I should happen to be that person, which certainly I would not, no matter how small the amount, because the person who is enabled to take them all, or even three-fourths of them or two-thirds of them, has an opportunity to put them out the next day and force the bankers to purchase them at a heavy premium, or else go out of business. That is the effect of the amendment in my judgment. That being my judgment, I am opposed to this provision. Of course I may be mistaken, but that is the way I read it.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa [Mr. ALLISON] as a substitute to the amendment offered by his colleague.

Mr. KIRKWOOD. I think we had better have the yeas and nays.

Mr. ALLISON. Let us see; perhaps we do not need them.

The PRESIDING OFFICER. As many as favor the amendment offered as a substitute will make it known by saying "ay;" those opposed "no." [Putting the question.] The ayes appear to have it.

Mr. KIRKWOOD. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. GROOME. Before the yeas and nays are taken, I should like to ask the Senator from Iowa [Mr. ALLISON] two questions about this amendment. The first is, referring him to the language in line 8, whether the amendment does not limit the Secretary of the Treasury to the designation of one place at which proposals can be made for these bonds? I think with deference that it does. The language of the amendment is that he shall issue proposals for the same in two papers in Washington and papers in other places, which proposals shall designate "the amount of such loan, the place, and the time up to which sealed proposals will be received for the same." It seems to me that that language plainly limits the Secretary of the Treasury to the designation of one place at which alone these sealed proposals can be made for this loan. That is one objection I have to the amendment.

The second question which I ask the Senator from Iowa relates to a proviso in the first section of his amendment, which declares:

That if the whole amount of the loan in bonds herein authorized shall not be subscribed for in the manner provided in this section, then the Secretary of the

Treasury is authorized to dispose of said bonds, in his discretion, at not less than par, as prescribed by the first section of this act.

Under that proviso, suppose that nineteen-twentieths of these bonds were subscribed for at par, or even at a higher rate, would not the Secretary of the Treasury, all of them not being so subscribed for, be authorized to dispose of them in his discretion under the first section of this act? It certainly seems to me that that is the meaning of that proviso, if it has any meaning at all.

Mr. EATON. "At not less than par."

Mr. GROOME. But that is not the point I am making. The proviso declares that in the event the whole amount of these bonds is not subscribed for, then the Secretary of the Treasury may dispose of them all at his discretion under the first section of the act, the result of which it seems to me would be that if nineteen-twentieths of them even were bid for by the poor men of this land from one end to the other it would be in the power of the Secretary of the Treasury to dispose of them all to a syndicate. It appears to me that the amendment is certainly open to that objection.

Mr. ALLISON. That is a very fair criticism. I admit it should be "the residue." The amendment was drawn, as Senators know, on my desk here. I see that instead of "said bonds" it should read "the residue of said bonds" shall be so disposed of. That is a very proper criticism.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment of the Senator from Iowa, [Mr. ALLISON,] which is offered as a substitute for the amendment of his colleague [Mr. KIRKWOOD] by the Senator from Tennessee, [Mr. HARRIS.]

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) I am paired on this question with the Senator from Virginia, [Mr. JOHNSTON.]

Mr. FERRY, (when Mr. BALDWIN's named was called.) I wish to state that my colleague [Mr. BALDWIN] is paired with the Senator from Delaware, [Mr. SAULSBURY.]

The roll-call was concluded.

Mr. LOGAN. I paired some time since with the Senator from North Carolina [Mr. VANCE] on the propositions then before the Senate. This being a new proposition outside, I do not know how he would vote, and I refrain from voting.

Mr. ALLISON. It makes no difference; the Senator can vote on this question.

The result was announced—yeas 14, nays 28; as follows:

YEAS—14.

| | | | |
|---|---|---|---|
| Beck, | Davis of Illinois, | Harris, | McPherson, |
| Call, | Eaton, | Jonas, | Maxey. |
| Cockrell, | Farley, | Lamar, | |
| Coke, | Garland, | McDonald, | |

NAYS—28.

| | | | |
|---|---|---|---|
| Allison, | Hampton, | Morgan, | Slater, |
| Bayard, | Hereford, | Morrill, | Teller, |
| Blair, | Ingalls, | Pendleton, | Vest, |
| Burnside, | Kernan, | Platt, | Voorhees, |
| Butler, | Kirkwood, | Plumb, | Wallace, |
| Ferry, | Logan, | Pugh, | Williams, |
| Groome, | McMillan, | Rollins, | Windom. |

ABSENT—34.

| | | | |
|---|---|---|---|
| Anthony, | Carpenter, | Hoar, | Saunders, |
| Bailey, | Conkling, | Johnston, | Sharon, |
| Baldwin, | Davis of W. Va., | Jones of Florida, | Thurman, |
| Blaine, | Dawes, | Jones of Nevada, | Vance, |
| Booth, | Edmunds, | Kellogg, | Walker, |
| Brown, | Grover, | Paddock, | Whyte, |
| Bruce, | Hamlin, | Randolph, | Withers. |
| Cameron of Pa., | Hill of Colorado, | Ransom, | |
| Cameron of Wis., | Hill of Georgia, | Saulsbury, | |

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Iowa, [Mr. KIRKWOOD.]

The amendment was agreed to.

Mr. ALLISON. On page 4, section 5, line 1, I move to strike out the word "May" and insert "July."

With the machinery we have now agreed to in this bill it is evident to my mind at least, and I think it will be apparent to the minds of the Senate, that the national banks which are required to make this substitution will not be able to do so by the 1st day of May. This bill will not pass finally probably before the very last days of this session, as it will have to go to the House, and it may take some days before action is again had upon it there; so that it will be impossible to prepare these bonds and have them distributed as proposed and then redeposit them in the Treasury by the 1st of May. I suggest that the 1st day of July be inserted in lieu of the 1st day of May.

The amendment was agreed to.

Mr. McDONALD. In section 1, I move to amend by striking out, after the word "at," in line 25, the word "the" and inserting "a;" and in line 26, after the word "rate," by striking out "of" and inserting "not exceeding;" so as to read "bearing interest at a rate not exceeding 3 per cent." It relates to the three-hundred-million-dollar loan. It is the committee amendment, as far as the motion to amend goes, striking out the same words that were proposed to be stricken out by the committee and inserting what the committee proposed to insert, as far as the amendment goes.

The PRESIDING OFFICER. That has been voted on once before in Committee of the Whole, and the Senator will have to propose it when the bill is in the Senate.

Mr. McDONALD. The whole phrase was voted on in Committee of the Whole.

The PRESIDING OFFICER. The committee's amendments were voted on separately, as the Chair is informed. The present occupant was not in the chair at the time.

Mr. COCKRELL. The whole amendment was voted on together.

Mr. KERNAN. "Not exceeding" and "one-half" were voted on together.

Mr. McDONALD. I offer this amendment as embracing a part of that.

Mr. COCKRELL. It was first proposed to vote on the first part of the amendment, and then before the question was put the whole amendment was voted on, striking out and inserting, so as to read, "at a rate not exceeding 3½ per cent."

The PRESIDING OFFICER. The fact is as stated by the Senator from Missouri, the Secretary informs the present occupant of the chair. The question is on the amendment proposed by the Senator from Indiana, [Mr. McDONALD.]

The question being put, there were on a division—ayes 18, noes 17; no quorum voting.

Mr. DAVIS, of Illinois. I call for the yeas and nays, and that will secure a quorum.

The yeas and nays were ordered.

Mr. McDONALD. The object of the amendment is to authorize the Secretary of the Treasury to sell the Treasury notes at less than 3 per cent. if he finds that he can do so, but at a rate not exceeding 3 per cent. The bonds as the bill now stands are to be sold at 3 per cent. without any option on the part of the Secretary, but I think so far as the Treasury notes are concerned the discretion ought to be given the Secretary, so that if he can place them at less than 3 per cent. at par he should have authority to do so rather than fix a definite rate of interest in the bill.

The PRESIDING OFFICER. The Secretary will call the roll on the amendment.

The Secretary called the roll.

Mr. LOGAN. I am paired with the Senator from North Carolina, [Mr. VANCE.] I presume if the Senator from North Carolina were here, he would vote for the amendment. I should vote against the amendment if he were here.

The result was announced—yeas 22, nays 17; as follows:

YEAS—22.

| | | | |
|---|---|---|---|
| Beck, | Farley, | McDonald, | Vest, |
| Call, | Garland, | McPherson, | Voorhees, |
| Cockrell, | Groome, | Maxey, | Wallace, |
| Coke, | Harris, | Pendleton, | Williams. |
| Davis of Illinois, | Hereford, | Pugh, | |
| Eaton, | Jonas, | Slater, | |

NAYS—17.

| | | | |
|---|---|---|---|
| Allison, | Kernan, | Morrill, | Teller, |
| Bayard, | Kirkwood, | Paddock, | Windom. |
| Burnside, | Lamar, | Platt, | |
| Butler, | McMillan, | Plumb, | |
| Ingalls, | Morgan, | Rollins, | |

ABSENT—37.

| | | | |
|---|---|---|---|
| Anthony, | Carpenter, | Hill of Georgia, | Saunders, |
| Bailey, | Conkling, | Hoar, | Sharon, |
| Baldwin, | Davis of W. Va., | Johnston, | Thurman, |
| Blaine, | Dawes, | Jones of Florida, | Vance, |
| Blair, | Edmunds, | Jones of Nevada, | Walker, |
| Booth, | Ferry, | Kellogg, | Whyte, |
| Brown, | Grover, | Logan, | Withers. |
| Bruce, | Hamlin, | Randolph, | |
| Cameron of Pa., | Hampton, | Ransom, | |
| Cameron of Wis., | Hill of Colorado, | Saulsbury, | |

So the amendment was agreed to.

Mr. BAYARD. I wish to make a proposition to the Senate. It is that this bill shall be suffered to go into the Senate to-night from the Committee of the Whole, reserving separate votes for the amendments of the Committee on Finance as offered in Committee of the Whole, and that we shall by unanimous consent agree that the vote may be taken to-morrow at two o'clock. The Senate ought to be fuller than it is now when the final vote is taken. The last vote disclosed a bare quorum, and as I think there ought to be a full Senate upon the final vote on this bill, I ask unanimous consent to an understanding that to-morrow at two o'clock the vote be taken on the bill.

Mr. INGALLS. And meanwhile let the bill be printed.

Mr. MORRILL. With all the amendments?

Mr. INGALLS. Let the bill, with the amendments, be printed.

Mr. BAYARD. The bill, I think, had better be printed; that can be done to-night.

The PRESIDING OFFICER. The order to print will be made. The bill is still in Committee of the Whole, and the amendment offered by the Senator from Texas [Mr. COKE] is the pending question.

Mr. TELLER. I want to inquire when the bill will be taken up to-morrow?

Mr. BAYARD. I would have it taken up immediately after the routine morning business.

Mr. TELLER. That will give us a little chance for an examination of it.

Mr. BLAIR. I wish to move an amendment to the fifth section.

The PRESIDING OFFICER. There is an amendment pending to the fourth section, submitted by the Senator from Texas, [Mr. COKE.]

Mr. BAYARD. Will the Chair state the proposition which I have made in regard to the vote being taken to-morrow on this bill and the amendments reserved for separate votes in the Senate?

The PRESIDING OFFICER. The Senator from Delaware suggests that to-morrow morning after the routine morning business is finished this bill shall be taken up and that the vote be had at two o'clock to-morrow.

Mr. BAYARD. Voting on the amendments separately.

Mr. TELLER. Reserving all of them.

The PRESIDING OFFICER. If there be no objection, that will be considered as the understanding of the Senate.

Mr. ALLISON. And the bill is to go out of the Committee of the Whole to-night.

Mr. BAYARD. I desire to reserve a separate vote on the amendments of the Finance Committee when the bill is reported to the Senate.

The PRESIDING OFFICER. That will be the understanding.

Mr. COKE. I am entirely satisfied upon examination that the bill is not liable to the objection that my amendment sought to remedy, and I therefore withdraw it.

The PRESIDING OFFICER. The Senator from Texas withdraws his amendment, and the Senator from New Hampshire can now offer his.

Mr. BLAIR. I should like the attention of the Senate a moment, although it is very late. I wish to move to amend in the fourth line, fifth section, after the word "circulation," by the insertion of the words "issued after that date;" so that the section will read:

From and after the 1st day of May, 1881, the 3 per cent. bonds authorized by the first section of this act shall be the only bonds receivable as security for national-bank circulation issued after that date.

I wish to say in support of the amendment a very few words. Of course, I shall not detain the Senate more than four or five minutes to-night, but I think it is worthy of the attention of the Senate that by the enactment of this law there are many of the national banks of this country that will be driven into liquidation.

Mr. VOORHEES. Will my friend from New Hampshire yield to a suggestion?

Mr. BLAIR. Yes, sir.

Mr. VOORHEES. The Senator from New Hampshire can offer his amendment to-morrow, and if he will yield to me for a motion to adjourn, I make that motion.

The PRESIDING OFFICER. The Chair will state that under the suggestion of the Senator from Delaware the bill was to be reported to the Senate to-night.

Mr. HARRIS. Let the bill be reported to the Senate, and the Senator from New Hampshire can offer his amendment in the Senate.

The PRESIDING OFFICER. The Chair was about to state that the Senator from New Hampshire could move his amendment in the Senate.

Mr. BLAIR. I understand. I was merely going to suggest that the amendment I offered be printed with the other amendments, and I will move it in the Senate.

The PRESIDING OFFICER. If there is no other amendment to be offered in Committee of the Whole, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. A separate vote is reserved in the Senate on the amendments of the Committee.

Mr. VOORHEES. I move that the Senate adjourn.

The motion was agreed to; and (at eleven o'clock and twenty minutes p. m.) the Senate adjourned.

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## HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 17, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of the proceedings of the legislative day of Tuesday was read and approved.

ORDER OF BUSINESS.

Several members addressed the Chair.

The SPEAKER. The Chair is advised that in the order of recognition to make requests for unanimous consent the two next recognitions belong to gentlemen on the left of the Chair. The Chair will endeavor to pass from side to side in the interest of fair play to all.

Mr. ALDRICH, of Rhode Island. I desire to call up for present consideration a bill to change the name of a yacht. It is Senate bill No. 1837.

Mr. UPSON. I call for the regular order.

CONTESTED ELECTION, O'HARA VS. KITCHIN.

Mr. FIELD. I make a privileged report from the Committee on Elections in the contested-election case of O'Hara *vs.* Kitchin, second congressional district of North Carolina. I ask that the resolutions be read.

The Clerk read as follows:

*Resolved*, That James E. O'Hara is not entitled to a seat in this House as a Representative in the Forty-sixth Congress from the second congressional district of North Carolina.

*Resolved*, That William H. Kitchin is entitled to a seat in this House as a Representative in the Forty-sixth Congress from the second congressional district of North Carolina.

Mr. FIELD. I move that the report and resolutions be printed, and ask that the resolutions lie over for the present.

The SPEAKER. Is there a minority report?

Mr. FIELD. No, sir. It is a unanimous report.

The motion was agreed to.

CHARLES W. CARRIGAN.

Mr. FIELD. I also present a report from the Committee on Elections on the petition of Charles W. Carrigan, attorney for Thomas B. Florence. The report is adverse. I move that the report be printed, and that the petition be laid on the table.

The motion was agreed to.

CASE OF HALLET KILBOURN VS. JOHN G. THOMPSON AND OTHERS.

Mr. MARTIN, of Delaware. I make a privileged report from the Committee on Accounts, which I send to the desk.

The Clerk read as follows:

*Resolved*, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund to FRANK H. HURD the sum of $3,300 in full payment of all costs, expenses, and fees to date as counsel in the case of Hallet Kilbourn *vs.* John G. Thompson, John M. Glover, JEPHTHA D. NEW, Burwell B. Lewis, and A. HERR SMITH.

Mr. MARTIN, of Delaware. Let the report be read.

The report was read, as follows:

The Committee on Accounts, to whom was referred the bill of the House No. 7071, with report No. 153 from the Judiciary Committee, all in reference to the payment of FRANK H. HURD his fees, with costs and expenses, for services as counsel for the House of Representatives in the case of Hallet Kilbourn *vs.* John G. Thompson and others, having had the same under consideration, respectfully report:

That the services for which pay is sought were authorized by a resolution of the House; that they were faithfully rendered, and that the sum of $3,300 asked for in said bill and report is a reasonable allowance; that as this is a claim for services rendered to the House it is properly payable out of the contingent fund of the House.

Therefore, the committee report the accompanying resolution as a substitute for the bill, and unanimously recommend its passage.

Mr. MARTIN, of Delaware. I call the previous question on the resolution.

Mr. FORT. I would like to have this matter explained a little.

Mr. MARTIN, of Delaware. The report of the committee explains the resolution quite as fully as I can do. It is known to the House that there was an investigating committee appointed by the Forty-fifth Congress in regard to what was termed the real-estate pool in the District of Columbia. One Hallet Kilbourn was summoned before that committee as a witness, and declined to answer, whereupon the House directed that he should be confined for contempt of the House until he did answer. He remained in prison—I do not remember how long, thirty days or more—and I believe was then released upon a writ of *habeas corpus*. He brought action against the Sergeant-at-Arms of this House and the members of the committee charged with that investigation. That action was carried to the Supreme Court of the United States. The Sergeant-at-Arms, by authority of a resolution of the House, employed Mr. FRANK HURD, now a member of this House, to defend the officers of this House and the members of the committee who had exercised that jurisdiction. This resolution is to compensate Mr. HURD for his services in conducting this case before the Supreme Court of the United States.

Mr. REAGAN. I do not desire to say anything against this resolution, but I want to give my opinion of the matter by calling the attention of the House to the fact that on the question of contempt the House surrendered its jurisdiction of the matter to a petty court. The result was that the officers of the House and the members of its committee were brought into court to answer for a trespass, instead of the House compelling the offending witness guilty of contempt to answer to the exclusive jurisdiction of this House. It was the folly and fault of this House in failing to vindicate its jurisdiction which has brought the Government, as well as the officers and members of this House, into contempt.

Mr. CONGER. At the time these services were rendered was Mr. HURD a member of this House?

The SPEAKER. He was not a member of the House when the services were rendered, the Chair thinks. The gentleman from Delaware [Mr. MARTIN] having charge of this matter can state more distinctly.

Mr. MARTIN, of Delaware. If I am not mistaken the services were rendered during vacation.

Mr. ROBINSON. They were rendered during the Forty-fifth Congress, of which Congress Mr. HURD was not a member.

Mr. MARTIN, of Delaware. He was not a member of Congress at the time he was employed and rendered this service.

Mr. CONGER. I did not hear the report read, but it seems to me that a proper resolution would be one simply to pay the expenses incurred in this case by the officers of the House in defending or prosecuting, whatever it may have been, the suit in the United States courts.

By the decision of the Supreme Court the House unquestionably exceeded its power in the case of Mr. Kilbourn. That court has decided that the action of the House was a violation of the rights of the citizen. As the record will show, a great many members of this House thought so at the time, and voted against the proceedings.

Still I admit that the Sergeant-at-Arms and the other persons who were sued for carrying out what I then believed to be a high-handed trespass by this House upon the rights of an American citizen—I admit it is right enough that the officers of the House who carried out the will of the House in that respect should be protected from expense. But this bill or resolution singles out items, such as the fees of attorneys. In my judgment it ought to be a resolution that Congress should provide for the proper expenses of the officers of this House in defending this suit.

Mr. MARTIN, of Delaware. The Committee on Accounts, having audited this account, have adopted that form to cover all these expenses. If the gentleman from Michigan will listen to the reading of the resolution he will find that his idea is embodied in it, except that Mr. HURD is mentioned by name as the counsel in the case.

Mr. CONGER. Are there any other officers mentioned, or are there other expenses to be brought up hereafter?

Mr. MARTIN, of Delaware. No other expenses. I ask that the resolution be again read.

The SPEAKER. The resolution will again be read.

The Clerk read as follows:

*Resolved*, That the Clerk of the House be, and he is hereby, authorized and directed to pay out of the contingent fund of the House to FRANK H. HURD the sum of $3,300, in full payment of all costs, expenses, and fees to date as counsel in the case of Hallet Kilbourn *vs.* John G. Thompson, John M. Glover, JEPHTHA D. NEW, Burwell B. Lewis, and A. HERR SMITH.

Mr. CONGER. My point is simply this: the persons named here in the resolution, the Sergeant-at-Arms of the House and the members of the committee of the House, were prosecuted as individuals, not as the Sergeant-at-Arms, not as members of this House or of any committee of this House; they were prosecuted in their individual capacity. As individuals they sustained liabilities to pay costs and expenses for attorneys.

Mr. VAN VOORHIS. Will this end this Hallet Kilbourn business, or is the suit still progressing?

Mr. CONGER. The gentleman will wait until I have concluded. I say that these gentlemen were prosecuted as individual citizens, not as officers of this House, not as members of this House, not as members of a committee of this House; not at all for their relation in any manner to the official positions they occupy. If they were put to expense in carrying out the will of the House, and their expenses should be paid, those expenses which they incurred by reason of carrying out the will of the House should be stated, should be examined, should be allowed, and they should pay their counsel, they should pay the costs, they should pay whatever expense may have been incurred. This resolution, so far as appears on its face, proposes to pay an attorney for appearing in the defense of individuals who happened to be in some way connected with this House. It shifts from the House the responsibility and liability which it ought to assume in connection with that defense.

Mr. MARTIN, of Delaware. Let me say to the gentleman that the House assumed the responsibility by passing a resolution authorizing the employment of counsel to defend this committee and these officers in the courts; and it was under the authority of that resolution of the House that this employment was made.

Mr. CONGER. Then that is the authority which warrants these individuals who were prosecuted in coming before the House and asking Congress to repay to them expenses which they incurred; but when such payment is made the account should be closed up. I want this resolution and the record to show that it was the House of Representatives that committed the trespass. I want the record to show that this high-handed attack upon the rights of a citizen, as the Supreme Court of the United States has declared it to be, was authorized and commanded by this House. Let us spread broadly upon the Journal and record of Congress the result of that attack upon a private citizen of the United States, as a warning to future Congresses not to exceed their privileges and their rights. That is my objection to this resolution.

Mr. MARTIN, of Delaware. I demand the previous question; but before it is ordered I yield three minutes to the gentleman from New Jersey, [Mr. ROBESON.]

Mr. ROBESON. Mr. Speaker, I understood that this matter is written on the record exactly in accordance with the facts—that these gentlemen, members of a committee and officers of this House, were sued for pursuing the directions of this House; that all these expenses have been incurred by resolution of the House; that the bill for these expenses has been presented to the Judiciary Committee and by them passed with a favorable recommendation and referred to the Committee on Accounts to be audited. If that is true, then the matter has passed through the different stages of investigation which this House can give it; and this House at every stage has assumed the responsibility.

I believe the original action of the House was wrong; but I think we ought not to punish our agents for doing what we directed them to do. The gentleman who is to be paid was a private citizen in the practice of his profession at the time when he was employed; and he is entitled in my opinion to more money than we give him for daring to maintain the principle the advocacy of which we imposed upon him.

Mr. MARTIN, of Delaware. I now ask a vote on ordering the previous question.

The previous question was ordered; and under the operation thereof the resolution was adopted.

Mr. MARTIN, of Delaware, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### RIVER AND HARBOR APPROPRIATION BILL.

Mr. COOK. I call for the regular order.

The SPEAKER. The regular order being demanded, the House resumes the consideration of the unfinished business which comes over from the legislative session of Tuesday under the operation of the previous question.

Mr. ROBESON. What is that unfinished business?

The SPEAKER. The bill known as the river and harbor appropriation bill.

Mr. ROBESON. How does it stand?

The SPEAKER. The question, as the Chair understands, is first upon the amendments.

Mr. ROBESON. I believe the previous question has been ordered.

The SPEAKER. It has been ordered on the engrossment and third reading of the bill, but not on its passage.

Mr. REAGAN. On the passage of the bill and amendments?

Several MEMBERS. Oh, no!

Mr. SPRINGER. The question of passage has not yet been before the House, and cannot be until the amendments have been voted on.

The SPEAKER. The rule regulates this matter.

Mr. BLACKBURN. The rule regulates it. The previous question has been ordered upon the bill and pending amendments.

The SPEAKER. It will exhaust itself on the engrossment and must be renewed on the passage of the bill.

Mr. ROBESON. Pending that question, I move that the bill be referred to the Committee on the Judiciary with instructions to report an amendment confining the expenditure of money therein appropriated to rivers, harbors, and streams within the admiralty and maritime jurisdiction of the United States.

The SPEAKER. The Chair, under the rules, cannot entertain the motion at this stage, but will do so, as required by the rule, while the previous question is pending on the passage of the bill or after it has been ordered. Is a separate vote asked on any of the amendments?

Mr. COX. The yeas and nays, I presume, will not be taken by the rule until the question of final passage.

The SPEAKER. The yeas and nays are required by the rule to be taken on the passage of bills for the improvement of rivers and harbors.

Mr. REAGAN. There are no amendments increasing or decreasing the aggregate of the bill. Some of the amendments make a replacement of items, and some are verbal corrections. I hope we shall vote on the amendments in bulk.

The SPEAKER. No separate vote having been asked, the Chair will submit the question on the amendments in gross.

Mr. WARNER. Do I understand no amendments were made increasing amounts in the bill?

Mr. BLACKBURN. No, not one.

The amendments were agreed to in gross.

Mr. BLACKBURN moved to reconsider the vote by which the amendments were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. REAGAN demanded the previous question on the passage of the bill.

Mr. ROBESON. Pending that I move to commit the bill to the Judiciary Committee with instructions to report an amendment confining the expenditure of the money herein appropriated to rivers, harbors, and streams within the admiralty and maritime jurisdiction of the United States.

Mr. REAGAN. On that I demand the previous question.

Mr. ROBESON. Have I not the floor on that? I do not wish to occupy time, but I do wish to demand the previous question myself. I demand the previous question, and I also ask for the yeas and nays.

The main question was ordered.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 85, nays 152, not voting 54; as follows:

YEAS—85.

| | | | |
|---|---|---|---|
| Anderson, | Bowman, | Colerick, | Finley, |
| Atherton, | Briggs, | Converse, | Forsythe, |
| Bachman, | Brigham, | Cowgill, | Fort, |
| Bailey, | Bright, | Cox, | Geddes, |
| Belford, | Browne, | Davis, Horace | Gillette, |
| Beltzhoover, | Camp, | De La Matyr, | Godshalk, |
| Berry, | Chittenden, | Deering, | Hall, |
| Bicknell, | Clymer, | Dickey, | Hawley, |
| Bisbee, | Cobb, | Dwight, | Heilman, |
| Blount, | Coffroth, | Ferdon, | Hostetler, |

| | | | |
|---|---|---|---|
| Ketcham, | Muller, | Ryan, Thomas | Updegraff, J. T. |
| Killinger, | Neal, | Ryon, John W. | Updegraff, Thomas |
| Klotz, | Orth, | Sapp, | Valentine, |
| Knott, | Osmer, | Smith, A. Herr | Van Voorhis. |
| Ladd, | Overton, | Springer, | Warner, |
| Lapham, | Phelps, | Stephens, | Weaver, |
| Le Fevre, | Prescott, | Stevenson, | Wood, |
| McGowan, | Ray, | Thomas, | Yocum, |
| McMahon, | Rice, | Thompson, W. G. | Young, Thomas L. |
| McMillin, | Richardson, D. P. | Townshend, R. W. | |
| Miles, | Robeson, | Turner, Oscar | |
| Morrison, | Robinson, | Tyler, | |

NAYS—152.

| | | | |
|---|---|---|---|
| Acklen, | Deuster, | King, | Scales, |
| Aiken, | Dibrell, | Loring, | Scoville, |
| Aldrich, N. W. | Dick, | Lowe, | Sherwin, |
| Aldrich, William | Dunn, | Manning, | Simonton, |
| Atkins, | Elam, | Martin, Benj. F. | Singleton, J. W. |
| Baker, | Ellis, | Martin, Edward L. | Singleton, O. R. |
| Ballou, | Errett, | McCoid, | Siemons, |
| Barber, | Evins, | McKinley, | Smith, Hezekiah B. |
| Beale, | Felton, | McLane, | Smith, William E. |
| Bingham, | Field, | Miller, | Speer, |
| Blackburn, | Ford, | Mitchell, | Steele, |
| Blake, | Forney, | Monroe, | Stone, |
| Bland, | Frost, | Morse, | Talbott, |
| Bliss, | Gibson, | Muldrow, | Taylor, Ezra B. |
| Bouck, | Goode, | Myers, | Taylor, Robert L. |
| Boyd, | Gunter, | New, | Thompson, P. B. |
| Bragg, | Hammond, N. J. | Newberry, | Tillman, |
| Buckner, | Harmer, | Norcross, | Townsend, Amos |
| Burrows, | Harris, Benj. W. | O'Neill, | Turner, Thomas |
| Butterworth, | Harris, John T. | O'Reilly, | Upson, |
| Caldwell, | Hatch, | Pacheco, | Urner, |
| Cannon, | Hawk, | Page, | Vance, |
| Carpenter, | Hazelton, | Persons, | Voorhis, |
| Caswell, | Henderson | Philips, | Waddill, |
| Chalmers, | Henkle, | Phister, | Ward, |
| Claflin, | Herbert, | Poehler, | Washburn, |
| Clardy, | Herndon, | Pound, | Wellborn, |
| Clark, John B. | Hiscock, | Price, | Wells, |
| Clements, | Hooker, | Reagan, | White, |
| Conger, | Horr, | Reed, | Whiteaker. |
| Cook, | House, | Richardson, J. S. | Whitthorne, |
| Cravens, | Hubbell, | Richmond, | Williams, C. G. |
| Crowley, | Hunton, | Ross, | Williams, Thomas |
| Culberson, | Hurd, | Rothwell, | Willis, |
| Davidson, | Johnston, | Russell, Daniel L. | Wilson, |
| Davis, George R. | Jones, | Russell, W. A. | Wise, |
| Davis, Joseph J. | Kelley, | Samford, | Wright, |
| Davis, Lowndes H. | Kenna, | Sawyer, | Yeates. |

NOT VOTING—54.

| | | | |
|---|---|---|---|
| Armfield, | Fisher, | Kimmel, | O'Connor, |
| Barlow, | Frye, | Kitchin, | Robertson, |
| Bayne, | Hammond, John | Lindsey, | Shallenberger, |
| Brewer, | Haskell, | Lounsbery, | Shelley, |
| Cabell, | Hayes, | Marsh, | Sparks, |
| Calkins, | Henry, | Mason, | Starin, |
| Carlisle, | Hill, | McCook, | Tucker, |
| Clark, Alvah A. | Houk, | McKenzie, | Van Aernam, |
| Covert, | Humphrey, | Mills, | Wait, |
| Crapo, | Hutchins, | Money, | Wilber, |
| Daggett, | James, | Morton, | Willits, |
| Dunnell, | Jorgensen, | Murch, | Young, Casey. |
| Einstein, | Joyce, | Nicholls, | |
| Ewing, | Keifer, | O'Brien, | |

So the motion to recommit was disagreed to.

During the roll-call,

Mr. DUNNELL said: Mr. Speaker, two days ago I paired with the gentleman from Ohio, [Mr. HILL,] expecting to leave the city, but as I have not been absent, and as the gentleman from Ohio has failed to vote, thinking the pair still continued, I ask by unanimous consent he be allowed to record his vote.

The SPEAKER. The Chair cannot ask for unanimous consent for that purpose.

Mr. DUNNELL. If the gentleman from Ohio is not allowed to vote, then I shall have to withdraw my own.

Mr. HILL. I do not wish to ask the gentleman from Minnesota to withdraw his vote. I only ask, if I am not allowed by unanimous consent to vote, that the pair shall be announced and the statement made that I would vote against the bill, while the gentleman from Minnesota would vote in favor of it. I do not suppose our votes would change the result or affect this motion to recommit with instructions.

The following pairs were announced from the Clerk's desk:

Mr. O'CONNOR, absent on account of sickness, with Mr. BREWER, for to-day.

Mr. HILL with Mr. DUNNELL. If Mr. DUNNELL were present, Mr. HILL would vote "no" on the bill.

Mr. KITCHIN with Mr. CABELL, on the river and harbor appropriation bill.

Mr. SHALLENBERGER with Mr. HASKELL, on this bill. Mr. SHALLENBERGER would vote against and Mr. HASKELL for the bill.

Mr. BAYNE with Mr. MITCHELL. Mr. BAYNE would vote for and Mr. MITCHELL against the bill.

Mr. VAN AERNAM with Mr. HENRY.

Mr. NICHOLLS with Mr. JOYCE.

Mr. JAMES with Mr. O'BRIEN.

Mr. HAMMOND, of New York, with Mr. EWING.

Mr. ROBESON with Mr. MCKENZIE.

Mr. HUTCHINS with Mr. MORTON.

Mr. MANNING with Mr. ARMFIELD.

Mr. TUCKER with Mr. FRYE.

Mr. LOUNSBERY with Mr. HAWKINS.

Mr. YOUNG, of Tennessee, with Mr. STARIN.

The vote was then announced as above recorded.

Mr. REAGAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ATHERTON. I rise to a parliamentary inquiry, and it is this: Is it in order to move to recommit this bill to the Committee on Commerce with instructions?

The SPEAKER. It is not. The rules limit it to one motion to commit, with or without instructions.

Mr. ATHERTON. I know; but that is to the same committee.

The SPEAKER. At this stage only one motion to commit is in order.

Mr. ATHERTON. I know that is the rule.

Mr. BLAND. The previous question is called on the bill and amendments.

The SPEAKER. The bill is on its final passage; and pending that, either before or after ordering the main question, the rules recognize a single motion to commit, with or without instructions. That privilege, under the rules, having been exhausted, no other motion to commit at this stage is in order.

Mr. ATHERTON. Certainly not to the same committee.

The SPEAKER. To any committee, either standing or select.

Mr. ATHERTON. Suppose the proposition, however, is to commit to a different committee, as in this case to the Committee on Commerce——

The SPEAKER. The language of the rule is to commit with or without instructions, for which one motion only may be entertained pending the demand for the previous question.

Mr. ATHERTON. Then I lost my chance by waiting too long.

The SPEAKER. The motion could not now be entertained. The question is on ordering the main question.

Mr. CONGER. Before that is done I wish to ask consent to make a verbal correction in regard to an amendment which I submitted and which was adopted by the Committee of the Whole, in regard to operating these canals. I send to the desk the amendment, which is substantially the same, being simply transposod, and with the addition of the word "hereafter" at the beginning of it, so as to make the language of it perfectly clear. I hope there will be no objection to its adoption in place of the amendment adopted last night.

Mr. REAGAN. Let it be read; after which objections may be asked for.

The Clerk read as follows:

Strike out lines 625, 626, and 627, and insert "and hereafter, for the purpose of operating and keeping in repair the Des Moines Rapids Canal and Saint Mary's Falls Canal and the Louisville and Portland Canal, the Secretary of War is authorized to draw his requisition on the Secretary of the Treasury from time to time, which requisition shall be paid out of any money in the Treasury not otherwise appropriated."

Mr. CONGER. It will be seen that the change is a mere transposition—the sense being the same.

Mr. HOOKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. I wish to ask if that amendment is not the same proposition which was voted down in the Committee of the Whole.

The SPEAKER. The Chair thinks not. This is a proposition, as the Chair understands, which was agreed to. Is there objection to the modification as proposed by the gentleman from Michigan?

There was no objection, and the amendment was modified accordingly.

The SPEAKER. The question is on ordering the main question.

The main question was ordered.

Mr. REAGAN moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The question now recurs on the passage of the bill, on which the Clerk will call the roll.

The question was taken; and there were—yeas 162, nays 85, not voting 44; as follows:

YEAS—162.

| | | | |
|---|---|---|---|
| Acklen, | Carpenter, | Dunnell, | Hiscock, |
| Aiken, | Caswell, | Elam, | Hooker, |
| Aldrich, N. W. | Chalmers, | Ellis, | Horr, |
| Aldrich, William | Claflin, | Errett, | House, |
| Atkins, | Clardy, | Evins, | Hubbell, |
| Baker, | Clark, John B. | Felton, | Hunton, |
| Ballou, | Clements, | Forney, | Hurd, |
| Barber, | Conger, | Frost, | Johnston, |
| Beale, | Cook, | Gibson, | Jones, |
| Bingham, | Covert, | Gillette, | Kelley, |
| Bisbee, | Crapo, | Goode, | Kenna, |
| Blackburn, | Cravens, | Gunter, | Kimmel, |
| Blake, | Crowley, | Harmer, | King, |
| Bland, | Culberson, | Harris, Benj. W. | Loring, |
| Bliss, | Daggett, | Harris, John T. | Lowe, |
| Bouck, | Davidson, | Hatch, | Manning, |
| Boyd, | Davis, George R. | Hawk, | Marsh, |
| Bragg, | Davis, Lowndes H. | Hazelton, | Martin, Benj. F. |
| Brigham, | De La Matyr, | Heilman, | Martin, Edward L. |
| Buckner, | Deuster, | Henderson, | Mason, |
| Burrows, | Dibrell, | Henkle, | McCoid, |
| Caldwell, | Dick, | Herbert, | McKinley, |
| Cannon, | Dunn, | Herndon, | McLane, |

| | | | |
|---|---|---|---|
| McMillin, | Poehler, | Smith, Hezekiah B. | Wait, |
| Miles, | Pound, | Smith, William E. | Ward, |
| Miller, | Price, | Speer, | Warner, |
| Money, | Reagan, | Stephens, | Washburn, |
| Monroe, | Reed, | Stevenson, | Wellborn, |
| Morse, | Richardson, J. S. | Stone, | Wells, |
| Muldrow, | Richmond, | Talbott, | White, |
| Myers, | Robertson, | Taylor, Ezra B. | Whiteaker, |
| New, | Ross, | Taylor, Robert L. | Williams, C. G. |
| Newberry, | Rothwell, | Thompson, P. B. | Williams, Thomas |
| O'Neill, | Russell, W. A. | Tillman, | Willis, |
| O'Reilly, | Samford, | Townsend, Amos | Willits, |
| Orth, | Sawyer, | Turner, Thomas | Wilson, |
| Page, | Shelley, | Upson, | Wise, |
| Persons, | Sherwin, | Urner, | Wright, |
| Phelps, | Simonton, | Vance, | Yeates. |
| Philips, | Singleton, J. W. | Voorhis, | |
| Phister, | Singleton, O. R. | Waddill, | |

NAYS—85.

| | | | |
|---|---|---|---|
| Anderson, | Deering, | Ladd, | Scales, |
| Atherton, | Dickey, | Lapham, | Smith, A. Herr |
| Bachman, | Dwight, | Le Fevre, | Sparks, |
| Bailey, | Einstein, | Lindsey, | Springer, |
| Beltzhoover, | Ferdon, | McGowan, | Steele, |
| Berry, | Field, | McMahon, | Thomas, |
| Bicknell, | Finley, | Morrison, | Thompson, Wm. G. |
| Blount, | Ford, | Muller, | Townshend, R. W. |
| Bowman, | Forsythe, | Neal, | Turner, Oscar |
| Briggs, | Fort, | Norcross, | Tyler, |
| Browne, | Geddes, | Osmer, | Updegraff, J. T. |
| Camp, | Godshalk, | Overton, | Updegraff, Thomas |
| Chittenden, | Hall, | Pacheco, | Valentine, |
| Clymer, | Hammond, N. J. | Prescott, | Van Voorhis, |
| Cobb, | Haskell, | Ray, | Weaver, |
| Coffroth, | Hawley, | Rice, | Whitthorne, |
| Colerick, | Hill, | Richardson, D. P. | Wood, |
| Converse, | Hostetler, | Robeson, | Yocum, |
| Cowgill, | Ketcham, | Robinson, | Young, Thomas L. |
| Cox, | Killinger, | Ryan, Thomas | |
| Davis, Horace | Klotz, | Ryon, John W. | |
| Davis, Joseph J. | Knott, | Sapp, | |

NOT VOTING—44.

| | | | |
|---|---|---|---|
| Armfield, | Ewing, | Joyce, | O'Brien, |
| Barlow, | Fisher, | Keifer, | O'Connor, |
| Bayne, | Frye, | Kitchin, | Russell, Daniel L. |
| Belford, | Hammond, John | Lounsbery, | Scoville, |
| Brewer, | Hayes, | McCook, | Shallenberger, |
| Bright, | Henry, | McKenzie, | Slemons, |
| Butterworth, | Houk, | Mills, | Starin, |
| Cabell, | Humphrey, | Mitchell, | Tucker, |
| Calkins, | Hutchins, | Morton, | Van Aernam, |
| Carlisle, | James, | Murch, | Wilber, |
| Clark, Alvah A. | Jorgensen, | Nicholls, | Young, Casey. |

So the bill was passed.

Mr. WELLBORN. My colleague [Mr. MILLS] requested me to state, in the event of this bill coming before the House for final action to-day, that he is absent from the city as a member of the committee appointed by the House to accompany the remains of the late Mr. FERNANDO WOOD to New York. I will also say, Mr. Speaker, that if my colleague were present he would vote for this bill.

On motion of Mr. RICHMOND, by unanimous consent the reading of the names was dispensed with.

The following additional pair was announced from the Clerk's desk:

Mr. MCKENZIE with Mr. CARLISLE, on this vote.

The result of the vote was then announced as above recorded.

Mr. REAGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. COX. I ask for the regular order.

The SPEAKER. The regular order is the morning hour for the call of committees for reports.

Mr. SPRINGER. I move to dispense with the morning hour.

The House divided; and there were—ayes 94, noes 56.

Tellers were demanded.

The House ordered tellers; and Mr. REAGAN and Mr. SPRINGER were appointed.

The House again divided; and there were—ayes 108, noes 71.

So (two-thirds not voting in favor thereof) the morning hour was not dispensed with.

The SPEAKER. The morning hour not having been dispensed with the Chair will now call the committees for reports.

REFUNDING CERTAIN DUTIES.

Mr. MORRISON, from the Committee on Ways and Means, reported back, with a favorable recommendation, the bill (H. R. No. 6746) to refund certain duties paid upon military uniforms imported by and for the use of Company B, Sixth Regiment of Infantry, Illinois National Guard; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

BONDS BY CIGAR MANUFACTURERS.

Mr. PHELPS, from the Committee on Ways and Means, reported back, with a favorable recommendation, the bill (H. R. No. 7141) to amend section 3387 of the Revised Statutes, relative to the bonds to be given by cigar manufacturers, with amendments; which was referred to the Committee of the Whole House on the state of the Union, and, with the amendments and the accompanying report, ordered to be printed.

LIGHT-HOUSE AND FOG-SIGNAL, POINT SAINT GEORGE.

On motion of Mr. BEALE, the Committee on Commerce was discharged from the further consideration of the bill (H. R. No. 6735) appropriating money for the erection of a light-house and fog-signal at or near Point Saint George, California; and the same was referred to the Committee on Appropriations.

PUBLIC LANDS AT FORTRESS MONROE FOR HOTEL PURPOSES.

Mr. JOHNSTON, from the Committee on Military Affairs, reported back favorably the bill (S. No. 1843) to authorize the Secretary of War to grant the use of certain land at Fortress Monroe, Virginia, for the erection of a hotel; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

THEODORE B. HARLAN.

Mr. BROWNE, from the Committee on Military Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 6753) granting relief to Theodore B. Harlan, with amendments; which was referred to the Committee of the Whole House on the Private Calendar, and, with the amendments and accompanying report, ordered to be printed.

ABANDONED MILITARY RESERVATIONS, ETC.

Mr. SPARKS, from the Committee on Military Affairs, reported back a letter from the Secretary of War relative to the disposition of abandoned military reservations and to land-titles division of the War Department, with accompanying papers, with a recommendation that the same be printed and laid on the table.

LIGHTING THE CAPITOL BUILDING, ETC., BY ELECTRIC LAMPS.

Mr. YOUNG, of Ohio. I am instructed by the Committee on Public Buildings and Grounds to report back the bill (H. R. No. 7192) to authorize the lighting of the Capitol building, grounds, &c., by electric lamps, with the recommendation that it be referred to the Committee on Appropriations. I ask that the report be read.

The report was read, as follows:

The Committee on Public Buildings and Grounds, to which was referred the bill H. R. No. 7192, also the petition of the Northern Electric Light Company, respectfully report that the said bill and petition, with the accompanying documents, are herewith submitted to the House, and the said committee request it be relieved from the further consideration thereof, and that the same be referred to the Committee on Appropriations, to the end that it may investigate the proposition embraced therein, or any similar one, and provide for the necessary appropriation to carry the same into effect.

The Committee on Public Buildings and Grounds were discharged from the further consideration of the bill, and the same was referred to the Committee on Appropriations.

DAVID GOODRICH.

Mr. RAY, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 6164) granting a pension to David Goodrich; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

DANIEL CONNOLLY.

Mr. RAY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 4931) granting a pension to Daniel Connolly; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM M'GARRAHAN.

Mr. GUNTER. I am directed by the majority of the Committee on Private Land Claims to report back with amendments the bill (H. R. No. 6992) for the relief of William McGarrahan and to move that the bill be referred to the Committee of the Whole on the Private Calendar. I further ask that the minority of the committee have leave to present their views and that they be printed with the report of the majority.

There was no objection.

Mr. PACHECO. I present the views of the minority of the Committee on Private Land Claims on the bill just reported.

The bill and amendments were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports of the majority and minority, ordered to be printed.

SHIP-RAILWAY ACROSS ISTHMUS OF TEHUANTEPEC.

Mr. OSCAR TURNER. I ask unanimous consent to present the views of the minority of the Interoceanic Canal Committee on the bill to construct a ship-railway across the Isthmus of Tehuantepec, known as the Eads bill, and ask that the same be printed.

There was no objection, and it was so ordered.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills,

reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. No. 1928) to provide for remitting the duties on the object of art awarded by the Berlin International Fishery Commission to Professor Spencer F. Baird.

VOTE ON RIVER AND HARBOR BILL.

Mr. PACHECO. I ask unanimous consent to change my vote on the passage of the river and harbor bill from "no" to "ay." I voted under a misapprehension.

The SPEAKER. Is there objection?

There was no objection.

Mr. WILBER. I ask unanimous consent to have my vote on the same bill recorded in the negative.

The SPEAKER. The Chair cannot ask unanimous consent for that purpose when the gentleman did not vote on either roll-call; but the Chair can ask it when a gentleman desires to change his vote stating that he voted under a misapprehension.

HON. MORGAN RAWLS.

Mr. SAWYER, from the Committee on Elections, reported back, with an adverse recommendation, the memorial of Hon. Morgan Rawls; and the same was laid on the table, and the accompanying report ordered to be printed.

PAYMASTERS' CLERKS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, relative to paymasters' clerks; which was referred to the Committee on Appropriations.

SOUTH FORK OF CUMBERLAND RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to survey of South Fork of Cumberland River; which was referred to the Committee on Commerce.

IMPROVEMENT OF MISSOURI RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report on surveys of the Missouri River; which was referred to the Committee on Commerce, and ordered to be printed.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to improvement of navigation of Missouri River; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FIELD, for the remainder of this week; and

To Mr. LAPHAM, for one week from Friday, on account of important business.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. SINGLETON, of Mississippi. I rise to make a privileged report. I present a report of a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6613) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1882, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by said amendment, insert the following: "chargé d'affaires and consul-general;" and the Senate agree to the same.

O. R. SINGLETON,
ERASTUS WELLS,
JAMES MONROE,
*Managers on the part of the House.*
WILLIAM W. EATON,
H. G. DAVIS,
WILLIAM WINDOM,
*Managers on the part of the Senate.*

The effect of this report is to make the title of the representative of this Government at Bucharest, Roumania, "chargé d'affaires and consul-general."

Mr. SINGLETON, of Mississippi. This officer was confirmed as "chargé d'affaires and consul-general," and it is necessary to make this amendment to the bill.

Mr. DUNNELL. I understand no statement, such as is required by the rule, has been read. Does not the rule call for a statement signed by the conferees?

The SPEAKER. It will be again read.

The Clerk again read the statement appended to the report.

Mr. SINGLETON, of Mississippi. What has been read was intended to be the statement called for by the rule.

Mr. DUNNELL. It is simply a note at the bottom of the conference report.

The SPEAKER. It complies with the terms of the rule, which does not require that it should be signed.

The report of the committee of conference was agreed to.

Mr. SINGLETON, of Mississippi, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon a bill of the following title:

A bill (H. R. No. 1381) authorizing the construction of a free bridge across the Potomac at or near Georgetown, in the District of Columbia, and for other purposes.

ORDER OF BUSINESS.

Mr. COX. I now call up the unfinished business.

Mr. WHITTHORNE. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WHITTHORNE. Would it be in order for me to appeal to my friend from New York [Mr. COX] to allow me an opportunity to ask unanimous consent of the House to pass a Senate bill granting a pension to a man who is now trembling upon the brink of the grave, and for whose relief a bill was passed by a previous Congress and lacked but a few minutes' time of reaching the President for signature?

Mr. WARNER. There are about 2,000 such cases as that. I call for the regular order.

The SPEAKER. The regular order is the unfinished business, being the apportionment bill.

Mr. COVERT. The bill making appropriations for the support of the Agricultural Department is now in Committee of the Whole on the state of the Union, and ready for action by the House. While I recognize the importance of the bill in charge of my colleague, [Mr. COX,] I do not want to jeopardize the position of the agricultural appropriation bill. I would like to have my colleague indicate some time when his bill will be acted upon.

Mr. COX. I propose to call the previous question on the bill as soon as I possibly can.

Mr. CONGER. Are there appropriation bills now pending before the Committee of the Whole?

The SPEAKER. The sundry civil appropriation bill has been reported from the Committee on Appropriations and ordered to be printed, but has not been returned from the Printing Office. The agricultural appropriation bill is in Committee of the Whole, but the gentleman from New York [Mr. COVERT] who has charge of that bill makes no motion in reference to it.

Mr. CONGER. The House ought to have an opportunity to determine whether or not it will go on with the appropriation bills.

The SPEAKER. Then some member of the House should make a motion to that end.

Mr. CONGER. I raise the question of consideration upon the apportionment bill in favor of the agricultural appropriation bill.

The SPEAKER. The question of consideration being raised by the gentleman from Michigan, [Mr. CONGER,] the question is, Will the House now proceed with the consideration of the unfinished business, being the apportionment bill?

The question was taken; and upon a division there were—ayes 97, noes 79.

Before the result of the vote was announced,

Mr. CONGER said: I would like to have the yeas and nays on that question. I want to see whether we are to go on with the appropriation bills or not.

Mr. MORRISON. You need not worry yourself about that; we will take care of the appropriation bills.

Mr. COX. I have no objection to the yeas and nays.

The question was taken upon ordering the yeas and nays, and there were 43 in the affirmative.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

Mr. CONGER. I desire that the motion I made may be stated by the Chair.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] raises the question of consideration against the unfinished business, which is the apportionment bill.

Mr. CONGER. And in favor of the agricultural appropriation bill.

The SPEAKER. And upon that question the yeas and nays have been ordered.

The question was taken; and there were—yeas 143, nays 93, not voting 55; as follows:

YEAS—143.

| | | | |
|---|---|---|---|
| Acklen, | Clements, | Evins, | Hanton, |
| Aiken, | Clymer, | Felton, | Hurd, |
| Armfield, | Cobb, | Field, | Johnston, |
| Atherton, | Coffroth, | Finley, | Jones, |
| Atkins, | Colerick, | Forney, | Killinger, |
| Bachman, | Converse, | Frost, | Kimmel, |
| Baker, | Cook, | Geddes, | King, |
| Beale, | Covert, | Gibson, | Kitchin, |
| Berry, | Cox, | Gillette, | Klotz, |
| Bicknell, | Cravens, | Goode, | Knott, |
| Blackburn, | Culberson, | Gunter, | Ladd, |
| Bland, | Daggett, | Hammond, N. J. | Le Fevre, |
| Bliss, | Davidson, | Harris, John T. | Martin, Benj. F. |
| Blount, | Davis, Joseph J. | Hatch, | Martin, Edward L. |
| Bouck, | Davis, Lowndes H. | Hawley, | McMahon, |
| Bragg, | De La Matyr, | Henderson, | McMillin, |
| Bright, | Deuster, | Henkle, | Money, |
| Buckner, | Dibrell, | Herbert, | Morrison, |
| Caldwell, | Dick, | Herndon, | Morse, |
| Carlisle, | Dickey, | Hill, | Muldrow, |
| Chalmers, | Dunn, | Hooker, | Muller, |
| Clardy, | Elam, | Hostetler, | Myers, |
| Clark, John B. | Ellis, | House, | New, |

| | | | |
|---|---|---|---|
| O'Reilly, | Samford, | Stephens, | Washburn, |
| Phelps, | Scales, | Stevenson, | Wellborn, |
| Phillips, | Scoville, | Talbott, | Wells, |
| Pochler, | Shelley, | Taylor, Robert L. | Whiteaker, |
| Prescott, | Simonton, | Thompson, P. B. | Whitthorne, |
| Reagan, | Singleton, O. R. | Tillman, | Williams, Thomas |
| Rice, | Slemons, | Townshend, R. W. | Willis, |
| Richardson, J. S. | Smith, Hezekiah B. | Turner, Oscar | Wilson, |
| Richmond, | Smith, William E. | Turner, Thomas | Wise, |
| Robertson, | Sparks, | Upson, | Wright, |
| Ross, | Speer, | Vance, | Yeates, |
| Rothwell, | Springer, | Waddill, | Young, Casey. |
| Ryon, John W. | Steele, | Warner, | |

NAYS—33.

| | | | |
|---|---|---|---|
| Aldrich, N. W. | Deering, | McCoid, | Stone, |
| Aldrich, William | Dunnell, | McGowan, | Taylor, Ezra B. |
| Anderson, | Dwight, | McKinley, | Thomas, |
| Bailey, | Einstein, | Miles, | Thompson, Wm. G. |
| Ballou, | Ferdon, | Miller, | Townsend, Amos |
| Barber, | Forsythe, | Monroe, | Tyler, |
| Belford, | Godshalk, | Neal, | Updegraff, J. T. |
| Bingham, | Hall, | Norcross, | Updegraff, Thomas |
| Bisbee, | Harmer, | O'Neill, | Urner, |
| Boyd, | Harris, Benj. W. | Orth, | Valentine, |
| Briggs, | Hawk, | Osmer, | Van Voorhis, |
| Brigham, | Hayes, | Pacheco, | Voorhis, |
| Browne, | Hazelton, | Page, | Wait, |
| Burrows, | Heilman, | Pound, | Ward, |
| Butterworth, | Hiscock, | Price, | Weaver, |
| Cannon, | Hubbell, | Ray, | White, |
| Carpenter, | Humphrey, | Reed, | Wilber, |
| Caswell, | Jorgensen, | Robinson, | Williams, C. G. |
| Chittenden, | Kelley, | Russell, Daniel L. | Wood, |
| Claflin, | Ketcham, | Ryan, Thomas | Yocum, |
| Conger, | Lapham, | Sapp, | Young, Thomas L. |
| Crowley, | Lindsey, | Sherwin, | |
| Davis, George R. | Lowe, | Smith, A. Herr | |
| Davis, Horace, | Mason, | Starin, | |

NOT VOTING—55.

| | | | |
|---|---|---|---|
| Barlow, | Fisher, | Loring, | O'Connor, |
| Bayne, | Ford, | Lounsbery, | Overton, |
| Beltzhoover, | Fort, | Manning, | Persons, |
| Blake, | Frye, | Marsh, | Phister, |
| Bowman, | Hammond, John | McCook, | Richardson, D. P. |
| Brewer, | Haskell, | McKenzie, | Robeson, |
| Cabell, | Henry, | McLane, | Russell, William A. |
| Calkins, | Horr, | Mills, | Sawyer, |
| Camp, | Houk, | Mitchell, | Shallenberger, |
| Clark, Alvah A. | Hutchins, | Morton, | Singleton, James W. |
| Cowgill, | James, | Murch, | Tucker, |
| Crapo, | Joyce, | Newberry, | Van Aernam, |
| Errett, | Keifer, | Nicholls, | Willits, |
| Ewing, | Kenna, | O'Brien, | |

So the House determined to proceed with the consideration of the unfinished business.

The following additional pairs were announced:

Mr. OVERTON with Mr. SAWYER, for two hours.

Mr. KEIFER with Mr. MANNING, for the same time.

Mr. BAYNE with Mr. FROST, on all political questions until further notice.

Mr. MCLANE with Mr. TOWNSEND, of Ohio.

Mr. CABELL with Mr. BLAKE, on this bill.

Mr. PHISTER with Mr. CAMP.

Mr. ROBESON. As I am paired with the gentleman from Kentucky [Mr. MCKENZIE] on political questions, perhaps I ought not to have voted on this question. I withdraw my vote.

### FREE BRIDGE OVER POTOMAC RIVER.

Mr. ALDRICH, of Rhode Island. I rise to submit a report from the committee of conference on House bill No. 1381.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1381) to authorize the construction of a free bridge across the Potomac River at or near Georgetown, in the District of Columbia, having met, after a full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from its disagreement to Senate amendment No. 1, and agree to the same.

That the House recede from its disagreement to Senate amendment No. 2, and agree to the same with an amendment, as follows: Strike out all the words in section 2, and, in lieu thereof, insert the following:

"SEC. 2. That for the purpose of establishing a free bridge, and in lieu of erecting the bridge provided for in the preceding section, the Secretary of War may, in his discretion, purchase the aqueduct bridge now crossing the Potomac River at Georgetown: *Provided*, Said bridge, with all the appurtenances, rights, and franchises connected therewith, including piers and real estate for abutments and approaches, can be purchased for a sum not exceeding $85,000, which sum, or so much thereof as may be necessary, may be paid out of the money appropriated by this act: *Provided further*, That a good and sufficient title thereto can be secured to the United States to be approved by the Attorney-General of the United States: *It is further provided*, That the Alexandria Canal Company or its present lessees shall have the right to maintain, at their own cost and expense, a canal aqueduct of the same width and depth as the one now in use, and attach it to or suspend it from said bridge; and whenever a permanent bridge shall be erected upon said site, the same shall be of sufficient strength to sustain the weight of such canal aqueduct; but the construction, attachment, and maintenance of such aqueduct shall be such as the Secretary of War may determine, and shall be without cost or liability to the United States or the District of Columbia: *And it is further provided*, That if upon the erection of such permanent bridge the said canal company or their present lessees shall neglect or refuse to reconstruct, secure, and attach the said aqueduct at their own expense, or if at any time for the space of six months they shall fail to use such aqueduct for the purpose of a canal, or fail to keep the same in good condition and repair, or if at any time they shall use the same for other than canal purposes, then all rights of said canal company, its lessees or assigns, in said bridge and property shall cease and determine, and the said aqueduct shall be detached and removed by the Secretary of War."

And that the Senate agree to the same.

That the House recede from its disagreement to Senate amendment No. 3, and agree to the same, with an amendment, as follows: In line 2 of section 3, after the word "authorized," insert the words "in his discretion;" and that the Senate agree to the same.

NELSON W. ALDRICH,
EPPA HUNTON,
*Managers on the part of the House.*
R. E. WITHERS,
E. H. ROLLINS,
S. J. R. MCMILLAN,
*Managers on the part of the Senate.*

The SPEAKER. The statement accompanying this report as required by the rule, will be read.

The Clerk read as follows:

The effect of the foregoing action of the conference committee on this bill is as follows:

1. Amendment No. 1 of the Senate is verbal merely, and is agreed to.

2. In receding from disagreement to Senate amendment No. 2, and agreeing to the same with an amendment, the effect is to require the Secretary of War, in case he prefers to purchase the present aqueduct bridge, to obtain an absolute and perfect title to the piers and superstructure of said "aqueduct bridge" now crossing the Potomac River at Georgetown, with all the appurtenances, rights, and franchises connected therewith, at a cost not to exceed $85,000, allowing the Alexandria Canal Company to maintain a canal-aqueduct on the same as at present, but at no cost or expense now or hereafter to the United States. This sum is $15,000 less than provided for in Senate amendment No. 2, for which this is a substitute.

3. In receding from Senate amendment No. 3, and agreeing to the same with an amendment, the House simply allows the Secretary of War to repair the present superstructure at his discretion instead of compelling him to do so.

NELSON W. ALDRICH,
EPPA HUNTON,
*Managers on the part of the House.*

Mr. ROBINSON. Will the gentleman from Rhode Island [Mr. ALDRICH] explain the provision about the rights of the canal company being divested at the end of six months? There was something of that kind read.

Mr. ALDRICH, of Rhode Island. If the canal company fails at any time for six months to maintain the aqueduct as a canal, or to keep the same in good repair, the rights of the company are to be determined.

Mr. ROBINSON. How have we the power to take away vested rights of the company, if there are any? That seems to be implied.

Mr. ALDRICH, of Rhode Island. In the first place, the company is to convey to the United States all its rights, vested or otherwise, in the bridge and canal.

Mr. ROBINSON. Is that provided?

Mr. ALDRICH, of Rhode Island. It is.

Mr. ROBINSON. Probably I overlooked that provision. When a bill is read hastily in this way and read piecemeal, it is sometimes hard to understand its full effect.

Mr. ALDRICH, of Rhode Island. The whole can be read together.

Mr. ROBINSON. I ask that the bill be read as a whole. It is an important measure, not only because of the amount of money concerned, but also the rights involved.

Mr. ALDRICH, of Rhode Island. I think the rights of all the parties concerned are thoroughly guarded.

The SPEAKER. The whole bill will be read as it will stand if passed in the form agreed to by the conference committee.

The Clerk read the bill as proposed to be amended.

Mr. ROBINSON. I am content with that.

Mr. CONGER. There is in this bill a provision preventing the payment of any of the money appropriated until plans and specifications for a new bridge are made. There is another provision directing the Secretary of War to make survey and examination for the site of a new bridge, which must be somewhat expensive. The two provisions are inconsistent. The Secretary of War in one portion of the bill is directed to incur expenses which he is forbidden to incur at all in another part of the bill.

Mr. HUNTON. I think the gentleman is mistaken. All the surveys provided for in the bill will be made by the Engineer Corps of the Army, under the direction of the Secretary of War, and will not involve any expenditure of money.

Mr. SPARKS. On this side of the Hall we cannot hear at all what the gentleman from Virginia [Mr. HUNTON] is saying.

Mr. HUNTON. I said that the gentleman from Michigan was mistaken in supposing that there is any conflict in the bill. The surveys directed to be made will be made by the Engineer Corps of the Army.

Mr. SPARKS. Does the bill so provide?

Mr. HUNTON. Yes, sir.

Mr. SPARKS. I wish to inquire wherein the bill as agreed upon by the conference committee differs from the bill as passed by the House?

Mr. ALDRICH, of Rhode Island. It differs very materially. The bill as passed by the House provided simply for an expenditure of $140,000 for the erection of a new bridge. The bill as we propose to amend it gives the Secretary of War an alternative power to purchase the aqueduct bridge at a price not exceeding $85,000.

Mr. SPARKS. What was the amount stated in the original bill and what is the amount stated in the conference report?

Mr. ALDRICH, of Rhode Island. Does the gentleman mean in the Senate amendment or in the conference report?

Mr. SPARKS. I mean in the conference report.

Mr. ALDRICH, of Rhode Island. Eighty-five thousand dollars. The amount named in the Senate amendment was $100,000 for a right to use the piers of that bridge. In the conference report we provide

for an expenditure of $85,000 for an absolute title to all the franchises connected with the bridge.

Mr. SPARKS. The old bridge?

Mr. ALDRICH, of Rhode Island. Yes, sir.

Mr. SPARKS. What was the amount named in the original House bill?

Mr. ALDRICH, of Rhode Island. One hundred and forty thousand dollars.

Mr. SPARKS. Then the bill as now proposed to be passed would leave that amount appropriated for a new bridge, but with authority on the part of the Secretary of War to buy the old bridge for $85,000?

Mr. ALDRICH, of Rhode Island. Yes, sir.

Mr. SPARKS. Those are the material points upon which I wanted information.

The report of the committee of conference was agreed to.

Mr. ALDRICH, of Rhode Island, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

APPORTIONMENT OF REPRESENTATIVES.

The result of the vote on proceeding to the consideration of the unfinished business was announced; and accordingly the House resumed the consideration of the bill (H. R. No. 7026) making an apportionment of Representatives in Congress among the several States under the tenth census.

The SPEAKER. The gentleman from Ohio [Mr. FINLEY] is entitled to the floor—for one hour as the Chair understands.

Mr. CLYMER. Thirty minutes.

The SPEAKER. The present occupant of the chair was not in the chair when the House last had this bill under consideration. The gentleman from Pennsylvania [Mr. CLYMER] who then occupied the chair will resume it.

Mr. CLYMER took the chair as Speaker *pro tempore*.

Mr. FINLEY. I was about to say when interrupted that I am satisfied a majority of the House prefers to take a vote on this question of apportionment without further debate. I do not feel like discussing a question when such is the desire of the House; and now, Mr. Speaker, in order that the gentleman from New York [Mr. COX] may demand the previous question on the passage of the bill and pending amendments, I will yield the floor to him.

Mr. COX. Let us have order, Mr. Speaker, while considering an important bill like this.

The SPEAKER *pro tempore*, (Mr. CLYMER in the chair.) The House will come to order.

Mr. COX. I thank the gentleman from Ohio [Mr. FINLEY] for giving up the hour to which he is entitled. I believe from the attention paid to this matter and from the publication of tabulated statements the House thoroughly understands it. I am requested on all sides to bring the matter to an issue. I therefore call the previous question on the passage of the bill and amendments.

Mr. CONGER. I do not know on what side the gentleman calls "all sides." I have been informed by several gentlemen on this side they were not prepared to vote on the question without having an opportunity for further discussion, and I believe that is the general wish of gentlemen on this side of the House that the discussion may continue for to-day.

Mr. ANDERSON. I ask the gentleman from New York whether it was not understood several gentlemen were to be permitted to address the committee? I think the Chair has got a long list.

Mr. CONGER. He has a list of twenty-five or thirty names.

The SPEAKER *pro tempore*. Very nearly that number.

Mr. CONGER. Gentlemen who have signified to the Chair they wish to speak on the question.

Mr. ANDERSON. I hope the gentleman will not call the previous question to-day.

The SPEAKER *pro tempore*. Does the gentleman insist on the demand for the previous question?

Mr. COX. I was in hopes of making some arrangement by which members could be accommodated. Gentlemen on the other side certainly do not want to vote to-day. Will they fix some time when they will take a vote on this question?

Mr. CONGER. I will say very frankly to the gentleman from New York that gentlemen on this side of the House have proposed to consult in regard to this matter, but as yet have had no opportunity to do so. We desire that opportunity before we are called upon to vote on the bill or amendments.

Mr. COX. Will the gentleman indicate some time when the vote can be taken? Let the debate go on this afternoon and fix some time Friday or Saturday when a vote can be taken.

Mr. CONGER. Let debate go on this afternoon without calling a vote on the amendments or the bill, and that will be satisfactory, but I am not authorized to fix any time.

I state with frankness on this side we desire to have an opportunity to discuss among ourselves in regard to this bill, which opportunity we have not had and which we expected to have; but the House continued its session late into the evening.

Mr. COX. I understand my friend to say debate this afternoon will be satisfactory to him?

Mr. HAZELTON. No, he does not say that.

Mr. CONGER. I say proceeding with the debate will be satisfactory, but I am not authorized to say at what time we are prepared to come to a vote.

Mr. COX. We are nearing the end of the session.

Mr. CONGER. That is the reason why I desire to take up a bill and go on with it until we have an opportunity to consult.

Mr. COX. State Legislatures are in session—twenty-odd—asking that this measure be passed. Even Ohio with a republican Legislature is begging for it. They wish to fix their districts. I think we would be criminally responsible unless we do something promptly before we adjourn.

Mr. CONGER. I know the gentlemen in the Legislatures are anxious to have this bill reached, but I also know that several millions of the people of the United States are anxious to have the agricultural bill passed. If my motion had prevailed we could go on with the agricultural bill this afternoon, and to-morrow we would have been ready to go on with the other matter.

Mr. COX. The agricultural bill will not take an hour. No one objects to it.

Mr. CONGER. Let us have a vote on it now.

Mr. COX. I propose to go on with this bill. I have it up now after very much trouble. So far as I am concerned I will allow the debate to go on this afternoon.

Mr. CONGER. There is nothing to prevent the gentleman from going on. Let the debate go on this afternoon and then to-morrow we can talk about taking a vote.

Mr. COX. I give notice to the gentleman and his friends that on Friday or Saturday I will call the previous question. What time will suit them?

Mr. HAZELTON. You are beginning to talk all right.

Mr. CONGER. Yes, I think that is amiable.

Mr. COX. I will fix the time for voting at Friday at three o'clock.

Mr. HAZELTON. Friday is private-bill day and we do not like to interfere with that.

The SPEAKER *pro tempore*. The gentleman from New York made a remark to which the attention of the gentleman from Michigan should be called.

Mr. CONGER. I should like to hear it.

Mr. COX. I understand gentlemen around me here to say that the republican party will have a caucus this evening to consult in reference to this matter. Now, I think they are entitled to some privilege on this bill in their consultation. Therefore I will not demand the previous question this afternoon, but I would like gentlemen to designate some time either Friday or Saturday when they will not interpose any dilatory motions or filibuster, but come directly to a vote upon the bill.

Mr. CONGER. Except for the offensive word which the gentleman has used, which republicans never allow themselves to indulge in, the word caucus, I would have no objection to the gentleman's statement. What I said was that we desire to consult about it. Now, if the gentleman from New York will allow the debate to go on this afternoon I shall ask at the proper time, as we are to have an evening session for the business of the District of Columbia, that perhaps a little earlier than the usual time I will move that the House take a recess to enable us to have the privilege of consulting and deliberating together on this question.

Mr. MORRISON. And holding a caucus.

Mr. COX. Cannot the gentleman fix some time now when they will come to a vote upon this bill?

Mr. CONGER. We cannot very well do that now for the reason that I have stated, that we desire to have a conference about it. After that, however, after we shall have determined what course of action we will pursue, I will say to the gentleman from New York we will notify him.

Mr. HARRIS, of Virginia. That is right.

Mr. COX. Mr. Speaker, I shall therefore, in the absence of any direct statement from the gentleman upon the other side, fix the time at twelve o'clock on Saturday, when I give notice that I will call the previous question upon this bill and amendments. That, I imagine, will give gentlemen on the other side ample opportunity to reach a conclusion as to their wishes in reference to it.

Mr. FINLEY. Mr. Speaker, I was entirely satisfied to come to a vote directly on this bill and without further debate. I believe it is the wish of a majority of the House to do so; but at the same time our republican friends on the other side indicate an evident disposition to have further debate upon it. That being the case, I propose now to occupy a brief portion of the time of the House in discussing this bill and kindred questions which grow out of it.

The debate on this bill, Mr. Speaker, has furnished a wide field for the study of human nature. If any one will take the pains to go over the various speeches which have been made upon it they will discover, with one or two exceptions, that every gentleman who has discussed this measure has taken pains to assure the House and the country that all he wanted was a fair, just, and equitable apportionment bill, one in which he did not desire to gain any personal, partisan, or local advantage whatever. That has been the statement made on all sides during this discussion. But this fact will be discovered, if you follow that statement out, that before the member gets through with his remarks he will be advocating a number of members in this apportionment that will redound to his advantage either in a partisan sense or to his State.

Now, I propose to be just as candid as to the incentive which influ-

ences me in regard to this bill. I say that I want nothing but a fair, just, and honest apportionment. But, Mr. Speaker, I am also free to admit that if there is any advantage to arise from this bill I am partisan enough to want to have it for my own party. Whatever disclaimer gentlemen may make, it comes to this: that each gentleman is seeking to obtain an advantage either for his State or party. Now, let me give an instance. The gentleman from Indiana, [Mr. CALKINS,] in his speech the other day, called attention to the speech of the gentleman from Illinois [Mr. SHERWIN] who represents the minority of the committee. He said:

I will quote a sentence here from the very able speech of the gentleman from Illinois, [Mr. SHERWIN,] which I assert has not been controverted by any gentleman who advocates a lower ratio as a basis of representation than that advocated by him. I say, therefore, the statement he made must be taken as confessed and true. What is that statement? I have it here, and I will read it in the presence of the House.

He then proceeds to read:

Upon the basis of 301 the certainly democratic States have a gain of six and the other States a gain of two. Upon a basis of 311 the democratic States have a net gain of twelve and the other States have a net gain of six. On a basis of 319—

And that is the one the gentleman advocated—

the certainly democratic States have a net gain of thirteen and the other States have a net gain of thirteen.

And the gentleman from Indiana proceeds to say:

Now, if you will read that to any fair-minded man and ask him which of these ratios is right, he would not hesitate long to decide in favor of the basis of 319.

Now, Mr. Speaker, to any one who has not examined this question closely that proposition looks very fair and plausible, but it is seeming only. That gentleman advocates a basis of 319; and he knows as well as I know, and as well as every gentleman who advocates that number knows, that by the passage of a bill fixing that as the number the northern and republican States make a net gain of six members. Now, let us see if I am right. While it is true that on a basis of 319 the net losses and gains are equal as compared with the present number, yet as compared with 311 the Northern States gain six, and that gain is strictly a republican gain.

Let us see how it is. The population of the United States, excluding the Territories, is as follows: The North has a population of 30,865,390; the South has a population of 18,504,204. Now, if we disregard the fractions and give to each section the number it would be entitled to regardless of fractions the North would have about thirty-one Representatives to every eighteen that the South would get, making a fair division. And according to numbers the preponderance of the North over the South would be seventy-seven exactly. I have made a fair computation. The North, according to its population regardless of the fractions, is entitled to just seventy-seven more Representatives than the South. But take 319 as the number of Representatives and the North gets eighty-one of a preponderance. Take 319 as the number and it will give two hundred to the North and one hundred and nineteen to the South, which would be a preponderance of eighty-one, six more than the North would be actually entitled to.

Let us take it on another basis. I devote this time now to this phase of the question because some of our republican friends advocate this number 319. The minority of the committee has reported in favor of it. Every gentleman, I think, (I may be mistaken as to one,) on that side of the House has advocated 319 as the number, protesting all the time that they are in favor of a just and fair apportionment, and at the same time charging the democratic side of the House with seeking to gain an unfair apportionment in behalf of the South, yet advocating a number that gives an unfair advantage of six in favor of the Northern republican States. With 319 as the total number, the East would get ninety-five Representatives, while it would be entitled only to ninety-four and sixty-nine hundredths of a Representative; the South would get one hundred and eighteen, while it would be entitled to nearly one hundred and nineteen; the West would get ninety-seven, while it would be entitled to ninety-seven and thirty-two hundredths; and the Pacific slope would get nine, while it would be entitled to eight and thirty-eight hundredths. Hence the East would get an excess of thirty-one hundredths of a Representative, or 47,977 represented twice, and the Pacific slope an excess of sixty-two hundredths of a Representative, or 95,954 people represented twice, which is an excess taken off the South.

It gives a gain to Pennsylvania, Massachusetts, New York, and Ohio, all republican States, but gives a gain of but one Representative to a Southern democratic State, and that is the State of Kentucky.

The bill of the committee fixing the number of Representatives at 311, while it may be objectionable in some points, has this to be said for it: It leaves fewer unrepresented fractions than any other number, perhaps, that has been named or can be named. But it is evident to me, Mr. Speaker, from the disposition I see on the other side of the House, that a bill cannot be passed in this House that will give to the South either an advantage or a full equality. I do not believe a bill can pass this House that will give the democratic States a fair equality with the republican States. I am willing, as a fair compromise, however, in the event that the bill of the committee cannot and does not pass, to take 307 as the number; and I will say here that 307 makes the preponderance of the North over the South exactly 77.

If we should adopt 307 as the number of Representatives, we would apportion the Representatives among the States nearly according to numbers as shown by the late census returns. The Eastern States would gain an advantage over the West and South, but not so great as the number advocated by the minority, 319.

If 307 be the total number of Representatives, the East gets ninety-two, while entitled to 91.13; the South gets one hundred and fourteen, while entitled to 114.15; the West gets ninety-three, while entitled to 93.66, and the Pacific gets eight, while entitled to 8.06; thus the East has .87 of a Representative more than its share, equivalent to 139,907 people twice represented, of which the South sacrifices .15 of a Representative, equivalent to 24,122 people unrepresented; the West sacrifices .66 of a Representative, equivalent to 106,136 people unrepresented, and the Pacific sacrifices .06 of a Representative, equivalent to 9,649 people unrepresented.

Mr. Speaker, I was surprised to see—I will not say I was surprised, for I was not, but I was sorry to see that the discussion of this bill afforded another opportunity for our republican friends to continue the old worn-out crusade against the democratic party in the South. I had hoped, and I have heard other members of the committee express the hope, that this bill would be discussed on its merits alone, and that our republican friends for once would abstain from abusing, vilifying, and traducing the democratic party in the South. But the debate had scarcely begun before the flood-gates of abuse were opened and the old story of bulldozing, intimidation, and fraud was rehashed by our republican friends.

The gentleman from Indiana [Mr. CALKINS] took occasion to object to the passage at this time of this or any other measure making an apportionment, and gave as a reason that the enumeration in South Carolina was excessive and fraudulent. He said he did not believe it had been fairly taken, and at great length undertook to show that in taking the enumeration in South Carolina there had been fraud committed.

I hold in my hand the report of Mr. Walker, Superintendent of the Census. I will print as a part of my remarks a portion of it, in which he calls the attention of the country to the fact that two of the enumerators out of three in South Carolina were republicans, of known standing as such, while the other was a democrat, a man of unimpeachable integrity. He sent experts, republican experts, to the State of South Carolina for the purpose of fully investigating the question of fraud, and he is fair enough now to say in this report that there was no fraud, that the census was honestly taken. Let me read a word or two of what he says on that subject. It is so clear that I am astonished that the gentleman from Indiana would attack that census after reading it. He says:

The extraordinary gains reported in certain of the counties of South Carolina, and in the State as a whole, over the census of 1870 demanded, therefore, a careful investigation. It was notorious that South Carolina had not profited materially during the ten years since 1870 by immigration, either from foreign countries or from other States of the Union. With so slight advantage from immigration, it was not possible that an old State could have gained in population in the interval since 1870 to the degree which is shown by the comparison of the two censuses. It follows, as a conclusion of the highest authority, either that the census of 1870 was grossly defective in regard to the whole of the State or some considerable parts thereof, or else that the census of 1880 was fraudulent. The census of 1870 might have been defective in a high degree without fraudulent intention, through the incompetence or negligence of the enumerators employed. But the census of 1880 could not have exaggerated the population of the State without absolute fraud, inasmuch as the census law requires the name of every person reported to be written at length on the schedules, with a score of particulars as regards age, sex, nativity, occupation, &c., so that any illegitimate addition whatever to the schedules must be of the nature of a conscious and purposed crime.

Mr. Walker detailed Mr. Henry Gannett as special agent to investigate the taking of the census, and the Attorney-General instructed the United States marshal of South Carolina to co-operate with Mr. Gannett in the work of investigation.

Speaking of the work accomplished by Mr. Gannett, Superintendent Walker says:

Mr. Gannett left Washington on the 7th of September, accompanied by Mr. R. M. Barnitz, one of the most capable clerks of this office, and returned to the city on the 21st of September. I inclose a copy of his report, showing his proceedings under this commission.

It appears that Mr. Gannett visited six counties of South Carolina, being counties which showed extraordinary gains since 1870, and in those counties visited in all eighteen enumeration districts. In each of these enumeration districts the list of inhabitants returned to this office were subjected to examination by United States officials or by citizens. In general, these citizens were introduced and vouched for by the United States marshal of the judicial district, or by the United States collector of internal revenue, as not only men of reputation, but, with two exceptions only, as also recognized members of the republican party. In each of the eighteen districts in succession the names of inhabitants were so far identified as to put it beyond a doubt, first, that the census of 1870 in each of these districts was grossly defective, and, secondly, that the census of 1880 was substantially well taken. In no instance did anything appear which bore the semblance of fraud in the returns made to this office by the enumerators of 1880. In some districts nearly every family was identified as resident in the township, notwithstanding the great extent of the South Carolina townships, some of which embrace one hundred and even two hundred square miles. In all cases the identification was carried far enough to put it beyond a doubt that the fault of the impossible gains reported over the census of 1870 lay with the preceding enumeration.

It appears to me that the report of Mr. Gannett satisfactorily settles the question as to the fairness of the tenth census in South Carolina. It must be remembered that no reason existed for suspecting that enumeration beyond the fact of the extraordinary gain over the reported population of 1870. The supervisors of South Carolina are men of unimpeached character. Two of them are republicans who were appointed upon the strong and urgent recommendation of United States officials resident within that State, and of other persons highly connected in the past with the republican party. Of one of them (Colonel Pride) Hon. D. H. Chamberlain, late governor of South Carolina, wrote:

"He is a man of great energy, thoroughly acquainted with all parts of the State, apt and experienced in business affairs, with habits of accuracy and method which are of great value. He is a sincere southern republican, a member of that party in adversity as well as in prosperity. He is a good citizen, a good republican, and a good business man."

The third supervisor, a moderate democrat, is a man of the highest social connections and standing; a man of culture and learning.

Now, whatever might have taken place in the South during the reconstruction period, whatever fraud or violence existed there at that time—and I am not prepared to say, because I do not know, whether there was fraud, violence, and intimidation, or not—whatever might have been the state of society in the South then, I am well satisfied from conversation with gentlemen on this side of the House, gentlemen whom I have every reason to believe would not vary from the truth in any particular, men of integrity and men of honor; from conversation with those gentlemen by whom I am surrounded, from newspaper reports, from interviews, and information from other sources, I am satisfied that there is no more fraud, intimidation, or violence on account of politics in the South than in the North at this time; that there is no more violence in the South at elections than there is in the North; that if there is intimidation, if there is violence at the polls, a great portion of that violence, as I am prepared to show, has been used by the colored people against their own race.

I have been in this House now nearly four years. In the four years I have been here I have observed that on all occasions, whenever the opportunity offered, either upon a private bill or upon a public bill, gentlemen on the other side of the House have never lost an occasion or opportunity to vilify, abuse, and traduce southern members and their constituents. I have listened to it here daily and hourly.

Yet during the whole of that period, these gentlemen of the South have sat here quietly and heard their people abused, heard their section of the country traduced, with scarcely a word of reply, when they knew it was false and was being done for partisan purposes, in order that the republicans might "fire the northern heart" and carry elections, well knowing as they did, and as I know, and as you gentlemen know, that an incautious expression, an incautious word used by one of them in reply to your continued abuse, would be published all over the North and used against them, against their section, and against their party, to increase sectional animosity against them, which your continued virulence has kept alive.

Gentlemen, you know as well as I do that you have resorted to abuse of the South as a means of carrying the elections in the North. You know as well as I do that these gentlemen with whom you associate daily are not men of the character you would have the people of the North believe them to be. I believe it is due to these gentlemen to say this. I have associated with them; I have found them gentlemen of culture, gentlemen of intelligence; and I believe what they tell me when they say that this continued statement of fraud and violence in their localities is false in every particular.

But I am not compelled to take their word alone. I will refer to evidence which I have here. A few days ago we had up for consideration the contested-election case of Bisbee against Hull. A democratic House unseated Mr. Hull and seated Mr. BISBEE. There was no debate on the question. My colleague from Ohio [Mr. KEIFER] called the previous question, and Mr. BISBEE was seated without debate.

Yet my colleague must have known what the testimony in that case discloses. I have taken some pains to investigate it, and I find that the election turned upon the vote of the county of Madison, in Florida. If the vote of Madison County was not counted, then Mr. Hull was entitled to his seat; if it was counted, then Mr. BISBEE was elected to the seat. The whole matter hinged upon the counting or not counting of the vote of that county.

I therefore have examined the testimony in reference to the election in Madison County. I am not now going to speak of the merits of that election case, because it has gone by. I am referring now to what I found in the testimony, because it bears upon the subject I have been discussing, to wit: Is there violence at elections in the South, and if so, by whom?

Upon investigation I found this state of affairs in Madison County: The canvassing board of that county failed to make a return of the vote of the county; and they stated as a reason for failing to make a return that the vote of one precinct had not been returned and the other precinct returns in that county were so "false and fraudulent and uncertain that they could not arrive at a true conclusion;" in short, could not tell how the vote had been cast. And the State canvassing board threw out that county, or rather did not canvass it.

I investigated the testimony in regard to that county in order to ascertain for myself whether the vote of the county should have been canvassed or not. By the way, I will say that the population of that county is largely composed of colored people. I found that in some of the precincts the colored people took possession of the polls. They formed long lines at the polls and forced their own color to vote the republican ticket. They took the tickets out of the hands of the colored people when some of them endeavored to vote the democratic ticket. In some instances colored men who wore the badge of United States marshals placed themselves at the polls and would not permit the colored voters to vote the democratic ticket.

Mr. KEIFER. If my colleague will allow me to interrupt him——

Mr. FINLEY. For a question, certainly; not for a speech.

Mr. KEIFER. This is hardly the occasion to reargue a contested-election case. But I would like to know of the gentleman where he finds anything to support any statement which he has made on that subject.

Mr. FINLEY. The gentleman will find out in a very few minutes.

Mr. KEIFER. Very well; but let me suggest——

Mr. FINLEY. I do not yield for a speech.

Mr. KEIFER. The gentleman will allow me to state that there was a single case where it was proved that a woman threatened her husband that she would not have anything further to do with him in a marital way if he voted the democratic ticket. [Laughter.] That is all there was of it.

Mr. FINLEY. I will say, Mr. Speaker, that that is the worst case of bulldozing I ever heard of. But I want to say to my colleague that I am not discussing that contested-election case except for the purpose of showing that all the intimidation, fraud, and violence used was by the colored people against their own race to prevent them from voting the democratic ticket. I furthermore found one case of a colored preacher who wanted to vote the democratic ticket, but was threatened with expulsion from the church if he did so.

Now, the gentleman asks me where I get my information. I will tell him. I send to the Clerk's desk to be read the deposition of Philip Jones, a colored man. Let gentlemen hear what he says. If my colleague wants to know where I get this evidence, I tell him it is a part of the testimony taken in the Bisbee case. The gentleman must have read it; yet I take notice that while he has frequently called attention to fraud and intimidation in the South, he was very quiet about fraud and intimidation in that case.

The Clerk read as follows:

*Deposition of Philip Jones.*

Philip Jones, being sworn, testified in substance as follows, to wit:

Q. Did you vote at Arredonda, Alachua County, Florida, at an election held at said place on the 5th day of November last, for member of the Forty-sixth Congress?

A. No.

Q. Where do you live?

A. At Arredonda.

Q. Did you register as a voter?

A. Yes, sir.

Q. Why did you not vote?

A. Because I could not vote as I wanted to, and didn't vote at all.

Q. How did you want to vote?

A. I wanted to vote the democratic ticket, for Mr. Hull.

Q. What prevented you from voting for Mr. Hull?

A. Our own party of our color would whip us out if we voted the democratic ticket, and give us the devil.

Q. Were or were you not afraid to vote the democratic ticket on account of these threats from your race?

(This question objected to by contestant because it seeks to elicit illegal testimony.)

A. I was afraid to vote on account of those threats.

Q. You are a colored man, are you?

A. Yes.

Q. Do you know of others in the same fix you were, who wanted to vote the democratic ticket and were afraid to do so?

A. None that I know of except Edwin Perry.

Q. Were these threats made generally to your race?

A. They were made generally that they would whip any of them who voted the democratic ticket; they were made long before the election, and up to the election, that they would give them the devil if they voted the democratic ticket.

Mr. FINLEY. I now send to the desk the deposition of J. G. Johnson, another colored light in that county.

The Clerk read as follows:

*Deposition of J. G. Johnson.*

J. G. Johnson, being duly sworn, testified as follows, to wit:

Q. What is your name, age, occupation, and place of residence?

A. J. G. Johnson; age, 33; occupation, farmer; residence, Madison County.

Q. Did you vote at the election held on the 5th day of November, 1878, wherein Noble A. Hull and Horatio Bisbee, jr., were candidates from the second congressional district for Congress?

A. I did not.

Q. Are you a colored man or a white man?

A. Colored man.

Q. Are you a democrat or republican?

A. A democrat.

Q. Were there any threats or intimidation prior to that election? and if so, state how and in what manner, and where.

(Question objected to, on the ground that the allegations in contestee's answer are not sufficiently definite to apprise the contestant when and where the matters inquired of took place, if they did take place, and as seeking immaterial testimony.)

A. There was no intimidation used toward me prior to the election, because my political sentiments were not then known, but during the election, when I manifested my intentions to vote the democratic ticket at that election, there was intimidation, and ostracism, and stigmatism used toward me; it was not by one but by several, it was general; at the time of the election I was a school-teacher; my school numbered prior to the election and prior to the knowing of my political opinions, fifty-four scholars; but shortly after the election, when it was known that I intended and attempted to vote the democratic ticket, the number was reduced to six. It was generally talked among the patrons that they would not send their children to a democratic negro; I was also proscribed and intimidated, socially and religiously, for my former privileges in the church had been abridged and were allowed no more.

(Answer objected to as not pertinent to the question, and as immaterial and irrelevant.)

Q. By whom was all this done?

A. It was by the colored radicals.

Q. Did you or not receive a message, or was it or not communicated to you in some way, that a mob of colored women were coming over to whip you?

(Question objected to for all the reasons stated in the foregoing to the questions asked this witness.)

A. It was communicated to me while I was teaching school, that as they had failed to keep me from teaching that school by not sending their children, they intended to raise a mob and whip me away.

Q. Why were you treated this way?

(Same as to the foregoing.)

A. Because I am a democrat.

Mr. FINLEY. I send to the Clerk's desk to be read the depositions of F. P. Patterson, D. H. Blythewood, Thomas J. Blalock, all of the

same county of Madison, all showing intimidation and violence on the part of the colored people of that section against their own race to prevent them from voting the democratic ticket. If the same intimidation and violence had been used by the whites toward the colored voters to prevent them voting the republican ticket, it would have been blazed over the country as a great southern outrage, but as it is only a little bulldozing on the other side no notice whatever is taken of it. Even my colleague, [Mr. KEIFER,] who had charge of Mr. BISBEE's case, and who must have read all this testimony, did not consider this colored republican bulldozing of sufficient importance to call for remark from him.

The Clerk read as follows:

*Deposition of F. P. Patterson.*

F. P. Patterson, being duly sworn, testified as follows, to wit:
Q. What is your name, age, and occupation?
A. My name is Franklin P. Patterson; am twenty-five years old; am a lawyer.
Q. How long have you been living in Madison County?
A. Ever since 1857.
Q. Where were you on the 5th day of November, 1878?
A. In the town of Madison, at the polls.
Q. Did you vote in Madison, at Madison precinct, that day?
A. Yes.
Q. Did you or not see any deputy United States marshals at the polls that day?
A. I did.
Q. Were they white or colored men?
A. They were all colored that I saw.
Q. Were they democrats or republicans?
A. They were republicans, or reputed to be such, and they distributed republican tickets.
Q. Did you or not see any electioneering done by those deputy United States marshals on that day?
(Question objected to as immaterial, as having no legal bearing upon the material issues in this contest.)
A. Yes; they were distributing tickets and bringing voters up to the polls.
Q. What tickets were they distributing and in behalf of what party?
(Objected to by contestant's counsel. Same objection as above.)
A. They were distributing republican tickets.
Q. In your opinion were their acts calculated to conserve the peace and insure fairness and impartiality at the election?
(Question objected to as immaterial, and because the opinion and impressions of the witness are not legal evidence.)
A. I think the election would have been quieter and a larger vote polled if they had been absent. I think all the people would have had plenty of time to vote if they had not been disturbed.
Q. Did you see or know of any colored man or woman attempting to hinder any colored man from voting the democratic ticket on that day, by threats, persuasion, or any other species of intimidation?
(Question objected to on the grounds that contestant has not been apprised of this line of testimony by contestee's answer, and is immaterial and is irrelevant, and further, on the ground that persuasion is not a species of intimidation.)
A. Yes; I saw one woman follow a man she claimed as her husband to the polls, and tell him if he voted the democratic ticket she would quit him. The women were very bitter and abusive in their language toward any colored man who would vote the democratic ticket; there were numbers of women on the ground.

*Deposition of D. H. Bythewood.*

D. H. Bythewood, a witness on behalf of the contestee, being duly sworn, testified as follows, to wit:
Q. What is your name, age, occupation, and place of residence?
A. My name is D. H. Bythewood; age, 25; merchant; Greenville, Florida; Madison County is my place of residence.
Q. How long have you lived in Madison County?
A. Seven years, about.
Q. Did you or not vote at the election held on the 5th day of November, 1878, in the county of Madison, wherein Horatio Bisbee, jr., and Noble A. Hull were candidates for Congress from the second congressional district of Florida? If so, state at what precinct.
A. I did; at Greenville precinct, district No. 5.
Q. Were you there in any official capacity; if so, what?
A. I was; as inspector.
Q. Did you see any deputy United States marshals there that day, or persons purporting to be such? If so, state how many.
(Question objected to as immaterial to the issues in this contest.)
A. I saw four persons—colored men—who claimed to be deputy United States marshals. They had on badges and were acting as such. Their names are Levin Bradley, James Thompson, and Benjamin McKee. The other party—I do not know his name.
Q. Did or not either of these deputy United States marshals bear any arms?
(Question objected to as immaterial to the issues, and because the allegations in contestee's answer are not sufficiently definite to apprise the contestant of the time and place the acts inquired of occurred, if they did occur.)
A. One of them did; Benjamin McKee had a pistol under his arm.
Q. Did or did not these deputy United States marshals distribute tickets on that day; if so, what kind?
(Same objection as to the foregoing question.)
A. One of them did. I think it was Levin Bradley. I do not know what kind.
Q. Were the acts of these United States deputy marshals such as to insure a fair and peaceable election?
(Question objected to for the reasons stated in the foregoing objections, and because the opinions and impressions of the witness are not admissible, and he must be confined to the particular acts, if any, done there.)
A. I saw Levin Bradley several times at the window advising colored men who were challenged whether to take the oath or not. One man by the name of Burkes, who applied to vote and was challenged, he took by the shoulder and told him he had better not vote.
Q. Were there or not persons who voted there that day whose names were not on the registration list? If so, how many?
(Objected to as immaterial and as not the best evidence attainable.)
A. There was about twelve, I think; nine colored men and three white men. I objected, as one of the inspectors, to allow them to vote, but was overruled by the other two.
Q. When the election was over did you make out certificates in accordance with law and transmit to the proper officers?
A. I do not know whether they were made in accordance with law or not, as I had had no experience in such matters.
Q. Were the certificates signed and sealed up and sent to the clerk and county judge?
A. They were signed and put in the ballot-box and given to D. J. Straughter; that is, ballot-box and key. D. J. Straughter was the republican inspector.

*Deposition of T. J. Blalock, Cherry Lake.*

Thomas J. Blalock, being duly sworn, testified as follows, to-wit:
Q. What is your name, age, occupation, and place of residence?
A. Thomas J. Blalock; forty years of age; am a planter; residence, Cherry Lake precinct, Madison County.
Q. Did you vote at the election held the 5th day of November, 1878, in Madison County, wherein Noble A. Hull and Horatio Bisbee, jr., were candidates for Congress from the second congressional district; and if so, at what precinct?
A. I did; in the seventh district of Madison County, Cherry Lake.
Q. Do you know of any one voting at that precinct who was disqualified?
A. I do not.
Q. Did you see any votes taken from the hands of colored people?
(Question objected to as immaterial unless it be shown that the votes were taken from their hands by force or without their consent, and because the question seeks to elicit testimony about matters of which the contestant has not been adequately apprised by contestee's answer.)
A. I did.
Q. Was any species of force or compulsion used. If so, in what manner?
A. I can't say they were taken by force, but without their consent; the tickets were taken and torn up and others were placed in their hands.
Q. By whom was this done?
A. As well as I can recollect it was done by those that managed around the polls, said to be marshals; they wore a badge.
Q. White people or colored?
A. Colored.
Q. What ballots were taken from them?
(Question objected to, on the ground that the persons from whom ballots were taken, if any, would be the best witnesses as to the facts inquired of, and as to all facts connected therewith.)
A. Democratic tickets, or ballots.
Q. State how you know they were such.
A. I gave them to them myself, and saw them start to the polls.
Q. Were the parties who took these tickets from them democrats or republicans?
A. Republicans.
Q. Did they act in any official capacity there that day?
A. They claimed to be doing so. They were acting, as they said, United States marshals in and around the polls.
Q. Were all their actions calculated to give a fair and impartial election, or not?
(Question objected to as leading and seeking the opinion and impressions of the witness.)
A. I think their actions had a tendency to intimidate voters, and to keep them from voting as they would have done.
Q. Did or did not these United States marshals electioneer for the republican ticket that day?
(Question objected to as immaterial.)
A. They did.
Q. Did or not they place themselves in such a position as to see the colored men as they voted, and see what ballots they voted?
(Question objected to as leading and immaterial.)
A. I think they did; they were in and around the polls or near the polls the whole time.
Q. Are you familiar with the voters of that precinct; and, if so, do you think Noble A. Hull lost any votes by the action of these United States marshals; and, if so, how many?
(Question objected to on the ground that contestee has laid no legal basis by which to make the opinion of the witness relevant or admissible.)
A. I think I know all the voters in the precinct, and I think the actions of those marshals changed the course of the election in that precinct considerably in regard to Mr. Hull; to what extent I could not say positively; there were several voters that came to me after voting and told me that they would have voted differently but for fear of those around.
Q. Was or not the interference and intimidation by these deputy United States marshals sufficient to render it an unfair and partial election at that precinct?
(Question objected to as impertinent and irrelevant.)
A. I think it was.

Mr. FINLEY. Mr. Speaker, I now send to the Clerk's desk to be read the testimony of three other witnesses in Duval County in that State, showing that violence and intimidation at the late election was not confined to Madison County alone; and I will say here that these extracts of testimony are selected from a large mass of the same character, all tending to prove the position I have taken, that, especially in the regions of the South where the colored population predominates, violence and intimidation is principally confined to force used by colored people to prevent their own color from voting any other than the republican ticket. Yet this state of facts is not generally known in the North; newspapers make no note of it; republican orators sing dumb on the subject, and the gentlemen on this side of the House have heretofore seen fit to maintain silence.

The Clerk read as follows:

*Deposition of J. L. Burch.*

J. L. Burch, being sworn, deposes as follows:
Q. What is your name, age, occupation, and residence?
A. Joshua Loyd Burch; forty-two; brickmaker; La Villa, Duval County, Florida.
Q. Were you present at an election held on the 5th day of November, 1878, at La Villa, precinct No. ——, at which election Horatio Bisbee, jr., and Noble A. Hull were candidates for Congress? If there, did you hold any official position, or were you present during the entire day? If so, state anything you saw that tended to interfere with the free exercise of ballot on the part of anybody there that day, in your own language without further question.
A. I was at the polls mentioned from the opening until about five in the evening, as a private citizen, thinking that it was in the interest of the democratic party that I should remain there, there being no other white person outside the polls. Before the voting began I was under the impression that I was a candidate for the State Legislature. At the time the polls were opened, there were, probably, about one hundred and fifty people present. The voters formed themselves in line when the voting began. A number of persons, colored men, some of them wearing deputy United States marshals' badges, were busy along the line inspecting tickets in the hands of colored men. I saw them take tickets from the hands of colored men in this line forming to vote, tear them up or throw them away. I remonstrated against such action, and later in the day there was not so much of it done. After the crowd had voted, and only an occasional voter would put in an appearance, the colored men, seeing a voter approaching, would go several blocks to meet him, offering him a ticket, and demanding to see the ticket he had with him, if any. Even the colored ladies joined in these interviews, in a few instances. I heard a great many expressions that would tend to keep a colored man from voting the democratic ticket if he preferred. I saw no criminal act, with one exception, such as I considered a criminal act. Such expressions as he had been bought by the democrats, and they would jeer him when a colored man would say anything favorable to the

democrats. The tickets that I saw torn and scattered were printed in the same type as the republican tickets, and the parties seemed to be looking for the tickets with the names of John Mateal, Sawyer, &c., because the democratic ticket was printed in a different type, and could be told twenty feet off. When a party seemed reluctant to show his ticket they would surround him, and jeer him, and urge him to show his ticket. I received some fifteen or twenty votes in this precinct more than the regular democratic ticket. I was sent for several times, and met men who were disposed to vote a split ticket. I pasted my own and other names over the names on the regular republican ticket. I always found these men in back rooms or by-places from the polls. Several of these men, whose tickets I had fixed for them, asked me not to mention the fact I had fixed their tickets, because, they said, they had families, and lived in the community, and it would be unpleasant for them to live there if it was known they had voted the democratic ticket.

Q. Did you see any attempt on the part of the colored voters who voted with the republican party to jeer, insult, or hoot at others who went to the polls to vote that day? If so, state it.

(Question objected to as immaterial and irrelevant.)

A. Two white men named Mulally, who I believe to be in the employ of L. A. Hardee, came with him to the polls. Hardee took democratic tickets from me, and placed them in their hands. When they approached the polls to vote, the colored men about them began calling them names, offering them republican tickets, pressing upon them, and jostling them, when I interfered and they were allowed to vote peaceably. I noticed tears in the eyes of one of them.

Q. From what you saw, do you consider the result of the election at La Villa precinct was such as to enable one to determine what would have been a fair and honest expression of the ballot had there been no interference or undue influence exercised by the deputy United States marshals and the mass of republican voters round the polls?

(Question objected to upon the ground that the answer presupposes an opinion or a conclusion of law. Second. That there is no evidence yet that the United States deputy marshals did interfere; there is no evidence that there were any United States deputy marshals there.)

A. Having been an interested party in the result of the election, I may not be competent to give a fair opinion, but in my opinion a colored man was not at liberty to choose his ballot that day, unless his political convictions favored the republican party.

*Deposition of Jesse H. Oxendyne.*

Jesse H. Oxendyne, being recalled as a witness and being duly sworn, deposes as follows:

Q. What is your name, age, residence, and occupation?

A. Jesse H. Oxendyne; about thirty-four; Jacksonville, Duval County, Florida; carpenter.

Q. Where were you on the 5th day of November last?

A. At the Moncrief voting precinct, district No. 8, Duval County, Florida.

Q. Did you see any United States deputy marshals there that day?

A. I seen a great many men wearing badges, deputy marshals, sheriffs, and constables.

Q. Did you notice any violence or any interference with the freedom of the right of suffrage?

(Objected to, as the object of the question is to prove intimidation of voters whereby they were prevented from voting. The proper evidence of that fact is the testimony of the voter intimidated; further, contestant objects to the witness giving his opinion. He can only state facts.)

A. I noticed when any colored man came up there to vote any other ticket than the republican, the ticket was taken out of their hands. The colored people are very excitable in a case like that in an election. I will further state that the tickets taken from their hands, so far as I could see, was the fusion republican ticket, with the name of John Mateal and others for the State Legislature. I will say that every colored voter that came forward numbers would require them to show their ticket; if they did not, they got angry.

Q. Are you a white or a colored man?

A. A colored man mixed with Indian.

Q. Are you acquainted with the character and habits and disposition of the great masses of the colored people in regard to politics?

A. I think I am.

(Question objected to as immaterial and irrelevant.)

Q. From such acquaintance and from your intercourse with your race, please state whether or not considerable numbers of the colored people are inclined to and have evinced a disposition to vote the democratic ticket, either in part or in full, if they had no cause of fear for any reason from their own race.

(Objected to as immaterial and irrelevant. It seeks to elicit the opinion of the witness upon a subject concerning which he is not shown to be competent to testify. It is not important how men would have voted in a certain contingency not shown to exist and which every intelligent man in Duval County knows does not exist. The question is, how did the electors vote at the last election?

Contestant objects to such evidence going on the record.)

A. Yes, sir; mostly attributed to ostracism both in church and in society, particularly among women.

*Deposition of Jacob M. Whitaker.*

Jacob M. Whitaker, being sworn, deposes as follows:

Q. What is your name, age, occupation, and place of residence?

A. My name is Jacob M. Whitaker; going into sixty-one; my occupation has been farming; Duval County, Florida.

Q. Were you present on the 5th day of November last at precinct known as Price's precinct, Gravelly Hill, Duval County, at an election where Horatio Bisbee, jr., and Noble A. Hull were candidates? If so, when did you get there and how long did you stay there?

A. I was present; I got there about half past seven in the morning; I remained there till about eight o'clock at night, when the returns were sealed up.

Q. Were you inside or outside the polls?

A. Outside.

Q. If you saw any acts of intimidation or any interference on the part of any one, or any act on the part of any one tending to prevent or hinder a free exercise of ballot at the polls at that precinct on that day, state what the acts were, who they were committed by, and all you have to say about it without any further questions.

A. I did see acts of intimidation, or what I term so. There were some twenty-five or thirty colored republican voters; one carried a gun, one a sword, the others armed with big sticks. The first acts of intimidation—when they were requested to nominate a third inspector, the republican inspector being absent, frankly and positively refused to do so, stating that the polls should not be opened until Joseph E. Lee and John Perry got there, using boisterous language, and waving their sticks round. When a third inspector was nominated by the two present, they responded in a loud voice, those that had the clubs, &c., and voted those nominees out, saying that the polls should not be opened until Mr. Lee or Mr. Perry got there. At forty minutes past eight o'clock a. m. Mr. Perry arrived at the polls and took his seat, and the polls were opened. The voting then went on till about twelve o'clock. About eleven o'clock a colored man walked up near the polls to vote for Mr. Hull. A crowd gathered round him and backed him off about fifteen or twenty steps. I saw the trouble—rumpus; ran to them and inquired what was the matter. This colored man that wanted to vote the ticket told me they would not let him vote as he wanted to. At that time two or three of them cried out, "You shan't vote that ticket." I called him by name; told him to vote as he pleased, and I'd see him protected. They then ordered me to go way; I had nothing to do with it. I told them I did have something to do with it and to stop their rowing. They repeated again, "You have got nothing to do with it." I then called the deputy sheriff, Mr. William H. Carter. Mr. Carter came up, and near the same time Mr. W. S. Picket; among us we got the row quashed. That is about all the acts of intimidation.

Mr. FINLEY. Mr. Speaker, the republican party owes its success more to northern prejudice against the South than to any other cause. Republican politicians have not been slow to observe that the prejudices of the North could be wrought upon by stories of intimidation, fraud, and violence in the South, and heretofore they have made effective use of this means of perpetuating power. At the last election, as every gentleman here knows, this question was made the principal issue in the Northern States, and nothing contributed more to prejudice the minds of our people against the South and southern institutions than the circulation of a book written by Judge Tourgee, entitled A Fool's Errand, purporting to give a narrative of the writer's experience in North Carolina. This book found its way into every household in the North. I am told that the national republican campaign committee subscribed for and circulated over 200,000 copies of this book as a campaign document. I do not vouch for the truth of the statement, but give it for what it is worth.

No one can read that book and give it the least credence without finding his mind more or less poisoned against the people of the South; and I will say that if the writer's picture of atrocious brutality practiced on the inoffensive colored people be a true one; if the colored people are wholly at the mercy of a cruel, relentless, lawless people who deny them protection under the law and whip and murder them without let or hinderance because they vote the republican ticket, as the writer would have us believe, no one should read it without feeling a just indignation against a people who would thus violate the laws of God and man. But if the writer's picture be not a true one; if the state of affairs as described by him be all a myth, what will we say of a man who will write, and of a party that will circulate an infamous libel on the people of one section of the country in order to poison and prejudice the minds of another simply to obtain votes and perpetuate political power?

I am told by gentlemen from that State—members of Congress residing in the district where the writer of the Fool's Errand locates the principal events of his book—that there is not a particle of truth in the statement of the supposed events which he describes; that no such state of affairs as he describes ever existed there; that on the contrary, in the localities where he describes the most atrocious outrages to have occurred, the white and colored people have always been on the most friendly and peaceable terms, and that neither outrage nor intimidation was ever practiced, and that the colored people have always exercised the same political freedom enjoyed by the whites. The same gentlemen tell me that Judge Tourgee lived in that section for many years, was elected to the office of judge of the court, which he held for ten years, enjoyed the same social and political privileges that any one else did, and that his book is a gross and infamous libel upon the people among whom he lived on terms of social equality, and whose hospitality he enjoyed.

Mr. Speaker, I do not know Judge Tourgee. I do know the gentlemen from North Carolina with whom I have conversed, and I know them to be gentlemen whose veracity I would not doubt for a moment, and for one I take no stock in the Fool's Errand. The best answer to the statements in that book is to be found in a paragraph I noticed in a paper a day or two since, to the effect that Judge Tourgee was about to return to his old home in North Carolina, to take up his permanent residence there.

Some time since I noticed going the rounds of the press a statement to the effect that one Mrs. Ellen Campbell, a northern lady, who had been employed as superintendent of the North Carolina deaf, dumb, and blind institute, had been discharged from her position because in a private letter to a friend in Massachusetts she had spoken of the Fool's Errand as being a true picture of southern society. I append the following from the Cincinnati Commercial, of date December 30:

NORTH CAROLINA JUSTICE.

[Special to the Cincinnati Commercial.]

WASHINGTON, *December* 30.

The State authorities of North Carolina will not allow an indorsement of the Fool's Errand book to go unpunished. For many years Mrs. Ellen Campbell has been superintendent of the North Carolina deaf, dumb, and blind institute. In a private letter to a friend in Massachusetts she spoke of the Fool's Errand book as being a true picture of southern life. This observation was printed in a Massachusetts rural paper and traveled back to North Carolina. The State authorities discovered it and discharged Mrs. Campbell.

Mr. Speaker, the foregoing item had a widespread circulation throughout the country, and as far as I know has never been contradicted, and whoever has read and credited the tales told in Fool's Errand would take the foregoing as further confirmation of the intolerant spirit of southern society. Having curiosity to know how much truth there was in this statement, I got my friend from North Carolina, Mr. DAVIS, to write and ascertain the true facts in the case. In reply to his inquiries, the governor of North Carolina, Hon. Thomas J. Jarvis, and Mr. Gudger, principal of the deaf and dumb institute, wrote Mr. DAVIS that Mrs. Campbell, in the first place, was not superintendent of the institution, but was employed to give lessons in cooking; that she filled that position for about four months to the satisfaction of the board; that at the close of the session in June, 1880, she went

North with the understanding that she was to return and continue her instructions in October; that in September she wrote the principal, Mr. Gudger, saying that she could not return in October on account of ill health, and asked to have her time extended, which was done. On the 22d of November she again wrote, stating that ill health prevented her returning, and asked to be relieved from further service. The board met and consented to accept her resignation as requested, which fact was communicated to her, and in reply to which she wrote the principal, Mr. Gudger, thanking the board for their kindness, expressing her kindest regards toward all the friends with whom she had been associated. I herewith print as part of my remarks the letter of the governor, also the letters of Mrs. Campbell.

NORTH CAROLINA, EXECUTIVE DEPARTMENT,
*Raleigh, January 8*, 1881.

DEAR SIR: Yours of the 5th instant came to hand this morning, and I reply at once. Mrs. Helen Campbell was employed by the board of directors of the asylum for the deaf, dumb, and the blind to give lessons in cooking, which she did with entire success and satisfaction for about four months. The session of the school closed in June, 1880, and Mrs. Campbell returned North.

By her engagements she was to return in October to continue her instructions, but in September she wrote Mr. Gudger, the principal of the institution, that her health was such that she could not return at the opening of the session, and asked to have her time extended, which was done by the board.

On the 22d day of November she wrote Mr. Gudger the following letter, to wit:

"STAUNTON, VIRGINIA, *November* 22, 1880.

"DEAR SIR: I wrote you last week that I expected to be in Raleigh for lessons on the 8th and 9th of December, beginning my course from those dates. I find myself, physically, almost unable for the work required, and it is very doubtful if I may not be obliged to return home at any time to avoid breaking down altogether.

"For this reason, and supposing you would dislike any uncertainty quite as much as myself, I should be glad to be released from my engagement with you. I think that Miss Turlington could, by practice, acquire the ability to teach small classes; and it is possible that another year, with stronger health and more favorable circumstances, I could arrange for a course with you, though I have not found the climate favorable. You will understand that I hold myself bound to fulfill my part of the contract, should you insist, but feel that it will probably be impossible to carry it out.

"May I ask for an immediate reply, thus obliging,

"Yours, very truly,

"HELEN CAMPBELL.

"H. A. GUDGER, Esq."

The board, called together by the principal to consider the application, agreed to relieve Mrs. Campbell of her engagements. Of this action she was duly notified by Mr. Gudger, and to his letter she made the following response:

"STAUNTON, VIRGINIA, *November* 25, 1880.

"DEAR MR. GUDGER: Many thanks for your prompt reply to my letter and to the board for their action.

"If I can be of the least service in cooking matters at any time pray call upon me, and believe me, with best wishes for the institute and all friends there,

"Yours, very truly,

"HELEN CAMPBELL."

Mrs. Campbell has not been in Raleigh since May, 1880, and could not have written any letter from here in the fall, as she was reported to have done. Mrs. Campbell saw nothing of the people of North Carolina except what she saw of the people of Raleigh during her four months' stay here. While here she demeaned herself as a lady and was treated by all as such. She never received anything but uniform kindness and courtesy from our people, and this I am sure she will admit.

This is a full and accurate account of Mrs. Campbell's connection with the institution and the way it ended. It will be observed that her application in September for an extension of her leave of absence on account of her ill health was made before her reported indorsement of the Fool's Errand was written. Not one word had passed, as I am informed, from any member of the board or any one else to her that her services were not desired, and her resignation was purely voluntary; and I take it when she asked to be relieved on account of bad health that she gave the true reason and did not make it a pretext.

* * * * * * *

I am, very truly, yours,

THOS. J. JARVIS.

Hon. JOS. J. DAVIS,
*House of Representatives, Washington, District of Columbia.*

Thus you see, Mr. Speaker, this supplement to the Fool's Errand, on investigation, explodes and proves to have been nothing more than a miserable, lying, political canard, and I doubt not that nine-tenths of the stories of southern political outrages which do campaign duty in the North, if investigated, would prove to be of the same character.

In 1878 the author of Fool's Errand ran for Congress against the present member from that district, [Mr. SCALES,] receiving 7,680 out of 18,006 votes cast at the election, which was 3,321 less votes than the republican candidate received in 1876 and 3,943 less votes than the republican candidate received in 1880 for the same office; which (to put it as mildly and delicately as I can) has a tendency to show that the gentleman is not very popular with his own party in that locality. Whether his defeat and having run behind his ticket influenced him in any manner in writing Fool's Errand I do not know; but I am fully convinced that the book has gone a great way toward perpetuating sectional prejudice and sectional animosity, which had begun to die out, and in that respect has done infinite mischief.

The SPEAKER *pro tempore*. The time of the gentleman from Ohio [Mr. FINLEY] has expired. The Chair recognizes the gentleman from Missouri, [Mr. ROTHWELL.]

Mr. FINLEY. I desire to inquire of the Chair how much time I had remaining when I took the floor to-day?

The SPEAKER *pro tempore*. Only thirty minutes. The rest of the gentleman's hour he had yielded when the bill was last under consideration to the gentleman from Pennsylvania, [Mr. RYON.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced the adoption of the conference report on the disagreeing votes of the two Houses on the bill (H. R. No. 6969) making appropriations for the naval service for the fiscal year ending June 30, 1882, and for other purposes.

It further announced the adoption of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6613) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1882, and for other purposes.

It further announced the adoption of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6730) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1882, and for other purposes.

It further announced that the Senate insisted upon its amendment to the bill (H. R. No. 3788) granting an increase of pension to William Hamill, disagreed to by the House of Representatives, and agreed to the conference asked by the House on the disagreeing votes of the two Houses, and had appointed Mr. WITHERS, Mr. DAVIS of Illinois, and Mr. KIRKWOOD, as managers of said conference on its part.

PENSION APPROPRIATION BILL.

Mr. HUBBELL, from the Committee on Appropriations, reported back the amendments of the Senate to the bill (H. R. No. 6532) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1882, and for other purposes, recommending concurrence in the second and third amendments, and non-concurrence in the first and fourth; and the bill and amendments were laid upon the table, to be called up at the first opportunity for action.

APPORTIONMENT OF REPRESENTATIVES.

Mr. ROTHWELL. I yield fifteen minutes to the gentleman from North Carolina, [Mr. STEELE.]

Mr. STEELE. Mr. Speaker, no intelligent man can read the Constitution without concluding that numbers, and numbers only, were regarded by the fathers as the proper foundation for the distribution of Representatives among the States. Certainly prior to the adoption of the fourteenth amendment, in which those States, as States, which are the theme of many an apparent patriotic utterance on this floor, took no part, no such idea as voters ever entered the head of any one who even claimed for himself the possession of a scintilla of statesmanship. Even after its adoption numbers constituted the only foundation of representation, to be abridged only when a State should restrict the right of suffrage for any other cause than crime. No one now contends—I mean no intelligent man—that any other abridgment than that done by a State through some process of legislation can, by the fourteenth amendment, operate so as to reduce representation. The conduct of ten, or a hundred, or a thousand men, either in purchasing or intimidating voters, cannot be construed as affecting the rights of the States to full representation on this floor, for the acts of individuals cannot be regarded as the act of the State. Above all, no man of sense could insist that the representative strength of a State ought to be determined by the number of persons who exercised the right of suffrage at the election just preceding the apportionment.

If such should be the rule it is easy to see how a party in a minority in any given State could wreak its vengeance on the majority by refusing to vote at the election. In some of the Southern States it is well known that a pretended order from the leaders in this city or elsewhere could easily be used by the few not always scrupulous leaders of one of the parties to keep nine-tenths of the negroes at home on the day of the election, and thus weaken the electoral power of the States. That such a course would be pursued, even if it has not already been done, no man who has watched the course of certain self-styled statesmen can hesitate a moment to believe. The spectacle would then be exhibited of States robbed of their legitimate power in the House of Representatives by the needs of political tricksters, caring nothing for the well-being of those whose fancied wrongs they deplore and thinking of nothing but the perpetuation of their own power.

I heartily concur in the opinion expressed by the gentleman from New York, that whatever may be the meaning of the second clause of the fourteenth amendment to the Constitution, it was never designed for but one section of the country. Its whole purpose was attained by the establishment of a subsequent addition to the organic law, by which no State can abridge the right to the ballot on account of "race, color, or previous condition of servitude." That amendment was made for party purposes, and not for the good of the country.

It will be seen with regard to the fourteenth amendment that the Secretary of State, in officially announcing its ratification by the Legislatures of the States, uses some very peculiar language, which may give the future historian a little trouble in comprehending. He speaks of the action of the Legislatures of a number of the States—less than the requisite number—and then announces the fact that

certain other "bodies, avowing themselves to be and acting as the Legislatures" of six other States, had agreed to the amendment, making it a part of the Constitution. It would seem that Mr. Seward had some doubts as to the legitimacy of the "claims" which were made by these bodies. I confess to sharing in that doubt, but concede that by lapse of time and years of submission the article in question is a binding part of the Constitution.

Mr. Speaker, I am the sincere advocate of a free election and a fair return of the result. It may be well to inquire what a free election is. All will agree that whenever all the citizens having a right to vote at an election shall have full and unrestrained liberty to go to the ballot-box and indicate their choice, without fraud or undue influence, the election is free. The constitution of my State, ever since it was established, in 1776, has contained the declaration, as one of the cardinal principles of free government, "that all elections ought to be free."

But what is a free election? Is it free when no threats of personal violence are made? It may be; but it is not necessarily so. Is it free when armed men do not take possession of the polls and drive away all who are not ready to do their bidding? Cannot the freedom of action of men be controlled by other means equally reprehensible in the eyes of those who wish to be just? Is it a free election even in name if the proprietor of a large landed estate having many tenants informs them that if they do not vote as he does they will lose their leases and have to seek new homes? Is it a free election if the owner of a cotton or iron mill who has hundreds of persons in his employment shall tell them that in the event a candidate whose election he opposes is chosen by the people his business will stop and they will lose their chance of labor and the bread which it produces? Is it a free election when the votes of men who suppose themselves to be free are bought and sold to the highest bidder? In my opinion none of these cases are included in the meaning of the words which North Carolina has embalmed in her constitution. All such conduct is a gross violation of the freedom of elections; and yet some men upon this floor bedew the country with their tears of sorrow over one of these outrages but are significantly silent as to the others. Why is this? There can be but one reason. One of the offenses is supposed, or rather said, by them to exist in the South alone.

Possibly an equally potent influence not recognized by law may be used in the sections which boast of their advanced civilization, and which influence is at war with the freedom of elections which is the essence of free government. A truly free election is conducted in all respects as our law has it in regard to the action of a married woman in the conveyance of her real estate. She must convey "without fear, compulsion, or undue influence on the part of her husband or any other person." So a voter should always cast his ballot. "Undue influence" is as fatal as "fear" or "compulsion." Compared with this, how many elections are free in some parts of our country represented on this floor by men who boast of their purity and denounce so fiercely the wrongdoing of others? Is it possible that some of these gentlemen resort to the plan of pointing out evils in sections remote so as to blind the people at home and prevent their seeing rottenness within "the visual line which circles them?" Let them remove the "motes" which are in their own eyes.

The basis of votes, or even voters, would be an exceedingly unjust one. The law favors the vigilant and not the slothful; and if a man having the right to vote chooses not to exercise it, no one is to blame but himself. If he is prevented from the use of his franchise by force, fraud, or undue influence, they who interfere should be made to suffer for their infractions of the law. Fraud and undue influence are used quite as often to control elections as force and are equally to be condemned. But it must be remembered that males over the age of twenty-one years do not bear the same proportion to the entire population in all parts of the country. In New England there are more males over twenty-one years in every thousand of population than in any of the Southern States. Why this is so I shall not inquire. It may be the result of an advanced civilization. The South has hitherto regarded the doctrine as true that "children are a heritage of the Lord, and blessed is he who hath his quiver full of them." We are a prolific people, and if let alone will build up our waste places without the advantage of immigration and by a resort only to our natural resources.

The gentleman from Indiana [Mr. CALKINS] saw proper a few days ago to inform this House that the people of the North believed that the census of the South had not been fairly taken, and that our section of the Union would get undue representation on this floor. He stated also that he had made this assertion upon the hustings in his State, and felt bound to repeat it in the House of Representatives. I do not gainsay the statement. It is well known that these charges were made by persons of the gentleman's party in anticipation of any work of enumeration. I do not doubt that this suspicion exists and is honestly entertained by many of the gentleman's constituents. And I am equally well satisfied that the gentleman himself is in no small degree responsible for the existence of the opinion. But for the unjust, I will not say unworthy, conduct of the gentleman and others, no such feelings would find a lodgment among his people. It is only part of the scheme of detraction by which the South is to be used as a stepping-stone for "vaulting ambition," which hesitates at nothing so selfish ends are subserved. I venture to say that the enumerators in the South were in all respects equal in character to either the gentleman himself or to any member upon this floor. I know it is so in the immediate section of country in which I live.

I confess I was astonished at the course which the gentleman saw proper to pursue. He has made a grave charge against the integrity of the persons employed by the Census Bureau, as well as a very large number of the people of the South, and also against his own peers upon the floor of the House of Representatives. Such charges, I submit, are entirely unwarranted, unless the gentleman is prepared to furnish the proof. Certainly they ought not to be made simply upon the suggestions of a vivid imagination. I place my assertion in opposition to his, and say that in my opinion a census of the inhabitants of the Southern States, honestly taken, will show now a fair increase of the number reported by the Superintendent. But if the gentleman wishes the enumeration to serve a party purpose, and can succeed in accomplishing his wishes, I doubt not he can get employed for that purpose a set of men who can bring out the figures to meet the exact wants of certain self-styled statesmen of the country.

I regard a large constituency as dangerous to free institutions. The nearer a member is to the people who send him as their legislative agent the more apt is he to know and regard their interests. If the time shall ever come in the history of this people when the congressional districts are so populous that a member of Congress is personally unknown to a large majority of the people, the age of intrigue and corruption will have arrived. It is true that a small body is more wieldy than a large one, but for this very reason it is more easily controlled by artfulness and corruption. Even now, with the power of the House of Representatives lodged in the hands of a few committees, chosen by the Speaker, we have legislation practically controlled in this country by one man. I do not charge that this power is used corruptly, but I do say that there is danger of this result. This trouble may be removed by an alteration of the rules. But it is true that small bodies are more easily swayed by undue means. My own opinion is that comparatively small constituencies are essential to the maintenance of good government, and I would regard it as a great evil if the basis of representation shall ever become larger than one hundred and sixty thousand of population. Of course there will be inconveniences attending a large House, but the good will far overbalance the evil.

I know it is said that we have confusion enough now with less than three hundred members. In this Hall there would be confusion with less than one hundred. The principles of acoustics were either unknown to the architect who planned it or were utterly disregarded in an insane desire to add to the adornments of the walls and ceiling. Certainly the laws of health were entirely ignored, when the chamber was made a pen, cut off from the air and light of Heaven, where members breathe for hours an atmosphere which is equal to the "vapors of a dungeon." A large House would be justified if for no other reason than that it would necessitate making the Hall approach nearer the light of day.

I care not as to what influence a particular number may have upon sectional strength. The only worthy reason which can be given is one relating to justice and efficiency. Sectional struggles should end in a universal desire to advance the prosperity of every portion of a common country. My own section yearns for peace and the establishment of good government. If let alone, we shall work out our own destiny. If we shall succeed, by the influences of soil, climate, and productions, in becoming, before many decades, one of "the fairest of the fair" parts of a great country, bright with life and prosperity and wealth and happiness, we shall, I trust, be thankful to God for His blessings to us; and not for His frowns upon others. We shall rise yet in the scale of material and mental wealth. The logic of the census cannot be resisted; and when the Almighty Ruler of the Universe shall allow the twentieth century to dawn on this free Republic, this glorious Union of States, bound together by the ligaments of a written Constitution and common interests, the now despised "land of the cypress and the myrtle" will send to Heaven its joyful praises in the hum of its wheels of industry, its development of untold mineral wealth, and its production of all things necessary to the happiness of mankind.

The SPEAKER *pro tempore*. The Chair begs the indulgence of the House to make a statement and a request. On the last day when this bill was under consideration, the gentleman from Ohio [Mr. FINLEY] being entitled to the floor for one hour, yielded five minutes to the gentleman from North Carolina, [Mr. KITCHIN,] and two minutes to the gentleman from Pennsylvania, [Mr. COFFROTH.] To-day the Chair was under the impression that the gentleman from Ohio had but thirty minutes remaining, while the fact is that he had fifty-three minutes; so that by an error of the Chair the gentleman has been deprived to-day of twenty-three minutes to which he was entitled. The Chair therefore asks consent of the House that the gentleman may be now recognized.

There was no objection.

Mr. FINLEY. I do not care now to resume my remarks, but will yield the remainder of my time to the gentleman from North Carolina, [Mr. DAVIS.]

Mr. DAVIS, of North Carolina. Mr. Speaker, I am exceedingly obliged to my friend from Ohio [Mr. FINLEY] for his kindness in yielding to me. It would have been very agreeable to me, sir, if, after

the admirable address made by the gentleman from New York [Mr. COX] in presenting this subject, which seemed to give satisfaction to all sides, this discussion could have ended, and we could have had a vote. But it has not been the pleasure of the House to adopt that course; and the debate has taken a political turn, unfortunately I think, and the animosity of some gentlemen on the other side toward the South has found expression in criticisms that require some notice. On the other side there has been a great deal said about the population of the South and fraud in elections; and some gentlemen have gone so far as to intimate that they are not willing to make any apportionment until there can be an inquiry to ascertain whether in the South there has been a fair census and free elections, and others intimate that they wish the apportionment made according to votes, and not according to population. The Constitution makes it our duty to make an apportionment of Representatives, and it prescribes that the apportionment shall be according to population.

Now, sir, a few words in regard to the census. The second section of article 14, known as the fourteenth amendment of the Constitution, declares that—

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

There is a further provision which eliminates from the enumeration when any male citizens of the United States, being twenty-one years of age, are denied the right to vote for any cause other than participation in rebellion or other crime, the proportion of population "which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age" in any State thus abridging the right to vote. The second section of article 1 of the Constitution declares:

> The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.

Now, these provisions of the Constitution are clear and cannot be misunderstood. Certainly no Southern State has by its constitution or laws denied to any of its citizens the right to vote for any cause except those mentioned in the Constitution. The Constitution makes the apportionment according to *population*, and not according to the number of *votes* cast, which may be greater or smaller, according to the importance of the election, the popularity of candidates, or the inducements which may carry people to the polls. The idea of apportionment according to the *vote* is as impracticable and absurd as it is unconstitutional.

But gentlemen challenge the accuracy of the census so far as it relates to the States of the South. Some of them say it is not possible that there can be such an increase as is shown. They think there ought not to be such an increase of population, and they therefore conclude that the census is wrong and raise the cry of fraud. This census has been taken in pursuance of a law of the United States, the fairness and justice of which no fair mind can question. There is at the head of the Census Bureau a gentleman whose character, integrity, learning, skill, and attainments eminently fit him for the place and give a guarantee of absolute honesty in the administration of the office, and no well-informed person will venture to say that he is not qualified for the duties of the office. He has the superintendence and direction of the work; and while the enumeration has been conducted by a large number of persons these have been selected with care and are men of character, no individual one of whom, so far as I have heard, has been even suspected of any fraudulent conduct in office. That the work is accurate to a man in enumerating over fifty millions of people no one would venture to say; such perfection would not be for mortals; but that the population has been exaggerated by false or fraudulent reports is a baseless charge, without a single fact to sustain it, and is so reckless that it can only be accounted for by the blinding power of prejudice.

I assume, then, and the facts warrant the assumption, as every fair man upon reflection must admit, that the enumeration shows, as accurately as is attainable, the population of this country, and the Constitution comes in and declares how the apportionment shall be made. If the South has an increase in population then the Constitution gives to her a corresponding increase in representation, and it is our duty to obey the Constitution, and there is no "higher law" for the good citizen than obedience to his legal oath and to the Constitution. The census of 1880 shows an increase of population throughout the Union that should gratify every patriot. It has shown a gratifying increase in the South, and this, which it seems to me should be a source of joy to every good citizen, is to some of our friends a source of anger. The increased prosperity of any section of this great Union of States ought to be a source of pride and joy to good people in every section of it. I have no doubt, as is clearly shown by General Walker, that much of our increase in the South since 1870 is only apparent, and is due to the failure of the census takers in 1870 to enumerate fully the population; but there has been undoubtedly a large real increase, and years ago our republican friends predicted this increase. In the days of slavery, when they were in a bad humor with us, because, under a Constitution which their fathers and our fathers made, we inherited slaves, descended from the slaves which our fathers purchased of their fathers and which their fathers acquired in some kind of profitable trade with slave-stealing kings of African tribes, they told us that if we would emancipate the slaves we would prosper and grow in wealth and numbers and rejoice at the change. Well, the slave has been emancipated for more than fifteen years, and we are increasing and prospering as well as we can, and for this they are angry with us, and in the face of the fact and their own prophecy they deny that we have thus increased. Oh, how unreasonable and unreasoning is prejudice!

But, Mr. Speaker, some gentlemen not seeing any way to get around the census, and apparently conceding the question of population, attack the elections in the South, and much has been said in regard to voting there. The principal charge now made seems to be that they do not vote enough. One gentleman complains, for instance, that in the last election, the State of Louisiana cast only 97,201, and she has six members of this House. Well, that was a modest vote for Louisiana, but then in 1876, when Mr. Tilden received an immense majority of the popular vote of this country, she gave 160,875, and our republican friends said she voted too much and their returning board threw out 16,316 votes, so it is not an easy matter for us to please gentlemen, whether we vote or refrain from voting. Now, sir, without going into details, I desire to say that during the period of reconstruction, when nearly every man who by reason of experience and intelligence was qualified or fit for office was disfranchised or excluded from office, and characterless adventurers, known as carpet-baggers, and the then recently emancipated freedmen had political control of the States, there was, as was to have been expected, as the natural consequence of the ignorant or corrupt legislation and administration of the laws, some disorder and lawlessness. The well-meaning and honestly disposed colored man, entirely ignorant of courts and laws and legislation, was, as a magistrate or legislator, but as wax in the hands of the unscrupulous carpet-bagger; and this was an unnatural state of society which could not last in harmony with a republican form of government, which must have for its foundation intelligence as well as virtue.

All the individual cases of outrage—all the isolated acts of lawlessness which are so magnified and exaggerated, and which are preserved, repaired, enlarged, revised, improved, and nursed so carefully from year to year by our republican friends, and which are paraded in every canvass to arouse and keep alive the passions and prejudices of misinformed people, and which constitute the basis of much of their campaign literature and fiction to mislead the honest people of the North, were perpetrated under these governments, which were neither democratic, aristocratic, nor monarchic, but which were entirely novel in the history of state-craft, and may be called kakocratic, in which the intelligent, the wise, the experienced, and the virtuous were excluded from office and the polls and the bad or the ignorant selected to rule. As democratic means the rule of the people, so kakocratic means the rule of the bad. It was a style of government unknown to any of the earlier writers upon the elementary principles of government and law, for, until the days of reconstruction, it was never dreamed that there would or could be a government in which the intelligent and capable were to be excluded from all participation and the bad or the ignorant selected to rule. It has been the good fortune of the South to have again democratic rule—the rule of the people instead of kakocratic rule; and since the democratic party came into power there has been as little of lawlessness and disorder in the South as in any other section of the Union, and there has been as little of fraud and corruption in elections there as in the States at the North, not excepting the good voting States of Ohio and Indiana. I can say for my own State of North Carolina that there has been as much freedom of political action there as can be found in any State in this Union.

There has been as much freedom of discussion there, for in our campaigns we have joint discussions, and from the mountains to the sea the people by hundreds and thousands have been addressed by democratic and republican speakers from the same stand, and a case of disturdance or disorder is of rare occurrence. I doubt whether there is a State in this Union whose elections are so free or where there is so little of fraud and intimidation as there is in North Carolina. So far as my own knowledge goes, I know of no improper attempts to influence voters in that State except by the assessments of Federal officers to the amount of 10 per cent. upon their receipts, with the assurance that a prompt remittance would be remembered, and the intimidation of colored voters inclined to vote the democratic ticket by persons of their own color.

Now, Mr. Speaker, I propose to review briefly some of the statements made by gentlemen on the other side, and I first call attention to some remarks made the other day by the gentleman from Ohio, [Mr. KEIFER.] He said:

> Turning aside for one moment in this discussion, I will say that there are some other remarkable figures and facts worked out under this census. My own State will not suffer on a basis of voting population, if such a basis could be adopted (and I do not say it could) under the Constitution. Ohio, I am happy to say, has a people not only free to vote when election day comes, but a people educated to vote, and who do vote. Let me state a fact that may not have been noted. At the election in November last, Ohio cast 103,046 more votes than were cast in the great state of Illinois, with substantially the same population, the population of Illinois being 3,078,769 as against 3,198,239 in Ohio. Now, this larger vote in Ohio comes from the freedom of the people to vote and also (for they are as free in Illinois) from the education of the people in the matter of voting. We have first tried before the people of Ohio the great issues of this country. We have tried the great financial issues there in advance of the nation. First in 1875 we fought the battle, and we won the financial victory as it has been won since by the people of this whole country.
>
> The election returns coupled with the vote at the late election show some curious

results in the North and West in the ability or willingness of the people to vote. Take the table of figures made up in round numbers, as follows:

| States. | Vote. | Population. | Per cent. |
|---|---|---|---|
| Illinois | 622,000 | 3,100,000 | 1 in 5.0 |
| Ohio | 725,000 | 3,200,000 | 1 in 4.4 |
| Indiana | 575,000 | 2,000,000 | 1 in 3.4 |
| Iowa | 323,000 | 1,600,000 | 1 in 5.4 |
| Kansas | 201,000 | 1,000,000 | 1 in 5.0 |

It will be seen that Indiana is a good voting State.

The now good roads and accessibility of voting places in Ohio and Indiana may have something to do with the voters getting to the polls in a larger per cent. than in some other States.

The gentleman from Michigan [Mr. HOBE] has given figures from the Southern States which in comparison to these would astonish the country if it was not already aware that something terrible was the matter with the voting population in those States.

Ah! Mr. Speaker, they were educated to vote, some of them to vote early and to vote often, I fear, as I will show by the gentleman's own figures presently. Ohio is a great State, and the gentleman assumes much for it. A friend of mine in North Carolina once, commenting on what he conceived to be an arrogant habit of some Virginians, said "they were a presumious, assumious, and usurpious race." [Laughter.] I think the observation may be applied with some force to the people of the State of Ohio at this time.

This gentleman from Ohio says there is one voter for every 3.4 of the population of the State of Indiana. I have examined his figures and I have examined the census. If his statement be true, then Indiana gave about 130,000 more votes than she has male population over twenty-one years of age entitled to vote. As any one who will examine the census will find, there is not a State in this Union, unless possibly it be Colorado, that can honestly give one vote for every 3.4 of its population.

Mr. NEW. Will the gentlemen permit me to interrupt him?

Mr. DAVIS, of North Carolina. Certainly.

Mr. NEW. The statement made by the gentleman from Ohio [Mr. KEIFER] in the speech referred to, of the vote cast in Indiana, was grossly incorrect. The error, no doubt, was unintentional. That gentleman placed the vote at 575,000. This number is greater by 104,262 than the vote cast at the election in October, and greater by 104,328 than the vote cast at the election in November.

Mr. DAVIS, of North Carolina. My friend from Indiana is correct as to the vote cast by his State. It was about 104,000 less than stated by the gentleman from Ohio. I do not know where the gentleman from Ohio obtained his figures. The actual vote was 470,672, but that is a larger vote than the State can fairly cast. I find that in 1870, according to the census, there were 376,700 citizens in Indiana entitled to vote. This was her full voting population. The census of 1880 shows the increase in the population of that State to be 17 per cent. Now, assuming that the voting population has increased in the same ratio—that is 17 per cent.—it would be, in exact numbers, 440,739. The vote cast was 470,672, or 29,933 more than the State would be entitled to according to the ratio of increase indicated by the census, if every voter went to the polls, which is never the case.

Mr. NEW. Will the gentleman permit me to interrupt him again?

Mr. DAVIS, of North Carolina. Certainly.

Mr. NEW. I wish to inquire what information has been obtained from the Census Bureau, if any, or other authentic source, showing that the male adult population of Indiana is not enough larger than the adult female population to account for what you regard as an excess of voters in Indiana?

Mr. DAVIS, of North Carolina. I will answer my friend. It is natural that he should be solicitous about any statement touching the reputation of his State. The census has not yet been so completed and tabulated as to show the number of male citizens entitled to vote in Indiana, but, as I have already stated, the rate of increase in the population of Indiana has been 17 per cent. I think it is a fraction in excess of that, but it will not vary materially. The entire male population of all ages, as given by the census of 1880, is 1,010,676; the male population in 1870 was 857,994, and the voting population, according to the census of 1870, was 376,780. Now, if the voting population has increased in the same ratio with the male population, we will have this result, 857,994 : 376,780 :: 1,010,676 : 443,828; which is 26,844 less than the vote cast. So that unless the voting population has increased out of all proportion, as compared either with the entire population or as compared with the male population of all ages, she has given in the one case 29,933, and in the other 26,844, more votes than she has voting population. Truly did the gentleman from Ohio say: "It will be seen that Indiana is a good voting State."

It was an October State, and a victory there was deemed absolutely necessary to assure success to the republican party. To this end it was essential to increase her voting population, and the increase was made. The contest was abandoned in many of the Southern States. I believe the reason was truly stated by the distinguished gentleman from Illinois [Mr. MORRISON] when, in answer to the question, "Why no contest in the South?" he said: "Because the republicans abandoned the contest in the South and undertook to buy votes enough to answer their purpose in the North." Can any one doubt that the votes were purchased? There was an army of republican office-holders at work, and assessments to the amount of hundreds of thousands of dollars were made on Federal office-holders. Was this immense sum for any honest purpose? Who can tell the influence it had upon the patriotic republican vote in Indiana and Ohio, so happily paraded by the gentleman from Ohio? How much of it aided the exodus of the colored voters from the South when the contest was abandoned? One of the republican managers of the exodus movement to Indiana complained that there were too many women and children among the exodusters. He said they wanted more "bucks." This was the epithet applied by him to the colored voters. It was by these methods, more than by good roads, that the vote of Ohio and Indiana was so large.

The voting population (that is her whole male population entitled to vote) of Ohio in 1870 was, according to the census of that year, 592,350. Her population increased 19 per cent. This ratio of increase applied to her voting population would give her a voting population in 1880 of 704,896. She gave 724,967 votes, which was more by 20,071 votes than she had male voting population twenty-one years old. If her voting population increased only at the same rate with her other population, then she gave 20,071 more votes than she was entitled to if every man entitled to a vote had gone to the polls. Can any one suppose that this increase in her voting population was not produced by similar causes that increased the vote in Indiana? for Ohio, too, was an October State. No wonder that some gentlemen should prefer an apportionment upon the basis of voters, for there are no people so well "educated to vote" as are the people of Ohio and Indiana, especially in presidential years. So much for that. I have only time to comment upon Indiana and Ohio, because they were selected for special commendation by the gentleman from Ohio. I do not doubt that their voting population was increased by stupendous frauds.

Now, Mr. Speaker, I have alluded to the method by which the vote has been increased. The colored vote was mobilized. Without it Mr. Garfield would not and could not have been elected. That vote was cast almost solidly for him, and yet he lacked about 300,000 votes of getting a majority of the popular vote of the United States, and there was more than one million majority of the white vote against him.

I have alluded to the influence of republican office-holders in controlling the elections. In this connection I wish to commend to the thinking public the following paragraph from the last annual message of Mr. Hayes. Speaking of civil service, he says:

> In my former annual messages I have asked the attention of Congress to the urgent necessity of a reformation of the civil-service system of the Government. My views concerning the dangers of patronage, or appointments for personal or partisan considerations, have been strengthened by my observation and experience in the Executive office, and I believe these dangers threaten the stability of the Government. Abuses so serious in their nature cannot be permanently tolerated. They tend to become more alarming with the enlargement of administrative service, as the growth of the country in population increases the number of officers and placemen employed.

Now, sir, this sounds a note of warning and alarm that ought to be heeded by the country. It loses none of its force by reason of the fact that its most corrupt and corrupting abuses were practiced under the administration of Mr. Hayes. The fact will not be questioned that the great mass of republican office-holders, from Cabinet officers down to messengers and deputy collectors, were, for months, neglecting their legitimate duties, engaged with all the power and patronage of the Government in efforts to control the elections and perpetuate their power. Add to this the assessments made, amounting to hundreds of thousands of dollars, and the abuse becomes truly alarming. The democratic members of this House endeavored last session to correct the evil, so far at least as to prohibit assessments on office-holders, but the other side resorted to parliamentary tactics known as filibustering, to defeat the bill, and we could not pass it.

Now, Mr. Speaker, I desire to allude to a matter that affects my own State. The other day when we had a contested-election case up from the State of North Carolina, the gentleman from New York [Mr. VAN VOORHIS] commenced his speech by saying:

> It is easier for a camel to pass through a needle's eye than for a republican elected to Congress from any district in thirteen States of this Union to get and keep his seat.

And then he goes on to say that—

> Joseph J. Martin is the only republican in this House from these thirteen States who took his seat when this Congress began. It is now proposed to oust him from that seat. These thirteen States have seventy-one Representatives in this House. We know that many districts in these States have republican majorities, and there is scarcely a doubt that they elected republicans to this Congress who have been unable to obtain their seats. They failed to run the gauntlet of the democratic returning boards. Upon one pretext or another, they never got so far as to receive the legal certificates of their election.

I say, Mr. Speaker, that it is easier for a camel to pass through the eye of a needle than it is for some persons to see the truth or to admit it when anything is brought before them which is at variance with their partisan or political views, or where anything connected with the South is at issue. The statement which is contained in that paragraph of the gentleman's speech might have been met with the fact that there are now on this floor republicans who could answer it clearly. I would ask the gentlemen who represent the second Tennessee district, the fourth Virginia, the sixth Missouri, or the third district in my own State. These will afford a sufficient answer to him. He then refers to Joseph B. Martin, and refers to him as the "chief-justice of North Carolina." Mr. Speaker, I desire to say that

the chief-justice of the State of North Carolina is one of the best and purest men in this or any other land, and all assertions that he was engaged in anything of such a character as that charged in the speech of the gentleman, coming from any source, would not receive a moment's consideration from those who know him, and where the gentleman got his facts or figures I do not know.

Now, in point of fact, I understand that Mr. J. B. Martin has been three or four years at the bar, and has never held any office under the State, in or out of it, so far as I know. He certainly is not the chief-justice of that State.

Mr. VAN VOORHIS. The information that had reference to this matter I got from the report of the Committee on Elections itself, which states that he was a chief-justice of a court in North Carolina.

Mr. DAVIS, of North Carolina. Well, sir, if he was chief-justice of a court that is not chief-justice of North Carolina. But it is not true, because there was no such man as Chief-Justice Martin, of North Carolina, as the gentleman has stated in his speech.

There is but one officer in the State known by the title of chief-justice, and he is the chief-justice of the supreme court, and that position is now held by a man whose learning, virtue, and purity of character entitle him to rank with the best men of this or any country.

Mr. VAN VOORHIS. If the gentleman will examine the record of that case he will see the statement made that this man is a chief-justice of a court in North Carolina, and as such I referred to him.

Mr. DAVIS, of North Carolina. I do not know what kind of a report the committee may have acted upon or obtained their information from; but I do know what I state to be true, that the allegation that Mr. Martin was the chief-justice of North Carolina is not true.

Mr. VAN VOORHIS. The gentleman from North Carolina has not read my speech carefully, or he would not make that assertion.

Mr. DAVIS, of North Carolina. I have stated substantially the gentleman's language, but I will give it exact:

> It made no difference with the democratic returning boards that J. B. Martin, the chief-justice of a North Carolina court, the agent and friend of the contestant and his counsel on this contest, got these tickets printed and circulated them for a fraudulent purpose.
>
> The majority of the committee are in favor of sustaining this fraud of Chief-Justice Martin and aiding him in consummating it. If the republicans cannot rely upon the good faith of a North Carolina democratic chief-justice, then what is there in that State, which is democratic, that can be relied upon?

Mr. VAN VOORHIS. I hope the gentleman from North Carolina will submit to a correction as to a statement of fact. I never asserted that this gentleman was the chief-justice of North Carolina; I stated that he was the chief-justice of a North Carolina court, and so referred to him in my speech.

Mr. DAVIS, of North Carolina. As I have stated, I will give the exact language of the gentleman, so that there can be no mistake about it. He makes the assertion as many as three times, at least, in his speech. He states that the majority of the committee are in favor of sustaining this fraud of Chief-Justice Martin and aiding him in consummating it. The gentleman from New York knew very well that in making a statement of this kind and placing the charge of such a wrong upon a high officer of the State that it would have more weight in certain quarters than if the allegation was made that he was simply the presiding magistrate or chairman of a county court.

Mr. RUSSELL, of North Carolina. Will the gentleman allow me a question?

Mr. DAVIS, of North Carolina. Yes, sir.

Mr. RUSSELL, of North Carolina. I think from the statement of the gentleman from New York himself that he referred to Mr. Martin as the chief-justice of a court in North Carolina.

Mr. DAVIS, of North Carolina. Will the gentleman be kind enough to indicate of what court he was chief-justice?

Mr. RUSSELL, of North Carolina. I take it that he was the presiding justice of the inferior county court of Bertie County.

Mr. DAVIS, of North Carolina. I wish to ask the gentleman if he holds any office which would entitle him to the appellation given to him by the gentleman from New York, "chief-justice of the State of North Carolina," or whether he has any civil jurisdiction whatever, or whether there is any officer in that State known as chief-justice except the chief-justice of the supreme court?

Mr. RUSSELL, of North Carolina. It is nevertheless a court, and he is the presiding justice of it.

Mr. DAVIS, of North Carolina. Is he known as chief-justice of any court in the State of North Carolina?

Mr. RUSSELL, of North Carolina. He is the presiding justice of the court, and the term chief-justice is frequently used by lawyers in speaking of such an officer. He may well be called a chief-justice by anybody, whether a lawyer or not, because it does not take a lawyer to find that out.

Mr. DAVIS, of North Carolina. To say that he was chief-justice of the State of North Carolina, as the gentleman from New York knows, and as I have stated, carries weight all over the land. Mr. Martin was probably what is called in North Carolina chairman of a county or inferior court. Whatever may have been his indiscretion, I am assured that he is a gentleman of high character and integrity.

Now, Mr. Speaker, let me advert for a few moments to the history of the past. As I have already stated, most of the alleged wrongs for which the South is constantly arraigned on this floor, and which seem to grow with years, had their origin while the South was under what has been called "carpet-bag rule," and, though grossly exaggerated, such as they were, they resulted from the inefficient and often corrupt legislation and administration of the laws by those in power. No definition can convey to a gentleman in the North a correct idea of what is known in the South as a "carpet-bagger." Some gentlemen commit the great mistake of supposing that the term is applied to all people of the North who settle in the South. The carpet-bagger himself encourages this false idea. There cannot be greater error. The South has a hearty welcome for all people who go there to pursue honest callings and build up their fortunes by honest industry. She never concerns herself about the political opinions of such settlers. They can express them as freely there as they can anywhere else. There are many such people in the South—many of them republicans—and whenever they cast their fortunes with our people and become interested as citizens in the welfare of the State, they meet with kind and cordial treatment. All such are gladly received from whatever section they come. These are not carpet-baggers, and I am not aware that there are any carpet-baggers now going South.

The race is fast becoming extinct; but they have been a source of evil to the South and to the North, which unfortunately is still felt. Evil to the South in this, that while they were in power they corrupted legislation by their dishonest practices and frauds, and when they were driven from power they hypocritically assumed the character of political martyrs and became the slanderers of the people whom they had robbed; evil to the North in that, even to this day they have a voice and influence which they use in poisoning the minds and hearts of her people toward the South, and thus preventing that reign of peace, good will, and harmony which is so essential to the good of all. A gentleman on this floor the other day, when my friend from Mississippi [Mr. HOOKER] was speaking of these political adventurers, asked, with a triumphant air, "Were not the carpet-baggers citizens of the United States?" Of course they were; and for that reason they ought to have been better men, and they deserve the greater condemnation for their dishonesty.

Let me illustrate by giving a short history of one among the best of them that I ever knew. He lived in my district and was for several years register in bankruptcy, and made a good deal of money; many a poor man in my State can tell how; his money was easily made, and he was liberal, kind-hearted, and good natured. He says himself that he spent $12,000 in 1878 to aid in carrying the State for Grant. He was among the best of his class, for he was no hypocrite, and he did not pretend to be politically honest. In fact, some people thought that he never perplexed himself with questions about honesty of any kind. He was twice elected to Congress, and represented, or rather misrepresented, the district which I am proud to represent, a district inferior to none in this Union for the purity and virtue and worth of its people, but which has within its borders a large number of colored people, whose simple and confiding natures were easily imposed upon by the artful carpet-bagger, and they elected him twice to Congress. I do them the justice to say that I think many of them would not have voted for him if they had known better, but they were then recently emancipated and enfranchised, and the Union League had absolute control over them and the carpet-baggers controlled the Union Leagues. He came to Congress, and to serve his party he did his full share in abusing the South, though I believe there was no malice in his abuse, he had no regard for the truth. During his second term he sold a cadetship, as he himself said, as a matter of favor to a friend. He was investigated. General LOGAN, then a member of this House, now a Senator, was chairman of the committee, and they were about to report in favor of his expulsion; to avoid this he resigned. His reasons for resigning were stated very candidly to the committee and can be found in full in the Congressional Globe, volume 76, 1869–'70, page 1617. I give an extract from it. He says:

> I was not aware that I was violating any of the privileges or rules of the House. As soon as I was aware that I had done wrong I endeavored to make a return as far as I could. I returned the money immediately; and I have tendered my resignation to the governor of my State, believing it is a duty of a member of Congress to make vacant the place he has disgraced. * * * Hundreds have done the same thing before and will do it again. * * * I could show that I have given $12,000 to control the presidential election in my State. * * * My resignation is in the hands of the governor of my State, I suppose. Speaker BLAINE has a copy of it; for I think it is the duty of a member of Congress to make vacant the place he has disgraced.

And John T. Dewees, once my Representative and the most candid carpet-bagger I ever knew, has not been in my district since, so far as I know. Of course, he was a citizen of the United States and a republican martyr to the principles of his party, and it was a great democratic outrage that he did not return to the State. When it is remembered that this man was sent from a district which has given to the council of the Union the services of such men as Haywood, Mangum, Badger, Graham, Saunders, Bryan, Venable, Branch, Crudup, Arrington, and Rogers, and to the services of the State such men as Cameron, Ruffin, Iredell, Nash, Gilliam, Battle, Swain, Manly, Moore, Waddell, Busbee, Miller, and others, who have lived within my memory and who have given luster to the Cabinet, the Senate, the bench, the executive, the halls of legislation, and the forum, it is not to be wondered that our people should have felt keenly the humiliation and that they should have availed themselves of the earliest opportunity to rid themselves of a party that could put such an indignity upon them.

I esteem it a great honor to have been chosen to represent the democracy of such a district, and while conscious that I have been unable to do much in their interest that I would gladly have done, I am

gratified in the belief that I have done no discredit to their good name, and that I have served them with an earnest desire to promote their best interests and the best interests of the country.

Mr. VAN VOORHIS. Will the gentleman yield to me that I may read a sentence of my speech to which he has referred?

Mr. DAVIS, of North Carolina. I yield to the gentleman.

Mr. VAN VOORHIS. This is the language I used about this North Carolina justice:

It made no difference with the democratic returning boards that J. B. Martin, the chief-justice of a North Carolina court, the agent and friend of the contestant, and his counsel in this contest, got these tickets printed, and circulated them for a fraudulent purpose.

That was my language.

Mr. DAVIS, of North Carolina. Yes, sir; I will print the paragraph in full.

And where did the gentleman get the other fact he stated that Mr. Joseph J. Martin was the only republican in this House who came here from any of the thirteen States he spoke of?

Mr. VAN VOORHIS. That is a fact.

Mr. DAVIS, of North Carolina. A fact! Ask the gentleman from Virginia, [Mr. JORGENSEN.] Ask the gentleman from Tennessee, [Mr. HOUK.] Ask my own colleague, who was elected by republican votes, [Mr. RUSSELL.] Ask the gentleman from Maryland, [Mr. URNER.]

Mr. VAN VOORHIS. Those States do not belong in the thirteen.

Mr. DAVIS, of North Carolina. You cannot find thirteen Southern States of which the statement is true. I am not surprised now that the gentleman in speaking of J. B. Martin, who is a lawyer of only about three years at the bar, should have persisted in calling him chief-justice of North Carolina. [Here the hammer fell.] I ask leave to print some further remarks and also extracts to which I have referred.

There was no objection.

### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries, who informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 2044) granting a pension to Martha J. Porter;

An act (H. R. No. 2548) granting a pension to Martha Neil;

An act (H. R. No. 3487) granting a pension to James Forsyth Harrison;

An act (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright;

An act (H. R. No. 1628) granting a pension to Dalton Hinchman;

An act (H. R. No. 799) granting a pension to Richard P. Taylor;

An act (H. R. No. 3098) granting a pension to Jacob Ginder;

An act (H. R. No. 859) granting a pension to William N. Scribner; and

An act (H. R. No. 1953) for the relief of Henry C. Groomes.

### APPORTIONMENT OF REPRESENTATIVES.

Mr. ROTHWELL. Mr. Speaker, the duty which now lies before us is to make apportionment of Representatives among the several States of the Union. It has been truly said that no more important measure has engaged or in all probability will engage the attention of this House. It is our prerogative by the action which we shall take here to establish during the ensuing ten years the positive and relative power of each of the thirty-eight States in Congress directly, as well as indirectly their relative power in the electoral college and the choice of a President. It is, therefore, a matter of supreme importance to the States in their local interests and ambition as well as to the whole country generally that this should be done with the utmost fairness. And, sir, it occurs to me that we shall be best enabled to accomplish this purpose if we shall approach it free from every personal prejudice, preference, and predilection, as well as from the blinding influence of partisan bias, and shall deal with the matter upon simple principles of justice.

The origin of this duty and the authority for our action will be found in the terms of the Constitution itself. And if, in turning to that instrument in a matter of so grave importance, I did not find, in connection with the grant of authority, the essential features of the method of execution, I should be seriously disappointed. But I shall not be disappointed, and I turn to it in perfect confidence for all the light necessary to guide us at every step in the way of certain and just procedure. In the first place, it is declared that—

The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative.

This much, then, is fixed with absolute certainty. It insures a minimum representation in Congress always equal to the number of States, and provides against what at that time might have been considered a probable excess of representation by fixing the minimum ratio at one to 30,000 inhabitants. Beyond these well-defined boundaries there is no limit whatever, either as to ratio or the number. These are minor matters intrusted to the wise discretion of the Congress, to be regulated according to the wishes of the country and the convenience and possibilities of business. As a matter of fact and history, both the number and ratio have been often changed. Indeed, at every decennial apportionment since the adoption of the Constitution the ratio has been changed, except in a single instance, and the number of Representatives has been changed on every such occasion, only once receding from a higher to a lower number. I submit in this connection the following table, illustrative of the entire history of the subject in this regard:

*Apportionment of Representatives in Congress and ratio of representation by the Constitution and at each census.*

| States. | Admitted to the Union. | Representatives to which each State was entitled by— | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Constitution, 1788—ratio 30,000. | First census from Mar. 4, 1793—ratio 33,000. | Second census from Mar. 4, 1803—ratio 33,000. | Third census from Mar. 4, 1813—ratio 35,000. | Fourth census from Mar. 4, 1823—ratio 40,000. | Fifth census from Mar. 4, 1833—ratio 47,700. | Sixth census from Mar. 4, 1843—ratio 70,680. | Seventh census from Mar. 4, 1853—ratio 93,423. | Eighth census from Mar. 4, 1863—ratio 127,381. | Ninth census from Mar. 4, 1873—ratio 131,425. |
| Alabama | 1819 | ..... | ..... | ..... | ..... | 3 | 5 | 7 | 7 | 6 | 8 |
| Arkansas | 1836 | ..... | ..... | ..... | ..... | ..... | ..... | 1 | 2 | 3 | 4 |
| California | 1850 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 2 | 3 | 4 |
| Colorado | 1876 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | *1 |
| Connecticut | ..... | 5 | 7 | 7 | 7 | 6 | 6 | 4 | 4 | 4 | 4 |
| Delaware | ..... | 1 | 1 | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 |
| Florida | 1845 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 1 | 1 | 2 |
| Georgia | ..... | 3 | 2 | 4 | 6 | 7 | 9 | 8 | 8 | 7 | 9 |
| Illinois | 1818 | ..... | ..... | ..... | ..... | 1 | 3 | 7 | 9 | 14 | 19 |
| Indiana | 1816 | ..... | ..... | ..... | ..... | 3 | 7 | 10 | 11 | 11 | 13 |
| Iowa | 1846 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 2 | 6 | 9 |
| Kansas | 1861 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 1 | 3 |
| Kentucky | 1792 | ..... | 2 | 6 | 10 | 12 | 13 | 10 | 10 | 9 | 10 |
| Louisiana | 1812 | ..... | ..... | ..... | ..... | 3 | 3 | 4 | 4 | 5 | 6 |
| Maine | 1820 | ..... | ..... | ..... | ..... | 7 | 8 | 7 | 6 | 5 | 5 |
| Maryland | ..... | 6 | 8 | 9 | 9 | 9 | 8 | 6 | 6 | 5 | 6 |
| Massachusetts | ..... | 8 | 14 | 17 | 20 | 13 | 12 | 10 | 11 | 10 | 11 |
| Michigan | 1837 | ..... | ..... | ..... | ..... | ..... | ..... | 3 | 4 | 6 | 9 |
| Minnesota | 1858 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 2 | 2 | 3 |
| Mississippi | 1817 | ..... | ..... | ..... | ..... | 1 | 2 | 4 | 5 | 5 | 6 |
| Missouri | 1821 | ..... | ..... | ..... | ..... | 1 | 2 | 5 | 7 | 9 | 13 |
| Nebraska | 1867 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | *1 | 1 |
| Nevada | 1864 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | *1 | 1 |
| New Hampshire | ..... | 3 | 4 | 5 | 6 | 6 | 5 | 4 | 3 | 3 | 3 |
| New Jersey | ..... | 4 | 5 | 6 | 6 | 6 | 6 | 5 | 5 | 5 | 7 |
| New York | ..... | 6 | 10 | 17 | 27 | 34 | 40 | 34 | 33 | 31 | 33 |
| North Carolina | ..... | 5 | 10 | 12 | 13 | 13 | 13 | 9 | 8 | 7 | 8 |
| Ohio | 1802 | ..... | ..... | ..... | 6 | 14 | 19 | 21 | 21 | 19 | 20 |
| Oregon | 1859 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | *1 | 1 | 1 |
| Pennsylvania | ..... | 8 | 13 | 18 | 23 | 26 | 28 | 24 | 25 | 24 | 27 |
| Rhode Island | ..... | 1 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
| South Carolina | ..... | 5 | 6 | 8 | 9 | 9 | 9 | 7 | 6 | 4 | 5 |
| Tennessee | 1796 | ..... | ..... | 3 | 6 | 9 | 13 | 11 | 10 | 8 | 10 |
| Texas | 1845 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 2 | 4 | 6 |
| Vermont | 1791 | ..... | 2 | 4 | 6 | 5 | 5 | 4 | 3 | 3 | 3 |
| Virginia | ..... | 10 | 19 | 22 | 23 | 22 | 21 | 15 | 13 | 11 | 9 |
| West Virginia | 1863 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3 |
| Wisconsin | 1848 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3 | 6 | 8 |
| Whole number | ..... | 65 | 105 | 141 | 181 | 213 | 240 | 223 | 234 | 243 | 293 |

*These States admitted subsequently to the apportionment.

The first apportionment was made in advance of any census, upon an assumed estimate of population and by the terms of the Constitution itself. This statement fully sustains the truth of the facts which I have alleged; and it is probable that even now we shall again change both the ratio and the number of Representatives. Indeed, this is contemplated in the bill reported from the Committee on the Census, fixing the number of Representatives at 311 on a ratio of 1 to 158,745 of population. The same feature is also embraced in the bill offered by the gentleman from New York [Mr. COX] fixing the number at 301, on a ratio of 1 to 164,018, as likewise in the amendment submitted by him fixing the number at 307, on a ratio of 1 to 160,813 inhabitants. The substitute of the gentleman from Illinois [Mr. SHERWIN] fixing the number at 319, on a ratio of 1 to 154,764 of population, is also distinguished by the same characteristic. It will be observed, moreover, that every one of these propositions indicates an increase in the number of Representatives. These being matters of discretion, there is room for honest difference of opinion; and aside from any political consideration, it is not strange it should exist. Indeed, it would be passing strange if upon first impression two hundred and ninety-three men should, upon this or any other debatable proposition, entertain exactly the same opinion; and yet, with singular unanimity, all have adopted the principle of increased representation. This much, then, being determined upon, it remains to establish with exactness the number deemed most suitable, either as to convenience of the House or the safety of the public interests. When once the number is fixed, the ratio follows as a matter of course, growing with mathematical certainty out of the relation of the number of Representatives to the whole population of the States used as a basis. The ratio thus ascertained, when applied to the States separately, should yield the quota of each State.

This, sir, would seem to be at first flush but a simple and easy matter of calculation. But here in reality the difficulty begins, and an apparently purely mathematical problem assumes a political aspect more or less difficult of adjustment, and which we are bound in justice

respectfully to consider. But I submit, sir, that this might and ought to be done without drawing us into the dangerous vortex of inconsiderate sectional debate. It is evident upon the slightest reflection that the ratio arising from any announced number of Representatives when applied to the census of each State separately will not yield in the aggregate the original number of Representatives agreed on, because of a resulting remainder, which we call a fraction, as to every State. On the first calculation the sum of all these State fractions will be unrepresented, and the deficit thus occurring in the whole number of Representatives must be made up by assigning the missing number among the several States on a different principle. This we do by giving an additional member to a certain number of States, one to each having the largest fractions until the deficit is made up. The fractions of the remaining States both in the aggregate and in detail have no representation in Congress. So far as the even number of members arising on the first calculation is concerned the problem is purely mathematical. It is in dealing with State fractions that political considerations force themselves upon the attention. For every State with an unrepresented fraction loses a portion of its political power in the Congress and the electoral college. Every State whose fraction is represented receives an undue advantage in that it obtains an additional member or elector on a less ratio. And it so happens that these fractions not only thus cause inequality of representation as between the States themselves, but they so group themselves together as likewise in some instances to give a sectional cast to the problem by falling North or South, East or West, and thus impairing the equilibrium of sectional power. For the study of the inquisitive as well as to illustrate this feature of the apportionment, I offer the following table, drawing a comparison in this regard between the North and South, not that I think this disposition should be encouraged, but since it seems to possess a peculiar interest to some, and will therefore more strongly impress them with this characteristic of the apportionment. The same feature no doubt would be developed in a comparison of the East with the West, or an aggregate of democratic States with an aggregate of republican States, which I have not had the patience to make with exactness. It is sufficient to state that in some instances the advantage falls one way and again in another. The following table will make clear this curious fact:

*Table showing the losses and gains and relative power of the Northern and Southern States on a representation from 290 to 325.*

| Number of Representatives. | Northern. | | | | Southern. | | | | Gain of South over North. | Gain of North over South. | Total northern Representatives. | Total southern Representatives. | Northern members by fractions. | Southern members by fractions. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total. | | Net. | | Total. | | Net. | | | | | | | |
| | Gains. | Losses. | Gains. | Losses. | Gains. | Losses. | Gains. | Losses. | | | | | | |
| 290 | 7 | 13 | .... | 6 | 7 | 4 | 3 | .... | 9 | ..... | 181 | 109 | 11 | 7 |
| 291 | 8 | 13 | .... | 5 | 7 | 4 | 3 | .... | 8 | ..... | 182 | 109 | 12 | 7 |
| 292 | 9 | 13 | .... | 4 | 7 | 4 | 3 | .... | 7 | ..... | 183 | 109 | 12 | 7 |
| 293 | 10 | 13 | .... | 3 | 7 | 4 | 3 | .... | 6 | ..... | 184 | 109 | 13 | 7 |
| 294 | 10 | 12 | .... | 2 | 7 | 4 | 3 | .... | 5 | ..... | 185 | 109 | 13 | 6 |
| 295 | 10 | 12 | .... | 2 | 7 | 3 | 4 | .... | 6 | ..... | 185 | 110 | 13 | 7 |
| 296 | 10 | 11 | .... | 1 | 7 | 3 | 4 | .... | 5 | ..... | 186 | 110 | 14 | 6 |
| 297 | 10 | 10 | .... | .... | 7 | 3 | 4 | .... | 4 | ..... | 187 | 110 | 15 | 6 |
| 298 | 10 | 9 | 1 | .... | 7 | 3 | 4 | .... | 3 | ..... | 188 | 110 | 14 | 5 |
| 299 | 10 | 9 | 1 | .... | 7 | 2 | 5 | .... | 4 | ..... | 188 | 111 | 14 | 6 |
| 300 | 10 | 8 | 2 | .... | 8 | 3 | 5 | .... | 3 | ..... | 189 | 111 | 13 | 5 |
| 301 | 10 | 8 | 2 | .... | 8 | 2 | 6 | .... | 4 | ..... | 189 | 112 | 12 | 6 |
| 302 | 10 | 8 | 2 | .... | 8 | 1 | 7 | .... | 5 | ..... | 189 | 113 | 11 | 7 |
| 303 | 10 | 7 | 3 | .... | 8 | 1 | 7 | .... | 4 | ..... | 190 | 113 | 11 | 7 |
| 304 | 10 | 7 | 3 | .... | 9 | 1 | 8 | .... | 5 | ..... | 190 | 114 | 10 | 8 |
| 305 | 10 | 7 | 3 | .... | 9 | .... | 9 | .... | 6 | ..... | 190 | 115 | 7 | 9 |
| 306 | 10 | 6 | 4 | .... | 9 | .... | 9 | .... | 5 | ..... | 191 | 115 | 7 | 8 |
| 307 | 10 | 5 | 5 | .... | 9 | .... | 9 | .... | 4 | ..... | 192 | 115 | 8 | 8 |
| 308 | 10 | 5 | 5 | .... | 10 | .... | 10 | .... | 5 | ..... | 192 | 116 | 8 | 8 |
| 309 | 11 | 5 | 6 | .... | 10 | .... | 10 | .... | 4 | ..... | 193 | 116 | 7 | 9 |
| 310 | 11 | 5 | 6 | .... | 11 | .... | 11 | .... | 5 | ..... | 193 | 117 | 7 | 9 |
| 311 | 10 | 4 | 6 | .... | 12 | .... | 12 | .... | 6 | ..... | 193 | 118 | 6 | 10 |
| 312 | 11 | 4 | 7 | .... | 12 | .... | 12 | .... | 5 | ..... | 194 | 118 | 6 | 10 |
| 313 | 12 | 4 | 8 | .... | 12 | .... | 12 | .... | 4 | ..... | 195 | 118 | 7 | 9 |
| 314 | 12 | 4 | 8 | .... | 13 | .... | 13 | .... | 5 | ..... | 195 | 119 | 7 | 10 |
| 315 | 13 | 4 | 9 | .... | 13 | .... | 13 | .... | 4 | ..... | 196 | 119 | 8 | 10 |
| 316 | 13 | 3 | 10 | .... | 13 | .... | 13 | .... | 3 | ..... | 197 | 119 | 9 | 9 |
| 317 | 14 | 3 | 11 | .... | 13 | .... | 13 | .... | 2 | ..... | 198 | 119 | 9 | 8 |
| 318 | 15 | 3 | 12 | .... | 13 | .... | 13 | .... | 1 | ..... | 199 | 119 | 9 | 7 |
| 319 | 16 | 3 | 13 | .... | 13 | .... | 13 | .... | ..... | ..... | 200 | 119 | 10 | 6 |
| 320 | 17 | 3 | 14 | .... | 13 | .... | 13 | .... | ..... | 1 | 201 | 119 | 11 | 5 |
| 321 | 18 | 3 | 15 | .... | 13 | .... | 13 | .... | ..... | 2 | 202 | 119 | 10 | 3 |
| 322 | 19 | 3 | 16 | .... | 13 | .... | 13 | .... | ..... | 3 | 203 | 119 | 11 | 3 |
| 323 | 19 | 3 | 16 | .... | 14 | .... | 14 | .... | ..... | 2 | 203 | 120 | 10 | 4 |
| 324 | 19 | 3 | 16 | .... | 15 | .... | 15 | .... | ..... | 1 | 203 | 121 | 10 | 5 |
| 325 | 19 | 3 | 17 | .... | 15 | .... | 15 | .... | ..... | 2 | 204 | 121 | 10 | 5 |

Hence the political vice of these fractions, which is still further augmented by the fact that with each change of the number of Representatives and consequent varying ratio experiment shows, as in this table, a change in the State fractions and their sectional or political groupings. Thus the vice of the fraction reverts back upon the number of Representatives and immediately affects it also with a political importance. Therefore, one number, aside from ideas purely of business, is a favorite with one section or party and a different number with another section or party. And so groups of States, as well as individual States, must be conciliated in fixing the number of Representatives.

Now, Mr. Speaker, I think it worth while here to state that entire and exact justice in this matter is a physical and mathematical impossibility. It is no new difficulty. It has arisen to harass Congress at every apportionment since the unfortunate spirit of sectionalism first crept in to spoil the harmony of the Republic. This occurrence of unavoidable injustice, (if indeed that be injustice which is unavoidable,) whatever be the number or the ratio adopted, should moderate State and sectional ambition and provoke into the discussion the spirit of a fair compromise. All decorous life is a compromise of conflicting interests. The Constitution is itself the very perfection of political compromise. One further consideration should reconcile States and sections to present but unavoidable disadvantage, and that is, time at last sets all things even. At each apportionment there is a change of scene. The States or sections that suffered loss at the last apportionment doubtless will gain now. Those that gain now may lose ten years hence.

Thus at last, by the practice of a true philosophical and political conservatism, we realize the great American idea of the eventual but certain average of the advantages and disadvantages of government. This is the very perfection of that patience so conducive to good order, the result of centuries of schooling. All that any can be justly called on to endure is an average of evil; all that he has a right to demand is an average of benefits. This is the republic, and in this spirit our differences now should be adjusted. While I support the bill of the committee I am not irrevocably committed to the number 311. I support it because it is the judgment of the majority of the committee, because it increases the number of Representatives 18, and will to that extent add to the power of this House. I support it because it is just to the State of Missouri and recognizes the increase of her population of 447,609 in the last decade and will assign to her an additional Representative. But, sir, when I remember that forty apportionments must yet be made before our Government shall have attained to the happy age of the Roman consulate under pagan auspices; when I reflect that English power and liberty, not yet attaining their zenith, have been slowly aggregating from triumph to triumph and from "precedent to precedent" through the evolutions of eighteen hundred years, and that scarcely one hundred years ago we were her dependent colony; when I turn to the future, bright with the assured hopes of this Christian Republic, based upon the force of law that recognizes the universal brotherhood of man, and hear her "distant footsteps echo down the corridors of time" as she marches with the solemn tread of the centuries, these earnest but futile contests over the gain or loss of a member here or there dwindle into insignificance, and it seems to me we should be able to compose our differences and complete this apportionment in a single hour.

For myself, regarding the matter politically, I shall be satisfied with any number that a majority of this House may deem reasonable and approximately just, since perfection is not attainable.

But, sir, I wish here to state that whatever number may be finally adopted, I am individually in favor of the largest House that will comport with the environment of the present Hall and the economic possibilities of business. There may be pecuniary reasons affecting the questions that would induce some to regard favorably a limited representation, but this in my judgment is a very inconsiderable as well as false economy, and should not weigh for a moment against the higher advantages of a more numerous representation; advantages both moral and political in character. Besides I do not believe that anything is gained, either in time, dispatch of business, faithful attention to duty, or honest consideration of the public interests by having a reduced number of Representatives. I have closely observed the effect of this in the present House, and I here state that of all the scenes of disorder to which I have been a witness, the delay of important measures, the waste of time and inconsiderate action, the majority of instances have not occurred when all the members have been in their places, but on the contrary when absenteeism has reached the extent of from seventy-five to one hundred and fifty vacant seats and small numbers are not propitious. There seems to be born of the occasion a levity of spirit and irritability of temper that are inconsistent with the speedy prosecution of public business, a personal feeling of responsibility to constituency or thoughtful attention to the delicate honors of the hour when national history is being made. And almost universally a period has been put to such scenes by a return of a full House. Shall I not credit the logic of facts and follow where reason leads? Besides, Mr. Speaker, the legislative history of our country will sustain the proposition which I have laid down, and even itself suggests it. We started out under the Constitution, in 1789, with sixty-five members and about three million five hundred thousand people. From then till now we have steadily and gradually progressed, as shown by the census, until we have arrived at a population exceeding fifty millions, and a representation of two hundred and ninety-three members. It has always been recognized by the Congress, and demanded by the country, that the representation of the people on this floor should at each decennial period be made to correspond in some reasonable measure to the increase of population. And in this respect we are yet below the standard deemed prudent for the popular assembly of any European state. We are much below the comparative standard of the earlier Congresses. A ratio of 1 to 30,000, the constitutional minimum and that first adopted, would, on the present basis of

49,369,595 population in the States, give a representation in this House of 1,645. This of course would be extreme, but it indicates what was in the minds of the framers of the Constitution, that the lower House of Congress was intended to be in its fullest sense a popular assembly, the political arena of the people, corresponding in some slight degree to the Athenian Assembly, or the Roman Forum, or the numerous defenders of liberty in the British House of Commons. Doubtless we are limited in number, both by the capacity of the Hall and the ability to hear. These circumstances fix limits beyond which we cannot pass. But we may approach to these limits, and by so doing, while we lose nothing we gain much—a broader base for the pyramid of popular liberty.

In this connection I ask the attention of the House to the following table which I have prepared, showing the number and date of each Congress, the number of members, the ratio, population, number of sessions of each Congress, and the number of days each was in session.

| Year. | Population. | Ratio. | No. of members. | No. of Congress. | No. of sessions held. | No. of days in session. |
|---|---|---|---|---|---|---|
| 1789 | ..... | 30,000 | 65 | 1 | 3 | 519 |
| 1791 | 3,929,214 | 33,000 | 65 | 2 | 2 | 216 |
| 1793 | 3,929,214 | 33,000 | 105 | 3 | 2 | 311 |
| 1795 | 3,929,214 | 33,000 | 105 | 4 | 2 | 267 |
| 1797 | 3,929,214 | 33,000 | 105 | 5 | 3 | 364 |
| 1799 | 3,929,214 | 33,000 | 105 | 6 | 2 | 272 |
| 1801 | 5,294,390 | 33,000 | 105 | 7 | 2 | 236 |
| 1803 | 5,294,390 | 33,000 | 141 | 8 | 2 | 282 |
| 1805 | 5,294,390 | 33,000 | 141 | 9 | 2 | 234 |
| 1807 | 5,294,390 | 33,000 | 141 | 10 | 2 | 206 |
| 1809 | 5,294,390 | 33,000 | 141 | 11 | 3 | 286 |
| 1811 | 7,215,858 | 35,000 | 141 | 12 | 2 | 368 |
| 1813 | 7,215,858 | 35,000 | 181 | 13 | 3 | 369 |
| 1815 | 7,215,858 | 35,000 | 181 | 14 | 2 | 241 |
| 1817 | 7,215,858 | 35,000 | 181 | 15 | 2 | 249 |
| 1819 | 7,215,858 | 35,000 | 181 | 16 | 2 | 273 |
| 1821 | 9,600,783 | 40,000 | 181 | 17 | 2 | 249 |
| 1823 | 9,600,783 | 40,000 | 213 | 18 | 2 | 267 |
| 1825 | 9,600,783 | 40,000 | 213 | 19 | 2 | 259 |
| 1827 | 9,600,783 | 40,000 | 213 | 20 | 2 | 249 |
| 1829 | 9,600,783 | 40,000 | 213 | 21 | 2 | 264 |
| 1831 | 12,820,868 | 47,700 | 213 | 22 | 2 | 316 |
| 1833 | 12,820,868 | 47,700 | 240 | 23 | 2 | 304 |
| 1835 | 12,820,868 | 47,700 | 240 | 24 | 2 | 300 |
| 1837 | 12,820,868 | 47,700 | 240 | 25 | 3 | 352 |
| 1839 | 12,820,868 | 47,700 | 240 | 26 | 2 | 320 |
| 1841 | 17,019,641 | 70,680 | 240 | 27 | 3 | 464 |
| 1843 | 17,019,641 | 70,680 | 223 | 28 | 2 | 289 |
| 1845 | 17,019,641 | 70,680 | 223 | 29 | 2 | 343 |
| 1847 | 17,019,641 | 70,680 | 223 | 30 | 2 | 343 |
| 1849 | 17,019,641 | 70,680 | 223 | 31 | 2 | 394 |
| 1851 | 23,067,262 | 93,423 | 223 | 32 | 2 | 363 |
| 1853 | 23,067,262 | 93,423 | 234 | 33 | 2 | 346 |
| 1855 | 23,067,262 | 93,423 | 234 | 34 | 3 | 363 |
| 1857 | 23,067,262 | 93,423 | 234 | 35 | 2 | 278 |
| 1859 | 23,067,262 | 93,423 | 234 | 36 | 2 | 295 |
| 1861 | 31,183,744 | 127,381 | 234 | 37 | 3 | 354 |
| 1863 | 31,183,744 | 127,381 | 243 | 38 | 2 | 300 |
| 1865 | 31,183,744 | 127,381 | 243 | 39 | 2 | 327 |
| 1867 | 31,183,744 | 127,381 | 243 | 40 | 3 | 383 |
| 1869 | 31,183,744 | 127,381 | 243 | 41 | 3 | 362 |
| 1871 | 38,115,641 | 131,425 | 243 | 42 | 3 | 330 |
| 1873 | 38,115,641 | 131,425 | 293 | 43 | 2 | 293 |
| 1875 | 38,115,641 | 131,425 | 293 | 44 | 2 | 344 |
| 1877 | 38,115,641 | 131,425 | 293 | 45 | 3 | 312 |
| 1879 | 38,115,641 | 131,425 | 293 | 46 | 3 | ..... |
| 1881 | 49,369,595 | ..... | ..... | ..... | ..... | ..... |

This table reveals some curious and interesting facts. I use it for but one purpose and that is to show the relative efficiency of a smaller and larger number of Representatives. The first twenty Congresses from 1789 to 1829 held forty-four sessions, embracing an aggregate of 5,717 days and an average of 285+ days to each Congress. The average number of members during this period was 142+, and the average of population was 5,908,049. During the second twenty Congresses from 1829 to 1869 there were held forty-five sessions, embracing an aggregate of 6,698 days, and an average of 339+ days to each Congress. The average number of members during this period was 277+, and the average of population was 18,738,459. Thus it is shown that for the first forty years of constitutional government an average number of Representatives of 142 representing an average number of population of but 5,908,049 were in session during each Congress an average number of 285 days, while during the second forty years an average number of 277 members representing an average number of 18,738,459 were in session during each Congress an average number of 334 days. That is, an average excess of 135 members with an average excess of 12,830,410 of inhabitants only consumed a semi-annual average excess of forty-nine days. This gives an average of 36, or a little more than one-third of a day, to each additional member, and a fraction less than four days for each added million of population.

Now, Mr. Speaker, when in connection with these historical figures we consider the fact that the legislative business of a country does in some measure correspond to the number of population and extent of territory, the conclusion is strong in favor of enlarged representation. But looking back on the picture of the thirteen weak States with scarcely 3,500,000 of people and their circumscribed boundaries and demands, and then upon this of thirty-eight States with 50,000,000 population spread out from ocean to ocean and from lakes to gulf, with all their diversified interests, local ambitions, contending aspirations, public business, and private affairs, and remembering that into the latter period which we are comparing were forced the struggling destinies and vast concerns of the grandest drama of civil war that ever sorrowed the vision of any land, the argument is simply overwhelming.

Numbers in the American Congress do add efficiency to business. This House having charge, in the first instance, by right and prescription of the appropriation measures is compelled to do and does more work than the other House of only seventy-six Senators. There is momentum in numbers.

I believe there have been brought before this Congress about eight thousand bills and joint resolutions, showing the amount of business that comes before the House of Representatives in recent years. Yet it remains true that later Congresses with increased representation have given as general and uniform satisfaction in this respect to the country as did former Congresses with smaller numbers. I will not enlarge upon this feature of the system, but content myself with saying that I hope to live to see the day when this Hall, enlarged, will contain four hundred Representatives.

And when that time comes I expect to see smaller districts and confined constituencies represented by men known to all their fellow-citizens in deep, earnest, personal neighborhood sympathy with every man, and representing here not any special class-interest nor any vain and visionary dreams of their own, but the opinions and necessities, the great heart and soul of the brotherhood of mankind, as it is found in the common breast, from the millionaire in his palace to the tramp on the road, the average American citizen represented by the average faithful American Congressman. I believe that a Representative should be so well known, and have the opportunity so well to know the people of his district, that every vote he gives in this House shall be given under an impulse borrowed from home and moved by the hearts and wishes of his people. But this is scarcely possible under the present system. The districts are too large and the population too numerous. Some districts in the State of Missouri are two hundred miles in length, and embrace more territory than do two States of the American Union. The district which I have the honor to represent has three times the population of Nevada, with one Representative and two Senators. It cast in the congressional election of 1878 only four hundred and thirty-four less votes than the aggregate votes of Delaware and Rhode Island, that have three Representatives and four Senators. This cannot be judicious.

Mr. Speaker, there is a very general and growing apprehension among the people of this country that their material interests and liberties are not free from danger in view of the vast accumulation of individual and corporate wealth and power. The shadow of a great fear darkens the land. It may be but the result of undue anxiety. It may be something more. On every side we hear of unions, combinations, and centralization of capital. Great corporations, with insatiate ambition, unrestrained by personal sympathy with the people, are entering into leagues whose aims are measured only by the breadth of the continent and the calculated sufferances of this country. It is said this unseen hand enriches the political pool, that they take a mysterious interest in State Legislatures and the election of Senators and Representatives. It is even hinted that their baleful influence haunts the corridors of this Capitol. Sir, if ever the final contest should come between the liberties and rights of the people of this country on one side, and centralized corporate wealth on the other, it were well for the people in that hour that they were defended on this floor by a numerous representation affected by the warmest sympathies and the most intimate confidence. There is moral as well as physical safety in numbers. Large bodies are less easily corrupted.

But, sir; I turn from these features of this bill to the practical question, are we prepared to make a constitutional apportionment now, and shall we make it? On this point as on the others there is difference of opinion. Gentlemen on the other side of the House in this discussion have taken the position that we cannot either practically or constitutionally make the apportionment now. They have stated their reasons, and that I may do them no injustice I prefer that these shall be again stated in their own language. The gentleman from Michigan [Mr. HORR] says:

> I am aware that under the strict letter of the Constitution the census basis is the proper one.
>
> * * * * * * *
>
> Now, I am not going to say whether the recent census was a fair one or not. There are many of the returns that cannot be explained upon what was supposed to be reliable history of the events of the past ten years in some of the States. But what I do maintain is, that no man can reconcile the census returns with the votes cast on any basis of fair dealing. It seems to be beyond the power of contradiction that there was gross cheating either in the census or in the voting. Then I ask does it not follow that to have a fair apportionment both of these elements should be taken into account?

The gentleman from Indiana [Mr. CALKINS] made the following statement:

> Mr. Speaker, I do not believe we ought to pass an apportionment bill this session at all. I said on the stump (and I would be an arrant coward if I did not say the

same thing here in the presence of the representatives of 50,000,000 people) that I am not satisfied the last census is correct. Take for example the State of South Carolina; I select it only by way of illustration. The population of South Carolina as returned by this census is 995,622. In 1870 it was 705,606, making an increase in round numbers of 290,000.

I say now no State can afford to ask an apportionment founded on any census which is not satisfactory to the great body of the people of the other States. They cannot afford it. This is one reason why I am not in favor of an apportionment bill at this session of Congress.

* * * * * * *

But to pass from that. Another reason is, that I am not satisfied with reference to the representation under the fourteenth amendment. I say when the law was passed by which the census was taken it ought to have provided some means by which we could have ascertained the facts as provided under the fourteenth amendment. This it omitted to do. It is nothing more than right it should have been done.

The gentleman from New York [Mr. CROWLEY] said:

For myself, Mr. Speaker, I am in favor of having one of the committees of this Congress, or a select committee, if you please, raised for that purpose, which shall investigate the whole question of disqualification, either educational or property, in all the States of the Union where constitutional prohibitions against the right of suffrage are alleged to exist; and I would have this committee look into this whole question and report to Congress what qualifications or disqualifications exist in all sections of the country to deprive citizens of the right to vote; and then when we have a full report of the disqualifications, either educational or property, or whether by violence and oppression men are denied the right of suffrage, and all of the facts before us, it will then be within the power of Congress to go to work and consider an apportionment bill which can be based upon justice, equity, and the Constitution, based upon the voters of this country as well as upon the numbers.

* * * * * * *

Only four weeks of this session of Congress are left. Certainly within that time the qualifications or disqualifications existing in ten States of this Union, or the fraud, violence, and intimidation alleged to exist in other States, cannot be properly investigated and considered, nor can we have all the facts in such proper shape before the House as to permit an apportionment bill based upon voters as well as upon numbers.

Now, Mr. Speaker, these extracts from speeches of gentlemen on the other side fairly present to this House and the country the essential points of difference. On this side of the House it is believed that we have the necessary data and should make the apportionment now. On the other side this is controverted and it is sought to postpone the apportionment. The objections are two. The first lies against the correctness of the enumeration. The second impeaches its constitutionality. On either or both grounds it is held to be fatally defective. Let us carefully weigh these objections. They are raised under section 2 of article 14 of the amendments. That section is as follows:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State.

Excluding Indians not taxed. But—

When the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

But this section of the fourteenth article must be taken in connection with the second section of article 1 of the original Constitution, a part of which is in this language:

The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.

These sections together, and not separately, present the constitutional law of the case. In this light we will consider the objections presented and in their order. Is the tenth census under which we seek to make this apportionment correct? Is it constitutional? The first is a question of fact; the second, of construction, involving also in the sequel the duty of Congress. As to the first, what is the fact required? It is the basis of apportionment. What is the basis of apportionment? It is primarily the whole number of the population of all the States, excluding Indians not taxed. This basis is liable to be affected by the number of persons disfranchised for unconstitutional cause. This latter idea, however, we will for the present eliminate from the argument, to be again considered in connection with the question of constitutionality. It remains, then, to test the correctness of the census. This involves two elements—the perfection of the law and the faithfulness of its execution. Is the law under which the tenth census was taken wisely adapted to accomplish the end with accuracy? This law is embraced in the act passed by the Forty-fifth Congress, approved March 3, 1879, and in the act amendatory thereof passed at the present Congress, approved April 20, 1880.

These provisions of law are the result of mature consideration of the most experienced minds, adopted with a knowledge and in the light of history from the institutions of Solon and the first Roman census by Servius Tullius through the later experiments of western Europe and the illustration of the nine preceding censuses of our own country. The framers of the law thus had the benefit not only of their own experienced judgment, but of the wisdom and mistakes of all the past. We might, therefore, expect and we shall accordingly find the wisest and best law ever devised for the purpose, in this country at least. In the first place, a general superintendent is provided for, having the direction and control of the whole work. This insures every advantage supposed to lie in individuality of purpose, unity of action, and great personal responsibility. Under the general superintendent is a corps of supervisors, limited to one hundred and fifty, directing the work in reasonably small districts, being subdivisions of the States. These are responsible to the superintendent. Under the supervisors and appointed by them is the army of enumerators doing the actual work of numbering the people. These are responsible directly to the superintendent, and subject to removal for proper cause. These, then, are the officers. All discharge their duty under oath. The enumeration is to be made in one month from the 1st day of June, 1880, thus providing against the frauds or mistakes of delay. The enumeration districts are circumscribed in territory and limited in population to 4,000; and the enumerator, being a resident of his district, the advantage of intimate and personal acquaintance is secured. The enumerator is compelled to visit every household in his district, and in the event of failure to find the people at home, to ascertain the facts from their neighbors or other reliable sources. The age, name, sex, and color of every individual is to be noted.

The facts are to be preserved by writing on original lists. On completion of the first enumeration a true copy of these lists is to be filed with certain named officers in the county or parish of the enumerator for public inspection. These lists designate the name, age, sex, and color. On sufficient notice given to the public by advertisement, the enumerator is for five days, at certain specified and convenient places, required to be present to review his work on suggestion and revise and correct his lists. After the completion and verification of his work in this manner, the original lists are to be certified to the supervisors, whence they are forwarded for file to the office of the superintendent. This is the system. Mr. Speaker, could any devisement of law to ascertain the truth be more careful, accurate, and searching? It is the very perfection of intelligent ingenuity. Nothing more could be desired; but at last, not less depends on faithful execution of law than on law itself.

For forms of government let fools contest,
What's best administered is best.

What guarantee of faithful and honest execution have we? Every guarantee. The method of selecting the officers and the officers themselves as well as the checks of the law and the means of swift detection of carelessness or fraud. The name of General Walker is itself a guarantee of a prudent and honest supervision of the entire work and verification of its results. Had we no other security for its correctness we should confidently repose in his integrity and ability. For I undertake to say of him, which, however, is useless in view of his standing with this House, and his well-earned national reputation, (and he is no political friend of mine,) that no man stands higher or fairer in personal character or special fitness for the technical duties of his office, or is more unimpeachable before this country as a man of integrity, unbiased judgment, business qualifications, and statistical learning than General Walker. So much for the chief. What of the subordinates? The intermediate grade of officers are the one hundred and fifty supervisors. For them I say, also, both from deduction and the record, that the country and Congress has every reason for the completest confidence in their honest and efficient discharge of duty. I know that they were in the main suggested by General Walker, and a scrupulous regard for his own name and reputation as well as the interests of the country forces us to credit their selection with an honest and intelligent discrimination as to character and fitness. In the performance of this duty his ear was always open to prudent advisement by the members of this House. But the Chief Executive made the actual appointments. Neither in this matter can we consider him inattentive to duty or the public interest. The appointment of supervisors is to be confirmed by the Senate.

It is to be presumed, therefore, that the President in sending down the names took into consideration not only his own reputation and the general weal but also the political opposition of the Senate, through the crucible of whose careful inspection, if not also partisan criticism, every name must pass. Thus the original list of supervisors was made out and appointed. The Senate considered them carefully upon personal knowledge and upon information. Most were confirmed without objection. Some were rejected. Others were appointed in their stead, till the Senate and the Executive concurred. Thus every precaution was thrown around the selection of the supervisors, and while the larger half were republicans, as was to be expected, still many were democrats. No complaint of record appears against their honesty, and even a partisan press has scarcely criticised their efficiency. But the basal and most numerous grade of officers in this column of strength are the enumerators. They are appointed by the supervisors. Reasoning from the character of the appointing power, we expect in them fitness, industry, clerical qualification, intelligence, and honesty, in reference to which qualities they are required to be appointed without regard to political affiliation. In the absence of proof to the contrary, we conclusively presume they were so selected and appointed. Thus from the central power to the circumference of final action the machinery is as perfect as human ingenuity can make. The law is wise, the officers efficient. What of the execution? Briefly, I state the work was done by the officers named, each in his sphere, in the time and in the manner required. In one month the whole population of the United States was photographed into the tenth census with guarantees of accuracy of form and perfection of lineament never before devised. This is not all. This census was taken under the corrective influence of partisan criticism and in

the blazing light of political passion heated to whiteness during the recent presidential contest.

In the very hour of the taking of the census its correctness in certain localities was impeached on the very ground that the gentleman from Michigan [Mr. HORR] now impeaches it, an assumed disproportion between the population returned and the last vote, and on the principle mentioned by the gentleman from Indiana, [Mr. CALKINS,] an apparent unnatural increase as compared with the census of 1870. Especially was this suspicion made forcible against the State of South Carolina, then as now by way of illustration. Now, Mr. Speaker, I am no champion of South Carolina. She is not specially endeared to me any further than in common with the other colonies around which cluster the common, deathless glories of the Revolution. I trust, sir, I shall always be able to rise above the Sumter of 1861, to see the Moultrie of 1776, and to turn from the conspicuous names of the present to her Marions and her Sumters of the past. I am no more her friend than I am the friend of Massachusetts or Vermont. I am an American citizen, and as such have a vested right in all States and a heritage in their blended power and glory. But I am specially the friend of the tenth census, believing in its truthfulness. The objections which are here stated against the correctness of the enumeration of South Carolina were made to the Superintendent of Census at a time when they might be of some legal force and practical avail. General Walker heard the objections. He sent out special agents and quasi-detectives to investigate the matter. They did so effectually, and made their report to the Superintendent, on which he has sent to this House and the country a special manifesto, on which the gentleman from Ohio [Mr. FINLEY] has just now so ably commented. What is the result? The original lists are verified in every essential. The homes of South Carolina and the mortuary record of her graveyards show that the first enumeration was honestly and fairly made. This is the official record. South Carolina is the only State whose census by verification has been placed completely beyond all manner of doubt and even suspicion.

I remember also that objection was made by the citizens of Saint Louis that the enumeration of that city was not satisfactory. General Walker accordingly ordered a second enumeration by a new set of officers, and the additional lists are on file in his office, showing a slight increase. So was he ready in any other case to verify the work on reasonable representation of probable error. Then was the time to raise objections now raised here. Why was it not done if deemed desirable? It is now too late. We have selected our own witnesses; we have sent them out to gather the facts; their testimony is in; the case is closed; judgment must follow. From all the guarantees surrounding the tenth census I say it ought to be correct. Speaking by the record, which is conclusive, I say it is correct. I here call the attention of the House to the report of the Superintendent to the honorable Secretary of the Interior of his completed work, and which has been transmitted to this House. It shows in detail the population of every State and the grand aggregate, which is 49,369,595.

Against this solemn record what valid objection is opposed. When honorable members rise here in their places and say or intimate that this certified result is at variance with the actual facts, on what ground, reason, or proofs do they base their impeachment? In justice to this House and the country, considering the gravity of the subject, facts, not surmises, ought to be given. It will not answer, Mr. Speaker, when this census is attacked to speak of it in that vague, indefinite way in which we denominate the weather, as "it," meaning nothing, or losing ourselves in the inexpressible idea of the complex unit of nature. Neither will it suffice to bring to our aid the testimony of the mysterious but ubiquitous "they say." What we want is solid facts that will satisfy a reasonable mind. The census is not a sentient thing that by some mysterious power of mobility can transpose its own figures so as to make them lie, but is the numerical representation of a fixed truth—the number of inhabitants in the country. It did not take itself. It was taken by agents. It is the result of the work of men acting under solemn oath. He who attacks the census attacks the men who took it. He who impeaches the census impeaches either the honesty or efficiency of the officers who made the enumeration or who controlled it. Is it the Superintendent? Then let not his exalted position shield him through indefinite expressions from the direct charge in a matter so grave. But the probity of his character and his distinguished ability protect him from even an unfriendly intimation.

Is it the supervisors that are at fault? They are but one hundred and fifty. Give the name and circumstances; or may be the assumed fault lies with the enumerators. If so, name the man, his district, State, and county, and the facts of his carelessness or fraud; otherwise, leave this hard-worked and badly paid class of officials in possession of their honest names and the undisturbed consciousness of having done their duty well, as the files in the office of the Superintendent show. They cannot defend themselves here, and I insist, as a Representative in part of the State of Missouri, that the enumerators of my State and my district shall not be injuriously characterized in any such way. If anything is wrong, "let facts be submitted to a candid world," or, in their absence, let the enumeration stand. Suspicion ought not to unsettle so grave a historical fact. Sir, report may be valid logic to determine the councils of the "cross-roads," and the voice of rumor may be potential at an evening tea-party to blast an innocent reputation or slaughter some absent victim, but neither have place in this Hall to cast a shadow on truth or affect the grave destinies of the nation. This, sir, is the forum whence the force of law and the stern logic of facts alone sway the controversy.

But, Mr. Speaker, admitting for a moment that the census is incorrect, do the gentlemen on the other side propose a constitutional and practical remedy? In my judgment they do not. The remedy proposed is to reinvestigate the facts and verify the census by committees of this House sent out for the purpose. This is not a constitutional method. If the census can be changed in one instance by the action of committees it may be changed in all. There is no limit to this process if the first step be permissible. Indeed this is broadly stated to be the object of sending out the committees. The final result would be that we should have an apportionment based on information obtained through committees of Congress. Now, these committees would act under authority and process fixed by resolution of this House without the joint action or consent of the Senate or President. But the Constitution prescribes that the census shall be taken "in such manner as they (the Congress) shall by law direct." Now, a law is the production of the concurrent action of Senate and House, with the active or passive approval of the Executive. The proposed method is by resolution; the constitutional method is by law. Both cannot be correct. On the well-known principle of interpretation, *expressio unius, exclusio alterius*, the Constitution must prevail; and no census is valid unless wholly taken under law, and no apportionment based on a census otherwise taken, either in whole or in part, would have any constitutional force or effect whatever. This is almost self-evident. The direction is imperative, and there is no escape from it. The enumeration must be made wholly under and in pursuance of law; but the proposed method is entirely visionary and impracticable both as to time and efficiency. The gentleman from New York [Mr. CROWLEY] proposes to send committees through at least ten States and as many others as the circumstances might indicate.

He frankly admits it cannot be done at this Congress. The matter, then, if postponed to the ensuing Congress, could not come up for consideration before December, 1881, in the absence of an extra session. The committees then would not enter upon the investigation, in all probability, before the vacation of 1882. If they did their work faithfully, they might verify to some extent the enumeration in a few States—certainly not ten—in the course of a year or two; for, Mr. Speaker, when once you enter upon this task few can guess its magnitude. You could not stop with South Carolina, which seems to be an objective point. When your committees have wandered vainly through the rice fields of that State, they would then have to travel over the sugar plantations of Louisiana and the cotton fields of Mississippi. They could not pause here. They would be compelled to investigate the workshops and factories of Rhode Island and Massachusetts and the great founderies and iron manufactories and coal mines of Pennsylvania.

This is not all. They would have to go West. They would be called to Saint Louis to add another fifty thousand to the lists of that city, and then to countless ambitious towns and cities that might think it possible to "wine and dine" your committees into a correction of their fancied grievances. Rivalries, local jealousies, and partisanship would spread the work. You would have to send to Chicago a committee to verify her lists; for I have heard and have read in the papers of the West that Chicago is credited with an excess of 100,000 population. I have heard that her enumerators listed the employés of all the great railroads centering there, regardless of their place of residence. I have heard that they followed the Missouri, Kansas and Texas Railroad across the State of Missouri, through the Indian Territory, as far south as Dennison, Texas, listing the employés and section hands and idle and homeless persons along the road. I have heard said that the hotel registers whose pages were filled up by the thousands of visitors to the Chicago convention were carefully preserved and copied into the lists. I have heard said that they even went out into their beautiful graveyards, and taking by a literal interpretation what was said of one eighteen hundred years ago, "He is not dead but sleepeth," with pious duty they duplicated the names upon the grave-stones and cashed a sight draft for 40,000 souls upon resurrection morn.

Now, Mr. Speaker, I do not say these things are true. I do not say I believe they are true. I do not ask this House to believe them. I feel a just pride in the City by the Lake with her 503,304 people, as I do in the City by the Father of Waters with her 350,522 people. I only wish she was greater and richer. She is one of the jewels of the West; and just as I would protect her fair fame against such idle rumors by interposing the conclusive testimony of the tenth census, so I would shield the State of South Carolina or other States from the unjust imputation of fraud on the census by her supervisors and enumerators. But more than all, I would save this House and country the inevitable disaster of the delay that will bring us into the shadow of another presidential election with the census incomplete and the electoral college in dispute, or from the uncertainty of an apportionment based upon an unconstitutional enumeration made by committees and poisoned with a just suspicion of partisanship, which must tincture the work of any committee under this system. Sir, when you refuse to receive as final the results of the census, you open a flood-gate you will never be able to shut down; you are taking the first step upon a pathway that has no guide-board to point the next

place of stopping; you are drifting out upon a sea with no known port of future entry; you are invoking the fell spirit of a confusion of which the Orient never dreamed in that day when it so soon forgot its own to learn so many foreign languages. Who can predict what might be the event? I do not want to see that state of things; I do not want to be instrumental in a work that may produce such a result or even cast a shadow across the growing peace and harmony and prosperity of the Union to-day.

In adherence to the Constitution, Mr. Speaker, there is dignity, honor, and safety. It requires the census to be taken under and in pursuance of "law." Every census has been heretofore taken by law. It cannot be taken by resolution through committees, either general or special, for that purpose.

Now, sir, it only remains to consider the objection that the present census returns cannot be the basis of a constitutional apportionment because no account is taken of the question of disfranchisement.

On this point, Mr. Speaker, I am relieved from any extended discussion by the able and learned arguments made to this House by the gentleman from Massachusetts, [Mr. ROBINSON.] This House and the country are indebted to him for that exhaustive argument. It is, in my judgment, a complete and unanswerable refutation of the objection. The disfranchisement mentioned in the second section of the fourteenth article heretofore cited, in order to affect the primary basis of apportionment, which in the first instance is the whole "number" of population of the States, must be by State action, as declared in the first section of the said article:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

Now, sir, consider this section with the second section which declares that "if the right of the persons named therein to vote is denied or abridged for any other than the cause therein specified then the basis of representation therein (the State) shall be reduced," &c. The basis of representation shall be reduced. On what account? Denial of the right to vote or its abridgment. Denial or abridgment how and by whom? Not by a mob without authority. Not by personal intimidation. Not by individual "violence and oppression" without the connivance of the State. Not by the electioneering efforts of some unscrupulous partisan to overreach and intimidate a simple-minded voter. Not by anxious and unjust interference with individual freedom of action as has been charged against some of the corporations of Pennsylvania and some of the New England States, may be unjustly. Not by any of these or kindred efforts such as what in common parlance is termed "bulldozing." How then? By the State. In what manner by the State? By making and enforcing a law. The disfranchisement must be authorized by the State by law. The law must be then enforced. How enforced? By officers of the State of course.

Now, Mr. Speaker, who is to determine whether there be such law on the statute-book of any State, or its relation to individual right? Certainly if by any census officer, then by the enumerator, who chronicles the fact, for the law has to be applied to every person disfranchised. But if by the superintendent or supervisors the case is scarcely altered. Can it be that the determination of a question of such vast importance, involving an interpretation of the Constitution, has been so loosely lodged in such hands? Sir, I trust the liberties of the people of this country and the validity of the electoral college is not held or maintained by an authority so uncertain, to say the least of it. It cannot be. It is absurd.

No, Mr. Speaker, this question of disfranchisement which is to be settled by interpretation of State law in reference to the United States Constitution must be passed on either by the courts or Congress. I think first by the courts. This is most reasonable. It is more analogous to the other provisions of the Constitution. If by the courts, then the Congress did well to ignore the question in the matter of the census. For no such law of any State has been so passed on by the courts of the United States or adjudged unconstitutional.

But if the question is to be settled by Congress it cannot be certainly by this House, as the gentleman from New York has suggested, through committees. It must at least be done prudently. It must be done by legislative adjudication, by a law of Congress declaring the State law unconstitutional. For the census must be in this as other matters taken in pursuance of "law." And, sir, this is the view heretofore entertained by Congress. The debates of the Forty-first Congress, in anticipation of the census of 1870, clearly show this Congress must act by law. But Congress refused so to act in 1869, and the census of 1870 was taken, as this has been, on the basis of numbers only. The RECORD will also show that before the passage of the law of March 3, 1879, under which the present census is taken, the gentleman from New York, [Mr. COX,] in an able speech, called the attention of the House to the matter and urged action on the part of Congress. Again Congress refused. On what ground?

Mr. Speaker, it cannot be supposed for a moment that the Congress refused to do its duty. It refused to act for the reasons stated by the gentleman from Massachusetts, [Mr. ROBINSON,] and for which it still refuses to act, because the Congress is not satisfied that any State is so unmindful of the liberties of its citizens as to deny or abridge their right to vote for unconstitutional cause. By non-action Congress has determined there are no such State laws, and if we have to wait till the period mentioned by the gentleman from Indiana, [Mr. CALKINS,] the passage of such a law by Congress before this census can be completed and this apportionment made, then we must wait till Congress changes its judgment in the premises. When will it do this? Mr. Speaker, this is the end of the argument. The census officers possess no authority to declare on this question of disfranchisement. The courts have not done so, and we cannot regulate their action. They are beyond the influence of Congress. Congress has not acted and will not act in the matter because a majority of the House and Senate believe (for I cannot think they would neglect so grave a duty) that no State in this Union has "made or enforced any law by which the privileges or immunities of the United States have been abridged." The census is, therefore, constitutional as well as correct, and the apportionment can and ought to be made now.

And now, Mr. Speaker, allow me to say that I am sorry that there has been dragged into a simple business matter like this any feeling born of the years that lie between 1861 and 1865. That is a period through which we passed with varying fortunes and to which we may all look back with historical interest and profit. But let us keep our hearts this side of 1865. What have the events of that day to do with the honest taking of the census of the people of this country or fixing the number of Representatives and the ratio of representation? Sir, the land needs rest, not only from war, but the war of words; time for hearts to heal as well as wounds; for kind thoughts to spring between the States as well as flowers to grow over their battle-fields. Friendship at last is stronger than force, and soft accents persuade where threats have failed. Hatred makes a poor argument, and anger never was convinced. But reason supplemented with good-will is as irresistible as sunshine on the landscape.

To me, sir, the pine and palm are but trees drawing sustenance from a common soil. The Hudson and Potomac are only rivers flowing through different scenes from one continent to one sea. I wear no northern shield or southern cross. My talisman is the unbroken field of national blue where all the State stars shine—individuality of spheres but a unity of sky. My native State lies intermediate between extremes, where nature teaches tolerance in the rich and boundless West, on whose bosom, heaving with the dreams of empire, the tides of immigration alike from North and South as well as Europe meet and mingle in undistinguishing philanthropy and commercial friendship. There all provincialisms disappear, and local prejudices are lost in the structure of a new society. We take no interest in the historic jealousies, soon to cease, of North or South but to regret them. What to the great West can be a name more or less in Congress or the electoral college for a few years, when from all the world is pouring into her heart the blood of empire?

Mr. Speaker, let me say, in conclusion, with the kindest feelings for every State, a pride in and love of those States, that so far as my State is concerned the day of bitterness is over, and the deep waves of passion that swept over us in the hour of storm have reflowed to their former path, and never more will roll over the peaceful bosom of Missouri. Sir, we could not afford to be enemies there; neither can we here. We were peculiarly situated. We were not separated as States, but divided as families. Ours was a civil and not sectional war.

Missouri sent into the Union Army more than one hundred thousand men, who served within the borders and beyond the limits of the State. Many of them sealed their devotion to their country by the sacrifice of life, which is the highest test of love. They were brave, true-hearted men; their blood has reddened the soil from the border to the eastern mountains; from Wilson's Creek and Pea Ridge to Antietam and Gettysburgh. And wherever the flag of the Union shall float, on sea or land, and as long, it will tell the legend of their fame. Some of them are honored members of this House. One, Governor Phelps, amid the plaudits of his fellow-citizens, has just quitted the great responsibilities of the governorship of the State, which he has borne with eminent dignity and enviable success for four years. Another, Governor Crittenden, recently a member of this House, has just been inducted into the honors of that high office, with great promise to the State and distinguished credit to himself. Many others are ably filling the highest judicial and political offices in the State.

Missouri also sent into the confederate service a noble band of most excellent young men—variously estimated at from seventy-five to one hundred thousand—men as brave as ever endured the hardships of camp or march, possessed of as honest a purpose, of as determined and heroic courage—whatever may now be said of that unfortunate conflict—as any who ever trod a battle-field in this or other lands; soldiers whose love of a losing cause and devotion to a conceived duty has lent even to civil war a tinge of bloody glory that will shine in mournful brightness till the light has faded from the last page of American history.

Some of these are now serving with distinction in this House, and two are in the Senate of the United States. Their councils are as prudent as their swords were bright. No word has escaped from them, nor will, that might have a tendency to recultivate the field of strife or open again the healed wounds of war. You cannot write the history of one of these parties without writing the history of the other. Their courage is mutual, their devotion equal, though honors may not be esteemed correlative.

But when the armed conflict had ceased—

When war's wild, wintry blast was blown,
And gentle peace returning,
With many a sweet babe fatherless,
And many a widow mourning—

these men came back from either side to mingle in fraternal strife amid the rich fields of their native or adopted State, as they had bravely and honestly fought under opposing flags on the battle-field. They are brothers to-day, partners in business, and rivals only in the offices of friendship and duty to the State. They are men now as they were soldiers once. The plow, the machine, the scythe, the rake, the shop, the forge, these things now engage our peaceful attention, and we only read those other events in the spirit of history, and never teach the bitterness of that hour to the children of the rising generation.

Mr. HAMMOND, of Georgia, obtained the floor.

Mr. FRYE. If the gentleman from Georgia [Mr. HAMMOND] will yield to me for a moment——

Mr. HAMMOND, of Georgia. I will do so.

CONFERENCE OF REPUBLICAN MEMBERS.

Mr. FRYE. It was understood that the republican members of this House would have a conference in this Hall immediately after the recess to-day; but so many of them have left the Hall that it is deemed better not to have it to-day, but they will have a conference in this Hall to-morrow night.

Mr. McMAHON. "Caucus," you mean.

Mr. FRYE. The democrats call it a caucus.

REMONETIZATION OF SILVER.

The SPEAKER *pro tempore* laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit herewith a report of the Secretary of State, in response to a resolution addressed to him by the House of Representatives on the 31st of January ultimo, on the subject of international action for the restoration of silver to full use as money.

The prospect of an early international conference, promising valuable results in accordance with the interests of this country, is such that I recommend to the immediate attention of Congress an appropriation providing for the proper representation of this Government at such conference.

R. B. HAYES.

WASHINGTON, *February* 17, 1881.

The message, with the accompanying document, was referred to the Committee on Appropriations, and ordered to be printed.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the House of the following title; when the Speaker signed the same.

A bill (H. R. No. 2331) granting pensions to the widow and minor children of Michael Meenan, deceased.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. PRICE from attendance on the session of the House this evening.

WITHDRAWAL OF PAPERS.

Mr. DEUSTER asked and obtained unanimous consent for the withdrawal from the files of the House of the papers in the case of A. H. Von Luethwitz; no adverse report.

PENSION APPROPRIATION BILL.

Mr. HUBBELL. I desire now to call up from the Speaker's table the report of the Committee on Appropriations, just brought in, on the amendments of the Senate to the bill making appropriations for pensions, and ask that it be considered and adopted at this time.

The SPEAKER *pro tempore*. The report will be read.

The Clerk read as follows:

The Committee on Appropriations, to whom was referred House bill No. 6532, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1882, together with the amendments of the Senate thereto, having considered the same, beg leave to report as follows:

They recommend concurrence in the amendments of the Senate numbered 2 and 3; they recommend non-concurrence in the amendments numbered 1 and 4.

Mr. HUBBELL. I ask that this report be adopted.

The SPEAKER *pro tempore*. The amendments will be read, and the Chair will put the question separately on each.

The Clerk read as follows:

Amendment No. 1:

On page 1 strike out all after the word "separately," in line 18, to and including line 20.

The SPEAKER *pro tempore*. In this amendment the committee recommend non-concurrence.

The amendment was not concurred in.

The Clerk read as follows:

Amendment No. 2:

On page 1, at the end of line 22, insert the following:

"*Provided*, That a fee of $1, and no more, shall be paid to the examining surgeon for each examination of a pensioner as provided by law, except when the examination is made by a board of surgeons, in which case the fees now allowed by law shall be paid."

The SPEAKER *pro tempore*. In this amendment the Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

Amendment No. 3:

On page 1, after line 22, insert the following:

"That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the appropriations for the payment of invalid and other pensions for the fiscal year ending June 30, 1881, namely:

"For pensions for Army invalids, widows, minors, and dependent relatives, including arrears, survivors of the war of 1812, and widows of the war of 1812, $17,692,031.69: *Provided*, That the amount expended for each of the above items shall be accounted for separately.

"For Navy pensions to invalids, widows, minors, and dependent relatives, $560,274.99: *Provided*, That the appropriations aforesaid for Navy pensions shall be paid from the income of the Navy pension fund, so far as the same may be sufficient for that purpose: *And provided further*, That the amount expended for each of the above items shall be accounted for separately.

"For fees for examining surgeons as provided by the several acts of Congress, $30,000."

The SPEAKER *pro tempore*. In this amendment the Committee on Appropriations recommend concurrence.

The amendment was concurred in.

The Clerk read as follows:

Amendment number 4:

At the end of the bill add the following:

"SEC. 2. All pensions payable, or to be paid under this act, to pensioners who are inmates of the National Home for Disabled Volunteer Soldiers shall be paid to the treasurer or treasurers of said home, to be disbursed for the benefit of the pensioners under regulations to be established by the managers of the home; said payment to be made by the pension agent upon a certificate of the proper officer of the home that the pensioner is an inmate thereof and is still living. Any balance of the pension which may remain at the date of the pensioner's discharge shall be paid over to him; and in case of his death at the home, the same shall be paid to the widow or minor children under sixteen years of age, if any there be."

The SPEAKER *pro tempore*. In this amendment the Committee on Appropriations recommend non-concurrence.

The amendment was not concurred in.

Mr. HUBBELL. There is a further amendment—an amendment to the title of the bill.

The Clerk read as follows:

Add to the title the words "and for other purposes."

The amendment was concurred in.

Mr. HUBBELL. I move to reconsider the votes upon concurring or non-concurring in these amendments, respectively, and that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. CONGER. I desire to enter a motion to reconsider the vote by which the House adopted the report of the conference committee on the Indian appropriation bill.

The SPEAKER *pro tempore*. The motion to reconsider was made and laid on the table.

ORDER OF BUSINESS.

Mr. HAMMOND, of Georgia. Mr. Speaker, I believe I am entitled to the floor.

Mr. HUNTON. I ask the gentleman from Georgia [Mr. HAMMOND] to yield to me, that I may make a motion for a recess.

Mr. HAMMOND, of Georgia, I will yield for that purpose. I understand that an order has been made for an evening session.

Mr. HUNTON. I move that the House take a recess until half past seven o'clock this evening.

Mr. SIMONTON. Pending that motion, I move that the House adjourn.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 1070) granting a pension to Jacob H. Eppler; and

A bill (S. No. 1802) granting a pension to Ann M. Paulding.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. KITCHIN, until Tuesday next, on account of sickness in his family;

To Mr. OSCAR TURNER, for the session of to-night; and

To Mr. JOHNSTON, for to-night's session, on account of lameness.

ORDER OF BUSINESS.

Mr. HAMMOND, of Georgia. I have consented, at the request of the gentleman from Virginia, [Mr. HUNTON,] to yield to a motion to take a recess, with the understanding that when the apportionment bill shall be taken up again I shall be entitled to the floor. Am I right?

The SPEAKER *pro tempore*. Certainly.

Mr. WHITTHORNE. I ask unanimous consent to take up Senate bill No. 562. It is a bill granting a pension——

Mr. SIMONTON. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and ten minutes p. m.) the House adjourned.

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PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. AIKEN: The petition of citizens of South Carolina, for the passage of an income-tax law—to the Committee on Ways and Means.